

CODE OF ORDINANCES

City of

MUNCIE, INDIANA

Looseleaf Supplement

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

Ordinance No. 11-06, passed April 3, 2006.

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

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CHAPTER 92. MINORS*

Division 1. Curfew Regulations

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- Sec. 92.02. Prohibiting minors to become loiterers.
- Sec. 92.03. Curfew hours for children 15, 16, and 17 years of age.
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- Sec. 92.05. Application.
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Division 2. Restrictions

- Sec. 92.08. Playing pinball machines.
- Sec. 92.09. Carrying knives or blank guns.
- Sec. 92.10. Using skateboards prohibited.

DIVISION 1. CURFEW REGULATIONS

Sec. 92.01. Interpretation.

This division shall not be construed as permitting the presence at any time of any person under the age of 18 years in any place where his or her presence is prohibited by this Code or any ordinances of the City of Muncie.
(Ord. No. 5-06, § 2, 2-6-06)

Sec. 92.02. Prohibiting minors to become loiterers.

(a) It shall be unlawful for the proprietor, manager, or other person having charge of any business or place of public resort to permit, allow or encourage any minor, who is not legally employed therein, to become a common loiterer in or around such place.

(b) It shall be unlawful for any parent, guardian, or other person having the custody or control of any minor to permit, allow or encourage such

***Editor's note**—Ord. No. 5-06, §§ 1—8, adopted Feb. 6, 2006, repealed former §§ 92.02, 92.03, which pertained to curfew regulations for minors and derived from Ord. No. 13-95, § 2, adopted May 8, 1995, and enacted new provisions as herein set out. The editor has treated Ord. No. 5-06 as also superseding former §§ 92.01, 92.04, 92.05 which pertained to curfew regulations and derived from the Code of 1968. Former §§ 92.07—92.09 have been renumbered as §§ 92.08—92.10 by the editor to accommodate the curfew regulations of Ord. No. 5-06.

minor to become a common loiterer on any street, alley or other public place, or in any business or commercial establishment, or in any place of public resort.
(Ord. No. 5-06, § 3, 2-6-06)

Sec. 92.03. Curfew hours for children 15, 16, and 17 years of age.

It is unlawful for a child 15, 16 or 17 years of age to be in a public place in the city at any time during the following curfew hours:

- (A) Between 1:00 a.m. and 5:00 a.m. on Saturday or Sunday.
 - (B) After 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday Thursday, or Friday.
 - (C) Before 5:00 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.
- (Ord. No. 5-06, § 4, 2-6-06)

Sec. 92.04. Curfew hours for children younger than fifteen years of age.

It is unlawful for a child younger than 15 years of age to be in a public place in the city after 11:00 p.m. or before 5:00 a.m. on any day.
(Ord. No. 5-06, § 5, 2-6-06)

Sec. 92.05. Application.

Sections 92.03 and 92.04 of this division do not apply to a child who is:

- (A) Accompanied by the child's parent, guardian, or custodian;
- (B) Accompanied by an adult specified by the child's parent, guardian or custodian;
- (C) With the consent of the child's parent, guardian, or custodian, either participating in or going to, or returning from:
 - (1) Lawful employment;
 - (2) A school sanctioned activity;
 - (3) A religious event;
 - (4) An emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage.

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- (5) An expressive, religious, or association activity protected by either federal or state law, including but not limited to the free exercise of religion, freedom of speech, and the right of assembly.
 - (6) An activity conducted by a non-profit or governmental entity that provides recreation, education, training, or other care under the supervision of one or more adults; or
 - (7) An activity undertaken at the written direction of the child's parent, guardian or custodian; or
 - (8) Engaged in interstate or international travel from a location outside of the State of Indiana to another location outside the State of Indiana.
- (D) No complaint shall be filed unless the officer reasonably believes that an offense has occurred under this section and that no defense exists for the alleged violation.
(Ord. No. 5-06, § 6, 2-6-06)

Sec. 92.06. Enforcement.

(A) Whenever a complaint is filed against a child for the violation of this division, the police department shall cause a copy of the complaint to be filed with the Juvenile Circuit Court of Delaware County and a copy sent to the child's parent, guardian, or custodian, if such person is known or can be identified by a reasonable inquiry.

(B) Violation of this division is a misdemeanor. In addition to fines, the City Court of the City of Muncie, shall upon request order such injunctive relief as is appropriate and necessary to prevent a child from committing further violations of this division.
(Ord. No. 5-06, § 6, 2-6-06)

Sec. 92.07. Curfew; responsibility of parent, guardian, or custodian.

It is unlawful for a parent, guardian, or custodian of a child under the age of 18 years of age to recklessly cause, suffer, or allow that child to commit a curfew violation under this division. If a parent, guardian, or custodian, or child is charged

with a second or subsequent violation of this division, there shall be a presumption that he or she is responsible under this section for the child's violation of this division.
(Ord. No. 5-06, § 8, 2-6-06)

DIVISION 2. RESTRICTIONS

Sec. 92.08. Playing pinball machines.

(A) No person shall permit any minor boy or girl under the age of 16 years to play or operate any kind of pinball machines for which a fee is charged for playing within the corporate limits of the city.

(B) Any person having possession of a pinball machine shall have the burden of proof of ascertaining the age of any minor boy or girl playing such pinball machine.
(Code 1968, § 92.07)

Editor's note—Formerly numbered as § 92.08
Cross reference—Penalty, § 10.99.

Sec. 92.09. Carrying knives or blank guns.

No person under the age of 18 years shall carry upon or about his person any blank gun or any knife of any kind or description with a blade longer than five inches.
(Code 1968, § 92.08)

Editor's note—Formerly numbered as § 92.09
Cross reference—Penalty, § 10.99.

Sec. 92.10. Using skateboards prohibited.

No person shall use the wheeled device commonly known as a skateboard on any public property within the city.
(Code 1968, § 92.09)

Editor's note—Formerly numbered as § 92.10
Cross reference—Penalty, § 10.99.

**CHAPTER 101. MUNCIE AREA PARTY
PLAN**

Sec. 101.01.	Definitions.
Sec. 101.02.	Recordkeeping.
Sec. 101.03.	Certification procedure.
Sec. 101.04.	Notification of owners and occupants.
Sec. 101.05.	Violation.
Sec. 101.06.	Appeal.
Sec. 101.07.	Penalty.
Sec. 101.08.	Venue.

Sec. 101.01. Definitions.

For purposes of this chapter the following words and phrases shall have the following meanings ascribed to them respectively:

Disturbance complaint means a complaint that is based upon a violation of chapter 100, or other unlawful activity that may take place at a party or social gathering, including, but not limited to, disorderly conduct, possession of alcohol by minors, or the use or possession of illegal substances.

Disturbance problem means that a dwelling has generated at least two enforcement actions where citations were issued or arrests made within a one-year period. In the event that a citation issued or arrest made pursuant to a particular enforcement action does not result in an infraction or other judgment, that enforcement action shall not be utilized as a basis to determine that a property is a disturbance problem.

Dwelling shall have the same meaning as provided in section 150.240 of the Zoning Code.

Enforcement action means that the police, upon responding to a disturbance complaint and substantiating that unlawful activity is occurring, take action to shut down the unlawful activity and issue any citation(s) or make any arrest(s), as appropriate.

No party property means a dwelling that has been identified and certified by the Muncie Police Department as being a disturbance problem.
(Ord. No. 70-05, § 2, 10-3-05)

Sec. 101.02. Recordkeeping.

