

# TOWN OF GEORGETOWN

ORDINANCE # G-10-0128

## **AN ORDINANCE ANNEXING CERTAIN REAL ESTATE INTO THE TOWN OF GEORGETOWN, INDIANA**

WHEREAS, this Town Council of the Town of Georgetown, Indiana (the "Town Council"), is the legislative body of the Town of Georgetown, County of Floyd, State of Indiana (the "Town"); and,

WHEREAS, this Town Council has received a petition for the annexation of an approximately 72.261-acre tract of real estate located generally to the west of the existing corporate boundaries of the Town and within the unincorporated territory of Floyd County, Indiana, which area is more particularly described hereinbelow (the "Annexation Area"), pursuant to petition filed by the owner of the entirety of such property, Timothy D. Youtsey; and,

WHEREAS, the Annexation Area is sufficiently contiguous to the existing boundaries of the Town pursuant to the provisions of both IC 36-4-3-1.5 and IC 36-4-3-13(c)(1) to be eligible for annexation into the Town; and,

WHEREAS, this Town Council has determined that the Annexation Area statutorily qualifies for annexation under the provisions of IC 36-4-3, *et seq.*; and,

WHEREAS, following notice by publication in the manner required by Indiana law, this Town Council held a public hearing on the proposed annexation on January 11, 2010, following which this Town Council adopted a fiscal plan by Resolution No. 2010-\_\_\_\_\_ as the definite policy of the Town for the provision of non-capital and capital services to the Annexation Area (the "Fiscal Plan") in conformity with the provisions of IC 36-4-3-13 prior to consideration of this Ordinance; and,

WHEREAS, on January 11, 2010, this Town Council further introduced this Ordinance and approved it on its first reading following adoption of the Fiscal Plan by resolution; and,

WHEREAS, pursuant to the provisions of IC 36-4-3-5.1(f), more than fourteen (14) days have passed since the date of the adoption of the Fiscal Plan by resolution, and this Town Council is now entitled to consider the final passage of this Ordinance; and,

WHEREAS, this Town Council now finds that the Annexation Area is needed and will be used by the Town for its development and growth in the reasonably near future, and that the annexation of the Annexation Area into the Town on the terms and conditions of this Ordinance is in the best interests of the Town.

**NOW, THEREFORE, BE IT ORDAINED BY THIS TOWN COUNCIL OF THE TOWN OF GEORGETOWN, INDIANA, AS FOLLOWS:**

**Section 1. Description of Boundaries of Annexation Area.** The description of the Annexation Area hereby annexed into the Town, including any public highways or rights-of-way therein or adjacent thereto, is as follows:

Part of the Northwest Quarter and the Southwest Quarter of Section 32, T-2-S, R-5-E, Floyd County, Indiana, and being more particularly described as follows:

Commencing at the west quarter corner of said Section 32; thence along the west line of said Southwest Quarter, South 00°23'58" West, 164.89 feet; thence South 89°56'30" East, 346.56 feet to a corner of a tract conveyed to Youtsey Property, LLC by Instrument 200603192, said corner also being a corner of the existing town limits of Georgetown; thence along a line of said town limits and the Youtsey Property tract, South 00°23'58" West, 246.07 feet to a corner of said town limits and said Youtsey Property tract, being on the northerly right-of-way of the Norfolk Southern Railroad (formerly known as the "Southern Railway"), and being the TRUE POINT OF BEGINNING;

Thence along said right-of-way, being the southerly boundary of said Youtsey Property tract and being the existing town limits of Georgetown, 316.24 feet along the arc of a curve to the right having a radius of 2889.49 feet, and a chord which bears North 57°34'29" East, 316.08 feet to a point of compound curvature; thence continuing along said right-of-way, and extending along the southerly boundary of a tract conveyed to Timothy D. Youtsey by Instrument 200508595, 1394.78 feet along the arc of a curve to the right, having a radius of 3895.32 feet, and a chord which bears North 70°58'04" East, 1387.34 feet to a corner of said Timothy D. Youtsey tract, also being a corner of the existing town limits of Georgetown, and being on the westerly line of a tract conveyed to Roy D. and Caroleen Jones by Instrument 200203521; thence along the westerly line of said Jones tract and the existing town limits, South 11°54'23" West, 223.74 feet to the southwest corner of said Jones tract, being a corner of said existing town limits, and being on the north line of said Southwest Quarter; thence along the south line of said Jones tract, being the north line of said Southwest Quarter and the existing town limits, South 89°44'43" East, 388.54 feet to the northwest corner of a tract conveyed to Robert and Patricia Joan Hanks by Deed Book 160, Page 268; thence, leaving the existing town limits along the following five (5) lines common to said Hanks tract and a tract conveyed to Timothy D. Youtsey by Instrument 200914364: (1) South 00°02'44" West, 1305.65 feet; (2) South 78°08'36" West, 10.00 feet; (3) South 00°02'44" West, 41.25 feet; (4) South 78°00'34" West, 224.40 feet; and (5) South 45°08'36" West, 158.40 feet to a corner common to the aforesaid Hanks and Youtsey tracts, and also being the northeast corner of a tract conveyed to James W. Foreman, et al by Instrument 200712401; thence along the following five (5) lines common to said Foreman and Youtsey (Inst. 200914364) tracts: (1) South 88°45'42" West, 485.54 feet; (2) South 21°55'54" West, 87.78 feet; (3) South 69°57'36" West, 891.00 feet; (4) South 01°05'52" West, 67.04 feet;

