



AGENDA

January 13, 2025

Meetings of Standing Committees
Council Conference Room
5:45PM

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
COUNCIL CHAMBERS/CITY HALL
6:00PM

WebEx Telephone Number: 1-408-418-9388
Meeting Number (access code): 2348 158 1438
Meeting password: hU3xxpxmW26

Livestream #1:
<https://mishawaka.in.gov/government/elected-appointed-officials/common-council/>

Livestream #2
<https://www.facebook.com/cityofmishawaka/>

Livestream #3:
www.youtube.com/@cityofmishawaka635

Livestream #4:
[@MichianaAccessTV on Facebook](#)

To connect on-line join using Microsoft Lync or Microsoft Skype for Business

Dial: [23481581438@mishawaka.webex.com](https://mishawaka.webex.com/join/23481581438)

1. Call to Order

2. Pledge of Allegiance

3. Roll Call **ELECTION OF OFFICERS**

4. Approval of the Minutes of the Regular Meeting of December 16, 2024

5. Petitions, Communications, Remonstrance and Memorial

Appeal No. 2024-55 Use Variance to allow E-Commerce Store with no
Retail Sales in R-1 Single Family Residential -
611 S. Main St.

Petition No. 2024-13 Rezone from C-1 Commercial to R-1 Single Family
- 611 S. Main St.

6. Report of Special Committee

7. Ordinances on First Reading

P.O. No. 2025-01 Collective Bargaining Agreement between the
City and Mishawaka Firefighters Local 360
01 - 01-01-2025 thru 12-31-2026
(Requesting Second Reading)

8. Resolutions

9. Ordinances on Second Reading

P.O. No. 2024-34 Amending the Flood Control Ordinance
(Assigned to Land Use Planning Committee)

P.O. No. 2024-44 Collective Bargaining Agreement between the
City and Mishawaka Police Lodge 91 - 01-01-2025
thru 12-31-2025
(Assigned to Public Health & Safety Committee)

P.O. No. 2024-45 Annexation of 7.72 Acres and Rezoning to S-2
Planned Unit Development for Apartment Complex
- Douglas Rd. **Public Hearing - No Vote**

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

12. New Business

- Council Committees & Appointments
- Council Attorney
- Appointments to Various Boards and Commissions
 - MBA
 - Solid Waste
 - MACOG
 - Insurance Committee
 - Redevelopment Commission
 - Plan Commission
 - Historic Preservation Commission
 - Animal Control Board
 - PSAP Executive Board
 - School City of Mishawaka Liaison
- Acceptance of Conflict-of-Interest forms

13. Adjournment -

This meeting will be aired via live stream:

An archived version of the livestream video can be viewed on the city of Mishawaka's Facebook and YouTube pages, <https://www.facebook.com/cityofmishawaka/> and www.youtube.com/@cityofmishawaka635 and on the Michiana Access TV Facebook page, <https://www.facebook.com/MichianaAccessTV>

If technology is needed to present, please advise the Clerk's Office by 4:00pm the Friday before the meeting by emailing: dblock@mishawaka.in.gov or calling 574-258-1616.

Download Packet Link below:

<https://mishawakain.portal.civicclerk.com/event/951/files/agenda/3256>

At this time, I know of no other business to come before the Council.

Deborah S. Block, IAMCA, CMO, MMC, City Clerk

The City of Mishawaka acknowledges its responsibility to comply with the Americans with Disabilities Act of 1990. In order to assist individuals with disabilities who require special services (i.e. sign interpretative services, alternative audio/visual devices, and amanuenses) for participation in or access to City sponsored public programs, services and/or meetings, the City requests that individuals make requests for these services forty-eight (48) hours ahead of the scheduled program, service and/or meeting. To make arrangements contact Susan Kile, ADA Coordinator, at (574) 258-1615.

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REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

December 16, 2024

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the New Mishawaka City Hall and via telephone on December 16, 2024, at 6:00PM. The meeting was called to order by Council President Gregg Hixenbaugh. All were asked to stand for the Pledge of Allegiance.

Members attending virtually do so by WebEx. Public that attends can participate by WebEx or observe meetings by YouTube or Facebook live. The Council meetings are also streamed live on Michiana Access on Comcast/AT&T U-verse Channel 99.

Clerk Block called the roll.

Present: Mrs. Hazen (P), Mrs. Voelker (P), Mr. Carroll (P), Mr. Banicki (P), Mr. Emmons (P), Ms. Hahn (P), Mr. Mammolenti (P), Mr. Viola (P), Mr. Hixenbaugh (P)
P: Present E: Electronically Participating A: Absent

Also Present: Mike Trippel, Council Attorney

Minutes for the Regular Meeting on December 2, 2024, were approved as received from the Clerk's Office.

Clerk Block read the following letters from the Board of Zoning Appeals and the City Plan Commission regarding their recommendations from their December 10, 2024, meetings.

Appeal No. 2024-52 An appeal submitted by Apex Realty Investments, LLC requesting a Use Variance for 917 Union Street, Mishawaka, IN, to allow for three tenants in C-1 Commercial District

The Board, with a vote of 5-0, provided a favorable recommendation.

Petition No. 2024-10 A petition submitted by Kittle Property Group Inc requesting the annexation of 7.72 acres and to rezone property at 15503 Douglas Road, Mishawaka, IN to S-2 Planned Unit Development for a senior apartment complex

The Commission, with a vote of 8-0, recommended approval.

Petition No. 2024-11 A petition submitted by the City of Mishawaka for approval of an ordinance replacing the Flood Plain Ordinance (Ord. 5503) of the City of Mishawaka, Indiana, with the Flood Damage Prevention Ordinance

The Commission, with a vote of 8-0, recommended approval.

Petition No. 2024-12

A petition submitted by the City of Mishawaka for approval of an ordinance amending the Zoning Ordinance (Chapter 137) of the City of Mishawaka, Indiana, to add Wellhead Protection Land Use Restrictions

The Commission, with a vote of 8-0, recommended approval.

Clerk Block read the following proposed ordinance by title and assigned committee.

PROPOSED ORDINANCE NO. 2024-45

**AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF
MISHAWAKA, INDIANA AND PROVIDING ZONING CLASSIFICATION
THEREFORE**

**Annexation of 7.72 Acres and Rezoning to S-2 Planned Unit Development for Apartment
Complex – Douglas Rd.
(Assigned to Land Use Planning Committee)**

Clerk Block read the following resolutions by title and opened the public hearing.

RESOLUTION R2024-23

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA, APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING
APPEALS FOR THE PROPERTY LOCATED AT: 917 UNION STREET,
MISHAWAKA, INDIANA**

**Use Variance for 3 Tenant in C-1 Commercial District & Developmental Variance for 60
square foot Monument Sign – 917 Union Street**

Micah Horner, Owner of 917 Union Street, spoke in favor of **RESOLUTION R2024-23** remotely. Mr. Horner stated he had an extra 1500 square feet that was not being used and he knew with it being zoned C-1, they needed to receive permission to have a third tenant and that was the reason for the request.

Question was called for at 6:10PM for **RESOLUTION R2024-23 Motion passed by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. Hazen, Mrs. Voelker, Mr. Carroll, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The resolution passed 9-0.

RESOLUTION R2024-24

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA
REJECTING THE ESTABLISHMENT OF A POLICE MERIT SYSTEM PURSUANT TO
INDIANA CODE 36-8-3.5-5-5
Rejection of Police Merit System**

Clerk Block read the correspondence the Council received into the record.

President Hixenbaugh,

I have received the proposed resolution to reject the merit system, and I appreciate your involvement and conversation throughout the process. While many parts of the merit system can be a benefit to everyone involved, unfortunately, the body of the Lodge feels that there is not enough information to make a permanent decision at this time. In recent conversations with the current administration, it seems we share the same goals moving forward, such as developing our own mutually agreed upon standards for promotion and discipline and an appeal process that will allow for further context to be provided. Such standards will promote consistency while increasing the quality of leadership and decreasing uncertainty through assumption by providing documentation that officers have met the mutually agreed upon criteria for either promotion or discipline. The conversations with the administration have been positive and productive. It seems that there is a common goal to put our ideas into action fairly quickly, and I am looking forward to working together on this project. Lastly, I wanted to thank the City Council for understanding the current situation, and I am grateful for the opportunity to work things out in concert with the administration. I look forward to reporting on our progress to the Council in the very near future. Thank you.

Sincerely and respectfully,

**PFC Rich Freeman
President FOP Lodge 91
Mishawaka Police Department**

The public hearing was opened.

Alex Arendt, Chief of Police for the City of Mishawaka, spoke in favor of **RESOLUTION R2024-24**. Chief Arendt thanked the Council and the fraternal police members as well as the Board of Public Works and Safety for their work on this particular matter. Chief Arendt stated there had been a lot of research that had gone into it and discussions on the positives and negatives that the citizens of Mishawaka would benefit from or be negatively affected by regarding the merit system. Chief Arendt stated after the discussions with the representatives, his administration recommended that the Council approve the resolution to reject the establishment of the police merit system pursuant to Indiana Code. Chief Arendt stated in turn, they intended to work together with the FOP to standardize the guidelines for promotions and discipline within the department while maintaining oversight by the Board of Public Works and Safety. Chief Arendt stated he wanted to echo the comments made by President Freeman and they liked to keep an open relationship with him and the officers of the Mishawaka Police Department to make sure that they were establishing the highest standards for discipline and promotions.

Mr. Hixenbaugh thanked Chief Arendt for his willingness and that of his leadership team to continue to work with the FOP. Mr. Hixenbaugh stated he was very interested to see what the outcome of those discussions would be and thanked him for his comments and for being there that evening. Chief Arendt thanked President Hixenbaugh.

Question was called for at 6:15PM for **RESOLUTION R2024-24 Motion passed by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. Hazen, Mrs. Voelker, Mr. Carroll, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The resolution passed 9-0.

Mr. Hixenbaugh stated at the request of the Administration, the Chair entertained a motion to amend the agenda by adding **PROPOSED RESOLUTION R2024-25** to the agenda at that point in time. Mr. Mammolenti moved the motion and with a second from Mr. Banicki, a voice vote was held on the motion. The motion passed unanimously and **RESOLUTION R2024-25** was added to the agenda.

RESOLUTION R2024-25

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, AMENDING RESOLUTIONS R2022-10, R2022-22, R2023-03, R2023-12, R2023-25, AND R2024-10 WHICH ADOPTED A PLAN FOR DISTRIBUTION OF THE PROCEEDS OF THE CITY OF MISHAWAKA'S GRANT FROM THE AMERICAN RESCUE PLAN ACT OF 2021

Rebecca Maguire, City Controller for the City of Mishawaka, spoke in favor of **RESOLUTION R2024-25**. Mrs. Maguire began by thanking President Hixenbaugh and the Council for allowing this item to be added to the agenda. Mrs. Maguire stated this was their final amendment to the ARPA Plan filing federal guidelines and the plan must be amended as the use changed and the deadline to obligate all of the funds was December 31, 2024. Mrs. Maguire stated under revenue replacement, in section 3 subsection I, \$141,962.00 would be spent for the restoration and enhancements at the Battell Rock Garden which included tree removal, irrigation, lighting, and security. Mrs. Maguire stated in section 3 subsection J, \$103,706.00 would be used by the Fire Department for various supplies such as stair climbers, flashlights, EMS pants, weighted vests, and body scans. Mrs. Maguire thanked the Council for their consideration.

Mr. Hixenbaugh thanked Mrs. Maguire for her work throughout the process and as they were talking about during the pre-meeting, it was new for all of them and she, along with every member of the Administration were very helpful to the Council and he thought the collaboration and the working together was not unique just in this issue but it was certainly an instance where they all worked together under difficult circumstances and he thought, not only what they were going to approve that evening, but every dollar that they had spent out of their ARPA Fund they had done good for the City of Mishawaka. Mr. Hixenbaugh thanked Mrs. Maguire once again for

the work she did on this. Mrs. Maguire thanked Mr. Hixenbaugh and concurred with his statement.

Question was called for at 6:18PM for **RESOLUTION R2024-25 Motion passed by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. Hazen, Mrs. Voelker, Mr. Carroll, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The resolution passed 9-0.

Clerk Block read the following proposed ordinances by title and opened the public hearing.

PROPOSED ORDINANCE NO. 2024-34

AN ORDINANCE AMENDING CHAPTER 121 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, COMMONLY KNOWN AS “THE FLOOD CONTROL ORDINANCE” OF THE CITY OF MISHAWAKA, INDIANA.

**Amending the Flood Control Ordinance
(Petitioner requesting postponement)**

Mr. Hixenbaugh stated at the request of the Administration, the Chair entertained a motion to postpone second reading and public hearing on **PROPOSED ORDINANCE NO. 2024-34** until their first regularly scheduled council meeting in January of 2025. The motion was moved by Mrs. Voelker and with a second from Mr. Mammolenti, a voice vote was held on the motion. The motion passed unanimously, and the matter was postponed.

PROPOSED ORDINANCE NO. 2024-36

AN ORDINANCE AMENDING ORDINANCE NO. 5868 FIXING THE SALARIES OF ALL EMPLOYEES OF THE CITY OF MISHAWAKA EXCEPT MISHAWAKA PARK DEPARTMENT, ELECTED OFFICIALS, AND THE MISHAWAKA UTILITIES FOR THE CITY OF MISHAWAKA, INDIANA, FOR THE YEAR BEGINNING JANUARY 1, 2024

Amending 5868 Civil City Salary for 2024 – Central Services

Mr. Violi reported the Budget & Finance Committee recommended this proposed ordinance should be adopted. Upon a second by Mr. Banicki, the motion carried.

Rebecca Maguire, City Controller for the City of Mishawaka, spoke in favor of **PROPOSED ORDINANCE NO. 2024-36**. Mrs. Maguire stated in 2023, the Teamsters received certifications for Tanker endorsements and CDLB and CDLA as an amendment, so it was missed in their regular 2024 salary ordinance, and this was correcting it.

Question was called for at 6:22PM for **PROPOSED ORDINANCE NO. 2024-36 Motion passed by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. Hazen, Mrs. Voelker, Mr. Carroll, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus it became **ORDINANCE NO. 5914.**

PROPOSED ORDINANCE NO. 2024-37

AN ORDINANCE AMENDING ORDINANCE NO. 5907AA FIXING THE SALARIES OF ALL EMPLOYEES OF THE CITY OF MISHAWAKA EXCEPT MISHAWAKA PARK DEPARTMENT, ELECTED OFFICIALS, AND THE MISHAWAKA UTILITIES FOR THE CITY OF MISHAWAKA, INDIANA, FOR THE YEAR BEGINNING JANUARY 1, 2024

Amending 5907AA Civil City Salary for 2025 – Central Services

Mr. Emmons reported the Budget & Finance Committee recommended this proposed ordinance should be adopted. Upon a second by Mr. Banicki, the motion carried.

Rebecca Maguire, City Controller for the City of Mishawaka, spoke in favor of **PROPOSED ORDINANCE NO. 2024-37**. Mrs. Maguire stated this would correct the 2025 salary ordinance for Teamsters, Tanker, CDLB, and CDLA endorsements and they had already added it to their 2026 draft document so they should not have another amendment on this item.

Question was called for at 6:25PM for **PROPOSED ORDINANCE NO. 2024-37 Motion passed by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. Hazen, Mrs. Voelker, Mr. Carroll, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus it became **ORDINANCE NO. 5915.**

PROPOSED ORDINANCE NO. 2024-38

AN ORDINANCE DECLARING AN EMERGENCY AND TRANSFERRING AND REAPPROPRIATING FUNDS WITHIN THE BUDGET ADOPTED FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2024

Transfer of Funds: Central Services – Supplies – 1101-22-422-02 (\$30,000.00) To: Central Services – Other Services & Charges – 1101-22-436-01 (\$30,000.00) Total: \$30,000.00

Mrs. Voelker reported the Budget & Finance Committee recommended this proposed ordinance should be adopted. Upon a second by Mr. Banicki, the motion carried.

Tim Ryan, Director of Central Services, spoke in favor of **PROPOSED ORDINANCE NO. 2024-38**. Mr. Ryan stated as some of them may have known, this was the first year they took over the responsibilities of fire engines and missed the deadline by a tad, but hoped they could get it corrected for next year.

Question was called for at 6:27PM for **PROPOSED ORDINANCE NO. 2024-38** Motion passed by unanimous roll call vote (summary: Yes = 9).

Yes: Mrs. Hazen, Mrs. Voelker, Mr. Carroll, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus it became **ORDINANCE NO. 5916.**

PROPOSED ORDINANCE NO. 2024-39

AN ORDINANCE DECLARING AN EMERGENCY AND TRANSFERRING AND REAPPROPRIATING FUNDS WITHIN THE BUDGET ADOPTED FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2024

Transfer of Funds: Park & Rec – Personnel Services – 2204-50-411-03 (\$85,000.00), Supplies – 2204-50-429-15 (\$10,000.00), and 2204-50-429-16 (\$5,000.00) To: Other Services & Charges – 2204-50-436-01 (\$15,000.00) and 2204-50-436-90 (\$85,000.00) Total: \$100,000.00

Mr. Emmons reported the Budget & Finance Committee recommended this proposed ordinance should be adopted. Upon a second by Mr. Banicki, the motion carried.

Phil Blasko, Parks Superintendent, spoke in favor of **PROPOSED ORDINANCE NO. 2024-39**. Mr. Blasko stated this would cover some of the unexpected expenses they had incurred, such as HVAC problems at the Battell Center, an ammonia leak at the ice rink, and they also had started off the year with a big two-inch line water main water break at Merrifield Pool that they were hopeful would be covered entirely by insurance but that was not the case. Mr. Blasko stated this would cover all of those things.

Question was called for at 6:30PM for **PROPOSED ORDINANCE NO. 2024-39** Motion passed by unanimous roll call vote (summary: Yes = 9).

Yes: Mrs. Hazen, Mrs. Voelker, Mr. Carroll, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus it became **ORDINANCE NO. 5917.**

PROPOSED ORDINANCE NO. 2024-40

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE EXPENDITURE OF ADDITIONAL FUNDS AND TRANSFERRING THE AMERICAN RESCUE PLAN CORONAVIRUS LOCAL RECOVERY GRANT FOR THE YEAR ENDING DECEMBER 31, 2024

Additional Appropriation: ARP Coronavirus Local Fiscal Recovery Grant – Other Services & Charges (\$129,667.00) Transfer of Funds: Other Capital Outlays – 2403-50-443-93 (\$12,295.00) To: Other Services & Charges – 2403-50-459-03 (\$12,295.00) Total: \$12,295.00

Mr. Mammolenti reported the Budget & Finance Committee recommended this proposed ordinance should be adopted. Upon a second by Mr. Banicki, the motion carried.

Rebecca Maguire, City Controller for the City of Mishawaka, spoke in favor of **PROPOSED ORDINANCE NO. 2024-40**. Mrs. Maguire stated this ordinance coincided with the amendment to the ARPA Plan that they heard earlier that evening. Mrs. Maguire stated they were appropriating \$129,667 and that was the last of their ARPA money to appropriate. Mrs. Maguire stated this was for the Battell Rock Garden project. Mrs. Maguire stated the Fire Department had already had their funds appropriated and their quotes and costs came in a little bit less, so they were transferring \$12,295 to the Battell Rock Garden project. Mrs. Maguire stated the ARPA money for the Rock Garden was going to total \$141,962 and the ARPA funding for the Fire Department ended up at \$103,705.

Mrs. Voelker thanked Mrs. Maguire for the explanation.

Mr. Hixenbaugh thanked the members of their ARPA Committee, Mr. Carroll, Mrs. Voelker, and Mr. Mammolenti as Chair. Mr. Hixenbaugh stated since they were there at the inception of the ARPA fund, Mr. Mammolenti and Mrs. Voelker had worked on this throughout and all the members of the committee both past and present did a fantastic job in making sure they as a community spent the money in a responsible, judicious, and effective way. Mr. Hixenbaugh appreciated the work that everybody did and the leadership of Mr. Mammolenti throughout the process. Mr. Hixenbaugh thanked all involved.

Question was called for at 6:34PM for **PROPOSED ORDINANCE NO. 2024-40 Motion passed by unanimous roll call vote (summary: Yes = 9)**.

Yes: Mrs. Hazen, Mrs. Voelker, Mr. Carroll, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus it became **ORDINANCE NO. 5918**.

PROPOSED ORDINANCE NO. 2024-41

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2024

Additional Appropriation: General Fund, Personnel Services, Controller – 1101-02-411-02 (\$40,700.00) Human Resources – 1101-04-411-02 (\$55,700.00) Code Enforcement 1101-14-411-01 & 1101-14-411-63 (\$5,650.00 & \$4,425.00) Fire Department – 1101-19-411-60 (\$250,000.00) Other Services & Charges, Professional Services, Human Resources – 1101-04-431-04 (\$11,200.00) Total: \$367,675.00 Other Services & Charges, Professional Services – 2209-50-431-09 (\$250,000.00) Total: \$250,000.00

Mr. Violi reported the Budget & Finance Committee recommended this proposed ordinance should be adopted. Upon a second by Mr. Banicki, the motion carried.

Rebecca Maguire, City Controller for the City of Mishawaka, spoke in favor of **PROPOSED ORDINANCE NO. 2024-41**. Mrs. Maguire stated this item regarded a General Fund additional

appropriation and a CEDIT item. Mrs. Maguire stated under the General Fund, they had two positions that were added after the 2024 budget was approved. Mrs. Maguire stated the first position was a bookkeeper in her department and due to numerous projects and bonds, their workload had increased greatly. Mrs. Maguire stated originally, they were down two staff members that had been working with them and it was time to add a full-time staff member back and it had helped their department greatly. Mrs. Maguire stated in Human Resources, they moved the Safety Director position from the Electric Department to Human Resources. Mrs. Maguire stated the position had increased responsibilities and expectations. Mrs. Maguire stated in Code Enforcement, they had their Director retire and this additional appropriation would cover the benefit time payout and with the new Code Enforcement Director, longevity was not budgeted because they did not know who their Code Enforcement Director was going to be and it was an internal employee changing positions and longevity went back to when you originally started with the city. Mrs. Maguire stated many times they were able to absorb and transfer within a budget, but the Code Department had a small budget, so this was why they needed to do the additional appropriation. Mrs. Maguire stated in the Fire Department they had a \$250,000 increase for overtime. Mrs. Maguire stated they were recently short-staffed, but they did hire seven new hires but due to certain delays through the states and such, it did not offset so they were doing this to cover their overtime deficit. Mrs. Maguire stated the final item in the General Fund was an additional appropriation for their temporary professional services line. Mrs. Maguire stated typically they had temporary people that they hired and that came out of professional services, and they had a temporary employee line where they would typically transfer, but they had used the temporary employee line that year and they did not have it to transfer so they were doing an additional appropriation. Mrs. Maguire stated lastly in CEDIT in their health services line, they needed to appropriate \$250,000 as they had increased their usage of their prescription program and their imaging program for their staff. Mrs. Maguire stated this line probably should have been increased already for the 2024 budget and since it was not, they had an additional deficit, and this would cover that. Mrs. Maguire stated she was happy to answer any questions.

Mrs. Voelker asked for the Clinic budget, if it had been adjusted for 2025. Mrs. Maguire stated it had been adjusted but with the way they were ending the year, she may have to come back before the Council in 2025 for an additional appropriation as well, but it got increased.

Bryon Woodward, Chief of the Mishawaka Fire Department, spoke in favor of **PROPOSED ORDINANCE NO. 2024-41**. Chief Woodward stated he appreciated the approval of the appropriation and like Mrs. Maguire said, they had four retirements and two resignations that year that they did not plan on and did not know about, so at the beginning of the year, they had three openings and then through the process of hiring people that year, they probably had five people who dropped out through the testing portion of it or through the physical or mental part of it, or decided to go to a different department at that time. Chief Woodward stated they just hired seven a month and a half ago or so and they were a few in the EMT class which would be done in another week and then would start the fire academy portion. Chief Woodward stated they started the year being down about nine to ten people for the majority of the year and could not

keep up and they thought they had enough hired going into the end of July but they lost two more people in that span and put two more people in the process and because of their system, you could not just hire one person and run them through the whole academy and you could not have a full EMT class sponsored by the state with one person and you had to have a group. Chief Woodward stated he just wanted to clarify everything a little better.

Mr. Mammolenti stated he drove by every morning and saw the seven new hires running and asked if they were going to be done with the process shortly. Chief Woodward stated they would be done with EMT class within the next week and then they would start the fire portion of the process, so it all together would take about another month. Mr. Mammolenti stated he and his kids got a kick out of it and told him to tell the new hires to keep up the good work.

Question was called for at 6:42PM for **PROPOSED ORDINANCE NO. 2024-41 Motion passed by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. Hazen, Mrs. Voelker, Mr. Carroll, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus it became **ORDINANCE NO. .**

PROPOSED ORDINANCE NO. 2024-42

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, ESTABLISHING A MERIT SYSTEM FOR THE MISHAWAKA POLICE DEPARTMENT

Mr. Hixenbaugh stated at that time, the chair entertained a motion to postpone **PROPOSED ORDINANCE NO. 2024-42** indefinitely in light of the action that they took earlier that evening to approve the resolution rejecting a police merit system but also to afford them the opportunity to revisit the issue after a year as would need be. Mrs. Voelker moved the motion and with a second from Mr. Carroll, a voice vote was held. The motion passed unanimously, and the matter was postponed indefinitely.

PROPOSED ORDINANCE NO. 2024-43

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, ESTABLISHING A MERIT SYSTEM FOR THE MISHAWAKA FIRE DEPARTMENT

Ms. Hahn reported the Public Health & Safety Committee recommended this proposed ordinance should be adopted. Upon a second by Mr. Banicki, the motion carried.

Mr. Hixenbaugh stated before they proceeded further, there was an amendment to the proposed ordinance that had been requested and, in its nature, it was not overly substantive as it reflected some grammatical changes in a few slight variations and legal references. Mr. Hixenbaugh stated before proceeding with the public hearing, the chair entertained a motion to amend **PROPOSED ORDINANCE NO. 2024-43**. Mrs. Voelker moved the motion and with a second from Mr.

Mammolenti, a voice vote was held on the motion. The motion passed unanimously and the amendment was made to the proposed ordinance.

Eric Hyatt, President of Mishawaka Firefighters Local 360, spoke in favor of **PROPOSED ORDINANCE NO. 2024-43AA**. President Hyatt stated they had been tracking the merit system for at least a year and a half and had gone to many seminars and workshops across the state. President Hyatt stated they had worked hard to educate their members to the best of their ability to how it was going to be set up and how it was going to be ran. President Hyatt stated they believed a merit system would help with professionalizing, standardizing, and to an extent depoliticizing the Fire Department when it came to the main topics of hiring, firing, promotions, and discipline. President Hyatt stated to the Chief's credit, they had already started promoting how the merit system would go with the promotion process, so they were already on their way to working out well under the merit. President Hyatt stated they were committed to working with the Chief's administration in the new year establishing the rules of the merit committee to hopefully mutually benefit the department and the members of Local 360 as they carved out the rules for the merit committee. President Hyatt stated the merit commission was supported by Local 360's executive board and it was a due pass recommendation to its membership.

Mr. Hixenbaugh acknowledged the assistance of their attorney, Mr. Trippel, and he and Mr. Roggeman worked on this as well as the Chief and the union leadership. Mr. Hixenbaugh stated he was very optimistic that this would be a path that would be as beneficial for the Fire Department as the path would be for the Police Department even though they were slightly different paths. Mr. Hixenbaugh stated they looked forward to seeing how this played out into the future and thanked President Hyatt, and all involved for their work on this.

Question was called for at 6:48PM for **PROPOSED ORDINANCE NO. 2024-43AA Motion passed by unanimous roll call vote (summary: Yes = 9).**

Yes: Mrs. Hazen, Mrs. Voelker, Mr. Carroll, Mr. Banicki, Mr. Emmons, Ms. Hahn, Mr. Mammolenti, Mr. Violi, Mr. Hixenbaugh. The proposed ordinance passed 9-0, thus it became **ORDINANCE NO. .**

PROPOSED ORDINANCE NO. 2024-44

AN ORDINANCE APPROVING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF MISHAWAKA AND MISHAWAKA FRATERNAL ORDER OF POLICE LODGE 91

Collective Bargaining Agreement between the City and Mishawaka Police Lodge 91 – 01-01-2025 thru 12-31-2025

Mr. Hixenbaugh stated in order to afford the Board of Public Works and Safety the opportunity to consider and vote on the matter before the Council took action as was their standard practice, at that time the chair entertained a motion to postpone second reading and public hearing on **PROPOSED ORDINANCE NO. 2024-44** until their first regularly scheduled council meeting in January. Mr. Banicki moved the motion and with a second from Mrs. Voelker, a voice vote

was held on the motion. The motion passed unanimously, and the proposed ordinance was postponed.

PRIVILEGE OF THE FLOOR

Mayor Wood spoke under **PRIVILEGE OF THE FLOOR**. Mayor Wood stated Mr. Blasko had to leave but if he were there, he would want him to remind the Council that the drones were coming to Mishawaka, and the drone show was actually postponed from their Winterfest celebration due to high winds and that had been rescheduled for Saturday December 21st at 7PM down by Ironworks Plaza and Beutter Park.

Eric Hyatt, President of Mishawaka Firefighters Local 360, spoke under **PRIVILEGE OF THE FLOOR**. President Hyatt stated most of them may know that he was not seeking another term as the Local President, and he hoped to retire in 2027. President Hyatt stated he just wanted to thank the President of the Council and all of the councilmembers and past councilmembers he had worked with for all of the work they had done. President Hyatt thanked Mayor Wood for the positive working relationship and thanked Clerk Block for all of her help in answering all of his questions over the years and thanked Mrs. Maguire as it was a pleasure working with her as well and thanked Chief Woodward. President Hyatt stated the Chief always liked to say leave it better than you found it and he believed they had accomplished that very well. President Hyatt thanked his crew on Engine 2 for always having his back as well as the executive board, Treasurer Ponzler, Vice President Higgins, Recording Secretary Randy Sotello, and all of the members of Local 360 who allowed him to be the President for the last few years. President Hyatt also thanked his wife who he loved dearly for allowing him to be in the role as she handed everything at home so he could work, and she had always been there for him and he wanted to acknowledge her also. President Hyatt thanked them all very much.

Mr. Hixenbaugh stated it was a pleasure for them to work with him as he had done a wonderful job not just on behalf of the members he represented, but on behalf of the city as well. Mr. Hixenbaugh stated they appreciated the relationship and the work he had done over the years.

Mr. Mammolenti thanked President Hyatt and stated even though the wage negotiating process was extremely long, he thought it was effective on both ends for the union members and for the citizens of Mishawaka and he just wanted to thank him and his team for all of their hard work and for always coming prepared, providing the information that was asked of them, and most importantly, the professionalism he and his team showed throughout the entire process. Mr. Mammolenti stated he hoped that continued on both ends in the near future and wished him and his wife the best of luck and thanked him for his service.

Mrs. Voelker stated she did not work with him on the negotiation committee, but she knew that he worked really hard in his role, and they certainly appreciated it.

President Hyatt stated he was still going to help the new board, try to mentor them, and get them through the next few months and get them on their way so he would not be totally disappearing. President Hyatt thanked them again.

NEW BUSINESS

Mrs. Voelker stated Thursday December 19th at 9PM, the Great American Light Fight would be on ABC and Phil Blasko's home was being featured on the grand finale on the show and if anyone was interested, they should tune in. Mr. Hixenbaugh thanked Mrs. Voelker for the reminder and wished good luck to Mr. Blasko.

Mr. Hixenbaugh stated a suggestion had been made that based upon scheduling conflicts that they change several of their regularly scheduled meeting dates in 2025 to allow for maximum participation on the part of the Council, so at that time Mr. Hixenbaugh asked Clerk Block to read the list of proposed meeting date changes for 2025.

Clerk Block read the following proposed regularly scheduled council meeting date changes in 2025:

January 6th and 20th to January 13th and 27th

March 3rd and 17th to March 10th and 24th

April 7th and 21st to April 14th and 28th

September 2nd and 15th to September 8th and 22nd

The chair entertained a motion to approve the change of their meeting dates for the calendar year 2025 consistent with the list that was read by the Clerk. Mrs. Voelker moved the motion, and Mr. Carroll seconded the motion, thus a voice vote was held on the motion. The motion passed unanimously, and the meeting dates were changed. Mr. Hixenbaugh stated they would publish the meeting date changes not only for the benefit of the media but also for the benefit of the public and they would be reflected physically as well as on their website moving forward.

Mr. Hixenbaugh thanked everyone for another productive year and stated they continued to appreciate the relationship that they had with the Administration and their ability to work together in the best interest of Mishawaka. Mr. Hixenbaugh wished his colleagues from both the Administration and the Council as well as the community a Merry Christmas and a Happy New Year.

ADJOURNMENT 6:57PM

Deborah S. Block /s/
Deborah S. Block, IAMC, MMC, City Clerk

Gregg A. Hixenbaugh /s/
Gregg A. Hixenbaugh, President

These minutes are a summary of actions taken at the Mishawaka Common Council meeting. The full video archive of the meeting is available for viewing at www.youtube.com/@cityofmishawaka635 for as long as this media is supported.

Date: December 6, 2024

DEC 20 2024

AP 24-55

To: Board of Zoning Appeals
City of Mishawaka, Indiana

City Clerk
Mishawaka, IN

Received

DEC 10 2024

The undersigned appellant respectfully shows the Board:

1. I, **Advanced RE Holdings, LLC**, am the owner of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

Legal Description: 38 1/2 ft N End Ea Lots 20 & 21 Mc Inernys 1st

Common Address: 611 S. Main, Mishawaka, Indiana 46544

2. The above-described real estate presently has a zoning classification of **Commercial Warehouse – C-1 District** under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies (*or proposes to occupy*) the above-described property in the following manner: Currently, the property is vacant
4. Appellant desires to operate an e-commerce store with office space. *no retail sales*
5. The Zoning Ordinance of the City of Mishawaka requires this to be an R-1 and R-1 does not allow the property to be used as commercial business. Sec. 137-165.
6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship. R-1 does not allow for operation of a business
7. Answer the following necessary questions for a **USE VARIANCE**:

- (1) Will approval be injurious to the public health, safety, morals or general welfare of the community?

No. The building is currently vacant, which could potentially cause a health and safety issue. Once the building is occupied, the presence of a business could assist in preventing any potential crime and/or the deterioration of the values of the property and neighborhood.

- (2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner?

No, currently the property is overgrown and encroaching on the neighboring properties. Once occupied, the owner intends cleanup the overgrowth, repair any necessary items, and paint the building.

- (3) Does the need for the variance arise from some condition peculiar to the property involved?

Yes, the need for this variance is due to the rezoning classification of residential.

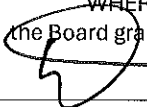
- (4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought?

Yes. The City wishes to rezone the property as residential. I recently purchased this commercially zoned property for business purposes and wish to have the use variance so that I may operate my business out of the same.

(5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan?

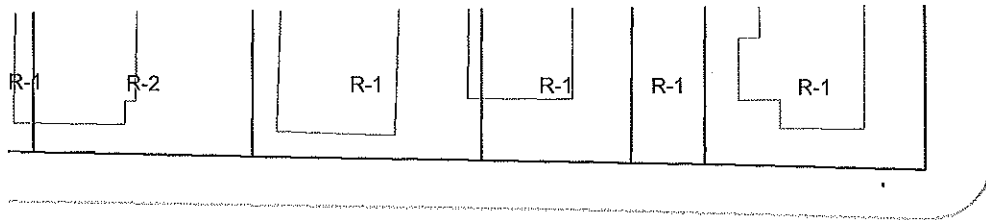
No, it would not interfere because allowing the security business will not increase foot traffic in the area.

WHEREFORE, Appellant prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grant the requested variance.