The police department shall keep accurate and sufficient records such that it is able to readily

ascertain the number of disturbance complaints associated with any dwelling located within the city, any action taken by police, and the final disposition of such action.
(Ord. No. 70-05, § 3, 10-3-05)

Sec. 101.03. Certification procedure.

Upon determining that a dwelling is a disturbance problem, the police department shall immediately certify that property as a "No Party Property." A "No Party Property" certification shall be in effect for a period of one year from the date of the initial certification. If, during this one-year period, another disturbance complaint is received by the police and police take enforcement resulting in an infraction or other judgment, the certification shall automatically be extended to run for a period of one-year from the date of the latest disturbance complaint.
(Ord. No. 70-05, § 4, 10-3-05)

Sec. 101.04. Notification of owners and occupants.

Upon certifying a dwelling as a "No Party Property," the police department shall notify the property owner and occupant(s) by:

- (1) Providing a notice of such certification, along with a copy of the provisions of this chapter, via personal service or by certified or registered mail, to the street address listed for said property; and
- (2) In the event that the property is not owner-occupied, also providing a notice of such certification, along with a copy of the provisions of this chapter, via personal service or by certified or registered mail to the address of the owner of the property as it appears on the current tax assessment rolls.

(Ord. No. 70-05, § 5, 10-3-05)

Sec. 101.05. Violation.

(A) Any occupant of a dwelling that has been certified as a "No Party Property" by the police department who allows unlawful activity at that property which results in a disturbance complaint leading to enforcement action shall be in violation of this section.

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(B) In the event that a disturbance complaint is received by the police during the period of time that a dwelling is certified as a "No Party Property," the police department shall, upon substantiating that a violation is occurring, take immediate enforcement action, including the issuance of any and all appropriate citations for violation of this chapter.

(Ord. No. 70-05, § 6, 10-3-05)

Sec. 101.06. Appeal.

The property owner or occupant of a dwelling certified as a "No Party Property" may petition the board of public works and safety at any time to have the certification removed. Upon a sufficient showing that the basis for the problem has been adequately addressed and that the property is not likely to be location of a disturbance problem in the future, the board of public works and safety shall remove the "No Party Property" certification.

(Ord. No. 70-05, § 7, 10-3-05)

Sec. 101.07. Penalty.

Any person who violates section 101.05 shall be guilty of an infraction, punishable by a fine of not more than \$250.00. Any person found guilty of a second offense of this chapter which occurred within 12 months of the first offense shall be subject to a fine of not less than \$100.00 nor more than \$500.00. Any person found guilty of a third offense of this chapter which occurred within 12 months of the first and second offenses shall be subject to a fine of not less than \$250.00 nor more than \$750.00.

(Ord. No. 70-05, § 8, 10-3-05)

Sec. 101.08. Venue.

The Muncie City Court shall be the court of proper venue and jurisdiction for the enforcement of this chapter.

(Ord. No. 70-05, § 9, 10-3-05)

Title XV

LAND USAGE

Chapter

- 150. Zoning Code
- 151. Subdivision Regulations
- 152. Building Code
- 153. Electric Code
- 154. Plumbing Code
- 155. Housing Code
- 156. Uniform House Numbering System
- 157. Open Space Plan
- 158. Historic Preservation Areas
- 159. Floodplain Management
- 160. Urban Homesteading
- 161. Economic Revitalization Areas
- 162. Wireless Communication Facilities
- 163. Storm/Detention Retention Facilities for Combined Sewers
- 164. Storm Drainage and Sediment Control

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tion North 20 feet of lot 7, south 20 feet of lot 6. (Unit Tax Number: 15-16701000; Sidwell Number: 11-16-237-009-000).

- (40) The building known today as 309 S. Walnut St. in the City of Muncie, Indiana, to wit:

Owner: Renaissance Place LLC; Legal Description: Part of Lot 8 Block 24 in Brown's Donation to Muncietown, now City of Muncie, Delaware County, Indiana, described as follows: Beginning at the northwest corner of Lot 8 in Block 24 in Brown's Donation to Muncietown, now City of Muncie, as shown in the Records of Delaware County, Indiana, said corner being 0.4 feet east of a nail; thence north 89 degrees 39 minutes 51 seconds east 100.41 feet along the north line of said lot; thence south 00 degrees 00 minutes 00 seconds 21.95 feet along the outside of a wall; thence south 00 degrees 1 minutes 55 seconds east 1.56 feet; thence south 89 degrees 39 minutes 51 seconds west 100.39 feet along the center of a common wall to a point on the west line of said lot to a point 0.4 feet east of a nail; thence north 00 degrees 02 minutes 52 seconds west 23.51 feet to the point of beginning, containing 0.05 of an acre, more or less. (Unit tax number: 15-00338000; Sidwell number: 11-16-233-008-000).

- (41) The building known today as 311 S. Walnut St. in the City of Muncie, Indiana, to wit:

Owner: Renaissance Place LLC; Legal Description: Part of Lot 8 Block 24 in Brown's Donation to Muncietown, now City of Muncie, Delaware County, Indiana, described as follows: Beginning at a point on the west line of Lot 8 Block 24 in Brown's Donation to Muncietown, now City of Muncie, as shown in the records of Delaware County, Indiana, said point being south 00 degrees 02 minutes 52 seconds east 23.51 feet (assumed bearing) from the northwest corner of said lot and also being 0.4 feet east of a nail; thence north 89 degrees 39 minutes 51 seconds east

100.39 feet along the center of a common wall; thence south 00 degrees 11 minutes 53 seconds east 38.99 feet along the center of a common wall to a point on the south line of said Lot 8; thence south 89 degrees 39 minutes 51 seconds west 100.36 feet to the southwest corner of said lot which is 0.4 feet east of a nail; thence north 00 degrees 02 minutes 52 seconds west 38.99 feet to the point of beginning, containing 0.09 of an acre, more or less. (Unit tax number: 15-00338000; Sidwell number: 11-16-233-008-000).

- (42) The building known today as 313 S. Walnut St. in the City of Muncie, Indiana, to wit:

Owner: Renaissance Place, LLC; Legal Description: Part of Lot 8 Block 24 in Brown's Donation to Muncietown, now City of Muncie, Delaware County, Indiana, described as follows: Beginning at a point on the south line of Lot 8 Block 24 in Brown's Donation to Muncietown, now City of Muncie, as shown in the records of Delaware County, Indiana, said point being north 89 degrees 39 minutes 51 seconds east 100.36 feet (assumed bearing) from the southwest corner of said lot; thence north 00 degrees 11 minutes 53 seconds west 40.55 feet along the center of a common wall; thence north 00 degrees 00 minutes 00 seconds 21.95 feet along the outside of a wall to the north line of said Lot 8; thence north 89 degrees 39 minutes 51 seconds east 24.78 feet to a nail at the northeast corner of said lot; thence south 00 degrees 02 minutes 52 seconds east 62.50 feet to a nail at the southeast corner of said lot; thence south 89 degrees 39 minutes 51 seconds west 24.50 feet to the point of beginning, containing 0.04 of an acre, more or less. (Unit tax number: 15-00338000; Sidwell number: 11-16-233-008-000).

- (43) The building known today as 419-421 S. Walnut St. in the City of Muncie, Indiana, to wit:

Owner: Walnut Investors, LLC; Legal Description: Lots 9, 10, 11 and north 10 feet

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and west 39 feet of lot 12, Seitz Addition,
City of Muncietown, now City of Muncie.
(Sidwell Number: 11-16-237-011-000).

- (44) That building know today as as the Kelso
Building and/or Health Iron Building at
116 S. Walnut Street.

