

The Common Council of the City of Knox met in regular session Tuesday, May 10, 2022, in the City Hall at 6:00 P.M. CST with the following members present: Mayor Dennis Estok; Clerk-Treasurer Cyndi Kidder; Council Members Jeff Berg, Bill Gustafson, Sherry Cowen, Ron Parker, Donald Kring and City Attorney Autumn Ferch.

There is no amendment to the agenda.

RE: APPROVAL OF MINUTES REGULAR MEETING 4/26/22

Copies of the meeting minutes were mailed to the Council prior to the meeting. Council Member Don Kring made a motion to approve minutes as presented. The motion was seconded by Ron Parker and passed by a vote of Five (5) ayes and No (0) nays.

RE: ORDINANCE 2002-OR7 – REPLACING ORDINANCE APPENDIX A, TITLE XIV NON-CONFORMING BUILDING, USES, AND LOTS IN ITS ENTIRETY

Mayor Estok presented Ordinance 2002-OR7 to the Council. Jeff Berg made a motion approving the 1<sup>st</sup> reading of Ordinance 2002-OR7. The motion was seconded by Bill Gustafson and passed by a vote of Five (5) ayes and No (0) nays.

Ron Parker made a motion seconded by Jeff Berg to suspend the rules. Motion passed with a vote of Five (5) ayes and No (0) nays.

Jeff Berg made a motion approving the seconded reading and adoption of Ordinance 2002-OR7. Sherry Cowen seconded the motion. The motion passed by a vote of Five (5) ayes and No (0) nays.

ORDINANCE NO 2022 OR-7

AN ORDINANCE REPLACING ZONING ORDINANCE APPENDIX A, TITLE XIV, NON-CONFORMING BUILDING, USES, AND LOTS IN ITS ENTIRETY.

WHEREAS, the Knox City Council has deemed it necessary and advisable to promote the general health, safety, and welfare of Knox and its Two-Mile Jurisdiction by replacing the current Non-Conforming Buildings, Uses, and Lots ordinance in its entirety.

WHEREAS, the purpose of this ordinance is to establish the minimum requirements for the development, construction, and maintenance of residential and commercial structures in Knox, Indiana, and its Two-Mile Jurisdiction.

NOW, THEREFORE, IT IS HEREBY ORDAINED:

I. Scope: This article applies to all structure in Knox, Indiana, and its Two-Mile Jurisdiction.

II. Purpose: This Ordinance is intended to protect the character of residential neighborhoods and commercial corridors, as well as to ensure that structures are placed and constructed in such a way that is harmonious and beneficial to all Residential and Commercial properties.

III. Non-Conforming Lots of Record.

a. In the Single-Family Residential District (R-1), notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory structures may be erected on any single legal lot of record as of the effective date of the adoption of this Ordinance. The lot must be in separate ownership, included in a subdivision of record in the Office of the Starke County Recorder, and not of contiguous frontage with other lots in the same ownership. This provision shall apply even though the lot fails to meet the requirements for area or width or both that are generally applicable to the district. Yard dimensions, including yard requirements not involving area or width of the lot, shall conform to the regulations for the district in which the lot is located. Variances of requirements, other than lot area or lot width, shall be obtained only through action of the Board of Zoning Appeals. (Note: This section shall apply only to single-family residences.)

b. If two (2) or more lots or a combination of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance and if all or part of the lots with no buildings do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with the lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Ordinance.

c. A non-conforming lot may be continued but may not be extended, expanded, or changed unless to a conforming use.

d. If any non-conforming use of lot ceases for any reason for a period of more than twelve (12) consecutive months, the land, structure, or structure and land in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located.

IV. Non-Conforming Structures.

a. Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not now be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, bulk, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provision:

(1) No such structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.

b. Any non-conforming structure damaged or destroyed by fire, flood, explosion, or other casualty to the extent of not more than fifty (50) percent of the fair market value of the building immediately prior to the damage, may be reconstructed and used as before if the following apply:

(1) Reconstruction has begun within twelve (12) months of the casualty and construction completed within thirty-six (36) months of commencement. An extension may be granted by the Board of Zoning Appeals.

(2) The restored structure has no greater coverage and contains no greater cubic content than before the casualty.

(3) Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

c. Any non-conforming structure damaged or destroyed by fire, flood, explosion, or other casualty to the extent of more than fifty (50) percent of the fair market value of the building immediately prior to the damage, may not be reconstructed and used as before.

- d. If no structural alterations are made, any nonconforming use of a structure may be changed to another non-conforming use provided that the Board of Zoning Appeals approves of the change.
- e. If the use of any non-conforming structure ceases for any reason for a period of more than twelve (12) consecutive months, the land, structure, or structure and land in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located.

