

SUPPLEMENT NO. 6
November 2007

CODE OF ORDINANCES

City of

MUNICE, INDIANA

Looseleaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:

Ordinance No. 26-07, passed August 6, 2007.

See the Code Comparative Table for further information.

Remove old pages

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(following Table of Contents)

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Insert and maintain this instruction sheet in front of this publication. File removed pages for reference.

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From our experience in publishing Looseleaf Supplements on a page-for-page substitution basis, it has become evident that through usage and supplementation many pages can be inserted and removed in error.

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In the first column all page numbers are listed in sequence. The second column reflects the latest printing of the pages as they should appear in an up-to-date volume. The letters "OC" indicate the pages have not been reprinted in the Supplement Service and appear as published for the original Code. When a page has been reprinted or printed in the Supplement Service, this column reflects the identification number or Supplement Number printed on the bottom of the page.

In addition to assisting existing holders of the Code, this list may be used in compiling an up-to-date copy from the original Code and subsequent Supplements.

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DIVISION 7. HISTORIC PRESERVATION AND REHABILITATION COMMISSION

Sec. 34.100. Creation.

There is established an historic preservation and rehabilitation commission with the membership, powers, and duties as set forth in §§ 34.100 through 34.102.

(Ord. No. 239-76, 12-6-76)

Sec. 34.101. Membership.

(A) Upon December 6, 1976, the nine original members of the historic preservation subcommittee of the bicentennial commission shall be appointed by the mayor with the affirmation of the common council as the historic preservation and rehabilitation commission. The commission shall be convened by the city clerk within 30 days of affirmation and shall choose by lot two members to serve one year, two members to serve two years, two members to serve three years, three members to serve four years from January 1, 1977. The commission shall inform the mayor of the results of the choosing by lot, and the expiration date of the appointment of each commissioner shall be placed on his or her certificate of appointment. All future appointments shall be for four years from January 1 except to fill unexpired terms. Upon the expiration of the terms of appointment, each member shall continue to serve until a replacement shall be appointed by the mayor and confirmed by the common council. In appointments to the commission, the mayor may be guided by the following general principles. The desirability of having on the commission:

- (1) An architectural historian;
- (2) A person interested in local history;
- (3) A representative of the common council;
- (4) A representative of county government;
- (5) Representatives of historical preservation areas or districts.
- (6) A staff member designated by the mayor as the historic preservation officer, who is knowledgeable in the field of historic preservation. Such historic preservation officer will serve as a nonvoting member of the commission.

(B) Members of the historic preservation and rehabilitation commission shall serve without compensation for their services as commissioners.

(Ord. No. 239-76, 12-6-76; amend. Ord. No. 656-80, 5-4-81)

Sec. 34.102. Powers and duties.

The historic preservation and rehabilitation commission shall have the following powers and duties.

- (A) Adopt bylaws for carrying out the powers and duties set forth in this section.

- (B) Utilize the personnel and resources of the office of community development with the approval of the director of the office of community development and the personnel and resources of the College of Architecture and Planning of Ball State University as they are made available.
- (C) Prepare an historic preservation plan. The plan shall include maps, surveys, studies, and recommendations for the creation of historic preservation areas. The plan shall include maps, surveys, and recommendations for the creation of a multiple resource area, defined as an area within the city limits. Within the multiple resource area, separate historic preservation areas, sites, objects, and individual structures may be designated. Such plan shall be presented to the Common Council, which shall take action to approve, amend and approve, or disapprove the plan. On approval of a plan by a resolution of the Common Council: such separate historic preservation areas, sites, objects, and individual structures shall be designated in the following manner:
 - (1) On approval of a plan by a resolution of the Common Council, the owners of at least 50 percent of the real estate within any area considered by the plan may petition the Common Council for such area to be designated as historic preservation district or landmark. Such petition shall contain a scale drawing and legal description of the area proposed to be included, together with the names and addresses of all of the owners of real estate within the proposed area. Notice of the filing of such petition, together with the date of designation thereof by the Council, shall be mailed by the city clerk, at the expense of the petitioners, to all property owners not signing the petition. The Common Council shall consider such petition and approve, or disapprove such petition, by ordinance, which ordinance shall contain the legal description of such area and shall, if approved, be recorded in the office of the County Recorder, at the expense of the Commission.
 - (1.5) Following the approval of the plan and adoption of an ordinance designating a historic district as provided in Sec. 34.102 (C)(1) herein, the owners of at least 50 percent of the real estate within any area designated to be a historical district, may petition the Common Council for the dissolution of the historical district. Such petition shall contain a scale drawing and legal description of the district and the names and addresses of all the owners of real estate within the district. Notice of the filing of the such petition, together with date of the designation of the district by the common council, shall be mailed by the city clerk, at the expense of the petitioners, to all the property owners not signing the petition and to the City of Muncie Historic Preservation and Rehabilitation Commission. The petition shall be verified and shall include a copy of the notice and the names and addresses of all persons or entities to which it was mailed. The petition shall be signed by all owners of real estate in the district seeking dissolution of the district. Upon receipt of the petition, the historic preservation and rehabilitation commission, by its designee, shall, within 60 days of filing, verify that the signers of the petition constitute the owners of at least 50 percent the real estate in the