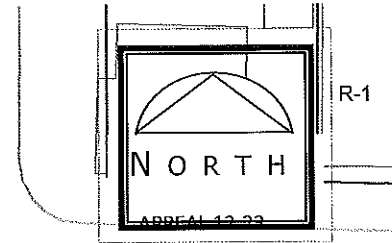

Victor Bieck

Contact Person:

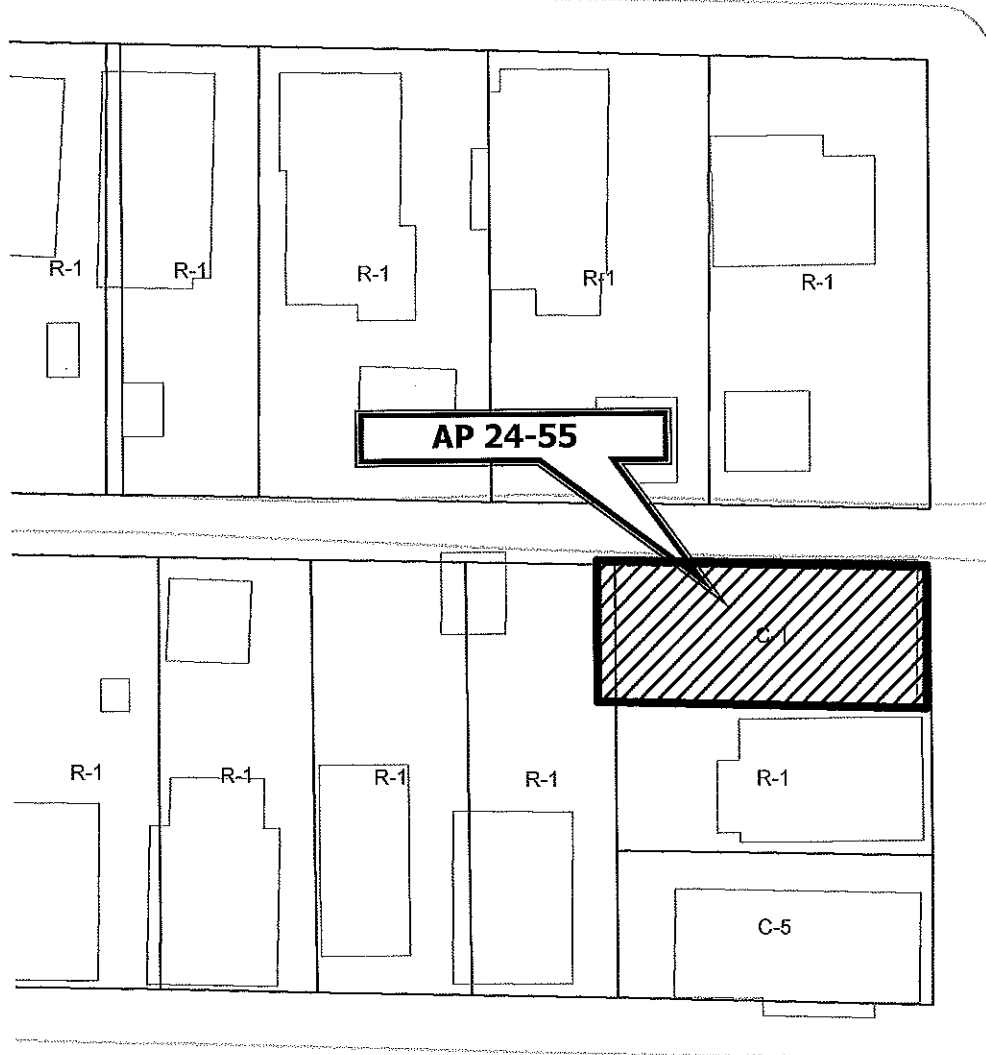
Name:	Victor Bieck
Address:	611 S Main Street Mishawaka, IN 46544
Day Phone Number:	877-364-0918
E-mail:	victor@advancedsecurityllc.com



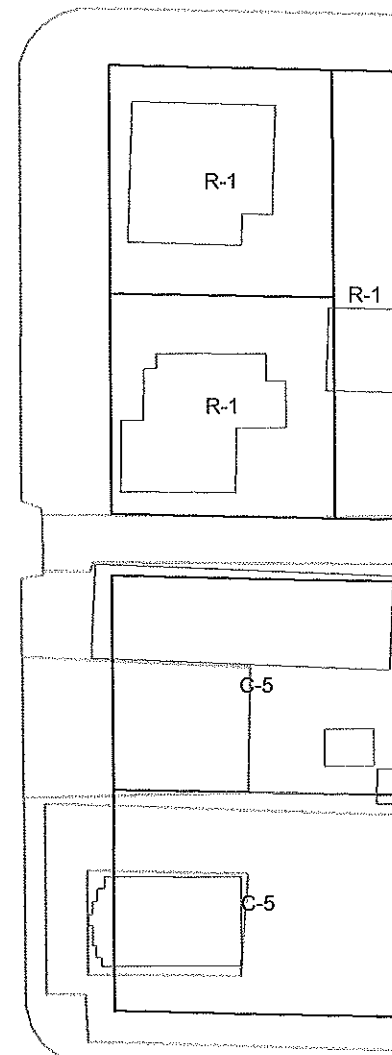
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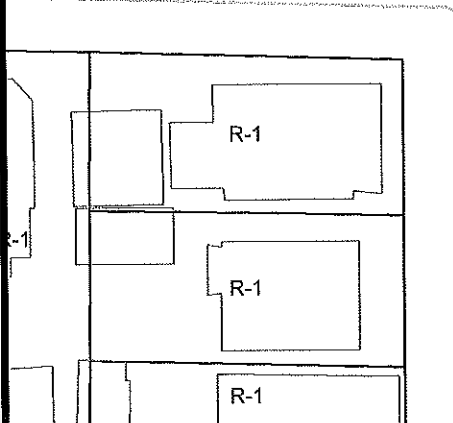
Location Map

AP 24-55

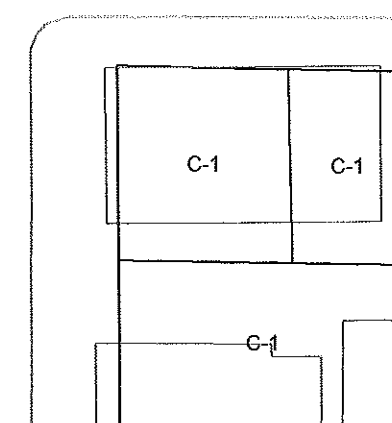
ADVANCED RE HOLDINGS LLC

611 S MAIN STREET

USE VARIANCE TO ALLOW
E-COMMERCE STORE WITH
NOR RETAIL SALES
R-1 SINGLE FAMILY RESIDENTIAL
(WITH PET 24-13)



S MAIN ST



December 6, 2024

Deborah S. Block, MMC, MMC

Pet 24-13

Honorable Members of the
Common Council
City of Mishawaka, Indiana
and
Mishawaka City Plan Commission
City of Mishawaka, Indiana

DEC 20 2024

City Clerk
Mishawaka, IN

Received

Planning and
Community Development

RE: PETITION TO REZONE

The undersigned, Advanced RE Holdings, LLC, respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

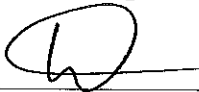
Legal Description: 38 ½ ft N End Ea Lots 20 & 21 Mc Inernys 1st

Common Address: 611 S. Main, Mishawaka, Indiana 46544

Petitioner(s) own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C-1 District. Said property is *vacant*.

Petitioner(s) desire said real estate to be rezoned to Residential – R-1 District. Petitioner(s) further state that they intend to utilize said land for a security business as an ecommerce store.

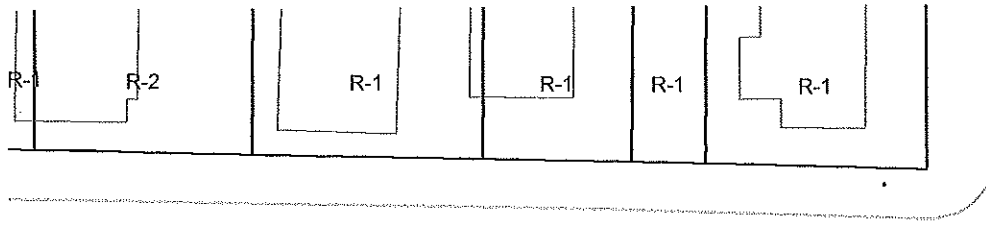
Wherefore, the petitioner(s) pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above described parcel of land located in the City of Mishawaka.



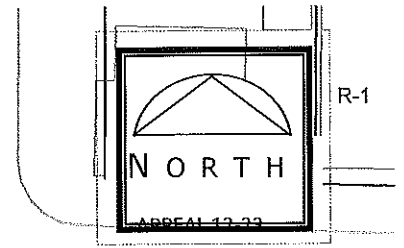
Victor Bieck

Contact Person:

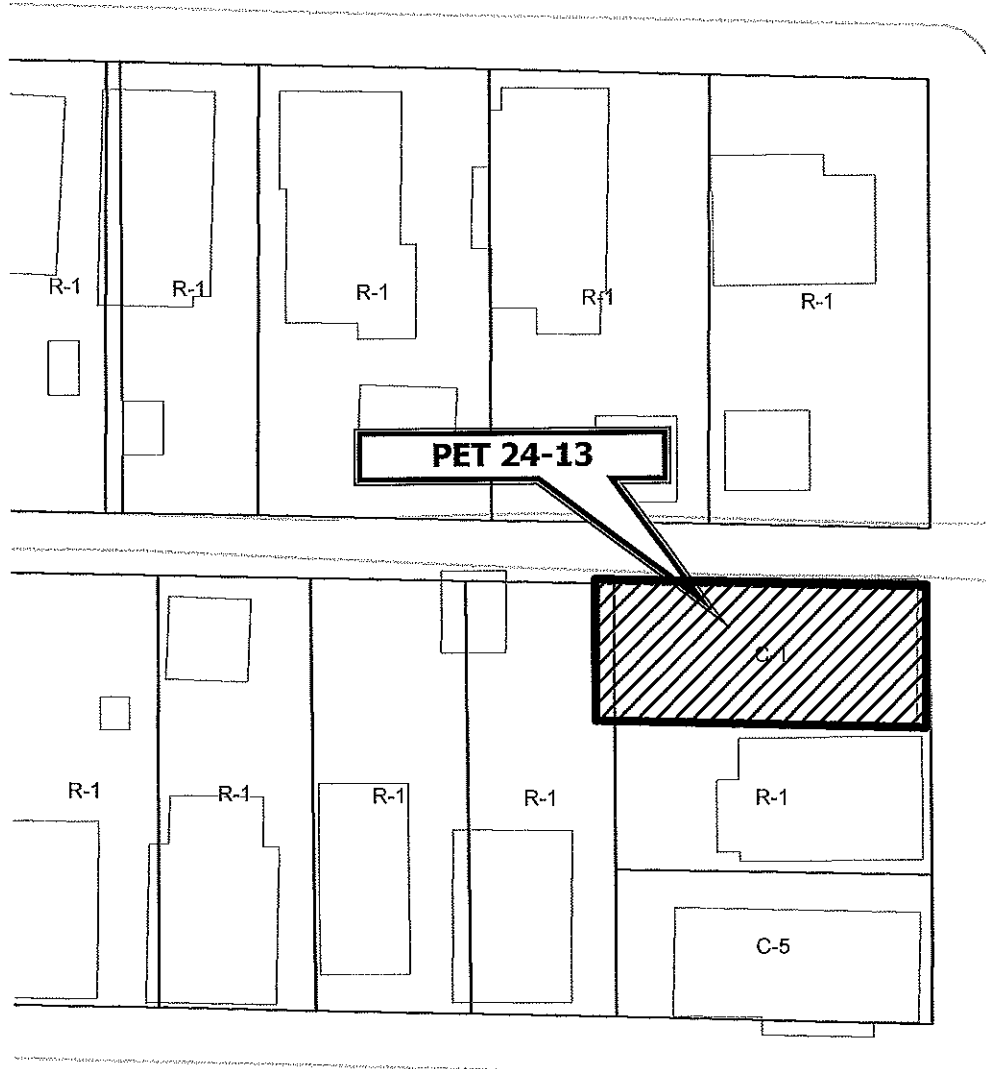
Name:	Victor Bieck
Address:	611 S Main Street Mishawaka, IN 46544
Day Phone Number:	1-877-364-0918
E-mail:	victor@advancedsecurityllc.com



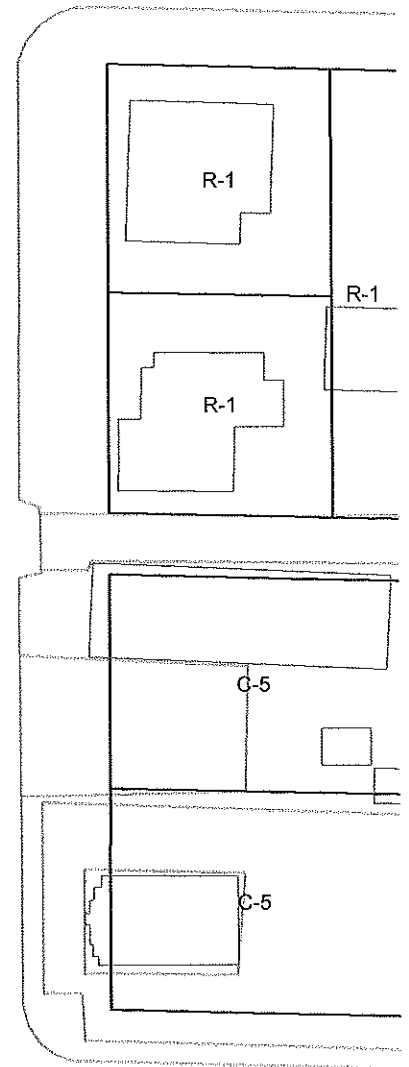
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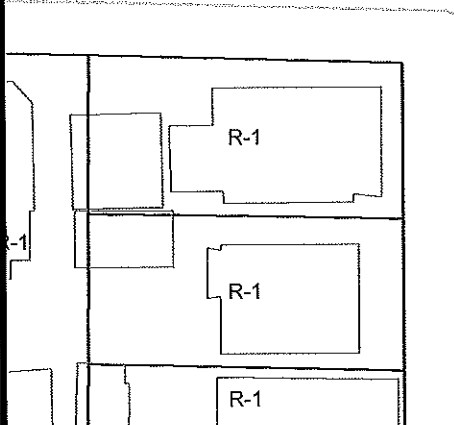
Location Map

PET 24-13

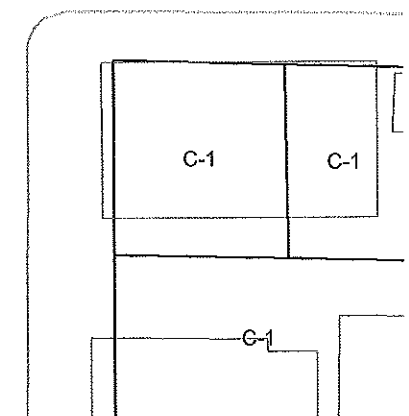
ADVANCED RE HOLDINGS LLC

611 S MAIN STREET

REZONE FROM
C-1 COMMERCIAL DISTRICT
TO R-1 SINGLE FAMILY DISTRICT
(WITH AP 24-55)



S MAIN ST



JAN 10 2025

City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO. 2025-01

ORDINANCE NO. _____

**AN ORDINANCE APPROVING AN AGREEMENT BETWEEN
THE CITY OF MISHAWAKA AND THE MISHAWAKA FIREFIGHTERS
ASSOCIATION LOCAL NO. 360 OF THE INTERNATIONAL ASSOCIATION
OF FIREFIGHTERS, AFL - CIO
(01-01-2025 thru 12-31-2026)**

WHEREAS, the contract negotiating committees for the City of Mishawaka, Indiana and the Mishawaka Firefighters Association Local No. 360 of the International Association of Firefighters have mutually reached an agreement on amendments to the Collective Bargaining Agreement expiring the 31st day of December 2024; and

WHEREAS, the members of the Mishawaka Firefighters Association Local No. 360 of the International Association of Firefighters have ratified the new Collective Bargaining Agreement and the governing body of said Association has executed the new Agreement on their behalf; and

WHEREAS, on the 31st day of December, 2024, the City of Mishawaka, Indiana, acting by and through its Board of Public Works & Safety, approved the new Collective Bargaining Agreement with Mishawaka Firefighters Association Local No. 360 of the International Association of Firefighters, a copy of which is attached hereto; and

WHEREAS, Ordinance No. 1666 requires all Collective Bargaining Agreements to be approved by the Common Council of the City of Mishawaka.

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

Section 1. The Collective Bargaining Agreement executed the 31st day of December, 2024, effective January 1, 2025, between the Board of Public Works & Safety of the City of Mishawaka, Indiana and the Mishawaka Firefighters Association Local No. 360 of the International Association of Firefighters is hereby approved.

Section 2. This Ordinance shall be in full force and effect from and after its passage, signing, and attestation.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2025, at _____ o'clock _____ M.

Common Council
City of Mishawaka, Indiana

Gregg Hixenbaugh, President

ATTEST:

Deborah S. Block, IAMCA, MMC, City Clerk

Presented by me, the undersigned City Clerk of the City of Mishawaka, Indiana,
to the Mayor of the City of Mishawaka, Indiana, for approval on the ____ day of _____
, 2025 at _____ o'clock _____.m.

Deborah S. Block, IAMCA, MMC, City Clerk

Having examined the foregoing Ordinance, I do as the Mayor of the City of
Mishawaka, Indiana, approve said Ordinance and return the same to the City Clerk of
the City of Mishawaka, Indiana, this ____ day of _____, 2025.

David A. Wood, Mayor
City of Mishawaka, Indiana

RESOLUTION NO. 2024-07

MISHAWAKA BOARD OF PUBLIC WORKS AND SAFETY

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MISHAWAKA AND THE MISHAWAKA FIREFIGHTERS ASSOCIATION, LOCAL NO. 360 OF THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, AFL-CIO

WHEREAS, the City of Mishawaka and the Mishawaka Firefighters Association, Local No. 360 of the International Association of Firefighters, AFL-CIO have agreed to a Collective Bargaining Agreement for the period of January 1, 2025 to December 31, 2026; and

WHEREAS, such Agreement requires the approval of the Mishawaka Board of Public Works and Safety and the Mishawaka Common Council;

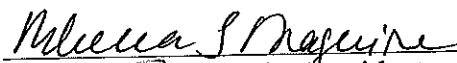
NOW, THEREFORE, BE IT RESOLVED by the Board of Public Works and Safety of the City of Mishawaka that:

Section 1. The attached Collective Bargaining Agreement between the City of Mishawaka and the Mishawaka Firefighters Association, Local No. 360 of the International Association of Firefighters, AFL-CIO is hereby approved, and

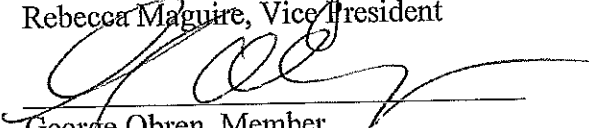
Section 2. This Resolution shall be forwarded to the Mishawaka Common Council for its review and final action.

ADOPTED by the Board of Public Works of the City of Mishawaka, on this 31st day of December, 2024.

Kenneth Prince, President

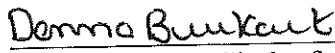


Rebecca Maguire, Vice President



George Obren, Member

ATTEST:



Donna Burkart, Clerk of the Board

COLLECTIVE BARGAINING AGREEMENT

between

CITY OF MISHAWAKA, INDIANA

and

MISHAWAKA FIREFIGHTERS

ASSOCIATION LOCAL NO. 360

OF THE

INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, AFL-CIO

DATED: 01-01-2025 thru 12-31-2026

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EXHIBIT "A" SALARY ORDINANCE

SIGNATURE PAGE

COLLECTIVE BARGAINING AGREEMENT

THIS AGREEMENT entered into on the 31st day of December, 2024 effective on the 1st day of January, 2025 between the CITY OF MISHAWAKA, INDIANA, hereinafter called "City," and MISHAWAKA FIREFIGHTERS ASSOCIATION, LOCAL NO. 360, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, AFL-CIO, hereinafter called "Union," WITNESSETH THAT:

The parties hereto, in consideration of the mutual covenants and agreements herein contained, do hereby agree as follows:

ARTICLE I

Purpose and Definitions

Section 1 – Purpose

The parties enter into this Agreement pursuant to the authority of ordinance Number 1666 passed by the Common Council of the City of Mishawaka on the 6th day of December, 1971. The purpose of this Agreement is to incorporate understandings previously reached and other matters into a formal contract; to promote harmonious relations between the City and the Union in the best interests of the community; to improve the public firefighting services; and to provide an orderly and equitable means of resolving future differences between parties.

Section 2 – Definitions

- (a) City shall include the elected or appointed representatives of the City of Mishawaka, including the Fire Chief and Assistant Fire Chiefs.
- (b) Union shall include all other firefighters and the officers or representatives of the Union.
- (c) When the singular number is used, it shall include the plural.
- (d) The term firefighter shall include all sworn firefighters and all civilian firefighter/paramedics unless specified elsewhere in this Agreement.

ARTICLE II

Coverage

This agreement shall be applicable as to all firefighters of the City of Mishawaka, Indiana Fire Department except the Fire Chief and Assistant Fire Chiefs.

ARTICLE III

Recognition

The City recognizes the Union as the sole and exclusive bargaining representative of the employees of the Fire Department.

The City shall not enter into any agreements with its employees individually or collectively or with any other organization which in any way conflicts with the provisions hereof.

The City recognizes the Mishawaka Fire Department as the sole provider of paramedic and ambulance services other than mutual aid agreements.

ARTICLE IV

Rights of Management

Section 1 - General

Except as otherwise provided in this Agreement, or applicable federal or state law, the City in the exercise of its functions of management shall have the right to decide the policies, methods, safety rules, direction of employees, assignment of work, contracting of work, equipment to be used in the operation of the Fire Department, and to determine the hours of work, the right to hire, discharge, suspend, discipline, promote, demote, and transfer firefighters; it is agreed that the enumeration of the above management prerogatives shall not be deemed to exclude other prerogatives not enumerated. Nothing in this Article shall limit or prevent firefighters' rights to the grievance procedure provided for in this Agreement.

Section 2 - Late to Work Clause

In any twelve (12) month period, a firefighter who has been late five (5) times will be given a warning letter advising the firefighter that the sixth (6th) time late will result in a fine equal in amount to loss of one-half (1/2) day's pay, the seventh (7th) time late will result in a fine equal in amount to loss of one (1) day's pay and the eighth (8th) time late will result in the firefighters referral to the Board of Public Works and Safety for disciplinary action.

ARTICLE V

Dues and Deductions

The City shall deduct, as dues, from the pay of each firefighter from whom it receives a written authorization to do so, the required amount for the payment of Union dues, fees, and assessments. Such sums, accompanied by a list of employees who have authorized such deductions and from whom no deductions were made and the reason therefore, shall be forwarded to the Union Secretary-Treasurer within thirty (30) days after such collections have been made.

All firefighters, covered by this contract, who are not members of the Union, shall pay a monthly representation fee to the Union in an amount equal to the actual cost to the Union of its representation of all unit employees, but in no event to exceed the monthly dues and assessments of Union members. The City shall have no obligation to collect the non-union member representation fee. The Union shall indemnify the City for any costs or expenses arising out of a suit or claim against the City brought by a non-union member relating to this Article.

ARTICLE VI

Union Activities

Section 1 - General

Employees and their Union representatives shall have the right to join the Union, to engage in lawful concerted activities for the purpose of collective negotiation or bargaining or other mutual aid and protection, to express or communicate any views, grievance, complaint, or opinion related to the conditions or compensation of public employment or their betterment, all free from any and all restraint, interference, coercion, discrimination, or reprisal, except as limited by the laws of the City of Mishawaka, State of Indiana, or the United States of America.

Section 2 - Released Time

Officers and other representatives of the Union shall be afforded reasonable time during working hours without loss of pay to fulfill their Union responsibilities, including negotiations with the City, processing grievances, administering and enforcing this Agreement, and attending Union activities. The City's obligation to provide such time off with pay shall be limited to no more than four (4) firefighters per Union activity. If any such absences related to a Union activity should cause the department strength to fall below the minimum required under this Agreement, notwithstanding any provisions herein to the contrary, any firefighter called in to maintain the minimum department strength shall be compensated solely by the Union and the City shall incur no liability under the terms of this Agreement or otherwise with respect to the payment of this compensation. The Union shall be responsible for maintaining the call-in list and

furnishing substitute manpower for firefighters released from duty under this Article. The substitute firefighter furnished by the Union must be of equivalent rank or otherwise be qualified to fill the vacancy created due to the absence, except as otherwise approved in advance by the affected Battalion Chief.

Section 3 - Bulletin Boards

The Union shall retain the Bulletin Board rights it now has, including the right to post Union notices or other materials. Such boards shall be identified with the name of the Union and the Union may designate persons responsible therefore.

Section 4 - Meetings

The Union may schedule meetings on Fire Department property, in so far as such meetings are not disruptive of the duties of the employees or the efficient operation of the Fire Department.

ARTICLE VII

Wages

Section 1 - General

The salary schedule attached hereto as Exhibit "A" shall be effective January 1, 2025 and shall be amended from time to time by action of the Common Council of the City of Mishawaka, Indiana.

Section 2 - Overtime Pay

- (a) Overtime pay shall be paid to all 56-hour employees of the firefighting division for all work in excess of their regularly scheduled workday (24 consecutive hours) or work week (56 hours in a 6 calendar-day cycle). Such overtime shall be paid at the rate of time and one-half of the employee's prevailing hourly rate, provided, however, that all overtime worked on Sundays and holidays shall be paid at the rate of twice the employee's prevailing hourly rate. Double-time is calculated for any overtime worked between 0700 hrs. on Sundays or a holiday until 0700 hrs. the following day as per Article VIII section 1 (a).
- (b) Overtime pay shall be paid to all 40-hour employees for all work in excess of 40 hours per week. Such overtime shall be paid at the rate of time and one-half of the employee's prevailing hourly rate, provided, however, that all overtime worked on Sundays and holidays shall be paid at the rate of twice the employee's prevailing hourly rate.
- (c) An employee's prevailing hourly rate shall be determined by dividing their annual salary by 2,912. This calculation shall include the Pension Equalization

Plan Payments to the civilian firefighter/paramedics.

- (d) Call in Pay. When a firefighter is called in to work partial and/or emergency duty, the firefighter will be guaranteed a minimum of four (4) hours work or four (4) hours pay at overtime rate and any additional fraction of an hour over fifteen (15) minutes shall constitute one (1) hour. When a firefighter is called for a twenty-four (24) hour overtime, the firefighter will be guaranteed twenty-four (24) hours pay at the overtime rate for that day. When a firefighter is mistakenly offered a prescheduled overtime, management reserves the right to retract said offer and that member will be guaranteed four (4) hours overtime pay and regain their original place on the appropriate overtime list.
- (e) In the event a firefighter is held over their regular work shift, the firefighter shall receive regular overtime pay in increments of one-half (1/2) hour but shall not be guaranteed a minimum of four (4) hours work or four (4) hours pay. By way of example, if a firefighter is held over thirty-one (31) minutes, the firefighter shall be paid for one (1) hour of overtime at the regular overtime rate.

Section 3 - Overtime Pay for Specialty Positions

- (a) The City will keep an updated list of those firefighters taking part in the Water Surface Rescue and Recovery Program, Dive Team Program, Tactical Rescue Team and Mechanics.
- (b) All firefighters shall have an equal opportunity to attend special schooling for the specialty programs listed above. Firefighters attending such schooling shall be reimbursed for expenses reasonably incurred in the attendance at such schooling

and shall be compensated, as if on duty for attendance at such schooling on the firefighter's regularly scheduled day off.

- (c) In the event a firefighter is ordered or subpoenaed and appears during off-duty hours before a court, administrative body, or at the County Prosecutor's Office, pertaining to incidents involving the Fire Department, the firefighter shall receive overtime pay. The firefighter shall receive pay for the actual amount of time spent but not less than two (2) hours at the overtime rate of pay. A firefighter who is the subject of a disciplinary hearing shall not be entitled to the benefits provided in this subsection. The firefighter's overtime will be figured less any compensation received from the Courts, attorneys, insurance companies, or any other third party.

Section 4 - Pension Equalization Pay for Non-77 Pension plan Members

For those civilian firefighter/paramedics who do not qualify or do not elect to become members of the 1977 pension fund, the pension equalization pay (PEP) will be offered to the employees as additional wages. The PEP shall be payable in twenty-six (26) equal biweekly pay periods with the regular payroll. The annual PEP will be a combination of a base of three thousand three hundred dollars (\$3,300) and an additional one hundred dollars (\$100) for every full year of continuous service completed by January 1st of each year.

Section 5 - Renegotiation of Wages

It is understood and agreed by the parties hereto that any wage provision contained in this Agreement may be modified at any time by renegotiation with the

members of the Common Council of the City of Mishawaka, Indiana. The Common Council and the Union must agree to such renegotiation, and the refusal of either to reopen negotiations for wages shall not be considered a breach of this Agreement or a breach of any other duty or obligation of either.

ARTICLE VIII

Hours of Employment

Section 1 - Work Schedule

- (a) The Platoon system shall be a three-platoon system consisting of three shifts. A workday consists of 24 consecutive hours starting at 0700 hours. The regular work schedule of firefighters under this system will be as follows: 24 hours on, 24 hours off, 24 hours on, 24 hoursoff, 24 hours on, and 96 hours off.
- (b) For Fire Marshals, the regular work week shall be thirty-six (36) hours consisting of four (4) weekdays at nine hours per day. Work week schedules shall be approved by the Fire Chief or their designee. There shall be no less than three (3) Fire Marshals.

Section 2 - Trading Days

Subject to the approval of the Assistant Chief or the Assistant Chief's designee, and the department being able to meet and maintain minimum manpower requirements, firefighters shall be permitted to voluntarily trade scheduled work and unpicked random days. Random days traded will be used like any other random day would be, with one exception, it does not carry any seniority when a three (3) week posting is necessary. Firefighters will not be allowed to "borrow" time from the City.

The firefighter that accepts the trade request and agrees to work the tour of duty that is specified by the trade request, is the firefighter that is responsible for working that specified tour of duty. Failure to report for duty on the agreed upon day, shall constitute an unauthorized absence, and the firefighter agreeing to work the specified tour of duty

shall be considered absent without leave, (AWOL) and may be subject to discipline. Once the trade time has been approved, the firefighter requesting the trade time is no longer responsible for working the tour of duty specified by the trade request, and shall not be subject to discipline or reduction in pay if the accepting firefighter fails to report for duty on the tour of duty specified. The responsibility falls on the accepting firefighter to find coverage for the day.

If the day is available the accepting firefighter is allowed to take the day off as long as it does not drop the day below the minimum work force or create overtime at the time of their request.

The City shall incur no costs as a result of trade time between firefighters.

ARTICLE IX

Holiday Schedule

For purposes of this agreement, the holidays shall be as follows:

New Year's Day

New Year's Eve Day

Good Friday

Easter Sunday

Patriot Day (Recognized for Holiday Pay purposes only)

Memorial Day

Independence Day

Labor Day

Thanksgiving Day

Friday after Thanksgiving Day

Christmas Eve Day

Christmas Day

3rd Saturday in August Fallen Firefighter

ARTICLE X

Vacations and Leave

Section 1 – Vacation Eligibility

(a) All firefighters, except Fire Marshals, will accrue vacation and random time

according to the following chart:

		VACATION						
YEARS OF SERVICE		3 Days(s) (1 st Week)	6 (2 nd Week)	9 (3 rd Week)	12 (4 th Week)	15 (5 th Week)	18 (6 th Week)	TOTAL
	<1						Prorated	≤ 4
	1	x					4	7
	2	x	x				4	10
	3	x	x				4	10
	4	x	x				4	10
	5	x	x	x			4	13
	6	x	x	x			4	13
	7	x	x	x			4	13
	8	x	x	x			4	13
	9	x	x	x			4	13
	10	x	x	x	x		4	16
	11	x	x	x	x		4	16
	12	x	x	x	x		4	16
	13	x	x	x	x	x	4	19
	14	x	x	x	x	x	4	19
	15	x	x	x	x	x	5	20
	16	x	x	x	x	x	5	20
	17	x	x	x	x	x	5	20
	18	x	x	x	x	x	5	20
	19	x	x	x	x	x	5	20
	20+	x	x	x	x	x	x	21

(b) After the vacation selection process is completed all remaining Random

days may be taken in twelve (12) or twenty-four (24) hour increments.

Section 2 – Vacation Selection

(a)

- (1) Firefighters may not at any time select a day for vacation or random leave if doing so would reduce the shift strength for that day below the minimum firefighting work force due to other firefighters' vacation and random-leave selections. Firefighters on sick leave shall not be counted in determining shift strength. Firefighters signed up for education leave shall not be counted in determining shift strength until seven (7) calendar days prior to the start of the class, except that firefighters attending a class that lasts longer than fourteen (14) calendar days shall not be counted in determining shift strength.
- (2) Each shift will select vacation independent of the other two shifts. Vacations shall be selected on the basis of seniority.
- (3) During the first round of selections, firefighters with more than five years of service must select six consecutive workdays of vacation (a "two-week vacation"). Firefighters who have completed less than five (5) years of service must select at least three (3) vacation days consecutively, but not more than six (6).
- (4) A member who is set to retire in the calendar year of their vacation selection, may opt to defer picking all days with the notion of being paid for said days upon retirement. Members using this option must state in writing to the Fire Chief or their designee no less than seven (7) calendar days prior to the start of the two (2) week selection process. If a member then decides to cancel their retirement, they may select their vacation days after all of their respective shifts vacation rounds and Random-leave day selections have been completed and

they will be awarded on a first-come-first-serve basis.

- (b) Up to four (4) firefighters per shift shall be eligible on the basis of seniority to select simultaneous two-week vacations without regard to any conflict caused by conditions in scheduling. If a member with less than five (5) years chooses to select three (3) consecutive days, those days must be of the same cycle. Furthermore, another member with less than five (5) years may choose to take the remaining, available, three (3) day cycle and it will count as one (1) complete two-week vacation selection.
- (c) Vacation schedules shall be posted by the Fire Department Management by December 1st of each year. Vacation selection shall commence one full cycle after January 1st, and be completed by the end of the 3rd day of that cycle. Each firefighter must be prepared to select their vacation on any day of that cycle, between 0700 and 1700 hours, unless other written arrangements that do not conflict with the seniority process are made ahead of time with copies going to the Chief or representative and the Union Executive Board. Vacation picks may be selected after 1700 hours if the officer in charge of vacation selections chooses and the next member in line to select agree. If the next member in line is not ready to select their vacation and it is after 1700 hours, then vacation selections will cease until their shift's next regular workday.
- (d) A firefighter who fails to select their vacation during this time will be passed and shall go to the bottom of the vacation selection list. Available days for vacation or random leave are any days beginning between January 2 and January 1 of the following year that the firefighting workforce does not drop below the minimum manpower requirements in Article XIX.

- (e) During each round of selections after the first round, firefighters may only select up to three workdays per round. Each subsequent selection round will start on or by the start of the shift's next regularly scheduled workday. After the final vacation-selection round, there will be another round during which firefighters will select one Random-leave day based on seniority. All other Random-leave days are available on a first-come-first-serve basis.
- (f) Any firefighter who splits their two-week vacation in the first round will pick their remaining days from their split two-week vacation as if they were Open Vacation Days (i.e. on a first come first serve basis.) So, if a firefighter chooses to let their vacation become Open Vacation Days, they give up seniority selection rights.
- (g) When a firefighter is transferred from one shift to another, after vacations are picked, their vacation pick will transfer with them, within one (1) or two (2) work days of the original pick, with the firefighters having the choice of moving forward or backwards of their original vacation pick, it is also understood that if a contractual day(s) or earned time, that was chosen separately becomes the firefighter's regular day off, due to a transfer, they will have the choice to move that day forward or backwards. As an alternative, a firefighter may select another day, as long as the day is available and within the same calendar year.
- (h) In the event days become available that were not available at the posting of the Random-leave day list, those days and only those days will be emailed to the entire department and made available to be picked by seniority after a three (3) week posting period. Any firefighter interested in such days must request the days on the

department's scheduling software within the three (3) week posting period. Any days not selected shall be granted on a first come, first serve basis. If a day becomes available within the three (3) week posting period, it shall be emailed as set forth above and the firefighter will be notified one (1) shift day prior to the day in question.