Legal Description: B D Add. S 41 ft.;
Sidwell Number: 11-10-363-012-000.

- (45) That building know today as as St. Peter's
Rock Foundation in Christ Church at 600
W. Jackson St./117 S. Council St.

Legal Description: Jackson's Donation S
85 ft.; Sidwell Number: 11-09-461-016-
000.

(Ord. No. 42-90, § 1, 11-12-90; Ord. No. 12-93,
5-3-93; Ord. No. 19-94, 5-9-94; Ord. No. 62-94,
12-6-94; Ord. No. 19-95, 6-5-95; Ord. No. 2-96,
3-4-96; Ord. No. 17-96, 5-13-96; Ord. No. 22-96,
6-10-96; Ord. No. 15-98, 5-11-98; Ord. No. 37-99,
10-4-99; Ord. No. 24-00, § 1, 7-10-00; Ord. No.
25-00, § 1, 7-10-00; Ord. No. 3-02, §§ 1—5, 2-4-02;
Ord. No. 34-03, 12-1-03; Ord. No. 38-05, 6-6-05;
Ord. No. 10-06, 4-3-06; Ord. No. 11-06, 4-3-06)

CHAPTER 161. ECONOMIC REVITALIZATION AREAS

Division 1. Real Property Tax Abatement

- Sec. 161.01. Tax abatement committee established.
- Sec. 161.02. Procedure established for designation of economic revitalization areas.
- Sec. 161.03. Office projects.
- Sec. 161.035. Low and moderate income multi-family residential projects.
- Sec. 161.04. Fee schedule.
- Sec. 161.05. Single-family residences.
- Secs. 161.06—161.19. Reserved.

Division 2. Tangible Personal Property Tax Abatement

- Sec. 161.20. Tax abatement committee established.
- Sec. 161.21. Procedure established for the designation of economic revitalization areas.
- Sec. 161.22. Fee schedule.

DIVISION 1. REAL PROPERTY TAX ABATEMENT*

Sec. 161.01. Tax abatement committee established.

The common council, City of Muncie, hereby creates the Tax Abatement Committee (committee). The committee shall be comprised of members appointed by the presiding officer of the council pursuant to section 32.35 of the Muncie Code for the purpose of reviewing tax abatement applications and monitoring property owner compliance. The committee shall also make recommendations to the common council concerning property owner compliance, upon which the final decision rests with the common council. The committee may also make recommendations concerning ordinance, resolution, application, and monitoring revisions which can effect the tax abatement program. Final decisions concerning the tax abatement program rests with the common council. (Ord. No. 32-97, § 1, 8-4-97)

***Editor's note**—Ord. No. 3297, §§ 1—4, adopted Aug. 4, 1997, amended Subchapter, Real Property Tax Abatement, of Ch. 161 to read as herein set out. Formerly, said subchapter, §§ 161.01, 161.02, pertained to similar subject matter and derived from Ord. No. 85-89, adopted Feb. 5, 1990, and Ord. No. 48-95, §§ 1—4, adopted Aug. 31, 1996.

Sec. 161.02. Procedure established for designation of economic revitalization areas.

The following procedure is hereby established for the designation of economic revitalization areas for purposes of real property tax abatement or real property tax abatement in already designated areas:

- (A) Applications shall be filed with the common council tax abatement committee (committee) and with the city clerk prior to the project and be in writing and signed by the applicant and shall contain all applicable information required by the application form and shall be supported by payment of fees hereinafter fixed.
- (B) Upon receipt of an application, the committee shall review the information filed, in a public meeting proceeding the common council meeting, and the proposed rehabilitation or redevelopment project and make findings and recommendations to the common council with regard to:
 - (1) Compliance with statutory criteria.
 - (2) Furtherance of city development objectives.
 - (3) Creation of and the retention of employment opportunities.
 - (4) Expansion of property tax base.
 - (5) Compliance with EEG/AA practices as well as a review of human resource policies.
 - (6) Stabilization of property values.
- (C) Upon review by the city legal department to assure legality in form, and review and sponsorship by a council member, the application shall be filed with the office of the city clerk in accordance with all deadlines, policies, and procedures established by the common council to be placed on council's agenda.
- (D) The common council may consider a preliminary declaratory resolution designating the requested economic revitalization area for real property tax abatement, and fixing the duration of such designation for

periods of three, six, or ten years, at its regularly scheduled meeting following the filing of said application after receiving and reviewing the findings and recommendations of the committee.

For a three-year abatement:

- (1) The new or rehabilitated property must be within the major groups 20—39 or 42 of the Standard Industrial Classification Manual, published by the United States Office of Management and Budget; and
- (2) All jobs of the applicant and/or occupant of the real property upon which the three-year abatement is being sought shall pay a minimum of \$7.25 per hour and comply with the hourly rate and other representations as contained in the SB-1 submitted with the application.

For a six-year abatement:

- (1) The new or rehabilitated property must be within the major groups 20—39 or 42 of the Standard Industrial Classification Manual, published by the United States Office of Management and Budget; and
- (2) At least five new full-time, permanent jobs should be created by the project within one year or 15 in three years, and all existing jobs should be retained, as certified by the petitioner; and
- (3) All jobs of the applicant and/or occupant of the real property upon which the six-year abatement is being sought shall pay a minimum of \$7.25 per hour and comply with the hourly rate and other representations as contained in the SB-1 submitted with the application.

For a ten-year abatement:

- (1) The new or rehabilitated property must be within the major groups 20—39 or 42 of the Standard Indus-

trial Classification Manual, published by the United States Office of Management and Budget; and

- (2) At least ten new full-time, permanent jobs should be created by the project within one year or 30 jobs in three years, and all existing jobs should be retained, as certified by the petitioner; and
 - (3) All jobs of the applicant and/or occupant of the real property upon which the ten-year abatement is being sought shall pay a minimum of \$7.25 per hour and comply with the hourly rate and other representations as contained in the SB-1 submitted with the application.
- (E) Upon adoption of said resolution, the common council shall cause a notice of such adoption and the purpose thereof, and of the fact that maps and plats have been prepared and can be inspected at the office of the Muncie Redevelopment Commission and the Delaware County Assessor's Office to be published in the Muncie Star Press Daily Newspaper published in and of general circulation in the city one time at least ten days prior to the public hearing which shall state the date, time and place at which the common council will receive and hear remonstrances or objections from persons interested in or affected by said proceedings pertaining to the requested real property tax abatement.
- (F) On the date and at the time and place theretofore fixed and as stated in said notices, the common council shall receive and hear remonstrances and objections to said resolutions together with the additional evidence and arguments, if any, of the applicant, with respect to said application. In its deliberations, the common council shall give consideration to all those factors with respect to the findings and recommendations as presented. Said hearing may be adjourned from time to time. At the conclusion of said hearing, if the

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Abatements for low and moderate income multi-family residential construction projects will follow the same procedures as outlined in section 161.02 subject to the following criteria which will be followed in determining the number of years and percentage of deduction allowed for these abatements.

(A) For a three-year abatement:

- (1) The new multi-family residential construction must be located in the required low and moderate income qualifying area and be declared an economic revitalization area; and
- (2) At least 20 percent of the units in the development shall be reserved for low and moderate income individuals; and
- (3) At least five new full-time, permanent jobs should be created by the project within three years, and all existing jobs should be retained as certified by the petitioner; and
- (4) All jobs of the applicant and/or occupant of the residential project upon which the six-year abatement is being sought shall pay a minimum of \$7.25 per hour and comply with the hourly rate and other representations as contained in the SB-1 submitted with the application.

