

ORDINANCE #2021-03

AN ORDINANCE CONCERNING RECREATIONAL VEHICLES

Ordained by the Town Council of the Town of Utica, Indiana (hereinafter "Town Council") that:

Whereas, the Town Council is the governing body of the Town of Utica, Indiana.

Whereas, the Town Council desires to establish a recreational vehicles ordinance in the Town of Utica per 312 IAC-10-3-7; by authority of IC 14-28-1-5 and IC 14-28-3-2; affected by IC 14-28-1 and IC 14-28-3; and due to the Flood Control Act, as amended.

Whereas, the Town Council has agreed that a temporary permit for recreational vehicles will be necessary to comply with 312 IAC 10-3-7.

Whereas, the Town Council desires to enact a new ordinance pertaining to the parking, storage, and use of recreational vehicles to clarify various provisions contained within previous recreational vehicles ordinances, including the process by which fines imposed under this Ordinance may be waived and/or appealed to the Utica Board of Zoning Appeals and what is considered proper notice of any violations imposed under this Ordinance.

Whereas, the Town Council desires to clarify that unpaid fines and other costs imposed under this Ordinance may become a lien against the real property where the violations have occurred.

Whereas, the Town Council believes that owners of real property in which recreational vehicles are situated should be required to comply with this Ordinance to the same extent that owners of recreational vehicles are.

Whereas, the Town Council desires to ensure that the Town continues to comply with the requirements of the National Flood Insurance Program in order to make federally subsidized flood insurance available for structures and their contents within the Town.

Whereas, the Town Council, pursuant to its local police powers, desires to improve the aesthetics, health, and safety of its community and believes that the presence of excessive numbers of recreational vehicles throughout the Town lowers property values and impedes future economic development in the Town.

Now, therefore, be it resolved by the Town Council of the Town of Utica, Indiana as follows:

1. Definitions

a) "Recreational Vehicle" means a vehicle which is:

(1) built on a single chassis or base frame;

(2) four hundred (400) square feet or less when measured at the largest horizontal projections;

(3) designed to be self-propelled or permanently towable by a light duty truck;
and

(4) designed primarily not for use as a permanent dwelling but as quarters for recreational camping, travel, or seasonal use.

(5) "Recreational Vehicle" shall also include "mobile homes," as that term is defined by Ind. § 16-41-27-4 and "manufactured homes," as that term is defined by 42 U.S.C.A. § 5402.

b) "Floodway" means the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

c) "Flood Fringe" means those portions of the Floodplain lying outside the Floodway.

d) "Floodplain" means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. Floodplain includes both the Floodway and Flood Fringe districts. A map of Utica's Floodplain is attached hereto as "*Exhibit A*" and incorporated by reference herein.

e) "Property Owner" means a person, corporation, trust, partnership, or other entity that owns a fee simple interest or life estate in a parcel of real property in which a recreational vehicle is situated.

f) "Tenant" means a person, corporation, trust, partnership, or other entity that leases, possesses, or otherwise occupies a parcel of real property without owning said real property.

g) "FEMA" means the Federal Emergency Management Agency.

h) "DNR" means the Indiana Department of Natural Resources.

2. A Recreational Vehicle is not allowed to be parked or stored in the Floodplain of the Town unless the owner of the Recreational Vehicle or Property Owner first obtains a permit from the Town's Building Inspector.

3. A Recreational Vehicle parked or stored in the Floodplain is subject to the following requirements:

(a) A Recreational Vehicle with a permit will be allowed to be parked or stored within the Floodplain for a period not to exceed one hundred and eighty (180) days in one calendar year. Notwithstanding the following, a Recreational Vehicle with a permit may only be parked or stored within the Floodplain from May 1st through October 31st (the "Permitted Period"). Recreational Vehicles are not allowed to be parked or stored within the Floodplain from November 1st through April 30th.

(b) A permit fee will be fifty dollars (\$50.00) for the one hundred and eighty (180) day period for each Recreational Vehicle.