Section 3 – Vacation Eligibility – Fire Marshal Division

Vacation time shall inure to the benefit of the Fire Marshal Division based upon their appointment to the Fire Department as follows:

- (a) Fire Marshals having completed one (1) year of service, but less than two (2) years, shall receive four (4) workdays of vacation.
- (b) Fire Marshals having completed two (2) years of service, but less than five (5) years, shall receive eight (8) workdays of vacation.
- (c) Fire Marshals having completed five (5) years of service, but less than twelve (12) years shall receive fifteen (15) workdays of vacation.
- (d) Fire Marshals having completed twelve (12) years of service, but less than seventeen (17) years of service shall receive twenty (20) workdays of vacation.
- (e) Fire Marshals having completed seventeen (17) years of service, but less than twenty-five (25) shall receive twenty-six (26) workdays of vacation.
- (f) All employees assigned as Fire Marshals shall receive 2 random days in addition to their vacation days.
- (g) All employees assigned as Fire Marshals will have their vacation selections approved by the Fire Chief.

Section 4 – Deferred Compensation Sell Back

Firefighters may elect, at their discretion, to have the straight-time hourly value (see Article VII, Section 2, Article C) of up to two (2) Open Vacation or Random Days invested into their Deferred Compensation. Usage of the conversion benefit is in lieu of the usage of those two (2) days. In order for firefighters to participate in this benefit, the firefighter must elect this option before picking their Open Vacation or Random Days.

ARTICLE XI

Seniority, Layoff, Recall and Lateral Transfer

Section 1 - Seniority, Layoff and Recall

- a. Seniority shall be determined by the date of the firefighter's appointment to the Department. If more than one (1) firefighter has the same date of appointment, then seniority shall be determined alphabetically.
- b. A "lay-off" is hereby defined to be a necessary reduction of the work force of the Fire Department. Lay-offs shall be made in the reverse order of seniority; that is, the firefighter with the least seniority shall be laid off first and the firefighter with the most seniority shall be laid off last.
- c. A "recall" shall be an increase of the work force with the Fire Department following a lay-off. Recall shall be by seniority with the firefighter with the most seniority being the first individual to be recalled and the firefighter with the least seniority being the last individual to be recalled.
- d. In the event of a personnel reduction, no new employees shall be hired until all laid off employees are recalled or have refused to return to work.
- e. If any position on the Fire Department presently being performed by a firefighter is performed by a civilian or volunteer help, no firefighter shall be laid off as a result.

ARTICLE XII

Sick Leave

Section 1 – Firefighter

During illness, a firefighter's pay shall continue subject to the right of the Board of Public Works and Safety to require a physician's statement confirming the firefighter's illness and their inability to perform their duties. Medical disabilities shall be determined by the firefighter's Pension Board. Medical disability for a Civilian Firefighter/Paramedic shall be determined by the City's designated physician.

Section 2 – Work-Related Injury – Civilian Firefighter/Paramedic

The City will provide a disability and income program for civilian firefighter/paramedics. This insurance benefit shall continue in effect until such time as a similar disability insurance program for municipal civilian firefighter/paramedics shall be established and funded by the Federal government, the State of Indiana, or some other governmental agency.

ARTICLE XIII

Funeral Leave

In case of death in the firefighter's immediate family (meaning parent, spouse, grandparent, grandchild, parent-in-law, brother, sister, sister-in-law, brother-in-law, child or stepchild), a firefighter shall receive upon request, two (2) consecutive work days off without loss of regular pay, to make preparations for and attend, the funeral and burial of such relative and to attend to any necessary business or legal matters of the decedent or their estate. In addition, the Fire Chief shall have the right to grant, in appropriate cases and at their sole discretion, additional days off work for funerals.

The same right to funeral leave as set forth above shall be applicable in cases of death to an aunt or uncle of the firefighter, to a firefighter's nieces and nephews, to the aunts, uncles, nieces and nephews of the firefighter's spouse, and the grandparents of the firefighter's spouse. In such instances, the leave shall be only one (1) workday off without loss of regular pay. A firefighter who serves as a pallbearer in any funeral shall be entitled to whatever time off is needed on the day of the funeral to serve as a pallbearer without loss of pay. This does not apply to a firefighter that is on a pallbearers list. For members of the inspection division and the training officers, the days off provided for in the above section shall be three consecutive eight (8) or nine (9) hour workdays only.

Funeral leave under this Article XIII shall be taken at the time the death occurs. If a firefighter is on vacation when the death giving rise to the funeral occurs, the firefighter shall not be entitled to take the funeral leave as an extension to their vacation.

ARTICLE XIV

Insurance

Section 1 – Life and Accident

The City shall maintain in effect for each firefighter a life insurance policy of Fifteen Thousand (\$15,000.00) Dollars double indemnity.

The City shall also provide a \$50,000.00 life insurance policy for each civilian firefighter/paramedic in the event they are killed in the line of duty; provided, however, if federal or state legislation is passed providing such coverage, as in the instance of the police and firemen, then the City need not provide such coverage. Such a policy must include coverage for death by disease contracted in-the-line-of-duty.

Section 2 – Medical and Hospital

The City shall offer medical and hospital care coverage to all firefighters, including those off work due to injury and/or illness, throughout the life of the Agreement complying with the terms included in the Insurance Memorandum attached to this agreement.

ARTICLE XV

Uniform Allowance

(a) The City shall, in addition to all other compensation herein granted, pay each firefighter an annual uniform allowance of:

1. \$625.00 one-time payment included in first (1st) year of service
2. \$1,250.00 after the first (1st) year hire date anniversary

to purchase and maintain uniforms as prescribed by the Chief. In consideration of this allowance, the firefighters agree to keep their uniforms in neat, clean and in good repair and to replace all wornout clothing as necessary. Effective January 1, 2026, the City shall increase the amount of uniform allowance to \$750.00 (1st year of service) and \$1500.00 (after 1st year hire date anniversary).

(b) No new items of clothing shall be required unless the Union agrees, provided, however, that this paragraph shall not apply to any safety items which may in the future be mandated by IOSHA or OSHA.

(c) The City shall provide and replace damaged protection gear at no expense to the firefighter. Protection gear shall consist of the firefighter's helmet, turnout coat and pants, a protective hood, boots and gloves, and OSHA approved eye protection. A firefighter must relinquish all damaged protective gear before the City is obligated to replace such gear.

ARTICLE XVI

Duties of Firefighters

(a) Firefighters duties shall consist of the following:

(1) All work directly connected with firefighting services, emergency medical services, fire prevention, and public education.

(2) Specialty work including water and aerial rescue services, hazardous material emergency response services, water rescue and recovery, fire protection services in the area of code enforcement and fire and arson investigation.

(3) Keeping all staffed stations and fire department vehicles clean, including performing general-maintenance tasks for the presentable upkeep of station grounds and quarters.

(b) Firefighters shall not be required to perform heavy maintenance work or work which requires special skills, including plumbing, electrical work, and painting; however, a firefighter may voluntarily perform these tasks if qualified.

(c) After all of the duties required under paragraph (a) are performed to the satisfaction of the Fire Chief or representative, firefighters may engage in personal activities which do not interfere with the duties of other members of the fire department.

(d) Firefighters shall not be required to engage in training, schooling or station maintenance on the Holidays listed in this agreement, except for Patriot's Day. Management shall be entitled to require training, schooling, or station maintenance on weekends.

ARTICLE XVII

Strike Prohibition

The Union will not engage in, nor sanction, strike action, slow down, "blue flu," or similar action during the life of this Agreement or any extension thereof. If this Article is violated, the participants shall be immediately subject to discharge as provided in Ordinance Number 1666 of the City of Mishawaka.

ARTICLE XVIII

Joint Safety Committee

Section 1 - Adoption of Safety Program

A joint safety program shall be adopted and enforced by a joint safety committee comprised of an equal number of representatives from the Union and the City.

Section 2 - Special Items of Safety Equipment

The Cascade system or any replacement system shall be tested not less than annually and maintained in good working order.

Section 3 - Fresh Air Tanks

Fresh air tanks shall be tested hydrostatically at least every five (5) years, per code No. DOT 49 CFR.

Section 4 - Testing of Other Items

All aerial ladders and platform trucks shall be tested, at least once every three (3) years for defects and all defects shall be promptly repaired by the City.

ARTICLE XIX

Department Strength

Section 1 – Minimum Work Force

- (a) The minimum work force will be thirty-one (31) firefighters per day.
- (b) Seven (7) firefighters will be allowed off per day. In the event of sickness, vacation, or any other reason whatsoever the work force is reduced below the minimum manning requirement, the Officer in Charge will then refer to the proper overtime list for the next firefighter in line to work.
- (c) A minimum of four (4) supervising paramedics will remain on duty per shift.
- (d) For purposes of this Agreement, extended duration sick time shall be defined as any medically related absence from duty that has a duration of three (3) consecutive workdays or more and during which the firefighter is under the care of a doctor or other licensed medical professional, with the exception of an absence related to a worker's compensation claim that is approved by the City's worker's compensation insurance carrier, beginning on the date that the claim is initiated and continuing until the date upon which the claim is denied or otherwise resolved. Up to two (2) firefighters per shift using extended duration sick time shall count toward the determination of seven (7) firefighters off set out in Section 1(b) above, except for the purposes of vacation selection as set forth in Article X, Section II of this Agreement. Upon the receipt of the certification of the medical condition from a doctor or other licensed medical professional, the firefighter will be then considered towards the seven (7) members off to the daily work schedule

and will continue to do so (including during any extension of the originally anticipated extended sick leave) until such time as the Fire Chief or his designee receives appropriate return to work certification.

Extended Sick – Consists of any injury or illness resulting in being off work, under a doctor's care, and last longer than three (3) workdays consecutively.

- 2 members per shift will count towards the 7 off a day.
- Will be placed on the schedule once a doctor's slip has been received and remain in place for the duration of time listed on the slip. Days written out will be adjusted from doctor's slip to doctor's slip.
- Member will continue on this pattern until a final release date from a doctor is given.
- If a member fails to provide a new doctor's slip at the end of their current time off, they will remain written out until a doctor's slip is provided.
- During the month of January, while contractual vacation picks are taking place, any member on extended sick will only be added to their assigned shift's workday the day before after vacation picks have ended for the day. Once all contractual picks have finished the member then will be added to the schedule per the directions listed previously in this article.

Section 2 – Department Strength

(a) The minimum firefighting work force shift shall be assigned to manning emergency firefighting equipment.

(b) Each pumper truck and aerial/pumper combination truck in service shall run and

be manned by at least three (3) firefighters.

- (c) Each rescue truck unit in service shall run and be manned by at least two (2) firefighters.
- (d) Each paramedic ambulance shall run and be manned by at least one (1) supervising paramedic and one (1) EMT.
- (e) The City will man and run a minimum of four (4) advanced life support (ALS) ambulances. The City may run additional ambulances as staffing allows.
- (f) In the event a rescue truck or aerial truck unit is out of service because of a mechanical breakdown, a reserve engine may be placed in service as a replacement, manned by not less than two (2) firefighters and used only as a rescue truck or aerial truck unit. Under no circumstances shall the reserve engine be used as a pumper truck unless manned by not less than three (3) firefighters. In the event the reserve engine is used as a pumper truck while manned by less than three (3) firefighters, then the firefighters next in line on the recall list shall be entitled to overtime pay of not less than four (4) hours.
- (g) Whenever a reserve pump truck is put in service to take the place of a piece of equipment that is manned normally by two (2) firefighters and enough manpower is available, it shall be manned with three (3) firefighters.
- (h) All disabled firefighting motor vehicle equipment, excepting automobiles, shall be repaired and placed back in service as soon as reasonably possible.

Section 3 - Vacancies

- (a) The City will make a diligent effort to fill all vacancies in the Fire Department within

sixty (60) calendar days after such vacancies occur. In the event a vacancy is not filled within sixty calendar days, the City shall furnish immediately thereafter a written explanation to the Union outlining the reason the vacancy has not been filled.

- (b) All vacancies in rank as a result of promotion shall be filled within (30) days.
- (c) All vacancies in ranks as a result of a resignation, retirement, or termination will be filled within thirty (30) days, or when the vacating firefighter ceases to receive compensation by the City for hours worked or other time owed, whichever is later. Vacancies will be posted within seven (7) days of action by the Board of Public Works and Safety creating the vacancy.

Section 4 – Driver Operator and Master Firefighter Positions

- (a) There shall be not less than thirty (30) firefighters holding the rank of Driver Operator (DO).
- (b) All firefighters shall be automatically promoted to the rank of Master Firefighter on or before the third anniversary of their hire date.

Section 5 – Rank Structure

- (a) Effective January 1, 2015, the rank structure will be as follows:
 - (1) Probationary Firefighter
 - (2) Master Firefighter
 - (3) 1st Class Firefighter
 - (4) Driver Operator
 - (5) EMS Mentor (Non-rank position at Lieutenant's Salary)

- (6) Lieutenant
- (7) Fire Marshal
- (8) EMS QM Supervisor (Non-rank Position at Captain's Salary)
- (9) Captain
- (10) Battalion Chief
- (11) Assistant Chief
- (12) Chief

Section 6 – 1st Class Firefighter

Once a firefighter achieves the rank of 1st Class Firefighter or higher, the base pay for such firefighter thereafter shall never be less than that paid to other 1st Class Firefighters, regardless of the subsequent rank of such firefighter. The Board of Safety reserves the right to refuse a request made by a firefighter for voluntary demotion from the rank of 1st Class Firefighter

ARTICLE XX

Grievance Procedure and Arbitration

(a) A "grievance" is defined to mean any difference that may arise between the parties or between the City and a firefighter employee covered by this Agreement as to any matter involving interpretation, meaning, application or violation of any of the provisions of this Agreement. A "grievant" is defined as any firefighter employee covered by this Agreement, group of firefighter employees or the Union.

1. It shall first be the responsibility of the grievant to reduce the grievance into writing within thirty (30) days after it arises and present it to the Chief.
2. If the grievance is not resolved after a period of thirty (30) days after being presented to the Chief or acting Chief, the written grievance shall be presented to the City's Board of Public Works and Safety within ninety (90) days for determination and settlement.
3. If the grievance is not settled by the Board of Public Works and Safety within fourteen (14) days to the satisfaction of the grievant, then the matter may be submitted to arbitration in accordance with the terms and conditions set forth below.

(b) The establishment of this method of arbitration shall not in any way whatsoever be deemed to be a recognition by the City of compulsory arbitration as a superior method of settling labor disputes, but rather shall be deemed to be a recognition solely of the necessity to provide an alternative method or mode of settling labor

disputes where employees must, as a matter of public policy, be denied the usual right to strike. Therefore, in the event that the grievant and the City are unable to satisfactorily resolve a grievance before the Board of Public Works and Safety, either party may send written notice of a demand for arbitration to the other party and the dispute shall be submitted to arbitration before an impartial arbitrator selected as provided below.

If within ten (10) days after the notice of the demand for arbitration, the parties are unable to agree upon an arbitrator, then the grievant may request the American Arbitration Association or Federal Mediation and Conciliation Service to submit a panel of names and the selection of the arbitrator made by alternately striking names from the panel. The impartial arbitrator shall hold hearings upon the issues, make such investigations as shall be deemed necessary to a proper decision and render such decision in writing. The decision of the arbitrator shall be final and binding upon the parties. The arbitrator is authorized to conduct such hearing in an informal manner and without recourse of the technical, common-law rules of evidence required in judicial proceedings. Every person who is a party to such proceeding shall have a right to submit evidence in open hearing and shall have the right of cross-examination. Hearings may be held at any place in the county agreed to by the parties or in the absence of agreement, as determined by the arbitrator.

- (c) The arbitrator's fees and necessary expenses of arbitration shall be borne equally by the Union and City. However, it is understood and agreed that such fees and

expenses shall not include attorney's fees of either party.

ARTICLE XXI

Savings Clause

If any provision of this agreement, or application thereto to any person or circumstances, is held unconstitutional or otherwise invalid, the remaining provisions of this Agreement and the application of such provisions to other persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

ARTICLE XXII

Indemnification

Section 1 – Claims and Judgments

The City shall indemnify and hold harmless any firefighter from all legal claims, suits, costs and judgments arising out of the acts or omissions of the firefighter arising out of and in the course of the performance of the duties of such firefighter subject to the terms and conditions contained herein. Indemnity shall not be provided in the event any firefighter willfully violates any legal order of a superior officer, the rules and regulations of the Fire Department, or is guilty of gross negligence or of willful or wanton misconduct.

Section 2 – Executions on Judgments

The City shall take such actions as it deems appropriate to forestall the execution of judgment against a firefighter personally and if notwithstanding such efforts by the City, the City will indemnify and hold harmless the firefighter on any judgment covered under Section 1 of this Article subject to terms and conditions contained herein.

Section 3 – Trials

- (a) The City shall provide legal counsel of the City's choosing to any firefighter against whom legal action has commenced, within the coverage set forth in Section 1 of this Article.
- (b) The firefighter shall have the option to retain their own attorney at their own expense to represent their interests in litigation without any effect on the responsibilities of the City under this Article.

Section 4 – Firefighter's Responsibilities

(a) As a condition precedent to the right of indemnification under this Article, any firefighter desiring indemnification shall:

- (1) Tender in writing to the City's attorney a notice of its right to appear and defend any litigation as may result in a judgment covered by this Article and grant to the City the right to make such investigation, negotiation and settlement of any claim as the City deems appropriate.
- (2) Give written notice containing the particulars sufficient to identify the firefighter involved and information as to the time, place and circumstances thereof to the City's attorney as soon as reasonably practical following a covered occurrence.
- (3) Forward immediately any or all suit papers, demands, notices, summons, complaint or other process received by such firefighter or their representative to the City's attorney.
- (4) Cooperate with the City in the conduct, defense or settlement of any legal proceeding and additionally grant the City the right to free access and use of all hospital, medical and doctor's records and reports as to any firefighter's physical or mental condition in the conduct, defense or settlement of any legal proceedings

ARTICLE XXIII

Specialty Position

A. In recognition of the special and unique services performed by certain firefighters for the City, the City agrees to pay specialty pay to those firefighters who perform the following duties:

1. Water Rescue and Recovery.
2. Self-Contained Breathing Apparatus.
3. Mechanics.
4. Information Technology (IT)

All specialties will receive their specialty pay included on their last check in November. The specialty time period will run from November 1st to October 31st annually. Participation in any specialty listed in this article is not mandatory.

B. Definitions.

1. **"Water Rescue/Recovery Team"** means those firefighters regularly assigned to the Water Rescue and Recovery Team in accordance with the standard operating procedures currently in effect. Such standard operating procedures shall not be changed except by mutual consent of the City and the Union.
2. **"Water Rescue/Recovery Apprentice Diver"** means those firefighters assigned to Water Rescue and Recovery Team in a reserve status. Apprentice divers will have the same responsibilities as frontline Dive Team members and will be moved into an "Active Status" on days when

three (3) or less Dive Team members are on duty.

3. "Self-Contained Breathing Apparatus Technician" means those firefighters assigned to maintaining, repairing, testing and all records keeping activities as required by federal and state regulations with respect to self-contained breathing apparatus.
4. "Mechanics" means those firefighters assigned to the maintenance and repair of fire suppression vehicles and all other Fire Department mechanical equipment.
5. "Information Technology" (IT) means a firefighter who maintains the computer systems within the Fire Department including but not limited to Firehouse software, Mobile Data Terminals, and GPS data

C. The City agrees to offer to train at least the following number of firefighters for each of the following specialties:

<u>Specialty</u>	<u>Number of Firefighters</u>
Water Rescue/Recovery Team	12
Water Rescue/Recovery Team Leaders	3
Water Rescue/Recovery Apprentices	6
Self-Contained Breathing Apparatus Technician	3
Mechanics	3
IT	2

D. The City shall train such additional firefighters as may be necessary, from time to

time, to maintain the specialty programs listed in this paragraph, provided, however, there are firefighters available who desire to be so trained.

- E. If less than the specified number of firefighters enroll to be trained for a particular specialty, then the City shall be obligated to train only those firefighters who have enrolled in a specialty program.
- F. If a firefighter withdraws from certain specialty training after the training commences or fails to successfully complete such training for any other reason, the firefighter shall still be counted toward the City's obligation to train a specific number of firefighters for that specialty.
- G. The City shall provide all specialty training at no cost to the firefighters who wish to secure the specialty.
- H. The City shall establish specialty programs for the specialties set forth in this Article and maintain them for the life of this Agreement and any extensions of this Agreement.
- I. Specialty pay shall be prorated to the date of acquiring the specialty. The following specialty pays are established:

Specialty

Water Rescue/Recovery Team	\$	950.00
Water Rescue/Recovery Team Leaders (3)	\$	1050.00
Water Rescue/Recovery Apprentice Team	\$	500.00

Self-Contained Breathing Apparatus Technician	\$	1,000.00
Mechanics	\$	2,500.00
IT	\$	1,500.00

J. If a firefighter is required to attend off-duty training or certification classes in order to achieve specialty status and gives prior notice to the Fire Chief, or representative, the firefighter shall be reimbursed for each hour of necessary off-duty training at the applicable overtime rate. All specialty programs shall be operated strictly in accordance with the standard operating procedures presently in effect. Once in effect, such standard operating procedures shall not be changed except by mutual agreement between the Union and the City.

K. If a firefighter is required to attend off-duty training or certification classes in order to maintain specialty status and gives prior notice to the Fire Chief, or representative, the firefighter shall be reimbursed for each hour of necessary off-duty training at the applicable overtime rate.

ARTICLE XXIV

EMS Certification and Pay

A. This article applies to firefighters employed as Advanced Emergency Medical Technicians (AEMT), and Paramedics.

B. Definitions.

1. "Advanced Emergency Medical Technician (AEMT)" means a firefighter who is certified by the Indiana Emergency Medical Services Commission as an AEMT and is qualified by the local Medical Control Board to provide advanced life support care.
2. "Firefighter/Paramedic" means a firefighter who is dually certified as both a firefighter and a paramedic and is assigned to an ambulance.
3. "Civilian Firefighter/Paramedic" means a firefighter paramedic assigned to an ambulance and receives the PEP compensation.
4. "Paramedic" means a firefighter who is licensed by the Indiana Emergency Medical Services Commission as a Paramedic and is qualified by the local Medical Control Board to provide paramedic level care. The term includes Firefighter/Paramedics and Civilian Firefighter Paramedics.
5. "Supervising Paramedic" means a paramedic who has obtained Supervising paramedic status from the supervising medical control established under Indiana law.

C. The City agrees to send qualified firefighter(s) to Advanced/Paramedic school on an as needed basis or as stipulated in their terms of employment at time of hiring.

D. Pay schedule (in addition to base pay):

Tier 1 is awarded annually for certification or licensure (and maintenance of certification or license).

<u>Status</u>	<u>Tier 1</u>	<u>Daily Ride Pay</u>
AEMT	\$1000.00	\$50
Paramedic	\$2000.00	\$50
Supervising Paramedic	\$6000.00	\$100

In addition to Tier 1 pay, Supervising Paramedics shall be paid \$100.00 for each full day worked as scheduled Supervising Paramedic on the ambulance. When not scheduled for a full day on the ambulance, Supervising Paramedics shall be paid \$50.00 for each instance working twelve (12) consecutive hours as scheduled Supervising Paramedic on the ambulance. If a twelve (12) hour Supervising Paramedic slot on the ambulance is split between two (2) firefighters, the firefighter working the greater portion of the twelve (12) hours shall be paid \$50.00. The firefighter working the lesser portion of the twelve (12) hours shall receive no additional pay.

In addition to Tier 1 pay, A-EMTs and non-Supervising Paramedics shall be paid \$50.00 for each full day worked as scheduled on the ambulance. When not scheduled

for a full day on the ambulance, A-EMTs non-Supervising Paramedics shall be paid \$25.00 for each instance working twelve (12) consecutive hours as a scheduled A-EMT or non-Supervising Paramedic on the ambulance. If a twelve (12) hour A-EMT or non-Supervising Paramedic slot on the ambulance is split between two (2) firefighters, the firefighter working the greater portion of the twelve (12) hours shall be paid \$25.00. The firefighter working the lesser portion of the twelve (12) hours shall receive no additional pay.

Effective January 1, 2026, the City shall increase the amount of Daily Ride Pay that a firefighter is entitled to receive under the terms of this Agreement as follows:

Supervising Paramedic	\$150
Paramedic/AEMT/EMT	\$100

All above language regarding portions of a 24 hour shift being split will still apply, however will apply based upon the new 2026 rate increase.

E. If at any time within ten (10) years of receiving such training a firefighter loses his or her paramedic licensure or leaves employment of the City of Mishawaka's Fire and EMS Department, the firefighter agrees to reimburse the City for costs associated with paramedic training on a pro rata basis. After completing seven (7) years assigned to an ambulance, an individual may request in writing to the Chief to be assigned to a fire-suppression vehicle. The firefighter making the request will have first priority for the next available fire-suppression- vehicle opening. Management will accommodate

requests for transfer from full-time ambulance duty prior to seven (7) years, subject to manpower restrictions.

F. All requests to drop a certification, licensure or Supervising Paramedic status must be made prior to the end of business on October 15 in order to be effective November 1.

Any firefighter not making such request prior to the October 15 deadline shall maintain certification, licensure or Supervising Paramedic status until at least November 1 the following year. Dropping such certification, licensure, or Supervising Paramedic status after the October 15 deadline shall result in forfeiture of all associated annual Tier 1 and Tier 2 payments for that annual period.

G. Certification, licensure, and Paramedic status requirements are defined in City of Mishawaka Board of Public Works and Safety Resolutions 2011-05, 2011-06, 2011-07, and 2011-08.

If a firefighter is required to attend off-duty training or certification classes in order to achieve certification, the firefighter shall be reimbursed for each hour of necessary off-duty training at the applicable overtime rate.

ARTICLE XXV

Job Posting

In the event of an opening or vacancy within the Mishawaka Fire Department, the Chief will post the opening or vacancy for bids at all fire stations. The posted openings or vacancy shall remain open for bids for a period of ten (10) days. Any firefighter wishing to bid for such opening or vacancy shall sign the job posting sheet and complete required forms.

ARTICLE XXVI

Pay Days

Section 1 - Firefighter

Firefighters shall be paid bi-weekly, (every other Friday).

Section 2 - Firefighter

All other pay shall be dispersed by the City as follows:

- (a) Uniform allowance pay will consist of four (4) equal and separate checks payable quarterly on or before the first (1st). New hires will receive a lump sum payment at the time of their first scheduled pay period.
- (b) Payment of Specialty Pay. All specialty pay shall be paid in a lump sum as part of the last pay in November of each year.

ARTICLE XXVII

Training New Firefighters

Upon commencement of employment, a firefighter shall not be considered part of the firefighting work force until having received the minimum State and local requirements to work as a firefighter.

Personnel being hired already having these credentials or above shall be evaluated using course equivalent practical skill evaluations to ensure proficiency. Personnel can be added to firefighter workforce as soon as the standard of the credentials they hold are met.

Training will be performed Monday through Friday, except for firefighters to attend Recruit Fire Academy events scheduled on Saturdays.

ARTICLE XXVIII

Emergency Leave

Firefighters shall have the privilege of leaving the fire station for immediate family emergencies. In such cases, the following guidelines must be followed as closely as possible;

- (a) Firefighter must notify the officer in charge of the emergency.
- (b) Firefighter must call officer in charge within the first two (2) hours and give their status as to if he will be returning to work in the next two (2) hours.
- (c) Once the emergency is taken care of and the firefighter's presence is no longer needed, they shall return to work.
- (d) The officer in charge will call in overtime if below the minimum manpower and it is determined that the firefighter on emergency leave will not be returning to work within the four (4) hour time frame set forth above.
- (e) Any added days needed, the firefighter is required to make their own arrangements, such as, to trade days, take vacation days, or arrangements made through the Chief

ARTICLE XXIX

Overtime Call-In Procedure-Suppression

- (a) For regular overtime to maintain Article XIX, Section 1, for twenty-four (24) hour, and order in overtime.
- (b) Overtime is to be offered to firefighters in a uniform manner of rotation based on last date of accepted overtime. A master overtime list will be maintained by the Officer in Charge for twenty-four (24) hours and ordered to work overtime
- (c) Overtime will be managed by an automated system agreed upon by Union and Management.
- (d) In the event of a disagreement on which automated system to use or of automated technology failure, the Officer in Charge will default to manual calling of overtime based on last accepted overtime date.

Section 2 - Call-In Procedure

- (a) All members will be defaulted as not available for overtime, except for the ordered to work list, where all members will be defaulted to available. Each member will be responsible to log into the automated system and mark the dates they would be available for overtime. You are not required to accept the overtime if it is offered, however, members are encouraged to only mark themselves available the dates they would accept overtime.
- (b) Overtime will be managed from two (2) lists of the members that mark themselves available each day: Master Overtime and Ordered to Work.

- (c) If an available overtime slot is for a Supervising Paramedic position, it must be designated as such during the overtime call in procedure and filled before other overtime can be filled.
- (d) All twenty-four (24) hour overtime slots will be filled before partial overtime slots. A partial overtime is any overtime that originates as less than twenty-four (24) hours.
- (e) If a member is working a partial overtime slot and another concurrent partial overtime slot becomes available during that day, the member working the partial overtime will have the option to extend their partial overtime to fill the new partial overtime slot that is needed. If there is more than one member working a partial overtime that precedes another concurrent partial overtime, members will be offered the concurrent overtime in order of acceptance of the previous partial overtime in the order of first accepted to last. If that member(s) declines to work the new partial overtime slot, a new call out for partial overtime will begin.
- (f) Members will have the option to accept the 24-hour overtime slots as noted: 24 hours, first 12 hours, second 12 hours, decline.
- (g) Members will maintain their place on the overtime list if they turn down an offer to work overtime. When a member accepts an overtime assignment they will be placed at the bottom of the overtime list.
- (h) Each member will have the option of being contacted via mobile application, phone call, text message, or email.

- (i) Any overtime occurring the same day of the overtime needed shall be awarded on first come, first served basis. For any prescheduled overtime the automated system will wait two (2) minutes between contacting members to allow for that member to respond before moving on to the next member on the list. After the initial contact, the overtime may be accepted until secured.
- (j) Each shift Officer in Charge will secure their own shift overtime needed for the next shift day.
- (k) If a member calls in sick creating a need for an overtime slot, that slot will be filled as soon as possible by the Officer in Charge.
- (l) If an overtime slot is not able to be secured from the list of members available, the automated system will send out a master overtime request to all members on the department. The first person to respond to that request will be awarded that overtime. That member will then be moved to the bottom of the list.
- (m) If after the master overtime request, the overtime slot is still not secured, the overtime slot shall be offered to the Fire Chief and Assistant Chiefs, offered first to the Fire Chief or Assistant Chief who has least recently worked overtime, then to the next least recently, and so on. If no Fire Chief or Assistant Chief accept the overtime slot, the Officer in Charge may "order" someone to work the vacancy. The Officer in Charge shall maintain an "ordered to work" record and shall rotate this duty equally among all Fire Department personnel. Ordered to work shall be offered by reverse seniority. Any firefighter that is ordered to work shall maintain their place on the voluntary overtime list and be moved to the bottom

of the "ordered to work" list. Any employee that is "ordered to work" overtime shall only be mandated to work 12 hours maximum as a result of that "order to work". Members cannot be "ordered to work" if it coincides with a vacation day, random day, off duty on a twenty-four (24) hour trade day, SC day or already working greater than or equal to seventy-two (72) hours consecutively.

- (n) If there is a need for "Emergency Overtime" during a multi alarm incident, the Officer in Charge will send out an "Emergency Overtime" request via the automated system to all members of the Fire Department. Members can accept this "Emergency Overtime" on a firstcome first serve basis. Members who accept this "Emergency Overtime" will not be moved onthe voluntary overtime list.
- (o) Fire Marshals are to be included on all overtime master lists, with the exception of the "ordered to work list."
- (p) In the event a Fire Marshal is on overtime during their "On Call" period and is needed to investigate an incident, they will be allowed to be removed from their apparatus position, while still counting towards minimum staffing, to perform their Fire Marshal responsibilities until they are completed. Upon completion they will return to their previously assigned riding position.
- (q) When a firefighter is off duty due to sick time or extended duration sick time as set out by the terms of this Agreement, the firefighter may neither accept nor work any overtime until the firefighter has returned to work and completed one (1) full twenty-four (24) hour daily work shift.
- (r) Should a firefighter accept an overtime assignment and subsequently be off duty

due to sick time or extended duration sick time, the City will remove the firefighter from the daily work schedule corresponding to the previously accepted overtime assignment and instead assign the overtime to another firefighter in accordance with the terms of this Agreement.

ARTICLE XXX

Bill of Rights

All firefighters who are members of the bargaining unit on full-time active duty shall be entitled to the protection of what shall hereafter be termed as the "Mishawaka Firefighters Bill of Rights."

1. All firefighters shall have the right to Union representation selected from a list prepared by the Union during any interview or questioning involving a disciplinary matter.
2. When for any reason any firefighter is under investigation by the city for conduct which results in dismissal, criminal charges or suspension for more than five (5) days (40 hours) the following rules are hereby established and shall be followed to insure such investigations are conducted in a manner conducive to public confidence, good order and discipline while, at the sametime, observing and protecting the individual rights of each firefighter:
 - (a) Advance Notice - Prior to being interviewed, a firefighter shall be:
 - (i) Informed in writing of the nature of the investigation; informed of other information necessary to reasonably apprise them of the nature of the allegations of the complaint, including the date, time and location of the occurrence;
 - (ii) If prior to or at any time during the interrogation of a firefighter, it is determined that he may be charged with a criminal offense or be suspected of being implicated in a criminal offense, they shall be

immediately informed of their constitutional rights and the investigation shall be terminated unless the firefighter chooses to waive their constitutional rights of self-incrimination;

(iii) Afforded an opportunity and facilities to contact and consult privately with an attorney of their choosing and/or representative of the Union;

(iv) Whenever a delay in conducting the interview will not jeopardize the successful accomplishment of the investigation or when criminal culpability is not an issue, advance notice shall be given the firefighter not less than twenty-four (24) hours before the initial interview commences or written reports are required from the firefighters.

(b) Interview Safeguards - Any interview of a firefighter shall be when the firefighter is on duty unless the seriousness of the complaint dictates otherwise.

(i) Interviews shall take place at the firehouse facility, or elsewhere if mutually agreed, unless the emergency of the situation necessitates otherwise.

(ii) The firefighter may have a Union representative and/or attorney present to witness the interview. However, the interview may not be unduly delayed awaiting an unavailable Union representative when other Union representatives are available.

(iii) An attorney or representative chosen by the firefighter must be, depending upon the seriousness of the investigation and the need for immediate

action, available within a reasonable period of time and under no circumstances will any interrogation session be delayed more than twenty-four (24) hours because of the unavailability of the attorney or representative chosen by the firefighter. However, no matter how extreme an emergency exists, no interrogation shall take place until the firefighter shall be given a minimum of three (3) hours to obtain the services of a representative and/or attorney.

- (iv) During the interrogation of the firefighter, the attorney or representative shall not make any statements or objections of any kind to the investigator nor will they in any way impede the interrogation but will restrict their remarks to conferring with the firefighter. The representative's failure to object to a question shall not constitute a waiver of their ability to later object to any questions asked.
- (v) Interviews shall be done under circumstances free of intimidation or coercion and shall not otherwise violate the firefighter's constitutional rights. The firefighter shall not be subjected to offensive or abusive language. No promise or reward shall be made as an inducement to answer questions.
- (vi) Interviews shall not be overly long. The firefighter shall be entitled to reasonable intermissions as they shall request for personal necessities, telephone calls, rest periods, with one (1) ten (10) minute intermission every hour, if they request.

(vii) All interviews shall be limited in scope to activities, circumstances, events, conduct or acts which pertain to the subject of the investigation.

(viii) Investigations shall be concluded without delay.

(c) Charges Filed

(i) The firefighter will be furnished with a copy of the summary report of the internal investigation which will contain all material facts of the matter.