(B) For a six-year abatement:

- (1) The new multi-family residential construction must be located in the required low and moderate income qualifying area and be declared an economic revitalization area; and
- (2) At least 20 percent of the units in the development shall be reserved for low and moderate income individuals; and
- (3) Minimum construction costs estimated to exceed \$250,000.00; and
- (4) At least five new full-time, permanent jobs should be created by the project within one year or 15 jobs in

three years, and all existing jobs should be retained, as certified by the petitioner; and

- (5) All jobs of the applicant and/or occupant of the residential project upon which the six-year abatement is being sought shall pay a minimum of \$7.25 per hour and comply with the hourly rate and other representations as contained in the SB-1 submitted with the application.

(C) For a ten-year abatement:

- (1) The new multi-family residential construction must be located in the required low and moderate income qualifying area and be declared an economic revitalization area; and
- (2) At least 20 percent of the units in the development shall be reserved for low and moderate income individuals; and
- (3) Minimum construction costs estimated to exceed \$1,000,000.00; and
- (4) At least ten new full-time, permanent jobs should be created by the project within one year or 30 jobs in three years, and all existing jobs should be retained, as certified by the petitioner.
- (5) All jobs of the applicant and/or occupant of the residential project upon which the ten-year abatement is being sought shall pay a minimum of \$7.25 per hour and comply with the hourly rate and other representations as contained in the SB-1 submitted with the application.

(Ord. No. 64-98, § 1, 12-7-98; Ord. No. 59-99, §§ 1—3, 2-23-00)

Sec. 161.04. Fee schedule.

(A) When submitting an application for real estate property tax abatement, the following non-refundable fee schedule applies:

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<i>Total Rehabilitation / Construction Cost of Project</i>	<i>Application Fee</i>
\$ 20,000.99 or less	\$100.00
20,001 to \$ 75,000.99	200.00
75,001 to \$500,000.99	300.00
500,001 to \$999,999.99	500.00
1,000,000 or more	1,000.00

(B) Such fees so collected by the city shall be deposited into a special account and shall be expended to pay the costs of publication of public notices required herein and administrative expenses incurred in the processing of applications for designation of economic revitalization areas and applications for tax abatement therein, and shall not revert to the general fund.
(Ord. No. 32-97, §§ 1-4, 8-4-97)

Sec. 161.05. Single-family residences.

(A) Deductions relating to the construction of residential real property shall be granted by the council only when the council finds that the facility to be constructed is located in an economic development target area following findings by the council made pursuant to I.C. 6-1.1-12.1-7 and further provisions of this section.

(B) Before the common council determines that an abatement is appropriate for real property within an economic development target area, and after following procedures required by I.C. 6-1.1-12.1-7, the council shall further make all of the following findings pertaining to said property.

- (1) That the facility to be constructed consists of new construction intended for the habitation by a single-family (owner occupied) unit;
- (2) That the construction of the facility is intended to commence not later than December 31, 2006; and
- (3) That the total project for which the applicant seeks abatement consists of construction on not less than one separate free standing structure, which shall be intended for residential usage by a single-family unit.

(C) The Muncie Redevelopment Commission shall be entitled to charge a reasonable fee payable to the "City of Muncie" for applications for the aforesaid residential tax abatement. These fees shall be an amount equal to the fees authorized for application fees for real estate property tax abatement, as found within the City of Muncie Code of Ordinances, section 161.04, fee schedule, and all amendments thereto.

(D) Abatements granted under this section shall be for three years and the granting of abatements under the provisions of this section shall terminate on December 31, 2006 unless otherwise amended or extended under a further ordinance. The termination of the provisions of this ordinance on December 31, 2006 shall not affect the length of time of abatements granted prior to such termination.
(Ord. No. 46-97, §§ 1, 4, 10-10-07; Ord. No. 37-01, § 1, 10-1-01)

Secs. 161.06—161.19. Reserved.

DIVISION 2. TANGIBLE PERSONAL
PROPERTY TAX ABATEMENT*

Sec. 161.20. Tax abatement committee established.

The common council hereby creates the tax abatement committee (committee). The committee shall be comprised of members appointed by the presiding officer of the council pursuant to section 32.35 of the Muncie Code for the purpose of reviewing tax abatement applications and monitoring property owner compliance. The committee shall also make recommendations to the common council concerning property owner compliance, upon which final decision rests with the common council. The committee may also make recommendations concerning ordinance, resolution, application, and monitoring revisions which can affect

***Editor's note**—Ord. No. 31-97, §§ 1—4, adopted Aug. 4, 1997, amended Subchapter Tangible Personal Property Tax Abatement of Ch. 161 to read as herein set out. Formerly, said subchapter, §§ 161.20, 161.21, pertained to similar subject matter and derived from Ord. No. 84-89, 2-5-90; Ord. No. 48-95, §§ 5—15, 8-7-95; Ord. No. 49-96, § 1, 9-9-96)

the tax abatement program. Final decisions concerning the tax abatement program rests with the common council.

(Ord. No. 31-97, § 1, 8-4-97)

(D) The common council may consider a preliminary declaratory resolution designating the requested economic revitalization area for new manufacturing equipment tax abatement and fixing the duration of

Sec. 161.21. Procedure established for the designation of economic revitalization areas.

The following procedure is hereby established for the designation of economic revitalization areas for the purpose of tangible, personal property tax abatement and for personal property tax abatement in an already designated area:

- (A) Applications may be filed with the common council tax abatement committee (committee) and with the city clerk's office prior to the project and be in writing and signed by the applicant and shall contain all applicable information required by the application form and shall be supported by payment of fees hereinafter fixed.
- (B) Upon receipt of an application, the committee shall review the information filed, in a public meeting proceeding the common council meeting, and the proposed rehabilitation project and make finding and recommendations to the common council with regard to:
 - (1) Compliance with statutory criteria.
 - (2) Furtherance of city developmental objectives.
 - (3) Creation of and retention of employment opportunities.
 - (4) Expansion of property tax base.
 - (5) Compliance with EEO/AA practices as well as review of human resource policies.
- (C) Upon review by the city legal department to assure legality in form, and a review and sponsorship by a council member, the application shall be filed with the city clerk's office in accordance with all deadlines, policies, and procedures established by the common council to be placed on the council's agenda.

**CHAPTER 164. STORM DRAINAGE AND
SEDIMENT CONTROL**

Sec. 164.01.	Purpose.
Sec. 164.02.	Jurisdiction.
Sec. 164.03.	Land alterations.
Sec. 164.04.	Definitions.
Sec. 164.05.	Administration.
Sec. 164.06.	Nonconforming sites.
Sec. 164.07.	Permit duration.
Sec. 164.08.	Bonds, covenants and easements.
Sec. 164.09.	Investigations and inspections.
Sec. 164.10.	Enforcement.
Sec. 164.11.	Variations and deviations from plan.
Sec. 164.12.	Fees.
Sec. 164.13.	Professionally prepared and certified drainage plans.
Sec. 164.14.	Regulated drain clearance.
Sec. 164.15.	Minimum drainage standards and regulations.
Sec. 164.16.	Minimum standards for erosion and sediment control.
Sec. 164.17.	Procedure for promulgation of regulations.
Sec. 164.18.	General Drainage Standards adopted by reference.

Sec. 164.01. Purpose.

The purpose of this chapter is to protect the safety, health and general welfare of the citizens of the City of Muncie, Indiana by requiring compliance with standards and practices which result in proper storm water drainage and sediment control in the event of land alterations.
(Ord. No. 21-02, § 1, 6-3-02)

Sec. 164.02. Jurisdiction.