and (5) South 89°55'04" West, 236.42 feet to a corner common to said Foreman and Youtsey tracts, and also being the southeast corner of a tract conveyed to James W. and Nancy C. Foreman, etal by Instrument 200712191; thence along the east line of the last said Foreman tract, being the west line of the Youtsey tract (Inst. 200914364) North 00°23'58" East, 1574.56 feet to the TRUE POINT OF BEGINNING.

Containing 72.261 acres and being all the lands described by Instrument 200914364 as conveyed to Timothy D. Youtsey.

The aggregate external boundaries of the Annexation Area are more than one-eighth (12.5%) contiguous to the existing boundaries of the Town, and therefore satisfy the requirement established by IC 36-4-3-1.5.

**Section 2. Description of Special Terms and Conditions.** Pursuant to the provisions of IC 36-4-3-8, the following special terms and conditions that are intended to make the annexation effected hereby equitable to the property owners and residents of the Town as well as those in the Annexation Area are hereby adopted:

a. The rendering of needed capital and non-capital services to the Annexation Area shall be pursuant to the provisions of the Fiscal Plan previously adopted by resolution of this Town Council.

b. This Town Council has determined upon reasonable inquiry that (i) the resident population density of the aggregate of the Annexation Area is less than three (3) persons per acre, and/or (ii) the aggregate of the Annexation Area is not subdivided or parceled through separate ownerships into lots or parcels such that at least sixty percent (60%) of the total number of lots and parcels are less than one (1) acre, and the provisions of IC 36-4-3-8(c) are accordingly inapplicable to this Ordinance and the Annexation Area.

**Section 3. Description of Property Tax Abatements within Annexation Area.** No property tax abatements pursuant to the provisions of IC 36-4-3-8.5 within the Annexation Area are adopted within this Ordinance as to any property within the Annexation Area.

**Section 4. Assignment of Annexation Area to Municipal Legislative District.** Pursuant to the provisions of IC 36-4-3-4(g), the Annexed Area shall be divided and assigned according to existing Township Precincts into the following Council Districts of the Town:

<u>Existing Township and Precinct #</u>	<u>Town Council District After Annexation</u>
Georgetown <u>6</u>	<u>1</u> District

The ordinance defining Council Districts within the Town shall automatically be deemed as amended as of the effective date of the annexation effected by this Ordinance the changes set forth above.

**Section 5. Zoning Classifications of Properties within the Annexation Area.** Upon the effective date of the annexation effected by this Ordinance, all properties within the Annexation Area shall be classified for zoning purposes in accordance with the provisions of Section I(D) and Appendix "C" of the Fiscal Plan. The Town Zoning Map shall be amended as of the effective date of this Ordinance to reflect such zoning classifications of the properties within the Annexation Area. Any use existing within the Annexation Territory on the effective date of this Ordinance that was fully in compliance with the applicable Floyd County zoning requirements in effect prior to the effective date of this Ordinance, but which is not in compliance with the requirements of the applicable new zoning classification under the provisions of the Georgetown Zoning Ordinance, including without limitation any agricultural use, shall be permitted to continue as a non-conforming use to the extent and scope that such use existed as of the effective date of this Ordinance and in conformity with the provisions of the Floyd County Zoning Ordinance and Indiana law generally (as the same may be amended from time-to-time) pertaining to such non-conforming uses.