(ii) The firefighter will be furnished with the names of all witnesses and complainants who will appear against the firefighter and/or whose statements will be used against them.

(d) Resulting Disciplinary action

(i) When the investigation results in a determination of a sustained complaint, only the findings will be placed in the firefighter's personnel file, unless the firefighter requests inclusion of the complete record.

(ii) No dismissal, demotion, or other punitive measures shall be taken against the firefighter unless they are notified of the action and a reason for such action prior to the effective date of such action.

3. Personal Privileges

(a) No firefighter shall be required for purposes of assignment or other personnel action to disclose any item of their property, income, assets, source of income or personal or domestic expenditures including those of any member of their family, unless such information is obtained pursuant to proper legal process or tends to indicate a conflict of interest with respect to the performances of

their official duties.

- (b) No firefighter shall have their residence, private place of business, if any, private vehicle or locker space assigned to them by the Fire Department searched unless a valid search warrant is obtained or they voluntarily agree to such search.
 - (c) No member of the immediate family of the firefighter shall be required to give a statement to the investigator and prior to requesting any member of the immediate family of the firefighter to give a statement, the firefighter shall be given notice of such intended request and the firefighter shall be given an opportunity to confer with that family member before that family member shall be asked to give a statement.
- 4. Political Activities - No firefighter shall be prohibited from engaging in political activities except when on duty.
 - 5. Polygraph Examinations - A firefighter under investigation shall not be required to take a polygraph examination unless their accuser or accusers agree to take such a polygraph examination, and have taken such examination prior to the firefighter being asked to take such examination: provided, however, anything in this Article to the contrary notwithstanding, none of the charts, conversations, discussions, questions or results derived from such polygraph examination shall be used against such firefighter in any civil or criminal proceeding. In the event the polygraph examiner desires to question the firefighter after the polygraph test has been administered, the examiner shall first advise the firefighter of their

rights in writing and if the firefighter waives in writing their rights, then any statements made by such firefighter may be used against such firefighter.

6. Drug-Free Workplace – Firefighters shall be subject to the provisions of the City's Drug-Free Workplace Policy as such policy exists as of the date of this Agreement. However, a firefighter shall not be required to submit to any such tests in regard to any occurrence at a time when the firefighter, while off duty, was compelled to take immediate firefighting action in response to an emergency situation. The City shall agree to train firefighters on Drug-Free Workplace Policy prior to implementation, and will also train new hires as needed. The Union President will be notified at any time a firefighter is selected for a random test of any kind.

7. Maintenance of Records

- (a) Complaints investigated by the Department shall be handled in the following manner by classification:
- (i) Unfounded, exonerated, and non-sustained complaints shall be destroyed upon the resolution of the matter, with the firefighter who is the subject of the complaint having a right to be present during the destruction, if they so desire. Said firefighter shall be informed of the proposed destruction before it takes place.
 - (ii) Sustained complaints may be kept in the personnel file for a period of three (3) years at the end of which time they shall be destroyed, in the presence of the firefighter who is the subject thereof, if they so desire, provided, however, the

personnel file shall nevertheless contain a summary record of discipline setting forth the appropriate dates, charges, findings and penalty imposed.

- (b) A firefighter shall have the opportunity, at a reasonable time during office hours, to review their active file and any closed investigative file in which they were the accused. In the event there is any comment adverse to their interests in their personnel file, the officer shall have the right to file a written response thereto, which written response shall be attached to said adverse comments; and, additionally, they shall have the right to file a grievance in regard to any such matter which is of such gravity that it could affect their promotional opportunities, which grievance shall then be processed in accordance with grievance procedures.
- (c) Any firefighter who is reprimanded in any way, either orally, in writing, by suspension, deprivation of overtime or any other benefits, or disciplinary action in any way, shall have the right of appeal as provided by law

ARTICLE XXXI

Call in Emergency Duty

Section 1 – Emergency Call in As Defined by Officer in Charge

- (a) The Officer in Charge will determine the need to call in the appropriate number of personnel for the specific emergency. The Officer in Charge or his/her designee will be in charge of securing the necessary emergency personnel. All call records will be maintained and recorded into the appropriate overtime list.
- (b) The City will work towards a system that, when it is made available, the Officer in Charge will use a computer-generated system to send out a mass contact of all firefighters using any or all methods of phone, mobile phone, text, or e-mail. The firefighters making contact with the Officer in Charge on a first come first serve basis will be awarded the emergency overtime and must report as soon as possible. Once all necessary positions have been filled another mass contact will be sent out to cancel the emergency contact process. All firefighters must provide at least one working phone contact number at all times for the purpose of emergency call in but may also provide as many contact methods as possible voluntarily.
- (c) Each firefighter making contact back will be told where the Emergency is and where to report.

ARTICLE XXXII

Specialty Teams

All specialty teams shall be operated strictly in accordance with each program's the Standard Operating Procedure (S.O.P.), in effect as of the date of this Agreement. An S.O.P. relating to a specialty team shall not be changed except by mutual agreement between the Union and the City.

ARTICLE XXXIII

Termination of Employment

Upon the termination of a firefighter's employment with the City, the firefighter shall receive all benefits under this contract, pro-rated to the last day of their employment. Clothing allowance will be pro-rated by the months worked each quarter. When a firefighter leaves employment with the City for whatever reason, accrued vacation days or leave day shall be taken as time off provided, or paid for these days. However, if the firefighter is dismissed for cause, then the firefighter shall be paid for any accrued vacation time.

ARTICLE XXXIV

Retiree Health Insurance

Each retired firefighter of the City of Mishawaka Fire Department shall be eligible for health coverage or credit according to the parameters set forth by ordinance of the City.

ARTICLE XXXV

Duration

Section 1 – Duration

This Agreement shall be in effect January 1, 2025, following approval by the Union, resolution of the Board of Public Works and Safety and ordinance of the Common Council of the City of Mishawaka, and shall remain in force and effect to and including the 31st day of December, 2026.

Section 2 – Future Negotiations

The parties agree that commencing not later than June 1st, 2026, they will undertake negotiations for a new collective bargaining agreement.

Section 3 – Renegotiation and Amendment

Notwithstanding any provision herein to the contrary, it is understood and agreed by the parties hereto that any provision contained in this Agreement may be amended at any time by the mutual agreement of the parties hereto.

Section 4 – Relations to Rules and Regulations

This Agreement shall supersede any rules and regulations inconsistent herewith, provided, however, rules and regulations not inconsistent with this Agreement may be adopted and promulgated by the Board of Public Works and Safety of the City of Mishawaka pursuant to Indiana statute.

IN WITNESS WHEREOF, the parties have executed this Agreement by their
authorized representatives in Mishawaka, Indiana, this 3/ st day of December, 2024.

**CITY OF MISHAWAKA, INDIANA
BOARD OF PUBLIC WORKS AND SAFETY**

Kenneth B. Prince, President

Rebecca Maguire
Rebecca Maguire, Vice President

George Obren
George Obren, Member

**MISHAWAKA FIREFIGHTERS ASSOCIATION LOCAL NO. 360 OF THE
INTERNATIONAL ASSOCIATION OF FIREFIGHTERS AFL-CIO**

Eric Hiatt
Eric Hiatt, President

Benjamin Higgins
Benjamin Higgins, Vice President

Nicholas Ponsler
Nicholas Ponsler, Treasurer

Randi Sotelo
Randi Sotelo, Recording Secretary

Anthony Tomlinson
Anthony Tomlinson, Committee Member

Andrew Lauver
Andrew Lauver, Committee Member

Nathan Vincent
Nathan Vincent, Committee Member

PETITION 24-11

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2024-34

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 121, OF THE MUNICIPAL
CODE OF THE CITY OF MISHAWAKA, INDIANA, COMMONLY KNOWN AS "THE FLOOD CONTROL
ORDINANCE" OF THE CITY OF MISHAWAKA, INDIANA.

WHEREAS, the Federal Emergency Management Agency (FEMA) has required amendments to the City's Flood Control Ordinance for continuation in the National Flood Insurance Program;

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has recommended favorably for the adoption of an amended Flood Control Ordinance, to now be known as the Flood Damage Prevention Ordinance as hereinafter described.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, that:

Section 1. Chapter 121 of the Municipal Code of the City of Mishawaka, commonly known as "The Flood Control Ordinance", shall be entirely deleted and replaced with "The Flood Damage Prevention Ordinance" as follows:

FLOOD DAMAGE PREVENTION ORDINANCE

ARTICLE 1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND METHODS

- Section A. Statutory Authorization
- Section B. Findings of Fact
- Section C. Statement of Purpose
- Section D. Methods of Reducing Flood Loss

ARTICLE 2. Definitions

ARTICLE 3. General Provisions

- Section A. Lands to Which This Ordinance Applies
- Section B. Basis for Establishing the Areas of Special Flood Hazard
- Section C. Establishment of Floodplain Development Permit
- Section D. Compliance
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FLOOD DAMAGE PREVENTION ORDINANCE

Article 1. Statutory Authorization, Findings of Fact, Purpose, and Methods

Section A. Statutory Authorization

The Indiana Legislature has in IC 36-1-4-11 granted the power to local government units to control land use within their jurisdictions. Therefore, the Common Council of the City of Mishawaka does hereby adopt the following floodplain management regulations.

Section B. Findings of Fact

The flood hazard areas of the City of Mishawaka 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. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

Section C. Statement of Purpose

It is the purpose of this ordinance 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:

- (1) Protect human life and health.
- (2) Minimize expenditure of public money for costly flood control projects.
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- (4) Minimize prolonged business interruptions.
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.
- (6) 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 area.
- (7) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- (8) Minimize the impact of development on adjacent properties within and near flood prone areas.
- (9) Ensure that the flood storage and conveyance functions of the floodplain are maintained.
- (10) Minimize the impact of development on the natural, beneficial values of the floodplain.
- (11) Prevent floodplain uses that are either hazardous or environmentally incompatible.
- (12) Meet community participation requirements of the National Flood Insurance Program.

Section D. Methods of Reducing Flood Loss

In order to accomplish its purposes, these regulations include methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities.
- (2) Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction.
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters.
- (4) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage.
- (5) Preventing or regulating the construction of flood barriers, which will unnaturally divert floodwaters, or which may increase flood hazards in other areas.

Article 2. Definitions

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

Accessory Structure means a structure with a floor area of 400 square feet or less that is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure; an accessory structure specifically excludes structures used for human habitation.

- (1) Accessory structures are considered walled and roofed where the structure includes at least two outside rigid walls and a fully secured roof.
- (2) Examples of accessory structures include but are not necessarily limited to two-car detached garages (or smaller), carports, storage and tool sheds, and small boathouses.
- (3) The following may have uses that are incidental or accessory to the principal structure on a parcel but are generally not considered to be accessory structures by the NFIP:
 - a. Structures in which any portion is used for human habitation, whether as a permanent residence or as temporary or seasonal living quarters, such as a detached garage or carriage house that includes an apartment or guest quarters, or a detached guest house on the same parcel as a principal residence.
 - b. Structures used by the public, such as a place of employment or entertainment.
 - c. Development that does not meet the NFIP definition of a structure for floodplain management purposes. Examples include, but are not necessarily limited to, a gazebo, pavilion, picnic shelter, or carport that is open on all sides (roofed but not walled).

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.

Alteration of a watercourse means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other modification which may alter, impede, retard, or change the direction and/or velocity of the flow of water during conditions of the base flood.

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance, a request for a variance, or a challenge of a board decision.

Area of special flood hazard is the land within a community subject to a one percent (1%) or greater chance of being flooded in any given year.

Base flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% annual chance flood or one hundred (100) year flood.

Base Flood Elevation (BFE) means the water surface elevation of the base flood in relation to a specified datum, usually the North American Vertical Datum of 1988.

Basement means that portion of a structure having its floor sub-grade (below ground level) on all sides.

Best Available Flood Layer (BAFL) means floodplain studies and any corresponding floodplain maps prepared and/or approved by the Indiana Department of Natural Resources which provide base flood elevation information, floodplain limits, and/or floodway delineations for flood hazards identified by approximate studies on the currently effective FIRM (Zone A) and/or for waterways where the flood hazard is not identified on available floodplain mapping.

Building – See "Structure."

Community means a political entity that has the authority to adopt and enforce floodplain ordinances for the areas within its jurisdiction.

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, and installations which produce, use, or store hazardous materials or hazardous waste.

Development means, for floodplain management purposes, any man-made change to improved or unimproved real estate including but not limited to:

- (1) construction, reconstruction, or placement of a structure or any addition to a structure;
- (2) 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;
- (3) installing utilities, erection of walls and fences, construction of roads, or similar projects;
- (4) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- (5) mining, dredging, filling, grading, excavation, or drilling operations;
- (6) construction and/or reconstruction of boat lifts, docks, piers, and seawalls;
- (7) construction and/or reconstruction of bridges or culverts;
- (8) storage of materials; or
- (9) 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.

Elevation Certificate means a FEMA form that is routinely reviewed and approved by the White House Office of Management and Budget under the Paperwork Reduction Act, that is encouraged to be used to collect certified elevation information.

Enclosed area (enclosure) is an area of a structure enclosed by walls on all sides.

Enclosure below the lowest floor. See “Lowest Floor” and “Enclosed Area.”

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.

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).

FEMA means the Federal Emergency Management Agency.

Fill for floodplain management purposes, means any material deposited or placed which has the effect of raising the level of the ground surface above the natural grade elevation. Fill material includes but is not limited to consolidated material such as concrete and brick and unconsolidated material such as soil, sand, gravel, and stone.

Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- (3) Mudslides (i.e., mudflows) which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

Flood or flooding also includes the collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or current of water exceeding anticipated cyclical levels that result in a flood as defined above.

Flood hazard area means areas subject to the one percent (1%) annual chance flood. (See “Special Flood Hazard Area”)

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. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS) means the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM and the water surface elevation of the base flood.

Flood prone area means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See “Floodplain”)

Flood Protection Grade (FPG) is the BFE plus two (2) feet at any given location in the SFHA. (See “Freeboard”)

Floodplain or flood prone area means any land area susceptible to being inundated by water from any source. (See “Flood”)

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.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power which control development in flood-prone areas. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

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.

Floodproofing certificate is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG.

Floodway is the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulative increasing the water surface elevation more than a designated height.

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.

Fringe or Flood Fringe is the portion of the floodplain lying outside the floodway.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Hardship (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. The Board of Zoning Appeals of the City of Mishawaka 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.

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.

Historic structure means any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

- (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by (a) an approved state program as determined by the Secretary of Interior, or (b) directly by the Secretary of Interior in states without approved programs.

Hydrologic and hydraulic engineering analysis means analyses performed by a professional engineer licensed by the State of Indiana, in accordance with standard engineering practices that are accepted by the Indiana Department of Natural Resources and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

International Code Council-Evaluation Service (ICC-ES) Report means a document that presents the findings, conclusions, and recommendations from a particular evaluation. ICC-ES reports provide information about what code requirements or acceptance criteria were used to evaluate a product, and how the product should be identified, installed.

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.

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 are broken down into the following categories:

- (1) **Conditional Letter of Map Revision (CLOMR)** means FEMA's comment on a proposed project that would, upon construction, result in modification of the SFHA through the placement of fill outside the existing regulatory floodway.
- (2) **Conditional Letter of Map Revision Based on Fill (CLOMR-F)** means a letter from FEMA stating that a proposed structure that will be elevated by fill would not be inundated by the base flood.
- (3) **Letter of Map Amendment (LOMA)** means an amendment by letter to the currently effective FEMA map that establishes that a building or area of land is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.
- (4) **Letter of Map Amendment Out as Shown (LOMA-OAS)** means an official determination by FEMA that states the property or building is correctly shown outside the SFHA as shown on an effective NFIP map. Therefore, the mandatory flood insurance requirement does not apply. An out-as-shown determination does not require elevations.
- (5) **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.
- (6) **Letter of Map Revision Based on Fill (LOMR-F)** means FEMA's modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway.

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.

Lowest floor means, for floodplain management purposes, the lowest elevation described among the following:

- (1) The lowest floor of a building.
- (2) The basement floor.

- (3) The garage floor if the garage is connected to the building.
- (4) The first floor of a structure elevated on pilings or pillars.
- (5) 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 floodwaters. Designs for meeting the flood opening requirement must either be certified by a registered professional engineer or architect or meet or exceed the following criteria:
 - a. The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters.
 - b. At least two (2) openings are designed and maintained for the entry and exit of floodwater; and these openings provide a total net area of at least one (1) square inch for every one (1) 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. Doorways and windows do not qualify as openings.
- (6) The first floor of a building elevated on pilings or columns in a coastal high hazard area (as that term is defined in 44 CFR 59.1), as long as it meets the requirements of 44 CFR 60.3.

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."

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.

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.

Natural grade for floodplain management purposes means the elevation of the undisturbed natural surface of the ground. Fill placed prior to the date of the initial identification of the flood hazard on a FEMA map is also considered natural grade.

New construction for floodplain management purposes means any structure for which the "start of construction" commenced on or after the effective date of a floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

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.

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.

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.

One-percent annual chance flood is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. See "Regulatory Flood".

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.

Prefabricated Building is a building that is manufactured and constructed using prefabrication. It consists of factory-made components or units that are transported and assembled on-site to form the complete building.

Principally above ground means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

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 temporary living quarters for recreational camping, travel, or seasonal use.

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 Article 3, B of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

Repetitive loss means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Solid waste disposal facility means any facility involved in the storage or disposal of non-liquid, non-soluble materials ranging from municipal garbage to industrial wastes that contain complex and sometimes hazardous substances. Solid waste also includes sewage sludge, agricultural refuse, demolition wastes, mining wastes, and liquids and gases stored in containers.

Special Flood Hazard Area (SFHA), synonymous with "areas of special flood hazard" and floodplain, means those lands within the jurisdiction of the City of Mishawaka subject to a one percent (1%) or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1-30, A99, or VE. The SFHA includes areas that are flood prone and designated from other federal, state or local sources of data including but not limited to best available flood layer maps provided by or approved by the Indiana Department of Natural Resources, historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

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.

Structure means a walled and roofed building, including a gas or liquid storage tank, which is principally above ground. The term includes a manufactured home, as well as a prefabricated building. It also includes recreational vehicles installed on a site for more than 180 consecutive days.

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.

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 "repetitive loss" or "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 which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

Variance is a grant of relief from the requirements of this ordinance consistent with the variance conditions herein.

Violation means the failure of a structure or other development to be fully compliant with this ordinance.

Walled and roofed means a building that has two or more exterior rigid walls and a fully secured roof and is affixed to a permanent site.

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.

Article 3. General Provisions

Section A. Lands to Which This Ordinance Applies

This ordinance shall apply to all areas of special flood hazard (SFHAs) within the jurisdiction of the City of Mishawaka, Indiana as identified in Article 3, Section B, including any additional areas of special flood hazard annexed by the City of Mishawaka, Indiana.

Section B. Basis for Establishing the Areas of Special Flood Hazard

- (1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the City of Mishawaka, delineated as an "AE Zone" on the St. Joseph County, Indiana and Incorporated Areas Flood Insurance Rate Map dated January 6, 2011 shall be determined from the one-percent annual chance flood profiles in the Flood Insurance Study of St. Joseph County, Indiana and Incorporated Areas and the corresponding Flood Insurance Rate Maps (FIRM) dated January 6, 2011 as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. Should the floodway limits not be delineated on the Flood Insurance Rate Map for a studied SFHA designated as an "AE Zone", the limits of

the floodway will be according to the best available flood layer as provided by the Indiana Department of Natural Resources.

- (2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the City of Mishawaka, delineated as an "A Zone" on the St. Joseph County, Indiana and Incorporated Areas Flood Insurance Rate Map, dated January 6, 2011, as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best available flood layer 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 flood layer 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.
- (3) 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 available flood layer as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile.
- (4) 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.

Section C. Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard.

Section D. Compliance

- (1) No structure shall hereafter be located, extended, converted, or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations.
- (2) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the most conservative (highest) base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.
- (3) No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

Section E. Abrogation and Greater Restrictions

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section F. Discrepancy between Mapped Floodplain and Actual Ground Elevations

- (1) In cases where there is a discrepancy between the mapped floodplain (SFHA) with base flood elevations provided (riverine or lacustrine Zone AE) on the FIRM and the actual ground elevations, the elevation provided on the profiles or table of still water elevations shall govern.

- (2) 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.
- (3) If the natural grade elevation of the site in question is at or above the base flood elevation and a LOMA or LOMR-FW is obtained, the floodplain regulations will not be applied provided the LOMA or LOMR-FW is not subsequently superseded or invalidated.

Section G. Interpretation

In the interpretation and application of this ordinance all provisions shall be:

- (1) Considered as minimum requirements.
- (2) Liberally construed in favor of the governing body.
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

Section H. Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance 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 ordinance does not create any liability on the part of the City of Mishawaka, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance, or any administrative decision made lawfully thereunder.

Section I. 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 ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the City of Mishawaka. All violations shall be punishable by a fine as prescribed by Section 137-47 of the Zoning Code for the City of Mishawaka and IC 36-1-3-8 and may be amended from time to time.

- (1) A separate offense shall be deemed to occur for each day the violation continues to exist.
- (2) The Common Council of the City of Mishawaka 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.
- (3) Nothing herein shall prevent the City of Mishawaka from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

Article 4. Administration.

Section A. Designation of Administrator

The Common Council of the City of Mishawaka hereby appoints the City Planner or designated representative to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

Section B. Floodplain Development Permit and Certification Requirements

An application for a floodplain development permit shall be made to the Floodplain Administrator for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Such applications shall include, but not be limited to plans 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:

(1) Application Stage.

- a. A description of the proposed development.
- b. Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
- c. A legal description of the property site.
- d. For the reconstruction, rehabilitation, or improvement of an existing structure, or an addition to an existing building, a detailed quote and description of the total work to be completed including but not limited to interior work, exterior work, and labor as well as a certified valuation of the existing (pre-improved or pre-damaged) structure.
- e. A site development plan showing existing and proposed development locations and existing and proposed land grades.
- f. A letter from a licensed professional surveyor or engineer noting that an elevation reference benchmark has been established or confirmed for those projects requiring elevations to be met.
- g. Verification that connection to either a public sewer system or to an approved on-site septic system is available and approved by the respective regulatory agency for proposed structures to be equipped with a restroom, kitchen or other facilities requiring disposal of wastewater.
- h. Plans showing elevation of the top of the planned lowest floor (including basement) of all proposed structures in Zones A, AH, and AE. Elevation should be in NAVD 88.
- i. Plans showing elevation (in NAVD 88) to which any non-residential structure will be floodproofed.
- j. Plans showing location and specifications for flood openings for any proposed structure with enclosed areas below the flood protection grade.
- k. Plans showing materials to be used below the flood protection grade for any proposed structure are flood resistant.
- l. Plans showing how any proposed structure will be anchored to resist flotation or collapse.

- m. Plans showing how any electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities are designed and/or located. Elevation should be in NAVD 88.
- n. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering analysis is required, and any watercourse changes submitted to DNR for approval. Once DNR approval is obtained, a FEMA Conditional Letter of Map Revision must be obtained prior to construction. (See Article 4, Section C (8) and Article 4, Section E for additional information.)
- o. Any additional information, as requested by the Floodplain Administrator, which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.

(2) Finished Construction.

- a. Upon completion of construction of any structure requiring certification of elevation, an elevation certificate which depicts the "as-built" lowest floor elevation and other applicable elevation data is required to be submitted by the applicant to the Floodplain Administrator. The elevation certificate shall be prepared by or under the direct supervision of a registered land surveyor and certified by the same.
- b. Upon completion of construction of an elevated structure constructed on fill, a fill report is required to be submitted to the Floodplain Administrator to verify the required standards were met, including compaction.
- c. Upon completion of construction of a floodproofing measure, a floodproofing certificate is required to be submitted by the applicant to the Floodplain Administrator. The floodproofing certificate shall be prepared by or under the direct supervision of a registered professional engineer or architect and certified by same.

Section C. 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 ordinance. The administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

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

- (1) Enforce the provisions of this ordinance.
- (2) Evaluate application for permits to develop in special flood hazard areas to assure that the permit requirements of this ordinance have been satisfied.
- (3) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
- (4) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met or refuse to issue the same in the event of noncompliance.
- (5) Advise permittee that additional Federal, State and/or local permits may be required. If specific Federal, State and/or local permits are known, require that copies of such permits be provided and maintained on file with the floodplain development permit.

- (6) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas, must meet the development standards of these regulations.
- (7) For applications to improve structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator shall:
 - a. Verify and document the market value of the pre-damaged or pre-improved structure.
 - b. Compare the cost to perform the improvement; or the cost to repair a damaged building to its pre-damaged condition; or, the combined costs of improvements and repair, if applicable, to the market value of the pre-damaged or pre-improved structure. The cost of all work must be included in the project costs, including work that might otherwise be considered routine maintenance. Items/activities that must be included in the cost shall be in keeping with guidance published by FEMA to ensure compliance with the NFIP and to avoid any conflict with future flood insurance claims of policyholders within the community.
 - c. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement" for proposed work to repair damage caused by flood, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of substantial damage.
 - d. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the applicable general and specific standards in Article 5 of this ordinance are required.
- (8) 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.
- (9) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Article 5, Section A (1), Section A (3) (a) and Section A (4) of this ordinance. Maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).
- (10) Verify the upstream drainage area of any proposed development site near any watercourse not identified on a FEMA map to determine if Article 4, Section C (9) is applicable.
- (11) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (12) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Article 4, Section B.
- (13) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Article 4, Section B.
- (14) Make on-site inspections of projects in accordance with Article 4, Section D.
- (15) Coordinate with insurance adjusters prior to permitting any proposed work to bring any flood-damaged structure covered by a standard flood insurance policy into compliance (either a substantially damaged structure or a repetitive loss structure) to ensure eligibility for ICC funds.

- (16) Ensure that an approved connection to a public sewer system or an approved on-site septic system is planned for any structures (residential or non-residential) to be equipped with a restroom, kitchen or other facilities requiring disposal of wastewater.
- (17) Provide information, testimony, or other evidence as needed during variance hearings.
- (18) Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with Article 4, Section D.
- (19) 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 ordinance in accordance with Article 4, Section D.
- (20) Coordinate map maintenance activities and associated FEMA follow-up in accordance with Article 4, Section E.
- (21) 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.
- (22) Request any additional information which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this ordinance.

Section D. Administrative Procedures

- (1) Inspections of Work in Progress. As the work pursuant to a permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and terms of the permit. In exercising this power, the administrator has a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.
- (2) Stop Work Orders.
 - a. Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.
 - b. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.
- (3) Revocation of Permits.
 - a. The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
 - b. The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.
- (4) Floodplain Management Records.
 - a. Regardless of any limitation on the period required for retention of public records, records of actions associated with the administration of this ordinance shall be kept on file and maintained under the direction of the

Floodplain Administrator in perpetuity. These records include permit applications, plans, certifications, Flood Insurance Rate Maps; Letter of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations required by this ordinance; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this ordinance.

- b. These records shall be available for public inspection at Department of Planning and Community Development, City Hall, 100 Lincolnway West, Mishawaka, IN 46544.
- (5) Periodic Inspection. Once a project is completed, periodic inspections may be conducted by the Floodplain Administrator to ensure compliance. The Floodplain Administrator shall have a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

Section E. Map Maintenance Activities

To meet NFIP minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the City of Mishawaka flood maps, studies and other data identified in Article 3, Section B accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

(1) Requirement to Submit New Technical Data

- a. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:
 - i. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries.
 - ii. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area.
 - iii. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and Subdivision or large-scale development proposals requiring the establishment of base flood elevations.
- b. It is the responsibility of the applicant to have required technical data for a Conditional Letter of Map Revision or Letter of Map Revision and submitted to FEMA. The Indiana Department of Natural Resources will review the submittals as part of a partnership with FEMA. The submittal should be mailed to the Indiana Department of Natural Resources at the address provided on the FEMA form (MT-2) or submitted through the online Letter of Map Change website. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
- c. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for proposed floodway encroachments that increase the base flood elevation.

- d. Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to this section.

(2) Right to Submit New Technical Data

The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the Mayor of the City of Mishawaka and may be submitted to FEMA at any time.

(3) Annexation / Detachment

Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the City of Mishawaka have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the St. Joseph County, Indiana and Incorporated Areas Flood Insurance Rate Map accurately represent the City of Mishawaka boundaries, include within such notification a copy of a map of the City suitable for reproduction, clearly showing the new corporate limits or the new area for which the City has assumed or relinquished floodplain management regulatory authority.

Section F. Variance Procedures

- (1) The Board of Zoning Appeals, as established by the Common Council of the City of Mishawaka, shall hear and decide appeals and requests for variances from requirements of this ordinance.
- (2) 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 ordinance. Any person aggrieved by the decision of the board may appeal such decision to the St. Joseph County Circuit or Superior Court.
- (3) In considering such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
 - a. the danger to life and property due to flooding or erosion damage.
 - b. the danger that materials may be swept onto other lands to the injury of others.
 - c. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - d. the importance of the services provided by the proposed facility to the community.
 - e. the necessity to the facility of a waterfront location, where applicable.
 - f. the compatibility of the proposed use with existing and anticipated development.
 - g. the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 - 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 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) A written report addressing each of the above factors shall be submitted with the application for a variance.
 - (5) Variances from the provisions of this ordinance shall only be granted when the board can make positive findings of fact based on evidence submitted at the hearing for the following:
 - a. A showing of good and sufficient cause.
 - b. A determination that failure to grant the variance would result in exceptional hardship as defined in Article 2.
 - c. 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.
 - (6) No variance for a residential use within a floodway subject to Article 5, Section A (1), Section A (3) (a) or Section A (4) of this ordinance may be granted.
 - (7) Any variance granted in a floodway subject to Article 5, Section A (1), Section A (3) (a) or Section A (4) will require a permit from the Indiana Department of Natural Resources. Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - (8) Variances to the Provisions for Flood Hazard Reduction of Article 5 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.
 - (9) 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 a “historic structure” and the variance is the minimum to preserve the historic character and design of the structure.
 - (10) Variances may be issued for new construction, substantial improvements, and other development necessary for the conduct of a functionally dependent use.
 - (11) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (12) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
 - (13) 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.
 - (14) 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.

Article 5. Provisions for Flood Hazard Reduction

Section A. Floodplain Status Standards

(1) Floodways (Riverine)

Located within SFHAs, established in Article 3, Section B, 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. Under the provisions of the Flood Control Act (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 undertaken before the actual start of construction of the structure. General licenses and exemptions to the requirements of the Flood Control Act (IC 14-28-1 and 312 IAC 10) may apply to qualified additions/improvements to existing lawful residential structures, rural bridges, logjam removals, wetland restoration, utility line crossings, outfall projects, creek rock removal, and prospecting.

- a. If the site is in a regulatory floodway as established in Article 3, Section B, 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 approval for construction in a floodway, provided the activity does not qualify for a general license or exemption (IC 14-28-1 or 312 IAC 10).
- b. No action shall be taken by the Floodplain Administrator until approval has been granted by the Indiana Department of Natural Resources for construction in the floodway, or evidence provided by an applicant that the development meets specified criteria to qualify for a general license or exemption to the requirement of the Flood Control Act. The Floodplain Development Permit shall meet the provisions contained in this article.
- c. The Floodplain Development Permit cannot be less restrictive than an approval issued for construction in a floodway issued by the Indiana Department of Natural Resources, or the specified criteria used to qualify for a general license or exemption to the Flood Control Act for a specific site/project. However, a community's more restrictive regulations (if any) shall take precedence.
- d. In floodway areas identified on the FIRM, development shall cause no increase in flood levels during the occurrence of the base flood discharge without first obtaining a Conditional Letter of Map Revision and meeting requirements of Article 4, Section E (1). A Conditional Letter of Map Revision cannot be issued for development that would cause an increase in flood levels affecting a structure and such development should not be permitted.
- e. In floodway areas identified by the Indiana Department of Natural Resources through detailed or approximate studies but not yet identified on the effective FIRM as floodway areas, 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.
- f. For all projects involving channel modifications or fill (including levees) the City of Mishawaka 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.

(2) Fringe (Riverine)

If the site is in the fringe (either identified on the FIRM or identified by the Indiana Department of Natural Resources through detailed or approximate studies and not identified on a FIRM), the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in this article have been met.

(3) SFHAs without Established Base Flood Elevation and/or Floodways/Fringes (Riverine)

- 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 written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) 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 written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, 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 this section 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 this article have been met.

(4) SFHAs not Identified on a Map

- a. If a proposed development site is near a waterway with no SFHA identified on a map, the Floodplain Administrator shall verify the drainage area upstream of the site. If the drainage area upstream of the site is verified as being 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.
- b. No action shall be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) 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.
- c. Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, 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 this article have been met.

Section B. General Standards

In all areas of special flood hazard, the following provisions are required:

- (1) All new construction, reconstruction or repairs made to a repetitive loss structure, and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

- (2) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
- (3) New construction and substantial improvements must incorporate methods and practices that minimize flood damage.
- (4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at/above the FPG for residential structures. Electrical, heating, ventilation, plumbing, air conditioning equipment, 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 for non-residential structures. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
- (5) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (8) Any alteration, repair, reconstruction, or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance.
- (9) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than fifty (50) lots or five (5) acres, whichever is less.
- (10) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this ordinance applicable to the most restrictive flood zone and the highest base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.
- (11) Fill projects that do not involve a structure must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical.

Section C. Specific Standards

In all areas of special flood hazard where base flood elevation data or flood depths have been provided, as set forth in Article 3, Section B, the following provisions are required:

- (1) **Building Protection Requirement.** In addition to the general standards described in Article 5, Section B, 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:
 - a. Construction or placement of a residential structure.
 - b. Construction or placement of a non-residential structure.
 - c. Addition or improvement made to an 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). An addition and/or improvement project that is continuous in scope or time is considered as one project for permitting purposes.

- d. 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 (the costs of any proposed additions or improvements beyond restoring the damaged structure to its before damaged condition must be included in the cost).
- e. Installing a manufactured home on a new site or a new manufactured home on an existing site.
- f. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
- g. Reconstruction or repairs made to a repetitive loss structure.
- h. Addition or improvement made to any existing structure with a previous repair, addition or improvement constructed since the community's first floodplain ordinance.

(2) Residential Construction.

- a. New construction or substantial improvement of any residential structures shall meet provisions described in Article 5, Section A and applicable general standards described in Article 5, Section B.
- b. In **Zone A and Zone AE**, new construction or substantial improvement of any residential structure shall have the lowest floor; including basement, at 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 Article 5, Section C (2) (c). Should fill be used to elevate a structure, the standards of Article 5, Section C (2) (d) must be met.
- c. **Fully enclosed areas** formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:
 - i. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
 - A. Provide a minimum of two openings on different sides of an enclosure. If there are multiple enclosed areas, each is required to meet the requirements for enclosures, including the requirement for flood openings in exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
 - B. The bottom of all openings shall be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening.
 - C. If the floor of the enclosure is below the BFE, the openings must be located wholly below the BFE.
 - D. If the floor of the enclosure is at or above the BFE, but below the FPG, the openings must be located wholly below the FPG.
 - E. Doors and windows do not qualify as openings.
 - F. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

- ii. The floor of such enclosed area must be at or above grade on at least one side.
- d. A residential structure may be constructed on a **fill** in accordance with the following:
 - i. 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.
 - ii. Fill shall extend ten (10) feet beyond the foundation of the structure before sloping below the BFE.
 - iii. Fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical.
 - iv. Fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
 - e. A residential structure may be constructed using a **stem wall foundation** (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill) must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

(3) Non-Residential Construction.

- a. New construction or substantial improvement of any non-residential structures (excludes accessory structures) shall meet provisions described in Article 5, Section A and applicable general standards described in Article 5, Section B.
- b. In **Zone A and Zone AE**, new construction, or substantial improvement of any commercial, industrial, or non-residential structure (excludes accessory structures) shall either have the lowest floor, including basement, elevated to or above the FPG 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 Article 5, Section C (3) (c). Should fill be used to elevate a structure, the standards of Article 5, Section C (3) (d) must be met.
- c. **Fully enclosed areas** formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:
 - i. Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:
 - A. Provide a minimum of two openings on different sides of an enclosure. If more than one enclosed area is present, each must have openings on exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
 - B. The bottom of all openings shall be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening.

