

ORDINANCE NO. 2021- 11

**AN ORDINANCE ANNEXING CERTAIN ADJACENT AND CONTIGUOUS
TERRITORY INTO THE TOWN OF NEWBURGH, INDIANA**

WHEREAS, the Town Council of the Town of Newburgh, Indiana (the “Town Council”) has determined that annexation of certain territory (the “Annexation Area”) into the Town of Newburgh, Indiana (the “Town”) is in the best interest of residents within the Annexation Area and the Town;

WHEREAS, the legal description of the boundary of the Annexation Area, including public highways or rights of way and comprising approximately 381.02 acres, is attached as Exhibit A and further depicted on the attached Exhibit B;

WHEREAS, the Town Council has made the following findings with regard to the Annexation Area: that the perimeter boundary of the Annexation Area is over 12.5% contiguous to the existing corporate boundaries of the Town; that the Annexation Area consists primarily of residential property; that the resident population density of the Annexation Area is more than three persons per acre; that more than 60% of the Annexation Area is subdivided; and that more than 60% of total number of lots and parcels in the Annexation Area are not more than one acre;

WHEREAS, within the six months preceding the introduction of this Ordinance, the Town conducted an outreach program to inform citizens regarding the proposed annexation, which included conducting six properly noticed public information meetings pursuant to IC 36-4-3-1.7;

WHEREAS, the Town Council, by its adoption of Resolution 2021-14, has approved a written fiscal plan and established a definite policy that meets the requirements of IC 36-4-3-13 (the “Fiscal Plan”);

WHEREAS, the Town Council intends to provide certain non-capital services (within one year of the effective date of the annexation) and capital services (within three years of the effective date of the annexation) to the Annexation Area in a manner equivalent in scope to those non-capital and capital services provided to areas within the Town regardless of topography, patterns of land use, and population density as set forth in the Fiscal Plan;

WHEREAS, the Town Council held a properly noticed public hearing not earlier than sixty days after the introduction of this Ordinance and more than thirty days but not more than sixty days prior to the adoption of this Ordinance in accordance with IC 36-4-3-2.1;

WHEREAS, the terms and conditions of this annexation, as set forth herein and including those specified in the Fiscal Plan, are in the best interests of and are fairly calculated to make the annexation equitable to the property owners and residents of the Town and the Annexation Area;

NOW, THEREFORE, BE IT ORDAINED, by the Town Council of the Town of Newburgh, Indiana as follows:

Section 1. The above recitals are incorporated herein as though fully set forth herein below.

Section 2. The Annexation Area is legally described in Exhibit A and graphically depicted in Exhibit B.

Section 3. Upon the effective date of this annexation, the Annexation Area shall be added to the Town of Newburgh zoning maps and the properties located in the Annexation Area shall be assigned to zoning classifications under the Town of Newburgh zoning code as follows:

- a. Properties zoned R1 or R1A under the Warrick County zoning code shall be assigned to R1 under the Town of Newburgh zoning code.
- b. Properties zoned R2 or R2A under the Warrick County zoning code shall be assigned to R3 under the Town of Newburgh zoning code.
- c. Properties zoned R3 under the Warrick County zoning code shall be assigned to R4 under the Town of Newburgh zoning code.
- d. Properties zoned RO, C3 or C4 under the Warrick County zoning code shall be assigned to C3 under the Town of Newburgh zoning code.
- e. All other properties shall be assigned to R1 under the Town of Newburgh zoning code.

Notwithstanding the foregoing, current uses that are permitted uses under the Warrick County zoning code as of the effective date of this Ordinance shall be deemed permitted uses under the Newburgh zoning code, and existing structures that comply with applicable development standards under the Warrick County zoning code as of the effective date of this Ordinance shall be deemed to be compliant under the Newburgh Zoning Code. To that end, all special uses, variances, use and development commitments, PUDs, subdivision plats, and all conditions or restrictions attached thereto, that were approved by the relevant Warrick County zoning body and remain in effect and in force prior to the effective date of this Ordinance shall be recognized as legal under the Newburgh zoning code and subdivision code as if properly approved thereunder.

Section 4. In accordance with IC 36-4-3-8, all municipal property taxes imposed on the Annexation Area that are not used to meet the basic services of a capital or non-capital nature as described in the Fiscal Plan shall be impounded in a special fund to be used to provide additional services not specified in the written Fiscal Plan for a period of at least 3 years. The impounded property taxes in the fund shall be expended not later than 5 years after the annexation becomes effective. Within 90 days after the annexation

becomes effective, an advisory board shall be appointed pursuant to IC 36-4-3-8.1 to advise the Town on the provision of services to the Annexation Area that are paid for with the impounded property tax funds.