The provisions of this chapter shall be applicable throughout the incorporated area of the city.
(Ord. No. 21-02, § 2, 6-3-02)

Sec. 164.03. Land alterations.

Any land alteration must be accomplished in conformity with the drainage requirements of this chapter. Where any apparent conflict exists between drainage requirements of this chapter and similar requirements of the city or any state or federal agency which has jurisdiction over the work involved, the most stringent requirements shall be applicable. Except for the foregoing, compliance with any other applicable provision of law, ordinance or regulation shall not excuse noncompliance with this chapter.
(Ord. No. 21-02, § 3, 6-3-02)

Sec. 164.04. Definitions.

Building commissioner: As used herein, "building commissioner" shall mean the Building Commissioner of the City of Muncie, Indiana.

Board of public works and safety. As used herein, "board" shall mean the Board of Public Works and Safety of the City of Muncie, Indiana.

Board of sanitary commissioners: As used herein, "commissioners" and "sanitary commissioners" shall mean the Board of Sanitary Commissioners of the Muncie Sanitary District of the City of Muncie, Indiana.

City engineer: As used herein, "city engineer" shall mean the City of Muncie City Civil Engineer or a designee of the mayor which designee may be the civil engineer member of the board of sanitary commissioners.

County surveyor: As used herein, or "county surveyor" shall mean the Delaware County Surveyor.

Drainage board: As used herein, "drainage board" shall mean the Delaware County Drainage Board.

Drainage facilities: As used herein, "drainage facilities" shall mean all ditches, channels, conduits, retention-detention systems, tiles, swales, sewers, and other natural or artificial means of draining storm water from land.

Drainage requirements: As used herein, "drainage requirements" shall mean:

- (1) Minimum drainage standards established by the provisions of this chapter.
- (2) Regulations promulgated by the common council of the City of Muncie.
- (3) Obligations and requirements relating to drainage established under the subdivision control ordinance of the City of Muncie, Indiana.
- (4) Requirements stated under the Delaware County Comprehensive Zoning Ordinance and the Flood Plain Management Ordinance for Delaware County, Indiana.

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- (5) Obligations and requirements relating to drainage established under the drainage board of Delaware County, Indiana and/or the common council of the city.
- (6) Conditions relating to drainage attached to a grant of appeal by the Delaware - Muncie Metropolitan Board of Zoning Appeals.

Land alterations: As used herein, "land alterations" shall mean any action taken relative to land which either:

- (1) Changes the contour; or
- (2) Increases the runoff rate; or
- (3) Changes the elevation; or
- (4) Changes the rate at which water is absorbed; or
- (5) Changes the drainage pattern; or
- (6) Creates or changes a drainage facility; or
- (7) Involves construction, enlargement or location of any building on a permanent foundation as regulated herein; or
- (8) Involves a subdivision of land as regulated in the Delaware County Subdivision Ordinance or a planned unit development or a mobile home park as regulated in the Delaware County Comprehensive Zoning Ordinance; or
- (9) Creates an impoundment.

Fifty-year return frequency storm: As used herein "50-year return frequency storm" means a rainfall event for which the intensity and duration generate an accumulated depth expected only once every 50 years. It is also assumed to be maximum storm conditions for which protection is expected through these minimum standards.

Maintenance: As used herein, "maintenance" shall mean cleaning out, removing obstructions from, spraying and making minor repairs of a drainage facility so it will perform the function for which it was designed and constructed.

Minor landscaping: As used herein, "minor landscaping" shall mean the planting and tilling of gardens, flower beds, shrubs, trees, [etc.]

Parcel: As used in herein "parcel" shall mean the total area of land where the land alteration is proposed or accomplished.

Person. As used herein, "person" shall mean any natural person and any legal entity

Plan commission: As used herein, "plan commission" shall mean the Delaware-Muncie Metropolitan Plan Commission.

Regulated drain: A drainage facility which falls under the jurisdiction of the Indiana Drainage Code.

Sanitary district engineer: As used herein, "sanitary district engineer" shall mean the engineering director of the Muncie Sanitary District, of the City of Muncie, Indiana.
(Ord. No. 21-02, § 4, 6-3-02)

Sec. 164.05. Administration.

(A) *Drainage permit exclusions:* The following actions shall not be considered a land alteration for the purpose of this chapter nor shall a drainage permit be required:

- (1) Excavation of cemetery graves;
- (2) Refuse disposal sites where storm drainage is controlled by other regulations;
- (3) Excavation for wells, excavation and backfills for poles, conduits and wires of utility companies;
- (4) Exploratory excavation or soil testing under the direction and control of professional engineers, soil engineers, geologists, civil engineers, architects or land surveyors, which are backfilled and which are restored to original contours;
- (5) Ordinary cultivation of agricultural land including tilling, terracing, construction of minor open ditches and crop irrigation;
- (6) The planting and tilling of gardens, flower beds, shrubs, trees and other common uses and minor landscaping of land appurtenant to residences;
- (7) Fill and grading of former basement site after the demolition of a structure, to conform to adjacent terrain;

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- (8) Fill of small holes caused by erosion, settling of earth or the removal of such materials as dead trees, posts or concrete;
- (9) A fill less than one foot in depth, which has no impact on adjacent properties;
- (10) Maintenance of drainage facilities;
- (11) Installation of septic systems, when proper permit has been obtained;
- (12) Construction of a driveway, when a proper permit has been obtained;
- (13) Installation of individual building sewers, when a proper tap permit has been obtained;
- (14) A land alteration upon a lot in an approved subdivision plat, provided proper permits are obtained.

(B) *Drainage permits application:* No person shall undertake or accomplish any land alteration without having in force a written drainage permit obtained from the city engineer. The drainage permit must be obtained before any work is initiated with the exception of testing to determine procedures or materials. In order to obtain a drainage permit, the applicant for same must be the person or entity that will in fact be responsible for accomplishing the land alteration for which the permit was issued. Applications for a drainage permit shall be filed in the office of the city engineer on forms prescribed by the board of public works and safety of the city. Within seven working days from the date of filing for a drainage permit, the city engineer shall either issue the permit or forward a written statement to the applicant indicating cause for non-issuance. The statement shall set forth all actions, information, and/or plan amendments necessary to allow issuance of a drainage permit. Approvals shall not be unduly withheld. A drainage permit shall be issued by the city engineer if:

- (1) The application and the drainage plan with supplemental information have been properly prepared and submitted and reflect compliance with the general drainage standards for the city.
- (2) A certificate of sufficiency of plan and a certificate of obligation to observe have

been filed by a registered professional engineer, land surveyor or architect engaged in storm drainage design;

- (3) If required by the city engineer or another entity authorized to establish or enforce drainage requirements, a bond has been posted pursuant to the requirements of this chapter;
- (4) If required by the city engineer or another entity authorized to establish or enforce drainage requirements, a covenant has been executed pursuant to the requirements of this chapter;
- (5) If required by the city engineer or another entity authorized to establish or enforce drainage requirements, an easement has been dedicated pursuant to the requirements of this chapter;
- (6) The applicable fee has been paid.

No drainage facility intended for public dedication shall be constructed until a drainage permit has been obtained from the city engineer. A drainage facility or system intended to be dedicated to the public, in whole or in part, must be accepted by the city by action of the board of public works and safety of the city, as applicable, and no such drainage facility or system shall be accepted unless it is found to be in conformance with this chapter.

(Ord. No. 21-02, § 6, 6-3-02)

Sec. 164.06. Nonconforming sites.