- C. If the floor of the enclosure is below the BFE, the openings must be located wholly below the BFE.
 - D. If the floor of the enclosure is at or above the BFE, but below the FPG, the openings must be located wholly below the FPG.
 - E. Doors and windows do not qualify as openings.
 - F. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- ii. The floor of such enclosed area must be at or above grade on at least one side.
- d. A nonresidential structure may be constructed on **fill** in accordance with the following:
 - i. 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.
 - ii. Shall extend ten (10) feet beyond the foundation of the structure before sloping below the BFE.
 - iii. Shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than 3' horizontal to 1' vertical.
 - iv. Shall not adversely affect the flow of surface drainage from or onto neighboring properties.
 - e. A nonresidential structure may be **floodproofed** in accordance with the following:
 - i. 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.
 - ii. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.
 - f. A nonresidential structure may be constructed using a **stem wall foundation** (also called chain wall, raised-slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

(4) **Manufactured Homes and Recreational Vehicles.**

- a) These requirements apply to all manufactured homes to be placed on a site in the SFHA:
 - i. 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.
 - ii. 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 Article 5, Section C (2) (c).

- b) Recreational vehicles placed on a site in the SFHA shall either:
 - i. Be on site for less than 180 days and be fully licensed and ready for use on a public highway (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
 - ii. Meet the requirements for “manufactured homes” as stated earlier in this section.

(5) Accessory Structures

Within SFHAs, new construction or placement of an accessory structure must meet the following standards:

- a. Shall have a floor area of 400 square feet or less.
- b. Use shall be limited to parking of vehicles and limited storage.
- c. Shall not be used for human habitation.
- d. Shall be constructed of flood resistant materials.
- e. Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
- f. Shall be firmly anchored to prevent flotation.
- g. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.
- h. 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 Article 5, Section C (3) (c).
- i. Shall not have subsequent additions or improvements that would preclude the structure from its continued designation as an accessory structure.

(6) Free-standing Pavilions, Gazebos, Decks, Carports, and Similar Development.

Within SFHAs, new construction or placement of free-standing pavilions, gazebos, decks, carports, and similar development must meet the following standards:

- a. Shall have open sides (having not more than one rigid wall).
- b. Shall be anchored to prevent flotation or lateral movement.
- c. Shall be constructed of flood resistant materials below the FPG.
- d. Any electrical, heating, plumbing and other service facilities shall be located at/above the FPG.
- e. Shall not have subsequent additions or improvements that would preclude the development from its continued designation as a free-standing pavilion, gazebo, carport, or similar open-sided development.

(7) Above Ground Gas or Liquid Storage Tanks.

Within SFHAs, all newly placed aboveground gas or liquid storage tanks shall meet the requirements for a non-residential structure as required in Article 5, Section C (3).

Section D. Standards for Subdivision and Other New Developments

- (1) All subdivision proposals and all other proposed new development shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals and all other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals and all other proposed new development shall have adequate drainage provided to reduce exposure to flood hazards.
- (4) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and all other proposed new development (including manufactured home parks and subdivisions), which is greater than fifty (50) lots or five (5) acres, whichever is less.

Section E. Standards for Critical Facilities

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.

Article 6. Legal Status Provisions

Section A. Severability.

If any section, subsection, sentence, clause, or phrase of these regulations is, for any reason, declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof, other than the part so declared.

Section B. Effective Date.

This ordinance shall be in full force and effect upon adoption.

Passed by the Common Council of the City of Mishawaka, Indiana on this _____ day of _____, 2024, at _____ o'clock ____m.

Common Council
City of Mishawaka, Indiana

Presiding Officer
Gregg Hixenbaugh

Attest: _____
Deborah A. Block, IAMC, MMC, City Clerk

Presented by me to the Mayor this _____ day of _____, 2024, at _____ o'clock ____m.

Deborah A. Block, IAMC, MMC, City Clerk

Approved by me this ____ day of _____, 2024, at _____ o'clock ____m.

David A. Wood, Mayor

1st Reading, 12/2/24
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2024-44
ORDINANCE NO. _____

**AN ORDINANCE APPROVING THE COLLECTIVE BARGAINING AGREEMENT
BETWEEN THE CITY OF MISHAWAKA AND THE MISHAWAKA FRATERNAL
ORDER OF POLICE LODGE 91**

WHEREAS, the City of Mishawaka ("City") and the Mishawaka Fraternal Order of Police Lodge 91 ("FOP") previously entered into a Collective Bargaining Agreement (CBA) that expires on December 31, 2024; and

WHEREAS, representatives of the City and the FOP have reached a tentative agreement regarding the extension of the term of the CBA until December 31, 2025, and the revision of various provisions set forth in the CBA; and

WHEREAS, on the 31st day of December, 2024, the Board of Public Works and Safety for the City of Mishawaka approved the terms of the revised CBA.

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

Section 1. The attached Collective Bargaining Agreement between the City of Mishawaka and the Mishawaka Fraternal Order of Police, Lodge 91, that was approved by the Board of Public Works and Safety for the City of Mishawaka, on the 31st day of December, 2024, is hereby approved by the Common Council for the City of Mishawaka.

Section 2. This Ordinance shall be in full force and effect from and after its passage, signing, and attestation.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2025, at _____ o'clock P.M.

Common Council
City of Mishawaka, Indiana

Gregg Hixenbaugh, President

ATTEST:

Deborah S. Block, IAMCA, MMC, City Clerk

Presented by me, the undersigned City Clerk of the City of Mishawaka, Indiana, to the Mayor of the City of Mishawaka, Indiana, for approval on the _____ day of _____, 2025 at _____ o'clock a.m.

Deborah S. Block, IAMCA, MMC, City Clerk

Having examined the foregoing Ordinance, I do as the Mayor of the City of Mishawaka, Indiana, approve said Ordinance and return the same to the City Clerk of the City of Mishawaka, Indiana, this _____ day of _____, 2025.

David A. Wood, Mayor
City of Mishawaka, Indiana



CITY OF MISHAWAKA



Mishawaka Police Department
100 Lincolnway West
Mishawaka, IN 46544

David A. Wood, Mayor
Alex Arendt, Chief

November 25, 2024

Mishawaka Common Council
Mayor David Wood

Re: Collective Bargaining Agreement between the City of Mishawaka and Fraternal Order of Police Lodge #91

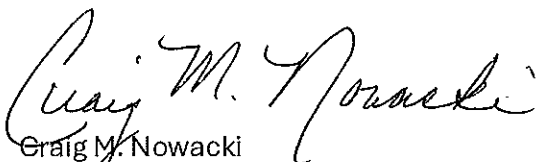
Mr. President and Honorable Council Members:

The City of Mishawaka and the Fraternal Order of Police Lodge #91 has come to an agreement for the contract for the year 2025. This contract being presented also contains memorandums of understanding that have been absorbed into the contract that were previously agreed to by the City of Mishawaka and FOP Lodge #91.

Some of the highlights of the memorandums of understanding being brought into the Collective Bargaining Agreement are as follows:

- 12-Hour Shift Structure (Pittman Schedule: Day Shift: 6:30 a.m.- 6:30 p.m. and Night Shift: 6:30 p.m. - 6:30 a.m.) for Uniform Patrol Division and 9-Hour Shift Schedule for Investigative Division.
- Understanding for Emergency Overtime call in procedures for Uniform Patrol.
- Minimum Shift Strength being raised to 12 officers a shift but not lessening to 10 depending on court or sick time.
- Non-Patrol Officers being utilized in case of a SWAT callout until emergency overtime can be acquired to fill in permanently.
- Several articles in the CBA had language changed to reflect days off hours rather than whole days due to different time models 12-hour shift versus Investigative Division 9-hour shift.

Respectfully submitted,


Craig M. Nowacki
Uniform Division Chief, Police

RESOLUTION NO. 2024-06

MISHAWAKA BOARD OF PUBLIC WORKS AND SAFETY

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF
MISHAWAKA AND THE MISHAWAKA FRATERNAL ORDER OF POLICE,
LODGE 91

WHEREAS, the City of Mishawaka and the Mishawaka Fraternal Order of Police,
Lodge 91 have agreed to a Collective Bargaining Agreement for the period of January 1,
2025 to December 31, 2025; and

WHEREAS, such Agreement requires the approval of the Mishawaka Board of Public
Works and Safety and the Mishawaka Common Council;

NOW, THEREFORE, BE IT RESOLVED by the Board of Public Works and Safety of
the City of Mishawaka that:

Section 1. The attached Collective Bargaining Agreement between the City of
Mishawaka and the Mishawaka Fraternal Order of Police, Lodge 91 is hereby approved,
and

Section 2. This Resolution shall be forwarded to the Mishawaka Common
Council for its review and final action.

ADOPTED by the Board of Public Works of the City of Mishawaka, on this 31st
day of December, 2024.

Kenneth Prince, President

Rebecca Maguire
Rebecca Maguire, Vice President

George Obren
George Obren, Member

ATTEST:

Donna Burkart
Donna Burkart, Clerk of the Board



COLLECTIVE BARGAINING AGREEMENT

Between

CITY OF MISHAWAKA, INDIANA

And

**MISHAWAKA FRATERNAL ORDER OF POLICE,
LODGE 91**

Dated January 1, 2025 - December 31, 2025

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COLLECTIVE BARGAINING AGREEMENT

This Agreement is entered into between the City of Mishawaka, Indiana, hereinafter called "City", and the Mishawaka Fraternal Order of Police, Lodge No. 91, hereinafter called "Lodge".

WITNESSETH THAT:

The parties hereto, in consideration of the mutual covenants and agreements herein contained, do hereby agree as follows:

ARTICLE I PURPOSE AND DEFINITIONS

Section 1 - Purpose

The parties hereto have entered into this Agreement pursuant to the authority of Ordinance Number 1666 passed by the Common Council of the City of Mishawaka on the 6th day of December, 1971, to incorporate understandings previously reached and other matters into a formal contract; to promote harmonious relations between the City and the Lodge, in the best interests of the community; to improve the public police protection; and to provide an orderly and equitable means of resolving future differences between parties.

Section 2 - Definitions

- A. "City" shall include the elected or appointed representatives of the City of Mishawaka, Indiana, including the Police Chief and Division Chiefs, but there shall be no more than three (3) Division Chiefs.
- B. "Lodge" shall include the officers or representative of the Lodge
- C. When the singular number is used, it shall include the plural.
- D. All reference to policeman or policemen or police officer (s) in this Agreement shall designate both sexes, and whenever the male gender is used, it shall be construed to include both male and female.
- E. Any reference to police officers being "called in" will mean officers will be notified by means of the current scheduling program.

ARTICLE II COVERAGE

This Agreement shall be applicable to all police officers of the Police Department of the City of Mishawaka except the Police Chief and Division Chiefs, unless noted otherwise.

ARTICLE III RECOGNITION

The City recognizes the Lodge as the sole and exclusive bargaining representative of the employees of the Police Department.

The City shall not enter into any agreements with its employees individually or collectively or with any other organization which in any way conflicts with the provisions hereof.

ARTICLE IV RIGHTS OF MANAGEMENT

Except as otherwise provided in this Agreement, or applicable federal or state law, the City in the exercise of its functions of management shall have the right to decide the policies, methods, safety rules, direction of employees, assignment of work, contracting of work, equipment to be used in the operation of the Police Department; and to determine the hours of work, the right to hire, discharge, suspend, discipline, promote, demote, and transfer police officers; it is agreed that the enumeration of the above management prerogatives shall not be deemed to exclude other prerogatives not enumerated. Nothing in this Article shall abdicate the police officer's rights to the grievance procedure.

ARTICLE V LODGE ACTIVITIES

Section 1 - General

Employees and their Lodge representatives shall have the right to join the Lodge, to engage in lawful concerted activities for the purpose of collective negotiation or bargaining or other mutual aid and protection, to express or communicate any views, grievance, complaint, or opinion related to the conditions or compensation of public employment or their betterment, all free from any and all restraint, interference, coercion, discrimination, or reprisal, except as limited by the laws of the City of Mishawaka, State of Indiana, or the United States of America.

Section 2 - Released Time

Officers and other representatives of the Lodge shall be afforded reasonable time during working hours without loss of pay to fulfill their Lodge responsibilities, including negotiations with the City, processing grievances, and administration and enforcement of this Agreement; provided, however, that such absences will not cause shift strength to fall below the minimum strength requirements for a shift as required by this Agreement.

Section 3 - Bulletin Boards

The Lodge shall retain the bulletin board rights it now has, including the right to post Lodge notices or other materials. Such boards shall be identified with the name of the Lodge and the Lodge may designate persons responsible therefore.

Section 4 - Meetings

The Lodge may schedule meetings on Police Department property, insofar as such meetings are not disruptive of the duties of the employees or the efficient operation of the Police Department.

Section 5 - Lodge Activities

The President and respective representatives of the Lodge and any members who are elected to a State or National Lodge office shall be allowed time off with pay to attend State and National conventions, seminars and meetings as long as the minimum strength requirements on their respective shifts are met. If a representative's shift is below minimum strength, then the representative shall nonetheless be allowed the time off but without pay.

Section 6 - Dues and Representation Check-Off

The City shall collect Lodge dues from Lodge members and representation fees levied by the Lodge for non-Lodge members on a monthly basis from all police officers within the bargaining unit who have executed the proper authorization for dues or representation fee check-off. The City shall deduct from the first pay check of each month the authorized Lodge dues for such month and promptly remit the same to the Secretary of the Lodge. The City shall continue to deduct monthly Lodge dues and representation fees at the rate in force on the date of the signing of this Agreement, until officially notified in writing of a change by the Lodge President, who shall be the sole authorized representative of the Lodge for the purpose of certifying the amount of such change.

Section 7 - Representation Fee

Non-members of the Lodge shall pay a representation fee for the services of the Lodge in acting as the bargaining representative. Such representation fee shall be in an amount equal to the membership dues of the Lodge less the cost of any benefits provided solely for Lodge members. Non-Lodge police officers who refuse to sign an authorization form for the deduction of such representation fee or who revoke an executed authorization form shall

have a continuing enforceable obligation to pay the representation fee directly to the Lodge. The City shall have no obligation to collect such representation fee except as set forth in Section 6 of this Article and the Lodge shall indemnify the City for any costs or expenses arising out of any suit or claim brought by a non-member of the Lodge relating to this Article.

Section 8 - Use of City Equipment

The Lodge shall have the right to make reasonable use of the Police Department duplicating equipment, computing and office equipment, all in accordance with the City's procedures, provided, however, such use shall not be disruptive of department business. The Lodge agrees to pay the reasonable costs for such use.

Section 9 - Exercise Room

The City shall continue to make available to the Lodge facilities at least equal to those presently provided for use by the Lodge as weight and exercise rooms and for the Lodge's desk and file cabinets. The Lodge agrees to keep the equipment in working order and keep the area clean.

ARTICLE VI **DIVISIONS AND HOURS OF WORK**

Section 1 - Divisions

There shall be only the following divisions within the Police Department:

- A. Uniform Division
Traffic Bureau to consist of a minimum of one (1) officer. The head of the Traffic Bureau will hold the rank of Captain.
- B. Detective Division
- C. Services Division

Section 2 - Work Schedule

The regular work schedule of police officers shall be as follows:

- A. Uniform Division police officers shall work a 2-week alternating schedule that is based off the Pittman Schedule. There shall be two (2) rotations that are on opposing days. A Rotation 1 working day shall be a Rotation 2 day off and vice versa.

Week	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
1	Work	Work	Off	Off	Work	Work	Work
2	Off	Off	Work	Work	Off	Off	Off

- B. The hours of the Traffic Bureau officers will be flexible to ensure the orderly function of the Traffic Bureau. Accordingly, the daily working hours and weekly rotation of the Traffic Bureau officers shall be set by mutual agreement of the Chief of Police and the Traffic Bureau Captain. No more Than two thousand one hundred eighty-four hours (2,184) per year will be worked by the Traffic Bureau officers without reimbursement of overtime pay. The Traffic Bureau officers shall not be utilized in such a manner as to evade the paying of overtime to other police officers.
- C. The Detective Division and the Services Division shall work not more than two thousand one hundred eighty-four hours (2,184) per year, consistent with division work schedules and the efficient operation of the Police Department. Such employees shall work an average of forty-five (45) hours per week.
- D. A regular workday shall consist of Twelve (12) hours, which time shall include sixty (60) minutes for a meal subject to call. Coffee breaks shall also be allowed subject to call.

Section 3 - Trading Days

- A. Subject to the approval of the officer in charge of the shift or any captain in the absence of all of the officers in that shift, police officers shall be permitted to voluntarily trade work or leave days provided however no police officer may work more than sixteen (16) consecutive hours in a twenty-four (24) hour period. No police officer shall be permitted to trade for more than 480 hours in any one (1) calendar year but this limitation shall not apply if trading is for the purpose of participating in athletic events or FOP activities. It must be agreed that:
1. The trade is voluntary, and shall be made through the scheduling software;
 2. The trade is for the employee's personal benefit and not the City's benefit;
 3. The time trades will have no effect on the hours of work regarding computation of overtime.

- B. To accomplish such a change, the requesting officer shall initiate a substitution request via the scheduling software for supervisor approval.
- C. Police officers may work any of their off days, i.e. days off, vacation, random days, etc.
- D. The City shall not be involved or responsible in any way to assure that a police officer is reimbursed time owed him/her as a result of trading days.

Section 4 - Working Hours

- A. The Uniform Division shall be comprised of two shifts: Day Shift and Night Shift. Each Shift will contain two opposing workday rotations and shall be defined as Rotation One and Rotation Two. The hours of each shift shall be as follows:

Day Shift	6:30 a.m. to 6:30 p.m.
Night Shift	6:30 p.m. to 6:30 a.m.

- B. The hours of the Detective Division and the Services Division shall be set by the City but the work shift shall be nine (9) consecutive hours.

ARTICLE VII

EXTRA DUTY AND EXTRA DUTY PAY

Section 1 - Call-In Authorization

Only the officers listed below shall have authority to call in personnel for extra duty pay:

- A. Mayor
- B. Chief of Police;
- C. Division Chief of Police;
- D. In the absence of the Chief of Police or the Division Chief, then the Officer in Charge of the Shift.

Section 2 - Extra Duty Pay

- A. Any police officer who works in excess of his/her regularly assigned work week or work day schedule shall receive extra duty pay in addition to any other benefits to which the officer may be entitled. Except as otherwise established by this Agreement, such extra duty pay shall be paid at the rate twice of the police officer's

prevailing hourly rate. A police officer's prevailing hourly rate shall be determined by dividing the annual salary by two thousand one hundred eighty-four (2,184).

B. Extra duty shall be assigned to police officers as uniformly as possible. In no case shall the City be required to call the officer whose absence created the need for overtime, no matter where the officer's name is on the extra duty roster. The officer's name shall remain in the same order on the list.

C. The City shall post two (2) extra duty rosters. One extra duty roster, which shall be known as the Uniform Division extra duty roster, shall list the names of all officers assigned to the Uniform Division, except the Traffic Bureau officers, DARE officers, and Community Relations officers, in order of seniority. The other extra duty roster, which shall be known as the Combined extra duty roster, shall list the names of all officers assigned to the Detective Division, as well as all officers assigned to the Services Division, the Traffic Bureau officers, DARE officers, and Community Relations officers, in order of seniority. These rosters shall be posted on January 1st of each calendar year and shall terminate on December 31st of that year. During the year, the number of extra duty hours worked by each officer shall be recorded after the police officer's name on each roster. Work "normally performed by Uniform officers" shall refer to events where officers are working on a public road and/or to control traffic, including, but not limited to, parades, running races, and Independence Day holiday park festivities. A minimum of one (1) officer from the Traffic Bureau will be represented at events that have been planned through the Traffic Bureau. Events that DO NOT require officers to be working on a public road to control traffic will also be offered to the Combined list of officers. These events include, but are not limited to, concerts and security details in City parks.

(1) Assigned Extra Duty

Whenever the City is aware more than six (6) days in advance on the following holidays: New Year's Day, Memorial Day, Independence Day, Thanksgiving Day, Christmas Eve, Christmas Day, and New Year's Eve, that a police officer will be needed for extra duty, the extra duty shall be assigned as follows:

The City shall post a notice stating the number of officers needed, whether the work is that normally performed by Uniform officers, the event, the date, and the hours to be worked. Each day to be worked as extra duty shall be posted separately. The extra duty sheet will be posted for not less than four (4) days. A police officer desiring the extra duty shall sign the sheet and/or request it via the scheduling program. The City shall award the extra duty to the most senior officer with the least amount of extra duty hours worked. If the extra duty is that which is normally

performed by Uniform Division officers, then only officers whose names appear on the Uniform Division extra duty roster will be awarded the extra duty, with said hours not being posted until the start of said shift. Officers whose names appear on the Combined extra duty roster will be awarded the extra duty, with said hours not being posted until the start of said shift, only if no officer whose name appears on the Uniform Division extra duty roster requests the overtime. In the event that no officer from either extra duty roster signs the extra duty, or the duty spots have not all been signed, the Chiefs may sign and be awarded the extra duty. They will be awarded the duty based upon seniority and hours. Nothing contained in this section shall be interpreted as entitling officers assigned to the Services Division, Traffic Bureau officers, DARE officers, and/or Community Relations officers to the receipt of an extra duty assignment which is of a nature normally performed by officers assigned to the Detective Division.

Officers signing for the overtime shall be responsible to verify whether they have received the overtime assignment through the department scheduling software.

Emergency extra duty and call-in duty worked after the overtime has been assigned shall not affect the assignment.

(2) A probationary officer shall be eligible to work extra duty once the officer counts toward the minimum shift strength established by this Agreement.

(3) Emergency Extra Duty

Whenever the City is aware less than six (6) days in advance that a police officer will be needed for extra duty, except where the need for extra duty on a particular shift on a particular day arises after the commencement of the shift, the extra duty shall be assigned in the following manner:

When there is a need for Emergency Overtime at the commencement of a shift that is greater than four (4) hours in duration, the following shall apply:

1. A mass scheduling alert shall be sent out indicating the number of hours needed for the assignment of the shift needing overtime. If no officer accepts the extra duty assignment, then officers exercising vacation shall be contacted with uniform preference given.
2. If no officer accepts the overtime, two overtime assignments shall be created.
 - a. A four-hour overtime assignment (See Emergency Extra Duty call in procedures for an overtime assignment that is for four hours or less at the commencement of the shift).
 - b. An additional assignment to fill the remaining hours.

3. A mass blast shall be sent out for the remaining hours needed. If no officer accepts the assignment for the remaining hours needed, then officers exercising vacation shall be contacted and offered the assignment, with uniform preference given.
4. If no officer has accepted the overtime assignment for the remaining hours, the City may contact the chiefs and offer the overtime assignment. If no chief accepts the overtime assignment, then the lowest officer in seniority from the uniform extra duty list shall be contacted and ordered in. The City shall continue up the seniority list from least to most senior until an officer is contacted. If no officer is contacted, then the City shall call officers on the combined extra duty officer in the same manner from least to most senior.

For Emergency Overtime assignments that commence at the beginning of a shift, and last longer than four (4) hours, officers shall not receive preceding shift preference, but can sign up through the mass blast providing they do not exceed 16 consecutive hours worked.

When there is a need for Emergency Overtime at the commencement of a shift that is four (4) hours or less in duration, the following shall apply:

1. Officers working the preceding shift shall be contacted and offered the extra duty assignment.
2. If no officer from the preceding shift accepts the extra duty assignment, a mass scheduling alert will be sent out.
3. If no officer accepts the extra duty assignment from the mass scheduling alert, then officers exercising vacation shall be contacted with uniform preference given.
4. If no officer accepts the extra duty assignment from contacting officers on vacation, then the officer least in seniority from the preceding shift shall be ordered to stay and work. The officer ordered to stay may contact a chief to offer the extra duty assignment.

When there is a need for Emergency Overtime after the commencement of a shift due to an officer scheduled to leave on compensatory time, the following shall apply:

1. A mass scheduling alert shall be sent out indicating the number of hours needed for the assignment of the shift needing overtime.
2. If no officer accepts the extra duty assignment, then officers exercising vacation shall be contacted with uniform preference given.
3. If no officer accepts the overtime, then the officer scheduled to leave shall be ordered to stay and be paid at the appropriate rate.

4. The officer ordered to stay may contact a chief to offer the extra duty assignment.

When there is a need for Emergency Overtime after the commencement of a shift due to an officer illness, injury, or family emergency; the following procedures shall apply:

1. A mass scheduling alert shall be sent out indicating the number of hours needed for the assignment of the shift needing overtime.
2. If no officer accepts the extra duty assignment, then officers exercising vacation shall be contacted with uniform preference given.
3. If no officer has accepted the assignment, then a chief may be contacted and offered the overtime assignment.
4. If no chief has accepted the overtime assignment, then the lowest officer in seniority from the uniform extra duty list shall be contacted and ordered in. The City shall continue up the seniority list from least to most senior until an officer is contacted. If no officer is contacted, then the City shall call officers on the combined extra duty officer in the same manner from least to most senior.

With respect to emergency extra duty in the Detective Division, the Chief of Police or the Detective Division Chief shall have the right to award extra duty to officers within that Division as they deem necessary. Officers awarded extra duty within the Detective Division shall be paid twice the officer's prevailing hourly rate for each hour worked. A diligent effort shall be made to award extra duty to officers that have been assigned a particular case and the overtime will be directly related to such case. All extra duty hours shall be logged on the Combined extra duty roster.

In the event that a detective is needed for general investigation (emergency call in), the officer doing the call in will refer to the Combined extra duty roster (detective's) and follow the procedure set forth in ARTICLE VII for the uniform division. The FOP will concede that it would be impossible at times for the officer in charge to know who is working a particular case.

In the event that a uniform shift would commence without a supervisor, the city will be entitled to fill the opening. Supervisors will be offered the opening consistent with the provisions of the bargaining agreement. A mass scheduling alert will be sent out to supervisors with uniform preference given, and if no supervisor accepts the opening, the supervisor or the officer in charge may contact the chiefs and offer the supervisor overtime assignment. This language shall in no way interfere with standard minimum shift strength overtime provisions. No supervisor

on vacation shall be contacted for the sole purpose of filling an open supervisor spot. If a supervisor is as an additional overtime supervisor, then he/she shall not be considered preceding shift for the purposes of overtime.

Emergency Overtime is to be paid at double time rate (2.0) but this does not include training. The mandatory rate is to be paid at two and one-half times (2.5) on holidays.

(4) Split Shift – When an officer accepts an overtime assignment on a shift, the officer may attempt a split shift. The split shall be determined by the accepting officer in whole-hour increments. If an officer wishes to attempt a split shift, he/she will notify a supervisor or the officer in charge of the shift. The supervisor will send the notification of the available split shift to all officers except those on vacation. Each officer involved in the split shift will have the overtime hours worked added to their extra duty hours worked bank. If an officer accepts an assignment, and no other officer accepts the split shift, the accepting officer is required to work the full overtime shift.

- D. Officers not wishing to work call-in overtime may sign a waiver to this effect. This waiver may be revoked in writing at any time upon twenty-four (24) hours written notice.
- E. The City will post those officers assigned to Special Weapons and Tactics (SWAT), evidence technician, Field Training Officer (FTO), DRE (Drug Recognition Expert), motorcycle officer, breath test operator, traffic technician, Major Crimes Detective, Major Crimes Evidence Technician, Instructors, Emergency Response Team (ERT) and SVU Detectives. The posting shall be kept current showing the number of extra duty hours worked by each police officer within their respective specialty or specialties. All extra duty hours worked by the above listed officers shall be logged on both the appropriate specialty list and the appropriate extra duty roster. Any officer accepting an emergency extra duty assignment within a specialty area shall receive hour-for-hour extra duty pay at twice the officer's prevailing hourly rate of pay.

Current number of instructors to be maintained, with additional instructor positions to be added at the discretion of the City.

Specialty pay will be granted for officers on a yearly basis with officers being paid for the top three (3) highest specialties that they are qualified to receive. Qualification for a specialty stipend is dependent upon officer completion of any

required training and continued assignment to that specialty.

The current list of specialties and stipends attached to each are as follows:

- Major Crimes Detective - \$2,000
- Major Crimes Evidence Technician - \$2,000
- SVU (Special Victims Unit) - \$1,000
- SWAT (Special Weapons and Tactics) - \$1,000
- DRE (Fugue Recognition Expert) - \$500
- ERT (Emergency Response Team) - \$500
- FACT (Fatal Alcohol Crash Team) - \$500
- Negotiator - \$500
- Instructor (ILEA Instructor) - \$500
- Evidence Technician - \$500
- Traffic Technician/Diagrammer - \$500
- Breath Test Operator - \$250
- Motorcycle - \$250

If a trained specialty officer is needed in a specialty other than traffic, the City may call in a police officer for extra duty from the posted specialty list having the most senior officer on the list with the least amount of overtime worked within their specialty being called in first. If the police officer with the most seniority and the least amount of overtime hours worked within their specialty cannot be reached after a diligent effort to contact has been made, then such officer may be bypassed.

- F. Notwithstanding any contrary provision contained in this Agreement, no officer shall be entitled to work more than sixteen (16) consecutive hours, whether as the result of the acceptance of an extra duty assignment or otherwise, unless the time to be worked in excess of sixteen (16) hours is the result of the continuation of a shift.
- G. All extra duty hours worked by an officer, except those hours worked as part of the continuation of a regularly scheduled shift or where an officer is ordered to accept the extra duty assignment in accordance with this Agreement or as a result of duties that arise while engaged in the take home car policy shall be logged on the appropriate extra duty roster. The extra duty hours shall be logged on the appropriate extra duty roster regardless of whether an officer chooses to receive monetary payment or compensatory time as compensation for the extra duty hours worked.

- H. If an officer accepts an overtime assignment beginning before, and ending after, 2:00 a.m. on the date that daylight savings time ends, the officer shall be allowed to work seventeen (17) straight hours. Any additional hours over seventeen (17) may only be worked as a result of shift continuation.
- I. When there is a need for emergency extra duty not related to minimum shift strength requirements and not related to a specialty, the following shall apply: The City shall have the right to offer the extra duty to officers via a mass blast overtime assignment offering when necessary (with uniform preference). The City shall not be required to continue through the entire departmental roster when the City deems it unnecessary. All overtime offered will be consistent with the provisions of this collective bargaining agreement.

Section 3 - Holiday Schedule

- A. For the purposes of this Agreement, the holidays shall be as follows:
 - 1. New Year's Day
 - 2. Martin Luther King Day
 - 3. Good Friday
 - 4. Easter Sunday
 - 5. Memorial Day
 - 6. Independence Day
 - 7. Labor Day
 - 8. Thanksgiving Day
 - 9. Friday after Thanksgiving
 - 10. Christmas Eve
 - 11. Christmas Day
 - 12. New Year's Eve
- B. Any police officer who works a regularly scheduled shift on one of the following seven (7) holidays – New Year's Day, Memorial Day, Independence Day, Thanksgiving Day, Christmas Eve, Christmas Day, and New Year's Eve – shall be paid at the rate of time and one-half of (1.5 times) the police officer's prevailing hourly rate of pay.
- C. Any police officer who is ordered (mandatory) to work Emergency Extra Duty on one of the twelve (12) holidays listed in paragraph A shall be paid at the rate of two and one-half (2.5) times the police officer's prevailing hourly rate of pay.

Section 4 - Court Time Pay

A Police Officer shall receive a witness fee for appearing during off-duty hours in accordance with the following provisions:

- A. When an officer appears as a necessary witness at the Mishawaka Division of the St. Joseph Superior or Circuit Court, the Mishawaka Board of Public Works and Safety, except when the Police Officer himself/herself is the subject of the disciplinary proceeding before the Board, or at the St. Joseph County Prosecutor's Office or St. Joseph County Clerk's Office for the purpose of signing affidavits, except that affidavits will be signed on duty at the Mishawaka Police Station whenever possible, the officer shall receive the sum of One Hundred Seventy-Five and 00/100 Dollars (175.00) per appearance. In addition, the officer shall receive hour-for-hour pay at the officer's appropriate prevailing hourly rate of pay for time spent at court in excess of three (3) hours, adding one (1) hour for any additional fraction thereof in excess of thirty (30) minutes.
- B. When an officer appears as a necessary witness at any other court, administrative hearing or arbitration hearing located in St. Joseph County, Indiana, or elsewhere, except as provided in Paragraph A above, the officer shall receive the sum of Two Hundred and 00/100 Dollars (\$200.00) per appearance, less any compensation received for time and travel from any other sources within the City. In addition, the officer shall receive hour-for-hour pay at the appropriate prevailing hourly rate of pay for time spent at court in excess of four (4) hours, adding one (1) hour for any additional fraction thereof in excess of thirty (30) minutes.
- C. No witness fees shall be paid for civil court trial appearances unless the subject of the litigation involves matters investigated or witnessed by the police officer in the line of duty.
- D. In the event a police officer is subpoenaed by the City to testify in any court, administrative or arbitration proceeding or hearing outside St. Joseph County, then in addition to the witness fee established herein, the police officer shall also receive reimbursement for all reasonable and necessary expenses incurred, including, without limitation, gasoline, mileage, meals and room expense. Reimbursement will only occur pursuant to compliance with the adopted City travel policy.
- E. Police officers employed in part-time employment by the terms of which compensation is received for performing police-type duties shall not be entitled to compensation under this Article if such officers are involved in any incident or situation which is a direct result of such part-time private employment.
- F. Any police officer who retires or leaves the Department and is required to testify on behalf of the City in any court trial, arbitration hearing or administrative proceeding shall be paid by the City as specified in this Article.

- G. In all proceedings before the Board of Public Works and Safety, subpoenas for a police officer will be reviewed by the Clerk of the Board who will report any abuse of the subpoena power to the Board of Public Works and Safety. In such case, the Board shall have the right to regulate the time and date that witnesses will be required to appear in such a manner that will not impede the presentation of the respondent's case and will not result in the payment of excessive and needless witness fees to police officers subpoenaed as witnesses.
- H. When an officer appears at a proceeding described in this Section while on duty and the officer's participation in the proceeding continues past the end of the officer's regularly scheduled workday, the officer shall not receive the witness fee set out above. Rather, the officer shall receive only hour-for-hour extra duty pay under the terms set out in Article VII, Section 2 of this Agreement.
- I. When an officer receives a subpoena to appear on a single day at two (2) or more separate proceedings and at two or more different locations, the officer shall be entitled to receive a corresponding number of separate witness fees. However, if all the multiple proceedings are scheduled to commence before 12:00 P.M. (i.e. in the morning) within the same building or if all the multiple proceedings are scheduled to commence after 12:00 P.M. (i.e. in the afternoon) within the same building, then the officer shall only receive one (1) witness fee.
- J. When an officer's appearance is continued over from a morning session to an afternoon session on a single day, the officer shall be entitled to only one (1) witness fee.
- K. In the event that any shift of the Uniform Division would fall below ten (10) officers for shift strength to an officer being in court, emergency extra duty will be called in as follows:

When there is a need for Emergency Overtime after the commencement of a shift due to an officer scheduled to leave for a court appearance, the following shall apply:

1. A mass scheduling alert shall be sent out for a minimum of three (3) hours needed for the assignment of the shift needing overtime.
2. If no officer accepts the extra duty assignment, then officers exercising vacation shall be contacted with uniform preference given.
3. If no officer has accepted the overtime assignment, then the lowest officer in seniority from the uniform extra duty list shall be contacted and ordered in. The City shall continue up the seniority list from least to most senior until an officer is contacted. If no officer is contacted, then the City shall call officers on the combined extra duty officer in the same manner from

least to most senior.

4. The officer ordered to stay may contact a chief to offer the extra duty assignment.

The above agreement pertains only to times when emergency overtime is needed due to officers being in court. It does not change any other provisions in this Agreement.

The minimum overtime shift would be three (3) hours. If overtime due to court would extend past three (3) hours, then the overtime would be compensated to the officer at hour-for-hour extra duty pay at the prevailing overtime rate.

