

**DEMOTTE ORDINANCE CODE OF 1995
UPDATED JANUARY 2011**

INDEX

1. GENERAL - INTERPRETIVE PROVISIONS.....	1
TITLE	1
CITATION.....	1
INTERPRETATION.....	1
RULES OF CONSTRUCTION	1
EFFECT OF AMENDMENT OR REPEAL	1
ERRORS AND OMISSIONS.....	2
ORDINANCES REPEALED	2
ORDINANCES UNAFFECTED	2
GENERAL PENALTY	2
2. ADMINISTRATIVE.....	3
TOWN COUNCIL.....	3
CLERK TREASURER	5
TOWN COURT	6
ORDINANCE VIOLATION PROCEDURES	8
TOWN MARSHALL.....	10
PARKS & RECREATION	12
TOWN EMPLOYEES	13
TOWN MANAGER	13
3. FINANCE	15
BUDGET	15
BONDS	15
PAYMENT OF CLAIM	16
CREDIT CARDS	16
4. TRAFFIC.....	18
SPEED LIMITS	19
OBSTRUCTIONS	21
ONE WAY STREETS.....	21
PENALTIES	22
STOP SIGNS	22
YIELD SIGNS	29
DEAD END SIGNS.....	29
ONE WAY SIGNS	29
PARKING.....	29
TOWN PARKING LOT	31
TRUCK PARKING	32
WEIGHT LIMITS	32
RAILROAD.....	33
ADDRESS NUMBERS	33
SIDEWALKS	33
PARADE	34
PUBLIC EVENT / FESTIVAL	38
GOLF CARTS	40

**DEMOTTE ORDINANCE CODE OF 1995
UPDATED JULY 2007**

INDEX

5.	COMMERCE	43
	CANVASSERS	43
	TRANSIENT MERCHANTS.....	45
	CABLE TV	47
6.	SEWER	57
	DEFINITIONS.....	57
	SANITARY DISPOSAL	62
	PRIVATE SEWERS.....	63
	PERMITS.....	64
	PROHIBITED DISCHARGE.....	65
	EQUIPMENT TAMPERING & TRESPASS.....	69
	INSPECTORS	69
	VIOLATION/PENALTIES	70
	REPEALER	70
	POLICY	71
	SEWER CONNECTIONS & SANITARY SEWERS.....	71
	SERVICE CHARGES	73
	ESTABLISHMENT OF FLOW	73
	INDUSTRIAL COST RECOVERY	75
	GENERAL PROVISIONS	76
	EFFECTIVE DATES	77
	VALIDITY	78
	OWNERS RESPONSIBILITY.....	78
	MUNICIPAL WASTE DISPOSAL	78
	FORMS.....	84
	SCHEDULE OF RATES.....	85
7.	ANIMALS & NUISANCES	88
	ANIMALS	88
	DOGS.....	90
	DOG LICENSE	90
	RABIES	93
	LIVESTOCK	94
	NUISANCES	94
	WEEDS.....	97
	BURN BAN.....	97
	CURFEW.....	99
	NOISE.....	100
	DAMAGE BY EXTREME SPORTS EQUIPMENT	103
	FIREWORK.....	104
	UNSAFE BUILDNG.....	104

**DEMOTTE ORDINANCE CODE OF 1995
UPDATED JULY 2007
INDEX**

8. PARKS	105
DEFINITION OF TERMS	105
NATURAL FEATURES	106
LITTERING.....	106
MOLESTING WILDLIFE, HUNTING, FISHING, FIRES	107
HOURS OF OPERATION	108
TRAFFIC	108
SWIMMING.....	109
SNOWMOBILES, SLEDDING, SKIING & SKATING	109
INDECENT CONDUCT	110
DISORDERLY CONDUCT	111
FIREARMS, WEAPONS, EXPLOSIVE, ETC	112
HOUSEHOLD PETS.....	112
ADVERTISING SIGNS PROHIBITED	112
COMMERICAL ENTERPRISES PROHIBITED	112
RENTAL FEE.....	113
PARK BOARD AND EMPLOYEES.....	113
PENALTIES	113

TITLE 1

GENERAL - INTERPRETIVE PROVISIONS

1.1 TITLE. All Ordinances herein revised, codified and rearranged shall be known and designated as the DeMotte Code of 1995.

1.2 CITATION. The DeMotte Code of 1995 may be referred to and cited as DeMotte Code, and may be referred to herein as The Code.

1.3 INTERPRETATION. Unless otherwise provided, by law or implication, construction of the DeMotte Code of 1995 shall be governed by the rules of interpretation of the Indiana Code.

1.4 RULES OF CONSTRUCTION. The construction of all Ordinances in the Town of DeMotte shall be by the following rules, unless the construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance.

1.4.1 Words and phrases shall be taken in their plain, ordinary, and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

1.4.2 As used in the Code, unless the context requires otherwise:

- a. The singular includes the plural, and the plural includes the singular.
- b. Words of one gender include the other gender.
- c. Words in the present tense include the future.

1.4.3 When an Ordinance requires an act to be done all is satisfied by the performance of such act by an authorized agent or deputy.

1.5 EFFECT OF AMENDMENT OR REPEAL.

1.5.1 The repeal of a repealing Ordinance does not revive the Ordinance originally repealed.

1.5.2 When a provision of the Code is repealed or amended, the repeal or amendment does not affect pending actions, prosecutions or proceedings, civil or criminal. When the repeal or amendment relates to the remedy, it does not affect pending actions, prosecutions, or proceedings, unless so expressed, nor does any repeal or amendment affect causes of the action, prosecution, or proceeding, existing at the time of the amendment or repeal, unless otherwise expressly provided in the amending or repealing law.

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

1.7 ORDINANCES REPEALED. This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior Ordinances pertaining to the subjects treated by this Code shall be deemed repealed from and after the effective date of this code of Ordinances.

1.8 ORDINANCES UNAFFECTED. All Ordinances of a temporary or special nature and all other Ordinances pertaining to subjects not enumerated and embraced in this code of Ordinances shall remain in full force and effect unless herein repealed expressly or by necessary implication.

1.9 GENERAL PENALTY. Where an act or omission is prohibited or declared unlawful in this code of Ordinances, and no penalty is otherwise provided, the offender shall be fined not more than one hundred dollars (\$100) for each offense or violation. A separate offense shall be deemed committed on each day that a violation occurs or continues.

TITLE 2
ADMINISTRATIVE

2.1 TOWN COUNCIL

2.1.1 TOWN COUNCIL, WARD, TERMS.

2.1.1.1 The Town Council shall be the Town Legislative Body. The President of the Town Council is the Town Executive.

- a. "Council" refers to the Town Council of the Town of DeMotte.
- b. "Town" refers to the Town of DeMotte.
- c. "Population" is defined by the 1990 U.S. Census.

2.1.1.2 The Council consists of five (5) members.

2.1.1.3 The members of the Council shall be elected at large by the voters of the whole Town in accordance with IC 36-5-2-5.

2.1.1.4 The Council divides the Town into the following districts for the purpose of conducting elections of Town Officers:

District 1: That part of the Town located North of the centerline of Division Street and West of the centerline of Orchid Street.

District 2: That part of the Town located South of the centerline of Division Street and North of the centerline of 8th Street and West of the centerline of Orchid Street.

District 3: That part of the Town located North of the centerline of 15th Street, South of the centerline of 8th Street and West of the centerline of Halleck Street.

District 4: That part of the Town located North of the centerline of 15th Street, South of the centerline of 8th Street, East of the centerline of Halleck Street, and West of the centerline of Orchid Street.

District 5: That part of the Town located South of the centerline of 15th Street, together with that part of the Town located East of the centerline of Orchid Street.

2.1.1.5 The Council shall adopt a map depicting the districts established under this Ordinance, and incorporates the map by reference into this Ordinance. Two (2) copies of this map are on file in the office of the Clerk Treasurer for public inspection as required by Indiana code 36-1-5-4 If a conflict exists between the districts as depicted on the map and has described in this ordinance, the description in this Ordinance prevails.

2.1.1.6 A member of the Town Council forfeits his office if he or she ceases to be a resident of the Town of DeMotte.

2.1.1.7 The Councilmen shall elect a President, Park Commissioner, Sewer Commissioner, Police Commissioner and Street Commissioner to report to the entire Board.

2.1.2 POWERS OF THE TOWN COUNCIL. The Town Council may:

- A. Adopt Ordinances and resolutions for the performance of functions of the Town;
- B. Purchase, hold, and convey any interest in real property for the use of the Town;
- C. Adopt and use a common seal; and
- D. Exercise all powers granted under I. C. Sec. 36-1-3-1 et seq.

2.1.3 QUORUM AND MAJORITY VOTES.

2.1.3.1 A majority of the members of the Town Council constitutes a quorum.

2.1.3.2 A requirement that an Ordinance, resolution or other action of the Town Council be passed by a majority vote means at least a majority vote of all the elected members.

2.1.3.3 A requirement that an Ordinance, resolution or other action of the Town Council be passed by a two-thirds (2/3) vote means at least a two-thirds (2/3) vote of all elected members.

2.1.3.4 A majority vote of the Town Council is required to pass an Ordinance, unless a greater vote is required by statute.

2.1.4 PASSAGE OF ORDINANCES AND RESOLUTIONS.

2.1.4.1 An Ordinance, resolution or other action passed by the Town Council is considered adopted when it is signed by the President of the Town Council.

2.1.4.2 If required by statute, an adopted Ordinance, resolution or other action must be published in accordance with statute.

2.1.4.3 A two-thirds (2/3) vote of all elected members of the Town Council after unanimous consent of members present to consider the Ordinance is required to pass an Ordinance on the same day or at the same meeting at which it is introduced.

2.1.5 COMPENSATION.

2.1.5.1 The Town Council shall, by Ordinance, fix the compensation of its own members, the Town Clerk-Treasurer, and the Town Marshal. The Town Council shall provide reasonable compensation for other Town officers and employees.

2.1.5.2 The compensation of an elected Town Officer may not be changed in the year for which it is fixed, nor may it be reduced below the amount fixed for the year 1980.

2.1.5.3 One to three days before the vacation leave period of a Town Officer or employee begins, the Town may pay him the amount of compensation he will earn while he is on vacation leave.

2.1.6 DELIVERY OF RECORDS TO SUCCESSOR. Each Town Officer shall deliver Town records and property in his custody to his successor in office when that successor qualifies.

2.1.7 POWERS OF PRESIDENT. The President of the Town Council may revoke or suspend any license issued by the Town if the person holding the license has violated the terms and conditions of the license or the law under which it was issued.

2.2 CLERK TREASURER.

2.2.1 The Clerk-Treasurer is both the Town Clerk and the Town Fiscal Officer.

2.2.2 The Clerk-Treasurer shall be elected by the voters of the whole Town.

2.2.3 The term of office of the Clerk-Treasurer is four (4) years, beginning at noon on January 1st after the election and continuing until a successor is elected and qualified.

2.2.4 OATHS AND ACKNOWLEDGMENTS. The Clerk-Treasurer may administer oaths, take depositions, and take acknowledgments of instruments required by statute to be acknowledged.

2.2.5 POWERS AND DUTIES. The Clerk-Treasurer shall:

2.2.5.1 Receive and care for all Town monies, and pay them out only on order of the Town legislative body.

2.2.5.2 Keep accounts showing when and from what sources he has received Town monies, and when and to whom he has paid out Town monies.

2.2.5.3 File each month with the legislative body a statement showing the receipts and disbursements of the Town treasury for the proceeding month and the balance remaining in each Town fund.

2.2.5.4 Keep his records open for inspection by the legislative body or a person appointed by the legislative body for that purpose.

2.2.5.5 Maintain custody of the Town seal and the records of the legislative body.

2.2.5.6 Issue all licenses authorized by Ordinance or statute.

2.2.5.7 Serve as clerk of the legislative body by attending its meetings and recording its proceedings.

2.2.5.8 Perform all other duties prescribed by law.

2.2.6 CLERK EX OFFICIO MEMBER OF TOWN COUNCIL.

2.2.6.1 The Town Clerk-Treasurer is the clerk of the legislative body.

2.2.6.2 Whenever the legislative body has an even number of members for any reason, the Clerk-Treasurer is an ex officio member for purpose of casting the deciding vote to break a tie.

2.2.7 RECORDING OF ORDINANCE. The Clerk-Treasurer shall record each Ordinance, resolution or other order in a book kept for that purpose.

2.2.7.1 The record must include:

- a. Signature of the President of the Town Council.
- b. Attestation of the Clerk-Treasurer.
- c. Passage date of each recorded item.

2.2.7.2 The record, or a certified copy of it, constitutes presumptive evidence of the adoption of each Ordinance, resolution or other order.

2.3 TOWN COURT. The DeMotte Town Court, established August 28 1978, shall continue in operation until it is abolished by Ordinance.

2.3.1 JURISDICTION. The DeMotte Town Court shall have the following jurisdiction:

2.3.1.1 All misdemeanors

2.3.1.2 All infractions

2.3.1.3 Exclusive jurisdiction of all violations of the Ordinances of the Town of

DeMotte.

2.3.2 POWERS AND DUTIES OF THE JUDGE.

2.3.2.1 The Judge of the DeMotte Town Court may adopt rules for conducting the business of the Court and shall have all powers incident to a court of record in relation to the attendance of witnesses, punishments of contempt, enforcement of orders, and issuing of commissions for taking depositions in cases pending in the DeMotte Town Court.

2.3.2.2 The Judge may administer oaths and give all necessary certificates for authentication of records and proceedings in the DeMotte Town Court.

2.3.2.3 The Judge may appoint a reputable practicing attorney to preside in his absence if he is temporarily absent or unable to act. The Judge pro tem shall have all the powers and rights and shall perform all the duties as fully as the regular Judge of the DeMotte Town Court.

2.3.3 ELECTION OF JUDGE, OATH AND BOND.

2.3.3.1 The Judge of the DeMotte Town Court shall be elected by the voters of the Town of DeMotte as prescribed by I.C. 3-2-7-1 et seq as amended.

2.3.3.2 Before beginning the duties of office, the Judge of the DeMotte Town Court shall take and subscribe the same oath of office as Judges of Circuit Courts.

2.3.3.2 Before beginning the duties of office, the Judge of the DeMotte Town Court shall, in the manner prescribed by I. C. 5-4-1-1 et seq, execute a bond payable to the Town of DeMotte in sum of five thousand dollars (\$5000.00), conditioned upon the faithful performance of the duties of his office with a good and sufficient surety. The bond must be approved by the Town Council of the Town of DeMotte and filed with the office of the Clerk-Treasurer of the Town of DeMotte.

2.3.4 SEAL. The Judge of the DeMotte Town Court shall provide, at the expense of the Town, a seal for the DeMotte Town Court containing on the face the words: "Town Court of DeMotte, Indiana".

A description of the seal, together with an impress of it, shall be put on the records of the Court.

2.3.5 NOT A COURT OF RECORD. The DeMotte Town Court is not a Court of Record.

2.3.6 PROSECUTION IN DEMOTTE TOWN COURT. The Town Attorney of the Town of DeMotte shall prosecute all cases of violations of the Ordinances of the Town of DeMotte and shall have no authority to prosecute violations of State Law.

2.3.7 COURT PERSONNEL, COMPENSATIONS.

2.3.7.1 The officers of the DeMotte Town Court are a Judge, a Clerk and a Bailiff.

2.3.7.2 The Clerk and Bailiff shall be appointed by the presiding Judge. The Bailiff must be a deputy marshal of the Town of DeMotte assigned to the Court by the Town Marshal.

2.3.7.3 The Judge and Clerk shall receive compensations that is ordained by the Town Council of the Town of DeMotte. The Bailiff shall serve without compensation.

2.3.8 SESSION. The Judge of the DeMotte Town Court shall hold sessions of the DeMotte Town Court as the business of the Court demands at the DeMotte Town Hall.

2.3.9 RULES OF PROCEDURE. The DeMotte Town Court shall be governed by the laws and rules governing the practice, and process in Circuit Courts and as provided by I.C. 33-10.1-5 et seq.

2.4 ORDINANCE VIOLATION PROCEDURE. The Town Manager or designated enforcement official or body, upon observation or notice of a violation of an Ordinance, may act to have the violation investigated and abated pursuant to the following provisions. Nothing in this section precludes the Town Attorney or County Attorney from conducting an investigation of the alleged violation and subsequently filing a complaint against the person pursuant to IC 34-4-32 et seq. and DeMotte Ordinance 2-1-6-7.

2.4.1 WARNING NOTICE. Upon observation or notice that an Ordinance violation exists, or upon receipt of facts alleging that a situation exists which may be a violation of a Town Ordinance, the Town Council, or any designated official or body may issue a warning notice to the person, firm, corporation, or business entity believed to be in violation of the Ordinance. The Warning Notice shall contain the following information:

2.4.1.1 Name of person or entity in violation of the Ordinance.

2.4.1.2 Situation or activity constituting the Ordinance violation.

2.4.1.3 Section of the Ordinance violated.

2.4.1.4 Date by which Ordinance violations must be abated or corrected.

2.4.1.5 Statement that the warning notice may be appealed to the Town Council within fifteen (15) days of receipt of the warning notice if the alleged violator believes or can prove that the situation or activity is not a violation of the Ordinance.

2.4.1.6 Any person or entity receiving a warning notice shall abate or correct the situation or activity in violation of the Ordinance within the prescribed time period. Upon failure to confirm to the Ordinance within the prescribed time period, the Town Council, or any designated enforcement official or body, may issue notice to show cause.

2.4.2 NOTICE TO SHOW CAUSE. If, after the issuance of a warning notice, the Ordinance violation has not been abated or corrected within the prescribed time period, the Town Council or any designated enforcement official or body may issue a Notice to Show Cause. The Notice to Show Cause shall contain the following information:

2.4.2.1 Name of person or entity in violation of the Ordinance.

2.4.2.2 Copy of the previously issued warning notice.

2.4.2.3 Statement that the Town Council will conduct an inquiry of the violation at its next regularly scheduled public meeting.

2.4.2.4 Statement of the date, time and place of the Town Council's next regularly scheduled public meeting.

The Notice to Show Cause shall be mailed or delivered to the violator not less than ten (10) days prior to the public meeting during which time the Town Council will conduct an inquiry of the violation. The Notice to Show Cause shall serve as the violator's notice that the violation inquiry will be conducted and no other notice of the meeting need be given to the violator. If the Ordinance violation is not corrected or abated prior to the public meeting at which the Town Council is to discuss the Ordinance violation, then the Town Council may conduct an inquiry to the Ordinance violation pursuant to 2-1-6-14.

2.4.3 PUBLIC MEETING INQUIRY. The Town Attorney or County Attorney shall direct the scope of the inquiry, shall present comments, and shall generally conduct the presentation of the inquiry. The violator may appear in person, or if the violator is a corporation or business entity, then by an authorized representative. Only those other persons invited by the Town Council to give comment relative to the Ordinance violation may do so.

After hearing the comments of the interested parties, the Town Council shall make specific finding of fact, which shall state:

2.4.3.1 Whether a proper warning notice was issued.

2.4.3.2 Whether a proper notice to show cause was issued.

2.4.3.3 Whether the alleged violation constitutes an Ordinance violation and, if so, the Ordinance being violated.

2.4.3.4 Whether the violation constitutes a nuisance under the Ordinance.

2.4.3.5 Whether the occurrence is a repeat violation.

2.4.3.6 The date by which corrective action shall be taken to abate the violation if the Town Council determines that special circumstances exist for further opportunity for the violator to take corrective action.

2.4.3.7 The amount of the fine that will be imposed on the violator if the corrective action is not taken within the time limit prescribed by the Town Council.

The fine, which may be imposed and collected by the Town Council, shall be determined in accordance with the guidelines set forth in 2-1-6-15. If the violation is not corrected or abated within the time period set by the Town Council at its inquiry of the violation, the Town Council or any designated enforcement official or body may take any action prescribed by statute including a request for a mandatory injunction to abate the declared nuisance. The Town Council or any designated enforcement officer may also issue a citation of non-compliance pursuant to 2-1-6-16.

2.4.4 ORDINANCE VIOLATION FINES. Any person, corporation or business entity found in violation of the terms of this Ordinance may be fined not more than One Hundred Dollars (\$100.00) for the first violation. Any person, corporation, or business entity found in violation of this Ordinance within one year following a prior Ordinance violation by the same person, corporation, or business entity may be fined not more than Two Hundred Fifty Dollars (\$250.00). Any person, corporation or business entity found in violation of this Ordinance within one year following two Ordinance Violations by the same person, corporation or business entity may be fined not more than Five Hundred Dollars (\$500.00). Violations within one year after the third violation shall be treated in the same manner provided for a third violation. Each day that a violation continues shall be considered a separate and distinct violation.

2.4.5 CITATION FOR NON-COMPLIANCE AND CONTINUING ORDINANCE VIOLATIONS. If the violation is not corrected or abated or the fine imposed by the Town Council remains unpaid, the Town Council will refer the matter to the Town Attorney for prosecution in accordance with I.C. 34-4-32 et. seq. and DeMotte Ordinance 2-1-6-7.

2.5 MARSHAL. The Town Council of the Town of DeMotte shall appoint a Town Marshal.

The Town Marshal serves at the pleasure of the Town Council, of the Town of DeMotte. Provided however, before terminating or suspending a Marshal who has been employed by the Town for more than six (6) months after completing training required by I. C. 5-2-1-9, the Town Council, of the Town of DeMotte must conduct the disciplinary removal and appeals procedure prescribed by I.C. 36-8-1-1 et. seq.

2.5.1 POWERS AND DUTIES.

2.5.1.1 The Marshal is the chief police officer of the Town and has the power of other law enforcement officers in executing the laws.

2.5.1.2 The Marshal or his deputy:

- a. Shall serve all process directed to him by the DeMotte Town Court or the Town Council.
- b. Shall arrest without process all persons who commit an offense within his view, take them before a court having jurisdiction and detain them in custody until the cause of the arrest has been investigated.
- c. Shall suppress breaches of the peace.
- d. May, if necessary, call the power of the Town to his aid.
- e. May execute search warrants and arrest warrants.
- f. May pursue and jail persons who commit an offense.

2.5.2 DEPUTY MARSHALS APPOINTMENT, POWERS, COMPENSATION AND TERM.

2.5.2.1 The Town Council of the Town of DeMotte may authorize and appoint up to four (4) Deputy Marshals to serve as directed by the Town Marshal.

2.5.2.2 Deputy Marshals shall have the powers and liabilities of the Town Marshal in executing the orders of the legislative body or enforcing laws.

2.5.2.3 The Town Council shall fix the amount of compensation each Deputy Marshal will receive.

2.5.2.4 The Town Marshal may dismiss a deputy at any time. Provided however, a Deputy Marshal who has been employed by the Town of DeMotte for more than six (6) months after completing training required by I.C. 5-2-1-9, the Town Council for the Town of DeMotte must conduct the disciplinary removal and appeals procedure prescribed by I.C. 36-8-1-1 et. seq.

7.12.1 ASSISTANT TOWN MARSHALL

7.12.1.1 The office of Assistant Town Marshall has been established.

7.12.1.2 Assistant Town Marshall shall be second in command of the Town Police Department.

7.12.1.3 The Assistant Town Marshall shall be selected form the roll of Deputy Town Marshall.

7.12.1.4 Because an emergency exists requiring the immediate appointment of the Assistant Town Marshall, the Police Commissioner shall appoint an acting Assistant Town Marshall to serve until an Assistant Town Marshall may be selected. Said acting Assistant Town Marshall shall serve only until the Assistant Town Marshal is selected, hired, and sworn-in; in no case more than sixty (60) days.

2.5.4 VEHICLE INSPECTION FEES.

2.5.3.1 There is hereby established a Vehicle Inspection Fee to be collected by the DeMotte Police Department in the amount of five dollars (\$5.00) for each vehicle inspected.

2.5.3.2 The revenue from said inspection fees shall be deposited in a special Vehicle Inspection Fund.

2.5.3.3 Money collected in said Vehicle Inspection Fund must be appropriated only for Law Enforcement purposes.

2.6 DEPARTMENT OF PARKS AND RECREATION. Under the provisions of I.C. 36-10-3 there is hereby created a Town Department of Parks and Recreation.

2.6.1 PARK AND RECREATION BOARD. The Park and Recreation Board shall be composed of: Four (4) members appointed by the President of the Town Council on the basis of their interest in and knowledge of park and recreation. No more than two (2) members shall be of the same political party.

2.6.2 Upon establishment of the board, the terms initially appointed shall be:

One member for a term of one year.

One member for a term of two years.

One member for a term of three years.

One member for a term of four years.

As a term expires, each new appointment shall be made by the President of the Town Council for a term of four (4) years. All terms expire on the first Monday in January, but a member shall continue in office until his successor is appointed. If an appointment for a new term is not made by the President of the Town Council by the first Monday in April, the incumbent shall serve another term. If a vacancy occurs, the President of the Town Council shall appoint a new member for the remainder of the unexpired term.

2.6.3 At its first regular meeting in each year, the Park Board shall elect a president and vice-president, the vice-president shall have authority to act as the president of the Board during the absence or disability of the president. The Board may select a secretary from within or without its own membership.

2.6.4 The Park Board shall have the power to perform all acts necessary to acquire and develop sites and facilities and to conduct such programs as are generally understood to be park and recreation functions. In addition, the Board shall have all the powers listed in I.C. 36-10-3 et. seq.

2.6.5 The Park Board shall prepare and submit an annual budget in the same manner as

other departments of Town Government as prescribed by the State Board of Accounts. The Board may accept gifts, donations, and subsidies for park and recreation purposes.

2.7 TOWN EMPLOYEES. All permanent part-time or full-time employees shall be interviewed and hired by the Town Council of the Town of DeMotte. The quorum necessary to conduct ordinary Town business is required to hire any permanent full-time or part-time employees.