A land altered area existing prior to the enactment of this chapter must be brought into full compliance with this chapter if any of the following activities occur:

- (A) *Expansion of area:* The gross area impacted by a land alteration is expanded by more than ten percent. Repeated expansions of a land altered area constructed over a period of time commencing with the effective date of this chapter, shall be combined in determining whether this threshold has been reached.

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(B) *Intensification and change of use:* The use of a land altered area is intensified or the use of such area is changed, resulting in an increase in storm water runoff.

(Ord. No. 21-02, § 6, 6-3-02)

Sec. 164.07. Permit duration.

If the land alteration for which the permit has been issued has not commenced within two years from the date of its issuance, the permit shall expire by operation of law and no longer be of any force or effect; provided, however, the board, upon the recommendation of the city engineer, extend the validity of the permit for an additional period of time.

(Ord. No. 21-02, § 7, 6-3-02)

Sec. 164.08. Bonds, covenants and easements.

(A) *Bonds:* The board, upon the recommendation of the city engineer, may as a prerequisite to the issuance of a drainage permit, require the posting of a performance bond with surety to the approval of the board. Such bond shall name the city as the obligee who can enforce the obligations thereunder, and shall be in an amount established by the board as adequate to provide for the satisfactory completion of the improvements required by the drainage permit. In instances where the board has required a performance bond pursuant to the provisions of this chapter, the board may, as an alternative to the posting of such bond, accept other appropriate security, such as a properly conditioned irrevocable letter of credit, which meets the same objectives as the performance bond described in this chapter, subject to the approval of any other department or agency whose interests are protected by the same bonding requirement.

(B) *Covenants:* Where the city engineer shall determine that such is necessary in order to achieve satisfactory present and future drainage of the parcel of land for which a drainage permit is sought and the area surrounding the parcel, the board may, as a prerequisite to the issuance of a drainage permit, require the execution of covenants and/or easements running in form to the city by the owner or owners of such parcel. As a

minimum in such cases, the board shall require that the following covenant be executed by the owner or owners of such land which will be included in a recorded plat:

"It shall be the responsibility of the owner of any lot or parcel of land within the area of this plat to comply at all times with the provisions of the drainage plan as approved for this plat by the board and/or the drainage board and the requirements of all drainage permits for this plat issued by the city engineer's office."

(C) *Easements:* The board may, upon recommendation from the city engineer and as a prerequisite to issuance of a drainage permit, require the dedication of easements to the appropriate public agency and to owners of other affected lands by the owner of the parcel of land, relative to which application for a drainage permit has been made, where such is necessary to achieve satisfactory present and future drainage of the parcel and the area surrounding the parcel.

(Ord. No. 21-02, § 8, 6-3-02)

Sec. 164.09. Investigations and inspections.

The power to make investigations and inspections of land alterations shall be vested in the city engineer. Investigation and inspection of land alterations may be made at any time by going upon, around or about the premises on which the land alteration has occurred. Such investigation and inspection may be made either before, during or after the land alteration is completed and it may be made for the purposes, among others, of determining whether the land alteration meets drainage requirements and ascertaining whether the land alteration has been accomplished in a manner consistent with plans and specifications. Efforts to afford an opportunity for investigation and inspection of the land alteration shall be made by persons working on or having control of the land alteration, including making available a copy of plans and specifications submitted to obtain a drainage permit.

(Ord. No. 21-02, § 9, 6-3-02)

Sec. 164.10. Enforcement.

(A) *Fees for permits obtained after commencement of work:* If work for which a drainage permit is required by this chapter is commenced without

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a permit the permit fee shall be double the applicable amount stated in this chapter because of the increased amount of inspection and administrative work; provided, however, that the maximum fee incurred shall be \$300.00 plus the amount of the normal fee for the permit. This sanction shall in no way limit the operation of penalties provided elsewhere in this chapter.

(B) *Permit revocation:* The board may revoke the drainage permit where the application, plans, supporting documents, or other evidence required by this chapter reflects either:

- (1) A false statement or misrepresentation as to material fact; or
- (2) Lack of compliance with drainage requirements of this chapter; or
- (3) Failure to post bond, execute covenants or dedicate easements as required by the board of works or other applicable entity pursuant to this chapter. This sanction shall in no way limit the operation of penalties provided elsewhere in this chapter.

(C) *Stop-work order:* Wherever the city engineer, the sanitary district engineer or the city building commissioner or their authorized representatives discover the existence of any of the circumstances listed below, they are empowered to issue an order requiring the suspension of the land alteration. A stop-work order shall be issued if:

- (1) Land alteration is proceeding in an unsafe manner;
- (2) Land alteration is occurring in violation of a drainage requirement and in such manner that if land alteration is allowed to proceed, there is a probability that it will be substantially difficult to correct the violation; or
- (3) Land alteration for which a drainage permit is required is proceeding without a drainage permit being in force. In such an instance the stop-work order shall indicate that the effect of the order terminates when the required drainage permit

is obtained. This sanction shall in no way limit the operation of penalties provided elsewhere in this chapter.

(D) *Civil action:* The City of Muncie, acting by resolution of the board of public works and safety, may initiate a civil action to restrain any person accomplishing a land alteration from violating a drainage requirement or plans and specifications filed in order to obtain a drainage permit or violating any other provision of this chapter.

- (1) Enforcing the provisions of a stop-work order issued pursuant to this chapter; or
- (2) Preventing the accomplishment of a land alteration in violation of a drainage requirement; or
- (3) Requiring accomplishment of a land alteration in accordance with the drainage requirements, and, if a drainage permit has been obtained, plans and specifications filed therewith.

This sanction shall in no way limit the operation of penalties provided elsewhere in this chapter.

(E) *General penalty:* Any person violating the provisions of this chapter, any regulation promulgated pursuant to this chapter, any minimum standard found in this chapter or any other drainage requirement as defined in this chapter shall be guilty of a misdemeanor and may be subject to a fine in any sum not exceeding \$2,500.00. This penalty shall in no way limit the operation of special penalties for specific provisions of this chapter, nor shall such special penalties in any way limit the operation of this general penalty.

(F) *Enforcement of covenants:* Any person who violates a covenant required under the provisions of this chapter, and/or the owner of any parcel of land who permits such a violation upon land owned by him or her, may be notified in writing by the city engineer, the sanitary district engineer or by the city building commissioner, that a violation exists, and shall be given a reasonable period of time in which to correct such violation. The notice shall specify the nature of the violation with reasonable clarity. If the person responsible for the violation of a covenant required under the provisions of this chapter, or the owner of the land upon which such violation exists, fails to correct

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the violation in a reasonable time in accordance with the requirements of the notice described above, the city shall have the authority to correct the violation at its expense and to recover in a civil action all expenses incurred for effecting such correction, together with reasonable attorneys fees and expenses of such actions. (Ord. No. 21-02, § 10, 6-3-02)

Sec. 164.11. Variances and deviations from plan.

(A) *Procedure:* The board shall have the power to modify or waive any minimum drainage standard found in this chapter. The board may grant such modification or waiver if an applicant for a drainage permit makes a substantial showing:

- (1) That a minimum drainage standard regulation is unfeasible or unreasonably burdensome; and
- (2) The alternate plan submitted by the applicant will achieve the same objective and purpose as compliance with minimum drainage standards and regulations.

The request for a variance together with supporting information shall be made in writing to the city engineer who shall present the request to the board at the first regularly scheduled board meeting following the filing of the request. The board shall make a decision on the request for a variance within 30 days after the request was filed with the city engineer.

