

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

11. TOWN HISTORY

CHAPTER 10: GENERAL PROVISIONS

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' 10.01 TITLE OF CODE.

(A) All ordinances of a permanent and general nature of the town, as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections, shall be known and designated as the ARoseland Town Code,@ for which designation Acode of ordinances,@ Acodified ordinances@ or Acode@ may be substituted.

(B) Code title, chapter and section headings do not constitute any part of the law as contained in the code.

' 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of state law.

' 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

' 10.04 CONSTRUCTION OF CODE.

(A) This code is a codification of previously existing laws, amendments thereto and newly enacted laws. Any previously existing law or amendment thereto reenacted by this code shall continue in operation and effect, as if it had not been repealed by this code. All rules and regulations adopted under laws reenacted in this code shall remain in full force and effect unless repealed or amended subsequent to the enactment of this code.

(B) Any appropriation repealed and reenacted by this code is continued only for the period designated in the original enactment of that appropriation.

(C) The numerical order and position of sections in this code does not resolve a conflict between two or more sections.

(D) Any irreconcilable conflict between sections shall be resolved by reference to the dates that the sections were originally enacted. The section most recently enacted supersedes any conflicting section or division.

(E) All references within a section of this code to any section of previously existing laws refer to the numbers in the original enactment.

(F) (1) The numerical designations and descriptive headings assigned to the various titles, chapters, subchapters or sections of this code, as originally enacted or as added by amendment, are not law, and may be altered by the compilers of this or any subsequent codification, in any official publication, to more clearly indicate its content. These descriptive headings are for organizational purposes only and do not affect the meaning, application or construction of the law they precede.

(2) Each note following a section of this code is for reference purposes only and is not a part of the section.

(G) All references to any section of this code refer to all subsequent amendments to that section, unless otherwise provided.

(I.C. 1-1-1-5)

' 10.05 RULES OF INTERPRETATION; DEFINITIONS.

(A) *Rules of interpretation.* This code shall be construed by the following rules unless the construction is plainly repugnant to the legislative intent or context of the provision.

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

(2) Words imputing joint authority to three or more persons shall be construed as imputing authority to a majority of the persons, unless otherwise declared in the section giving the authority.

(3) Where a section requires an act to be done which, by law, an agent or deputy may perform in addition to the principal, the performance of the act by an authorized deputy or agent is valid.

(4) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(B) *Definitions.* For the purpose of this code of ordinances, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD. The Town Council of the Town of Roseland, Indiana, except where the context clearly indicates otherwise.

CLERK-TREASURER. The Clerk-Treasurer of the Town Council.

CODE. The Roseland Town Code.

COUNCIL. The Town Council.

COUNTY. The County of St. Joseph, State of Indiana.

GENDER. Words used in the masculine gender shall include feminine and neuter.

HIGHWAY. Includes bridges, roads and streets, unless otherwise expressly provided.

I.C. Refers to the state law found in the Indiana Code.

MAY. Is permissive.

MONTH. One calendar month.

MUST and **SHALL.** Each are mandatory.

OATH. Includes an affirmation of declaration in all cases, which, by law, an affirmation may be substituted for an oath, and in such cases the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**.

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

PERSON. Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee, receiver and bodies politic. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

PRECEDING and **FOLLOWING.** When referring to sections or divisions in this code, refer to the sections or divisions next following or next preceding that in which the words occur, unless some other section is designated.

STATE. State of Indiana.

STREET. All streets, highways, avenues, boulevards, lanes, courts, squares, roads, alleys, viaducts or other public ways in the town which have been or may hereafter be dedicated and open to public use.

TOWN. The Town of Roseland, Indiana, or the area within the territorial limits of the town, and such territory, if any, outside of the town over which the town has jurisdiction or control by virtue of any constitutional or statutory provision.

TOWN COUNCIL. Means and includes all former references to the Board of Trustees.

TOWNSHIP. Clay Township.

WRITTEN and **IN WRITING.** Include printing, lithographing or other modes of representing words and letters. Where the written signature of a person is required, the terms mean the proper handwriting of the person, or the person's mark.

YEAR. One calendar year, unless otherwise expressly provided.
(I.C. 1-1-4-5) (1989 Code, 1-3)

' 10.06 SEVERABILITY.

(A) If any section of this code now enacted or subsequently amended or its application to any person or circumstances is held invalid, the invalidity does not affect other sections that can be given effect without the invalid section or application.

(B) Except in the case of a section or amendment to this code containing a nonseverability provision, each division or part of every section is severable. If any portion or application of a section is held invalid, the invalidity does not affect the remainder of the section unless:

(1) The remainder is so essentially and inseparably connected with and so dependent upon the invalid provision or application that it cannot be presumed that the remainder would have been enacted without the invalid provision or application; or

(2) The remainder is incomplete and incapable of being executed in accordance with the legislative intent without the invalid provision or application.

(C) This section applies to every section of this code regardless of whether a section was enacted before or after the passage of this code.

(D) The repeal of a statute stating that the provisions of an act are severable as provided in division (B) of this section does not affect the operation of division (B) with respect to that act.
(I.C. 1-1-1-8)

' 10.07 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

' 10.08 REFERENCE TO OFFICES; NAME DESIGNATIONS.