2.7.1 All non-permanent part-time or full-time employee shall be interviewed and hired by the Town Council of the Town of DeMotte. The quorum necessary to conduct ordinary Town business is required to hire any non-permanent part-time or full-time employees.

2.7.2 Emergency employees may be hired for the Street Department, Sewer Department and the Parks Department without consultation.

2.7.3 The Town of DeMotte will be an equal opportunity employer.

2.7.4 Definitions:

a. *Permanent*, a permanent employee is one hired to fill a job description with an intended duration of more than six (6) months.

b. *Non-Permanent*, a non-permanent employee is one hired to fill a job description of less than six (6) months.

c. *Full-time*, a full-time employee is one whose job description requires a minimum of 30 hours for the Town of DeMotte.

d. *Part-time*, a part-time employee is one whose job description requires less than 30 hours per week for the Town of DeMotte.

e. *Emergency*, an emergency employee is one hired on a non-recurring basis for a duration of less than 40 hours in connection with natural disasters, acts of God and other unforeseeable occurrences.

2.8 TOWN MANAGER.

2.8.1 A Town Manager shall be employed by the Town of DeMotte.

2.8.2 Said Town Manager shall serve at the pleasure of the Town Council.

2.8.3 The Town Manager, under the direction of the Town Council, shall be responsible for the administrative duties as assigned by the Town Council. Unless a written order or Ordinance of the Town Council provides otherwise, the Town Manager;

2.8.3.1 Shall attend the meetings of the Town Council and provide information pertinent to the operation of the Town;

2.8.3.2 Shall administer and enforce all Ordinances, orders and resolutions of the Town Council;

2.8.3.3 Shall oversee contracts on behalf of the Town Council for materials, supplies, services or improvements, after the completion of the appropriations, notices and competitive bidding required by statute;

2.8.3.4 Shall prepare billings and initiate collection of accounts; prepare notices for delinquent accounts and other duties as assigned by the Commissioners;

2.8.3.5 Actively seek grants and funds from State and Federal level by preparing applications and forms;

2.8.3.6 Shall keep the official calendar showing all opening and closing dates, special events, and rentals;

2.8.3.7 Shall distribute all applications;

2.8.3.8 Shall inform Council Members, Commissioners, and employees of items requiring attention;

2.8.3.9 Shall do assigned recording keeping and filing of Park Board, Sewer, and Street Department business; and,

2.8.3.10 Prepare minutes and agendas for Park Board;

2.8.4 PLANNING COMMISSION RESPONSIBILITIES.

2.8.4.1 Shall distribute applications and assist applicants for building permits variances, special exceptions, and zoning changes, etc.

2.8.4.2 Shall answer basic question regarding Zoning ordinances;

2.8.4.3 Shall perform all duties and responsibilities of the Building Commissioner as outlined in Ordinances No. 2-15-88-2 and 5-20-91-1; (Ord. 6-15-98-1)

2.8.4.4 Shall prepare minutes and agendas for Planning Commission and Board of Zoning Appeals; and,

2.8.4.5 Shall do all record keeping and filing of Planning Commission and Board of Zoning Appeals business.

2.8.5 The Town Manager shall be paid a salary as set by the Town Council plus fringe benefits such as mileage, reimbursements for travel expense, medical insurance, paid vacations, sick days, retirement, and such other fringe benefits as may be set and fixed by the Town Council of the Town of DeMotte.

Enacted as Ordinance No. 21901-1 on February 19, 2001.

TITLE 3

FINANCE

3.1 PREPARATION OF BUDGET ESTIMATES. Before the publication of notice of budget estimates required by I.C. 6-1.1-17-3, the Town shall formulate a budget estimate for the ensuing budget year in the following manner, unless it provides by Ordinance for a different manner.

- a. Each department head shall prepare for his department an estimate of the amount of money required for the ensuing budget year, stating in detail each category and item of expenditure he anticipates.
- b. The Clerk-Treasurer shall prepare an itemized estimate of revenues available for the ensuing budget year, and shall prepare an itemized estimate of expenditures for other purposes above the money proposed to be used by the department.
- c. The President of the Town Council shall meet with the department heads and the Clerk-Treasurer to review and revise their various estimates.
- d. After the President of the Town Council review and revision, the Clerk-Treasurer shall prepare for the President of the Town Council a report of the estimated department budgets, miscellaneous expenses, and revenues necessary or available to finance the estimates.

3.1.1 The Clerk-Treasurer shall present the report of budget estimates to the Town Council under I.C. 6-1.1-17-1 through 6-1.1-17-19. After reviewing the report, the Town Council shall prepare an Ordinance fixing the rate of taxation for the ensuing budget year and an Ordinance making appropriations for the estimated department budgets and other town purposes during the ensuing budget year. The Town Council, in the appropriation Ordinance, may change any estimated item from the figures submitted in the report of the Clerk-Treasurer. The Town Council shall promptly act on the appropriation Ordinance.

3.1.2 After the passing of the appropriation Ordinance, the Town Council may make further or additional appropriations by Ordinance, unless their result is to increase the tax levy set under I.C. 6-1.1-17-1 through 6-1.1-17-29. The Town Council may, by Ordinance, decree any appropriations set by Ordinance.

3.2 ISSUANCE AND SALE OF BONDS.

3.2.1 The Town Council may issue bonds for the purpose of procuring money to be used in the exercise of the powers of the Town and for the payment of Town debts. However, a Town may not issue bonds to procure money to pay current expenses.

3.2.2 Bonds issued under this section are payable in the amounts and at the times determined by the Town Council.

3.2.3 Bonds issued under this section are subject to provisions of I.C. 5-1-1-1 through 5-1-14-2 and I.C. 6-1.1-20-9 relating to the following petition requesting they read the

issuance of bonds and giving notice of the petition, the giving of notice of a hearing on the appropriation of the proceeds of bonds, the right of taxpayers to appear and be heard on the proposed appropriation, the approval of the appropriation by the State Board of Tax Commissioners, the right of taxpayers to remonstrate against the issuance of bonds, and the sale of bonds at public sale for not less than they are per value.

3.3 PAYMENT OF CLAIMS

3.3.1 Unless a statute provides otherwise, Town monies may be dispersed only after an appropriation made by Ordinance of the Town Council and recorded in a book kept for that purpose by the Town Council. Each appropriation must be made from the fund against which the expense arose.

3.3.2 The Town Council or any other Board of the Town may order the issuance of warrants for payment of money by the Town only at a meeting of the Town Council or such other Board.

3.3.3 The Town Council or any other Board of the Town may allow a claim:

- a. Only at a meeting of the Town Council or such other Board; and
- b. Only if the claim was filed in the manner prescribed by I.C. 5-11-10-2 at least five (5) days before the meeting.
- c. A warrant for payment of a claim against the Town may be issued only if the claim is:
 1. Itemized and certified under I.C. 5-11-10-1; and
 2. Filed with the Clerk-Treasurer; and
 3. Allowed by the Town Council or by the Town having jurisdiction over the allowance of the claim.

3.3.4 Credit Cards

- a. Credit card issuance
 1. The Clerk-Treasurer is hereby authorized to make application for credit cards for use by town officials and employees for official town business limited to travel and education expenses and public purchases.
 2. Credit cards issued for travel and education expenses shall have a maximum limit of \$500.
 3. Credit cards issued for public purchases shall have a maximum limit of \$5,000.
- b. Credit card use policies and procedures
 1. When not in use, the credit cards shall be secured in the office of the

Clerk-Treasurer.

2. Upon request by a town official or employee, the Clerk-Treasurer or Clerk-Treasurer designee shall issue the credit card for use and shall keep a record showing the name and position of the individual requesting use of the card, date of issuance, date of return and purpose of use.

3. Town officials and employees shall use credit cards for the purpose of town travel and educational expenses limited to the following:

- a. Hotel or motel room
- b. Hotel or motel room charges for telephone calls pertaining to town business
- c. Meals, including a maximum twenty percent (20%) gratuity
- d. Fees or costs associated with attending schools, conventions, seminars and the like.
- e. Gasoline, if using a town-owned vehicle
- f. Excluded charges include alcoholic beverages, room service, in-room movies, non-business telephone calls, except for one daily telephone call to the home of the town official or employee, and cash advances.

4. Town officials and employees shall use credit cards for the purpose of town public purchases limited to the following:

- a. Supplies
- b. Materials
- c. Small tools and minor equipment

5. Accounts payable voucher (claims) files in connection with the use of credit cards shall be submitted to the Clerk-Treasurer for processing within 72 hours of use and shall be properly itemized and documented as provided in I.C. 5-11-10 before approved and paid. The credit card account will be paid in full every billing cycle. Improperly itemized and documented items as well as all interest, carrying charges or penalties shall be the personal responsibility of the individual user. (05262009-1)

TITLE 4

TRAFFIC

4.1 DEFINITIONS. The following terms as used in this Title shall have the following meaning:

- a. *VEHICLE* - Every device, in, upon, or by which any person or property is or may be transported or drawn upon a street or highway publicly maintained except devices moving by human power or used exclusively upon stationary rails or tracks.
- b. *STREET* - The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. Provided, however, same shall not include State highways.
- c. *ENGINEER* - Shall be the engineer or other person having direct control over the speed of a railroad train.
- d. *RAILROAD TRAIN* - Shall mean any railroad engine alone or connected to any railroad cars.
- e. *RAILROAD CROSSING* - Shall mean any intersection by railroad track with any public highway or public road.

4.2 SPEED LIMITATIONS

4.2.1 STREETS. Unless otherwise provided by Section 4-2-1-4 herein, it shall be unlawful to drive any vehicle on any street within the Town of DeMotte, Indiana, in excess of twenty miles per hour (20 M.P.H) except the following streets on which no vehicle shall be driven in excess of thirty-five miles per hour (35 M.P.H.), to wit: Eighth Street S.E. between County Road 700 West and Forsythia Street; Division Street; Eighth Avenue NE, Fifteenth Avenue; Orchid Street.

4.2.2 ALLEYS. It shall be unlawful to drive any vehicle on any alley within the limits of the Town of DeMotte, Indiana, in excess of twenty miles per hour (20 M.P.H.).

4.2.3 REASONABLE SPEED. The fact that the speed of a vehicle does not exceed the applicable maximum speed limit does not relieve the driver from the duty to decrease speed when approaching and crossing an intersection, when approaching and going around a curve, when approaching a hillcrest, when traveling upon any narrow or winding street or when special hazards exist with respect to pedestrian or other traffic by reason of weather or street conditions; and speeds shall be decreased as may be necessary to avoid colliding with any person or vehicle on or entering the street in compliance with legal requirements and the duty of all persons to use due care.

4.2.4 SPEED. Speed limits are hereby fixed as follows and signs complying with Indiana Traffic Laws shall be installed on each location herein listed.

SPEED LIMIT SIGNS

10th St. S. from Halleck to Begonia S.E. (Not Posted)

10th St. SW from school parking lot to Elm S.W.-20mph

11th St. from Hickory St. to City Limits - 20 mph (ORD 101695-1)

11th St. SW - Dead End (Not Posted)

12th St. S.E. from Begonia St. S.E. to Carnation St. S.E. (Not Posted)

1350 to East City Limits - 35 mph

1400 N. from Halleck to City Limits - 35 mph

15th Pl. SW from Almond St. to the End (Not Posted)

15th St. SE from Halleck St. to Eastern Town Limits - 35 mph

15th St SW from Halleck St. to Western Town Limits – 25 mph

16th Pl. SW from Almond St. to the End (Not Posted)

16th S.E. Dead End - 20mph

2nd Ave. NE from Carnation NE to Begonia NE (Not Posted)

2nd Ave. NW from Golden Rain to Dogwood (Not Posted)

3rd Ave. NE from Halleck to Carnation NE - 20mph

3rd Ave. NW from Halleck to Golden Rain NW (Not Posted)

3rd Pl. SW from Halleck to Almond (Not Posted)

4th Ave. NW from Hickory to Dogwood (Not Posted)

5th Ave. N. from Halleck going East to Dead End (Bowling Alley) (Not Posted)

5th St. SW from Cedar to Halleck - 20 mph

6th Ave. NW from Halleck to Cedar St. NW - 20 mph

6th St. SW from Halleck to Cedar - 20 mph

6th St. S. from Halleck to Azalea St. S.E.

7th St. S.E. from Azalea St. S.E. to Halleck
7th St. SW from Halleck to Birch - 20 mph
8th Ave. NW from Halleck to Town Limits - 25 mph
8th St. S. from Halleck -20-30 mph at Carnation
8th St. S.E. from Halleck to Carnation S.E.- 20 mph
9th Ave. N. from Halleck to Dogwood NW - 20 mph around bend to 8thAveNW
9th St. SW from Birch to Hickory - 35 mph
9th St. SW from Halleck to Birch - 30 mph
9th St. SW from Halleck to Hickory - 20 mph (ORD 101695-1)
Almond St. NW from 3rd Ave. NW to 8th Ave. NW (Not Posted)
Almond St. S.E. from 15th St. W. to End (Not Posted)
Almond SW from 5th to Division St. - 20 mph
Almond SW from 5th to 7th - 20 mph
Azalea St. S.E. from 6th St. S. to 7th S.E.
Azalea St. S.E. from 8th St. S.E. to Dead End - 20 mph
Begonia St. S.E. from 8th St. S.E. to 231 - 20mph
Birch St. NW. from 3rd Ave. - 20 mph (ORD 91994-1)
Birch SW 20mph from 1200 - 9th St.
Birch SW from 7th to 5th - 20 mph
Birch SW from 9th to 7th - 20 mph
Carnation NE from Division St. to 3rd Ave. NE (Not Posted)
Carnation S.E. from 8th St. S.E. to 9th St. S.E.-20 mph around bend back to Halleck (Not Posted)
Carnation St. S.E. from 8th S. to Dead End - 20 mph
Castillian E. from 700 -City Limits - 20mph
Cedar St. NW from 3rd Ave. NW to Cedar - Dead End

Cedar St. SW from 6th to 5th - 20 mph

Cedar SW Dead End - 20 mph from 1200

Daisy St. from 8th St. to 5th St. - 20 mph

Division St. East from Halleck - 25 mph to Tyler ditch; 35 mph from Tyler Ditch to 700 W. (Orchid St.)

Division St. West from Halleck - 25 mph to Hickory St.; to Town Limits (ORD 022607-3)

Dogwood from 10th SW to 9th (Not Posted)

Dogwood NW from 4th Ave. to 3rd (Not Posted)

Dogwood NW from Division St. W. to 3rd Ave. N.W. 20mph

Elderberry St. SE from 8th St SE. to Division - 20 mph

Elm St. from 10th St. to the End (Not Posted)

Forsythia S.E. from 231 to Dead End (Not Posted)

Forsythia St. S.E. from 8th St. S.E. to Division.-20 mph

Gardenia St. from Forsythia St. to 5th St. - 20 mph

Golden Rain NW from Division St. W. to 4th Ave. NW 20mph

Hickory NW from Division St. W. to 4th Ave. NW (Not Posted)

Hickory St. from 9th St. to 11th St. - 20 mph (ORD 101695-1)

Hickory SW - 20 mph 2 signs

Ironwood S.E. - 20 mph 1 sign 20 mph

Juniper St. from 17th St. to 21st St. (Not Posted)

Orchid St. from 15th St. to Town Limits - 35 mph

4.3 OBSTRUCTION. No vehicle shall be operated or allowed to remain upon the street in such a manner as to form an unreasonable obstruction to the traffic thereon.

4.4 ONE WAY STREETS. The North one hundred fifty (150) feet of the alley between Halleck Street and Azalea Street, S.E., bounded by 8th Place and 9th Street S.E. shall be one way northbound.

Third Ave. NW: the North parkway shall be one-way Westbound between Dogwood and

Golden Rain Street. The South Parkway shall be one way Eastbound between Dogwood and Golden Rain Street.

4.5 PENALTIES. Any person violating any provisions of this Title shall be fined in an amount of not more than \$100.00 for each violation.

4.6 STOP SIGNS. Stop signs constructed and installed in conformance with the Indiana Manual on Uniform Traffic Control Devices and the Indiana Motor Vehicle Code, I.C. 9-1-1-1 et. seq. shall be located at the following places:

- 10th Place SW at Hickory (ORD 111297-1)
- 10th St at Carnation SE (Eastbound) (ORD. 122710-1)
- 10th St SE at Begonia St (Westbound & Eastbound)
- 10th St SE at Halleck St (Westbound)
- 10th St SW at Birch St (Eastbound & Westbound)
- 10th St SW at Dogwood St (Northbound & Southbound) (ORD 62199-1)
- 11th Circle at Carnation SE (Westbound) (ORD. 122710-1)
- 11th Pl at Hickory SW (Westbound) (ORD. 122710-1)
- 11th St at Birch SW (Eastbound) (ORD. 122710-1)
- 12th Pl at Hickory SW (Westbound) (ORD. 122710-1)
- 12th St SE at Begonia St (Westbound)
- 12th St SE at Carnation SE (Northbound & Southbound)
- 14th St SE at Forsythia St (Westbound) (ORD 81798-1)
- 15th Ave NE at Halleck St (Westbound)
- 15th Ave NW at Halleck St (Eastbound)
- 15th Pl SW at Almond St (Westbound) (ORD 21698-1)
- 15th St SE at Azalea St (Eastbound)
- 15th St SE at Begonia St (Southbound)
- 15th St SE at Orchid St (Southbound & Northbound)
- 15th St SW at Almond St (Northbound)
- 15th St SW at Birch St (Southbound)
- 15th St SW at Cedar St (Southbound)
- 15th St SW at Ironwood St (Northbound)

16th Pl SW at Almond St (Westbound) (ORD. 21698-1)
16th St at Elderberry St SE (Eastbound) (ORD. 022607-1)
16th St SW at Halleck St (Westbound)
17th St at Daisy St SE (Westbound, Northbound & Southbound) (ORD. 022607-1)
17th St at Elderberry Circle SE, East Branch (Northbound) (ORD. 022607-1)
17th St SW at Juniper St (Northbound)
18th St at Forsythia SE (Westbound) (ORD. 122710-1)
19th St SW at Hickory St (Eastbound)
21st St SW at Juniper St (Southbound)
2nd Ave NE at Carnation St (Eastbound)
2nd Ave NW at Dogwood St (Eastbound)
2nd Ave NW at Golden Rain St (Westbound)
3rd Ave NE at Begonia St (Northbound)
3rd Ave NE at Halleck St (Westbound)
3rd Ave NW at Almond St (Northbound & Southbound)
3rd Ave NW at Birch St (Southbound)
3rd Ave NW at Cedar St (Southbound)
3rd Ave NW at Dogwood St (Northbound & Southbound)
3rd Ave NW at Golden Rain (Westbound)
3rd Ave NW at Halleck St (Eastbound)
3rd St SW at Almond St (Eastbound & Westbound)
3rd St SW at Halleck St (Eastbound)
3rd St SW at Ironwood St SW (Westbound) (ORD 051605-1)
4th Ave NW at Dogwood St (Eastbound)
4th Ave NW at Golden Rain Ct (Northbound & Southbond) (ORD. 72098-3)
4th Ave NW at Hickory St NW (Westbound, Northbound & Southbound) (ORD. 92099-2)
4th Ct SE at Forsythia St SE (Eastbound & Westbound) (ORD. 122710-1)
5th Ave at a point sixty (60) feet East of the centerline of Halleck St (Northbound traffic onto 5th Ave.)
5th Ave at Halleck (Westbound) (ORD. 122710-1)
5th St SW at Almond St (Northbound & Southbound)

5th St SW at Birch St (Northbound)
5th St SW at Cedar St (Northbound)
5th St SW at Elderberry St (Northbound)
5th St SW at Forsythia St (Northbound)
5th St SW at Halleck St (Eastbound)
6th Ave NW at Birch St (Northbound & Southbound)
6th Ave NW at Cedar St (Northbound & Southbound)
6th Ave NW at Dogwood Ct (Northbound) (ORD. 112194-2)
6th Ave NW at Elm Ct NW (Northbound) (ORD. 102196-1)
6th Ave NW at Fir Ct NW (Northbound) (ORD. 102196-1)
6th Ave NW at Golden Rain Ct (Northbound) (ORD. 112194-2)
6th Ave NW at Halleck St (Eastbound)
6th Ave NW at Hickory St NW (Eastbound) (ORD. 12808-1)
6th Ave NW at Hickory St NW (Westbound) (ORD. 102196-1)
6th St SE at Halleck St (Westbound)
6th St SW at Golden Rain Ct SW (Southbound) (ORD. 82001-2)
6th St SW at Halleck St (Eastbound)
7th St SE at Halleck St (Westbound)
7th St SW at Almond St (Southbound)
7th St SW at Cedar (Southbound)
7th St SW at Dogwood Ct (Northbound) (ORD. 102196-1)
7th St SW at Dogwood St (Southbound) (ORD. 42296-1)
7th St SW at Elm Ct (Northbound) (ORD. 102196-1)
7th St SW at Elm St (Southbound) (ORD. 42296-1)
7th St SW at Fir St SW (Southbound) (ORD. 82001-2)
7th St SW at Halleck St (Eastbound)
8th Ave NE at Halleck St (Westbound)
8th Ave NW at Almond St NW
8th Ave NW at Dogwood St NW (Southbound, Eastbound & Westbound) (ORD. 51799-1)
8th Ave NW at Halleck St (Eastbound)

8th Ave NW at Hickory St NW (Northbound) (ORD. 112194-2)
8th Pl at Halleck (Westbound) (ORD. 122710-1)
8th Pl SE at Azalea St (Northbound)
8th Pl SE at Begonia St (Northbound)
8th St SE at Begonia St (Southbound)
8th St SE at Carnation St (Southbound)
8th St SE at Daisy St (Southbound)
8th St SE at Elderberry St (Southbound)
8th St SE at Forsythia St (Southbound)
8th St SE at Halleck St (Westbound)
8th St SE at Orchid St (Eastbound & Westbound)
8th St SW at Halleck St (Eastbound)
9th Ave NW at Dogwood (Westbound)
9th Ave NW at Halleck St (Eastbound)
9th Circle at Carnation SE (Westbound) (ORD. 122710-1)
9th St SE at Azalea St (Northbound & Southbound) (two (2) stop signs)
9th St SW at Almond St (Southbound)
9th St SW at Dogwood (Northbound)
Alley at 8th Pl (Northbound) (ORD. 122710-1)
Almond NW at 6th Ave (All way stop) (ORD. 122710-1)
Almond St SW at 6th St SW (All way stop) (ORD. 121602-2)
Azalea St SE at 10th St SE (All way stop)
Begonia St at 9th St SE (All way stop) (ORD. 112194-2)
Birch St at 6th St SW (All way stop) (ORD. 52002-1)
Birch St at 7th St SW (All way stop) (ORD. 42296-1)
Birch St SW at 9th St (All way stop)
Carnation St at 3rd Ave NE (Southbound) (ORD. 062606-1)
Carnation St SE at 12th St SE (All way stop) (ORD 112194-2)
Carnation St SE at 9th St SE (All way stop) (ORD. 111797-1)
Cedar St SW at 6th St SW (All way stop) (ORD. 112194-2)

Daisy at 11th Circle SE (Northbound) (ORD. 122710-1)
Daisy Circle NE at 8th Ave NE (Southbound) (ORD. 051605-1)
Daisy Circle NE at Daisy Circle NE (Westbound) (ORD. 051605-1)
Daisy St at 12th St SE (Eastbound) (ORD. 21698-1)
Division St E at Carnation St NE (Northbound & Southbound)
Division St E at Halleck St (Traffic light)
Division St E at Orchid St (All way stop)
Division St NW at Dogwood St (Southbound)
Division St NW at Golden Rain St (Southbound)
Division St NW at Halleck St (Eastbound & Westbound)
Division St NW at Hickory St (Southbound)
Division St W at Almond St SW (Northbound)
Dogwood St at 6th Ave NW (Southbound) (ORD. 072406-1)
Dogwood St at 6th St SW (All way stop) (ORD. 42296-1)
Dogwood St at 8th Ave NW (Northbound) (ORD. 072406-1)
Dogwood St NW at 6th Ave NW (All way stop) (ORD. 102196-1)
Elderberry at 15th St SE (Northbound) (ORD. 122710-1)
Elderberry Circle SE at 17th St SE (All way stop) (ORD. 122710-1)
Elderberry Circle SE at 17th St, West Branch (All way stop) (ORD. 022607-1)
Elderberry St SE at Division St (Northbound) (ORD. 122710-1)
Elm St at 6th St SW (All way stop) (ORD. 42296-1)
Fir St SW at 6th St SW (All way stop) (ORD. 82001-2)
Forsythia at 15th St SE (Southbound) (ORD. 122710-1)
Forsythia St SE at 5th St SE (Northbound & Southbound) (ORD. 122710-1)
Forsythia St SE at Elderberry St (Westbound) (ORD. 122710-1)
Halleck St at 15th St (All way stop)
Halleck St at 9th St SE/SW (All way stoplight)
Hickory St at 15th St (All way stop) (ORD. 122198-01)
Hickory St at 4th Ave NW (Eastbound) (ORD. 022607-1)
Hickory St at 8th Pl SW (Eastbound) (ORD. 21698-1)

Hickory St SW at 11th St SW (All way stop) (ORD 122099-1)
Hickory St SW at 9th St SW (All way stop) (ORD. 12808-1)
Ironwood at 21st St SW (All way stop)
Ironwood St at 17th St SW (All way stop)
Ironwood St at 19th St SW (All way stop)
Ironwood St at 4th Ave NW (All way stop) (ORD. 022607-1)
Ironwood St at Division St NW (Southbound, Eastbound & Westbound) (ORD. 022607-1)
Ironwood St NW at 6th Ave NW (All way stop) (ORD. 12808-1)
Ironwood St NW at 8th Ave NW (Northbound) (ORD. 12808-1)
Juniper St at 19th St SW (All way stop) (ORD. 72103-3)
Juniper St at 4th Ave NW (all way stop) (ORD. 022607-1)
Juniper St at 8th Ave NW (Northbound) (ORD. 12808-1)
Juniper St at Division St NW (Southbound) (ORD. 022607-1)
Juniper St NW at 6th Ave NW (All way stop) (ORD. 12808-1)
Kapok St at 19th St SW (All way stop) (ORD 72103-3)
Orchid at Railroad Track (Northbound & Southbound) (ORD. 122710-1)
Orchid St at Castillian Dr (Westbound)

(This page is intentionally left blank)

4.7 YIELD SIGNS. A Yield sign constructed and installed in conformance with the Indiana Manual on Uniform Traffic Control Devices and Indiana Motor Vehicle Code, IC 9-1-1-1 et. seq. shall be located at the following intersection:

4.8 DEAD END SIGNS. A Dead End sign constructed and installed in conformance with the Indiana Manual on Uniform Traffic Control Devices and the Indiana Motor Vehicles Code, IC 9-1-1-1 et. seq. shall be located at:

Sixth Street NW at Cedar Street
Almond SW at 15th Street (ORD 82195-2)

4.9 ONE WAY SIGNS. A One-Way sign constructed and installed in conformance with Indiana Manual on Uniform Traffic Control Devices and the Indiana Motor Vehicle Code, IC 9-1-1-1 et. seq. shall be located at:

A. The Parkway at 3rd Ave. NW and Golden Rain

B. The Parkway at 3rd Ave. NW and Dogwood

4.10 PARKING

4.10.1 PARKING PLACES. At any time it shall be unlawful to permit any vehicle to stand or park in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the directions of a policeman or traffic control device:

- a. In any intersection.
- b. In a crosswalk.
- c. Upon any bridge or viaduct.
- d. Between a safety zone and the adjacent curb or within thirty feet of a point of the curb immediately opposite the end of safety zone.
- e. Within thirty feet of a traffic signal, beacon or sign on the approaching side.
- f. Within twenty feet of any intersection or crosswalk.
- g. At any place where the standing of a vehicle will reduce the usable width of the roadway for moving traffic to less than eighteen feet.
- h. At any place where the vehicle would block the use of a driveway.
- i. Within fifty feet of the nearest rail of a railroad grade crossing.