(B) *Deviations from plan:* Any significant deviation or change in the detailed plans and specifications after the granting of a drainage permit shall be approved by the board of works. The request for a deviation or change shall be made prior to commencing any land alteration affected by the deviation or change and shall be made in the same manner as for a variance. (Ord. No. 21-02, § 11, 6-3-02)

Sec. 164.12. Fees.

(A) *Amount:* For a land alteration in conjunction with the platting of a subdivision, the development of a planned unit development or a mobile

home park the permit fee shall be \$20.00 per acre with a minimum fee of \$20.00 and a maximum fee of \$200.00.

(B) *Exemption for governmental units:* Drainage permits shall be obtained for land alteration activity accomplished by or for a governmental unit and inspections as specified in this chapter shall be allowed. Fees shall be required as specified except for the following:

- (1) Land alteration activity for which a fee cannot be charged by the municipality because of federal or state law; or
- (2) Land alteration activity accomplished by an employee or contractor of the city in the course of governmental duties.

(C) *Payment:* All drainage permit fees shall be collected by the engineer's office at the time the permit is issued and shall be deposited with the controller of the city. (Ord. No. 21-02, § 12, 6-3-02)

Sec. 164.13. Professionally prepared and certified drainage plans.

A drainage plan fulfilling the requirements of this chapter shall be submitted to the office of the city engineer for approval before a drainage permit can be obtained to accomplish a land alteration. The drainage plan must be submitted in duplicate, and shall indicate in a precise manner the work to be accomplished, and said plans shall in all respects be consistent with the drainage plan submitted. One copy of the drainage plan will remain on file in the city engineer's office. The following information must be submitted for approval:

- (A) *Construction features:* The drainage plan shall demonstrate and describe surface and subsurface drainage and include the following:
 - (1) The drainage plan shall be drawn to a commonly used scale, and an arrow indicating north shall appear as needed for clarity. Existing land contours shall be shown at an interval necessary for clarity. A bench mark, which is easily accessible and locat-

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able, shall be shown. The bench mark shall be determined by USGS datum.

- (2) A map which indicates the location and vicinity of the proposed land alteration shall be included in the drainage plan.
- (3) The drainage plan shall show the locations of all existing and proposed drainage facilities. Storm drains and manholes and other structures shall be located in the plans by dimensions from traverse lines, property markers or road center lines. However, for areas where physical features are not available, coordinates of manholes and bearings of storm drains shall be based on the State of Indiana's coordinate system or other acceptable horizontal and vertical datum. If applicable, the drainage plan should show the direction of flow, elevation of inverts, gradient, size and capacity of existing and proposed storm drains. When using storm drains, the capacity shall be indicated. Profiles of the on-site construction shall be provided which show existing and proposed ground information and any proposed piping and structures.
- (4) Plan and profile information shall be provided for any constructed flow lines. The plan shall show appropriate right-of-way and easement limits. The profile shall be shown under the plan and shall extend a sufficient distance downstream of the outlet to allow any pertinent information concerning the outfall channel to be shown. The storm drain and inlet profile shall generally be drawn on a commonly used scale. Where a storm drain is located in an existing or proposed pavement or shoulder, the center line grade of the road shall be shown. Where a storm drain is located outside pavement or shoulder, the existing ground over

the storm drain with proposed grading shall be shown. If the storm drain is to be constructed on fill, the profile of the undisturbed earth, at drain location, shall be shown.

- (B) *Design calculations:* Design calculations are required as part of the drainage plan and shall specifically include:
 - (1) Estimation of existing and proposed storm water runoff conditions, with a drainage area map for the site and tributary area, shall be calculated utilizing storm conditions contained in the General Drainage Standards for the City of Muncie, Indiana. The drainage area map shall indicate contours at two-foot intervals and limits of the 100-year flood (USGS quad maps, or the Delaware County Watershed maps, or other contour maps where applicable). Weighted runoff coefficient computations and time of concentration computations indicating overland flow time and travel time in manmade structures shall be indicated.
 - (2) Closed conduit and open channel design computations shall include the size of pipe or channel cross section, pipe or channel slope in percent, roughness coefficient, flowing velocities in feet per second, and design capacity in cubic feet per second.
 - (3) Head loss computations in manholes and junction chambers.
 - (4) Hydraulic gradient computations, wherever applicable.
 - (5) Erosion control methods.

Such design calculations shall conform with the standards of this chapter and all regulations promulgated thereunder. The city engineer shall be empowered to require additional information to be included in a drainage plan as is necessary to evaluate and determine the adequacy of the proposed drainage facility.

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(C) *Certificates:* All drainage plans submitted under this section to the city engineer's office for approval must be certified by a registered professional engineer, land surveyor or architect en-

gaged in storm drainage design, under whose supervision the plans were prepared. The certificate shall be in the following form:

CERTIFICATE OF SUFFICIENCY OF PLAN

Permit Number _____

Address where land alteration is occurring _____

Plan Date _____

I hereby certify that to the best of my knowledge and belief:

(1) The drainage plan for this project is in compliance with drainage requirements (as set forth in the Storm Drainage and Sediment Control chapter for the City of Muncie, Indiana) pertaining to this class of work.

(2) The calculations, designs, reproducible drawings, masters and original ideas reproduced in this drainage plan are under my dominion and control and they were prepared by me and my employees.

Signature _____ Date _____

Typed/Printed Name _____

(SEAL)

Business Address _____

Surveyor _____ Engineer _____ Architect _____

Indiana Registration Number _____

All drainage plans submitted under this section to the city engineer's office must include a certificate of obligation to observe by a registered professional engineer, land surveyor or architect engaged in storm drainage design. The certificate shall be in the following form:

CERTIFICATE OF OBLIGATION TO OBSERVE

Permit Number _____

Address where land alteration is occurring _____

Plan Date _____

I will perform periodic observations of this project during construction to determine that such land alteration is in accordance with both the applicable drainage requirements and the drainage plan for this project submitted for a drainage permit to the Office of the City Engineer of the City of Muncie, Indiana.

Signature _____ Date _____

Typed/Printed Name _____

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Phone _____

(SEAL)

Business Address _____

Surveyor _____ Engineer _____ Architect _____

Indiana Registration Number _____

Within ten (10) days after the completion of a land alteration for which a drainage permit was required and relative to which a certified plan was required to be filed pursuant to this section, a registered professional engineer, surveyor or architect engaged in storm drainage design, shall execute and file with the city engineer's office a certificate of completion and compliance. Such certificate shall be in the following form:

CERTIFICATE OF COMPLETION AND COMPLIANCE

Address of premises on which land alteration was accomplished _____

Inspection Date(s) _____

Permit Number _____

Relative to plans prepared by _____

On Date _____

I hereby certify that:

- (1) I am familiar with drainage requirements applicable to such land alteration (as set forth in the Storm Drainage and Sediment Control Ordinance of the City of Muncie, Indiana); and
- (2) I have personally observed the land alteration accomplished pursuant to the above-referenced drainage permit; and
- (3) To the best of my knowledge, information and belief such land alteration has been performed and completed in conformity with all such drainage requirements, except

Signature _____ Date _____

Type/Printed Name _____ Phone _____

(SEAL)

Business Address _____

Surveyor _____ Engineer _____ Architect _____

Indiana Registration Number _____

(Ord. No. 21-02, § 13, 6-3-02)

Sec. 164.14. Regulated drain clearance.

Process: Prior to any land alteration the applicant shall obtain clearance from the county surveyor's office that no work shall encroach upon any regulated drain easement.

The following information must be submitted in order for the surveyor's office to establish such regulated drain clearance:

- (1) The legal description and the street address for the property;
- (2) The dimensions and borders of the parcel;
- (3) The name and address of the owner;
- (4) An arrow indicating north;
- (5) Location of all existing and proposed improvements, structures and paved areas on the site.