**Section 6. Fire Protection District.** The Town does not presently provide municipal fire protection service. Such service is provided to the entirety of both the Town and the Annexation Area by the Georgetown Township Fire Protection District. As such, no financial adjustment is deemed as required pursuant to the provisions of IC 36-4-3-7(e). However, in the event that the Town would subsequently assume responsibility for fire protection service to the Annexation Area and/or such financial adjustment is otherwise deemed to be required as the result of this annexation, the Town shall be liable for and shall pay the indebtedness of the Georgetown Township Fire Protection District in the same ratio that the assessed valuation of the property in the Annexation Area that is within such fire protection district bears to the assessed valuation of all property in each such fire protection district as shown by the most recent assessment before the annexation. The Town shall make such payments of principal and interest on such indebtedness to the board of fire trustees of the district as such obligations come due following the effective date that the Town assumes responsibility for fire protection service.

**Section 7. No Township Debt.** This Town Council has determined upon diligent inquiry to the Georgetown Township Trustee that as of the date of the adoption of this Ordinance, no debt has been issued or exists within such township. Pursuant to the provisions of IC 36-4-3-10, and if as of the effective date of this Ordinance, any of the townships from which the Town has annexed territory is indebted or has outstanding unpaid bonds or other obligations, the Town shall be liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the annexed territory bears to the assessed valuation of all property in the respective township, as shown by the most recent assessment for taxation before the annexation, unless the assessed property within the Town is already liable for the indebtedness. The Town shall pay its indebtedness under this section, if any, to the applicable township executive. If the indebtedness consists of outstanding unpaid bonds or notes of the township, the payments to the executive shall be made as the principal or interest on the bonds or notes becomes due.

**Section 8. Displacement of Other Governmental Unit Employees.** It is not anticipated that this annexation will result in the elimination of jobs for any employees of other governmental units. However, in the event that any such jobs are eliminated, the Town Council

shall assist any such displaced employees in obtaining new employment, but nothing herein shall require the Town to provide employment for any such displaced employees.

**Section 9. Effective Date of Annexation; Publication.** The annexation enacted by this Ordinance shall take effect, except to the extent that applicable Indiana law may mandate a different date, thirty (30) days after the adoption of this Ordinance pursuant to the provisions of IC 36-4-3-5.1(j), and its filing and recording of this Ordinance in accordance with the provisions of IC 36-4-3-22. Following such effective date, the Annexation Area shall be and become a part of the Town, except as such date and time may be delayed by operation of applicable law. Promptly after adoption of this Ordinance, the Clerk-Treasurer shall publish this Ordinance and notice of its adoption in the manner prescribed by IC 5-3-1, which publication shall occur not less than thirty (30) days prior to the effective date of the annexation effected by this Ordinance.

**Section 10. Certification of Ordinance; Effect.** Promptly after adoption of this Ordinance, the Clerk-Treasurer shall certify a copy of this Ordinance as being true and correct in all respects. Pursuant to the provisions of IC 36-4-3-6, such certified copy of this Ordinance shall serve as conclusive evidence of the corporate boundaries of the Town in any subsequent proceeding, including without limitation, with respect to any issue that the territory described in this Ordinance was properly annexed and is a part of the Town.

**Section 11. Clerk-Treasurer to File Copies of Ordinance.** Pursuant to the provisions of IC 36-4-3-7 and IC 36-4-3-22, the Clerk-Treasurer shall do all of the following:

a. Within ten (10) days after the adoption of this Ordinance, send written notice to the Georgetown Township Fire Protection District by its board of fire trustees that the Town shall not assume responsibility for fire protection service within the Annexed Area, and that the Georgetown Township Fire Protection District shall continue to provide fire protection service to the Annexation Area notwithstanding this annexation and regardless of any remonstrance under the provisions of IC 36-4-3-11 or appeal under the provisions of IC 36-4-3-15.5.

b. In the event that a remonstrance or appeal of this Ordinance is not filed during the period permitted under applicable Indiana law, file a certified copy of the Ordinance with (i) the Floyd County Auditor, (ii) the Clerk of the Floyd Circuit Court, (iii) the Floyd County Board of Voter Registration, (iv) the office of the Indiana Secretary of State, and (v) the office of census data established by IC 2-5-1.1-12.2. The Clerk-Treasurer shall further provide a sufficient number of copies of the Ordinance to the Floyd County Auditor to enable the Floyd County Auditor to forward copies and provide notification of the effective date of the annexation effected by this Ordinance pursuant to the provisions of IC 36-4-3-22(d) to each of the following: (1) the Floyd County Highway Department, (2) the Floyd County Surveyor, (3) the Floyd County Plan Commission, (4) the Floyd County Sheriff, (5) the Georgetown Township Trustee, (6) the office of the Indiana Secretary of State, and (7) the office of census data established by IC 2-5-1.1-12.2.