- j. Within twenty feet of the driveway entrance to any fire department station and on the side of the street opposite the entrance to any such station within seventy-five feet of such entrance when properly posted.
- k. On any sidewalk or parkway.
- l. At any place where official signs prohibit parking.
- m. On both sides of 11th Street. (ORD 41795-1)
- n. On both sides of Hickory Street between 11th Street and 8th Place. (ORD 47195-1)
- o. On the West side of Almond Street south of 15th Street (ORD 1120000-1)
- p. On the North side of 8th Place SW (ORD 1120000-1)
- q. On the West side of Birch Street from 3rd Avenue to 6th Avenue (ORD 1120000-1)
- r. On the West side of Dogwood Street south of 10th Street (ORD 1120000-1)
- s. On the West side of Daisy Street south of 11th Street (ORD 1120000-1)

4.10.2 PARKING AT A CURB. No vehicle shall be parked with the left side of such vehicle next to the curb, except on one-way streets, and it shall be unlawful to stand or park any vehicle in a street other than parallel with the curb and with the two right wheels of the vehicle within twelve inches of the regularly established curb line, except that upon those streets that have been marked for angle parking, vehicles shall be parked at the angle to the curb indicated by such marks.

4.10.3 ALL NIGHT PARKING. No person shall park any vehicle on the West side of Halleck Street between 9th Street and 15th Street between the hours of 10:00 p.m. and 6:00 a.m. of the following day.

4.10.4 ALLEY. No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for the free movement of vehicle traffic, and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property.

4.10.5 PRIVATE PROPERTY. It shall be unlawful to park any motor vehicle on any private property without the consent of the owner of the property.

4.10.6 SIGNS. The Town or any other person authorized by the Town Council shall cause signs to be posted in all areas where parking is limited or prohibited, indicating such limitations or prohibitions.

4.10.7 DOWNTOWN PARKING.

4.10.7.1 It shall be unlawful for any person to stop, stand, or park any vehicle for more than two hours on Halleck Street between 9th Street and 8th street in the Town of DeMotte, Indiana. Parking shall be in a manner known as parallel parking.

4.10.7.2 It shall be unlawful for any person to stop, stand, or park any vehicle, which measures in excess of 24 feet at anytime for any purpose upon either side of Halleck Street between 8th Street and 9th Street in the Town of DeMotte, Indiana.

4.10.7.3 Except for emergencies, no vehicles may park, stand, or discharge passengers on or along 15th street.

4.10.8 TOWN LOTS. The Town parking lots now owned or hereafter acquired or established by the Town shall be under the supervision of the Town Marshal.

4.10.8.1 RULES It shall be unlawful to park any vehicle in any Town parking lot in violation of any Ordinance; or to so park contrary to the rules established by the Town Council for the use of such lot or in any place or manner other than that designated by the custodian thereof. No commercial or freight-carrying vehicle or trailer shall be parked in the Town parking lot.

4.10.8.2 LIMITS It shall be unlawful to park any car in said parking lots for a period of longer than two (2) hours in any one-day, except by special permit.

Said special permit may be applied for to the Town Council.

4.10.8.3 DESCRIPTION The Town parking lots acquired and maintained for the parking of vehicles is described as follows:

Lot 10, and the South half of 11

all in Block 2, in A.L. McDonald's addition to the Town of DeMotte, as shown on plat recorded in Deed Record 40, pages 162 and 163, including by said description the North 10 feet of Chilcote Street, as shown on said plat, heretofore vacated by Order in Road Record 11, page 412 on August 1, 1927, in Cause No. 4069 in the Commissioners' Court of Jasper County, Indiana.

4.10.9 TOWS - Vehicles parked in violation of this Ordinance may be towed away at owner's expense.

4.10.10 TRUCK PARKING

4.10.10.1 For the purpose of this Ordinance (Article) the word "truck" shall mean any motor vehicle having a gross weight over 5,000 lb. and is designed, used, and maintained primarily for the transportation of property. Recreational vehicles, tow trucks, school buses and vehicles owned and maintained by any government entity are not included as trucks for the purposes of this section.

4.10.10.2 It shall be unlawful for any person, owner or driver to park or cause to be parked any truck, semi-trailer or any combination of the two (2) upon any street or alley in an area zoned for other than residential use pursuant to the comprehensive Zoning Ordinance of the Town except for expeditious delivery, pickup of material or construction use.

4.10.10.3 It shall be unlawful for any person, owner or driver to park or cause to be parked any truck, semi-trailer or any combination of the two (2) upon any street, alley or lot in an area zoned for residential use pursuant to the comprehensive zoning ordinance of the Town except for expeditious delivery, pickup of materials or construction use.

4.10.10.4 If a police officer of the Town finds a vehicle in violation of this Ordinance such officer is hereby authorized to require the driver or other person in charge of the vehicle to remove such vehicle so that it is no longer in violation of this Ordinance; if any such person so directed shall fail or refuse to move such vehicle or such vehicle is unattended, then the police officer is hereby authorized to provide for the removal of the offending vehicle to any nearby available garage or other place of safety at the cost of the offending party.

4.10.10.5 The offending party shall also be subject to provisions of DeMotte Town Code Sections 1-1-9-1, section (a) herein notwithstanding.

4.10.10.6 Any person owning a tractor that is kept on the premises on which such person resides at the effective date of this Ordinance may within sixty (60) days after the effective date of this Ordinance apply for and receive a permit allowing and authorizing such person to keep a tractor on such person's said premises as long as such person either owns the tractor or resides on the premises, provided however, such permit may be revoked if the Town Council determines after a hearing that the retention of such permit is a nuisance or operates to the detriment of the surrounding landowners and residents. (State law reference-Authority, I.C. 9-4-1-125 (c)).

4.11 WEIGHT LIMITS

4.11.1 GROSS WEIGHT It shall be unlawful to operate any vehicle on any street in the Town of DeMotte when the gross weight exceeds ten thousand (10,000) pounds or posted limit except for the purpose of making delivery or picking up a load, in which case such vehicle may be driven on such street for not more than the minimum distance necessary for the purpose, or where the DeMotte Town Council has issued a permit for

such operation, as provided below.

The following Streets are exempt from the above gross-weight limitations:

15th Street, Division Street, 1h Avenue, and Orchid Street (also known as 700 West).

4.11.2 PERMITS. The DeMotte Town Council may issue a permit authorizing the operation of a vehicle, which exceeds the above weight when to prohibit such would create undue hardship. Such permit shall be for a period not to exceed one(1) year.

4.11.3 POSTED LIMIT. That the Street Commissioner or his designee shall post the load limit upon the public streets within the Town of DeMotte, Indiana, which will protect said streets from all vehicular traffic.

4.11.4 FROST LAW. Provided, however, that no such vehicles shall be allowed on any streets in the Town of DeMotte during the period when the Jasper County Frost Law is in effect, permits and deliveries or picking up a load notwithstanding.

4.12 RAILROAD.

4.12.1 SPEED. It shall be unlawful for any engineer to operate any railroad train within the Town at a speed in excess of forty (40) miles per hour.

4.12.2 OBSTRUCTION OF CROSSING. It shall be unlawful for any engineer to obstruct any railroad crossing within the town longer than five(5) minutes.

4.13 ADDRESS NUMBERS.

4.13.1 Each business and residence shall have its address number in numerals not less than three inches high, positioned on the business or residence within two feet of the main entrance or the most highly visible location from the street.

4.13.2 Upon a finding of violation by the Town Judge, after notice and hearing, a fine may be imposed of not more than Twenty Dollars (\$20.00) to which may be added One Dollar (\$1.00) per day until the violation is corrected or until date of judgment, the first to occur. After judgment, a new petition may be filed with the Court in the event the violation continues uncorrected with penalties as set forth above.

4.14 SIDEWALKS.

4.14.1 It shall hereafter be unlawful for the owner or the occupant of any lot served by any public sidewalk in Zoning District B-1 or B-2 to permit snow or ice to remain embanked upon or laying upon said sidewalk during normal business hours.

4.14.2 The permitting of said accumulation of snow in front of each separate lot shall constitute a separate and distinct offense.

4.14.3 Any person owning or occupying any such lot who shall violate the provisions of this section shall be fined not more than One Hundred Dollars (\$100.00).

4.14.4 Each day such condition exists shall constitute a separate and distinct offense.

4.14.5 It shall be a defense that said lot is used for residential purposes only.

4.14.6 It shall be a defense that said lot is separated from the sidewalk by a parking lot.

4.14.7 It shall be a defense that said lot is used for church purposes only.

4.15 STOPPING, STANDING OR PARKING

4.15.1 Except for emergencies, no vehicle may park, stand, or discharge passengers on or along 15th Street.

4.15.2 Any person violating this Ordinance may be fined not less than twenty-five (\$25.00)dollars and not more than one hundred (\$100.00) dollars for each violation.

4.16 PARADES

4.16.1 DEFINITIONS.

A. Parade. “Parade” means any march or procession consisting of people, animals, vehicles, or combination thereof, except funeral processions, upon any public street, sidewalk or alley, which does not comply with normal and usual traffic regulations or controls.

B. Motorcade. “Motorcade” means an organized procession containing twenty-five or more vehicles, except funeral processions, upon any public street, sidewalk or alley.

4.16.2 PERMITS It shall be unlawful for any person to conduct a parade or motorcade in or upon any public street, sidewalk or alley in the town or to knowingly participate in any such parade or motorcade unless and until a permit to conduct such parade or motorcade had been obtained from the chief of police, or, as hereinafter provided, from the town council. Nothing herein shall be construed to relieve the applicant from the duty to obtain any state permit.

4.16.3 PARADE OR MOTORCADE FOR COMMERCIAL PUPOSE PROHIBITED. No Permit shall be issued authorizing the conduct of a parade or motorcade which the chief of police finds is proposed to be held for the sole purpose of advertising any product, good, wares, merchandise, or event, and is designed to be held purely for private profit.

4.16.4 INTERFERENCE WITH PARADE OR MOTORCADE. No person shall knowingly join or participate in any parade or motorcade conducted under permit from the chief of police in violation of any of the terms of said permit, nor knowingly join or participate in any permitted parade or motorcade without the consent and over the objection of the permittee, nor in any manner interfere with its progress or orderly conduct.

4.16.5 APPLICATION FOR PERMIT. Any person who wants to conduct a parade or motorcade shall apply to the chief of police for a permit at least thirty days in advance of the date of the proposed parade or motorcade. The chief of police may in his discretion consider any application for a permit to conduct a parade or motorcade, which is filed less than thirty days prior to the date such parade or motorcade is to be conducted. The application for such permit shall be made in writing on a form approved by the chief of police. In order that adequate arrangements may be made for the proper policing of the parade or motorcade, the application shall contain the following information:

- a. The name of the applicant, the sponsoring organization, the parade or motorcade chairman and the addresses and telephone numbers of each.
- b. The purpose of the parade or motorcade, the date when it is proposed to be conducted, the location of the assembly area, the location of the disbanding area, route to be traveled and the approximate time when the parade or motorcade will assemble, start and terminate.
- c. A description of the individual floats, marching units, vehicles, bands, including a description of any sound amplification equipment used.
- d. Applicants shall provide and remove such barricades and warning devices as are deemed necessary by and are acceptable to the chief of police. Applicants shall also provide for the collection and removal of all trash, garbage, and litter caused by or arising out of such festival. Each applicant shall enter into a written agreement, specifying the duties to be performed under this Section. Such written agreement shall be in a form approved by the town attorney.
- e. Such information as the chief of police may deem reasonably necessary.

4.16.6 ISSUANCE OR DENIAL OF PERMIT.

A. STANDARD OF ISSUANCE. The Chief of police shall issue a parade or motorcade permit conditioned upon the applicant's written agreement to comply with the terms of such permit unless the chief of police finds that:

1. The time, route and size of the parade or motorcade will disrupt to an unreasonable extent the movement of other traffic.

2. The parade or motorcade is of a size or nature that requires the diversion of so great a number of police officers of the town to properly police the line of movement and the areas contiguous thereto, that allowing the parade or motorcade would deny reasonable police protection to the town.
3. Such parade or motorcade will interfere with another parade or motorcade for which a permit has been issued.

B. STANDARD OF DENIAL. The chief of police shall deny an application for a parade or motorcade permit and notify the applicant of such denial where:

1. The chief of police makes any finding contrary to the findings required to be made for the issuance of a permit.
2. The information contained in the application is found to be false or nonexistent in any material detail.
3. The applicant refuses to agree to abide by or comply with all conditions of the permit.

4.16.7 CONTENTS OF PERMIT. In each permit the chief of police shall specify:

- A. The assembly area and time therefore;
- B. The starting time;
- C. The minimum and maximum speeds;
- D. The route of the parade or motorcade;
- E. What portions of streets to be traversed may be occupied by such parade or motorcade;
- F. The maximum number of platoons or units and the maximum and minimum intervals of space to be maintained between the units of such parade or motorcade;
- G. The maximum length of such parade or motorcade in miles or fractions thereof;
- H. The disbanding area, and disbanding time;
- I. The number of persons required to monitor the parade or motorcade;
- J. The number and type of vehicles, if any;
- K. The material and maximum size of any sign, banner, placard or carrying device therefore;
- L. The materials used in the construction of floats used in any parade shall be of fire retardant materials and shall be subject to such requirement concerning fire safety as may be determined by the fire chief;
- M. That permittee advise all participants in the parade or motorcade either orally or by written notice, of the terms and conditions of the permit, prior to the commencement of such parade or motorcade;
- N. That the amplification of sound permitted to be emitted from sound trucks or bull horns be fixed and not variable;
- O. That the parade or motorcade continue to move at a fixed rate of speed and that any willful delay or willful stopping of said parade or motorcade, except

when reasonably required for the safe and orderly conduct of the parade or motorcade, shall constitute a violation of the permit, and;

- P. Such other requirements as are found by the chief of police to be reasonably necessary for the protection of person or property.

All conditions of the permit shall be complied with so far as reasonably practicable.

4.16.8 APPEAL PROCEDURE. Upon a denial by the chief of police of an application made pursuant to Section 5 of this chapter, the applicant may appeal from the determination of the chief of police within five days thereafter to the town council by filing a written notice of appeal for hearing by the town council at its next meeting. Upon such appeal, the town council may reverse, affirm, or modify in any regard the determination of the chief of police.

In the event an application is not filed within the required time, as specified in Section 5, the applicant may request a waiver of such requirement by the town council at its next regular meeting, or at a special meeting which may be called prior thereto by said town council to consider such matter, and the town council, if it finds unusual circumstances and in the exercise of its sound discretion, may waive such requirement.

4.16.9 OFFICIALS TO BE NOTIFIED. Immediately upon the granting of a permit for a parade or motorcade, the chief of police shall send a copy thereof to the following:

- A. The town council president.
- B. The town manager.
- C. The fire chief.

4.16.10 REVOCATION OF PERMIT. Any permit for a parade or motorcade pursuant to this chapter may be summarily revoked by the chief of police at any time when by reason of disaster, public calamity, riot or other emergency, the chief of police determines that the safety of the public or property requires such revocation. Notice of such action revoking a permit shall be delivered in writing to the permittee service or by certified mail.

4.16.11. SEVERABILITY. The provisions of this ordinance are severable, and if any sentence, section or other part of this ordinance should be found invalid, such invalidity shall not affect the remaining provisions, and the remaining provisions shall continue in full force and effect.

4.17 PUBLIC EVENT

4.17.1 PERMIT REQUIRED. No person, firm, corporation or organization shall participate in, advertise for or in any way promote, organize, control, manage, solicit, or induce participation in a festival unless a permit has first been obtained from the chief of police. As used in this ordinance “Festival” includes any public event or activity advertised to the public.

4.17.2 APPLICATION FOR PERMIT. An application for a permit for festival shall be made upon a form provided by the chief of police and shall contain all of the following information:

- A.** The name, residence and business address, and phone number of each person and organization sponsoring the festival. If an organization, the application shall contain names, residence and business addresses, and phone numbers of the president or chairman thereof, and all other persons:
 - 1.** Having an interest or position of management or control in such organization;
 - 2.** Who are or will be engaged in organizing, promoting, controlling, managing or soliciting participation in such festival;
- B.** The date, or dates, and beginning and ending hours of such festival;
- C.** The place in which such festival will occur;
- D.** The estimated number of person who will participate;
- E.** The purpose of the festival;
- F.** Whether any sound amplification equipment is proposed to be used, and if so, information describing such sound amplification;
- G.** Whether or not charity, gratuity, or offerings will be solicited or accepted, or sales of food, beverages, or other merchandise will occur;
- H.** Such other information as the chief of police deems reasonably necessary in order to carry out his duties under this article.

4.17.3 TIME OF FILING. The application shall be filed not less than thirty days prior to the scheduled date of such festival. Failure to file on time is grounds for denial of a permit.

4.17.4 BARRICADES, LITTER COLLECTION. Applicants shall provide and remove such barricades and warning devices as are deemed necessary by and are acceptable to the chief of police. Applicants shall also provide for the collection and removal of all trash, garbage, and litter caused by or arising out of such festival. Each applicant shall enter into a written agreement, specifying the duties to be performed under this Section. Such written agreement shall be in a form approved by the town attorney.

4.17.5 CONDITION IN PERMITS. Any permits granted under this article may contain conditions reasonably calculated to reduce or minimize the dangers and hazards to vehicular or pedestrian traffic and the public health, safety, tranquility, morals or welfare, including, but not limited to, changes in time, duration, number of participants, or noise levels.

4.17.6. STANDARDS FOR ISSUANCE. A permit shall be issued by the chief of police, when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that all of the following circumstances exist:

- A. The application contains no false, misleading or fraudulent statements of material fact.
- B. The applicant has met the standards in this article, and paid in advance any fee required and agrees to such conditions as are imposed in the permit;
- C. The time, duration and size of the festival will not substantially disrupt the orderly and safe movement of other traffic;
- D. The festival is of a size or nature such that it will not require the diversion of so great a number of police officers of the town as to prevent normal police protection to the town.

4.17.7 NOTICE OF ISSUANCE OR DENIAL. Written notice of the issuance or denial of a permit shall be provided to the applicant within five days of receipt of an application, or as soon as practicable. If a permit is denied, said written notice shall state the reasons for denial.

4.17.8 REVOCATION OF PERMIT. Any permit for a festival issued pursuant to this article may be revoked by the chief of police at any time when by reason of emergency, disaster, calamity, disorder, riot, extreme traffic conditions, violation of this article or of any permit conditions, or undue burden on public services, he determines that the health, safety, tranquility, morals or welfare of the public or the safety of any property requires such revocation. Notice of revocation of a permit shall be delivered in writing to at least one person named upon the permit by personal service or by certified mail, or if the closure has commenced, orally or in writing, by personal contact or service, or by telephone. Continuance of a festival after such notice has been delivered is unlawful.

4.17.9 Any person or organization proposing a festival with a unified theme, such as a Spring Festival or a medieval fair, may submit one application on behalf of all the

proposed locations, exhibits or encroachments planned to be in the fair. The application, together with any supporting documents and maps, shall contain all of the information required by this ordinance. The applicant or permit holder shall comply with all of the requirements of this ordinance. The provisions of this section applies to all activities advertised to the public.

4.17.10 SEVERABILITY. The provisions of this ordinance are severable, and if any sentence, section or other part of this ordinance should be found invalid, such invalidity shall not affect the remaining provisions, and the remaining provisions shall continue in full force and effect.

4.18 GOLF CARTS

4.18.1 DEFINITIONS

For the purposes of this Ordinance the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- (A) “Golf Cart” - A vehicle with four wheels originally designed for operation on a golf course and powered by a battery or internal combustion motor.
- (B) “Driver’s Licenses” – A valid license to operate a motor vehicle issued by Indiana or any other state.
- (C) “Financial Responsibility” – Liability insurance coverage on a golf cart in an amount not less than required by Indiana Law for motor vehicles operated on public highways in the State of Indiana.

4.18.2 OPERATION OF GOLF CART

The operation of golf cart within the Town of DeMotte is strictly prohibited unless the golf cart is operated and equipped in full compliance with this Ordinance.

4.18.3 OPERATOR

Only persons in possession and holding a valid driver’s license may operate a golf cart for purposes of this Ordinance.

4.18.4 PASSENGERS

No one under two (2) years of age is allowed to ride on a golf cart, and no one under ten (10) years of age shall be allowed on the back seat of the cart. All passengers must be seated while the golf cart is in use.

4.18.5 FINANCIAL RESPONSIBILITY

The financial ability of the operator or owner notwithstanding, the operator of a golf cart must show financial responsibility when operating a golf cart. Written proof of said financial responsibility must be available either on the golf cart or carried by the operator at all times.

4.18.6 TIME OF OPERATION

Golf carts shall be operated only during daylight hours. From May 1st through September 30th, golf carts shall only be operated between the hours of six o'clock a.m. to eight o'clock p.m. (6:00 o'clock a.m. to 8:00 o'clock p.m.) local time. From October 1st through April 30th, golf carts shall be operated between the hours of nine o'clock a.m. to four o'clock p.m. (9:00 o'clock a.m. to 4:00 o'clock p.m.) local time.

4.18.7 VEHICLE REQUIREMENTS

1. All golf carts must display a "slow moving vehicle" sign on the back of the vehicle. Said sign should be the same type as required by Indiana Law.
2. All golf carts shall be equipped with operating safety belts, headlights, taillights and brake lights as required by Indiana Law.
3. All golf carts shall be equipped with a rear view mirror.
4. All golf carts shall be equipped with factory seating for all occupants with a maximum occupancy of four (4) people.

4.18.8 EXEMPTION OF TOWN OF DEMOTTE EMPLOYEES

Employees for the Town of DeMotte may be exempt from the provisions of this Ordinance, the use of golf carts in favor of public safety personnel and/or the use of golf carts during special events. All special event participants should be identified as such and each individual must provide proof of insurance and a valid driver's license before being allowed to operate a golf cart during any special event.

4.18.9 PLACE OF OPERATION

Golf carts may be operated on Town streets which have a posted speed limit of thirty (30) miles per hour or less. Golf carts may not be operated on sidewalks or on the following national or state highways or town streets except to cross said highways or streets at intersections in a path ninety (90) degrees to said highways and streets: SR 231 (Halleck Street), SR 10, 15th Street, Orchid Street, 8th Avenue and Division Street.

4.18.10 OCCUPANTS

The number of occupants in a golf cart shall be limited to the number of persons for whom factory seating is installed and provided on the golf cart. The operator and all occupants shall be seated in the golf cart and no part of the body of the operator or occupant shall extend outside the perimeter of the golf cart while the golf cart is being operated.

4.18.11 TRAFFIC RULES

The operator of the golf cart shall comply with all traffic rules and regulations adopted by the State of Indiana and the Town of DeMotte which govern the operation of motor vehicles.

4.18.12 REGISTRATION AND INSPECTION OF GOLF CARTS

All golf carts to be operated in the Town of DeMotte under this Ordinance must register said golf cart at the Town Hall of the Town of DeMotte. Golf Carts must be submitted at the time of registration for inspection by the Town of DeMotte. Individuals must provide proof of valid driver's license and proof of insurance at time of registration and inspection. The Town of DeMotte may charge a fee for said registration.