district and that the notice was duly mailed to all real estate owners in the district not signing the petition. Thereafter, the Council shall consider such petition and approve or disapprove such petition by ordinance, subject to the procedures governing ordinances, such ordinance shall contain the name, the legal description of the district and shall be recorded in the office of the county recorder at the expense of the petitioners.

- (2) Individual structures listed on or determined eligible for listing on the National Register of Historic Places may also be designated as local historic landmarks by an ordinance introduced by a member of the Common Council and approved by a majority of Common Council. The ordinance if approved shall be recorded in the office of the county recorder at the expense of the Commission.
- (D) Within any area designated by ordinance as a historic preservation district, site, or landmark, pursuant to division (C) above, the Commission shall have the following powers and duties:
- (1) The Commission shall issue a certificate of appropriateness before any one or more of the following actions is taken by any property owner: demolition of a building or structures; moving a building; making changes in the exterior contours of existing buildings by additions, reconstructions, alterations, changes of material by additions such as aluminum siding, sandblasting, or maintenance involving exterior color change; any new construction of a principal building or accessory building or structure subject to view from a public street, changes in the streetscape including radically altering pavement materials, curbs, walls, fences, walks, and lighting.
 - (a) The Commission shall base all decisions on the appropriateness of proposed changes in the Emily Kimbrough Historic District on the "Design Guidelines for the Emily Kimbrough Historic District," hereby incorporated by reference. If the proposed change is not addressed in the Guidelines, the decision will be based on the "Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings," hereby incorporated by reference. Decisions on proposed changes to individual local landmarks and in local districts designated after this date will be based on the "Secretary of the Interior's Standards" until such time as specific guidelines for those buildings or districts are developed by the Commission and adopted by the Common Council.
 - (2) An application for a building permit, demolition permit, sign permit, or moving permit, within an historic preservation district, shall be deemed to be an application for a certificate of appropriateness. Within five working days, the Historic Preservation Officer shall meet with the applicant and aid the applicant in preparing the application for a certificate of appropriateness.
 - (3) An application for a certificate of appropriateness, other than for the purposes specified in division (D)(2), above, shall be filed with the historic preservation officer on the form prescribed by the commission.