- L. An officer may not take off a portion of a shift in order to receive court time pay for a witness appearance during that time off.

Section 5 - Shooting Time Pay

- A. In the event a police officer is required to shoot while off duty, the officer shall receive two (2) hours of extra duty pay unless the department required the officer to spend more than two (2) hours at the range and if so the police officer shall receive minute for minute pay.
- B. The top three (3) shooting officers each year, as determined by score on annual shooting qualification tests, will each receive an additional day off, called a shooting day. Use of the shooting day may not bring staffing below minimum shift strength and must be approved in advance by the Chief of Police.

Section 6 - Renegotiation of Wages

It is understood and agreed by the parties hereto that any wage provisions contained in this Agreement may be modified at any time by renegotiations with the members of the Common Council of the City of Mishawaka, Indiana. Both parties must agree to such renegotiation, and the refusal of one party to reopen negotiations shall not be considered a breach of this Agreement or a breach of any other duty or obligation of said party.

Section 7 - Pay Days

- A. Police officers shall be paid bi-weekly, every other Friday. An annual bi-weekly schedule of paydays shall be posted annually before each first payday.
- B. All other pay shall be disbursed by the City as follows:
 1. Clothing allowance checks will consist of two (2) equal checks paid on April 1st, and October 1st of each year.

2. The Annual Residency Stipend will be paid on or about December 15th of each year.
 3. Specialty pay will be paid on or about December 15th of each year.
 4. Witness fees will be paid at the same time and in the same manner as is extra duty pay.
 5. Extra duty pay shall be paid with the next regular paycheck following the period during which such extra duty pay was earned.
 6. All checks paid will have the proper deductions for such items as taxes, insurance, pension, United Way, savings bonds and credit union.
- C. If an error is made in a police officer's pay, it shall be corrected no later than the next paycheck. If the amount in error is a substantial amount or is not corrected in the next paycheck, a special check shall be issued to immediately correct the error.

Section 8 - Jury Duty

Any police officer who is required to report for and/or perform jury duty shall receive time off the officer's regular scheduled workday (s) with full pay, less any compensation received from any other source other than the City.

Section 9 - Overtime Pay or Overtime Compensation

Any police officer who is entitled to overtime pay as previously stated within this Agreement shall have the option of taking the overtime in the form of cash or in the form of compensatory time. The compensatory time shall be given at a rate that is equal to the officer's rate of overtime. Compensatory time may be substituted instead of overtime for all extra hours worked with the exception of State and Federal grants.

Section 10 - Sub-Sergeant Officer in Charge of Shift

- A. When an officer holding a rank below Sergeant is placed in charge of a shift, that officer will be paid an additional \$25.00 for that shift. If the officer is in charge less than 2 hours, their time will be pro-rated minute for minute. If an officer is in charge for 2 hours or more, they will be paid twenty-five dollars (\$25.00).
- B. Prior to placing an officer holding a rank below Sergeant in charge of a shift, the City shall be entitled to initiate the following procedure. When a need arises on any of the uniform patrol shifts for the presence of at least one (1) supervisor with the rank of Sergeant or higher, an overtime alert would be sent out to Supervisors

(Uniform Preference) of the Mishawaka Police Department for a 2.0 payrate open shift slot. If a supervisor accepts the overtime slot on the shift, the need for that supervisor would then be fulfilled. No supervisors shall be ordered in if the open shift slot for a supervisor goes unfilled.

ARTICLE VIII

VACATIONS

Section 1 - Eligibility and Amount

A. Vacation time shall inure to the benefit of police officers based upon years of service as follows:

1. Police officers having completed one (1) year of service, but less than two (2) years, shall receive sixty (60) hours of vacation and twelve (12) hours random/personal time.
2. Police officers having completed two (2) years of service, but less than three (3) years, shall receive one hundred eight (108) hours of vacation and twenty-four (24) hours random/personal time.
3. Police officers having completed three (3) years of service, but less than five (5) years, shall receive one hundred eight (108) hours of vacation and thirty-six (36) hours random/personal time.
4. Police officers having completed five (5) years of service, but less than ten (10) years, shall receive one hundred fifty-six (156) hours of vacation and thirty-six (36) hours random/personal time.
5. Police officers having completed ten (10) years of service, but less than fifteen (15) years, shall receive two hundred four (204) hours of vacation and forty-eight (48) hours random/personal time.
6. Police officers having completed fifteen (15) years of service, but less than twenty (20) years, shall receive two hundred sixty-four (264) hours of vacation and sixty (60) hours random/personal time.
7. Police officers having completed twenty (20) years of service, but less than twenty-five (25) years, shall receive three hundred twelve (312) days of vacation and seventy-two (72) hours random/personal time.

8. Police officers having completed more than twenty-five (25) years of service shall receive three hundred twelve (312) hours of vacation and eighty-four (84) hours random/personal time.

B. Vacation shall be selected in each division by seniority per shift.

C. In the event a police officer, while off duty as a result of vacation is ordered back to work by the City, accepts an emergency extra duty assignment, or is subpoenaed to appear in Court regarding a matter related to his/her employment as a police officer, the City shall pay the officer two (2) times the officer's prevailing hourly rate of pay for the hours worked or the witness fee established by this Agreement, whichever is applicable, and shall also return the earned vacation day to the officer, provided the officer works at least six (6) hours when called in. The City must grant all requests by an officer to exercise an earned vacation day returned in accordance with this provision if at the time of the request the affected shift is at or above the minimum shift strength established by this Agreement. Furthermore, the City must grant at least two (2) earned vacation day requests on each shift each day, even if the affected shift is already below minimum shift strength, except that if the affected shift is already one (1) below minimum shift strength as a result of an officer exercising a random day, the City must grant only one (1) earned vacation day request. The officer must make an attempt through the Chief's Office to secure an excuse from the subpoena.

Section 2 - Compensation Time Owed

Officers shall be able to request compensation time owed from any supervisor within their division and the compensation time owed shall be awarded on a first requested, first received basis. Compensation time owed requests shall be stamped on a time clock/digital stamp. The City must grant all compensation time owed requests, provided that the City may only grant such requests when the affected shift is above minimum shift strength. At no time may the City grant a compensation time owed request if the resulting shift strength would drop below the minimum as set by this agreement.

Section 3 - Random Days

A. Officers shall be able to request a random day from any supervisor within their division and the random day shall be awarded on a first requested, first received basis. The random day selected shall be within one (1) year from the date of the request. Random day requests shall be stamped on a time clock/digital stamp. The City must grant all such requests if, at the time of the request, the affected shift is at or above the minimum shift strength established by this agreement. Furthermore, the City must grant at least one (1) random day request on each shift each day, even if the affected shift is already below minimum shift strength, except when the

affected shift has fallen below minimum shift strength as a result of an officer's absence due to a vacation day.

- B. Random days may be accumulated from year to year. Police officers will make an effort to take all of their random days in the year that they are due; provided, however, that a police officer may not carryover more than one hundred forty-four (144) hours under this Section.
- C. Random days shall be allotted as of January 1st.
- D. At the end of the calendar year, officers may voluntarily sell back to the City up to a total of forty-eight (48) hours of their unused random days valued at their then applicable daily rate of pay.
- E. Officers may voluntarily choose to exchange up to forty-eight (48) hours of Random or Personal Day hours for an equivalent bank of compensation time owed on an annual basis. However, the total amount of compensation time owed that is accumulated by the officer cannot exceed the maximum established under federal law of four hundred eighty (480) hours.
- F. Effective January 1, 2023, any officer hired by the City shall not be entitled to receive random days. Instead, the officer will receive personal days in an amount equivalent to the number of random days set out in Article VIII, Section 1 above. At no time may the City grant a personal day request if the resulting shift strength would drop below the minimum set by this Agreement. Otherwise, the City shall administer an officer's use of a personal day in the same manner as an officer's use of a random day is administered under the terms of this Agreement.

Section 4 – Earned Vacation Days

- A. Earned vacation days may be accumulated from year to year. A police officer may not carry over more than forty-eight (48) hours of earned vacation days under this section.
- B. All earned vacation days accumulated prior to January 1, 2009, will be in a separate bank and available to be used by the police officer as established by this agreement. No additional days may be added to this bank. Any earned vacation days that are available in this bank must be used before any other earned vacation days are used.

Section 5 - Vacation Selection

- A. Vacations must be picked in consecutive workday blocks for the officer's workday rotation (1 or 2) on their assigned shift. Vacations may be picked for a minimum of 2 consecutive workdays up to 7 consecutive workdays in the first round.

Vacations picked in the second round, and all further selections can be picked for a minimum of 2 consecutive workdays up to 5 consecutive workdays. Work blocks cannot be split for vacation picks. The police officer shall sign a vacation schedule and note the date and time signed. The police officer next in seniority on the shift will have not less than four (4) days to pick vacation selection. If such police officer fails to pick within the four (4) days, the next police officer in seniority can pick and so on down the list. The police officer that is passed over for failure to pick his/her vacation can sign any time but must pick the vacation from the weeks that are open at the time he/she signs.

- B. Any officer entitled to vacation may choose to take his/her selection as random days or personal days if hired after January 01, 2023. Hours of vacation time will be converted equally into the officer's random day or personal day bank.

Section 6 - Computation of Years of Service

Vacation time is computed on the basis of a police officer's years of service. If a police officer completes a sufficient number of years of service so as to entitle the officer to additional vacation time as hereinabove provided, the officer shall receive such additional vacation time during the calendar year that the officer completes such year of service.

ARTICLE IX **SENIORITY, LAYOFF AND RECALL**

Section 1 - Definition of Terms

- A. Seniority shall be determined by the date of the police officer's appointment by the Board of Public Works and Safety. If more than one police officer has the same date of appointment, then, seniority shall be determined alphabetically.
- B. A "layoff" is hereby defined to be a necessary reduction of the work force of the Mishawaka Police Department. Layoffs shall be made in the reverse order of seniority; that is, the police officer with the least seniority shall be laid off first, and the police officer with the most seniority shall be laid off last.
- C. A "recall" shall be an increase in the work force of the Police Department following a layoff. Recall shall be by seniority with the police officer with the most seniority being the first officer to be recalled and the police officer with the least seniority being the last officer to be recalled.
- D. All civilian personnel shall be laid off before any police officer is laid off.

Section 2 - Seniority Pick of Shift

A. Shift preference shall be granted to all police officers and shall be determined on the basis of Departmental Seniority.

1. The City will provide a Shift Preference Slip to every police officer on or before September 1st each year.

a. It will be the police officer's responsibility to obtain his/her own Shift Preference Slip in cases where the police officer will be gone during the September 1st to 15th dates due to vacation, random days or trading days.

b. In case of illness, schools, and departmental business, the Chief will provide the police officer the Shift Preference Slip early or see that the police officer gets a slip and has the opportunity to fill it out.

2. The police officer shall fill out the Shift Preference Slip and return it to the Lodge Wage & Grievance Committee officer on or before September 15th, listing their first and second choices of shifts. If the police officer fails to return the Shift Preference Slip on or before September 15th, the officer may be assigned to any shift that the Chief determines to be in the best interests of the Department.

3. On or before September 25th, the Chief and the Wage & Grievance Committee will review the slips and assign police officers on a seniority basis to each shift, as requested by the police officer. They will make a diligent effort to keep the changed police officer's rotation or work schedule as close as possible to his/her former rotation or schedule.

4. If an officer is promoted to a rank on a specific shift and voluntarily leaves that shift, the officer's rank on the new shift will be First Class Patrol Officer.

5. The new list will take effect the first full schedule in January.

C. The Chief of Police will post the new list of Shift Personnel on or before October 1st, along with the work week rotation or work schedule after the new list is posted. The vacation list will be posted only after the new list and rotations are posted.

D. No extra duty pay will be paid as a result of the Shift Change due to the September Shift Preference by Seniority Pick.

E. A police officer can only request a Shift Preference change within his/her own

division, e.g. Uniform, Detective Division, Services, etc.

F. After the Seniority Pick of Shift process is completed and in effect, the Chief has the right to change a police officer's shift only for the betterment of the Department.

1. If there is such a change, an officer shall have the right to use the Grievance Procedure proceeding directly to the Board of Public Works and Safety.
2. If there is such a change, the Chief will post any vacancy or opening which shall be filled as provided in Section I herein below.
3. In the event no one applies for such a vacancy or opening, the Chief has the right to fill such vacancy or opening with the least senior officer that counts toward shift strength.
4. Any police officer involved in such a change shall have at least sixteen (16) hours off between his/her old shift and new shift.
5. In the event of a change under this Section, any police officer required to work more than his/her regular work week shall receive extra duty pay as provided in this Collective Bargaining Agreement.

G. Police officers will have a commitment of one (1) year on the shift after the September Seniority Pick of Shift process is completed, unless an opening or vacancy is posted in that year.

1. A committee shall be established for the purpose of ruling on any request by a police officer for a shift change for a valid reason during the year. Such committee shall be comprised of the President and Vice President of the Lodge, the Chief of Police, the appropriate Division Chief, and a fifth person from the bargaining unit, whose name shall be drawn by lot. This committee shall determine whether the request for the shift change is to be granted. In the event such request is granted, the opening shall be posted for a period of five (5) days. The most senior police officer of equal rank bidding on the opening shall have the right to make the change. If no police officer of equal rank bids for the opening, then the police officer requesting the change shall bear the responsibility to secure another police officer to change with him/her on the desired shift. The officers involved shall take one another's rotation with no extra duty time pay to either police officer.

If such a change in shift does take place, the requesting police officer will in a period of each fifteen (15) days resubmit a request setting forth reasons

to continue the change. This then will be reviewed by the committee to see if the change request is still valid. If the committee finds the change request still to be valid, the change will remain in effect for fifteen (15) more days pending a new request from the requesting officer.

At such time as the request is denied, the requesting officer and changed officer from the requesting shift will be returned to their regular assigned shifts.

2. Should any police officer request a change in Divisions after the September pick, the officer will have to replace the lowest seniority Second Class Patrol Officer in the requested Division.
3. In the event of an opening or vacancy in the Detective Division, Services Division or Traffic Bureau, such opening or vacancy shall be filled by the appointment of the Chief of Police.
4. If a police officer is required to change Divisions, the Seniority Pick process shall be instituted, meaning that if a police officer is taken out of the Detective Division or Services Division, such officer shall be able to transfer to a shift of his/her request in the Uniform Division, if the police officer has the Departmental Seniority to do so. The bumped police officer will have the same right to bump. Bumping rights shall take effect immediately.

H. In case of a non-rank opening or vacancy on a shift after the September Seniority Pick, the Chief will post the vacancy or opening for bids.

1. In the event the vacancy or opening is one with rank (Captain, Lieutenant, Sergeant), the Chief has the right to promote, transfer, or demote from any shift or Division to replace the open rank. When said position has been filled, the Chief will then post the resulting vacancy or opening for bids.
2. The Chief reserves the right to have a Probationary Officer work on any shift or any Division for the first year on the Department without changing any regular police officers on that shift.
3. The Probationary Officer's regular work week rotation will be kept as close as possible to what it was before any change; extra duty pay will be paid if the officer is required to work over his/her regular work week.

4. Immediately upon a Probationary Officer's completion of the officer's first year with the Department, the officer's slot will be posted for bid and shall be filled as set forth in Section I below.

I. Posting opening for bids.

1. The Chief will post on the bulletin board any Second Class Patrol Officer vacancy or opening on a shift during the year.
2. A posted opening or vacancy will be left up for bids ten (10) days.
3. A police officer bidding on a vacancy or opening shall sign the posted list and indicate his/her seniority date.
4. Department seniority shall determine the police officer who gets the vacancy or opening.
5. The same process will go into effect to replace the police officer who got the bid.
6. In the event no one bids on a vacancy or opening, the Chief shall have the right to fill the opening or vacancy with the lowest in seniority police officer or to fill the opening or vacancy with a probationary officer.
7. All posted vacancies shall be filled within thirty (30) days after posting is completed.
8. All ranks shall be filled within thirty (30) days.

J. Emergency or Temporary Openings or Vacancies.

1. For temporary openings under two (2) weeks, Article XVII of this Agreement shall apply.
2. In the event an opening or vacancy should occur on a shift due to illness, schooling, vacations, or other similar reasons, for a period of more than two (2) weeks, the Chief may replace the police officer in the following manner:

- a. The temporary opening will be posted as a "temporary opening" for four (4) days. The police officer with rank of not less than Second Class Patrol Officer with the most seniority who signs for the opening shall get it.
 - b. During the temporary assignment or replacement, the police officer's regular work week shall not be changed without his/her permission.
 - c. In the event no one bids on the vacancy or opening, the Chief has the right to assign the least senior officer that counts toward shift strength to fill the opening or vacancy.
- K. The Chief shall have the right to determine the number of police officers to be assigned and which division, but this number shall be set prior with shifts being determined by the seniority pick of shift.
- L. Any officer assigned to the Traffic Bureau will remain eligible to exercise his/her rights to bump from shift to shift on the basis of seniority. Officers of the traffic bureau will also retain their rights to request transfers out of the Bureau, under the authority and provisions of this Agreement.
- M. Anything in this Article to the contrary notwithstanding, the Uniform Division rank shall be not less than the following:

Day Shift

Captain (1)
Lieutenant (2)
Sergeant (6)

Night Shift

Captain (1)
Lieutenant (2)
Sergeant (6)

Any rank held in excess of the minimum set forth above shall nonetheless be subject to the bumping procedures by Second Class Patrol Officers and First Class Patrol Officers as set forth in the Seniority Pick of Shift Article.

ARTICLE X

SICK LEAVE

Section 1 – Definition

Sick leave shall be that period of time between the time and date that an officer notifies the Police Department of his/her unfitness for duty due to illness or injury and such time as that officer reports to Department management that the officer is again fit for duty. The officer shall complete a written Explanation of Absence from Duty on the form provided by the Mishawaka Police Department on the day the officer returns to duty. A copy of the form is attached to this Contract.

Section 2 - Explanation of Absence from Duty Form

The Explanation of Absence From Duty Form to be filed by an officer to terminate sick leave shall include the following information: name of officer, dates of absence, hours lost, reason for absence (personal illness, emergency, injury) with explanation, was doctor contacted, name of doctor, diagnosis, statement that officer is completely recovered from illness or injury, statement concerning any other gainful employment during or after absence, date of report and signature of officer.

Section 3 – Policy

During sickness, including pregnancy, a police officer's pay shall continue for a maximum of 480 hours, subject to the right of the Board of Public Works and Safety to require a physician's statement confirming the police officer's illness and the officer's inability to perform his/her duties. Medical disabilities shall be determined by the police officer's pension board.

Section 4 – Notice

It shall be the responsibility of each individual officer to contact the Police Department prior to the officer's assigned duty time notifying it of any illness or injury that renders the officer unfit for duty.

Section 5 - Outside Employment

No officer shall engage in employment outside the Police Department during the hours that the officer is being paid by the City or the eight (8) hours immediately following the officer's use of a sick day. This provision shall not be interpreted to in any way preclude an officer from engaging in outside employment when the officer is exercising the right to a random day, vacation day, or compensatory time.

Section 6 - Physical/Mental Condition

Every officer shall maintain adequate physical and/or mental condition at all times. If an officer is unable or unwilling to perform assigned duties due to lack of good physical and/or mental condition, the Chief may order such officer to undergo appropriate examination and

testing by doctors or other health care providers to determine the officer's fitness for duty. After hearing before the Board of Safety, the Board may put the officer on sick leave status or refer him/her to the Police Pension Board for medical disability review.

Section 7 - Work-Related Injury

- A. The City agrees, for the life of this Agreement, to maintain the present level of Worker's Compensation insurance with a qualified insurance carrier.
- B. When a police officer is absent from duty due to an illness or injury arising out of or in the course of his/her employment by the City and which is compensable under the Indiana Worker's Compensation Act, the City will make up the difference between the amount of daily benefits to which the officer is entitled under such Act and the amount of daily salary the officer would have received if working for a period not to exceed fifty-two (52) weeks. Following such fifty-two (52) week period, the police officer's health and ability to perform work for the Police Department shall be reviewed by the City. If the police officer is able to return to work, the officer shall do so; and if not, the City will refer the police officer to the Police Pension Board.

Section 8 - Physical Examinations

Each officer may undergo, at the City's expense, one (1) comprehensive physical examination every three (3) years, commencing January 1, 2002. The physical examination shall be performed by a physician or physicians chosen by the City. One-third (1/3) of the officers employed by the Police Department shall have the option to undergo the physical examination each year. No officer shall be entitled to receive additional monetary or other compensation as a result of undergoing this physical examination.

ARTICLE XI **FUNERAL LEAVE**

In case of death in the police officer's immediate family or the police officer's spouse's immediate family (meaning parent, step-parent, spouse, grandparent, grandchild, parent-in-law, brother, sister, sister-in-law, brother-in-law, child or step-child) a police officer shall receive upon request, three (3) consecutive work days off without loss of regular pay to make preparations for and attend the funeral and burial of such relative and to attend to any necessary business or legal matters of the decedent or the decedent's estate.

In the event of the death of the police officer's or the police officer's spouse's aunt, uncle, niece, nephew or first cousin or in the event a police officer is designated to serve as a pallbearer at any funeral, then in such instances, a police officer will have the day of the

funeral off without loss of regular pay.

In addition, the Police Chief or Division Chief, or if either are unable to be reached, then the officer in charge of the police officer's shift, shall have the right to grant, in appropriate cases and in their sole discretion, additional days off work for funerals.

ARTICLE XII **INSURANCE**

Section 1 - Life and Accident

The City shall contribute at least at the present level which it is contributing toward the cost of the life insurance policy in the amount of \$15,000.00 double indemnity for each police officer.

Section 2 - Medical and Hospital

The City shall offer medical and hospital care coverage to all officers throughout the life of the Agreement complying with the terms included in the Insurance Memorandum attached to this Agreement.

ARTICLE XIII **UNIFORM ALLOWANCE**

The City shall, in addition to all other compensation herein granted, pay each officer a uniform allowance of Two Thousand Fifty and 00/100 Dollars (\$2050.00) annually to purchase and maintain uniforms as prescribed by the Chief. In consideration of this allowance, the police officers agree to keep their uniforms neat, clean, and in good repair and to replace all worn-out clothing as necessary. The annual uniform allowance is not paid during the first year of employment unless the new officer is a lateral hire. When an officer reaches one year of service, clothing allowance shall be paid at a pro-rated amount for the remainder of that calendar year.

ARTICLE XIV **DUTIES OF POLICE OFFICERS**

Police officers shall not be ordered or required to perform any unrelated duties not falling within the purview of full-time members of the police force except to raise or lower the flag, shovel snow on the front walk to the curb when not shoveled by the janitor and the janitor is not available to perform such duties, and perform such reasonable and necessary vehicle maintenance as is called for by any General Order and/or Rules and Regulations governing the Mishawaka Police Department's Assigned Vehicle Program.

ARTICLE XV
STRIKE PROHIBITION

The Lodge will not engage in, nor sanction, strike action, slow down, "blue flu", or similar action during the life of this Agreement or any extension thereof. If this Article is violated, the participants shall be immediately subject to discharge as provided in Ordinance Number 1666 of the City of Mishawaka.

ARTICLE XVI
JOINT SAFETY COMMITTEE

Section 1 – Definition

A joint safety program shall be adopted and enforced by a joint safety committee comprised of an equal number of representatives from the Lodge and the City.

Section 2 - Safety Equipment

- A. The City shall make reasonable provisions for the safety and health of the police officers during the hours of their employment. It shall endeavor to maintain its equipment in safe operating condition. The City shall furnish such protective devices and/or equipment as it deems necessary to properly safeguard the health and safety of the police officers and protect them from injury.
- B. In the event a police officer believes that his/her assigned vehicle is unsafe for use during his/her tour of duty, the officer shall return it to the station. If the Officer in Charge of the police officer's shift agrees with the police officer, the vehicle shall be deadlined and the condition slip made out on the vehicle. The vehicle will remain deadlined until the proper repairs are made. No police officer will be required to drive an unsafe vehicle.
- C. Officers who choose to carry a shotgun on duty will carry a department issued shotgun or one that is approved by the department range master. Shotguns will be twelve (12)-gauge. It is recommended that a shotgun be carried, but it is optional. While on duty, shotguns will be carried in a shotgun rack (inside the vehicle cabin or trunk) or in a firearms bag in the trunk. All shotguns shall be loaded to full capacity, chamber empty, with the safety in the ON position, and with at least five (5) extra shells inside the officer's vehicle.

Officers who choose to carry a patrol rifle on duty will carry a department issued patrol rifle or one approved by the department range master. Rifles will be .223/5.56 caliber. While on duty, patrol rifles will be carried in a rifle rack (inside the vehicle cabin or trunk) or in a firearms bag inside the trunk. Rifles will be carried with an empty chamber and magazine inserted with the safety in the ON position.

When officers are off duty, all department and personal weapons used in the line of duty will be properly and safely secured.

D. All police department vehicles used in the line of duty shall be equipped with air conditioning, AM/FM radio and heater, and all of such items shall be maintained in working condition.

E. Given the unique demand on the tires of the Uniform Division squad cars, it is essential for safety of operation of squad cars that the tires be in excellent condition. Tires on the Uniform Division squad cars which have less than 25% of the tread shall be replaced immediately. No police officer shall be forced to operate a squad car unless the tires meet or exceed these minimum requirements.

ARTICLE XVII

DEPARTMENT STRENGTH

Section 1 - Department Strength

It is agreed between the parties that the police work force will be maintained at regular strength at all times. Whenever the force is reduced below the regular scheduled level, due to sickness, vacation, leave or any other reason, the Chief of Police or Division Chief of Police will then refer to the extra duty schedule for the next officer in line to work.

The City will make a diligent effort to fill all vacancies in the Department within thirty (30) days after such vacancies occur.

Section 2 - Minimum Strength

A. The minimum strength the Uniform Division can operate with, will be as follows:

Day Shift 6:30 a.m. to 6:30 p.m.

Sunday-Saturday: a minimum of twelve (12) officers on motorized patrol.

Night Shift 6:30 p.m. to 6:30 a.m.

Sunday-Saturday: a minimum of twelve (12) officers on motorized patrol.

B. The "desk" position may be utilized as a light duty position if necessary. The City shall retain the right to place officers at the "desk" position outside of records hours if needed.

- C. Emergency overtime will only be required if shift strength falls below ten (10). In the event that there is a need for additional manpower, refer to Article 17, Section 2 (E).
- D. Probationary officers shall count as shift strength 30 days after successful completion of the FTO program and lateral transfers count as shift strength upon successful completion of the FTO program. However, any Probationary Officer who on the date of hiring has already graduated from either the Indiana Law Enforcement Academy or another certified law enforcement academy recognized by the State of Indiana shall be counted toward minimum shift strength three (3) months after said officer's date of hire, subject to being released from the FTO program. Probationary officers shall be eligible to work extra duty at the time they count toward minimum shift strength.
- E. When there is a need for necessary additional officers (e.g., prisoner guard and crime scene security) those necessary positions shall be considered as shift strength positions. Emergency extra duty procedures shall be followed to fill such positions. If the need for a prisoner guard or crime scene security arises after the commencement of a shift, the overtime shall immediately be offered at the double time rate. In the event no one fills the request for additional officers, the OIC may contact the ERT "On Call." The ERT will then designate an officer (or officers) from the appropriate ERT platoon to be activated in uniform capacity. The ERT officer(s) will be considered shift strength, however, shall not be used for the purpose of motorized patrol or considered preceding shift as opposed to the above stated officers who accepted the request. ERT officers activated in this manner will be compensated at a flat rate of 4 hours of twice their prevailing wage, and shall NOT count as hours worked against them as it pertains to future overtime assignments. In the event that the detail requires the officer to stay more than 4 hours, then the compensation should remain twice the prevailing rate, hour for hour. Should the shift change during the 4 hours that the ERT officer is activated, then revert back to standard emergency extra duty procedures. If the need continues into the following shift, revert back to standard emergency extra procedures.

Section 3 - Detective Division

- A. The Detective Division shall consist of not less than nine (9) detectives and one (1) Division Chief. All vacancies will be filled within thirty (30) days.
- B. In the event the City is asked to participate in a special crimes unit or similar type operation, the parties will meet for the purpose of negotiating mutually satisfactory changes in this Agreement for the purpose of allowing the City's participation.

Section 4 - First Class Patrol Officer Positions

A. A police officer shall be automatically promoted to the rank of First Class Patrol Officer on or before the third anniversary of date of hire. The term "bargaining unit" shall mean all slotted positions, except the Police Chief and the Division Chiefs. All vacancies in rank shall be filled within thirty (30) days.

B. Maintenance of First Class Patrol Officer Pay.

Once a police officer achieves the rank of First Class Patrol Officer or higher, the base pay for such officer thereafter shall never be less than that paid to other First Class Patrol Officers, regardless of the subsequent rank of such police officer. The Board of Safety reserves the right to refuse a request made by a police officer for voluntary demotion from the rank of First Class Patrol Officer.

Section 5 – SWAT Call Out

Upon the occurrence of an emergency SWAT call out that requires a response from an officer assigned to the Uniform Division, the City shall have the right to immediately assign another on duty officer not subject to the minimum shift requirements established by this Agreement to fill the resulting vacancy as is necessary to maintain the minimum shift strength requirements established by Article XVII. Thereafter, the City shall immediately implement the Emergency Overtime assignment procedures for filling a vacancy within the Uniform Division that are set forth in Article VII, Section 2 (Extra Duty Pay). Once the City has filled the vacancy created by the SWAT call out, the City will return the on duty officer assigned to temporarily fill the vacancy to his or her normal assigned duties. This provision will not be used to otherwise circumvent the normal Emergency Overtime assignment procedures established by the terms of this Agreement

ARTICLE XVIII **PERSONAL SERVICE RECORDS**

A. No person, excepting the Mayor, the members of the Board of Public Works and Safety, the Police Chief, the Division Chiefs and the Corporation Counsel or City Attorney in connection with the pending grievance or disciplinary matter involving the police officer, shall read, view, or copy a police officer's personnel file which is kept by the Police Department.

B. A police officer shall be given a copy of all additions to his/her personnel service record.

ARTICLE XIX
GRIEVANCE PROCEDURES

A. Should any police officer or group of police officers feel aggrieved concerning his, her or their wages, hours and conditions as controlled by this contract, excluding the disciplining of a police officer which is governed by the Board of Public Works and Safety and excluding matters which are within and a part of the jurisdiction of the Common Council, or concerning any matter or conditions arising out of any employee-employer relationship, including any kind of unjust discrimination and any matter or condition affecting his, her or their health and safety, adjustment shall be sought as follows:

1. It shall first be the responsibility of the employee or group of employees to seek relief from his, her or their immediate superior in charge of his, her or their work position. At this stage, the grievance can be submitted orally or can be submitted in writing. The grievance must be presented within thirty (30) days from the date the Union or the individual grievant become aware of the alleged incident, whichever occurs later.
2. If such grievance is not resolved to the satisfaction of the employee or group of employees, the problem shall be put into writing by the individual or group, and together with an assigned wage and grievance committee member, presented to the Officer in Charge of his, her or their shift.
3. If the grievance is still not resolved after a period of seven (7) days, the Wage and Grievance Committee of the Lodge shall meet with the Chief of Police to settle the grievance.
4. If the aggrieved police officer shall have found no satisfaction after seven (7) days, the written grievance shall be presented to the City's Board of Public Works and Safety for determination and settlement; if the matter is not settled by the Board of Public Works and Safety within fourteen (14) days to the satisfaction of the aggrieved police officer, the issue or complaint may be submitted to arbitration in accordance with the terms and conditions set forth under this contract for arbitration.
5. The police officer may be represented by legal counsel only before the Board of Public Works and Safety and hearing before the arbitrator.

6. Nothing in this Article shall prevent a police officer from processing his/her own grievance without the assistance of the Lodge.

7. When it has been determined according to this collective bargaining agreement that an officer was incorrectly passed over for an extra duty assignment the following shall apply:

a. The aggrieved officer will be given thirty (30) calendar days, beginning the date when it was determined the officer was aggrieved, to work the number of hours erroneously not awarded.

b. The aggrieved officer has the right to choose the hours of make-up overtime.

c. The aggrieved officer shall be paid at the prevailing hourly rate for which the officer would have been paid had he/she been correctly awarded the overtime. The officer may not be awarded a random day, time owed, or vacation time, nor may the officer do a time exchange as compensation for the make-up overtime.

d. The aggrieved officer shall give the City a minimum of twenty-four (24) hours' notice of the date(s) and time(s) which the officer chooses for the make-up overtime.

e. The aggrieved officer working make-up overtime does not count toward minimum shift strength requirements.

f. If a detective bureau extra duty assignment is incorrectly awarded, the Chief may have the aggrieved officer perform a police duty outside of investigations if there is no available work to be performed within the detective bureau.

B. Should the Chief of Police feel aggrieved concerning actions initiated by the FOP Lodge #91, or a group of members of the FOP Lodge #91, which allegedly violate this contract or are in conflict with this contract, adjustment may be sought as follows:

1. It shall be the responsibility of the Chief of Police to put into writing such alleged violation and present it to the President of the FOP Lodge #91 and the head of the Wage and Grievance Committee.

2. If the grievance is not settled at this stage within fourteen (14) days to

the satisfaction of the aggrieved Chief of Police, the alleged violation shall be presented to the FOP membership by the President of the FOP Lodge #91 and the Wage and Grievance Committee.

- C. Captains shall not be part of the Lodge's Wage and Grievance committee; provided, however, that the exclusion of Captains from such committee shall not be interpreted to mean that Captains are in any way excluded from the bargaining unit set forth in this Agreement.

ARTICLE XX CHAIN OF COMMAND

The City shall maintain and post a complete chain of command for each Division and shift within that Division. The chain of command shall include a list of all departmental ranks or positions and shall include the name of each officer who holds such rank or position.

ARTICLE XXI ARBITRATION

The establishment of this method of arbitration shall not, in any way whatsoever, be deemed to be a recognition by the City of compulsory arbitration as a superior method of settling labor disputes but rather shall be deemed to be a recognition solely of the necessity to provide some alternative method or mode of settling labor disputes where employees must, as a matter of public policy, be denied the usual right to strike.

Therefore, in the event that the police officer and the City are unable to resolve a grievance, working conditions, contract interpretation, rules and regulations, or policies over which there is a dispute, within thirty (30) days from and including the date of their first meeting, excepting matters coming within the exclusive jurisdiction of the Board of Public Works and Safety pertaining to disciplining pursuant to Indiana statute, including methods and subjects established by the grievance procedure, any and all unresolved issues shall be submitted to arbitration as hereinafter provided, excluding matters which are within and a part of the jurisdiction of the Common Council.

- A. Within five (5) days from the expiration of the thirty (30) day period referred to above, the police officer or Lodge and the City through its Board of Public Works and Safety shall select and name an arbitrator. If on the expiration of the period allowed therefore the parties are unable to agree upon an arbitrator, the American Arbitration Association shall select an arbitrator upon request in writing from either the police officer, the Lodge, or the City.
- B. The arbitrator shall set a date for a hearing within ten (10) days after the date of the

officer's appointment and shall give at least seven (7) days' notice in writing to the police officer, Lodge and City of the time and place of such hearing.

- C. The arbitrator is hereby authorized to conduct such hearing in an informal manner and without recourse to the technical common-law rules of evidence required in judicial proceedings, and such manner of proof and introduction of evidence shall be deemed sufficient and shall govern the proof, decision, and administration or judicial review of all questions of fact if substantial, reliable and probative evidence supports such arbitrator's determination. The arbitrator shall, as a matter of policy, provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. Every person who is a party to such proceedings shall have the right to submit the evidence in open hearing and shall have the right of cross-examination.
- D. The hearing conducted by the arbitrator shall be concluded within twenty (20) days of the time of commencement, and within ten (10) days after the conclusion of the hearing. The arbitrator shall make written findings and a written opinion upon the issues presented, a copy of which shall be mailed or otherwise delivered to the police officer, Lodge and the City. The decision of the arbitrator shall be binding upon both the police officer, the Lodge and the City.
- E. The arbitrator's fees and necessary expenses of arbitration shall be paid by the losing party. It is agreed by the parties that such fees and expenses shall not include the attorney fees of either party.