4.18.13 FEES

The annual fee associated with registration of golf carts shall be \$50.00. At the time of registration of said golf cart and said registration being issued by the Town of DeMotte, a registration sticker shall be furnished to the individual registering said golf cart. Said registration sticker shall be displayed clearly, prominently and in plain sight on the registered golf cart. Failure to affix and display current registration sticker will result in an infraction ticket being issued and a fine of \$200.00 to be assessed and paid by the individual registering said golf cart.

4.18.14 PENALTY

A violation of any provision of this Chapter shall constitute violation of this Ordinance. An owner, lessee or operator may be cited to appear in a court of competent jurisdiction by issuance of an Indiana Uniform Traffic Ticket. Upon finding by such court that an owner, lessee or operator of a golf cart has violated any provision of this Chapter, such person shall be subject to a fine not to exceed two hundred (\$200.00) dollars for each offense along with Court costs in the amount which now exists or may hereafter be determined by ordinance or statute. (Ord. 02222010-1)

TITLE 5

COMMERCE

5.1 DOOR-TO-DOOR SALES, POLLING, AND CANVASSING.

5.1.1 REGISTRATION. It shall be unlawful for any person over the age of 16 years to conduct a public opinion poll, canvass for any purpose or to solicit orders of purchase for future delivery of any goods, wares or merchandise, including magazines and other printed material, from door to door or on any street or highway within, or by telephone from and within, the Town of DeMotte, without first registering at the DeMotte Town Hall Office and having his credentials stamped as provided in Section 5-1-1-2 and 5-1-1-3 hereof. Registration shall not constitute a permit to enter privately policed areas.

5.1.2 APPLICATION. An applicant for permission to conduct a public opinion poll, canvass for any purpose or solicit orders hereunder shall complete an application blank provided at such Office of the Town of DeMotte, which application shall contain the following information:

- a. The name, social security number, home address and local address, if any, of the applicant;
- b. A physical description of the applicant, setting forth the applicant's age, height, weight, color of hair and eyes;
- c. The name and address of the person, firm or corporation for whom or through whom orders are to be solicited or cleared; license number, color, make and model of all motor vehicles used by applicant;
- d. The nature of the goods, wares or merchandise for which orders are to be solicited.
- e. The applicant will provide a recent criminal history. The report must be within 45 days from the date of the approval of the application. (ORD. 032006-1)
- f. A statement as to the period during which the applicant intends to solicit orders.
- g. Satisfactory proof of the existence and bonafideness of the organization or company for which applicant is working. The applicant, at the time of executing such application, shall also submit personal identification satisfactory to the Town Manager which shall contain a specimen of the applicant's signature. An identification badge must be worn at all times. (ORD. 032006-1)

5.1.3 CREDENTIALS. Upon compliance by the applicant with the provisions of Section 5-1-1-2 hereof, the Town Manager shall thereupon stamp the credentials, shall set forth the name and address of the applicant and of his employer, if any, the nature of the goods, wares or merchandise for which orders are to be solicited, times of day, and the period during which the applicant may solicit orders, which shall not exceed one year; provided; however, that the Town Manager shall not be required to grant such permission to any person who shall have been convicted of any crime or misdemeanor involving moral turpitude or of any violation of this Ordinance.

5.1.4 NON-TRANSFER OF CREDENTIALS. Stamped credentials shall be non-transferable and shall entitle the holder thereof, for the period indicated therein, provided that the holder shall have his stamped credentials in his possession at all times while soliciting orders and shall exhibit the same at any time upon request by the Town Manager of the Town of DeMotte, the Town Marshal or any purchaser or prospective purchaser.

5.1.5 CONDUCT. Any person conducting a public opinion poll, canvassing for any purpose, or soliciting in the Town of DeMotte, whether or not required to register under the provisions of this Ordinance shall conform to the following regulations:

- a. He shall conduct himself at all times in an orderly and lawful manner.
- b. He shall give a written receipt for all orders taken within the Town of DeMotte, which receipt shall be signed by the solicitor and shall set forth a brief description of the goods, wares or merchandise ordered, the total purchase price thereof, and the amount of the down payment received by the solicitor from the purchaser.

5.1.6 VIOLATION. Any person violating any of the provisions of this section or making any false statements or misrepresentations of fact for the purpose of obtaining permission to solicit orders shall, upon conviction thereof, and in addition to other penalties provided by law, be subject to a fine not to exceed One Hundred Dollars (\$100.00), each solicitation or sale being deemed a separate offense, and, pending trial therefore the Town Marshal or the Town Manager may suspend such permission to solicit. Upon any registered person being convicted of any crime or misdemeanor under this Ordinance or involving moral turpitude, the stamped credentials of such person shall be delivered to the Town Manager and said Manager's stamp thereon shall be canceled and such person shall not thereafter solicit orders in the Town without re-registering.

5.1.7 EXCEPTION. This Ordinance shall not apply to salesmen selling goods to retail or wholesale stores for resale, or to any person who has and has had for the preceding six months a regular place of business or residence in the Town of DeMotte, or in Jasper County, Indiana, in an area immediately adjacent to the Town of DeMotte. A regular place of business shall be construed to be any establishment or residence from which a business is being conducted and any person employed by or soliciting for any such person, firm or corporation, shall not be required to register before soliciting orders, but all other provisions shall apply to such persons.

5.1.8 FILING FEE. A filing fee of ten dollars(\$10.00) shall accompany each application for stamped credentials.

5.2 TRANSIENT MERCHANTS.

5.2.1 TRANSIENT MERCHANTS DEFINITION. A "transient merchant" is any person, firm or corporation whether as owner, agent consignee or employee, or whether a resident within the city limits, that:

- a. Engages in a temporary business of selling and/or delivering goods, wares or services, or who conducts meetings open to the general public where franchises, distributorships, contracts or business opportunities are offered to participants; or
- b. Sell, offers or exhibits for sale any goods, wares or services, franchises, distributorships, contracts or business opportunities during the course of or any time within six months after a lecture or public meeting on said goods, wares, services, franchises, business opportunities, contracts or distributorship.

5.2.2 The foregoing notwithstanding, however, a transient merchant, for the purpose of this section, shall not include the following:

- a. A person, firm or corporation who shall occupy any of the aforesaid places for the purpose of conducting a permanent business therein; provided however, that no person, firm or corporation shall be relieved from the provisions of the Ordinance by reason of a temporary association with any local dealer, trader, merchant or auctioneer, or by conducting such temporary or transient business in connection with or as a part of or in the name of any local dealer, trader, merchant or auctioneer; or
- b. Art exhibits, where participating artists sell their original works and which do not contain any sales or art works purchased elsewhere and held for resale, providing said art exhibits are sponsored by a local, responsible organization.
- c. Yard sales operated by residents of the Town of DeMotte as long as each residence does not exceed two (2) yard sales per year.

5.2.3 LICENSE REQUIRED. It shall be unlawful for any person or for any agent, servant or employee of any person to engage in, carry on or conduct the business of a transient merchant without first obtaining a license to do so upon application to the Town Council. The Town Manager shall issue a license to the applicant upon receipt of the license fee as herein provided and a completed application listing the applicant's name, address, business name, business address, items to be sold, location of sale and Indiana Department of Revenue Sales Tax identification number, at next regular scheduled Town Council meeting.

5.2.4 APPLICATION. An applicant for permission to conduct a public opinion poll, canvass for any purpose or solicit orders hereunder shall complete an application blank provided at such Office of the Town of DeMotte, which application shall contain the following information:

- a. The name, social security number, home address and local address, if any, of the applicant;
- b. A physical description of the applicant, setting forth the applicant's age, height, weight, color of hair and eyes;
- c. The name and address of the person, firm or corporation for whom or through whom orders are to be solicited or cleared; license number, color, make and model of all motor vehicles used by applicant;
- d. The nature of the goods, wares or merchandise for which orders are to be solicited.
- e. The applicant will provide a recent criminal history. The report must be within 45 days from the date of the approval of the application. (ORD. 032006-1)
- f. A statement as to the period during which the applicant intends to solicit orders.
- g. Satisfactory proof of the existence and bonafideness of the organization or company for which applicant is working. The applicant, at the time of executing such application, shall also submit personal identification satisfactory to the Town Manager which shall contain a specimen of the applicant's signature. An identification badge must be worn at all times. (ORD. 032006-1)

5.2.5 LICENSE FEE. The license fee for engaging in carrying on or conducting business as a transient merchant shall be the sum of one hundred dollars (\$100.00) per day payable in advance for each day such business shall continue.

5.2.6 PENALTY. Any person, firm or corporation violating any provision of this Article shall be fined not more than one hundred dollars (\$100.00) for each offense and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

5.3 CABLE TELEVISION

5.3.1 DEFINITIONS.

- a. "Community Antenna Television System," hereinafter referred to as CATV System or "System" is a system of coaxial cables or other electrical conductors and equipment used or to be used primarily to receive television signals directly or indirectly off-the-air and transmit them to subscribers for a fee, and to provide other related services as shall become available in the CATV industry from time to time.
- b. "Grantee" is anyone who is granted a franchise as provided for by this chapter.

5.3.2 COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES. The Grantee shall at all times during the life of a franchise as provided for by this chapter, be subject to all lawful exercise of the police power by the Town and to such reasonable regulation as the Town shall hereafter provide.

5.3.3 TERRITORIAL AREA INVOLVED. A Franchise as provided for by this Chapter relates to the present territorial limits of the Town and to any area henceforth added thereto during the term of such franchise.

5.3.4 LIABILITY AND INDEMNIFICATION. A. The Grantee, by its acceptance of a franchise as provided for by this Chapter, specifically agrees that it will pay all damages and penalties, which the Town may legally be required to pay as a result of granting a franchise as, provided for by this Chapter. These damages or penalties shall include, but shall not be limited to, damages arising out of copyright infringement and all other damages arising out of the installation, operation or maintenance of the CATV system authorized, allowed or prohibited by said franchise.

5.3.4.1 The Grantee shall pay, and by its acceptance of said franchise specifically agrees that it will pay, all expenses incurred by the Town in defending itself with regard to all damages and penalties mentioned in subsection (1) above. These expenses shall include all out-of-pocket expenses, such as attorney fees, and shall also include the reasonable value of any services rendered by the Town Attorney or his assistants or any employee of the Town.

5.3.4.2 The Grantee shall maintain, at commencement or construction, and throughout the terms of this franchise granted as provided for by this Chapter, liability insurance, with the Town as an additional insured, with regard to all damages mentioned in subparagraph (1) above in the minimum of One Million Dollars (\$1,000,000.00).

5.3.4.3 The Grantee shall maintain, at commencement of construction, and by its acceptance of a franchise granted as provided for by this Chapter, specifically

agrees that it will maintain throughout the term of said franchise a faithful performance bond running to the Town with good and sufficient sureties approved by the Town in the penal sum of \$10,000.00 conditioned that the Grantee shall well and truly observe, fulfill and perform each term and condition of said franchise and that in case of any breach or condition of the bond, the amount thereof shall be recoverable from the principal and sureties thereof by the Town of all damages proximately resulting from the failure of the Grantee to well and faithfully observe and perform any provision of said franchise.

5.3.4.4 The insurance policy and bond obtained by the Grantee in compliance with this Chapter must be approved by the Town Council and such insurance policy and bond along with written evidence of payment of required premiums, shall be filed and maintained in full force with the Town Manager during the term of the franchise issued as provided for by this Chapter and shall contain a provision requiring not less than thirty (30) days notice to the Town upon cancellation.

5.3.4.5 The Grantee shall, in an expeditious manner, submit all necessary initial requests and filings to the above-referenced authorities, and in no event later than ninety (90) days after receipt of all final approvals and permits, the Grantee shall commence construction with the Town. Failure by the Grantee to pursue and adhere to the above schedule shall constitute grounds for revocation of its franchise, unless the Grantee has proceeded in good faith and such failure has been by virtue of factors beyond its reasonable control.

5.3.5 COLOR TV. The facilities used by the Grantee shall be capable of distributing color TV signals, and when the signals the Grantee distributes are received in color, they shall be distributed in color where technically feasible.

5.3.6 SIGNAL QUALITY REQUIREMENTS. The Grantee shall:

- a. Install and maintain a system which will distribute television and radio signals essentially unaltered from that available at the head end location and shall maintain the system in accordance with the technical standards promulgated by the Federal Communications Commission.
- b. Limit failures to a minimum by locating and correcting normal malfunctions promptly, but in no event longer than forty-eight (48) hours after notice, acts of God excepted.
- c. If reasonably requested, to demonstrate by instruments and otherwise to subscribers that a signal of adequate strength and quality is being delivered.

5.3.7 OPERATION AND MAINTENANCE OF SYSTEM.

5.3.7.1 The Grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Such interruptions insofar as possible shall be preceded by notice and shall occur during periods of minimum use of the system.

5.3.7.2 The Grantee shall maintain a twenty-four (24) hour toll free phone number and shall handle interruptions by radio dispatched repairmen with twenty-four (24) hours of notice of interruption.

5.3.7.3 Grantee shall contract with a local merchant to receive subscription payments.

5.3.8 CARRIAGE OF SIGNALS.

5.3.8.1 The Grantee shall receive and distribute television signals which are disseminated to the general public without charge by broadcasting stations licensed by the Federal Communications Commission; may transmit local television programs furnished as an incidental part of community antenna service to all subscribers, without additional charge. All operations shall be in compliance with existing regulations of the Federal Communications Commission and/or other properly authorized regulatory agencies, and with such additional or amended regulations as may be legally applicable.

5.3.8.2 Signals transmitted by the CATV circuits to be installed as provided for by this Chapter need not be limited to television. Subject to approval by the Town Council, by Ordinance, signals to be transmitted may include FM radio and any other matter which is not incompatible with the equipment, and which will not interfere with the transmission of television signals.

5.3.9 SERVICE TO SCHOOLS AND MUNICIPAL BUILDINGS. Upon request by the Town, the Grantee shall provide outside connections and service without charge to all public schools, parochial and/or other religious schools, municipal and county buildings in the Town provided, however, any and all inside wiring or work shall be done at the expense of such schools, Town and County; and that a service cable is located within reasonable proximity to such buildings. Prospective subscribers whose service installation would require extension of a coaxial cable a distance excess of 500 feet may be serviced at the option of the Grantee.

5.3.10 EMERGENCY USE OF FACILITIES. In the case of any emergency or disaster, the Grantee shall, upon request by the Town Manager or Town Council, make available its facilities to the Town for emergency use during the emergency. The Grantee shall provide an emergency audio over-ride capability on all channels in order to permit authorized local officials to distribute emergency information and instruction to the public.

5.3.11 OTHER BUSINESS ACTIVITIES.

5.3.11.1 The Grantee shall not engage in the business of selling repairing or installing television receivers, or accessories for such receivers, within the Town of DeMotte for the duration of the franchise.

5.3.11.2 A franchise granted as provided for in this Chapter authorizes only the operation of a CATV system as provided for herein, and does not take the place of any other franchise, license or permit which might be required by law of the Grantee.

5.3.12 SAFETY REQUIREMENTS.

5.3.12.1 The Grantee shall at all times employ ordinary care and shall maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.

5.3.12.2 The Grantee shall install and maintain its wires, cables, fixtures and other equipment in accordance with the requirements of the Electric Code of the State of Indiana and Town of DeMotte, as the same now exists, or may be hereafter amended, or replaced by a later and subsequent Electric Code, and in such manner that they will not interfere with any installations of the Town or of a public utility serving the Town.

5.3.12.3 All structures and all lines, equipment and connections in, over, and under, and upon the streets, sidewalks, alleys and public ways or places of the Town wherever situated or located, shall at all times be kept and maintained in a safe, suitable, substantial condition, and in good order and repair, by the Grantee.

5.3.12.4 The Grantee shall maintain a force of one or more radio dispatched agents or employees at all times and shall have sufficient employees to provide safe, adequate and prompt service for its facilities.

5.3.13 NEW DEVELOPMENTS. It shall be the policy of the Town liberally to amend the franchise upon application of the Grantee, when necessary to enable the grantee to take advantage of any developments in the field of transmission of television signals, which will afford it an opportunity more effectively, efficiently, or economically to serve its customers. Provided, however, that this section shall not be construed to require the Town to make any amendment or to prohibit it from unilaterally changing the policy stated herein.

5.3.14 CONDITIONS OF STREET OCCUPANCY.

5.3.14.1 All transmissions and distribution structures, lines and equipment erected by the Grantee within the Town shall be so located as to cause minimum interference with proper use of streets, alleys and other public ways and places, and to cause a minimum interference with the rights and reasonable convenience of persons whose property adjoins any of the said streets, alleys or other public ways and places.

5.3.14.2 In the case of disturbance of any street, sidewalk, alley, public way or paved area, the Grantee shall first obtain an excavation permit from the Town Building Commissioner, and shall, at its own costs and expense, and in a manner approved by the Town Council, replace and restore such street, sidewalk, alley, public way or paved area in as good a condition as before the work involving such disturbance was done.

5.3.14.3 If at any time during the period of this franchise the Town shall lawfully elect to vacate, relocate, alter or change the grade of any street, sidewalk, alley or other public way, the Grantee upon reasonable notice by the Town shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

5.3.14.4 Any poles or other fixture placed in any public way by the Grantee shall be placed in such manner as to not interfere with the usual travel of such public way.

5.3.14.5 The Grantee shall, upon request of any person holding a building or moving permit issued by the Town, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting same. Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

5.3.14.6 The Grantee shall have the authority to trim trees upon and over-hanging streets, alleys, sidewalks and public ways from coming in contact with the wires and cables of the Grantee, provided that such trimming be done under the direct supervision by a duly authorized employee of the Town. Any service performed by the Town in trimming or in supervision thereof shall be done at the expense of the Grantee.

5.3.15 PREFERENTIAL OR DISCRIMINATORY PRACTICES PROHIBITED.

The Grantee shall not, as to rates, charges, service, service facilities, rules regulations, or any other respect or grant any undue preference or advantage to any person or subject any person to prejudice or disadvantage.

5.3.16 TRANSFER OF FRANCHISE.

5.3.16.1 The Grantee shall not transfer a franchise as provided for by this Ordinance to another person without prior approval of the Town by Ordinance. The Town may not unreasonably withhold approval of a transfer. Neither the facilities nor the control thereof shall be leased, sublet or transferred by the Grantee to any other person, persons or corporations without prior approval by the Town Council by Ordinance. The Grantee shall at all times be the full and complete owner of all the facilities and property, real and personal, of the CATV business operating under said franchise, and shall have the responsibility for the management and control thereof.

5.3.16.2 The Grantee shall not make, execute or enter into any deed, lease, sale, gift or similar agreement concerning all of or any part of the facilities and property, real or personal, of the CATV business without prior approval of the Town Council. Provided, however, that this section shall not apply to the disposition of worn out or obsolete facilities or personal property in the normal course of carrying on the CATV business and, provided also, that this section shall not apply to financing arrangements entered into by the Grantee from time to time.

5.3.16.3 Except as provided for in subsection (1) above; the Grantee shall at all times be the full and complete owner of all facilities and property, real and personal, of the CATV business.

5.3.17 CHANGE OF CONTROL OF GRANTEE. The provisions of Section 16 above shall not restrict normal personnel changes within a corporate organization as Grantee, except for the individual responsible for management and control. Change of management and/or equity control may be at the option of the Town, cause for termination or cancellation of a franchise issued under the provisions of this Ordinance, unless prior approval shall have been obtained by an Ordinance or resolution passed by the Town Council. Said approval shall not be unreasonably withheld.

5.3.18 FILINGS AND COMMUNICATIONS WITH REGULATORY AGENCIES.

Copies of all petitions and/or applications submitted by the Grantee to the Federal Communications Commission, Securities and Exchange Commission or any other federal, state or local regulatory commission or agency having jurisdiction in respect to any matters affecting CATV operations authorized pursuant to a franchise, as provided for in this chapter, shall also be submitted simultaneously to the Town Manager.

5.3.19 TOWN RIGHTS IN FRANCHISE.

5.3.19.1 The right is hereby reserved to the Town by its Town Council to adopt, in addition to the provisions contained herein and in existing applicable Ordinances, such additional regulations as it shall find necessary in the exercise of the police power; provided, however, that such regulations by Ordinance or otherwise shall be reasonable and not in conflict with the rights herein granted.

5.3.19.2 The Town shall have the right, during the life of said franchise, to install and maintain free of charge upon the poles of the Grantee any wire and pole

fixtures necessary for a police alarm system, on the condition that such wire and pole fixtures do not interfere with the CATV operations of the Grantee.

5.3.19.3 The Town shall have the right to supervise all construction or installation work performed subject to the provisions of said franchise and make such inspections as it shall find necessary to insure compliance with the terms of said franchise and other pertinent provisions of law.

5.3.19.4 At the expiration of the term for which a franchise is granted, or upon its termination and cancellation as provided for herein, the Town shall have the right to require the Grantee to remove at its own expense all portions of the CATV System from all public ways within the Town.

5.3.20 MAPS, PLATS AND REPORTS. The Grantee shall file with the Town Manager true and accurate maps or plats of all existing and proposed installations at least seven(7) days before installation. Said information are trade secrets and shall not be made public prior to the actual installation. Grantee shall file with the Town Manager within 30 days of completion, an as-built drawing.

5.3.21 PAYMENT TO THE TOWN. The Grantee shall pay to the Town, quarter-annually, an amount equal to three (3%) per cent of the annual gross operating revenues taken in and received by it on all sales of television or other signals within the Town and all receipts from installation charges within the Town during the year, for the use of the streets and other facilities of the Town in the operation of the system and for the municipal inspection of supervision thereof. This payment shall be not less than \$500.00 per year from the date of acceptance of said franchise and shall be in lieu of other fees or assessments imposed by the Town except the tax upon real and/or personal property. The said fee shall be paid quarter-annually within sixty (60) days following the last day of the fiscal quarter of the Grantee. The final payment each year shall be made within ninety (90) days of the grantee's fiscal year end, the fiscal year of the Grantee under said franchise shall be the same as the fiscal year of the Grantee for the payment of income taxes to the United States of America and the State of Indiana. The fiscal year of the grantee under said franchise shall be the same as the fiscal year of the Grantee for payment of income taxes to the United States of America and the State of Indiana. The books and records of the Grantee relevant to operations in the Town of DeMotte shall be made available for inspection by the Town, or its designee, during normal business hours.

5.3.22 FORFEITURE OF FRANCHISE.

5.3.22.1 In addition to all other rights and powers pertaining to the Town by virtue of a franchise granted as provided for in this Ordinance or otherwise, the Town reserves the right and privileges of the Grantee hereunder in the event that the Grantee:

- a. Violates any provision of said franchise or any rule, order or determination of the Town Board made pursuant to said franchise, except where violation, other than of Section 5-3-1-16 or sub-

section(b) below, is without fault or the excusable neglect on the part of the Grantee.

- b. Becomes insolvent, unable or unwilling to pay its legal debts, or is adjudged a bankrupt.
- c. Attempts to evade any of the provisions of this franchise contemplated herein or practices any fraud or deceit upon the Town.
- d. Fails to make the minimum payment per year to the Town pursuant to section 5-3-1-21.
- e. Fails to maintain quality of service, quality of programming or satisfactory and reasonable hours of the day.

5.3.22.2 Such termination and cancellation shall be by Ordinance duly adopted after forty-five (45) days notice to the Grantee and shall in no way effect any of the Town's rights under said franchise or any provisions of law. In the event that such termination and cancellation depends on a finding of fact, such finding of facts as made by the Town Council or its representative shall be conclusive. Provided, however, that before this said franchise may be terminated and canceled under this section, the Grantee must be provided with an opportunity to be heard before the Town Council.

5.3.23 TOWN'S RIGHTS OF INTERVENTION. The Grantee shall agree not to oppose intervention by the Town in any suit or proceedings to which the Grantee is a party. Said intervention shall be optional and the cost shall be borne by the Town.

5.3.24 FURTHER AGREEMENT AND WAIVER BY GRANTEE. The Grantee shall agree to abide by all provisions of said franchise, and further agrees that it will not at any future time set up, against the Town Council, the claim that the provisions of the franchise are unreasonable, arbitrary or void.

5.3.25 DURATION AND ACCEPTANCE OF FRANCHISE.

5.3.25.1 The franchise and the rights, privileges and authority granted as provided for by this Ordinance shall take effect and be in force from and after final passage of an Ordinance granting such franchise and incorporating by reference all terms, conditions and requirements of the Community Cable Television Franchise Ordinance, as provided by law, and shall continue in force and effect for a term of ten (10) years, provided that within sixty (60) days after the date of the granting of said franchise the Grantee shall file with the Town Council its unconditional acceptance of the franchise and promise to comply with and abide by all its provisions, terms and conditions. Such acceptance and promise shall be in writing duly executed and sworn to by or on behalf of the Grantee, before a Notary Public or other authorized to administer oaths.

5.3.25.2 Should the Grantee fail to comply with subsection (1) above, it shall acquire no rights, privileges, or authority whatsoever, under said franchise.

5.3.25.3 The Grantee shall have unlimited options to renew this franchise for additional ten-year terms by giving written notice to the Town at least six (6)

months prior to expiration of the existing term.

5.3.26 ERECTION, REMOVAL AND COMMON USE OF POLES.

5.3.26.1 No poles or other wire holding structures shall be erected by the Grantee without prior approval by the Town Council or duly authorized representative with regard to location, height, type and any other pertinent aspect. However, no location of any pole or wire holding structure of the Grantee shall be vested interest and such poles or structures shall be removed or modified by the Grantee at its own expense whenever the Town Council determines that a public need exists.

5.3.26.2 Where poles or other wire holding structures already existing for use in serving the Town are available for use by the Grantee, but it does not make arrangements for such use, the Town Council may require the Grantee to use such poles and structures if it determines that the public convenience would be enhanced thereby and the terms of the use available to the Grantee are just and reasonable.

