

CHAPTER 1

GENERAL PROVISIONS

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CHAPTER 1

GENERAL PROVISIONS

Sec. 1-1 *Code Citation and Designation.*

a. The ordinances contained in the following chapters, articles, and sections shall constitute and be designated as the "*Hudson Town Code*", and may be cited as the "*Town Code*" or, in the provisions which follows, as "*this Code*".

b. Due to the proximity of the Towns of Ashley and Hudson, and the cooperation of the respective Town Boards, the laws of both Towns have been codified into one code book entitled "*Ashley and Hudson Town Codes*", with the individual *Codes* separated within the publication.

Sec. 1-2 *Effective Date of Code; Repeal of General Ordinances in Conflict; Savings Clause.*

All of the provisions of this *Code* shall be in full force and effect from the date of passage and the filing of this *Code* in the offices of the Clerk-Treasurer, and all ordinances of a general and permanent nature in force at that time are hereby repealed from and after said date.

Such repeal shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or occurring before said effective date; nor shall it affect any ordinance accepting gifts and dedications of real estate; nor any ordinance or resolution promising or guaranteeing the payment of money by the Town or authorizing the issue of bonds of said Town; or other evidence of the Town's indebtedness, or any contract or obligation assumed by said Town; nor shall said repeal affect the administration ordinances or resolutions of this *Code*; nor shall it affect transfer and appropriation ordinances; nor shall it affect any ordinance concerning annexation or dis-annexation of territories to or from the Town, or any ordinances changing or concerning names of streets, or opening and closing streets, or ordinances commonly known as zoning map amendments; nor shall it affect any ordinance accepting, releasing or abandoning easements; nor shall it affect any right, easement or franchise, conferred by any person or corporation; nor shall it affect any prosecution, suit or proceeding pending on said date, except that the proceeding thereof shall conform as far as possible to the provisions of this *Code*.¹

Sec. 1-3 *Definitions.*

In the construction of this *Code* and of all ordinances, the following definitions shall be applied:

a. **Board** means the Board of Trustees of the Town, except where the context clearly indicates otherwise, now known as the "Town Council" or "Council".

b. **Clerk-Treasurer** means the Clerk and Fiscal Officer of the Town of Hudson.

c. **Code** means the *Hudson Town Code*.

¹ Adoptions of Ordinances and Resolutions and publication of a *Town Code* ; see: *I.C.*, §§ 36-5-2-10, 36-5-2-10.2, 36-1-5-3 - 36-1-5-6.

d. **Computation of Time** means the time within which an act is to be done, as herein provided, and shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

e. **Council** means the Town Council, formerly known as the Board of Trustees.²

f. **County** means the County of Steuben, State of Indiana.

g. *Et Seq.* is the Latin Phrase meaning "and following".

h. **Gender** means words used in the masculine gender shall include feminine and neuter.

i. *I. C.* shall refer to state law found in the *Indiana Code*.

j. **May** is permissive.

k. **Month** means a calendar month.

l. **Must** and **shall** are each mandatory.

m. **Oath** includes an affirmation of declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed".

n. **Owner**, applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, of the whole or a part of such building or land.

o. **Person** means any individual, firm, corporation, association, fiduciary, or governmental entity.

p. **Personal property** includes every kind of property except real property.

q. **Preceding** and **following** mean next before and next after, respectively.

r. **Property** includes real and personal property.

s. **Public place** means any street or highway, sidewalk, park cemetery, school yard or open space adjacent thereto and any lake or stream.

t. **Real property** shall include lands, tenements, and hereditaments.

u. **Reasonable time** means in all cases where any provision shall require any act to be done in a "reasonable time" or "reasonable notice" to be given any person, such reasonable time or notice shall be deemed to mean such time only as may be necessary in the prompt execution of such duty or compliance with such notice.

² On March 30, 1989, House Enrolled Act 1042 took effect, officially changing the terms "Board of Trustees" to "Town Council".

v. **Sidewalk** means any portion of the street between the curb line and the adjacent property line, intended for the use of pedestrians, excluding parkways.

w. **Signature or Subscription** includes a mark when the person cannot write.

x. **State** means the State of Indiana.

y. **Street** means to embrace streets, avenue, boulevards, roads, alleys, viaducts and all other public highways in the Town.

z. **Tenant** - the words "tenant" or "occupant" apply to a building of land and shall include any person holding a written or oral lease of, or who occupied the whole or a part of such building or land, either alone or with others.

aa. **Town** means the Town of Hudson, Indiana, or the area within the territorial limits of the Town of Hudson, Indiana, and such territory, if any, outside the Town over which the Town has jurisdiction or control by virtue of any constitutional or statutory provision.

bb. **Written** includes printed, typewritten, or otherwise reproduced in permanent visible form.

cc. **Year** means a calendar year.

Sec. 1-4 Code Application.