(c) Upon the expiration of the Permitted Period or the one hundred and eighty (180) day period, whichever expires first, a Recreational Vehicle shall be moved out of the Floodplain and not moved back into the Floodplain until the subsequent Permitted Period commences and a new permit is obtained by the owner. At any time that the Building Inspector deems there to be an unsafe condition, the Building Inspector can request that the Recreational Vehicle be removed immediately. Failure to comply will result in the Town removing or towing the vehicle at the owner's expense and subject the owner of the Recreational Vehicle and/or Property Owner to the fines and penalties set forth in 3(e).

(d) Recreational Vehicles' owners shall notify the Building Inspector to set up a time for removal. The Building Inspector shall take a picture of the empty lot and verify that the Recreational Vehicle has been moved every one hundred and eighty (180) consecutive days.

(e) An owner of a Recreational Vehicle that has not moved their Recreational Vehicle in accordance with 3(a) and 3(c), has their Recreational Vehicle stored or parked in the Floodplain without a valid permit, allows their Recreational Vehicle to be used for living, sleeping, or housekeeping purposes for a period exceeding seven (7) days in a thirty (30) day period, or otherwise fails to comply with the provisions of this Ordinance will be charged an ordinance violation fine of fifty dollars (\$50.00) a week until the owner and/or Property Owner comes into compliance with this Ordinance. Each Recreational Vehicle not in compliance with this Ordinance will be deemed a separate offense for which the owner and/or Property Owner will be subject to a separate fine.

f) A Property Owner that allows or permits a Recreational Vehicle situated on their real property to be in violation of this Ordinance shall be subject to the same fines and penalties set forth in 3(e) as their Tenant(s). Each Recreational Vehicle not in compliance with this Ordinance will be deemed a separate offense for which the Property Owner will be subject to a separate fine.

g) Appropriate legal action may be taken to collect such fines and costs if they remain unpaid for forty-five (45) days after the owner and/or Property Owner receives notice of their violations. Unpaid fines and costs may become a lien against the real property where the violations of this Ordinance have occurred.

4. A Recreational Vehicle located within the Floodplain shall be fully licensed and ready for use on a public highway (defined as on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions).

5. Utica is committed to abide by the National Flood Program.

6. Utica is committed to issue permits for Recreational Vehicles under the terms of the National Flood Program.

7. Utica is committed to monitor the Recreational Vehicle permits. Utica will send pictures of the empty lots every one hundred and eighty (180) days to FEMA and DNR.

8. Recreational Vehicles owned by Tenants shall not be parked or stored in any front yard, on any street, alley, driveway, or any other part of the lot on any parcel occupied by a residential dwelling, or on any parcel zoned residential within the Town unless the Recreational Vehicle is

enclosed in a garage, shed, barn, or carport or located behind a fence at least six (6) feet tall in the side or rear yard of the lot. However, Recreational Vehicles may be parked or stored anywhere on the residential premises except the street, for no more than seventy-two (72) hours for the purposes of loading and unloading.

9. Recreational Vehicles shall not be used for living, sleeping, or housekeeping purposes for a period exceeding seven (7) days in a thirty (30) day period when parked or stored on a residential lot, or on any location not approved for such use.

10. Recreational Vehicles shall not be parked on any streets or alleys within the Town.

11. Any person subject to fines or other enforcement actions taken by the Building Inspector or another enforcement official for violations of this Ordinance (an "Aggrieved Party") may appeal that determination or action to the Utica Board of Zoning Appeals (the "BZA"), the "hearing authority" for the purposes of this Ordinance, pursuant to the appeal procedures set forth in Ordinance 2019-01. The grounds for appealing fines or enforcement actions under this Ordinance to the BZA are also set forth in Ordinance 2019-01.