#### V. Non-Conforming Uses of Land.

Where, at the time of adoption of this Ordinance, lawful uses of land exist which would not be permitted by the regulations imposed by this Ordinance, the uses may be continued so long as they remain otherwise lawful, provided:

- a. No such conforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.
- b. No such non-conforming uses shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment of this Ordinance.
- c. If any such non-conforming uses of land are discontinued or abandoned, as defined in the Section IX Notice of Abandonment for more than one year (except when government action impedes access to the premises), any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.
- d. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such non-conforming use of land.
- e. A non-conforming use of land may be continued but may not be extended, expanded, or changed unless to a conforming use.
- f. An existing non-conforming use which occupies only a portion of an existing structure may be extended throughout the structure, provided the change or extension does not eliminate, displace, prevent, or restrict the continuance of any then-existing use being concurrently carried on in the structure which conforms with the requirement of this Ordinance.
- g. If any non-conforming use of land ceases for any reason for a period of more than twelve (12) consecutive months, the land, structure, or structure and land in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located.
- h. Accessory dwelling units in existence prior to the adoption of this Ordinance shall be considered pre-existing, non-conforming uses and shall follow the standards set forth in this section.

#### VI. Non-Conforming Uses or Structures and Land in Combination.

- a. If a lawful use involving individual structures, or a structure and land in combination, exists at the effective date of adoption or amendment of this Ordinance that would not now be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:
  - (1) A non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
  - (2) Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed.
  - (3) When a non-conforming use of a structure, or structure and land in combination, is discontinued or abandoned as defined in the Section IX Notice of Abandonment for more than one (1) year (except when government action impedes access to the premises), the structure or structure and land in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located.
  - (4) Where non-conforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.
- b. A non-conforming use of land, or structure, or both in combination may be continued but may not be extended, expanded, or changed unless to a conforming use.
- c. If no structural alterations are made, any non-conforming use of a structure and land, may be changed to another non-conforming use provided that the Board of Zoning Appeals approves of the change.
- d. If any non-conforming use of lot, use of land, or structure, or in combination ceases for any reason for a period of more than twelve (12) consecutive months, the land, structure, or structure and land in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located.

#### VII. Distinction Between Illegal Non-Conforming and Legal Non-Conforming Structures and Uses.

- a. An illegal non-conforming use is:
  - (1) A use, lot or structure that was constructed in violation of this Ordinance; or
  - (2) A use that was initiated in violation of this Ordinance; or
  - (3) A use that was legally initiated but abandoned for a period of one (1) year.
- b. An illegal non-conforming use or structure is subject to actions and penalties allowed by the Zoning Ordinance and all other applicable City laws. Such structure or use shall be made to conform to all applicable standards and regulations of this Ordinance.
- c. A legal non-conforming structure or use results from a change in the provisions of the ordinance that renders non-compliant a structure or use that previously conformed to the ordinance. The non-compliance is not a result of the fault or inappropriate action of the owner, tenant, or property manager

#### VIII. Repairs and Maintenance.

- a. On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten (10) percent of the current replacement cost of the non-conforming structure and market value of real estate, or non-conforming portion of the structure, whichever the case may be, provided that the cubic content existing when it became non-conforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
- b. Any non-conforming use damaged or destroyed by fire, flood, explosion, or other casualty to the extent of not more than fifty (50) percent of the fair market value of the building immediately prior to the damage, may be reconstructed and used as before if the following apply:
  - (1) Reconstruction has begun within twelve (12) months of the casualty and construction completed within thirty-six (36) months of commencement. An extension may be granted by the Board of Zoning Appeals.
  - (2) The restored structure has no greater coverage and contains no greater cubic content than before the casualty.
  - (3) Should such structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

- c. Any nonconforming use damaged or destroyed by fire, flood, explosion, or other casualty to the extent of more than fifty (50) percent of the fair market value of the building immediately prior to the damage may not be reconstructed and used as before.
- d. If requested, any time period in this section may be extended by the Board of Zoning Appeals. Any extension of time may be reviewed and adjusted as necessary by the Board of Zoning Appeals.