ARTICLE XXII

DURATION

Section 1 - Effective Date

This Agreement shall be in effect from the 1st day of January, 2025 providing that it is approved by the Lodge and by Resolution of the Board of Public Works and Safety and the Common Council of the City of Mishawaka and shall remain in force and effect to and including the 31st day of December, 2025.

Section 2 - Future Negotiations

The parties agree that, commencing no later than the 31st day of August, 2025, they will undertake negotiations for a new Agreement.

Section 3 - Renegotiation and Amendment

Notwithstanding any provision herein to the contrary, it is understood and agreed by the parties hereto that any provision contained in the Agreement may be amended at any time by the mutual agreement of the parties hereto.

Section 4 - Relation to Regulations and Rules

This Agreement shall supersede any rules and regulations inconsistent herewith, provided, however, rules and regulations not inconsistent with this Agreement may be adopted and promulgated by the Board of Public Works and Safety of the City of Mishawaka pursuant to Indiana statutes.

Section 5 - State of Emergency

In the event that a state of civil emergency is declared by the Mayor (civil disorders, natural disasters, etc.), the following provisions of this Agreement - Article VI, Sections 1-4; Article VII, Section 1, Section 2 (i) and 2 (ii); Article VIII, Section 2; Article XI; Article XVII - may be suspended by the Mayor during the time of the emergency.

ARTICLE XXIII **SAVINGS CLAUSE**

If any provision of this Agreement, or application thereto to any person or circumstances, is held unconstitutional or otherwise invalid, the remaining provisions of this Agreement and the application of such provisions to other persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

ARTICLE XXIV **GENERAL MATTERS**

Section 1 - Police Department Rules

- A. Any changes in the Police Department Rules and Regulations will be discussed with the Lodge representatives prior to promulgation.
- B. All rules and regulations of the Police Department shall be issued in written form and shall be submitted to the Lodge at least seven (7) days before they are to take effect.

Section 2 - Job Security

The City and the Lodge agree that no permanent job presently being performed by a full-time police officer will be eliminated if it causes a reduction in the number of sworn officers.

Section 3- Light Duty

- A. There shall be at least four (4) light duty positions available. If a light duty position is available, the City shall provide light duty for any police officer requesting it during the time the police officer is temporarily disabled from performing the

officer's regularly assigned duties. An officer who is placed on light duty may be reassigned to any shift or division within the Police Department.

B. An officer will make a written request for light duty status to the Chief of Police. At that time the officer will also turn in written documentation from the officer's physician as to the reason the officer cannot perform the full duties of a police officer. The physician must be a licensed M.D. in the State of Indiana, and the statement will include:

- A description and extent of limitations;
- The probable length of limitations;
- The prognosis for recovery; and
- A recommendation as to the extent of any duty restrictions.

Light duty status will be granted for a thirty (30) day period or less. At the discretion of the Chief, an officer may be granted another thirty (30) day light duty assignment upon request, but an officer cannot be on light duty for more than one hundred twenty (120) days for any single injury or illness.

Before the officer's return to regular duty, the officer must have a written statement from the Physician stating the officer may return to work. If the officer assigned to light duty is unable to return to full duty at the end of the light duty assignment, the officer will be placed on available paid sick leave. If the officer's paid sick leave has expired the officer may be placed on any other available paid leave for which the officer is eligible. If the officer is not eligible for any paid leave, the officer will be placed on unpaid leave and fully advised concerning any disability pension for which he/she may be eligible.

Section 4 - Right to Record Meetings

The Lodge or the City shall have the right to tape record any meeting held between the City and the Lodge reference wages and grievances.

Section 5 - Keeping of Police Officer's Gun

Upon leaving the department for any reason other than a quit or a fire, the police officer shall retain his/her service weapon which had been issued to him/her by the City.

Section 6 - Lodge Representation

Any police officer questioned by any superior with respect to any matter which might involve disciplinary action shall have the right to have a representative of the Lodge present during such questioning. In the event such questioning is being recorded, the police officer shall be informed prior to any such recording and shall be furnished with a copy of the recording and given the opportunity to make a transcription of the recording.

ARTICLE XXV

INDEMNIFICATION

Section 1 - Claims and Judgments

- A. The City shall indemnify and hold harmless any police officer from all legal claims, suits, costs and judgment arising out of the acts or omissions of the officer arising out of and in the course of the performance of the duties of such officer; provided, however, that if an employer other than the City provides indemnification for the actions of the officer, the City shall not provide indemnification. Indemnity shall not be provided in the event any police officer willfully violates any legal order of a superior officer or the rules and regulations of the Police Department.
- B. Should any criminal action be instituted against any police officer for any action arising out of and in the course of the performance of the duties of such office and should such proceeding be dismissed or result in a final disposition in favor of such person, the City shall reimburse such officer for the cost of defending such proceeding including reasonable counsel fees and expenses of the original hearing or trial or all appeals.

Section 2 - Executions on Judgments

The City shall take such actions as it deems appropriate to forestall the execution of judgment against a police officer personally and if notwithstanding such efforts by the City execution takes place, the City will indemnify and hold harmless the police officer on any judgment covered under Section 1 of this Article

Section 3 - Trials

- A. The City shall provide legal counsel of the City's choosing to any police officer against whom legal action has commenced, as set forth in Section 1 of this Article. However, in no case shall the legal counsel provided by the City have been involved in the prosecution of an administrative or disciplinary action against the officer which was based upon the same set of facts underlying the legal action in question.
- B. The police officer shall have the option to retain his/her own attorney at the officer's own expense to represent the officer's interests in litigation without any effect on the responsibilities of the City under this Article.

Section 4 - Police Officer's Responsibilities

- A. As a condition precedent to the right of indemnification under this Article, any police officer desiring indemnification shall:
 - 1. Tender in writing to the City's attorney a notice of its right to appear and defend any litigation as may result in a judgment covered by this Article

and grant to the City the right to make such investigation, negotiation and settlement of any claim if the City deems appropriate.

2. Give written notice containing the particulars sufficient to identify the police officer involved and information as to the time, place and circumstances thereof to the City's attorney as soon as reasonably practical following a covered occurrence.
3. Forward immediately any or all suit papers, demand notices, summons, complaint or other process received by such police officer or officer's representative to the City's attorney.
4. Cooperate with the City in the conduct or settlement of any legal proceedings and additionally grant the City the right to free access and use of all hospital, medical and doctor's records and reports as to any police officer's physical or mental condition in the conduct or settlement of any legal proceedings.

ARTICLE XXVI

BILL OF RIGHTS

All police officers within the bargaining unit shall be entitled to the protection of what shall hereafter be termed the "Mishawaka Police Officers' Bill of Rights."

- A. All police officers shall have the right to Lodge representation selected from a list prepared by the Lodge or the police officer shall have the right to select an active police officer in good standing with the Lodge, during any interview or questioning involving a disciplinary matter.
- B. When for any reason a police officer is under investigation by the City for conduct which results in dismissal, criminal charges, or suspension for more than five (5) days, the following additional rules are hereby established and shall be followed:

Section 1- Interviews

- A. Advance Notice

Prior to being interviewed for any reason which could lead to disciplinary action, an officer shall be:

1. Informed in writing of the nature of the investigation and whether the officer is a witness or a suspect, if and when known; informed of other information

necessary to reasonably apprise the officer of the nature of the allegations of the complaint, including the date, time and location of the occurrence;

2. If prior to or at any time during the interrogation of a police officer it is determined that the officer may be charged with a criminal offense or be suspected of being implicated in a criminal offense, the officer shall be immediately informed of his/her constitutional rights and the investigation shall be terminated unless the officer chooses to waive his/her constitutional rights of self-incrimination;
3. Afforded an opportunity and facilities to contact and consult privately with an attorney of the officer's choosing and/or representative of the Lodge;
4. Whenever a delay in conducting the interview will not jeopardize the successful accomplishment of the investigation or when criminal culpability is not an issue, advance notice shall be given the officer not less than twenty-four (24) hours before initial interview commences, or written reports are required from the officer.

B. Interview Safeguards

Any interview of an officer shall be when the officer is on duty unless the seriousness of the complaint dictates otherwise.

1. Interviews shall take place at the Mishawaka Police Station facility, or elsewhere if mutually agreed, unless the emergency of the situation necessitates otherwise.
2. The officer may have a Lodge representative and/or an attorney present to witness the interview provided the representative and/or attorney does not participate in the interview. However, the interview may not be unduly delayed awaiting an unavailable Lodge representative when other Lodge representatives are available.
3. An attorney or representative chosen by the officer must be, depending upon the seriousness of the investigation and the need for immediate action, available within a reasonable period of time and under no circumstances will any interrogation session be delayed in excess of twenty-four (24) hours because of the unavailability of the attorney or representative chosen by the officer. However, no matter how extreme an emergency exists, no interrogation shall take place until the officer

shall be given a minimal of three (3) hours to obtain the services of a representative and/or attorney.

4. During the interrogation of the officer, the attorney or representative shall not make any statements or objections of any kind to the investigator nor will the officer in any way impede the interrogation but will restrict all remarks to conferring with the officer. The representative's failure to object to a question shall not constitute a waiver of the officer's ability to later object to any questions asked.
5. The officer being interviewed shall be informed of the name, rank, and command of the Officer in Charge of the investigation and the interviewing officer.
6. Interviews shall be done under circumstances free of intimidation or coercion and shall not otherwise violate the officer's constitutional rights. The officer shall not be subjected to offensive or abusive language. No promise of award shall be made as an inducement to answer questions.
7. Interviews shall not be overly long. The officer shall be entitled to reasonable intermissions as requested for personal necessities, telephone calls, rest periods, with one ten (10) minute intermission every hour, if the officer requests.
8. All interviews shall be limited in scope in activities, circumstances, events, conduct or acts which pertain to the subject of investigation.
9. Interviews and investigations shall be concluded with no unreasonable delay.

C. When the investigation results in charges being filed:

1. The officer will be furnished with a copy of all documents in the Internal Investigation file which will contain all material facts of the matter under investigation;
2. The officer will be furnished with the names of all witnesses and complaints who will appear against him/her and/or whose statements will be used against the officer.

D. When disciplinary action results:

1. When the investigation results in a determination of a sustained complaint and disciplinary action, only the findings and the disciplinary order will be placed in the officer's personnel file unless the officer requests inclusion of the complete record.
2. No dismissal, demotion, or other punitive measures shall be taken against an officer unless the officer is notified of the action and a reason for such action prior to the effective date of such action.

Section 2 - Personal Privileges

- A. No officer shall be required for purposes of assignment or other personnel action to disclose any item of his/her property, income assets, source of income or personal or domestic expenditures including those of any member of the officer's family, unless such information is obtained pursuant to proper legal process or tends to indicate a conflict of interest with respect to the performance of the officer's official duties.
- B. No officer shall have his/her residence, private place of business, if any, private vehicle or locker space assigned to him/her by the Mishawaka Police Department searched unless a valid search warrant is obtained or the officer voluntarily agrees to such search.
- C. No member of the immediate family of the officer shall be required to give a statement to the investigator and prior to requesting any member of the immediate family of the officer to give a statement, the officer shall be given notice of such intended request and the officer shall be given an opportunity to confer with that family member before that family member shall be asked to give a statement.

Section 3 - Political Activities

Except when on duty, no officer shall be prohibited from engaging in political activities.

Section 4 - Blood, Breath and Urine Tests

Blood, breath and urine tests for controlled substances are mandatory for any member of the department who is suspected of being under the influence of alcohol or any drug while on duty; provided, however, that the officer shall not be required to submit to any such tests in regard to any occurrence at a time when he, while off duty, was compelled to take immediate police action in response to an emergency situation.

Section 5 - Polygraph Examinations

The police officer under investigation shall not be required to take a polygraph examination unless the officer's accuser or accusers agree to take such a polygraph examination, and have taken such examination prior to the police officer being asked to take such examination; provided, however, anything in this Article to the contrary notwithstanding, none of the charts, conversations, discussions, questions or results derived from such polygraph examination shall be used against such officer in any disciplinary proceeding nor used against any such officer in any civil or criminal proceeding. In the event the polygraph examiner desires to question the police officer after the polygraph test has been administered, the examiner shall first advise the officer of his/her rights in writing and if the officer waives in writing his/her rights, then any statements by such officer may be used against such officer.

Section 6 - Maintenance of Records

- A. Complaints investigated by the Department shall be maintained in accordance with state and federal statutes.
- B. A police officer shall have the opportunity at a reasonable time during office hours, to review his/her active personnel file and any closed investigative file in which the officer was the accused. Although such request may be made orally, it shall be accompanied by written request signed by the officer for a matter of record. In the event there is any comment adverse to the officer's interests in his/her personnel file, the officer shall have the right to file a written response thereto, which written response shall be attached to said adverse comments; and, additionally the officer shall have the right to file a grievance in regard to any such matter which is of such gravity that it could affect promotional opportunities which grievance shall then be processed in accordance with grievance procedures.

Section 7 - Limitations

No police officer shall be subject to internal discipline by the Mishawaka Police Department for any cause or matter occurring more than 60 (days) from the date that the City first became aware of the alleged incident. Notwithstanding this provision, and in accordance with Indiana Code §36-8-3-4(n), if an officer is subject to criminal charges as a result of an incident, the Board of Public Works and Safety may place the officer on administrative leave with or without pay. Any other disciplinary action by the City shall be stayed until the disposition of the criminal charges in the trial court. At such time the criminal charges are resolved in the trial court, no police officer shall be subject to internal discipline by the Mishawaka Police Department unless it is within the remainder of the 60-day window as provided in this section.

ARTICLE XXVII
FAMILY LEAVE

In the event of a child born to a police officer or a police officer's spouse, a police officer shall receive one shift of continuous hours leave time without loss of pay to attend the child's birth. Any additional leave time, for family or medical purposes, shall be granted by the Chief, or in the Chief's absence the Shift Commander, in accordance with the Family and Medical Leave Act of 1993.

ARTICLE XXVIII
RANK STRUCTURE

A. The President of the Board of Public Works and Safety shall be the executive head of the Department of Police with the following officers of the department as listed below in order of rank:

1. Chief of Police
2. Division Chiefs of Police
 - (a) Uniform Division Chief
 - (b) Detective Division Chief
3. Captains of Police
4. Lieutenants of Police
5. Sergeants of Police
6. First Class Patrol Officers
7. Second Class Patrol Officers
8. Probationary Officers

The above ranks will be recognized throughout the department regardless of the individual's unit or duty assignment.

Authority within this Police Department shall be delegated through the above departmental command channels and recognized in that order.

Whenever two or more officers of equal rank are present (unless specifically stated otherwise), the officer with seniority in rank shall be in command and fully responsible for

police activities. Whenever equal rank is concerned, caused by the absence of a superior officer, seniority of service in rank will prevail and that officer shall be in charge unless otherwise ordered. This order of command shall be in force on all members of the Police Department. The above and foregoing shall not affect bumping rights.

ARTICLE XXIX

CANINE AND SPECIAL ASSIGNMENT OFFICERS

Section 1 - Canine Officers

- A. Police officers assigned to Canine duty may be assigned to any division within the Police Department at the sole discretion of the Chief of Police. In the event a Canine officer is assigned to the Uniform Division that officer shall count toward minimum shift strength and shall work such hours as assigned by the Police Chief.
- B. An officer assigned to Canine duty shall be required, as part of the officer's regular duties, to spend off-duty time caring, grooming, feeding, exercising, and training the police dogs owned by the Mishawaka Police Department.
- C. Canine handlers shall be compensated for off duty care of police dogs in accordance with federal guidelines.
- D. The City shall compensate each officer assigned to Canine duty for his/her off-duty participation in any demonstration or similar activity by the payment of extra duty pay as defined by this Agreement or by awarding the officer compensatory time at a rate equal to the officer's rate of extra duty pay.

Section 2 - Special Assignment Officers

- A. Police officers assigned to the Special Victims Unit, DARE unit, Community Relations, Canine unit, Services Division, as well as the Traffic Bureau officers shall be considered to be on special assignment. Such officers shall not count toward the minimum shift strength requirements established by this Agreement and shall work such hours as are assigned by the Chief of Police.
- B. Special assignment officers shall not be used in such a manner as to avoid the assignment of extra duty to other officers. Nor shall such special assignment officers be used in such a manner as to circumvent the minimum shift strength requirements established by this Agreement.

ARTICLE XXX

SCHOOLS

- A. The City shall select and post all available openings for advanced training covering all specialties, including traffic. Officers shall be given an opportunity to attend such schooling by signing the posted list. Selections of the officers shall be made from those who have signed the list with the City choosing from the list. No officer may be scheduled for training while on vacation. Any officer failing a specialty course more than once may be disqualified from further attendance at the discretion of the City.
- B. When an officer is directed by management to attend mandatory schooling or training, the officer will receive overtime pay at one and one-half hours for each hour spent in attending such schooling or training. No officer may be scheduled for training while on vacation. This provision will not apply, however, to officers attending the basic course of instruction at the Indiana Law Enforcement Academy.

ARTICLE XXXI

COMPENSATORY TIME

- A. When attending schooling or training on a voluntary basis, a police officer shall be given compensatory time at a rate of one and one-half (1.5) hours for each hour of schooling or training attended.
- B. Compensatory time owed by the City for voluntary schooling, training or heavy maintenance work may be taken by officers but will not take precedence over random days and may not be given if the absence of the officer will cause the shift's strength to fall below minimum strength.
- C. In the event a police officer retires, resigns or is discharged with time owed on the books, past practice will be followed.
- D. Once compensatory time is authorized, the date may not be revoked or cancelled.

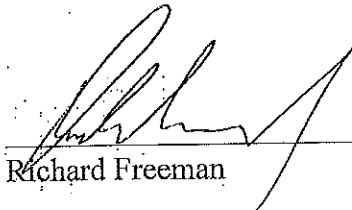
ARTICLE XXXII

DRUG - FREE WORKPLACE

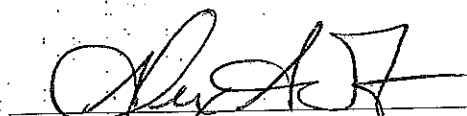
In recognition of the importance, both in human and economic terms, of alcohol and drug abuse, the City of Mishawaka and its administration is committed to make every effort to have a drug and alcohol free workplace and workforce. The rules related to Drug Free Workplace are attached and made a part of this Contract as an Exhibit.

Signed and dated the 30th day of December 2024.

The Mishawaka Fraternal Order of Police
Lodge 91, by FOP President


Richard Freeman

The City of Mishawaka, by Chief of Police


Alexander Arendt, Chief of Police

DEC 11 2024

City Clerk
Mishawaka, IN

PETITION 24-10

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2024-45

ORDINANCE NO. _____

AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF
MISHAWAKA, INDIANA, AND PROVIDING ZONING CLASSIFICATION
THEREFORE

WHEREAS, a Petition has been presented to the Common Council of the City of Mishawaka, Indiana, praying that certain territory lying contiguous to the corporate limits of the City of Mishawaka, Indiana, be annexed to and declared to be a part of the City of Mishawaka, and that it be provided with a Zoning Classification, and

WHEREAS, the Mishawaka City Plan Commission, to which Commission the petition was duly referred, has recommended the annexation and a Planned Unit Development Amendment as hereinafter set forth, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, that:

Section 1. The following described real estate be and the same is hereby annexed to and declared to be a part of the City of Mishawaka, Indiana:

*Real estate in St. Joseph County, in the State of Indiana, described as follows:
Part of the Southwest Quarter (1/4) of the Southeast Quarter (1/4) of Section 27,
Township 38 North, Range 3 East and more particularly described as follows:
Beginning at the Southwest corner of the Southeast Quarter (1/4) of said Section
27; Thence North 1160 feet; Thence East 300.41 feet; Thence South 1160 feet to
the South line of the Southeast Quarter (1/4) of said Section 27; Thence West and
along said South line 300.41 feet to the place of beginning EXCEPTING therefrom the
following:*

*Beginning at the Southeast corner of the above described tract; Thence North 150
feet; thence West 100 feet; Thence South 150 feet; thence East 100 feet to the
place of beginning.*

*LESS AND EXCEPT the following premises conveyed to St. Joseph County, Indiana by
Deed, recorded November 18, 2003 as Instrument No. 373957, and described as
follows:*

*A parcel of land located in the Southeast Quarter of Section 27, Township 38 North,
Range 3 East of the Second Principal Meridian in Harris Township, St. Joseph county,
Indiana, more particularly described as follows:*

*Commencing at the Southwest corner of the Southeast quarter of Section 27; Thence
North 00 degrees 07 minutes 16 seconds West (basis of bearings) on the West line
of the Southeast Quarter of Section 27, a distance of 20 feet to the point of
beginning; Thence North 00 degrees 07 minutes 16 seconds West on said West line,
a distance of 20 feet; Thence South 89 degrees 57 minutes 53 seconds East, parallel
with the South line of the Southeast Quarter Section 27 on the North proposed right-*

Proposed Ordinance No: _____

Ordinance No: _____

*of-way line of Douglas Road, a distance of 200.58 feet; Thence South 00 degrees 06 minutes 44 seconds West, a distance of 20 feet to the North existing right-of-way of Douglas Road; Thence North 89 degrees 57 minutes 53 seconds West, parallel with the South line of the Southeast Quarter of Section 27 on the North existing right-of-way of Douglas Road, a distance of 200.50 feet to the place of beginning.
Parcel contains 0.09 acres more or less*

The above described real estate shall hereafter be annexed into and within the City of Mishawaka, Indiana, and a part of that district designated in the Zoning Ordinance of the City of Mishawaka, Indiana, and shall carry a classification for zoning of S-2 Planned Unit Development District.

All the above real estate shall hereafter be amended to allow for the construction of a 234 unit affordable senior apartment complex subject to the following development regulations/conditions:

Uses:

1. Permitted uses shall be limited to a 234 unit affordable senior multi-family residential apartment complex and other accessory uses including but not limited to detached garages, an entertainment pavilion, and maintenance office.
2. Off-premise signs/billboards shall be prohibited.

Parking Spaces, Building & Parking/Pavement Setbacks:

1. A minimum of 1.2 parking spaces shall be provided per residential dwelling unit.
2. The building setbacks shall be a minimum of 25' from the south property line / E. Douglas Road public right-of-way (front), 5' from the east property line (side), 35' from the north property line (rear), and 29' from the west property line (side). Detached garage structures shall be permitted within the rear building setback but shall maintain a 5' minimum setback from the north property line.
3. The parking/pavement setbacks shall be 10' from the E. Douglas Road public right-of-way and 5' from all other property lines.

Landscaping:

1. Landscaping is required to comply with the minimum landscaping and screening regulations (Section 137-815).

Signage:

1. One (1) freestanding monument sign shall be permitted. The sign shall be limited to 8' in height and contain a display area of no more than 60 square feet. The sign shall have a masonry base no less than 3' in height. No more than 1/3 of the display area for each sign may be utilized as an electronic reader board.

Right-of-way, Road Improvements, and Sidewalks:

Proposed Ordinance No: _____

Ordinance No: _____

1. Additional right-of-way and/or easements may be required and shall be determined by review of the Department of Engineering and Department of Planning and Community Development as a part of the planned unit development plan and subdivision plat.
2. Road improvements along E. Douglas Road shall be installed as determined by the Department of Engineering.
3. The existing sidewalk along E. Douglas Road shall be reconstructed from the west property line of the subject property to the Holiday Inn property line (1208 E. Douglas Road) to the east. Additional sidewalks shall be provided within the subject property connecting to the E. Douglas Road sidewalk. All sidewalks shall be reviewed and approved by the Department of Engineering and Department of Planning and Community Development as a part of the planned unit development plan and subdivision plat.

Lighting:

1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures.
2. A lighting plan shall be submitted with the planned unit development plan submission.

Building Limitations & Architecture:

1. The maximum building height shall be 50'.
2. Residential grade (minimum 0.044" thick) vinyl siding and brick veneer shall be permitted building materials for all buildings, including the multi-family residential buildings and any accessory buildings. All building materials are subject to review and approval by the Department of Planning and Community Development as a part of the planned unit development plan.

Stormwater Management Infrastructure & Utilities:

1. A stormwater drainage plan shall be reviewed and approved by the Department of Engineering as a part of the planned unit development plan.
2. All costs associated with the extension of utilities shall be the responsibility of the developer. Extension of utilities shall occur in a location and size as directed by the Department of Engineering.

This recommendation is based on the following findings of fact per Indiana Code Section 36-7-4-603:

1. The Comprehensive Plan - Although this property was identified with a preferred use as low-density residential (single-family homes) in the Mishawaka 2000 Comprehensive Plan, the proposed multi-family use is reasonably consistent with adjacent and present land uses along the E. Douglas Road corridor.

Proposed Ordinance No: _____

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2. The Current conditions and the character of current structures and uses in each district - The subject parcel is located on E. Douglas Road, a currently heavily travelled corridor on which traffic volumes are expected to increase due the significant commercial and residential growth that has occurred in the northeast part of the City and St. Joseph County. The property is located adjacent to unincorporated vacant land and a single-family residential house to the north; a multi-family residential apartment complex to the west; vacant commercial property, a medical office, and television and radio studio all within the City, and an unincorporated single-family residential house to the south; and two hotels to the east. The character of other buildings and land uses located along the E. Douglas Road corridor between N. Main Street and Fir Road vary greatly and include an automatic car wash/lube facility, a restaurant, a fire station, a single-family residential development, a hospital, an assisted living facility, and a convenience store/gas station.
3. The most desirable use for which the land in each district is adapted – With the property’s location along the increasingly commercial and residential developed E. Douglas Road corridor combined with the adjacent properties being zoned for commercial use, the most desirable use for the property is either commercial or high-density residential.
4. The conservation of property values throughout the jurisdiction - The proposed zoning should not be injurious to property values in the surrounding area. The proposed multi-family residential use is compatible with the adjacent multi-family residential and commercial uses.
5. Responsible development and growth – The continuation of development of vacant land along E. Douglas Road for commercial or high-density residential uses is responsible growth and development.

Section 3. This Ordinance shall be in full force and effect from and after its passage, due attestation and legal publication.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2024, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

Proposed Ordinance No: _____

Ordinance No: _____

PRESENTED by me to the Mayor this _____ day of _____,
2024, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2024, at
_____ o'clock _____.M.

David A. Wood, Mayor

STAFF REPORT

Location: 15503 E. Douglas Road

Date: December 10, 2024

Petition: 24-10 Stoneleaf Reserve Planned Unit Development –
Annexation, Establish Zoning, and Approve a
Preliminary Planned Unit Development Site Plan
for an affordable senior apartment complex

Prepared By: DJS

GENERAL INFORMATION

Applicants: Edward N. Doty, as Trustee of the Edward N. Doty Revocable Trust / Kittle Property Group, Inc.

Status: Property Owner / Contingent Developer

Request: To annex, establish zoning, and approve a preliminary planned unit development site plan for the Stoneleaf Reserve - a 234 unit affordable senior apartment complex

Existing Zoning: Unincorporated St. Joseph County

Proposed Zoning: S-2 Planned Unit Development (Multi-Family Residential)

Lot Size: +/- 7.64 acres including the north 40' public right-of-way of E. Douglas Road

Applicable Regulations: Section 137-671 thru 137-679 / S-2 Planned Unit Development District, Section 137-41 / Amendments to the Zoning Map & Indiana Code 36-4-3-2.1 and 36-4-3-3.1; and 36-7-4-603

SPECIAL INFORMATION

Area Development Pattern:

North:	Unincorporated St. Joseph County / R Single Family Residential (Undeveloped with house over 900' away fronting Fir Road)
South:	C-8 High Density Suburban Commercial (Vacant, Radio & Television Studio / WSBT, and Medical Offices / Michiana Hematology Oncology) & Unincorporated St. Joseph County / R Single Family Residential (House)
East:	C-1 General Commercial (Hotels / Holiday Inn & Candlewood Suites)
West:	S-2 Planned Unit Development (Multi-Family Residential / Elevate on Main formerly Main Street Village Apartments)

Thoroughfare: E. Douglas Road

Council District: 6 (pending)

School District: Penn-Harris-Madison

Public Utilities: All public utilities are available and/or will be extended to/throughout the site at the developer's expense.

Comprehensive Plan: The Mishawaka 2000 Comprehensive Plan identifies a preferred or planned use for this property as Low Density Residential (Single Family Homes). The proposed use for multi-family residential is consistent with the adjacent and present land uses along the E. Douglas Road corridor.

ANALYSIS

Proposal:

The applicants, Edward M. Doty, Trustee of the Edward N. Doty Revocable Trust (owner) and Kittle Property Group, Inc. (contingent developer), are proposing to annex, establish zoning, and approve a preliminary planned unit development site plan to allow for the construction of a 234 unit affordable senior apartment complex. The 7.72 acre site, which has a current address of 15503 E. Douglas Road (Tax Parcel 006-1012-0174), is located on the north side of E. Douglas Road approximately 1,200' west of Fir Road.

Prior to filing the petition, the applicant discussed the potential project with Planning Staff and emailed a preliminary site plan for review and comment. The Planning, Engineering, and Fire Departments had several comments that were mostly addressed with the revised preliminary site plan, as submitted with the petition, or will be addressed with the future final site plan following annexation. A response letter to these comments is attached.

Planning Staff recommended that the property be zoned to the S-2 Planned Unit Development (PUD) District. This zoning will allow for specific development regulations and conditions, similar to those approved for other multi-family residential apartment complexes, to be placed on the property. The PUD zoning will also permit flexibility in the design and development standards which would normally be applicable to a multi-family residential apartment complex zoned R-3 Multi-Family Residential. As a result, the development standards can be varied through the Planned Unit Development process eliminating the need to obtain developmental variances through the Board of Zoning Appeals.

Per the preliminary site plan, the project is proposed to include 234 dwelling units within three (3) buildings, a leasing office within one of the apartment buildings, a dog park, an entertainment pavilion, bike racks, a raised garden area, and a maintenance garage. The dwelling unit mix will consist of 144 one-bedroom units (61%) and 90 two-bedroom units (39%). The overall density is 30.6 units per acre including the existing north 40' public right-of-way of E. Douglas Road.

A total of 282 parking spaces are proposed consisting of 254 surface spaces and 28 spaces within five (5) detached garages. The surface spaces will include 12 guest spaces and 3 employee spaces. Parking is proposed at a ratio of 1.2 spaces per unit, which is less than the standard 1.5 spaces per unit for an apartment complex within the R-3 District. Per the contingent developer's experience in other senior property development, the proposed 1.2 spaces per unit will provide sufficient parking for residents and guests. The developer has constructed senior apartment complexes with only 0.8 spaces per unit. Additionally, the property is located along a Transpo bus route with a designated stop to the southeast at the E. Douglas Road and Creek Point Road intersection. A community bus will also provide transportation services for the residents.

Primary access will be provided from E. Douglas Road via a new drive in the southwest corner of the property. The access will allow for unrestricted turning movements to and from the public right-of-way. Cross access to the east shall be provided to connect to the adjacent access drive in the southeast corner of the property. When the adjacent Holiday Inn was approved and constructed, Planning Staff required a stub/drive connection to the subject property with a dedicated ingress-egress easement on the adjacent property. The easement was included on the recorded adjacent plat (Holiday Inn – Candlewood Suites Minor Subdivision, 1st Corrective Plat / Instr. #14085960). An ingress-egress easement shall also be dedicated on the subject property via a plat. The preliminary site plan also shows a potential cross access at the northwest corner of the property connecting to the adjacent Elevate on Main apartment complex. The applicant has not contacted the adjacent property owner regarding the feasibility or desire to provide

a connection, and this connection is not being required by Planning Staff. All drives and parking lots interior to the site will be privately owned and maintained.

Building setbacks shall conform with the R-3 Multi-Family Residential District which requires a 25' front setback as measured from the 40' half right-of-way, a 5' side yard setback along the east property line, and a 35' rear building setback along the north property line. A 29' side yard setback shall be provided along the west property line to be outside of the required utility / sanitary sewer easement as requested by the Engineering Department. A 20' easement currently exists along the west property line for a sanitary sewer force main. The easement shall be expanded to 29' and dedicated via a plat.

Parking/pavement setbacks shall be 10' from the public right-of-way along E. Douglas Road and 5' from all other property lines. Landscaping is required within these setbacks and throughout the property compliant with the minimum landscaping and screening regulations (Section 137-815). A detailed landscaping plan shall be submitted with the final planned unit development site plan, and is subject to review and approval by the Planning Staff.

The scale and density of the proposed development is similar to other multi-family residential developments in the northern part of the City of Mishawaka, such as the adjacent Elevate on Main apartments, the Villas on Fir on Fir Road south of the Indiana Toll Road, Grandview Flats & Townhomes to the northwest of Gumwood and Cleveland Roads, Summer Place Apartments along E. University Drive, and The Springs at Mishawaka at the northeast corner of Fir Road and Beacon Parkway (currently under construction).

At this time, the applicants are only proposing to establish the permitted use for multi-family residential and basic development requirements of the planned unit development. If approved, a detailed final planned unit development site plan must be submitted to address all the applicable zoning (height, area, and development regulations), utility (sanitary sewer, water, storm drainage, electric, gas, etc.), grading, landscaping, erosion control, and other required improvements.

Annexation:

In 2000, the adjacent property to the west was annexed into the City for the development of the Main Street Village apartments (now Elevate on Main apartments) and Main Street Villas single-family residential subdivision. In 2002, the adjacent property to the south was annexed for the development of a medical campus facility and other permitted C-8 High-Density Suburban Commercial District uses. In 2008, the adjacent property to the east was annexed for the development of a hotel. The property to the north is unincorporated land and includes a single-family residential home over 900' to the east facing Fir Road. A property adjacent to southeast (15467 E. Douglas Road) is also unincorporated land that includes a single-family residential house.

Per the State of Indiana's annexation laws, a parcel is required to share one-eighth, or 12.5%, of its boundary with the existing boundary in order to be annexed. With the three previous annexations as outlined above, approximately 2,370 feet, or 81.2%, of the total 2,920 feet of the perimeter of the property will be contiguous with the existing city limits. This exceeds the required 12.5% contiguity.

Location/Context:

The site is located on the north side of E. Douglas Road approximately 1,200' west of Fir Road, and is bound to the north by vacant property and a single-family residential house in unincorporated St. Joseph County; to the west by an apartment complex; to the south by vacant commercial property, a medical office, and a television and radio studio all within the city, and a single-family residential house in unincorporated St. Joseph County; and to the east by two hotels.

Zoning Change:

Staff believes that the proposed zoning of this property for a multi-family residential apartment complex is appropriate given the significant residential and commercial grown along E. Douglas Road.

Transportation/Roads:

According to the latest available traffic counts, there were 14,228 annual average daily trips (AADT) (June 2022) along E. Douglas Road east of Holy Cross Parkway. The counts at this location have remained

consistent between 2019 and 2022, which are the only two available counts. There were 13,901 annual average daily trips (AADT) (July 2022) along E. Douglas Road west of Fir Road. The counts at this location have increased more than 50% over the last 17 years. Between 2007 and 2019, counts ranged from just over 9,100 AADT to nearly 14,500 AADT. With the existing and anticipated increase in commercial and residential development in the northern Mishawaka and Granger areas, it is anticipated that traffic volumes will remain relatively consistent and/or increase in future years.

The 2050 Transportation Plan, prepared by the Michiana Area Council of Governments with input from City staff and the County Engineering Department, does not show any planned added travel lanes along the E. Douglas corridor between N. Main Street and Fir Road. Added travel lanes along Douglas Road to the east from Veteran's Parkway to Capital Avenue, including a grade separation at the Canadian National rail line, is proposed for construction in 2045. An auxiliary line (center turn lane) along Fir Road to the east between McKinley Avenue and the Indiana Toll Road is proposed for construction in 2035. Veteran's Parkway is also anticipated to be extended from its current northern terminus near the Mishawaka Fieldhouse to Cleveland Road. The plan and anticipated completion dates for any transportation improvements may be amended in future years dependent on projected travel demand and available funding.

All pertinent City Departments have reviewed and approved the request for annexation and zoning. Preliminary comments from the Planning, Engineering, and Fire Departments were forwarded to the applicant prior to the petition being filed. Most of the comments were addressed with the revised preliminary site plan, as submitted with the petition, or will be addressed with the future final site plan following annexation.