- (4) The historic preservation officer shall forward application for a certificate of appropriateness to the historic preservation and rehabilitation commission review committee, which shall serve as the board of review and consider the application. In considering the merits of such application, the historic preservation and rehabilitation commission review committee shall be guided by the standards set forth in IC 36-7-11-4 through 36-7-11-18, as from time to time amended. Within 30 days after the filing of the application, the review committee shall either issue a certificate of appropriateness with or without condition, or deny the application, stating in writing the reason for such denial. On such denial, the applicant may appeal the denial to the building review board in such manner as appeals from the decisions of the building commissioner.
 - (5) Nothing in this section shall be construed to prevent the ordinary maintenance and repair of any building or structure, which will not involve a change in any exterior features or to prevent construction, reconstruction, alteration, demolition, or moving of any building, structure, or use which the building director or other official having such power may certify as required by the public safety because of an unsafe or dangerous condition.
 - (E) Promote public interest in historic preservation by initiating and carrying on a public relations and community education program.
 - (F) Advise and assist owners of historic landmarks in the preservation of those landmarks.
 - (G) Aid, assist, and encourage the formation of neighborhood development committees. These committees will advise the Commission in matters relating to the preservation and rehabilitation or restoration of the neighborhood where members of the committee live or hold property.
- (Ord. No. 239-76, 12-6-76; amend. Ord. No. 656-80, 5-4-81; amend. Ord. No. 117-83, 12-19-83; Am. Ord. No. 66-89, 95-89; amend. Ord. No. 10-91, 6-3-91; amend. Ord. No. 54-06, § 1, 1-9-07)

Sec. 34.103. Certificate of appropriateness required.

It shall be unlawful to carry out any act for which a certificate of appropriateness is required without first acquiring the certificate. Any person who acts in such an unlawful manner shall be fined a sum not to exceed \$1,000.00 for each such act.
 (Ord. No. 656-80, 5-4-81)

Sec. 34.104. Demolition permit.

The building director shall not issue a demolition permit for any structure located within or on any historic preservation district, site, or landmark established by ordinance, unless a certificate of appropriateness has first been issued by the historic preservation and rehabilitation commission, or unless the building review board or any court of competent jurisdiction, pursuant to an appeal by a person to whom the commission has denied such certificate, so orders.
 (Ord. No. 656-80, 5-4-81)

Sec. 34.105. Decision subject to review.

A decision of the building review board is subject to judicial review under IC 4-21.5-1 et seq., the same as if it were a decision of a state agency.
(Ord. No. 656-80, 5-4-81; Ord. No. 17-87, 8-3-87)

Secs. 34.106—34.119. Reserved.

DIVISION 8. MUNCIE CABLE TELEVISION COMMISSION

Sec. 34.120. Creation.

(A) There is created the Muncie Cable Television commission, which shall consist of five members.
(Ord. No. 21-94, 5-9-94)

Sec. 34.121. Nomination and appointment; qualifications.

(A) The members of the commission shall be appointed by the mayor. The mayor shall designate one member as chairman.

(B) No more than three of the commissioners may be members of the same political party.

(C) Members shall serve terms of four years; however, the first appointments to the commission shall be to terms which shall be staggered as follows: Two terms of four years, one term each of three, two and one year so that thereafter appointments will be made in different years. All appointments thereafter, except to fill a vacancy and serve the balance remaining in a term, shall be for four years.

(D) No commissioner or member of the commissioner's immediate family may be employed by or have any financial interest in the city's cable television franchisee, or any entity engaged in the manufacture or sale of any service or equipment subject to regulation by the commission, or which engages for profit in the business of communication by wire or radio or the electromagnetic spectrum.

(E) Members may only be removed before the end of their term for just cause.

(F) At least one of the members shall be an attorney, and at least one member shall be a certified public accountant.
(Ord. No. 21-94, 5-9-94)

Sec. 34.122. Powers and duties.

The cable television commission shall have the following powers and duties.

- (A) Adopt bylaws to provide for governing its activities and to carry out the powers and duties of this section;
- (B) Utilize the personnel and resources of the City of Muncie, with the approval of the mayor, to carry out its duties;

- (C) Employ attorneys, financial analysts, technical consultants and such other providers of services as may be necessary, in its judgment, to carry out its duties;
 - (D) Recommend to the common council ordinances necessary for the regulation of the activities of the franchisee;
 - (E) Hold hearings and receive evidence when necessary to gather information or receive public input in order to perform its duties;
 - (F) Propose, negotiate and recommend to the common council and the mayor for their adoption and execution amendments to the existing franchise agreement, and renewals or new agreements upon expiration of existing ones;
 - (G) Regulate the activities of the franchisee as more fully provided in Title V, sections 55.01 through 55.02 of this Code of Ordinances, and such other ordinances as may be enacted.
- (Ord. No. 21-94, 5-9-94)

Secs. 34.123—34.144. Reserved.