(A) *Reference to offices.* Reference to a public office or officer shall be deemed to apply to any office, officer or employee of this municipality exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

(B) *Name designations.* Whenever any ordinance or resolution of the Council refers to any board, bureau, commission, division, department, officer, agency, authority or instrumentality of any government, and that name designation is incorrectly stated; on the effective date of that ordinance or following the effective date, the rights, powers, duties or liabilities placed with that entity are or were transferred to a different entity; then the named board, bureau, commission, department, division, officer, agency, authority or instrumentality, whether correctly named in the ordinance at its effective date or not, means that correctly named entity, or the entity to which the duties, liabilities, powers and rights were transferred.

(I.C. 1-1-6-1)

' 10.09 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any 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 the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

' 10.10 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be a Saturday, Sunday or a state holiday, it shall be excluded.

' 10.11 REPEAL OR MODIFICATION OF CODE SECTION.

When a section of this code is repealed which repealed a former section or law adopted prior to the enactment of this code, the former section or law is not revived unless it so expressly provides. The repeal of any section shall not extinguish or release any penalty, forfeiture or liability incurred under the section, unless the repealing section so expressly provides. The section shall be treated as still remaining in force for the purposes of sustaining any proper action or prosecution for the enforcement of the penalty, forfeiture or liability.

(I.C. 1-1-5-1)

' 10.12 LIMITATION PERIODS.

The running of any period of limitations or any requirement of notice contained in any law, whether applicable to civil causes or proceedings, or to the prosecution of offenses, or for the recovery of penalties and forfeitures, contained in a law repealed and reenacted by this code, shall not be affected by the repeal and reenactment; but all suits, proceedings and prosecutions for causes arising or acts committed prior to the effective date of this code may be commenced and prosecuted with the same effect as if this code had not been enacted.

Statutory reference:

Periods of limitation, see I.C. 1-1-1-7

' 10.13 ORDINANCES UNAFFECTED.

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

' 10.14 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to an indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

' 10.15 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-1960; Ord. 15, passed 1-1-1970; Ord. 20, passed 1-1-1980; Ord. 25, passed 1-1-1985)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example: (I.C. 36-5-2-2)

(2) If a statutory cite is set forth as a Astatutory reference@ following the text of the section, this indicates that the reader should refer to that statute for further information. Example:

' 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:

Inspection of public records, see I.C. 5-14-3-1 et seq.

(C) If a section of this code is derived from the previous code of ordinances of the city published in 1989 and subsequently amended, the previous code section number shall be indicated in the history by A(1989 Code, ' ____).@

' 10.16 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES.

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred or proceedings begun prior to the effective date of this code. The liabilities, proceedings and rights are continued; punishments, penalties or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

' 10.17 EFFECTIVE DATE OF ORDINANCES.

Unless otherwise expressly provided, an ordinance shall take effect when passed according to I.C. 36-4-6-14.
(1989 Code, ' 1-7)

' 10.18 TOWN SEAL.

(A) The Clerk-Treasurer shall be the custodian of the town=s seal and affix it to such documents and instruments as required.

(B) The town seal shall be the form and style as affixed below:

(C) The town was duly incorporated pursuant to applicable state law in 1916 and has had the authority to use a town seal since said date of incorporation.
(1989 Code, ' 1-10)

' 10.99 GENERAL PENALTY.

(A) Any person, firm or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to the following:

(1) A fine not exceeding \$2,500 for the first violation; and

(2) A fine not exceeding \$7,500 for second and subsequent violations, except for violations of ordinances regulating traffic and parking.

(B) A separate violation shall be deemed committed upon each day during which a violation occurs or continues.

Statutory reference:

Authority, see I.C. 36-1-3-8(a)(10)

CHAPTER 11: TOWN HISTORY

Section

11.01 Town history

' 11.01 TOWN HISTORY.

(A) The Town of Roseland is located in St. Joseph County, Indiana, approximately one mile north of South Bend. It is basically rectangular in shape, being divided almost equally by U.S. Highway 31. There is approximately 1,200 feet of the town on each side of the highway for a total width of about 2,400 feet. The town is nearly 4,600 feet in length. The population of Roseland at the last census was 630.

(B) Until 1916, Roseland was considered a territory and was known as Roselawn. On December 27, 1915, a petition was filed with the St. Joseph County Commissioners to incorporate. At the same time an affidavit was filed in the St. Joseph County Recorder=s office changing the name of the town from Roselawn to Roseland. Voting on these issues took place in a grocery store owned by Fred Ullery. On January 25, 1916, Roselawn became incorporated and the name of the town was changed to Roseland. The size of the town at that time was recorded as 348.7 acres and had a population of 165. There were no industries in the town and in 1927 the chief business establishments were a lumber company, a grocery and meat market and garages.

(C) Even though Roseland was not annexed into the City of South Bend, in 1927 city mail delivery began.

(D) In 1938, a new Marshal post was created in Roseland to curtail the traffic problem on U.S. Highway 31. With the creation of this post, Roseland came to be considered a speed trap by motorists.

(E) Roseland was incorporated in 1916, but the first ordinances were not passed by the Roseland Board of Trustees until 1949. The zoning ordinance was the first to be passed on May 1, 1949. This ordinance zoned the town either commercial/light industrial or residential. At that same time, ordinances restricting the use of firearms and the licensing of dogs were also passed.

(F) In 1974, ground was broken for the proposed Roseland Community Center Building. This building was being built on land donated to the town by William Randall and houses the town=s government offices, the Town Police Department and a community social center.

(G) Not every city or town has its own flag, but Roseland does. In September, 1976, a flag was designed by Dennis St. Germain and Ella Riffel and produced on white polyester gabardine by Mrs. George Eisbrenner and her daughter, Sally. Thus, Roseland has its own flag with an emblem unique to the town.

(1989 Code, page iv)