#### IX. Notice of Abandonment.

- a. The Notice of Abandonment is a document issued by the Zoning Administrator if a building or structure larger than two hundred (200) square feet is determined abandoned or vacant.
- b. The Zoning Administrator shall have the right to determine if a building is considered vacant or abandoned based on evidence satisfactory to the Planning Commission, including but not limited to:
- (1) Actual removal, minimal consumption or disconnection of equipment, furniture, machinery, structures, or other components of the use;
  - (2) The turning-off of the previously connected utilities;
  - (3) Lack of business receipts/records available to provide evidence that the use is in continual operation, where applicable;
  - (4) Lack of active lease agreements available to provide evidence that the use is in continual operation, where applicable;
  - (5) Visual observance;
  - (6) Interviews or statements obtained from surrounding property owners; or
  - (7) Any other additional criteria set forth by the Plan Commission.
- c. The Zoning Administrator or other designee of the Planning Commission shall have the right to inspect the property in question.
- d. The Zoning Administrator shall issue a Notice of Abandonment to the owner of the structure that is deemed to have been abandoned.
- e. The Owner shall have the right to respond in writing to the Notice of Abandonment addressed to the Zoning Administrator within thirty (30) days from Notice receipt date.
- (1) The Zoning Administrator shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates to the satisfaction of the Planning Commission that the building or structure has not been abandoned.
  - (2) If the owner does not provide information that demonstrates to the satisfaction of the Planning Commission that the building or structure has not been abandoned, the Zoning Administrator shall provide a letter to the property owner of this determination and remedies the owner must make within ninety (90) days to ensure the property is not abandoned.
- f. If within ninety (90) days, the remedies outlined from the Zoning Administrator have not been met, the property may be determined abandoned.
- g. If within forty (40) days of the date of which the Notice of Abandonment was sent, no response has been received from the property owner or other identified party, the property, building and/or structure shall be deemed abandoned.
- h. Once a structure is deemed abandoned, the structure is in violation of this Zoning Ordinance and loses the status of a legal non-conforming structure based on the Section IV. Non-Conforming Uses
- (1) The Zoning Administrator shall have the right to decide if the status of the legal non-conforming structure may remain with the property.
- i. Once a structure is deemed abandoned and loses the status of a legal non-conforming structure based on Section IV of this Ordinance, the City of Knox has the right to issue a citation.

ADOPTED, PASSED AND ORDAINED, BY THE COMMON COUNCIL OF THE CITY OF KNOX, INDIANA, this 10th day of May 2022.

#### COMMON COUNCIL OF THE CITY OF KNOX:

\_\_\_\_\_  
Jeff Berg, Council President

\_\_\_\_\_  
Don Kring, Councilor

\_\_\_\_\_  
Sherry Cowen, Councilor

\_\_\_\_\_  
Bill Gustafson, Councilor

\_\_\_\_\_  
Ron Parker, Councilor

Approved by the Mayor this 10th day of May 2022.

\_\_\_\_\_  
Dennis Estok, Mayor

Attest: \_\_\_\_\_  
Cyndi Kidder, Clerk-Treasurer

#### RE: ORDINANCE 2002-OR8 – WATER RATE

Clerk-Treasurer Cyndi Kidder presented Ordinance 2022-OR 8 to the Council. The Indiana General Assembly repealed the Utility Receipts Tax resulting in a small decrease in the water bills. Sherry Cowen made a motion approving the 1<sup>st</sup> reading of Ordinance 2022-OR 8. The motion was seconded by Don Kring and passed by a vote of Five (5) ayes and No (0) nays. Don Kring made a motion seconded by Sherry Cowen to suspend the rules. The motion passed with a vote of Five (4) ayes and No (0) nays.

Jeff Berg made a motion approving the second reading and adoption of Ordinance 2022-OR 8. Ron Parker seconded the motion. The motion passed by a vote of Five (5) ayes and No (0) nays.

ORDINANCE 2022 OR-8

AN ORDINANCE AMENDING ORDINANCE NO. 1152, APPROVED JANUARY 26, 2016, AMENDING ORDINANCES 1129, 1055, 1032, 98S, 482, 903, BEING AN ORDINANCE ESTABLISHING RATES AND CHARGES FOR THE USE OF THE SERVICE RENDERED BY THE WATERWORKS SYSTEM OF THE CITY OF KNOX AND PROVIDING REGULATIONS GOVERNING SUCH WATER AND USE

WHEREAS, In March 2022, the General Assembly of the State of Indiana repealed the Utility Receipts Tax which will be effective July 1, 2022; and

WHEREAS, the Common Council of the City of Knox has been advised that due to the repeal of the URT, it is necessary to reduce the rates and charges currently charged by the affected utility;

NOW THEREFORE, BE ORDAINED by the Common Council of the City of Knox, Starke County, Indiana; That applicable section of Section 1 of Ordinance No 1152 be amended to read as follows:

Section 1. That there shall be and there are hereby established for the use of and the service rendered by the waterworks system of the City of Knox, the following rates and charges, based on the use of water supplied by said waterworks system:

<u>Gallons of Usage Per Month</u>		<u>Rate per 1,000 Gallons</u>
		<u>Metered Rates</u>
		<u>effective on Aug 1.2022 bill</u>
First	5,000	\$5.45
Next	5,000	\$4.98
Next	5,000	\$4.40
Over	15,000	\$3.84
<u>Size Meter</u>	<u>Gallons Allowed</u>	<u>Minimum Charge Per Month</u>
5/8" - 3/4"	3,780	\$20.60
1"	6,257	\$33.51
1 1/2"	11,235	\$57.58
2"	18,160	\$86.28
3"	30,594	\$134.03
4"	57,969	\$239.15
6"	120,208	\$478.15
<u>Public Hydrant Rental*</u>		
	<u>Equivalency</u>	
<u>Size Meter</u>	<u>Factor</u>	<u>Monthly Charge</u>
5/8" - 3/4"	1.00	\$3.01
1"	2.50	\$7.52
1 1/2"	5.00	\$15.05
2"	8.00	\$24.08
3"	15.00	\$45.14
4"	25.00	\$75.24
6"	50.00	\$150.48
<u>Hydrant Rental</u>		<u>Rate per month</u>
Private		\$38.94

\*As Every resident benefits from fire hydrants, residential hydrant fee is to be paid by every customer in the City of Knox, regardless of the status of water service, with the exception of those who currently pay private hydrant fee.

Private Fire Protection – Sprinkler

<u>Size Meter</u>	<u>Monthly Charge</u>
2"	\$ 7.92
3"	\$ 11.93
4"	\$ 19.85
5"	\$ 45.26
6"	\$ 45.26
8"	\$ 83.34
10"	\$126.99

Tap Fee

A tap fee shall be collected from each customer, prior to the actual tap to the water system. This charge shall be collected pursuant to the following schedule:

<u>Residential</u>	<u>Fee</u>
Up to and including 1" connection	\$700.00
<u>Commercial*</u>	<u>Fee</u>
Up to and including 2"	\$ 700.00 plus cost of meter and construction costs
Over 2" up to and including 6:	\$1,240.00 -plus cost of meter and construction costs
Over 6: connection	\$1,855.00 plus cost of meter and construction costs

\*Commercial customers are responsible for cost of meter and construction costs. Water Department personnel must be present for and approve tap Meter choice must be approved by Water Superintendent

Temporary users

Water furnished to temporary users, such as contractors, etc., shall be charged on the basis of the metered rates hereinbefore set forth as estimated and established by the Waterworks Superintendent.

Portable (Bulk) Sales

There will be a \$50.00 hook up fee (meter provided if deemed necessary by Water Depart.) if no meter is needed, hook up fee can be waived at Water Depart discretion. Water rates for bulk water will be \$10 per 1,000 gallons with a \$10 minimum. Bulk sales will be provided at the discretion of the Water Superintendent.

Portable (Bulk) Delivery by Fire Department

Water rates for bulk water will be \$10 per 1,000 gallons with a \$10 minimum. Fire Department will set their delivery fee. Fire Department will provide the Clerk-Treasurer's office with the name and address of customer. Clerk-Treasurer's office will send a bill to customer

Late payment charges

All bills for water services not paid by the 15th day of each month thereof, as stated in such bills, shall be subject to a late fee often percent (10%) on the first \$3.00 and three percent (3%) on the excess over \$3.00.

Section 2. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed; provided, however, that the existing schedule of water rates and charges shall remain in full force and effect until the schedule of rates and charges fixed by this Ordinance shall be approved.

Section 3. This Ordinance shall be in full force and effect from July 1, 2022 usage and after its passage.

ALL OF WHICH IS DULY ORDAINED THIS 10th DAY OF MAY 2022.

City of Knox, Indiana by Knox Common Council:

\_\_\_\_\_  
Jeff B Berg

\_\_\_\_\_  
Donald Kring

\_\_\_\_\_  
Ronald Parker

\_\_\_\_\_  
William Gustafson

\_\_\_\_\_  
Sherry Cowen

Approved: \_\_\_\_\_  
Dennis Estok, Mayor

Attest: \_\_\_\_\_  
Cyndi Kidder, Clerk-Treasurer

RE: MAYOR'S REPORT

- 1. Moose Update: The Moose project must be rebid. There will be a pre-bid meeting at the Board of Works meeting on May 25<sup>th</sup>. Bids are due by June 22<sup>nd</sup> and will be opened at the meeting that day.
- 2. Stellar grant work will happen this year, Brown and Brown was awarded the bid. There will be a schedule of times soon.
- 3. 50/50 sidewalk applications are due by Friday, May 13<sup>th</sup>. We only have 4 applications so far.

RE: VOUCHERS AND ALLOWANCES

The following properly filed vouchers (See Voucher Docket, APV #32360 - #32427) were presented and approved.

There being no further business to come before the Council at this time the meeting upon motion was duly adjourned.

\_\_\_\_\_  
Dennis Estok, Mayor

Attest: \_\_\_\_\_  
Cyndi Kidder, Clerk-Treasurer