5.3.26.3 Where the Town or a public utility serving the Town desires to make use of the poles or other wire holding structures of the Grantee, the Town may require agreement therefore with the Grantee to permit such use for such consideration and upon such terms as the Town Council shall determine to be just and reasonable, provided that if the Town Council determines that the use would enhance the public convenience and that it would not interfere with the Grantee's operations.

5.3.27 NUMBER OF CHANNELS. The Grantee's cable distribution system shall be capable of carrying at least fifty-four (54) television channels. The Grantee shall carry a minimum of four (4) commercial television channels, which shall include all of the major television networks. Further, the Grantee shall make available upon request of the Town Council one of said channels for educational TV. Grantee shall, upon written request by the Town Council, provide one or more additional channels for programs to be produced locally, and consisting of material of local interest. When local origination of programming is provided by the Grantee, whether or not required by the Federal Communications Commission, nothing in this section shall prohibit the sale of commercial advertising by the Grantee in full conformity with the commercial requirements imposed on television broadcasting facilities either by the Federal Communications Commission, or by self-regulation as provided in the television code of the National Association of Broadcasters.

All franchises shall be controlled by the Communications Act of 1984 and amendments thereto, any conflict between this Ordinance and said Federal Act shall be construed to bring this Ordinance into compliance with said Federal Act.

5.3.28 RATES.

5.3.28.1 By its acceptance of the franchise as provided for by this Ordinance, the

Grantee specifically grants and agrees that its rates and charges to its subscribers for television signals shall be fair and reasonable.

5.3.28.2 No action shall be taken by the Town Council with respect to the Grantee's rates under this section until the Grantee has given reasonable notice hereof and an opportunity to be heard by the Town Council with regard thereto.

5.3.28.3 Grantee shall give the Town of DeMotte forty-five (45) days notice of rate changes, at a regularly scheduled Town Council meeting.

5.3.28.4 Franchisee is authorized to assess a reasonable collection charge for delinquent accounts.

5.3.28.5 Rates for commercial buildings such as hotels, motels, etc. using multiple outlets shall be subject to negotiations between Grantee and the owner of such building.

5.3.28.6 The Grantee may require an advance payment of installation charge and shall complete the installation no later than ten(10) days following the payment of the charge unless prevented from so doing by unavoidable and excusable delays. The Grantee herein shall be permitted to charge a small penalty for late payments of the monthly service charge which penalty shall bear a reasonable relationship to the cost of handling such late payments.

5.3.28.7 If in the future the State of Indiana or other higher governmental authority regulates rates of the Grantee for service provided for in said franchise, the provisions of such regulations shall supersede this section to the extent that they are in conflict.

5.3.29 SEPARABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion of this Chapter shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portion hereof.

5.3.30 COMPLIANCE WITH FCC REGULATION. All provisions of all sections in this chapter are subject to Federal Communications Commission rules and regulations, or those of other duly authorized governmental agency.

TITLE 6

SEWER

The Town Council of DeMotte, Indiana establishes the following Ordinance pertaining to treatment and control of wastewater, human or animal excrement, garbage, or other objectionable waste on public or private property within the Town of DeMotte or within the area of their jurisdiction.

6.1 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of the terms used in this Ordinance shall be as follows:

1. *Authority* - Town Council of the Town of DeMotte.

2. *Biochemical Oxygen Demand (BOD5)* - The words "Biochemical Oxygen Demand" or abbreviation thereof, "BOD5" shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter - as described in the American Public Health association publication "Standard Methods for the Examination of Water and Sewage" - in five days at the temperature of 20 degrees centigrade, expressed in milligrams per liter.

3. *Building Drain* - Building Drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of a building and conveys it to the building sewer beginning three (3) feet outside the building wall.

Building Drain - Sanitary - A building drain, which conveys sanitary or industrial sewage only.

Building Drain - Storm - A building drain, which conveys storm water or other clear water drainage but no wastewater.

4. *Building Sewer* - Building sewer shall mean the extension from the building drain to the public sewer (also called house connection).

Building Sewer - Sanitary - A building sewer, which conveys sanitary or industrial sewage only.

Building Sewer - Storm - A building sewer, which conveys storm water or other clear water drainage but no sanitary or industrial sewage.

5. *Classes of Users* - The division of wastewater treatment customers by waste characteristics, and process of discharge similarities.

Industrial - Industrial User means any non-governmental user of publicly owned treatment works identified in the Standard Industrial Classification manual of 1972, Office of Management and Budget, as amended and supplemented under the following divisions:

- Division A. Agriculture, Forestry, Fishing
- Division B. Mining
- Division D. Manufacturing
- Division E. Transportation, Communications, Electric, Gas and Sanitary Services
- Division I. Services

A user in the Divisions listed may be excluded if it is determined that it will introduce primarily segregated domestic wastes or wastes from Sanitary Conveniences only and/or discharges less than 2,500 gallons per day based on a monthly average.

Non-Industrial - The Non-Industrial User shall consist of any user not classified in the Industrial User Class. These are residential, commercial, institutional and governmental users.

6. *Combined Sewer* - The words "combined sewer" or combined sewer system shall mean a conduit or system of conduits in which both wastewater and storm water are transported.

7. *Compatible Pollutant* - Shall mean biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the NPDES Permit if the treatment works was designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree. The term substantial degree is not subject to precise definition, but generally contemplates removals in the order of eighty (80%) percent or greater. Minor incidental removals in the order of ten (10%) to thirty (30%) percent are not considered substantial. Examples of the additional pollutants which may be considered compatible include: (a) chemical oxygen demand, (b) total organic carbon, (c) phosphorus and phosphorus compounds, (d) nitrogen and nitrogen compounds, (e) fats, oils, and greases of animal or vegetable origin (except as prohibited where these materials would interfere with the operation of the treatment works).

8. *Depreciation* - An annual operating cost reflecting capital consumption and obsolescence (reduction of future service potential) of the treatment works.

9. *Easement* - Shall mean an acquired legal right for the specific use of land owned by others.

10. *Fecal Coliform* - Shall mean any of a number of organisms common to the intestinal tract of man and animals, whose presence in sanitary sewage is an indicator of pollution.

11. *Floatable Oil* - Oil, fat or grease in a physical state, such that will separate by gravity from wastewater by treatment in a pretreatment facility approved by the Authority.

12. *Garbage* - Shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the commercial handling, storage and sale of produce.
13. *Incompatible Pollutant* - Shall mean any pollutant that is not defined as a compatible pollutant, including non-biodegradable dissolved solids.
14. *Industrial Cost Recovery* - Recovery from the industrial users of a treatment works of the grant amount allocable to treatment of wastes from such users pursuant to Section 204(b) of PL 92-500 and 40 CFR Part 35.928 91) and (2).
15. *Industrial Waste* - Shall mean any liquid solid or gaseous substance, or combination thereof, resulting from any process of an Industrial User.
16. *Infiltration* - Shall mean the water entering a sewer system including building drains and sewers, from the ground, through such means as, but not limited to , defective pipes, pipe joints, connections, or manhole walls. (Infiltration does not include and is distinguished from inflow.)
17. *Infiltration/Inflow* - Shall mean the total quantity of water from both infiltration and inflow without distinguishing the source.
18. *Inflow* - Shall mean the water discharge into a sewer system including building drains and sewers, from such sources as, but not limited to , roof leaders, cellar, yard and area drains, foundation drains, unpolluted cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers and combined sewers, catch basins, storm waters, surface runoff, street wash waters or drainage. (Inflow does not include, and is distinguished from, infiltration).
19. *Inspector* - shall mean the person or persons duly authorized by the Town, through its Town Council, to inspect and approve the installation of building sewers and their connection to the public sewer system.
20. *Major Contributing Industry* - Shall mean an industry that: (1) has a flow of 50,000 gallons or more per average work day; (2) has a flow greater than five (5%) percent of the flow carried by the municipal system receiving the waste; (3) has in its waste a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) of PL 92-500; or (4) has a significant impact, either singly or in combination with other contributing industries, on a treatment works or on the quality of effluent from the treatment works.
21. *Natural Outlet* - Shall mean any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

22. *Normal Domestic Sewage* - As defined for the purposes of determining surcharge, shall mean wastewater or sewage having an average daily suspended solids concentration of not more than 250 mg/l, and average daily BOD5 of not more than 250 mg/l, and average daily phosphorus concentration of 11 mg/l and containing not more than 2.5 mg/l of Hexane soluble matter (grease and oil).

23. *NPDES Permit* - Shall mean a permit issued under the National Pollutant Discharge Elimination System for discharge of wastewaters to the navigable waters of the United States pursuant to Section 402 of PL 92-500.

24. *Operation and Maintenance Costs* - All costs, direct and indirect (other than debt service), necessary to insure adequate wastewater treatment on a continuing basis, conform with related Federal, State and Local requirements, and assure optimal long term facility management. (These costs include depreciation and replacement.)

25. *Person* - Shall mean any individual, firm, company, association, partnership, society, corporation or group and the singular term shall include the plural.

26. *pH* - Shall mean the reciprocal of the logarithm of the hydrogen ion concentration, the concentration is the weight of hydrogen ions in grams per liter of solution.

27. *Pretreatment* - Shall mean the treatment of industrial sewage from privately owned industrial sources prior to introduction into a public treatment works.

28. *Properly Shredded Garbage* - Shall mean the wastes from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in public sewers with no particle greater than 3/8 inch in any dimension.

29. *Private Sewer* - Shall mean a sewer, which is not owned by the Town of DeMotte.

30. *Public Authority* - Shall mean any governmental agency having jurisdiction by law over construction and use of a wastewater collection or treatment facility.

31. *Public Sewer* - Shall mean a sewer which is owned and controlled by the Town of DeMotte and will consist of the following increments:

Collector Sewer - Shall mean a sewer whose primary purpose is to collect wastewaters from individual point source discharges.

Interceptor Sewer - Shall mean a sewer whose primary purpose is to transport wastewater from collector sewers to a treatment facility.

Force Main - Shall mean a pipe in which wastewater is carried under pressure.

Pumping Station - Shall mean a station positioned in the public sewer service at which wastewater is pumped to a higher level.

32. *Replacement* - Expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

33. *Sanitary Building Drain* - Shall mean that part of the lowest horizontal piping of the sanitary drainage system inside the walls of any building, which receives the discharge from soil or waste stacks and branches and conveys the same to a point three (3) feet outside the building walls where it connects with its respective building sewer.

34. *Sanitary Sewer* - Shall mean a sewer which carries sanitary and industrial wastes, and to which storm, surface and groundwater are not intentionally admitted.

35. *Sewage* - Shall mean the combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions (including polluted cooling water). The two most common types of sewage are:

Sanitary Sewage - Shall mean the combination of liquid and water-carried wastes discharged from toilet and other sanitary plumbing facilities.

Industrial Sewage - Shall mean a combination of liquid and water-carried wastes, discharged from any industrial establishment, and resulting from any trade or process carried on in the establishment (this shall include the wastes from pretreatment facilities and polluted cooling water).

36. *Sewage Works* - Shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

37. *Sewer* - Shall mean a pipe or conduit for carrying sewage.

38. *Sewer Treatment Plant* - Shall mean any arrangement of devices and structures used for treating sewage.

39. *Shall* is mandatory; *May* is permissive.

40. *Significant Industry* - Shall mean any industry that will contribute greater than ten (10%) percent of the design flow or design pollutant loading of the treatment works.

41. *Slug* - Shall mean any discharge of water or wastewater which is a concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than 5 times the average 24 hour concentration of flows during normal operation.

42. *Standard Methods* - Shall mean the laboratory procedures set forth in the latest edition, at the time of analysis, of "Standard Methods for the Examination of Water and Wastewater" prepared and published jointly by the American Water Works Association and the Water Pollution Control Federation.

43. *Storm Sewer* - Shall mean a sewer for conveying water, groundwater or unpolluted

water from any source and to which sanitary and/or industrial wastes are not intentionally admitted.

44. *Superintendent* - shall mean the Superintendent of the municipal sewage works of the Town of DeMotte, Indiana, or his authorized deputy, agent or representative.

45. *Suspended Solids* - Shall mean solids that either float on the surface of, or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.

46. *Total Solids* - Shall mean the sum of suspended and dissolved solids.

47. *Toxic Amount* - Shall mean concentrations of any pollutant or combination of pollutants, which upon exposure to or assimilation into any organism will cause adverse effects, such as cancer, genetic mutations, and physiological manifestations, as defined in standards issued pursuant to Section 307 (a) of PL 92-500.

48. *Unpolluted Water* - Is water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

49. *User Charge* - Is a charge levied on users of a wastewater treatment works for the cost of operation and maintenance of such works pursuant to Section 204(b) of PL 92-500.

50. *Volatile Organic Matter* - Shall mean the material in the sewage solids transformed to gases or vapors when heated at 550 degrees C for 15 to 20 minutes.

51. *Wastewater Treatment Works* - Shall mean the structures, equipment and processes required to collect, transport and treat domestic and industrial wastes and dispose of the effluent and accumulation residual solids.

52. *Water Works* - Shall mean all facilities for water supply, filtration plant, storage reservoir, water lines and services, and booster stations for obtaining, treating and distributing potable water.

53. *Watercourse* - Shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

6.2 SANITARY DISPOSAL.

6.2.1 It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property with the Town, or in any area under the jurisdiction of said Town, any human or animal excrement, garbage, or other objectionable waste.

6.2.2 It shall be unlawful to discharge to any natural outlet within said Town, or in any area under the jurisdiction of said Town, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance.

6.2.3 Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

6.2.4 The owner of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes situated within the Town and abutting on any street, alley or right-of-way in which there is located a public sanitary or combined sewer of the Town, is required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Ordinance, before occupancy or within one hundred eighty (180) days after date of official notice to do so , provided that said public sewer is within two hundred (200) feet of the property line.

6.2.5 All new structures shall have all walls and roof enclosed (per first phase construction) before hookup to sanitary sewer can be installed. Treatment plant personnel will locate sewer stub-off allowing builder to install building sanitary drain at proper location.

6.3 PRIVATE SEWERS

6.3.1 Where a public sanitary is not available under the provisions of Section 6.2.4, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

6.3.2 Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit from the Jasper County Health Department.

6.3.3 The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the State Board of Health of the State of Indiana. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than Twenty Thousand (20,000) square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

6.3.4 At such time as public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this Ordinance. Any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned, cleaned of sludge and filled with clean bank-run gravel or dirt at the owner's expense.

6.3.5 The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the Town.

6.3.6 No statement contained in this section shall be construed to interfere with any

additional requirements that may be imposed by the Health Officer.

6.3.7 When a public sewer becomes available, the building sewer shall be connected to said sewer within a period of One Hundred Eighty (180) Days.

6.4 SEWER PERMITS.

6.4.1 No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit at the Town Hall Office.

6.4.2 There shall be two (2) classes of building sewer permits: (1) for residential and commercial service, and (2) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on the appropriate form furnished by the Town. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee as determined in Schedule A shall be paid to the Town Manager or authorized agent at the time the application is filed. Permits shall be valid for a one (1) year period. A new permit shall be obtained and appropriate fee paid if the permit time period has expired prior to the building sewer being connected to the public sewer system. The Sewer Tap-In Fee shall be paid before the Occupancy Permit is issued for new construction. The Sewer Tap-in fees for existing buildings shall be paid at the time the Sewer Permit is requested. The Town Manager will process any Sewer Permit application received for locations within the Town limits. Any Sewer Permit application received for location outside the Town limits must be referred to the Town Council for evaluation and decision. Before, and as a condition precedent to, any sewer hook-up to serve property outside the Town limits, the property owner must file with the Town Manager a "Waiver of Protest of Annexation" on a form provided by the Town Manager.

6.4.3 All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

6.4.4 A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

6.4.5 Old building sewers may be used in connection with new buildings only when they are found, on examination by the Superintendent, to meet all requirements of this Ordinance.

6.4.6 The size, slope alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and back filling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town. In the absence of code provisions or an amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

7.12.1 Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

6.4.8 No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain, which in turn is connected directly or indirectly to a public sanitary sewer.

6.4.9 The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Town, or the procedures set fourth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

6.4.10 The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representative. The inspection shall consist of a visual inspection of the line for materials, alignment and grade, plus the application of tests, as required. Any joints, broken bells, or cracked fittings, which are unsatisfactory, shall be repaired or replaced at the direction of the Town. All building sewers shall be capable of meeting a leakage requirement of not to exceed two hundred (200) gallons/inch of pipe diameter per mile of pipe/day. This inspection will in no way imply or guarantee satisfactory function of the building sewer. Failure of the building sewer remains the responsibility of the property owner.

6.4.11 All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the said Town within one hundred eighty (180) days after connection has been completed.

6.5 PROHIBITED DISCHARGE.

6.5.1 No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or polluted industrial process waters to any sanitary sewer.

6.5.2 Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the said Superintendent, to a storm sewer or natural outlet.

6.5.3 No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- a. Any gasoline, benzene, aaphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
- b. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the, sewage treatment plant.
- c. Any waters or wastes having pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
- d. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

6.5.4 No person shall discharge or cause to be discharged the following described substance, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

- a. Any liquid or vapor having a temperature higher than one hundred fifty degrees (150)F and sixty-five degrees (65)C.
- b. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two degrees (32) and one hundred fifty degrees (150)F, zero and sixty-five degrees (0 and 65)C.

- c. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.
- d. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- e. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
- f. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of Jurisdiction for such discharge to the receiving waters.
- g. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.
- h. Any waters or wastes having PH in excess of 9.5.
- i. Materials which exert or cause:
 - 1. Unusual concentrations of inert, suspended solids (such as, but not limited to, fullers earth, lime slurries, and lime residues) or dissolved solids (such as, but not limited to, sodium chlorine and sodium sulfate).
 - 2. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 - 3. Unusual B.O.D. chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - 4. Unusual volumes of flow or concentration of wastes constituting "slugs" as defined herein.
- j. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

k. Any mercury or any of its compounds in excess of 0.0005 mg/l as Hg at any time except as permitted by the Town of DeMotte in compliance with applicable State and Federal regulations.

l. Any cyanide in excess of 0.025 mg/l at any time except as permitted by the Town of DeMotte in compliance with applicable State and Federal regulations.

6.5.5 If any waters or wastes are discharged, or are proposed to be discharged, to the public sewers, and in which contain the substances or possess the characteristics enumerated in Sec. 6.5.4 of this section, and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- A. Reject the wastes;
- B. Require pretreatment to an acceptable condition for discharge to the public sewers;
- C. Require control over the quantities and rates of discharge; and/or
- D. Require payment to cover the added costs of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Sec. 6-1-1-5 (J) of this section.

If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plans and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws.

6.5.6 Grease, oil, sand interceptors shall be provided when, in the opinion of said Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be located as to be readily and easily accessible for cleaning and inspection. All interceptors and/or baffle grease tanks installed shall be of adequate size to handle the applicable waste discharge.

6.5.7 Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

6.5.8 When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

6.5.9 All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. The particular analysis involved will determine whether a twenty-four (24) hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from twenty-four (24) hours composites of all outfalls where as pH's are determined from periodic grab samples.)

6.5.10 No statement contained in this section shall be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefore, by the industrial concern.

6.6 EQUIPMENT TAMPERING & TRESPASS.

6.6.1 No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the municipal sewage works. Any person violating this provision shall be subject to immediate arrest under charge of Criminal Mischief.

6.6.2 No person shall be on the premises of the municipal sewage works without proper authority or unless accompanied by Superintendent, Inspector or duly authorized employee. Any person violating provision shall be subject to immediate arrest under charge of Trespass.

6.7 INSPECTION.

6.7.1 The Superintendent, Inspector, and other authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this ordinance.

The Superintendent or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

6.7.2 While performing the necessary work on private properties referred to in Sec. 6.7.1 above, the Superintendent or duly authorized employees of the Town shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the Town's Employees and the Town shall indemnify the company against loss or damage to its property by Town employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Sec. 6.5.8.

6.7.3 The Superintendent and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purpose of, but not limited to inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

6.8 VIOLATION/PENALTIES.

6.8.1 Any person found to be violating any provision of this section shall be served by the Town Council or authorized agent with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

6.8.2 Any person who continues any violation beyond the time limit provided for in Sec.6.8.1 shall be fined in an amount not exceeding One Hundred Dollars (\$100.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

6.8.3 Any person violating any of the provisions of this ordinance shall become liable to the Town for any expense, loss, or damage occasioned by the Town by reason of such violation.

6.9 REPEALER. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed. The invalidity of any section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance, which can be given effect without such invalid part or parts.

6.10 POLICY. It is hereby declared to be the policy of the Town of DeMotte to provide water pollution abatement service for the DeMotte area. It is further declared to be the policy of the Town of DeMotte to provide water pollution abatement service for such areas adjacent to DeMotte as may, in the judgment of the Town Council, be feasibly served upon such terms, conditions and rates as the Town Board shall determine.

The rules and regulations hereinafter set forth shall be applicable to water pollution abatement activities including the disposal of sewage into the DeMotte Sewer System whether delivered from within or from without the DeMotte area.

All disposal by any person into the sewer system is unlawful except those discharges in compliance with Federal Standards promulgated pursuant to the Federal Act and more stringent State and Local standards.

A sewer permit will only be issued and a sewer connection shall only be allowed if it can be demonstrated that the downstream sewage facilities, including sewers, pump stations and wastewater treatment facilities, have sufficient reserve capacity to adequately and efficiently handle the additional anticipated waste load.

6.11 BUILDING SEWERS, CONNECTIONS AND SANITARY SEWERS.

6.11.1 The building sewer shall be constructed of PVC pipe and Fittings (SDR 35) meeting the most recently published ASTM Specifications (Designation D 3034), or other approved equal. If the building sewer is installed in filled or unstable ground, it shall be laid on a suitable improved bed or cradle as directed by the Superintendent. All joints and connections shall be made gas tight, water tight and root proof. PVC sewer pipe shall be fitted with integral wall bell and spigot elastomeric gasket joints ("O" Ring) meeting the requirements of ASTM D-3212 or PVC welded joint fittings. Any and all new construction dwellings and homes constructed in the Town of DeMotte shall utilize Number Twelve (12) gauge insulated tracer wire from the dwelling structure to the stub off concerning water and sewer lines. (03222010-01)

Any and all new constructions, businesses, dwellings and homes constructed in the Town of DeMotte must utilize Number Twelve (12) gauge insulated tracer wire for water and sewer collection lines including private lines from the business/dwelling structure to the stub off of the water and sewer collection lines.(05242010-01)

All individuals owning homes and/or businesses in the Town of DeMotte shall be responsible for updating their tracer wire for water and sewer collection lines, should it be a necessity to repair and/or replace the water and/or sewer collection lines. Necessary replacements and/or repairs shall be consistent with the requirements as previously defined in this Ordinance. The home/business owner shall be responsible for any and all liabilities associated with these repairs and/or replacements. (05242010-01)

6.11.2 The size of the building sewers shall be a minimum of 6-inches in diameter. For six (6) inch diameter pipe, the slope of the sewers shall not be less than one-eighth inch per foot.

The Town of DeMotte shall require in any new construction of residences, single family

dwellings, or homes being built in the Town of DeMotte or the two mile buffer zone, that the minimum required finish grade shall be twelve (12) inches of cover over the sewer line from the residence or new construction to the right of way. (10262009-2)

6.11.3 Each building sewer shall have one outside clean out. It is recommended that each sewer line over 100 feet long have a clean out every 90 feet.

6.11.4 Detailed construction plans and specifications for proposed sanitary sewers are subject to review and approval by the Town Council of DeMotte. Each proponent of a sewer shall notify the Town of DeMotte in writing of its intention to prepare such construction plans and specifications delineating the boundaries of the areas to be served by map or sketch, and the estimated date for bid advertisement.

6.11.5 The proponent shall submit two sets of plans and specifications and shall obtain approval thereof prior to advertisement for bids. Within thirty (30) days following receipt of such plans and specifications, the DeMotte Town Council (and Plan Commission, when part of a subdivision approval) shall review same and return one set thereof to the proponent with approval or required changes indicated. If said plans and specifications are disapproved, the required changes shall be made by the proponent(s) and all required revisions of plans and specifications resubmitted in the same manner as provided for the initial submittal.

All required state approvals and permits shall be obtained and filed at the Town Hall before construction is begun.

6.11.6 Lift stations for free flow, or, force main stations installed by a developer shall remain the responsibility of the developer for expenses to cover pump replacement, replacement of station equipment, maintenance repairs, and upgrading station to a larger capacity pumping station for a period of two (2) years after the Town Council accepts the sewer system and lift station.

6.11.7 Industrial users shall discharge into the public sewer system in accordance with the requirements outlined herein and also in accordance with the Industrial Cost Recovery Resolution.

6.11.8 The owner of any property serviced by a building sewer carrying industrial wastes shall provide laboratory measurements, tests and analyses of waters and wastes to illustrate compliance with this resolution and any special conditions for discharge established by the Town of DeMotte or regulatory agencies having jurisdiction over the discharge. The number, type frequency of laboratory analysis to be performed by the owner shall be as stipulated by the Town, but no less than twice per year the industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with the Federal, State, and local standards are being met. The owner shall report the results of measurements and laboratory in such manner as prescribed by the Town. The owner shall bear the expense of all measurements, analysis and reporting required by the Town of DeMotte and reserves the right to take measurements and samples for analysis by an outside laboratory service.

6.12 WASTEWATER SERVICE CHARGES.

6.12.1 Basis for Wastewater Service Charges:

The wastewater service charge for the use of and for service supplied by the wastewater facilities of the Town of DeMotte shall consist of a basic user charge for operation and maintenance plus replacement, a debt service charge and a surcharge, if applicable.

The *debt service charge* shall be based on the loan payback and interest requirements. The assessment is based on a fixed cost per equivalent dwelling unit (EDU).