12. In order for an appeal to be scheduled for a hearing with the BZA, a filing fee must be paid, an appeal form designed by the BZA must be filled out and submitted, and various other statutory and procedural requirements must be met. An Aggrieved Party interested in appealing fines or enforcement actions to the BZA is encouraged to contact the Town's Planning and Zoning Director for additional information. *See* Article 6 of Ordinance No. 2021-Z-01, the Utica Zoning Ordinance, for additional information about the administrative appeals process for the BZA.

13. If an Aggrieved Party fails to satisfy all of the BZA's procedural requirements within thirty (30) days of the time that the Aggrieved Party received notice of any penalty or enforcement action, the Aggrieved Party's appeal will be rendered null and void and no appeal will be scheduled with the BZA regarding that penalty or enforcement action.

14. The BZA shall have discretion to waive fines and other penalties imposed for violations of this Ordinance upon the owner of the Recreational Vehicle and/or Property Owner (collectively, the "Responsible Person") coming into full compliance with this Ordinance. In determining whether to waive fines or other penalties for violations of this Ordinance, the BZA may consider the timeliness of said compliance, the number of violations committed by the Responsible Person, and whether there has been a willful failure to comply with the Town Building Inspector's notice. Any request for a waiver of fines and penalties shall be made in writing, addressed to the BZA, and sent to the Utica Town Hall at 107 N. 4th Street, Utica, Indiana 47130.

15. The Building Inspector shall provide both the owner of the Recreational Vehicle and Property Owner with proper notice of any violations of this Ordinance. Such Notice shall be deemed properly served if a copy is either (1) delivered personally to the Responsible Person; (2) sent by certified mail, return receipt requested to the last known address of the Responsible Person; (3) sent by certified mail, return receipt requested to the tax bill mailing address of the

Responsible Person as it appears in the office of the Clark County Auditor; or (4) by a posting a copy of such notice in a conspicuous place in or about the Recreational Vehicle affected by such notice.


16. If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance. The remaining portions of this Ordinance shall remain in full force and effect.


17. This Ordinance does not supersede federal or state laws, statutes, or regulations, except as allowed under the Town's home rule powers. In the event any provisions of other Town ordinances conflict with this Ordinance, the provisions of this Ordinance shall control. Notwithstanding the following, to the extent that there is any conflict between the provisions of this Ordinance and the Town's Zoning Ordinance (2021-Z-01, as amended), the stricter provision shall control. See Article 2, Division 65 of Ordinance No. 2021-Z-01, which pertains to Recreational Vehicles.

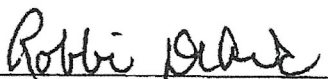
18. This Ordinance will be in full force and effect after its passage, approval, and any publication required by law.

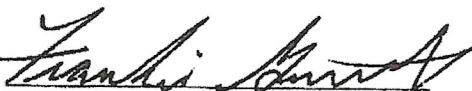
Adopted by the Town Council of the Town of Utica, Indiana this 8th day of June, 2021.


Town Council Members:


Steve Long, President

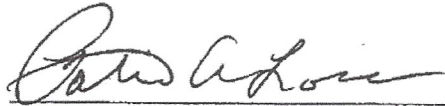

Henry Dorman, Vice President


Robbie DeArk


Frankie Garrett


Martha Whetsell

ATTEST:

A handwritten signature in cursive script, appearing to read "Patricia A. Love", written over a horizontal line.