The Electric Department commented that the property is not within the city's service territory.

RECOMMENDATION

Staff recommends **approval** of Petition 24-10 to annex and establish zoning for property located along E. Douglas Road approximately 1,200' west of Fir Road (15503 E. Douglas Road) to allow for the construction of a 234 unit affordable senior apartment complex subject to the following development regulations/conditions:

Uses:

1. Permitted uses shall be limited to a 234 unit affordable senior multi-family residential apartment complex and other accessory uses including but not limited to detached garages, an entertainment pavilion, and maintenance office.
2. Off-premise signs/billboards shall be prohibited.

Parking Spaces, Building & Parking/Pavement Setbacks:

1. A minimum of 1.2 parking spaces shall be provided per residential dwelling unit.
2. The building setbacks shall be a minimum of 25' from the south property line / E. Douglas Road public right-of-way (front), 5' from the east property line (side), 35' from the north property line (rear), and 29' from the west property line (side). Detached garage structures shall be permitted within the rear building setback but shall maintain a 5' minimum setback from the north property line.
3. The parking/pavement setbacks shall be 10' from the E. Douglas Road public right-of-way and 5' from all other property lines.

Landscaping:

1. Landscaping is required to comply with the minimum landscaping and screening regulations (Section 137-815).

Signage:

1. One (1) freestanding monument sign shall be permitted. The sign shall be limited to 8' in height and contain a display area of no more than 60 square feet. The sign shall have a masonry base no less than 3' in height. No more than 1/3 of the display area for each sign may be utilized as an electronic reader board.

Right-of-way, Road Improvements, and Sidewalks:

1. Additional right-of-way and/or easements may be required and shall be determined by review of the Department of Engineering and Department of Planning and Community Development as a part of the planned unit development plan and subdivision plat.
2. Road improvements along E. Douglas Road shall be installed as determined by the Department of Engineering.
3. The existing sidewalk along E. Douglas Road shall be reconstructed from the west property line of the subject property to the Holiday Inn property line (1208 E. Douglas Road) to the east. Additional sidewalks shall be provided within the subject property connecting to the E. Douglas Road sidewalk. All sidewalks shall be reviewed and approved by the Department of Engineering and Department of Planning and Community Development as a part of the planned unit development plan and subdivision plat.

Lighting:

1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures.
2. A lighting plan shall be submitted with the planned unit development plan submission.

Building Limitations & Architecture:

1. The maximum building height shall be 50'.
2. Residential grade (minimum 0.044" thick) vinyl siding and brick veneer shall be permitted building materials for all buildings, including the multi-family residential buildings and any accessory buildings. All building materials are subject to review and approval by the Department of Planning and Community Development as a part of the planned unit development plan.

Stormwater Management Infrastructure & Utilities:

1. A stormwater drainage plan shall be reviewed and approved by the Department of Engineering as a part of the planned unit development plan.
2. All costs associated with the extension of utilities shall be the responsibility of the developer. Extension of utilities shall occur in a location and size as directed by the Department of Engineering.

This recommendation is based on the following findings of fact per Indiana Code Section 36-7-4-603:

1. The Comprehensive Plan - Although this property was identified with a preferred use as low-density residential (single-family homes) in the Mishawaka 2000 Comprehensive Plan, the proposed multi-family use is reasonably consistent with adjacent and present land uses along the E. Douglas Road corridor.
2. The Current conditions and the character of current structures and uses in each district - The subject parcel is located on E. Douglas Road, a currently heavily travelled corridor on which traffic volumes are expected to increase due the significant commercial and residential growth that has occurred in the northeast part of the City and St. Joseph County. The property is located adjacent

to unincorporated vacant land and a single-family residential house to the north; a multi-family residential apartment complex to the west; vacant commercial property, a medical office, and television and radio studio all within the City, and an unincorporated single-family residential house to the south; and two hotels to the east. The character of other buildings and land uses located along the E. Douglas Road corridor between N. Main Street and Fir Road vary greatly and include an automatic car wash/lube facility, a restaurant, a fire station, a single-family residential development, a hospital, an assisted living facility, and a convenience store/gas station.

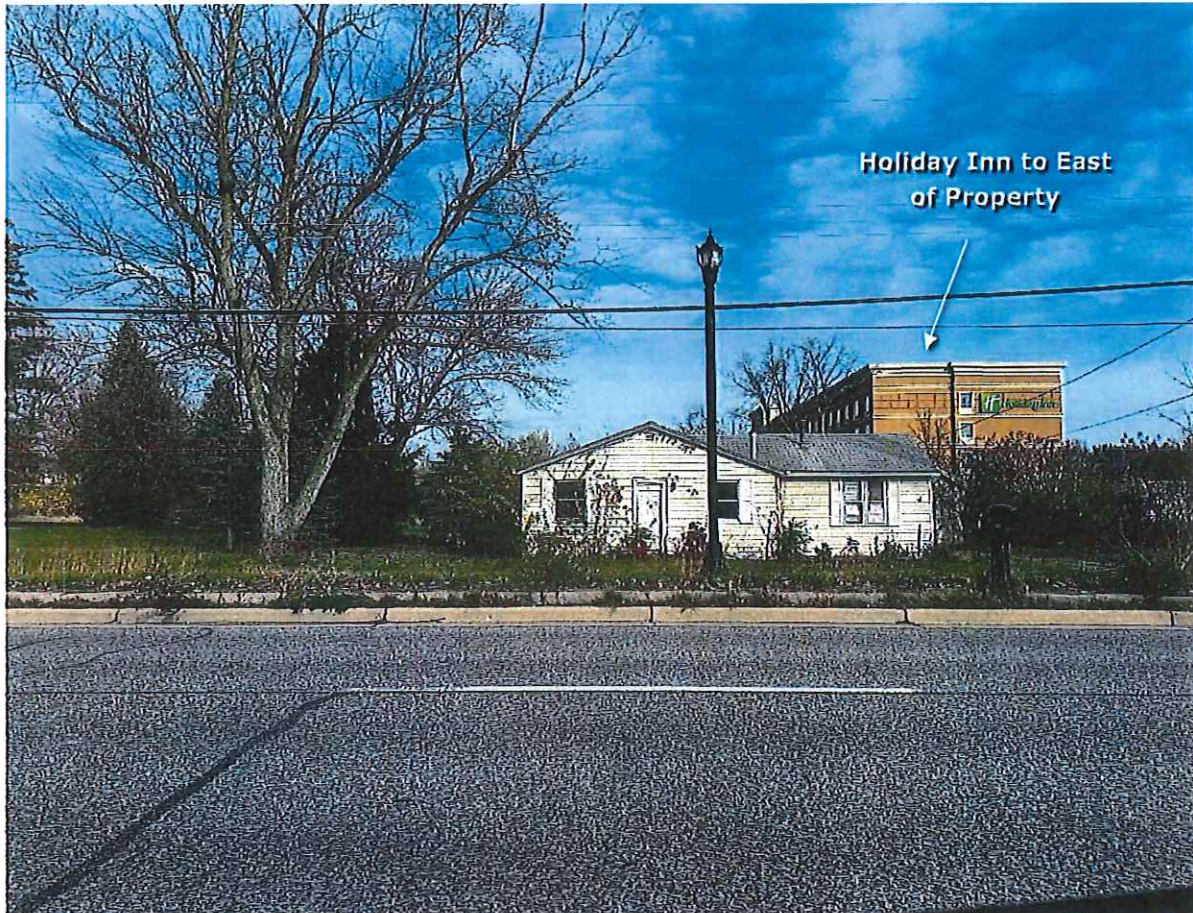
3. The most desirable use for which the land in each district is adapted – With the property's location along the increasingly commercial and residential developed E. Douglas Road corridor combined with the adjacent properties being zoned for commercial use, the most desirable use for the property is either commercial or high-density residential.
4. The conservation of property values throughout the jurisdiction - The proposed zoning should not be injurious to property values in the surrounding area. The proposed multi-family residential use is compatible with the adjacent multi-family residential and commercial uses.
5. Responsible development and growth – The continuation of development of vacant land along E. Douglas Road for commercial or high-density residential uses is responsible growth and development.

ATTACHMENTS

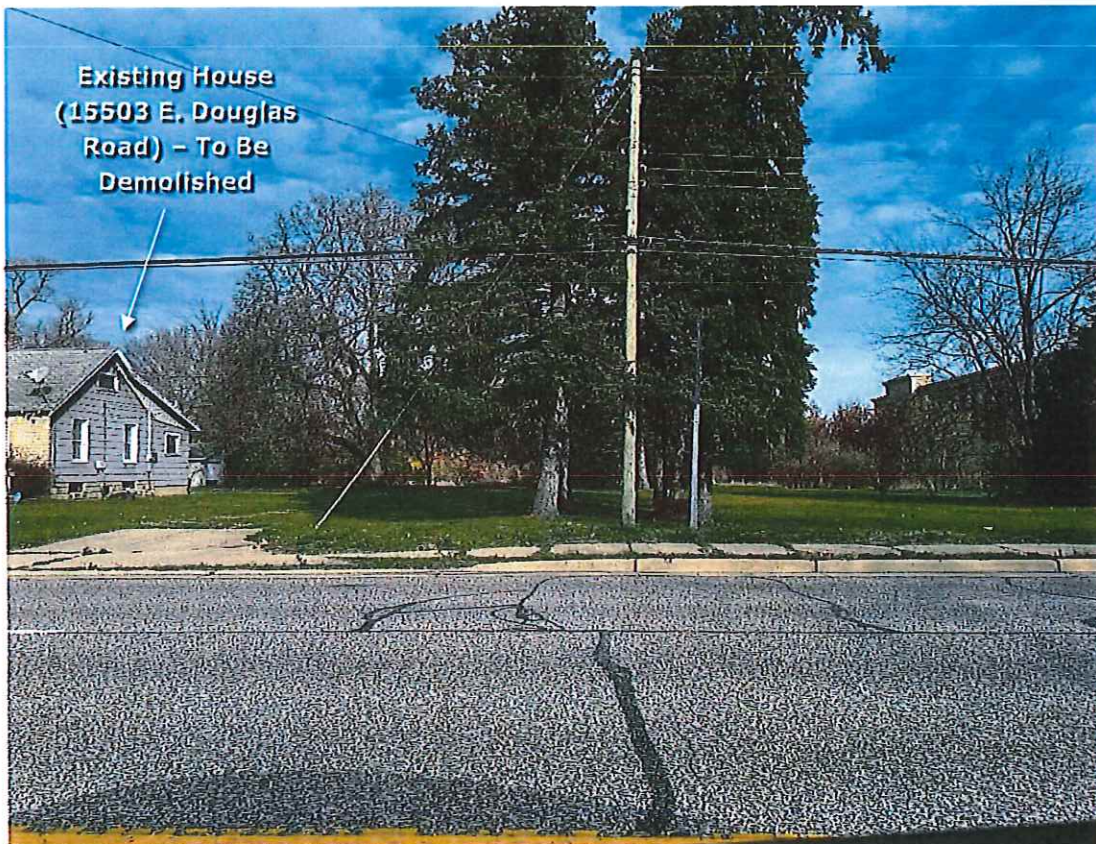
Aerial Photograph, Photographs of Site Area, Petition for Annexation and Zoning Classification, Response Letter to Preliminary Review Prior to Filing, Preliminary Planned Unit Development Site Plan, Location Map



Aerial Photograph – 15503 E. Douglas Road (current address)
Proposed Stoneleaf Reserve – a 234 unit affordable senior apartment complex



P1. Looking north from E. Douglas Road toward the existing house to remain in county. Subject property is west of this house.



P2. Looking northerly from E. Douglas Rd toward the property and house to be demolished.

November 20, 2024

Honorable Members of the Common Council
City of Mishawaka, Indiana
and
Mishawaka City Plan Commission
City of Mishawaka, Indiana

Received
NOV 19 2024
Planning and
Community Development
PKJ 24-10

RE: Petition for Annexation and Zoning Classification

The undersigned, EDWARD N. DOTY AS TRUSTEE OF THE EDWARD N. DOTY REVOCABLE TRUST, respectfully show they are the owners of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

The Land, located at 15503 Douglas Road, Granger, IN 46530, is described as follows:

Real estate in St. Joseph County, in the State of Indiana, described as follows:
Part of the Southwest Quarter (1/4) of the Southeast Quarter (1/4) of Section 27, Township 38 North, Range 3
East and more particularly described as follows:
Beginning at the Southwest corner of the Southeast Quarter (1/4) of said Section 27;
Thence North 1160 feet;
Thence East 300.41 feet;
Thence South 1160 feet to the South line of the Southeast Quarter (1/4) of said Section 27;
Thence West and along said South line 300.41 feet to the place of beginning EXCEPTING therefrom the following:
Beginning at the Southeast corner of the above described tract;
Thence North 150 feet; thence West 100 feet;
Thence South 150 feet; thence East 100 feet to the place of beginning.
LESS AND EXCEPT the following premises conveyed to St. Joseph County, Indiana by Deed, recorded November 18, 2003 as Instrument No. [373957](#), and described as follows:
A parcel of land located in the Southeast Quarter of Section 27, Township 38 North, Range 3 East of the Second Principal Meridian in Harris Township, St. Joseph county, Indiana, more particularly described as follows:
Commencing at the Southwest corner of the Southeast quarter of Section 27;
Thence North 00 degrees 07 minutes 16 seconds West (basis of bearings) on the West line of the Southeast Quarter of Section 27, a distance of 20 feet to the point of beginning;
Thence North 00 degrees 07 minutes 16 seconds West on said West line, a distance of 20 feet;
Thence South 89 degrees 57 minutes 53 seconds East, parallel with the South line of the Southeast Quarter

Section 27 on the North proposed right-of-way line of Douglas Road, a distance of 200.58 feet;

Thence South 00 degrees 06 minutes 44 seconds West, a distance of 20 feet to the North existing right-of-way of

Douglas Road;

Thence North 89 degrees 57 minutes 53 seconds West, parallel with the South line of the Southeast Quarter of

Section 27 on the North existing right-of-way of Douglas Road, a distance of 200.50 feet to the place of beginning.

Parcel contains 0.09 acres more or less.

Petitioners own One Hundred (100%) percent of the above-described parcel of land which is located in INDIANA and that Petitioners desire the same to be annexed to the City of Mishawaka, Indiana, with a S-2 PUD District. Petitioners further state they intend to utilize said land for a SENIOR AFFORDABLE APARTMENT COMMUNITY.

Accompanying this petition is a drawing, to scale, showing the above-described parcel of real estate, showing the size of the proposed building and also the location of the proposed building structure(s).

Petitioners further show this proposed annexation to be in the best interest of the City of Mishawaka, Indiana, and of the territory sought to be annexed which is urban in character and is an economic and social part of the City of Mishawaka.

Wherefore, Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted annexing the above described parcel of real estate to the City of Mishawaka with a S-2 PUD.



Property Owner Signature

Linda S. Sulich, Co-Executor

Print Property Owner Name



Property Owner Signature

Kimberly Riggs, Co-Executor

Print Property Owner Name

Contact Person:

Brian R. Pozen

Kittle Property Group, Inc.

310 E. 96th Street

Suite 400

Indianapolis, IN 46240

317-590-5842

BPozen4634@KittleProperties.com



PM 24-10
Received

NOV 20 2024

Planning and
Community Development

November 19, 2024

City of Mishawaka
Planning and Community Development
100 Lincolnway West
Mishawaka, IN 46544
Attn: Kenneth B. Prince, FASLA

RE: Preliminary PUD Site Plan Review –
7.72 Acres in St Joseph County/Mishawaka
As described on Exhibit A - Mishawaka Flats (tentative name) (the
“Community”)

On behalf of Kittle Property Group, Inc. (KPG) we thank you for the opportunity to offer this response to the various local comments based on a review of the proposed site plan (Douglas Rd Site Plan Option 2 20241025-CSK-1-0) for Mishawaka Flats located at 15503 Douglas Road. The numbered comments below were taken from the staff comment emails and the lettered comments are our responses. Our responses are supported by the included revised site plan (Exhibit B).

PLANNING:

1. When annexed, it should be zoned S-2 PUD so the development regulations can be specific to the proposed project. This will be similar to the Villas on Fir apartment complex (See attached Ord. 5544).
 - a. Understood. Per Sec. 137-674, find the applicable S-2 PUD information incorporated into the Community site plan document as applicable.
2. Cross-access to the east should be provided to connect to the adjacent access drive in the far southeast corner of the property. When the adjacent hotel was approved and constructed, we required a stub/connection to this property. An ingress-egress easement was included on the plat. This connection will require redesign of the property stormwater retention basin, internal access drives, and other proposed improvements in this area. Provisions will need to be included to provide a connection to the existing single-family home off Douglas between this property and the Holiday Inn from the rear. Our hope was that this property would have been included in the request, but we also understand if that is cost prohibitive. We just need to address its future redevelopment potential.

- a. The Community site has been redesigned to allow an east side cross-access connection drive to connect to the adjacent hotel/existing ingress-egress easement.
 - b. We have attempted to include the adjacent existing single-family home in our proposed development but currently, the acquisition price is cost prohibitive. We remain open to acquiring the parcel should circumstances change, but for the time being, provision has been made to allow access to the property.
 - i. Question – If acquisition becomes a possibility after final PUD approval but before building permit – would inclusion be considered a ‘nonsubstantial’ change per Sec. 137-679 which would allow city planner ability to approve incorporation provided no other major changes would be proposed?
 - c. Possible west cross-access has also been proposed at the northwest corner of the Community site connecting to adjacent multi-family community.
 - i. Are the multi-family complex streets public or private?
 - ii. At this time, we have not contacted the landowner if this access would be considered.
 - iii. If access is provided – may we assume this will be a gated ‘emergency-only’ access point?
3. It looks like the density/number of units may need to be decreased to provide sufficient parking. We don’t believe a 1 to 1 ratio is appropriate. This is the minimum ratio for an apartment complex by ordinance is 1.5 parking spaces per unit. Since it is a senior complex, we are open to a potential reduction, but we would want documentation based on your other communities that the parking ratio will work. Since this is independent living, there is an expectation that most units will have a vehicle, and although some will have none, some will have two. There is also a need for visitor parking.
 - a. KPG is a vertically integrated multi-family development firm that incorporates Property Management under its operation. To date, KPG has over 150 properties in twenty states. In Indiana, for senior property development, we are comfortable with 0.8 spaces/unit proposed count for Mishawaka Flats, however we acknowledge the City standard and propose 1.2 parking spaces per unit as shown in the updated Community plan.
 - b. The South Bend Public Transportation Corporation (Transpo) services the site via route 15A – University Park Mall/Mishawaka with a designated stop at Douglas/Creek Point Road – which is directly across the street from the Community. We expect our residents to utilize this public transportation system.
 - c. Further, as part of KPG commitment to its senior communities and residents, we will provide a Community bus that will serve the transportation need of this Community’s residents.
4. Sidewalks are shown internally with a connection to the existing integral sidewalk along E. Douglas Road. We would require that the sidewalk along Douglas Road sidewalk shall be reconstructed with the redevelopment of the property. From the west property line to the Holiday Inn property to the east.

- a. Clarification – since we are unable to include the existing single family home parcel between the hotel and our Community, is the request still for us to continue our sidewalk reconstruction beyond our site boundary?
5. All a landscaping shall meet the minimum landscaping and screening regulations. (Section 137-815).
 - a. Understood. We will review and comply with Section 137-815 and detail as part of final PUD approval documentation.
6. Water indicated that the property is fronted by a 16" water main and from a providing water standpoint that will not be an issue. Water has a stub on the north side of the property near the assisted living facility that faces Fir Road that could possibly be tied into to loop the system. Fire is not available to review right now but will weigh in once you submit for fire hydrant placement and any accessibility issues.
 - a. 16" water main location understood. Are there more detailed engineering drawings of the location that can be shared?
 - b. We do not anticipate the ability to access the north side stub, but will you share more details of location?
 - c. Will you provide a 'will serve' availability letter for water for our funding application. Requests for such documentation into Mishawaka Utilities indicated the planning office must provide/advise.
7. The property is not located within our electric service area, as such, you will likely need to work with AEP for the service connection. We will ask for a change in territory since we serve around the property, but since they changed State law, AEP has not approved any change in territory.
 - a. Understood. We have documentation from AEP/Indiana Michigan Utilities for service.
 - b. Assume would be beneficial for both parties for the Community to be serviced by Mishawaka Utilities, but we do not intimately know the state law and chances of service prior to construction. We would like to converse more about this and know if there is anything we can do to help.

ENGINEERING:

8. Provide 30' easement for force main instead of existing 20' for added protection. is would affect the location of Building #2.
 - a. We understand this easement is existing and is granted to and maintained by the City of Mishawaka
 - b. We propose per plan to increase the building set-back of Building #2 from to 29'-0" which should also allow the HVAC condensers to be out of the easement and provide the added protection/access.
9. Right of way needs to be dedicated.
 - a. Understood

10. Relocate stormwater pond TOB outside of setback. Assuming this will be a wet pond, will need safety measures installed.
 - a. Stormwater pond has been relocated/redesigned and TOB is outside of setback.
 - b. We request any analysis of needed safety measures be reserved for final engineering of the pond.
11. 8" sanitary sewer stub available at southeast corner of site for extension.
 - a. 8" sewer stub location understood. Are there more detailed engineering drawings of the location that can be shared?
 - b. Since we are unable to include the existing single family home parcel between the hotel and our Community, will the City consider reimbursing our costs to extend the stub to our eastern property line?
 - c. Alternatively – is there a stub west from the existing multi-family site?
 - d. Please advise about the note on the Holiday Inn plat stating that 'East & West sewer sections in right-of-way and parallel to Douglas will be maintained by the city of Mishawaka, North & South sewer sections shall be privately maintained by property owners.'
12. Should consider cross-access to both adjacent properties.
 - a. Per plan – cross-access to both adjacent properties have been preliminary located/proposed.

FIRE:

13. What is the square footage of each building?
 - a. Per plan all three buildings are the same and their square footage is 73,020 sf.
14. What type of construction is each building type?
 - a. Per plan all three residential buildings are construction type VA and the other accessory buildings are construction type VB.
15. Locations of hydrants and FDCs?
 - a. Per plan they are locations with notation either of (N) FH or (E) FH
16. Width of drive paths?
 - a. Per plan, the minimum drive width is 26'-0".
17. Turn radiuses?
 - a. Per plan, the minimum turn radius is 30'-0".
18. Length and width of buildings
 - a. Per plan, the length of buildings is approximately 313'-0".
 - b. Per plan, the width of buildings is approximately 77'-0".
19. Height of buildings
 - a. Per plan, the residential buildings garages are 46'-0" high.
 - b. Per plan, the entertainment pavilion is 12'-0" high.

- c. Per plan, the garages are 10'-6" high.

DEVELOPER REQUEST FOR FEEDBACK:

20. Our marketing team has proposed the following names for the Community. Does staff foresee any local concern/conflict with any of these options? Any names that would be preferred by local leaders?

- a. Elderstone Haven
- b. The Hearth at Cedarbrook
- c. Solstice Oaks
- d. Timbervue Landing
- e. Harborstone Residences
- f. Sagebrooke Manor
- g. Eversage Court
- h. Brightwater Place
- i. Heritage Hollow
- j. Stoneleaf Reserve
- k. Willowcrest Sanctuary
- l. Morningside Arcadia

We again appreciate this opportunity to comment and present a preliminary PUD site plan. Should you have any questions, please direct them to Brian R. Pozen at (317) 590-5842. Thank you.

Sincerely,

KITTLE PROPERTY GROUP, INC.

By: _____



Brian R. Pozen, Development Director

Exhibit A

The Land is described as follows:

Real estate in St. Joseph County, in the State of Indiana, described as follows:

Part of the Southwest Quarter (1/4) of the Southeast Quarter (1/4) of Section 27, Township 38 North,
Range 3

East and more particularly described as follows:

Beginning at the Southwest corner of the Southeast Quarter (1/4) of said Section 27;

Thence North 1160 feet;

Thence East 300.41 feet;

Thence South 1160 feet to the South line of the Southeast Quarter (1/4) of said Section 27;

Thence West and along said South line 300.41 feet to the place of beginning EXCEPTING therefrom the
following:

Beginning at the Southeast corner of the above described tract;

Thence North 150 feet; thence West 100 feet;

Thence South 150 feet; thence East 100 feet to the place of beginning.

LESS AND EXCEPT the following premises conveyed to St. Joseph County, Indiana by Deed, recorded
November 18, 2003 as Instrument No. [373957](#), and described as follows:

A parcel of land located in the Southeast Quarter of Section 27, Township 38 North, Range 3 East of the
Second

Principal Meridian in Harris Township, St. Joseph county, Indiana, more particularly described as
follows:

Commencing at the Southwest corner of the Southeast quarter of Section 27;

Thence North 00 degrees 07 minutes 16 seconds West (basis of bearings) on the West line of the
Southeast

Quarter of Section 27, a distance of 20 feet to the point of beginning;

Thence North 00 degrees 07 minutes 16 seconds West on said West line, a distance of 20 feet;

Thence South 89 degrees 57 minutes 53 seconds East, parallel with the South line of the Southeast Quarter

Section 27 on the North proposed right-of-way line of Douglas Road, a distance of 200.58 feet;

Thence South 00 degrees 06 minutes 44 seconds West, a distance of 20 feet to the North existing right-of-way of

Douglas Road;

Thence North 89 degrees 57 minutes 53 seconds West, parallel with the South line of the Southeast Quarter of

Section 27 on the North existing right-of-way of Douglas Road, a distance of 200.50 feet to the place of beginning.

Parcel contains 0.09 acres more or less.

Exhibit B



**KITTLE PROPERTY
GROUP, INC.**
310 East 96th Street, Suite 400
Indianapolis, IN 46240
(317) 846-3111
www.kittleproperties.com

[illegible]

SEAL

NOTE: This program is NOT a "one-size-fits-all" program. Each community, or community coalition, must tailor the program to fit its own needs and resources. The program is designed to be flexible and adaptable to a variety of community settings and needs. The program is designed to be a "tool" that can be used in a variety of ways.

PROJECT TITLE

MISHAWAKA FLATS

15503 DOUGLAS ROAD
MISHAWAKA, INDIANA

SHEET TITLE

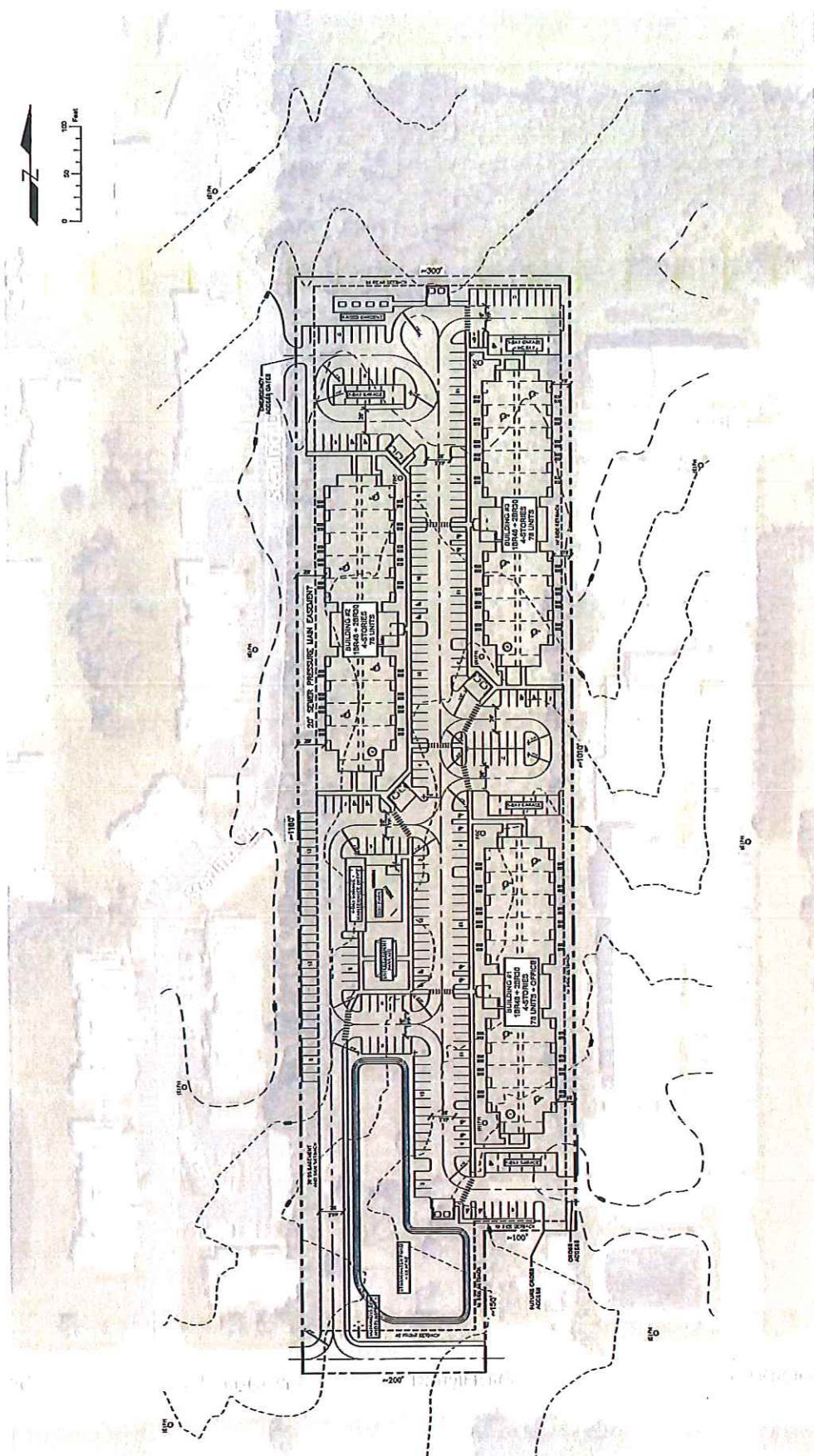
ARCHITECTURAL
SITE PLAN[illegible]

DO NOT SCALE PRINTS - USE
FIGURED DIMENSIONS ONLY

24-008

100

CSK-1.0



PRELIMINARY SITE PLAN

SCALE: 1" = 50'-0"

**MISHAWAKA FLATS, SENIOR HOUSING
MISHAWAKA, INDIANA**

SITE:
~7.64 ACRES

DENSITY:
30.6 DWELLING UNITS / ACRE
FAR = .83

PROJECT SCOPE:
(3) 1BR48+2BR30 BUILDINGS
LEASING OFFICE IN BUILDING

UNIT MIX:	
1BR (61%)	144
2BR (39%)	90
TOTAL DWELLING UNITS	234

AMENITIES:
LEASING OFFICE IN BUILDING 1

BARK PARK
BIKE RACKS AND COMMUNITY BUS
ENTERTAINMENT PAVILION
MONUMENT SIGN AND FLAGPOLES
DUMPSTER CORRALS (5)
GARAGE BUILDINGS (5)
MAINTENANCE OFFICE (1)

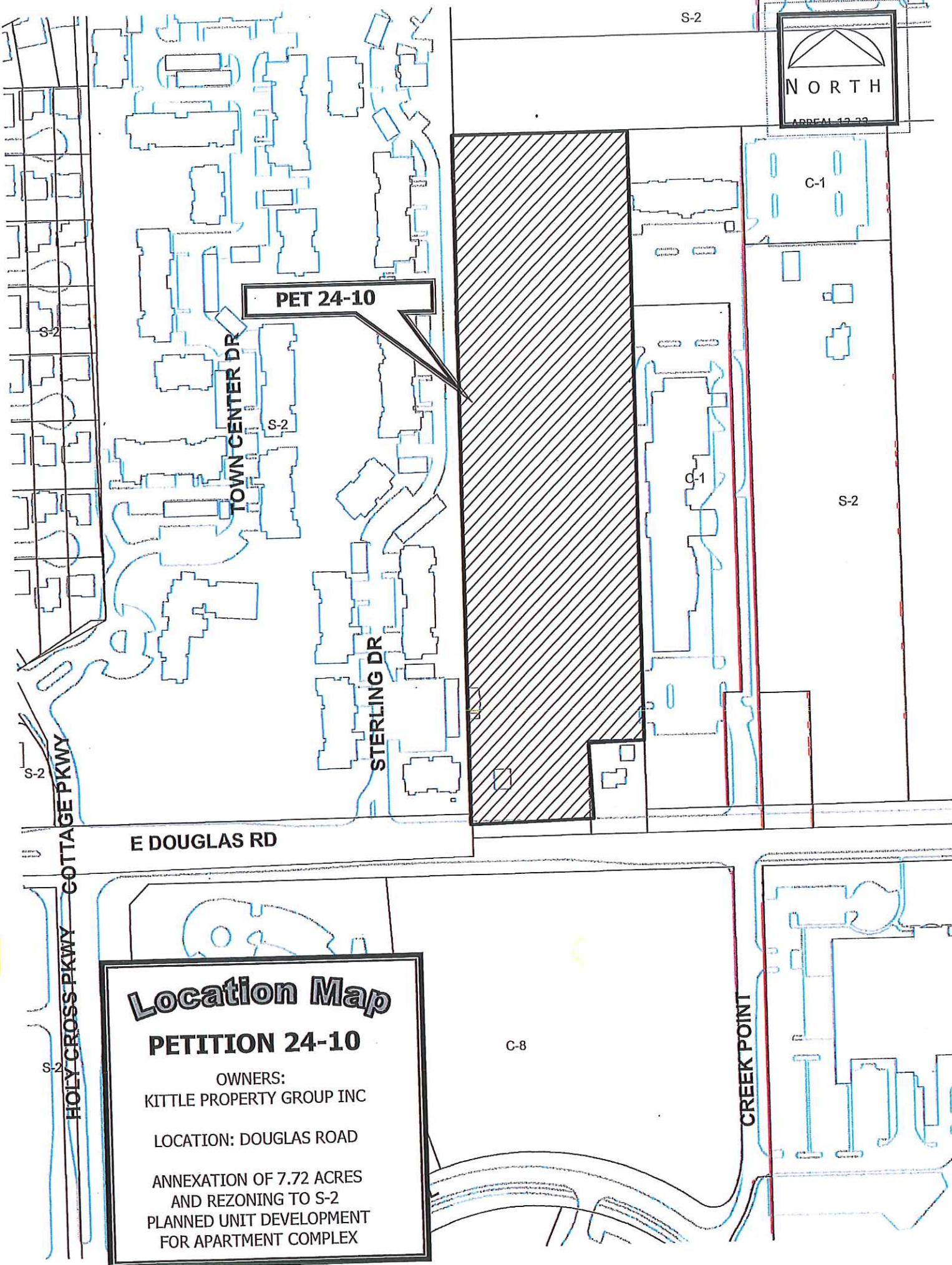
PARKING SPACES:
PROVIDED:

254 PARKING SPACE
12 GUEST SPACE
3 EMPLOYEE
28 GARAGE SPACE
282 TOTAL (1.2 SPACE)

TYPE A UNITS:
(7) 1BR UNITS
(5) 2BR UNITS

12 TYPE A UNITS
5 AUDIOVISUAL U

CODE INFORMATION:
 APARTMENT BUILDINGS, TYP.:
 TYPE VA, 73,020 SF, 46'-0"
 ENTERTAINMENT PAVILION:
 TYPE VB, 1,480 SF, 12'-0"
 6-BAY GARAGE:
 TYPE VB, 1,509 SF, 10'-6"
 HC 5-BAY GARAGE:
 TYPE VB, 1,613 SF, 10'-6"
 MAINTENANCE 3-BAY GARAGE:
 TYPE VB, 1,509 SF, 10'-6"
 (N) FH - NEW FIRE HYDRANT
 (E) FH - EXISTING FIRE HYDRANT



PET 24-10

E DOUGLAS RD

Location Map

PETITION 24-10

OWNERS:
KITTLE PROPERTY GROUP INC

LOCATION: DOUGLAS ROAD

ANNEXATION OF 7.72 ACRES
AND REZONING TO S-2
PLANNED UNIT DEVELOPMENT
FOR APARTMENT COMPLEX

C-8

CREEK POINT