Regulated drain clearance shall be indicated on subdivisions for which a drainage plan has been approved as set forth in this chapter. Such clearance shall be shown on the subdivision plat in the form of drainage easements and special notes as deemed necessary. Regulated drain clearance shall not be required as a precondition for obtaining permits in a subdivision for which a plat and a drainage plan have been approved provided the land alteration such dwellings comply with the specifications and information found on the approved plat and drainage plan.

The county surveyor may require the submission of plans or other information in order to establish regulated drain clearance.
(Ord. No. 21-02, § 14, 6-3-02)

Sec. 164.15. Minimum drainage standards and regulations.

(A) *General compliance:* All land alterations accomplished in the incorporated area of the city shall adhere to and be in compliance with the minimum drainage standards established by this chapter and all regulations promulgated by the board in accordance with this chapter, unless a variance from the minimum drainage standards or regulations has been granted by the board.

(B) *Protection downstream of a land alteration:* The release of runoff from a land alteration shall not increase the peak flow generated by the 50-year return frequency storm over the entire watershed of the receiving drainage facility at the point of the release by any amount greater than the runoff generated by a five-year return frequency storm over the undeveloped land altered site.

- (1) Direct non-detained release of runoff from a land alteration is required when the peak flow from the land alteration that is generated by the 50-year return frequency storm does not increase the peak flow generated by the 50-year return frequency storm over the entire watershed of the receiving drainage facility at the point of release by any amount greater than the runoff generated by a five-year return frequency storm over the undeveloped land altered site.
- (2) Compliance with the release limitations must be provided either by improving the capacity of the receiving drainage facility or by retaining/detaining the runoff and releasing the runoff at a lesser rate or a combination of both.
 - (a) If improving the capacity of the receiving drainage facility is to be done then the reconstruction shall extend from the point of connection to a point downstream where adequate capacity exists, or to a point along the downstream waterway where the total watershed area has increased by an amount equaling ten times the area of the land alteration. If the receiving drainage facility is not under some form of perpetual maintenance then such must be created through purchase of right-of-way, easement or regulated drain action by the county drainage board.
- (3) If the receiving drainage facility is a combination sewer then the maximum rate of release shall be limited to that portion of the sewer's capacity which represents the

ratio of the area of the land alteration to the area of the sewer's upper watershed from the point of the connection.

(C) *Protection upstream of a land alteration:* The drainage facilities constructed on a land altered site shall include provisions for accepting all drainage entering the site. Such provisions must have the capacity to accept the runoff generated by the 50-year return frequency storm over the present land use of the off site upper watershed areas. No excavations or fills shall block or otherwise impede the free drainage of surface water in a drainage way.

(D) *Protection on the land altered site:* It is not the intent of these minimum standards to intervene into the professional relationship between a practicing engineer and his client nor are they intended to guaranty the practicing engineer's performance in protecting the applicant's facilities. However, drainage facilities constructed on a land altered site shall:

- (1) Be durable, easily maintained and safe to persons;
- (2) Sufficiently sized to produce the results required of this chapter;
- (3) Retard sedimentation and erosion.

(E) *Subsurface drainage required:* Subsurface drainage shall be provided in areas where water table would cause undesirable wetness.
(Ord. No. 21-02, § 15, 6-3-02)

Sec. 164.16. Minimum standards for erosion and sediment control.

(A) *General requirements:* Land alterations shall be accomplished in accordance with standards found in this chapter and in accordance with regulations adopted by the board of public works and safety which are pertinent to these standards.

(B) *Protection of exposed areas:* Land alteration which strips the land of vegetation, including re-grading, shall be done in a way that will minimize erosion. Whenever feasible, natural vegetation shall be retained, protected and supplemented. Cut and fill operations shall be kept to a minimum to ensure conformity with existing to-

pography so as to create the least potential erosion. The duration of time which an area remains exposed shall be kept to a practical minimum. The area shall be stabilized as quickly as practical.

(C) *Protection during development:* Temporary vegetation or mulching shall be used to protect exposed areas during development.

(D) *Permanent vegetation:* Permanent and final vegetation or structural erosion-control devices shall be installed as soon as practical under the circumstances.

(E) *Sediment control:* Sediment in runoff water shall be trapped by the use of such methods as debris basins and silt traps until the disturbed area is stabilized.
(Ord. No. 21-02, § 16, 6-3-02)

Sec. 164.17. Procedure for promulgation of regulations.

(A) *Authorization:* The board shall adopt, amend or repeal regulations which more specifically deal with the subject matter of the standards found in this chapter. The provisions of such regulations shall be consistent with the standards of this chapter. Any conflict between this chapter and the regulations shall be reconciled in favor of the chapter.

(B) *Notice of hearing:* Before any regulation is adopted, amended or repealed by the board as authorized by this section, the board shall cause a notice to be published at least ten days prior to the date set for a public hearing. The notice shall include a statement of the time and place of the hearing, a reference to the general subject matter of the proposed regulations and reference to the fact that a copy of the proposed regulations is on file at the city engineer's office where it may be examined; however, no action with respect to a regulation shall be invalid because the reference to the subject matter thereof in such notice is insufficient.

(C) *Public hearing:* On the date set for hearing on a proposed regulation, any interested party shall be afforded an adequate opportunity to comment on the proposed regulation through the presentation of facts or arguments or the submis-

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sion of written materials. The proposed regulation may be amended at the hearing. All relevant matters presented shall be given full consideration by the board of works. All hearings shall be open to the public.

(D) *Publication of adopted regulations:* Adopted, amended or repealed regulations promulgated by the board shall be published according to Indiana State Statute publication requirements. Copies of all regulations and amendments thereto shall be on file in the city engineer's office.

(E) *Amendments:* After the initial adoption of the regulations, the board may amend the regulations in accordance with the procedure set forth in this chapter.

(F) *Title:* The regulations adopted by the board pursuant to this chapter shall be known as the General Drainage Standards and Regulations of the City of Muncie, Indiana.
(Ord. No. 21-02, § 17, 6-3-02)

Sec. 164.18. General Drainage Standards adopted by reference.

The General Drainage Standards shall mean the General Drainage Standards and Regulations of City of Muncie, Indiana, as promulgated by the board as set forth in this chapter. The General Drainage Standards and Regulations of the City of Muncie, Indiana, and all amendments thereto, are hereby adopted by reference and incorporated as a part of the Storm Drainage and Sediment Control Ordinance set forth herein.
(Ord. No. 21-02, § 18, 6-3-02)

REFERENCES TO ORDINANCES

Ord. No.	Date Passed	Code Sec.
22-95	7-10-95	Ch. 80, Sched. IV
23-95	7-10-95	Ch. 80, Sched. II, Pt. 2; Sched. XVI
24-95	7-10-95	Ch. 80, Sched. II, Pt. 2; Sched. III
25-95	7-10-95	Ch. 80, Sched. III
26-95	7-10-95	Ch. 80, Sched. IX; Sched. II, Pt. 2
27-95	7-10-95	Ch. 80, Sched. I
28-95	7-10-95	Ch. 80, Sched. V
29-95	7-10-95	Ch. 80, Sched. IV
30-95	7-10-95	Ch. 80, Sched. XVI
31-95	7-10-95	Ch. 80, Sched. VI
32-95	7-10-95	Ch. 80, Sched. VIII
33-95	7-10-95	Ch. 80, Sched. III
34-95	8- 7-95	Ch. 80, Sched. I
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