Patricia A. Love, Clerk-Treasurer

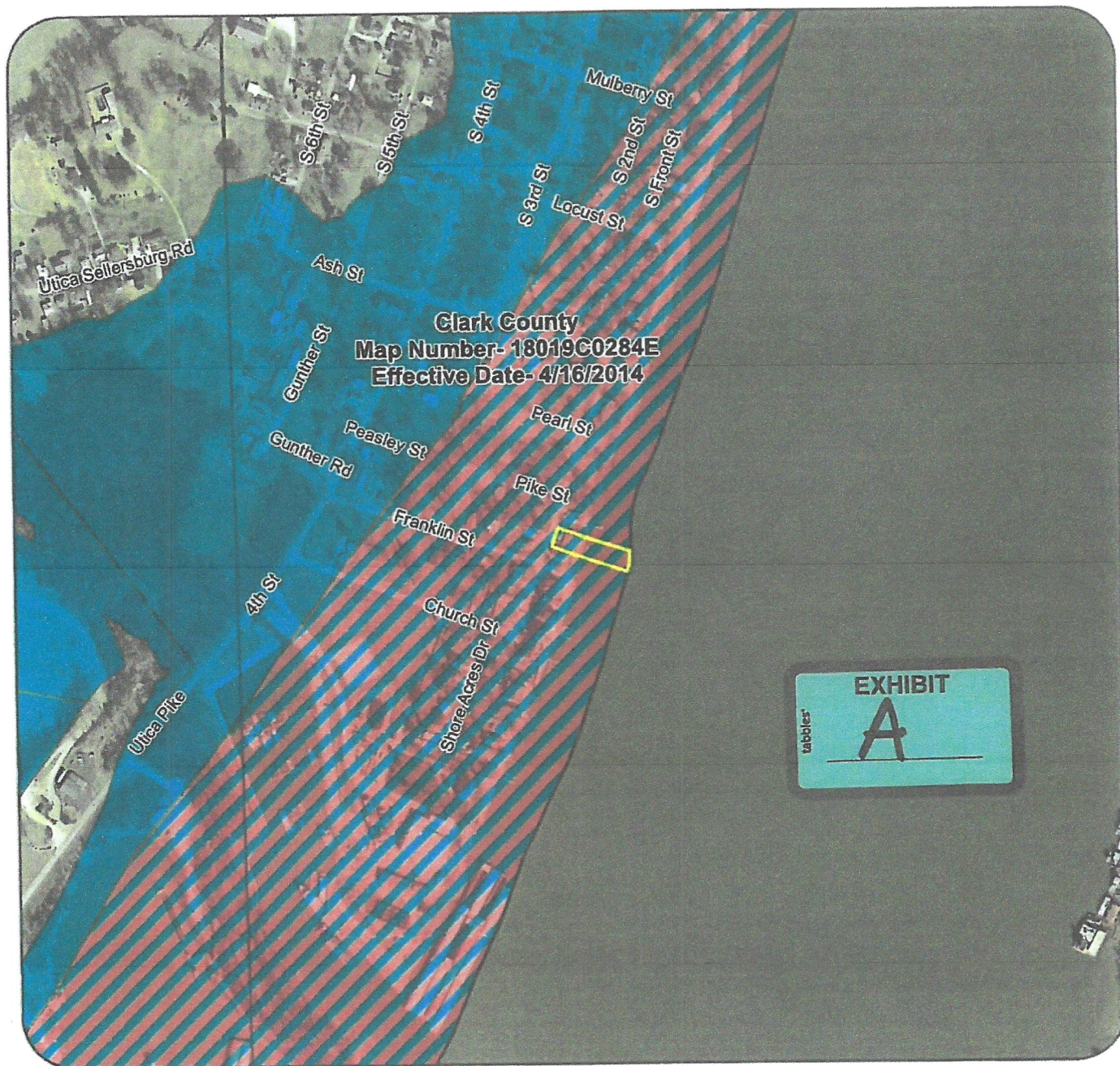


EXHIBIT
A

The Special Flood Hazard Area was derived from the digital representation of FEMA Flood Insurance Rate Maps (FIRM). While this map is provided for information, the FIRMs as published by FEMA are the authoritative documents for the National Flood Insurance Program.

Copies of those maps can be found at <http://msc.fema.gov>

Map Source: FIRM

File Number: GN-36719

Disclaimer

This map does not reflect changes or amendments which may have been made subsequent to the effective date



Legend

- Special Flood Hazard Area
- ▨ Special Flood Hazard Area/Floodway
- Community Boundaries
- Tract Boundaries



MAP SCALE 1" = 500'

0 250 500 1,000
FEET

0 75 150 300
METERS