The *basic user charge* shall be assessed as a fixed charge per EDU or if flow measurement is available, the user charge may be based on metered water consumption or metered sewage discharged. Wastes having the following characteristics and concentrations are established as being typical of one equivalent dwelling unit.

- A. Volumetric discharge rates up to but not exceeding 6,000 gallons per month.
- B. A five day 20 degree centigrade (20 C) bio-chemical oxygen demand (BOD5) not to exceed 250 mg/l. (\leq 12.5 lb. SS/month).

The basic user charge shall consist of operation, maintenance and replacement costs and shall be computed as follows:

Estimate the projected annual revenue required to operate and maintain the wastewater facilities including a replacement fund for the year, for all works categories.

Determine the EDU equivalence of the public sewer system users. This is accomplished by assigning EDU values according to Resolution Appendix III.

Compute the cost per EDU by dividing the O, M, and R costs by the total number of DU's within the DeMotte service area.

A *surcharge* will be levied to all users whose wastes exceed the BOD5 and SS concentrations of 250 mg/l. The surcharge will be based on the estimated water usage or on the actual water consumption or sewage discharged if such volumes are metered. Article I, Section 6 of this Chapter specifies the procedure to compute the surcharge.

The adequacy of the wastewater service charge shall be reviewed annually by Certified Public Accountants for DeMotte in their annual audit report. The wastewater service charge shall be revised periodically to reflect a change in debt service or a change in operation and maintenance costs including replacement costs.

6.12.2 ESTABLISHMENT OF FLOW:

The volume of flow used for computing the basic user charges is assigned to each system user in terms of EDU's according to Resolution Appendix III. The Town of DeMotte's Service charge is a fixed rate per EDU (see rate schedule).

If a user discharging wastes into the public sewers desires to have his user charges, debt service charges, and high strength surcharges, if applicable, be assessed on a volumetric water consumption or sewage discharged basis, he may do so provided:

- A. approved metering devices for determining the volume of waste be installed, owned and maintained by the system user at his expense.
- B. that the installation and operation of the meter be approved by the Town of DeMotte or their designated representative. Following approval and installation, such meters may not be removed unless service is canceled, without the consent of the town.

The Town of DeMotte may, if it deems necessary, require system users to install metering devices on the water supply or building sewer to measure the amount of service supplied. This would most probably be applicable to high-strength waste discharger or industrial class users.

6.12.3 DEBT SERVICE FEE: The debt service charge will be assessed at a monthly rate of \$5.79/EDU or \$0.97/ 1,000 gallons, over the EDU minimum gallons.

6.12.4 BASIC USER CHARGE: The basic user charge is established at a monthly rate of \$6.04/EDU or \$1.01/1,000 gallons.

6.12.5 MINIMUM MONTHLY CHARGES: All non-metered non-industrial users of the wastewater facilities shall pay a minimum flat rate monthly charge adequate to cover one EDU of service. This minimum monthly charge is \$33.25. Further, all industrial, commercial and business under Schedule A shall pay monthly minimum according to Schedule A or Schedule B.

6.12.6 SURCHARGE RATE: The rates of surcharges for BOD5 and SS shall be as follows:

$$CS=(BC (B) + SC (S)) \times (EDU (6))$$

Computation of Surcharge: The concentration of wastes used for computing surcharges shall be established by waste sampling. Waste sampling shall be performed as often as may be deemed necessary by the Town of DeMotte and shall be binding as a basis for surcharges.

6.12.7 COMPUTATION OF WASTEWATER SERVICE CHARGE: The wastewater service charge shall be computed by the following formula:

$$C = (EDU)(UF + DS) + (BC(B) + SC (S)) \times (EDU(6))$$

WHERE:

C=Amount of wastewater service charge (\$) per month.

EDU=Number of equivalent dwelling units (EDU's) assigned to each user.

UF=Basic user fee unit cost for O, M and R. (\$6.04/EDU/month)

DS=Debt Service Fee (\$5.79/EDU/month)

BC=Unit surcharge rate for Bod5 in high -strength discharge (\$0.092/lb.BOD5).

B=Actual BOD5 level in the high-strength discharge over and above the domestic waste level. $((BOD5 - .250 \text{ g/l}) (8.345)) = \text{_____ lb. BOD5/1,000 gallons.}$

SC=Unit surcharge rate for SS level in high-strength discharges (\$0.096/lb. SS)

S=Actual SS level in the high-strength discharge over and above the domestic waste level. $((SS - .250 \text{ g/l}) (8.345)) = \text{_____ lb.}$

CS= Surcharge for high-strength wastes.

6.13 INDUSTRIAL COST RECOVERY. When an industrial user, as defined in this ordinance, requests connection to the public sewage collection and disposal system, an industrial cost recovery system must be developed in accordance with 40 CFR 35.928.

6.14 GENERAL PROVISIONS.

6.14.1 BILLS.

Said rates or charges for service shall be payable monthly.

The owner of the premises, the occupant thereof and the user of the service shall be jointly and severally liable to pay for the service to such premises and the service is furnished to the premises by the Town of DeMotte only upon the condition that the owner of the premises, occupant and user of the services are jointly and severally liable therefore to the Town of DeMotte.

Bills for sewer service shall be sent out by the Town of DeMotte on the first (1st) day of the month succeeding two months for which the service is billed.

All sewer bills are due and payable fifteen (15) days after being sent out. A penalty of ten (10%) percent shall be added to all bills not paid by the fifteenth (15th) day after they have been rendered.

6.14.2 LIEN-NOTICE OF DELINQUENCY:

Whenever a bill for sewer service remains unpaid for ninety (90) days after it has been rendered, the Attorney for the Town of DeMotte shall file with the County Recorder of Deeds a statement of lien claim. This statement shall contain the legal description of the premises served, the amount of the unpaid bill, and a notice that the Town of DeMotte claims a lien for the amount as well as for all charges subsequent to the period covered by the bill.

If the user whose bill is unpaid is not the owner of the premises and the Town of DeMotte has notice of this, notice shall be mailed to the owner of the premises, if his address be known, whenever such bill remains unpaid for the period of sixty (60) days for a monthly bill after it has been rendered.

The failure of the Town of DeMotte to record such lien or to mail such notice or the failure of the owner to receive such notice shall not affect the right to foreclose the lien for unpaid bills as mentioned in the foregoing section.

6.14.3 FORECLOSURE OF LIEN: Property subject to lien for unpaid charges shall be sold for non-payment of the same, and the proceeds for the sale shall be applied to pay the charges, after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be by bill-in-equity in the name of the Treasurer of Jasper County, Indiana. The DeMotte Town Attorney is hereby authorized and directed to institute such proceedings in the name of the Town of DeMotte in any court having jurisdiction over such matters against any property for which the bill has remained unpaid one hundred and twenty (120) days in the case of a monthly bill after it has been rendered.

6.14.4 ACCOUNTS:

The Town of DeMotte shall establish a proper system of accounts in keeping with the regulations of the Indiana State Board of Accounts and shall keep proper books, records, and accounts in which complete and correct entries shall be made of all transactions relative to the sewerage system, and at regular annual intervals it shall cause to be made an audit by an independent auditing concern of the books to show the receipts and disbursements of the sewerage system.

In addition to the customary operating statements, the annual audit report shall also reflect the revenues and operating expenses of the wastewater facilities, including a replacement cost, to indicate that sewer service charges under the waste cost recovery system and capital amounts required to be recovered under the industrial cost recovery system do in fact meet these regulations, In this regard, the financial information to be shown in the audit report shall include the following:

- A. Flow data showing total gallons received at the wastewater plant for the current fiscal year.
- B. Billing data, showing total number of EDU's billed.
- C. Debt service for the next succeeding fiscal year.
- D. Number of users connected to the system.
- E. EDU assessment assigned to each user within the service area.
- F. A list of users discharging non-domestic wastes (industrial users) high-strength surchargeable wastes and the volume of waste discharged.

6.14.5 PENALTY: Any person, firm or corporation violating any provisions of this Article shall be fined not less than \$100 nor more than \$500 for each offense.

6.14.6 ACCESS TO RECORDS: The Indiana Stream Pollution Control Board or its authorized representative shall have access to any books, documents, papers and records of the Town of DeMotte which are applicable to the Town of DeMotte's system of user charges or industrial cost recovery for the purpose of making audit and examination.

6.14.7 CAPITAL EXPANSION: One hundred (100%) percent of sewer hook-up fees shall be designated for capital expansion and such fees shall be held in a separate fund. (ORD 41795-1)

6.15 EFFECTIVE DATE OF RATES. The rates and service charges established for user charges in Article I, Paragraph 1 through Paragraph 4, shall be effective after the wastewater treatment plant is accepted and operated by the Town and upon passage of this resolution by the Town Board of DeMotte.

6.16 VALIDITY. That if any section, paragraph, clause or provision of this resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this resolution.

6.17 OWNERS RESPONSIBILITY.

6.17.1 The owner of property serviced by the DeMotte Sanitary System shall notify the Town Manager when any change of use has occurred which would cause the property to fall under a different classification and fee schedule.

6.17.2 The owner of property serviced by the DeMotte Sanitary System shall notify the Town Manager of any change of ownership or billing address for said property.

6.17.3 Said notification must be made within sixty (60) days of said change. A penalty of up to 50% of the new monthly fee schedule per month and retroactive to the date when a new classification and usage commenced will be enforced for delinquent notification. (ORD 47195-3)

6.17.4 Once Hook-Up has been established for a given user, billing will continue unless a written request to disconnect has been made to the Town Manager.

A Disconnect may be done by way of:

1. *Permanent Disconnect* - Physically disconnecting from the system by capping the inflow pipe. This would be due, for example, to a building demolition or a mobile home removal with no replacement. to later on reconnect to the DeMotte Sanitary System would require the payment of the current hook-up fee at that time with appropriate inspection.

2. *Temporary Disconnect* - An "In-Office" accounting disconnect due to the temporary vacancy of a residence, apartment, office or mobile home. All billing would stop, except for any unpaid balance, until notice to reconnect would be made. To disconnect in this instance would be a fee of \$250.00. (ORD 122003-3)

6.18 MUNICIPAL WASTE DISPOSAL

6.18.1 This Ordinance is adopted for the purpose of protecting the public health, welfare, and safety, preventing the spread of disease, preventing the creation of nuisances, and conserving natural resources.

6.18.2 Definitions

“Business(es)” is a structure used for the purchase, sale, barter, or exchange of goods, wares merchandise, or services, or the maintenance or operation of offices, recreational, agricultural or amusement enterprises. Business participation in the Town refuse collection program will be voluntary.

“Condominium Associations” are structures that contain multiple single family dwellings

that are individually owned or rented for primary use as a place or abode for one or more persons. Condominium Association members shall be permitted to complete their current disposal service contracts, but upon completion of said term of current disposal service contract, the Dweller must utilize the Town's waste disposal service or continue their alternate service that is equal to the Town's, and provide proof of one year prepayment for said alternate disposal service to the Town.

“Construction and Demolition Debris” is rubbish generated by the construction, remodeling, or demolition of buildings or building appurtenances and includes concrete, brick, wood, roofing materials, gypsum board, piping and building fixtures (cabinets, water closets, windows, etc.).

“Dwelling(s)” is a dwelling, used primarily as a place or abode for one or more persons, including single family and duplexes only, but not including apartment buildings, motels, or hotels.

“Dwelling Unit” is a dwelling, or portion of a dwelling, used by one family for cooking, living, and sleeping purposes.

“Dweller” is a person or persons owning, residing, occupying, renting or operating businesses in a place or abode for one or more persons located in the Town, not including apartment buildings, motels or hotels. In the case of homes or abodes Dweller shall be defined as a single person or single family Dwelling Unit.

“Garbage” is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

“Garbage Container” is a container made of plastic or metal, equipped with suitable handles and tight fitting covers, and plastic garbage bags or similar receptacles. Containers shall be watertight and of a type approved by the Town with a capacity of not less than ninety (90) gallons. One garbage container on wheels is to be provided to each dwelling at no charge. Additional containers will be furnished by the dwelling occupant.

“Recyclables” or “recyclable materials” includes newspaper, cardboard, magazines, glass bottles (clear, brown, green), tin/steel/aluminum cans, plastic containers #1 through #7 and may include additional items as identified in the Contract Documents pursuant to the Contractor's Response.

“Recycling Container” is a minimum eighteen (18) gallon plastic container used for the placement of discarded recyclables. Container shall be made of post-consumer recycled plastic, at a minimum, 25% post-consumer content. The recycling container is to be provided by the Contractor.

“Refuse” is a putrescible and non-putrescible wastes (except human body wastes), including garbage rubbish, recyclables, and yard waste.

“Rubbish” is limited to non-recyclable putrescible and non-putrescible solid waste, both combustible and non-combustible including paper, cardboard, bottles, tin/steel/aluminum

cans, glass, bedding, rags, crockery, wood, furniture, and appliances.
“Town” shall be the Town of DeMotte.

“Waste” is any and all items deemed collectable according to this Ordinance for the purposes of collection and disposal of the same by the contractor who is awarded the contract to collect and dispose of said items.

6.18.3 Residential Collection Services

Collection services will be performed by the contractor hired by the Town and shall consist of weekly collection and disposal of non-recyclable garbage and rubbish, and co-mingled collection and disposal of recyclables, as herein defined, produced within the Town of DeMotte from each dwelling unit during the term of the contract.

All businesses are responsible for contracting separately with the contractor of their choice for the proper collection and handling of their solid waste.

Garbage and rubbish shall be collected and disposed of by the contractor per the specifications herein described with the following exceptions:

Furniture and Appliances shall be limited to one item per week;

Carpeting shall be cut and rolled into pieces that are capable of being picked up by one person and are no longer than four (4) feet in length;

Construction and Demolition Debris (except trivial amounts if properly containerized or bundled, not to exceed fifty (50) pounds each);

Hazardous Waste or Medical Waste will not be collected and will be the responsibility of the home owner.

Items containing CRC could be picked up for an additional charge and billed directly to the home owner or Dweller.

Auto and Truck Tires will not be collected.

6.18.4 Residential Recycling Services

A contractor hired by the Town shall collect from each dwelling unit all recyclable materials placed at curbside on the regular garbage collection day pursuant to the following conditions:

Contractor shall provide to each dwelling, at Contractor expense, one recycling container, manufactured in the United States and containing not less than 25% recycled content material. Each container shall be uniform in size, color, and shape and shall have appropriate drain holes, handles and lips and be subject to approval by the Town. Any additional containers needed will be at the dwelling occupant’s expense.

All recyclable materials are to be placed in the recycling container provided by the Contractor.

Contractor may refuse to collect those materials contained in a recycling container which are not recyclable materials. In such event, the Contractor will leave a written notice to the resident containing a description of recyclable materials and the reason for the non-collection.

The Town may take such steps as reasonably necessary to protect the Contractor's ownership of all recyclable materials placed at the curbside for collection by the Contractor.

Contractor shall be entitled to retain all proceeds from the sale of recyclable materials.

All businesses are responsible for contracting separately with the contractor of their choice for the proper collection and handling of their recyclable waste.

6.18.5 Containers

The contractor hired by the Town will provide the following containers to each dwelling unit:

- 1 – 90 gallon uniform minimum garbage container on wheels
- 1 – 18 gallon uniform minimum recycling container

All refuse containers used by a dwelling in place of or in addition to the “Garbage Container” provided by the Contractor shall be a durable watertight plastic or metal container with suitable handles and a tight fitting cover, of a type approved by the Town with a capacity of not more than 50 gallons.

6.18.6 Exceptions

Dwellers may request to opt out of the town wide municipal garbage program. The Dweller must provide a legitimate and compelling reason in writing to the Town to opt out of the Town wide waste disposal contract. Legitimate and compelling reasons do not include:

- 1. Use of illegal methods of disposal
- 2. Lower cost
- 3. Desire to use inferior service
- 4. Desire to contract services separately

Requests to opt out of the municipal waste program will be reviewed and decided upon by a vote of the Town Council at open session.

Violations of this ordinance shall be dealt with according to section 6.18.8 of this ordinance.

6.18.7 Fee Schedule

The Town Council of DeMotte shall implement a Fee Schedule determining charges associated with the municipal waste disposal services for the Town.

6.18.8 Violations

- A. First Occurrence of Non-compliance:
 - a. Upon the Dwellers first occurrence of failure to comply with ordinance provisions, the Town shall provide written notification to the Dweller of non-compliance event. Dweller shall have five (5) business days to correct non-compliance.
 - b. If, after five (5) days the non-compliance continues, Town impose a Five Dollar (\$5.00) fine per day for each violation, and a separate violation shall be deemed committed on each day during or on which a violation of non-compliance occurs or continues. Further after the non-compliance continues for more than Five (5) days the Town shall arrange for municipal waste to immediately commence at the Dwelling of occurrence for non-compliance at the Dwellers continued expense.

- B. Second Occurrence of Non-Compliance
 - a. Upon the Dwellers first occurrence of failure to comply with ordinance provisions, the Town shall provide written notification to the Dweller of non-compliance event. Dweller shall have five (5) business days to correct non-compliance.
 - b. If, after five (5) days the non-compliance continues, Town impose a Ten Dollar (\$10.00) fine per day for each violation, and a separate violation shall be deemed committed on each day during or on which a violation of non-compliance occurs or continues. Further after the non-compliance continues for more than Five (5) days the Town shall arrange for municipal waste to immediately commence at the Dwelling of occurrence for non-compliance at the Dwellers continued expense. After the Town has deemed that a second act of non-compliance of this Ordinance has been committed by said Dweller, said Dweller shall be prohibited from opting out of the Town's Municipal Waste Program in the future and shall continue to utilize the Municipal Waste Disposal Program at the continued expense of the dweller indefinitely.

6.18.9 Municipal Waste Disposal Lien on Dweller's Property Taxes For Failure To Pay

Failure of Dweller to pay fees associated with municipal waste disposal services as provided by the Town may result in the recording of a Municipal Waste Disposal Lien against the Dweller's property. Said liens shall be recorded against the Dweller's property by the Town with the Recorder of the County of Jasper in the State of Indiana and shall be collected with the Dweller's yearly property taxes.

In addition to the remedy for nonpayment listed in this Ordinance and any and all other reasonable remedies, pursuant to Indiana Code § 36-9-30-21(j), if the fee is not paid 30 days after it is due, the Town shall have the right to bring civil action to recover any delinquent charges together with a penalty of (10%) and reasonable attorney's fees.

The Town shall take all reasonable steps to collect costs and fees associated with waste disposal services from the Dweller, but the ultimate responsibility of said costs and fees shall remain with the property owner. If the Town is forced to collection delinquents waste disposal fees and costs the Town may choose to assess fees, costs of litigation and attorney's fees for collection to either the Dweller or the property owner. The Town shall take steps to collect said costs and fees from the Dweller by all avenues available to them, including but not limited to litigation and small claims suits, however, the Town has no obligation to collect these sums from the Dweller as the obligation of paying said fees and costs remain the ultimate obligation of the property owner.

6.18.10 Merger with existing Municipal Sewer Ordinance

This Ordinance shall hereby be incorporated and considered a part of the existing Municipal Sewer Ordinance as previously enacted by the Town of DeMotte. And any and all portions of the Municipal Sewer Ordinance shall be considered merged and commingled with this Ordinance for billing and collection purposes.

6.18.11 Repeal of Prior Conflicting Ordinances

Upon adoption by the Town Council of the Town of DeMotte, this Ordinance shall be in full force and effect. All prior Ordinances or parts thereof, which may be inconsistent with any provision of this Ordinance, are hereby repealed.(ORD. 05262009-3)

Town of DeMotte Industrial and Non-industrial User Building Sewer Application

Building Permit Number: _____ Date: _____

Job Address: _____

Name: _____

Tap in Fee: _____ Monthly Charge: _____ Receipt Number: _____

The undersigned agrees:

1. To accept and abide by all provision of the Town of Demotte rules and regulations and all other pertinent resolutions or regulations that may be adopted in the future.
2. To maintain the building sewer at no expense to the Town of DeMotte.
3. To notify the sewer department at (219) 987-5350 when the building sewer is ready for inspection and connection to the public sewer system but *before any* portion of the work is covered. Failure to do so, will result in the project being red-tagged and fines will be assessed.

Signed: _____ Date: _____

OFFICE USE ONLY

Date Permit Issued: _____

Town Limits:

Authorized Signature: _____

Outside Town Limits:

Council Signature: _____

Inspection

Inspection Date: _____ Inspector: _____

Approved: YES NO

Name of New Occupant: _____

WHITE - BUILDING YELLOW - BILLING PINK- SEWER GOLD - CUSTOMER

**SECTION 6-3-1-2 - SCHEDULE OF SEWER RATES AND CHARGES.
HOOK-UP SCHEDULE**

Per Apartment		\$1,600.00
Per Single Family		\$1,600.00
Per Unit/ Duplex, Tri-plex, Four-plex etc.		\$1,600.00
Per Business (per each 275 gallons daily outflow (ORD 82195-4)	minimum	\$1,600.00

1. RESIDENTIAL SERVICE

MONTHLY RATES:

A. Single Family Dwelling		<u>Base x</u> 1.0	\$34.90
B. Duplex Dwelling	per unit	1.0	34.90
C. Multi-Family Dwelling	per unit	1.0	34.90
D. Mobile Home		1.0	34.90
E. Tourist Home	per bed	0.1	3.49
			minimum 34.90

F. Fraternity, Sorority or Student Co-Op	per bed	0.2	6.98
G. Nursing Home	per bed	0.2	6.98

Add to any of the above for private swimming pool with Connection to sewer each 0.2 6.98

2. RELIGIOUS/FRATERNAL: (Rates are monthly for 12 months)

A. Church, cathedral, synagogue	per seat	<u>Base x</u> .005	0.175
B. Fraternal organization(does not include those with dormitory facilities)	per1000sq ft	1.0	34.90
C. Sorority (does not include those with dormitory facilities)	per1000sq ft	1.0	34.90
<i>Add for kitchen facilities in B. and C.</i>	<i>per seat</i>	<i>.01</i>	<i>.35</i>
<i>Add to any of the above for Bar facilities</i>	<i>per seat</i>	<i>.05</i>	<i>1.75</i>

3. EDUCATIONAL USE:

A. School (K - 12)	per student and staff	<u>Base x</u> .05	1.71
B. Day Care Center or Nursery School	per student and staff	.05	1.71
C. College, University, Vocational/Technical School			By Schedule B
<i>Add to any of the above for swimming pool</i>			
1. indoor	<i>per 1,000 sq ft</i>	<i>1.6</i>	<i>55.84</i>
2. outdoor	<i>per 1,000 sq ft</i>	<i>0.4</i>	<i>13.96</i>

4. MUNICIPAL/GOVERNMENTAL:

A. Town Hall office			By Schedule A
B. Fire Station			By Schedule A
C. Police Station			By Schedule A
D. Post-Office			By Schedule A
E. Park (Negotiate per facilities provided)			By Schedule B

5. PROFESSIONAL/OFFICE USE:

A. Medical Offices (outpatient)	per exam room	<u>Base x</u> 0.6	20.94
B. Dental Office (outpatient)	per chair	1.4	48.86
C. Veterinary Office (no kennels)	per exam room	0.6	20.94
D. Professional offices (attorney, architect, bank, etc.)			By Schedule A
E. Other offices, (real estate, insurance, etc.)			By Schedule A

6. RECREATION/ENTERTAINMENT USE:

A. Swimming pool			
1. indoor	per 1000 sq.ft.	<u>Base x</u> 1.6	55.84
2. outdoor	per 1000 sq.ft.	0.4	13.96
B. Bowling Alley	per lane	0.2	6.98
C. Billiard Hall	per table	0.3333	11.63
D. Amusement Arcade	per 100 sq ft	1.0	34.21
E. Theater	per seat	0.02	.70
F. Health Club			By Schedule B
G. Y.M.C.A.			By Schedule B

7. INDUSTRIAL/COMMERCIAL:

A. Dry Industry; limited to discharge of employee sanitary waste. (Includes, but is not limited to; Truck Terminal; Bottle Gas Storage and Distribution; Contractor's storage yard and office; Grain Elevator; Lumber Yard, etc.) By Schedule A

B. Wet Industry; those uses in which the process directly or indirectly causes waste water to be discharged into the sewer system; (Includes, but is not limited to : Canning Plant; Slaughter-House; Plating Facility; Dairy; Photo Processing Laboratory; Dental/Medical Laboratory, etc. By Schedule B

8. BUSINESS USES:

A. Automobile Sales			By Schedule A
B. Auto/Truck Service and Repair			By Schedule B
C. Car/Truck Wash (private, incidental to primary use)	per bay	<u>Base x</u> 1.0 2.0	34.90 minimum 69.80
D. Car/Truck Wash (intended for use by public)			By Schedule B
E. Service Station	per island	<u>Base x</u> 0.7 2.0	24.43 minimum 69.80
F. Body Shop			By Schedule B
G. Tavern, Bar, Lounge	per seat	<u>Base x</u> 0.1	3.49
H. Restaurant	per seat	0.1	3.49
I. Drive-In Restaurant	per car space	0.2	6.98
J. Carry Out Food Service (food, baked goods, etc. prepared on site)	per 100 sq ft	0.5	17.45
K. Food Processing (Bakery, Dairy, Egg Farm)			By Schedule B
L. Barber shop	per chair	<u>Base x</u> 0.3 1.0	10.47 minimum 34.90
M. Beauty Shop	per chair	0.7 1.5	24.43 minimum 52.35
N. Supermarket, Grocery			By Schedule A
Add for meat department		<u>Base x</u> 0.5	17.45
O. Laundry	per machine	0.85	29.67

P. Retail Sales				By Schedule A
Add for fountain service	per seat	<u>Base x</u> 0.05		1.75
Q. Hotel, Motel	per room	0.5		17.45
<i>Add for restaurant, bar, swimming pool according to schedule</i>				

Additional charges shall be determined and made by the Town of DeMotte where strength and character of sewage waste are in excess of the specifications set forth above.