This *Code* shall refer only to the omission or commission of acts within the territorial limits of the Town of Hudson and to that territory outside this Town, if any, over which the Town has jurisdiction or control by virtue of any constitutional provision or law.

Sec. 1-5 Interpretation of Each Component Part of the Code.

a. Each chapter is comprised of "articles" which address subject matter classifications within the chapter. Articles may then be divided into "divisions" which further define the particular topic.

b. Each section of this *Code* shall be numbered consecutively by chapter. The number shall consist of two (2) component parts separated by a dash, the figure before the dash referring to the chapter number and the figure after the dash referring to the position of the section within the chapter.

c. The decimal system shall be used for all additions or amendments to this *Code*. When a chapter or section is to be added, the new chapter or section shall be given a decimal character.

Sec. 1-6 Repeal Shall Not Revive Ordinances.

The repeal of an ordinance shall not repeal the repealing clause of an ordinance or revive any ordinances which have been repealed thereby.

Sec. 1-7 Effective Date of Ordinance.

Unless otherwise expressly provided, an Ordinance shall take effect when passed according to *I.C.*, §§ 36-4-6-14(a) or 36-4-56-14(c); however, an Ordinance prescribing a penalty or forfeiture for a violation must be published pursuant to *I.C.*, §§ 36-4-6-14(b) or 36-4-6-14(c).

Sec. 1-8 Severability of Code.

If any part, section, subsection, sentence, clause or phrase of this *Code* is for any reason declared to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this *Code*.

Sec. 1-9 General Penalties.

a. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this *Code* shall be guilty of an ordinance violation.³

b. Every day a violation of this *Code* is committed or permitted to continue shall constitute a separate offense.⁴

c. Except in cases where different punishment is prescribed by a specific section of this *Code*, any person convicted of an ordinance violation shall be punished by a fine of not more than two thousand five hundred dollars (\$2,500.00).⁵

d. The Town may bring a civil action to enjoin any person from:

1. Violating any ordinance regulating or prohibiting a condition or use of property; or
2. Engaging in conduct without a license if an ordinance requires a license to engage in the conduct.⁶

Sec. 1-10 Town Seal.

a. The Clerk-Treasurer shall be the custodian of the Town's Seal and affix it to such documents and instruments as required.

b. The Town Seal of Hudson shall be as follows:

It shall be in a disc circular in form on the margin of which shall be the words: "Hudson, Indiana", and in the center thereof, the word "Seal". (Ord. No. 1, § 1-23-33)

³ *I.C.*, § 34-4-32-4 addresses ordinance violations.

⁴ *I.C.*, § 9-4-1-127.1, addresses Class C infractions.

⁵ *I.C.*, § 36-1-3-8, provides that the maximum penalty allowed is \$2,500.00.

⁶ *I.C.*, § 36-1-6-4, addresses injunctions.

Sec. 1-11 Errors and Omissions.

If a manifest error be discovered consisting of the misspelling of any word or words, the omission of any word or words necessary to express the intention of the provisions affected, or the use of a word or words to which no meaning can be attached, or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same affect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exist regarding the nature or extent of the error.

Sec. 1-12 Codes - Property of the Town.

All copies of the *Hudson Town Code* except those sold by the Town to private individuals or given or sold to the public library shall be the property of the Town of Hudson. Any *Hudson Town Codes* delivered to elected or appointed officials shall not be retained by said individuals after the expiration of their term(s) of office or appointment.

Sec. 1-13 Material Incorporated by Reference.

Two (2) copies of all material incorporated by reference into this *Code* are on file and shall be kept on file for public inspection in the office of the Town Clerk-Treasurer.

Sec. 1-14 Supplementation of the Code.

a. By contract or by Town personnel, supplements to this *Code* shall be prepared and printed whenever authorized or directed by the Common Council. A supplement to the *Code* shall include all substantive permanent and general parts of Ordinances adopted during the period covered by the supplement and all changes made thereby in the *Code*. The pages of a supplement shall be so numbered that they will fit properly into the *Code* and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the *Code* will be current through the date of the adoption of the latest Ordinance included in the supplement.

b. In preparing a supplement to this *Code*, all portions of the *Code* which have been repealed shall be excluded from the *Code* by the omission thereof from reprinted pages.

c. When preparing a supplement of this *Code*, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

1. Organize the ordinance material into appropriate subdivisions;
2. Provide appropriate catchlines, headings and titles for sections and other subdivisions of the *Code* printed in the supplement, and make changes in such catchlines, headings and titles;

3. Assign appropriate numbers to Sections and other subdivisions to be inserted in the *Code* and, where necessary to accommodate new material, change existing section or other subdivision numbers;

4. Change the words "this Ordinance" or words of the same meaning to "this Chapter," "this Article," "this Division," etc., as the case may be, or to "Sections _____ to _____" (inserting Section numbers to indicate the Sections of this *Code* which embody the substantive sections of the ordinance incorporated into the *Code*); and

5. Make other nonsubstantive changes necessary to preserve the original meaning of ordinance Sections inserted into the *Code*; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the *Code*.