Section 5. This annexation shall take effect only after final publication and filings of the Ordinance in accordance with Indiana law, but in no event before December 31, 2022.

Section 6. The Town will provide non-capital services within one year of the effective date and capital services within three years of the effective date, all in the same manner as such services are provided currently within the corporate boundaries of the Town as provided in the Fiscal Plan.

Section 7. The Town's Clerk-Treasurer is authorized and directed to take any and all action necessary or required by Indiana law, specifically IC 36-4-3-22, to effectuate the purposes of this Ordinance and the annexation of the Annexation Area.

Section 8. The Annexation Area shall be included within the Town corporate boundaries upon the effective date of this annexation.

Section 9. The Annexation Area shall be included in legislative District 2 of the Town upon the effective date of this annexation. As soon thereafter as is reasonably practical the Town shall engage in the process of dividing the Town into new voting districts in accordance with IC 36-5-2-4.1 and other applicable Indiana law.

Section 10. All ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed.

Section 11. The paragraphs, sentences, and words of this Ordinance are separable, and if any portion hereof is declared unconstitutional, invalid, or unenforceable by a Court of competent jurisdiction, such declaration shall not affect the remaining portions of this Ordinance.

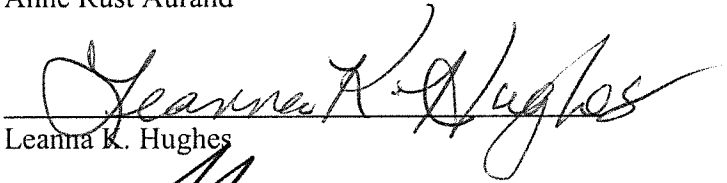
Adopted by the Town Council of the Town of Newburgh, Indiana, on this 22 day of Sept, 2021.

TOWN COUNCIL OF THE
TOWN OF NEWBURGH, INDIANA

Stacie Krieger
Stacie Krieger, President

Allyson Shelby
Allyson Shelby


Anne Rust Aurand


Leanna K. Hughes


Steve Shoemaker

ATTEST:

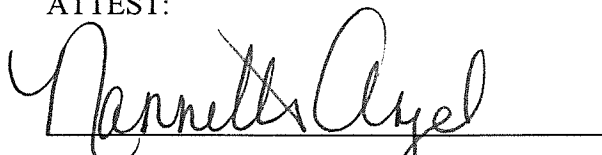

Nannette Angel, Clerk-Treasurer

EXHIBIT A

LEGAL DESCRIPTION OF ANNEXATION AREA

Part of the East Half of Section 34 and part of the West Half of Section 35, all in Township 6 South, Range 9 West, Ohio Township, Warrick County, Indiana, more particularly described by metes and bounds as follows:

Beginning at the northwest corner of the North Half of the Southeast Quarter of said Section 34; thence South 01 degrees 03 minutes 07 seconds West along the west line of said North Half 475.43 feet; thence South 89 degrees 48 minutes 53 seconds East parallel to the south line of said North Half 308.00 feet; thence South 01 degrees 03 minutes 07 seconds West 837.00 feet to a point along the south line of said North Half; thence South 89 degrees 48 minutes 53 seconds East along said south line 516.34 feet to the west line of Law Drive extended north; thence South 00 degrees 00 minutes 42 seconds East along the said extended west line of Law Drive 25.00 feet to the south line of Sharon Road; thence along the south line of Sharon Road the following bearings and distances: South 89 degrees 48 minutes 53 seconds East 549.10 feet; North 89 degrees 48 minutes 23 seconds East 1273.58 feet; North 89 degrees 32 minutes 33 seconds East 800.93 feet; North 89 degrees 32 minutes 33 seconds East 500.30 feet; North 88 degrees 10 minutes 20 seconds East 326.24 feet; thence North 86 degrees 51 minutes 28 seconds East 324.75 feet to the east line of Autumn Ridge Estates extended south; thence leaving said south line of Sharon Road North 00 degrees 33 minutes 58 seconds East along said extended line and the east line of Autumn Ridge Estates 1291.22 feet to the northeast corner of said Autumn Ridge Estates, said corner also being along the south line of South Broadview No. 5 Section "C"; thence North 89 degrees 50 minutes 50 seconds East along the south line of South Broadview No. 5 Section "C" a distance of 650.81 feet to the southeast corner of the South Half of the Northwest Quarter of said Section 35; thence North 89 degrees 36 minutes 07 seconds East 25.00 feet to the east line of Jeffries Lane; thence north along the east line of Jeffries Lane the following bearings and distances: North 00 degrees 27 minutes 09 seconds East 1336.09 feet; North 00 degrees 23 minutes 45 seconds East 41.79 feet; North 00 degrees 22 minutes 18 seconds East 1143.16 feet to a point on the north line of Edgedale Drive; thence North 89 degrees 14 minutes 08 seconds West along the north line of Edgedale Drive 62.58 feet to the southeast corner of Lot 227 of South Broadview No. 2 Section "B"; thence North 00 degrees 45 minutes 52 seconds East 148.98 feet to the northeast corner of Lot 227 of South Broadview No. 2 Section "B" and being along the north line of the Northwest Quarter of said Section 35; thence South 89 degrees 14 minutes 09 seconds West along the north line of said Northwest Quarter 2556.76 feet to the northwest corner of said Northwest Quarter, also being the northeast corner of Newburgh Plaza South; thence South 00 degrees 43 minutes 34 seconds West along the east line of the Newburgh Plaza South 659.31 feet to the north line of

Robin Hill Road; thence along the north line of said Robin Hill Road the following courses: South 89 degrees 12 minutes 58 seconds West 826.55 feet; with a curve turning to the right with an arc length of 90.46 feet, with a radius of 201.06 feet, with a chord bearing of North 77 degrees 53 minutes 43 seconds West, with a chord length of 89.70 feet; thence leaving said north line South 24 degrees 59 minutes 36 seconds West 49.98 feet to the north line of Wyngate Subdivision Section "A"; thence South 89 degrees 12 minutes 58 seconds West along said north line 184.93 feet; thence North 71 degrees 25 minutes 51 seconds West 265.46 feet along said north line and its extension thereof to the west right of way line of State Road 261; thence along said west right of way line the following bearings and distances: South 31 degrees 15 minutes 44 seconds West 100.48 feet; South 30 degrees 10 minutes 16 seconds West 288.00 feet; South 33 degrees 08 minutes 17 seconds West 398.10 feet; South 33 degrees 33 minutes 14 seconds West 279.91 feet; thence leaving said west right of way line South 57 degrees 44 minutes 45 seconds East 60.02 feet to a point on the east right of way line of State Road 261, also being the north corner of Lot 17 of Lake Newburgh Subdivision; thence along the perimeter of said Lot 17 the following courses: South 56 degrees 33 minutes 17 seconds East 255.97 feet; South 00 degrees 23 minutes 28 seconds West 146.64 feet; North 88 degrees 15 minutes 45 seconds West 123.02 feet; South 33 degrees 52 minutes 03 seconds East 145.00 feet; South 54 degrees 56 minutes 50 seconds West 422.50 feet; North 67 degrees 23 minutes 17 seconds West 25.00 feet; North 50 degrees 43 minutes 45 seconds East 236.72 feet; North 36 degrees 05 minutes 42 seconds East 88.00 feet; North 08 degrees 11 minutes 21 seconds West 91.80 feet; North 64 degrees 37 minutes 06 seconds West 121.35 feet; with a curve turning to the left with an arc length of 118.85 feet, with a radius of 40.00 feet, with a chord bearing of North 51 degrees 41 minutes 51 seconds West, with a chord length of 79.71 feet to a point on the east right of way line of State Road 261; thence South 33 degrees 15 minutes 06 seconds West along said east right of way line 513.80 feet; thence North 56 degrees 35 minutes 43 seconds West 30.00 feet to the centerline of State Road 261; thence along said centerline the following bearings and distances: South 33 degrees 14 minutes 00 seconds West 110.15 feet; South 33 degrees 08 minutes 13 seconds West 269.97 feet; South 32 degrees 33 minutes 54 seconds West 50.00 feet; South 31 degrees 48 minutes 54 seconds West 50.00 feet; South 27 degrees 30 minutes 55 seconds West 47.72 feet; thence leaving said centerline North 89 degrees 48 minutes 53 seconds West 26.76 feet to the Point of Beginning, containing 381.02 acres more or less.