SCHEDULE A

<u>CLASS</u>	<u>NUMBER OF EMPLOYEES</u>		<u>MONTHLY RATES</u>
A.	1 thru 5	<u>Base x</u> 1.0	\$34.90
B.	6 thru 15	2.0	\$69.80
C.	16 thru 30	3.0	\$104.70
D.	31 thru 50	4.0	\$139.60
E.	51 thru 70	5.0	\$174.50
F.	71 thru 100	6.0	\$209.40
Add for each 30 employees over 100		1.0	\$34.90

SCHEDULE B

Charges shall be negotiated and established by the Town of DeMotte as recommended by the Sewer Commissioner and Waste Water Treatment Plant Superintendent based on the strength and character of the sewage waste in question on a per case basis.

All stated MONTHLY RATES are based on annual usage paid in equal monthly installments.

SCHEDULE OF DISPOSAL FEES AND CHARGES

1. RESIDENTIAL SERVICE			MONTHLY RATES:
A. Single Family Dwelling		<u>Base x</u> 1.0	\$15.20
B. Duplex Dwelling	per unit	1.0	15.20
F. Mobile Home		1.0	15.20
G. Tourist Home		0.1	15.20
			minimum 15.20

TITLE 7

ANIMALS AND NUISANCE

7.1 ANIMALS.

7.1.1 DEFINITIONS: For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- a. "Abandon." To forsake entirely, or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner, or his agent. Such abandonment shall constitute the relinquishment of all rights and claims by the owner.
- b. "Domestic Animal." Cattle, calves, horses, mules, swine, sheep, goats, dogs, cats, poultry or other bird, and any animals of the bovine, equine, caprine, porcine, canine, feline, or avian species.

7.1.2 CRUELTY TO ANIMALS.

7.1.2.1 A person is guilty of cruelty to animals when, except as authorized by law, he intentionally or wantonly:

- a. Subjects any animal to causes cruel mistreatment through abandonment, causing it to fight for pleasure or profit, mutilation, beating, torturing, tormenting, failing to provide adequate food, drink, space or health care, or by any other means; or
- b. Subjects any animal in his custody to cruel neglect; or
- c. Kills any animal.

7.1.2.2 Nothing in this section shall apply to the killing of animals:

- a. Pursuant to a license to hunt, fish or trap;
- b. Incident to the processing as food or for other commercial purposes;
- c. For humane purposes;
- d. For any other purpose authorized by law.

Penalty, see Section 11

7.1.3 ABANDONING DOMESTIC ANIMALS PROHIBITED. No owner of a

domestic animal shall abandon the animal. Penalty, see Section 11

7.1.4 DESTRUCTION OF ABANDONED AND SUFFERING ANIMAL. Any peace officer may destroy or kill or cause to be destroyed or killed, any animal found abandoned and suffering and not properly cared for, or appearing to be injured or diseased.

7.1.5 RABIES PROTECTION. It shall be the responsibility of every owner of a domestic animal to have all such animals over six months of age owned by him continuously protected against contracting rabies.

Penalty, see Section 11

Statutory reference.

Municipal power to control rabies, see IC 15-2.1-6-13.

Rabies control in general see IC 15-2.1-6-1-15-2.1-6-13

7.1.6 NOISE DISTURBANCE. No person shall keep or harbor any domestic animal within the municipality which, by frequent and habitual barking, howling or yelping, creates unreasonably loud and disturbing noises of such a character, intensity, and duration as to disturb the peace, quiet, and good order of the neighborhood. Any person who shall allow any domestic animal habitually to remain, be lodged, or fed within any dwelling, yard, or enclosure which he occupies or owns shall be considered as harboring the domestic animal.

Penalty, see Section 11

7.1.7 DUTY OF PEACE OFFICER TO IMPOUND. It shall be the duty of every police officer, peace officer, and animal warden in the municipality to apprehend any domestic animal running at large in violation of this chapter and any unlicensed animal in the municipality, and to impound such animal in the municipal animal pound or other suitable place. The apprehending official shall make a complete record of each animal apprehended, entering the breed, color, approximate age, and sex of the animal, and whether licensed, the apprehending official shall enter the name and address of the owner and the number of the license tag.

Statutory reference:

Animal Shelters, see IC 36-8-2-6

7.1.8 RECLAIMING IMPOUNDED DOMESTIC ANIMAL. The owner of any domestic animal so impounded may reclaim the domestic animal from the municipality upon the payment of the following fees:

- a. The license fee, if such domestic animal is unlicensed;

b. A fee for apprehending and impounding the domestic animal as follows: Ten (\$10.00) dollars for the first time it is necessary to apprehend and impound the domestic animal within a one year period. Twenty-five (\$25.00) dollars for the second time within a one-year period. Fifty (\$50.00) dollars for the third time within a one year and fifty (\$50.00) dollars for each additional time after the third apprehension and impoundment within a one year period.

c. A storage and maintenance fee of ten (\$10.00) dollars per day or portion thereof during which the domestic animal is impounded.

7.1.9 LENGTH OF IMPOUNDMENT. All domestic animals impounded shall be kept for a maximum period of seven days, excluding the date of impoundment. Any domestic animal not reclaimed within that time shall be destroyed in a humane manner or delivered to a duly licensed humane society.

7.1.10 DOGS RUNNING AT LARGE. All domestic animals owned or maintained by persons living in the municipality or adjacent thereto shall be confined at all times by their owners and shall not be allowed to run at large unless under control of the owner.

Penalty, see Section 11

7.1.11 PENALTY. Whoever violates any provision of this chapter for which no penalty is otherwise provided, shall be fined not more than one hundred (\$100.00) dollars for each offense. A separate offense shall be deemed committed on each day that a violation occurs or continues.

7.2 DOGS.

7.2.1 DOG LICENSE REQUIREMENT. It shall be unlawful for any person to be the owner of a dog within the Town unless he shall procure a license therefore. Said license shall be for a calendar year and the fee therefore shall be due on January 1 of each year, except for a dog less than six months on that day, in which case a license shall be procured when the dog attains that age.

7.2.2 LICENSE PROCEDURE. Application for a dog license shall be made to the Township Assessor. At the time of such application, the owner shall furnish the Trustee with the following information:

- a. The name and address of the owner of the dog.
- b. The sex and breed of the dog.
- c. The date of the most recent rabies vaccination and the name and address of the veterinarian licensed by the State of Indiana who performed the same.

7.2.3 INOCULATION REQUESTED. A certification of inoculation against rabies for each dog, issued by a licensed veterinarian, shall be submitted to the Township Assessor for inspection at the time of application for license. No license shall be issued for any dog unless such inoculation certificate bears a date within one year prior to the date of application for license.

7.2.4 LICENSE FEE. Every owner of a dog within the Town shall pay an annual license fee of two (\$2.00) dollars for each neutered dog and four (\$4.00) dollars for non-neutered dogs, they shall receive from the Township Assessor a tag bearing the license number and the year issued stamped thereon. Any owner of a licensed dog whose license tag has been lost may obtain a replacement tag by payment of a fee of fifty (\$.50) cents to the Township Assessor.

7.2.5 REQUIRED. Every owner of a dog within the Town shall keep such license tag securely attached to a collar or harness fastened around the neck or body of such dog at all times when said dog is off the premises of the licensed owner. It shall be unlawful for any person other than the owner, his agent, or Town Marshal or Deputy to remove a license tag from a dog.

7.2.6 IMPOUNDMENT. All unlicensed dogs within the limits of the Town in violation of this Ordinance shall be impounded.

7.2.7 ANIMAL AT LARGE. Any dog found running at large in the Town shall be deemed and considered to be a public nuisance. It shall be the duty of the Town Marshal or his Deputy to impound any such dog. The Town Marshal or his deputy shall immediately upon the impounding of any dog, make a complete registry, entering the breed, color and sex of such dog, and whether licensed, if known; and, if licensed, the Marshal or his Deputy shall enter the name and address of the owner and the number of the license tag, if known, and if bearing an inoculation tag, the number of such tag shall be removed.

When any licensed dog shall be impounded, the Town Marshal or his Deputy shall forthwith give notice in person, by mail or by telephone to the owner of such licensed dog, informing such owner of the impounding of his dog.

7.2.8 PROCEDURE FOR RELEASE - LICENSED DOG. Any unlicensed dog, which shall have been impounded, may be redeemed by the owner on payment of seven (\$7.00) dollars as a fee for taking up or impounding such dog, plus the annual license fee provided herein, and the costs of keeping such dog while impounded. If such dog is not redeemed within ten (10) days after being impounded such dog may be disposed of by the Town Marshal. (ORD 41795-1)

7.2.9 PROCEDURE FOR RELEASE - UNLICENSED DOG. Any unlicensed dog which shall have been impounded may be redeemed by the owner on payment of the sum seven (\$7.00) dollars as a fee for taking up or impounding such dog, plus the annual licensed fee provided herein, and the costs of keeping such dog while impounded. If such dog is not redeemed within ten (10) days after being impounded such dog may be disposed of by the Town Marshal.

7.2.10 DOGS PROHIBITED FROM PUBLIC BUILDING. It shall be unlawful for any dog even though on a leash to be or enter upon a public hall, restaurant, confectionery shop, coffee shop, ice cream parlor, soft drink parlor, office, grocery, meat market, bakery or any store or shop for the sale of food, except any shop for the sale of animal pet supplies, anywhere within the Town during the time that said places or establishments are open for the use by the public or persons entitled to use the same.

No leash shall be longer than eight feet in length.

The provisions of this section shall not apply to dogs leading blind persons.

7.2.11 TRESPASS. No person shall, without the consent of the owner of the property concerned, permit any dog in his or her custody and control to enter upon the premises of another within the Town or permit any dog in his or her custody or control to injure, destroy or carry away any plant, vegetable, fruit, shrub, tree, flower or other thing which may be on said premises or which may be planted or seeded there.

7.2.12 BREEDING. The owner of any female dog in heat shall keep the same confined or on a leash at all times and shall not permit such dog to be at large in the streets, parks, or other public places in the Town or in any premises other than those of the owner.

7.2.13 DANGEROUS DOG. A dangerous dog is hereby defined to be a dog, which shall cause or announce reasonable fear of bodily injury to any person by attacking or threatening to attack such person. Any such dog is hereby declared a nuisance. The owner of any dangerous dog shall keep the same confined in a secure enclosure or on a leash controlled by the owner or his or her agent at all items and shall not permit such dog to be at large within the Town.

7.2.1.4 BITING DOG. A biting dog is hereby defined to be a dog, which has bitten, scratched or otherwise injured any person so as to cause abrasion to the skin of such person.

7.2.15 PROCEDURE FOR BITING DOG Whenever a complaint shall be made under oath and filed with the DeMotte Town Judge or other authorized employee, setting forth that a dog has bitten, scratched, or otherwise injured a person within the Town, so as to cause an abrasion of the skin and that the person so injured was not at the time unlawfully trespassed upon the person or property of the owner of such dog, summons shall issue and be served upon the owner of such dog.

If the defendant is found guilty, he shall be fined for said offense as provided under Section 20 of this Article, or the court may stay execution of issuance of a mittimus and continue the use for a further day and order the defendant to have his dog disposed of within the time for which the case is continued. Upon satisfactory showing to the Court that said dog has been disposed of, the court may, in its discretion, dismiss the action.

7.2.16 RABIES. Every veterinarian or other person discovering or suspecting any dog to be suffering with rabies shall forthwith report such fact to the Health Officer of Jasper County, giving the name and address of the owner of such dog and the license number thereof, if known. If such dog, after examination by the Health Officer or his representative, is indeed suspected to be suffering with said disease, the dog shall be immediately impounded as by statute provided.

Any dog which bitten by another dog having or suspected of having rabies, shall be immediately impounded for observation, as provided by statute.

It shall be unlawful for the owner of any dog, when notified that such dog has bitten or scratched any person or has otherwise injured any person so as to cause an abrasion of the skin, to sell or give away such dog or to permit or allow such dog to be taken beyond the limits of Jasper County, but it shall be the duty of such owner, upon receiving notice of the character aforesaid, to immediately place such dog in custody of a duly licensed veterinarian located in Jasper County, where such dog shall be confined for a period of at least fourteen (14) days for observation, or to deliver such dog to the Town Marshal for such placement. In case such dog is delivered to a veterinarian, notice of the name and location of such veterinarian shall be immediately furnished to the Jasper County Health Officer, a certificate stating that such dog either shows no symptoms of rabies or does show symptoms of rabies. If, at the expiration of fourteen (14) days of confinement with such veterinarian, the said veterinarian shall submit to the Jasper County Health Officer a second certificate stating that the dog does not have rabies, the said dog may then be released by the Jasper County Health Officer.

7.2.17 RABIES; SURRENDER OF POSSESSION. The owner or custodian of any dog suffering from or suspected to be suffering from rabies as provided in Section 21, shall surrender possession of such dog to any police officer of the Town, on demand.

7.2.18 RABIES; QUARANTINE. Whenever the number of dangerous dogs or dogs suffering from rabies, running at large in the Town, shall be such as to endanger the public health, public safety or general welfare, the Town shall apply to the State Veterinarian for quarantine. A proclamation of the Town Council President containing such declaration shall be published at least once in some newspaper of general circulation of the Town. After the first publication of such proclamation by the Town Board President, it shall be unlawful for the owner or custodian of any dog to permit such dog to be at large contrary to the terms of such proclamation.

7.2.19 COST OF IMPOUNDING. The cost of keeping impounded dogs shall be determined from time to time by the President of the DeMotte Town Council.

7.2.20 FINES. Persons found guilty of any violation of this Article shall be fined a sum

not to exceed One Hundred Dollars (\$100.00). A separate offense shall be deemed committed on each day that a violation occurs or continues.

7.3 LIVESTOCK.

7.3.1 LIVESTOCK PROHIBITED. It shall be unlawful for any person, firm or corporation to keep or have any cattle, hogs, horses, goats, sheep, chickens or other livestock or to cause to be kept any livestock anywhere in the Town within a distance of five hundred (500) feet from any residence or building where persons reside or work other than the residence or building where the person or persons so keeping or having such animal reside or work. Provided further that it shall be unlawful for any person, firm or corporation to keep any livestock within a distance of five hundred (500) feet from any residential lot, which lot or lots have been platted and recorded as residential lots, even though residences do not exist on said lot or lots at the present time.

7.3.2 EXCEPTIONS (USES PRIOR TO 12-20-77). Any person, firm or corporation who have or is keeping livestock on property within the corporate limits of the Town of DeMotte before December 20, 1977, shall not be subject to the provisions herein as to the particular property; provided however, that upon the cessation of the use of said property for livestock for a continuous period of six (6) full months, that thereafter it shall be unlawful to have livestock upon said property as above provided.

7.3.3 FINES. Any person, firm or corporation violating any provision of this article shall be fined any sum not more than One Hundred Dollars (\$100.00) and a separate offense shall be committed on each day during or on which a violation occurs or continues.

7.4 NUISANCES.

7.4.1 DEFINITIONS. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- a. *"Dwelling."* any part of any building or its premises used as a place of residence or habitation or for sleeping by any person.
- b. *"Nuisance."* public nuisance.
- c. *"Scrap Metal."* pieces or parts of steel, iron, tin, zinc, copper, aluminum, or any alloy thereof, whether they're covered with porcelain or any other material, whether intact or in parts, which has served its usefulness in its original form and can no longer be used for its originally intended purpose.
- d. *"Unfit for Human Habitation."* dangerous or detrimental to life or health because of: want of repair; defects in the drainage, plumbing, lighting, ventilation, or construction; infection with contagious disease; where the existence on the premises of an unsanitary condition likely to cause sickness among occupants of the dwelling.

7.4.2 COMMON LAW AND STATUTORY NUISANCES. In addition to what is declared in this chapter to be a public nuisance, those offenses which are known to the Common Law and Statutes of Indiana as public nuisances may be treated as such and be proceeded against as is provided in this chapter or in accordance with any other provision of law.

7.4.3 PUBLIC NUISANCE. It shall be unlawful for the owner, occupant, or person having control or management of any land within the municipality to permit a public nuisance to develop thereon. The following conditions are declared to be public nuisances:

- a. Dwellings unfit for human habitation. The erection, use, or maintenance of a dwelling which is unfit for human habitation.
- b. Dangerous buildings adjoining streets. Any building, house or structure so out of repair and dilapidated that it will, if the condition is allowed to continue, endanger the life, limb, or property of, or cause hurt, damage, or injury to persons or property using or being upon the streets or public way of the municipality adjoining the premises, by reason of the collapse of the building, house, or structure or by the falling of parts thereof or of objects there from.
- c. Dangerous trees or stacks adjoining street. Any tree, stack or other objects standing in such a condition that it will, if the condition is allowed to continue, endanger the life, limb, or property of, or cause hurt, damage, or injury to persons or property upon the public streets or public ways adjacent thereto, by the falling thereof or of parts thereof.
- d. Dilapidated buildings. Any building, house, or structure which is so out of repair and dilapidated that it constitutes a fire hazard liable to catch on fire or communicate fire, or which due to lack of adequate maintenance or neglect, endangers the public health, welfare, or safety, or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property.
- e. Accumulation of rubbish. An accumulation on any premises of filth, refuse, trash, garbage or other waste material which endangers the public health welfare, safety, or materially interferes with the peaceful enjoyment by owners or occupants of adjacent property because of the danger of its catching or communicating fire, its attracting and propagating vermin, rodents or insects, or its blowing of rubbish into any street, sidewalk or property of another.
 - a. Obnoxious odor or smoke. Emission into the surrounding atmosphere of odor, dust, smoke, or other matter which renders ordinary use or physical occupation of other property in the vicinity uncomfortable or impossible.

- b. Noise. Emission of noise, which is obnoxious enough to destroy the enjoyment of dwellings or other uses of property in the vicinity by interfering with the ordinary comforts of human existence.
- c. Storage of explosives or combustible material. The storage of combustible or explosive material, which creates a safety hazard to other property of persons in the vicinity.
- d. Open lots. The maintenance of any open, uncovered or insecurely covered cistern, cellar, well, pit excavation or vault situated upon private premises in any open or unfenced lot or place.
- e. Trees and shrubbery obstructing streets and sidewalks. The growing and maintenance of trees with less than fourteen (14) feet clearance over streets or less than eight (8) feet over sidewalks or the growing and maintenance of shrubbery in excess of three (3) feet in height within a radius of twenty (20) feet from the point where the curb line of any street intersects the curb line of another street.

No shrubs shall be planted between the curb line and the property line of any street within a radius of twenty (20) feet from the point where the curb line of any street intersects with the curb line of another street.

- a. Scrap material. The storage of scrap material within the municipal limits except on premises authorized by the municipality for such purpose.

7.4.4 ABATEMENT PROCEDURE.

7.4.4.1 It shall be the duty of an officer designated by the Town Council to serve or cause to be served a notice upon all persons holding a substantial interest in any premises on which there is kept or maintained any nuisance and violation of the provisions of the Chapter and to demand the abatement of the nuisance within a reasonable time, stated in the notice. Notice shall be served upon persons by certified mail, but if the whereabouts of the persons is unknown and cannot be ascertained by the officer in the exercise of reasonable diligence, the officer shall make an affidavit to that effect, and the serving of notice may be made by publication in a newspaper of general circulation for two consecutive days. A copy of the notice shall also be posted in a conspicuous place on the premises affected by the notice.

7.4.4.2 If a person so served does not abate the nuisance within the reasonable periods dated in the notice, the municipality may proceed to abate the nuisance, keeping on account of the expense of the abatement, and the expense shall be charged and paid by the owner or occupant.

7.4.4.3 Charges for nuisance abatement shall be a lien upon the premises.

7.4.5 NUISANCES CREATED BY OTHERS. For the purpose of this article, it shall

not be essential that the nuisance be created or contributed by the owner, occupant or person having control or management, but merely that the nuisance be created or contributed to by the licensee, invitees, guest, or of the persons for whose conduct the owner or operator is responsible, or by person for whose conduct the owner or operator is not responsible, but by the exercise of reasonable care ought to have become aware of.

7.4.6 SUSPENSION OF LICENSE.

7.4.6.1 Whenever it is brought to the attention of the Town Council that a nuisance exists and the Town Council deems that there is an immediate threat to the public health, safety, or welfare, the Town Council may, by majority vote, suspend the license of any person conducting business upon the premises where the nuisance exists.

7.4.6.2 The municipality shall cause notice of suspension to be served personally upon the licensee or at the premises where the nuisance exists.

7.4.6.3 Upon application of the licensee, the Town Council may remove the suspension upon such terms as it may direct.

7.5 WEEDS.

7.5.1 The Town Council of the municipality may require the owners of real property to cut and remove weeds or other rank vegetation growing on the property. A five (5) day written notice to remove the vegetation must be issued by the Town Council of the municipality and served by a Law Enforcement Officer upon the land owner, if he is a resident or by certified mail addressed to his last known address, if he is a nonresident.

7.5.2 If a landowner fails to remove the vegetation within the time prescribed, the municipality may remove the vegetation. The Clerk-Treasurer must make a certified statement of the actual cost incurred by the municipality in the removal. The statement must be delivered to the owner of the property by a Law Enforcement Officer or by certified mail, and the owner shall pay the amount of the Fiscal Officer. If the landowner fails to pay the amount within ten (10) days after receiving the statement, a certified copy of the statement of costs shall be filed in the office of the Auditor of the County in which the property is located. The Auditor shall place the amount claimed on the tax duplicate against the property affected by the work, and the amount shall be collected as taxes are collected and shall be dispersed to the general fund of the municipality.

7.6 BURN BAN.

7.6.1 That no person shall start, kindle, cause, allow, or maintain any form of leaf burning, wood burning of any kind, or the burning of trash, rubbish or garbage, on private or public property, except as specifically authorized by this Ordinance.

7.6.2 That the following types of fires are permitted:

- (a) customary burning of logs and other wood products in residential fireplace;
- (b) burning of charcoal and other food cooking fuels customarily used in outdoor

grills or traditional food cooking devices;

(c) fire celebrating Twelfth Night Ceremony;

(d) fire celebrating school pep rallies;

(e) fire celebrating scouting activities;

(f) fire used for recreational cooking purposes. i.e., campfires;

(g) industrial and/or commercial burning through methods specifically and previously approved by the Indiana Department of Environmental Management, or other appropriate state, local and/or federal regulatory agencies; and

(h) any other type of fires whereby a citizen of the Town of DeMotte has obtained a variance from the provisions of this Ordinance by petitioning the Town Council, providing, however that the Town Council cannot grant a variance that would otherwise violate the provisions of 326 Indiana Administrative Code 4-1 et. Seq., and as amended.

7.6.3 Any person found in violation of this Ordinance shall be subject to the following procedures:

(a) The Police Department personnel shall issue warning notice to a first time violator stating that he or she is in violation. The person must then correct the violation by immediately extinguishing the fire. Failure or refusal to immediately extinguish a fire shall result in a citation then being issued.

(b) Any person violating any provision of this Ordinance shall be fined not less than five (\$5.00) dollars and no more than five hundred (\$500.00) dollars for each offense. A separate offense shall be deemed committed on each day, during or on which a violation occurs or continues.

(c) Failure or refusal by the violator to immediately extinguish the fire in violation of this Ordinance shall also result in the Fire Department having the authority to go upon private property to extinguish said fire. Furthermore, in such instances where a leaf or rubbish fire results in damage to property other than the violator's, including damage to public property. e.g., asphalt, or results in injury to another person, the imminent threat or damage to other party's property including public property that said fire is determined to be caused by negligence or the willful disregard or violation of this Ordinance, a fine of the cost expended by the Town of DeMotte to send fire suppression personnel or equipment to the location shall be assessed with said fine not to exceed One Thousand Dollars (\$1,000.00).

(d) Each subsequent starting, kindling, causing or allowing of a new fire after notice of violation has been issued shall be considered a separate offense. (Ord. 42307-2)

7.7 CURFEW.

7.7.1 It is a curfew violation for a child less than fifteen (15) years of age to be in a public place after 11:00 p.m. or before 5:00 a.m. on any day.

7.7.2 It is a curfew violation for children less than fifteen (15) through seventeen (17) years of age to be in a public place:

- (1) between 1:00 a.m. and 5:00 a.m. on Saturday or Sunday;
- (2) after 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday or Thursday; or
- (3) before 5:00 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.

7.7.3 A law enforcement officer may not detain a child or take a child into custody based on a violation of this section unless the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that:

- (1) the child has violated this section; and
- (2) there is in no legal defense to the violation

7.7.4 It is a defense to a violation under this chapter that the child was emancipated.

7.7.5 It is a defense to a violation under this chapter that the child engaged in the prohibited conduct while:

- (1) accompanied by the child's parent, guardian, or custodian;
- (2) accompanied by an adult specified by the child's parent, guardian, or custodian;
- (3) participating in, going to, or returning from:
 - (a) lawful employment;
 - (b) a school sanctioned activity;
 - (c) a religious event
 - (d) an emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial damage;
 - (e) an activity involving the exercise of the child's right protected under the First Amendment to the United States Constitution or Article 1, Section 31 of the Constitution of the State of Indiana, or both, such as freedom of speech and the right of assembly; or
 - (f) an activity conducted by a nonprofit or governmental entity that provides recreation, education, training, or other care under the supervision of one (1) or more adults;
- (4) participating in an activity undertaken at the prior written direction of the child's parent, guardian, or custodian, or
- (5) engaged in interstate or international travel from a location outside Indiana to another location outside Indiana.