c. In the event that a contiguity appeal of this Ordinance is timely filed pursuant to the provisions of IC 36-4-3-15.5, but this Ordinance is sustained following judicial review, a

certified copy of the judgment ordering annexation in accordance with this Ordinance with (i) the Floyd County Auditor, (ii) the Clerk of the Floyd Circuit Court, (iii) the Floyd County Board of Voter Registration, (iv) the office of the Indiana Secretary of State, and (v) the office of census data established by IC 2-5-1.1-12.2. The Clerk-Treasurer shall further provide a sufficient number of copies of the judgment to the Floyd County Auditor to enable the Floyd County Auditor to forward copies and provide notification of the effective date of the annexation effected by this Ordinance pursuant to the provisions of IC 36-4-3-22(d) to each of the following: (1) the Floyd County Highway Department, (2) the Floyd County Surveyor, (3) the Floyd County Plan Commission, (4) the Floyd County Sheriff, (5) the office of the Indiana Secretary of State, and (6) the office of census data established by IC 2-5-1.1-12.2.

d. Record a certified copy of this Ordinance in the office of the Floyd County Recorder.

e. The filings and recordings required by this Section 11 shall be accomplished no later than thirty (30) days after (i) the expiration of the period permitted for an appeal, or (ii) the delivery of a certified order under the provisions of IC 36-4-3-15. However, the failure to record this Ordinance as provided by IC 36-4-3-22(a)(2) shall not operate to invalidate this Ordinance in any manner.

**Section 12. Partial Invalidity; Severability.** In the event that a portion, but less than all, of the provisions of this Ordinance and/or annexations effected by this Ordinance are deemed to be invalid or unenforceable by the final, non-appealable order of a court of competent jurisdiction, such provisions shall be stricken from the text of this Ordinance, but the remaining provisions following such determination and striking shall remain in full force and effect notwithstanding such partial invalidity and striking.

**Section 13. Adoption of Ordinance; Effective Date.** This Ordinance shall be in full force and effect from the later of (a) the date of its passage and adoption by this Town Council, or (b) any later date specified by applicable Indiana law.

*[The remainder of this page intentionally left blank – signature page follows.]*

~~SO ORDAINED~~  
<sup>ADOPTED</sup> by this Town Council this 8 day of February 2010.

**TOWN COUNCIL OF THE TOWN OF GEORGETOWN, INDIANA**

Voting "NO":

Voting "YES":

\_\_\_\_\_  
Billy W. Stewart

\_\_\_\_\_  
Billy W. Stewart

\_\_\_\_\_  
Aaron Striegel

\_\_\_\_\_  
Aaron Striegel

\_\_\_\_\_  
Karla Perkins

\_\_\_\_\_  
Karla Perkins

\_\_\_\_\_  
Mike Mills

\_\_\_\_\_  
Mike Mills

\_\_\_\_\_  
Everett Pullen

\_\_\_\_\_  
Everett Pullen

Attested by:

\_\_\_\_\_  
Doug Cook, Clerk-Treasurer



*Adopted*  
SO ~~ORDAINED~~ by this Town Council this 11 day of January, 2010.

**TOWN COUNCIL OF THE TOWN OF GEORGETOWN, INDIANA**

*Voting "NO":*

\_\_\_\_\_  
Billy W. Stewart, President

\_\_\_\_\_  
Aaron Striegel

\_\_\_\_\_  
Karla Perkins

\_\_\_\_\_  
Mike Mills

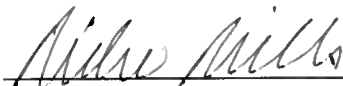
\_\_\_\_\_  
Everett Pullen

*Voting "YES":*

  
\_\_\_\_\_  
Billy W. Stewart, President

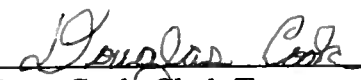
  
\_\_\_\_\_  
Aaron Striegel

  
\_\_\_\_\_  
Karla Perkins

  
\_\_\_\_\_  
Mike Mills

\_\_\_\_\_  
Everett Pullen

*Attested by:*

  
\_\_\_\_\_  
Doug Cook, Clerk-Treasurer