Sec. 1-15 Codification and Its Effect.

a. The following codification and revision of Ordinances consisting of Chapter 1 through 12, inclusive, entitled "*Hudson Town Code*," two (2) copies of which shall be kept on file in the office of the Clerk-Treasurer is adopted and enacted as the *Hudson Town Code*.

b. The format of the *Hudson Town Code* is as follows:

Title Page
 Preface Page
 Table of Contents Page
 Town Certification Page
 History of Hudson Pages
 Officials of the Town Page

Chapter 1 - General Provisions	Chapter 7 - Building and Construction Regulations
Chapter 2 - Town Administration	Chapter 8 - Traffic and Parking Regulations
Chapter 3 - Legislative and Judicial Branches	Chapter 9 - Utilities
Chapter 4 - Fees, Licenses, and Permits	Chapter 10 - Zoning
Chapter 5 - Parks and Recreation	Chapter 11 - Comparative Tables
Chapter 6 - Public Health and Safety Matters; Public Nuisances	Chapter 12 - Index

c. It shall be treated and considered as a new and original codification and revision of ordinances of the Town of Hudson which shall supersede all other general and permanent ordinances passed and adopted by the Town Council before June 28, 1984, the date when Ordinance No. 84-1 was passed, the last Ordinance included therein, except those exceptionally saved from repeal or continued as restatements or reenactments or original ordinances and amendments thereto which are in force and effect for any purpose. The 1996 Recodification contains all ordinances of general and permanent nature passed since Ord. No. 84-1 through Ord. No. 95-6, passed on February 26, 1996, when certain abandoned vehicle regulations were enacted.

d. All provisions of the *Hudson Town Code* shall be in full force and effect following publication of this ordinance, and all ordinances of a general and permanent nature of the Town of Hudson, Indiana enacted on final passage on or before February 26, 1996, are not incorporated in this *Code* or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this ordinance, except as herein provided.

e. The repeal provided for in paragraph 'd' shall not affect any offense or act committed or done or any penalty or forfeiture incurred or imposed before the effective date of this ordinance; nor shall such repeal affect any ordinance or resolution promising or guaranteeing the payment of money for the Town, or authorizing the issuance of any bonds of the Town or any evidence of the Town's indebtedness, or any contract or obligation assumed by the town; nor shall such repeal affect the administrative ordinances or resolutions of the Council, no in conflict or inconsistent with the provisions of such *Code*; nor shall such repeal affect any right of franchise granted by any ordinance or resolution of the Council of any person, firm or corporation; nor shall such repeal affect any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening or establishing grades of any street or public way in the Town; nor shall such repeal affect any ordinance levying or imposing taxes not included herein; nor shall such repeal affect any ordinance or resolution relating to salaries of Town employees; nor shall such repeal affect any ordinance providing for local improvements and levying special assessments therefor; nor shall such repeal affect any ordinance dedicating or accepting any plat or ordinance extending the boundaries of the Town; nor shall such repeal affect any ordinance or resolution establishing, or modifying the boundaries or zoning districts, or changing the zoning classification of any lot or parcel of land. Each of the above-mentioned ordinances shall in no way be repealed by this ordinance except as the same may be in conflict with the provisions of such *code*.

f. Any and all additions or amendments to such *Code*, when passed in such form as to indicate the intention of the Council to make the same a part thereof, shall be deemed to be incorporated in such *Code*, so that reference to the *Hudson Town Code* shall be understood and intended to include such additions and amendments.

Sec. 1-16 Role of the Clerk-Treasurer Regarding the *Town Code*.

a. Two (2) copies of the *Hudson Town Code* shall be kept of file in the office of the Clerk-Treasurer, or someone authorized by her, to insert in their designated places all amendments or Ordinances which indicate the intention of the Council to make the same a part of such *Code* when the same shall have been printed or reprinted in page form, and to extract from such *Code* all provisions which may be from time to time repealed by the Council. These copies of such *Code* shall be available to all persons desiring to examine the same and shall be considered the official *Code* of the Town of Hudson, Indiana.

b. It shall be unlawful for any persons, firm or corporation to change by additions or deletions, any part or portion of such *Code*, or to insert or delete pages or portions thereof, or to alter or tamper with such *Code*, or to insert or delete pages or portions thereof, or to alter or tamper with such *Code* in any manner whatsoever which will cause the *Code*, any Ordinance, or the law of the Town of Hudson, Indiana, to be misrepresented thereby. Any person, firm or corporation violating this section shall be punished as provided in Section 1-9 of such *Code*.

Sec. 1-17 through Sec. 1-19 Reserved for Future Use.

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