7.7.6 The Town of DeMotte has the option and right under I.C. 31-37-3-4 to determine that any curfew time established by the state statute that is later than is reasonable for public safety under the conditions found to exist in DeMotte may, by ordinance, advance the curfew time by not more than two (2) hours. The Town at this time, adopts the

current state standards. Additionally, the Town may advance by up to four (4) hours curfew times for the peace, order, and safety at a cemetery or other facility used to memorialize the dead, but the Town elects not to do so at this time. (Ord. 62507-1)

7.8 MISCELLANEOUS.

7.8.1 ANIMAL NOISE. It is unlawful for any person to harbor or keep any animal, which disturbs the peace by loud noises at any time of the day or night.

7.8.2 SHOOTING PROHIBITED. It shall be unlawful to discharge any firearm, air gun, B-B gun, pellet gun, bow & arrow, or any weapon on deadly force or capable of inflicting serious injury within the corporate limits of the Town of DeMotte, excepting in a range that is safe for the user and neighboring persons, supervised by adults when in use, and does not disturb the peace of the neighborhood. This Section shall not be construed to prohibit any officer of the law from discharging a firearm in the performance of his duty; nor any citizen from discharging a firearm when lawfully defending person or property. (Ord. 112095-3)

7.8.3.1 It shall be unlawful for any person to kill any bird, fowl, or animal, within the corporate limits of the Town. (Ord. 112095-3)

7.12.1 NOISE

7.9.1.1 Public Policy - It is hereby declared, as a matter of public policy of the Town of DeMotte, as follows:

- a. That the making and creation of loud, unnecessary or unusual noises of various kinds and by various means within the limits of the Town have so increased as to constitute a public nuisance;
- b. That the making, creation or maintenance of loud, unnecessary, unnatural or unusual noises which are prolonged in their time, place and use, affect and are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of the Town;
- c. That the necessity, in the public interest, for the provisions of this chapter is declared, as a matter of legislative determination for this declaration of public policy, to be designed to secure and promote the public health, comfort, convenience, safety, welfare and prosperity, and the peace and quiet of the inhabitants and visitors in this Town.

7.9.2.2 Unlawful Noises -Except as otherwise provided in this section, it shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise, or any noise which either disturbs, injures or endangers the comfort, repose, health and peace or safety of others within the Town. Accordingly, the following acts, among others, are declared to be loud, disturbing and unnecessary noises and in violation of this section, but such enumeration shall not be deemed to be exclusive:

- d. **Horns and signaling devices.** The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle in any street or public place of the Town, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for any unnecessary or unreasonable period of time; the use of any signaling device except one operated by hand, air or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the continued or repeated use of any such signaling device.
- e. **Radios and phonographs.** Playing, using or operating, or permitting to be played, used or operated, any radio or television receiving set, musical instrument, phonograph, calliope or other machine or device for producing or reproducing sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated, and who are voluntary listeners thereto, except when a permit for some special occasion is granted. The operation of any such set, instrument, phonograph, machine or device in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this subsection.
- f. **Loudspeakers, amplifiers for advertising.** Playing, using or operating, or permitting to be played, used or operated, and radio or television receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for producing or reproducing sound at any place upon the public streets or in any vehicle used for the transportation of persons for hire as a common carrier, for the purpose of commercial or other kind of advertising or attracting the attention of the public to any activity or building or structure, which is so used as to disturb and annoy other persons in their businesses, homes or elsewhere in their right of personal privacy and quiet, except for parades or events with permit.
- g. **Yelling or shouting.** Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 10:00 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence, or any person in the vicinity.
- h. **Animals or birds.** The keeping of any animal or bird, which, by causing frequent or long-continued noise, shall disturb the comfort or repose of any person in the vicinity.

- i. **Exhausts.** The discharge into the open air of the exhaust of any steam engine, internal-combustion engine, or any other type of engine or power unit on a motorboat, motor vehicle, motorcycle or other vehicle or craft of any kind, except through a muffler or other device which will effectively reduce and prevent loud or explosive noises therefrom.
- j. **Defect in vehicle or load.** The use of any automobile, motorcycle or other kind of vehicles so out of repair, or so loaded, or in such a manner as to create loud and unnecessary grinding, grinding, rattling or other noises.
- k. **Construction or repairing of buildings.** The erection, demolition, alteration or repair of any building, or the excavation therefore, other than between the hours of 7:00 a.m. and 6:00 p.m. on Monday through Saturday, except in the case of urgent necessity on the interest of public health and safety.
- l. **Schools, courts, churches, retirement homes.** The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while it is in use or adjacent to any retirement home which unreasonably interferes with the operation thereof of which disturbs or unduly annoys residents; provided that conspicuous signs are displayed in such streets indicating that the same has been declared and is a school, hospital or other such quiet zone that the police have created.
- m. **Drums.** The use of any drum, horn or other instrument or device for the purpose of attracting attention by creation of noise to any performance, exhibition, show or sale; except in a parade or place for which a permit has been granted.
- n. **Pile drivers, hammers.** The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance the use of which is attended by loud or unusual noise, except when being operated by a public utility in connection with emergency repairs of such utility.
- o. **Blowers.** The operation of any noise-creating blower or power fan, or any internal-combustion engine, the operation of which causes noises due to the explosion of operating gases or fluids, unless the noise from the blower is muffled and the engine is equipped with a muffler device sufficient to deaden such noise.
- p. **Vendor's Vehicle.** Using, operating or playing, or permitting to be used, operated or played, any bell, radio, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for producing or reproducing sound in or upon any vehicle used for the transportation and sale of any wares or merchandise on or upon any of the streets or highways within the city, which sound-producing instruments are set to

produce any noise, music or sound in excess of one hundred fifteen (115) decibels, measured at six (6) inches from the sound-producing amplifier of the speaker; the use and operation of any vehicle so equipped, with such sound-producing equipment in operation, between the hours of 10:00 p.m. and 10:00 a.m. of the succeeding day; or use or operation of any such sound producing equipment in or upon any such vehicle while the vehicle is moving along or upon any street or highway; it being the intent and purpose of this subsection to permit the use of such sound-producing equipment in or upon any such vehicle only when the vehicle is parked or standing still in or upon any street or highway and during the house provided in this subsections.

7.9.1.3 Definitions

- q. **Sound-amplifying equipment** shall mean any machine or device for the amplification of the human voice, music or any other sound; such term shall not be construed as including standard automobile radios when used and heard only by occupants of the vehicle in which they are installed, or warning sirens, horns or other devices on authorized emergency vehicles, or horns or other warning devices on other vehicles used only for traffic safety purposes.

7.10 PENALTY. Persons committing a violation of this Title shall be fined any sum not to exceed one hundred dollars (\$100.00) for each violation.

7.11 DAMAGE CAUSED BY USING EXTREME SPORTS EQUIPMENT

7.11.1 Extreme Sports Equipment is defined as any of the following non-motorized devices:

1. Skateboards
2. Roller Skates
3. Inline Skates
4. Freestyle Bicycles
5. Mountain Bicycles
6. An apparatus that is:
 - a. Wheeled;
 - b. Recreational or sporting in nature;
 - c. Powered solely by the physical efforts of the user, and
 - d. Generally, know, as the term is used in Rule 201 of the Indiana rules of Evidence, as an apparatus used for extreme sports.

7.11.2 A person who knowingly or intentionally or recklessly uses extreme sports equipment in such a manner as to damage public or private property commits a nuisance under this chapter.

7.11.3 The investigating officer may impound said equipment until disposition by the Town Court.

7.11.4 A person convicted under this section shall be subject to forfeiture of the extreme sports equipment used in addition to a fine not to exceed \$100.00.

7.12 FIREWORKS

7.12.1 The use of consumer fireworks within the corporate limits of the Town of DeMotte shall be limited to the following times and dates:

1. Between the hours of 5:00pm and two (2) hours after sunset on June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8, and July 9;
2. Between the hours of 10:00 am and 12:00 midnight on July 4; and
3. Between the hours of 10:00am and 12:00 midnight on July 4; and
4. Between the hours of 10:00 am on December 31 and 1:00 am on January 1.(Ord. 62507-2)

7.12.1 That violation of the times and dates as provided in this ordinance shall be an ordinance violation, subject to a fine of up to \$250.00.(Ord. 62507-2)

7.13 UNSAFE BUILDING

7.13.1 The Town of DeMotte adopts Indiana Code Chapter 36-7-9

1. The Planning Commission shall be the executive department authorized to administer this ordinance

7.13.1 Penalty for Violation – Violation of this ordinance shall be addressed as established in Indiana Code 36-7-9 as it may be amended at anytime.

TITLE 8

TOWN PARKS

8.1 CONSTRUCTION AND SCOPE OF ARTICLE.

8.1.1 It is the interpretation of this article that its provisions be construed as follows:

- a. All references to a specific gender (e.g., he, himself, etc.) shall, henceforth, refer to both genders (e.g., the word "he" shall represent both male and female persons).
- b. The Parks Director, with the approval of the Park Board and subsequent approval of the Town Council, shall have the power to make rules and regulations from the contents of this article.
- c. Detailed information of rules and regulations referred to in general terms in this article and contained in different literature published by the department shall be considered supplemental material of this article and shall be binding by law.
- d. Any requirement or provision of this article relating to any act shall respectively extend to and include the causing, procuring, aiding or abetting, directly or indirectly, or such act or the permitting or the allowing of such act or the permitting or the allowing of any minor in the custody of any person to do any act prohibited by any provision hereof.
- e. No provision hereof shall make unlawful any act necessarily performed by any officer of the law or employee of the parks and recreation department in the line of duty.
- f. This article is in addition and supplemental to all municipal, state and federal laws and Ordinances.
- g. This article shall be effective within and upon all areas under the jurisdiction of the Park Board and shall regulate the use thereof by all persons.

8.2 DEFINITION OF TERMS. Unless otherwise expressly stated, whenever used in this article, the following terms shall respectively mean and include each of the meaning set forth.

- A. "*Department*" shall henceforth refer to the Parks and Recreation department of the Town of DeMotte, Indiana.
- B. "*Duly Authorized Agent*" shall henceforth refer to any employee (full or part-time), consultant or person authorized with the power to act lawfully in behalf of the Park and Recreation department of the Town of DeMotte, Indiana.
- C. "*Gambling*" as defined by the Indiana Code.
- D. "*Intoxication*" as defined by the Indiana Code.

- E. *"Marijuana"* as defined by the Indiana Code.
- F. *"Narcotic Drugs"* as defined by the Indiana Code.
- G. *"Park Board, Board, Board of Parks and Recreation, Park Members"* shall henceforth refer to the Board of Parks and Recreation, Town of DeMotte, Indiana.
- H. *"Parks and Park Property"* shall be deemed to include all parks, playgrounds, athletic facilities, parking areas, buildings or structures, recreation areas, open areas, roads, waters, land under water, including all land under and space above the surface of the ground, and all entrances and approaches leading to or connecting such parks or park property which are under the jurisdiction of the Board or shall hereafter be acquired by the Board.
- I. *"Permit"* Shall mean and include any written authorization issued by or under the authority of the Board for a specified park privilege, activity or event, or permitting the performance of a specified act or acts on any park or park property.
- J. *"Person"* shall mean and include any natural person, corporation, society, organization or persons, company, association, joint-stock association, firm or co-partnership.
- K. *"Director"* shall henceforth refer to the Director of Parks and Recreation of the Parks and Recreation Department, Town of DeMotte, Indiana.
- L. *"Town"* shall henceforth mean the Town of DeMotte, Indiana.

8.3 DEFACEMENT, DESTRUCTION, REMOVAL AND DISTURBANCE OF PROPERTY, EQUIPMENT AND NATURAL FEATURES. No person shall injure, deface, destroy, disturb, befoul, or remove any part of the park or any building, sign, equipment, or other property or injure a standing or growing vine, bush, shrub, sapling, tree, or flower on park property, or maliciously injure, destroy, disturb or sever from the park land a product standing or growing or other thing, such as rocks or minerals attached thereto or a part thereof.

8.4 LITTERING, RUBBISH, GARBAGE, SEWAGE AND NOXIOUS MATERIAL, AIR POLLUTION, NUISANCE AND OR DAMAGE.

8.4.1 Depositing Unauthorized Waste in Park:

8.4.1.1 No person shall bring into, leave behind, dump or litter with material of any kind in the park, except refuse, ashes, garbage and other material arising from normal use and enjoyment of the park.

8.4.1.2 No person shall leave or deposit any material outside or near the parks so as to pollute the land, waters or air coursing through or over the parks, or otherwise, to interfere with proper use and enjoyment of all parks.

8.4.1.3 No persons shall leave, deposit or throw away any bottles, cans, refuse, or foreign materials of any description, into any stream, waterways, ponds or lakes located in or adjacent to park land.

8.4.2 Prohibited Noxious or Deleterious Material:

No person shall, either within or outside the park, place or permit to be placed in any brook, stream, ditch, sewer or drain that flows into or through park lands any noxious or deleterious material which may render harm to vegetation or aquatic life, or which may prevent, limit or interfere with the use and enjoyment of such waters for domestic, industrial or agricultural purposes, or which may lessen to an unreasonable degree the use and enjoyment of such waters for park lands for recreational or other park uses.

8.4.3 All fires in a park grill and those open fires allowed by special permit signed by the Director shall be permitted providing the material used is not taken live from the park and maintained so that such burning can be accomplished without the emission of dense smoke, sparks, odor, dust, ash, etc., which may cause an air pollution nuisance or damage.

8.5 MOLESTING WILDLIFE, HUNTING, FISHING AND FIRES.

8.5.1 Molesting Wildlife; Hunting:

No person within the confines of the park shall hunt; pursue with dogs; trap; use walkie-talkie radios, planes, snowmobiles (or other devices to pursue) or in any other way molest any wild bird or animal found within the confines of the parks, or rob or molest any animal den and/or bird nest or take the eggs of any bird.

8.5.2 Fishing:

8.5.2.1 No person shall fish in park waters posted as areas of no fishing by the Board of Parks and Recreation.

8.5.2.2 In all other park waters, fishing shall be permitted subject to statutes of the State of Indiana.

8.5.2.3 Fishing shall not be permitted during the hours the park is closed.

8.5.3 Fires:

8.5.3.1 Starting and Tending Fires:

a. No person shall start a fire on park lands except small fires for culinary purposes in park grills or privately owned grills, or fires in a place or designated areas approved by the Board.

b. All fires shall be continuously attended under the care and direction of a competent person eighteen (18) years of age or older.

- c. All fires shall be extinguished by the person or persons starting or using the same before leaving the immediate vicinity of the fire.
- d. No fires shall be built within ten (10) feet of any tree or building, or beneath the branches of any tree, or in any underbrush.

8.5.3.2 Regulations Set Forth by Director: The Director of Parks and Recreation may, at his/her discretion, prohibit fires for limited periods at any location or for any purpose when necessary for the protection of park property.

8.5.3.3 Dumping of Ashes: The dumping of hot ashes or fire from portable picnic grills onto the grass or plants is prohibited. Hot ashes shall be deposited in specified areas or designated receptacles, but not in picnic refuse receptacles.

8.5.3.4 Lighted Matches, Cigars, Cigarettes and Pipe Ashes: No person shall throw away or discard any lit or unlit match, cigar, cigarette or pipe ashes within or adjacent to any park property.

8.6 HOURS OF OPERATION.

8.6.1 Weekdays:

8.6.1.1 Weekdays shall be designated henceforth as Monday, Tuesday, Wednesday, and Thursday.

8.6.1.2 Hours designated as open to the public during weekdays shall be 7:00 a.m. to 9:00 p.m. except for special authorized activities. The parks shall be closed from 9:00 p.m. to 7:00 a.m. the following morning.

8.6.2 Weekends:

8.6.2.1 No person shall be on park property during the weekend hours, which are Friday, Saturday and Sunday

8.6.2.2 Hours designated as open to the public during weekends shall be 7:00 a.m. to 11:00 p.m. except for special authorized activities. The parks shall be closed from 11:00 p.m. to 7:00 a.m. the following morning.

8.6.3 Use of Parks Before and After Hours: All persons desiring to use park lands and facilities before and after closing hours shall have a special permit signed by the Director.

8.7 TRAFFIC.

8.7.1 Observance of Park Speed Limit:

8.7.1.1 The park speed limit shall henceforth be set at ten (10) miles per hour for all parks in the Town of DeMotte.

8.7.1.2 No person shall drive or propel or cause to be driven along or over any road within or adjacent to the park any vehicle or conveyance at a rate of speed greater than speed limit signs along the right-of-way.

8.7.2 Vehicles Restricted to Roadways:

8.7.2.1 No motorized vehicle of any kind shall be driven over or upon any portion of the park, except drives and roadways established for vehicles by the board. DeMotte Little League and DeMotte Soccer League shall be permitted to utilize one golf cart for official league business. Said golf cart must be registered and in compliance with Ordinance Number 2222010-1. Individuals that operate golf carts in such capacity for said organizations must also comply with Ordinance Number 2222010-1. Said organizations shall provide proof of liability insurance for operation of said golf carts. Further said organization shall register authorized operators of said golf carts with the Town of DeMotte. Both proof of insurance and registration of operators of golf carts shall be provided to the Town of DeMotte by the organization prior to operation of said golf cart by the respective organization. (03222010-02)

8.7.2.2 No moped bicycles shall be driven over or upon any portion of the park, except drives and roadways established for vehicles by the board.

8.7.3 Reckless Driving of Vehicles: No person shall drive, or propel, or cause to be driven or propelled along or over any highway, road, parkway, drive or parking areas within the park, any vehicle, without due regard for the safety and rights of pedestrians and drivers and/or occupants of all other vehicles, so as to endanger the life, limb or property of wooded or open land trail, drive, parking area or other public lands within the park.

8.7.4 Driving on Park Areas and Closed Roads or Drives: No person shall drive a vehicle of any kind upon or along any park area, road or drive which has been closed and posted with appropriate signs and/or barricades.

8.7.5 Parking in Areas Not Designated as Parking Areas: No person who is the owner or operator of a motor vehicle or cycle shall park such vehicles in other areas except those designated as parking areas.

8.8 SWIMMING.

8.8.1 Areas for Swimming: Swimming is prohibited except at adequately lifeguarded areas designated for that purpose by the Board or Director.

8.8.2 Unsafe Flotation Objects: The use of life rafts, inner tubes, air-inflated plastic and other objects intended to support persons, not determined as safe by the lifeguard on duty, is prohibited in any of the designated swimming areas.

8.9 SNOWMOBILES, SLEDDING, SKIING AND SKATING.

8.9.1 Snowmobiles in Restricted Areas Only: No person shall operate a self-

propelled vehicle, which is designated to travel on snow-covered surfaces within in the park other than in areas designated by the Director as "snowmobile" areas.

8.9.2 Sledding, Skiing and Skating in Restricted Areas Only: No person shall ride, ski or ice skate within the park in areas designated by the Director as unsafe.

8.10 INDECENT CONDUCT. No person shall violate any law (concerning indecent conduct) of the United States of America, State of Indiana, or Town of DeMotte.

8.11 DISORDERLY CONDUCT.

8.11.1 Disturbing the Peace, Loudness, Fighting: No person shall disturb the peace or good order of the community within or adjacent to the park by the loud playing of televisions, radios, tape recorders, noisemakers, sound equipment, or by fighting, quarreling or threatening violence to the person or property of others.

8.11.2 Unlawful Assemblage or Property Damage: No person or group shall collect within the park, in bodies or crows, for unlawful purposes, or in riotous assemblage, or intending to annoy, harass or inflict property or bodily injury upon another person or persons, or inflict damage to the park.

8.11.3 Loitering, Vagrancy: No person or group shall loiter in or near any building, structures, facilitators, vehicles, motorcycles or cycles, on or about bicycles within the park that would disrupt or disturb other activities.

8.11.4 Unlawful Entry of Facilities: No person shall unlawfully enter any park facility, which is not open to the public at time of entry.

8.11.5 Unlawful Entry of Restrooms: No person, except authorized park employees, on duty, or park and/or law enforcement officers, shall enter a restroom set aside for the opposite sex.

8.11.6 Assault or Bodily Injury: No person shall willfully assault or commit bodily injury upon another while within the park or be engaged in or abet or aid in any fight, quarrel or other disturbance.

8.11.7 Gambling: No person shall be allowed to engage in any form of gambling while on park property.

8.11.8 Possession of Liquor, Marijuana, Narcotic Drugs:

8.11.8.1 No person shall drink, sell, possess, make a gift of, or offer for sale, any alcoholic beverage or intoxicating liquor within or adjacent to any park property.

8.11.8.2 No person who is under the influence of, or intoxicated by, alcoholic beverages, narcotic drugs or marijuana, shall be allowed to enter or remain within any park property.

8.11.9 Profanity and Abusive Language: No person shall use obscene, profane or abusive language while within or adjacent to the park.

8.11.10 Unlawful Sales, Soliciting, Hawking, Begging, or Peddling: No person shall beg, or solicit within or adjacent to the parks.

8.11.11 Equal Rights of Others: Every person shall conduct himself with due regard to the equal rights of others to the use and enjoyment of the park.

8.11.12 Persons Acting Unlawfully to Be Removed From Park:

8.11.12.1 No person shall remain within the park who does not abide by conditions adopted and posted by the Board for preservation of good order and the protection of property within the department.

8.11.12.2 No person shall remain within the park who does not abide by the instructions and directions of duly authorized employees or agents of their duties.

8.11.12.3 Any person directed by the Director, employees or agents of the Board to leave the park shall do so promptly and peaceably.

8.11.13 Unlawful to Resist, Obstruct or Abuse Enforcement Officers: No person shall resist, obstruct or be abusive of, or address in a profane or obscene manner, the Director, Park Board members, law enforcement officers or agents of the board.

8.11.14 Failure to Comply with Orders of The Director or His Duly Designated Agent: No person shall fail or refuse to comply with any reasonable order relating to the regulation, direction or control of the traffic, or to any other order lawfully given by the Director or law enforcement officer acting under the authority of the board. Nor shall he willfully resist, obstruct, assault or abuse the Director or law enforcement officer or any other official in the execution of his office. __

8.12 FIREARMS, WEAPONS, EXPLOSIVES, ETC. No person shall fail or refuse to comply with any reasonable order relating to the regulation, direction or control of the traffic, or to any other order lawfully given by the Director or law enforcement officer acting under the authority of the board. Nor shall he willfully resist, obstruct, assault or abuse the Director or law enforcement officer or any other official in the execution of his office.

8.13 HOUSEHOLD PETS PROHIBITED IN PARKS; CONTROL OF ANIMALS.

8.13.1 No person shall bring into, have or keep in any Town Park, a cat, dog, falcon, or other animal which is destructive of birdlife and other wildlife, except by written permit issued by the Board for special authorized pet shows in designated areas. Except as hereinabove provided, no dogs are allowed in Town Parks. Trained Seeing-Eye Dogs actually assisting the handicapped are exempt from this Ordinance.

8.13.2 The owner of every animal shall be responsible for the removal of any excreta disposed by his animal on or within park property; and no owner shall take his animal onto park property for the purpose to allow animal to defecate or urinate therein.

8.14 ADVERTISING SIGNS PROHIBITED. No person shall place, post or display any sign, advertisement, circular or notice in the park without specific permission from the Director.

8.15 COMMERCIAL ENTERPRISES PROHIBITED; CONCESSIONEERING WITHOUT PERMIT. No person, except the DeMotte Little League, DeMotte Soccer or DeMotte Park Department shall sell or offer for sale, any article, privilege, or service, within or adjacent to the parks except at Town Festivals.

8.16 FEE PERMITS; RENTAL FACILITIES AUTHORIZED. Facilities of the park, reservable portions of the picnic areas, certain parking areas, structures, field areas, etc., and the like may be reserved and/or a fee use permit may be issued to persons upon their application to, approval by, and issuance of a permit by the Director or agents designated by the Board and payment of a fee, if any, as required by the Board.

8.17 OBEDIENCE TO POSTED RULES AND REGULATIONS REQUIRED. All persons shall obey posted rules and regulations in specified areas.

8.18 BOARD, AGENTS AND EMPLOYEES OF THE BOARD. Performance of Duties: None of the above rules and regulations shall apply to the Board, agents or employees in the performance of their official duties.

A park employee shall also be justified in using reasonable force to protect himself and/or a third person from what he believes to be the imminent use of unlawful force.

8.19 PENALTIES.

8.19.1 Suspension From Park and Recreation Privileges: Any person violating the rules and regulations hereby set forth shall be subject to immediate expulsion from the park by any duly designated enforcement official and shall further be suspended from all park and recreational privileges for the remainder of the day that said violation occurs; and further, said violation shall be immediately reported to the Director who may, upon review of the facts, extend such suspension for a determined period not to be in excess of one year unless said violation is determined to be of such magnitude to warrant further suspension.

8.19.1.1 Suspension Appealed: Any person suspended from park and recreational privileges pursuant to the provision of the foregoing paragraph may appeal to the decision of the Director to the Board of Parks and Recreation by setting forth to the facts giving rise to the suspension in writing and delivering the same to the Board's regular meeting, not later than thirty (30) days after initial suspension.

8.19.1.2 The Board may, upon being duly advised in the premises, sustain, reduce, or modify the decision of the Director.

8.19.2 Fine: Any person violating this article or any part thereof, or any person doing any act which is prohibited hereunder or which is made or declared to be unlawful hereunder, shall be punished by a fine not to exceed one hundred dollars (\$100.00). Every day any violation of this article, rule or regulation shall continue shall constitute a separate offense.

8.19.3 Penalties Imposed by Proper Authority: _

8.19.3.1 The foregoing penalties shall be in addition to any other penalties imposed by any other proper authority for acts committed constituting a violation hereof.

8.19.3.2 The Town of DeMotte Parks and Recreation Department may also seek any other legal remedy, civil or criminal, for the redress of any wrong.