DIVISION 9. PUBLIC TRANSPORTATION CORPORATION

Sec. 34.145. Establishment of urban mass transportation system.

The establishment and maintenance of an urban mass transportation system is necessary to the welfare of the general public, and it expands the economy and social opportunities available to the residents of the city and benefits those who for economic reasons, reasons of health, reasons of age, and demonstrated unfit to operate a motor vehicle, cannot freely move about except through the services rendered by an urban mass transportation system.

(Ord. No. 81-682, 5-4-81)

Cross references—Smoking on public transit vehicles, see § 130.27; consuming or spilling food or beverages on public transit vehicles, § 130.28.

Sec. 34.146. Creation of municipal corporation; board of directors.

(A) There is created a municipal corporation which shall be known as the Muncie Public Transportation Corporation for the purposes of purchasing the existing public transportation system owned by Southeastern Trailways, Inc. and establishing a mass transportation system pursuant to the authorities contained in the Acts of the Indiana General Assembly for 1965, Chapter 337.

State law reference—Similar provisions, IC 36-9-4.

(B) The corporation shall have a board of directors consisting of five members.

(Ord. No. 81-682, 5-4-81)

Sec. 34.147. Maximum territorial boundaries; map.

The maximum territorial boundaries of the services of the public transportation corporation shall be a parallel line two miles outside the corporate limits of the city, as they presently exist or as they change from time to time for any reason. A map showing the exact boundaries shall be prepared and certified by the public transportation corporation and available for public inspection in its office, and the corporation shall furnish a certified copy thereof to any public official requesting it. Services of the public transportation corporation, within the boundaries, shall be established by the board to serve the purposes of this subchapter and conforming with the Urban Mass Transportation Act of 1965, Chapter 337

(Ord. No. 81-682, 5-4-81)

State law reference—Similar provisions, IC 36-9-4.

Sec. 34.148. Governed by state law.

The public transportation corporation shall be governed by the provisions of the Urban Mass Transportation Act of 1965, of the Indiana Acts, Chapter 337, and the amendments thereto.

(Ord. No. 81-682, 5-4-81)

State law reference—Similar provisions, IC 36-9-4.

(C) No person shall place, maintain, or display any advertising sign, signal, or device on any highway in cities between the curb and sidewalk. In case the curb and the sidewalk join, no person shall place, maintain, or display on the sidewalk any advertising sign, signal, or device closer than ten feet from the curb line, and overhanging signs shall not overhang the curb.

(D) No person shall place, maintain, or display any advertising sign or device of any character within 100 feet of any highway outside the corporate limits of any incorporated city or town if the sign or device obstructs the view of the highway, or of any intersecting highway, street, alley, or private driveway for a person traveling the highway for a distance of 500 feet or less from the sign or device as he approaches the same.

(E) No person shall place, maintain, or display any advertising sign or device of any permanent or semipermanent character on any highway, right-of-way, outside or inside the corporate limits of any incorporated city or town.

(F) Every such prohibited sign, signal, or marking is declared to be a public nuisance and the authority having jurisdiction over the highway is empowered to remove the same or cause it to be removed without notice.

(Code 1968, § 72.40)

Cross reference—Penalty, see § 70.99.

State law reference—Similar provisions, IC 9-4-1-38.

Sec. 70.21. Defacement of devices

No person shall without lawful authority attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof.

(Code 1968, § 72.41)

Cross reference—Penalty, see § 70.99.

Sec. 70.22. When traffic-control devices required for enforcement.

No provision of the traffic code or other ordinances for which signs or markings are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, that section shall be effective even though no signs are erected or in place.

Cross reference—Penalty, see § 77.99

Sec. 70.23. Traffic signal timing, authority to regulate.

The city traffic engineer is authorized to regulate the timing of traffic signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the speeds otherwise applicable within the districts or at intersections, and shall erect appropriate signs giving notice thereof.

(Code 1968, § 72.04)

Sec. 70.24. Avoiding traffic signals.

No motor vehicle shall be driven over, into, upon, or across any property for the purpose of evading any traffic signal or device.

(Code 1968, § 72.12)

Cross reference—Penalty, see § 70.99.

Sec. 70.25. Control of school crossings.

No pedestrian or driver of any motor vehicle shall disobey the directions of any police officer or adult school crossing guard controlling traffic at school crossings. Drivers of all motor vehicles must stop at any school crossing where any member of a school safety patrol displays a school stop flag for the purpose of controlling children crossing the street.

(Code 1968, § 72.06)

Sec. 70.99. Penalty.

(A) Every person convicted of a punishable violation of any of the provisions of this chapter for which another penalty is not provided shall for first conviction thereof be punished by a fine of not more than \$100.00; for a second such conviction within one year thereafter, the person shall be punished by a fine of not more than \$200.00; upon a third or subsequent conviction within one year after the first conviction, the person shall be punished by a fine of not more than \$500.00.

(B) Any railroad corporation, conductor, or engineer who violates IC 8-6-7.5-1 or IC 8-6-7.5-2 and who is not acting under the rules or orders of the railroad corporation or its supervisory personnel shall be fined \$500.00.

(C) If a person has been found to have committed any traffic offense as defined in IC 9-4-7-2, the court may:

- (1) Require the person to attend and satisfactorily complete a driver improvement course which has been approved by the court and the Bureau of Motor Vehicles.
- (2) Place the person on probation for up to one year; and
- (3) Suspend the person's driver's license for up to 30 days.

(D) A driver improvement course required under division (C) may be financed by assessing a charge which will cover the direct cost of the course, but not to exceed \$25.00.

(Ord. No. 26-07, 8-6-07)

State law reference—Similar provisions, IC 9-4-1-127.1.

TRAFFIC SCHEDULES

Sched. XIII

<i>Street</i>	<i>Between</i>	<i>Weight Limit</i>	<i>Ord. No.</i>
Tillotson Ave.	Kilgore Ave. and Bethel Ave.	3 tons	
Vine	Memorial and 18th	3 tons	644-80
Waid Ave.	Oakland Avenue and Wheeling Ave.	3 tons	21-07
Weber Dr.	Wheeling Ave. and New York Ave.	3 tons	
Wheeling Ave.	Wysor St. and McGalliard Rd.	3 tons	
White River Blvd.	Tillotson Ave. and Wheeling Ave.	3 tons	
Windsor St.	Dudley Ave. and Burlington Dr.	3 tons	223-76
6th St.	Rochester St. and Perkins St.	3 tons	601-80
7th St.	Clark St. and Batavia Ave.	3 tons	
8th St.	Madison St. and Macedonia Ave.	3 tons	223-76
8th St.	Ribble Ave. and May Ave.	3 tons	
9th St.	Madison St. and Hackley St.	3 tons	403-78
9th St.	Port Ave. and Batavia Ave.	3 tons	223-78
13th St.	Meeker Ave. and Rosemont Ave.	3 tons	201-76
13th St. (West)	Gharkey St. and 405 feet east thereof	3 tons	19-05, 46-05
14th St.	Meeker Ave. and Rosemont Ave.	3 tons	201-76
16th St.	Macedonia Ave. and Mock Ave.	3 tons	
17th St.	Gharkey and Hoyt	3 tons	601-80
18th St.	Mock Ave. and Macedonia Ave.	3 tons	
21st St.	Macedonia Ave. and Blaine St.	3 tons	
25th St.	Macedonia Ave. and Mock Ave.	3 tons	
26th St.	Mock Ave. and Hackley St.	3 tons	
26th St.	Meeker Ave. and Chippewa Ln.	3 tons	
27th St.	Meeker Ave. and Chippewa Ln.	3 tons	

REFERENCES TO ORDINANCES

Ord. No.	Date Passed	Code Sec.
54-06	1- 9-07	34.102(C)(1.5)
56-06	12- 4-06	90.01, 90.28
57-06	12- 4-06	90.07(B)
58-06	12- 4-06	90.29
21-07	7- 9-07	Ch. 80, Sched. XIII
26-07	8- 6-07	70.99

