Zoning Ordinance

Town of New Carlisle, IN

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DRAFT

Article 1 Purpose, Intent, and Validity 8

Section 1.01 STATUTORY AUTHORITY. 8
Section 1.02 PURPOSE. 8
Section 1.03 FINDINGS FOR ADOPTION OF THIS CHAPTER. 9
Section 1.04 EFFECTIVE DATE. 9
Section 1.05 PRIOR OR CONFLICTING ORDINANCES. 9
Section 1.06 SEPARABILITY. 9
Section 1.07 EMINENT DOMAIN OR USE. 10
Section 1.08 INTERPRETATION OF THIS CHAPTER/CONFLICT WITH OTHER ORDINANCES. 10
Section 1.09 JURISDICTION. 10
Section 1.10 SUBDIVISION OF LAND. 10
Section 1.11 SCOPE AND APPLICATION. 11
Section 1.12 PRIVATE PROVISIONS. 11
Section 1.13 SAVING PROVISION FOR PENDING ENFORCEMENT ACTIONS. 11
Section 1.14 TRANSITION RULES. 12
Section 1.15 AMENDMENTS TO THIS CHAPTER. 13
Section 1.16 COMPLIANCE REQUIRED FOR USE AND DEVELOPMENT OF REAL PROPERTY. 13
Section 1.17 EXEMPTIONS FOR TRANSPORTATION, COMMUNICATION, AND UTILITY LINES. 13

Article 2 Definitions 14

Section 2.01 INTERPRETATION OF TERMS OR WORDS. 14
Section 2.02 DEFINITIONS. 15

Article 3 Districts and Uses 50

Section 3.01 ESTABLISHMENT OF DISTRICTS. 50
Section 3.02 Order of Districts. 50
Section 3.03 OFFICIAL ZONE MAP. 51
Section 3.04 IDENTIFICATION OF THE OFFICIAL ZONE MAP. 51
Section 3.05 OFFICIAL ZONE MAP CHANGES. 51
Section 3.06 RETENTION AND PRESERVATION OF RECORD. 52
Section 3.07 INTERPRETATION OF THE OFFICIAL ZONE MAP. 52
Section 3.08 ZONING OF NEWLY ANNEXED LAND TO THE TOWN. 53
Section 3.09 ZONING OF VACATED AREAS. 54
Section 3.10 APPLICATION OF THIS ORDINANCE. 54
Section 3.11 DETERMINATION OF LAND USES NOT LISTED IN THIS ORDINANCE. 54
Section 3.12 PURPOSE OF DISTRICTS. 55
Section 3.13 TABLE OF LAND USES BY ZONING DISTRICT 57
Section 3.14 PLANNED UNIT DEVELOPMENT DISTRICT 62

Article 4 General Standards 70

Section 4.01 CLEAR VISION AREA 70
Section 4.02 REQUIREMENTS FOR ALL PRIVATE STREETS AND PRIVATE ALLEYS. 70

DRAFT

Section 4.03 EXEMPTION FOR ANTI-TERRORISM DEVICES AND PORTABLE TOWERS..... 71
Section 4.04 ADDITIONAL DEVELOPMENT STANDARDS 71
Section 4.05 DESIGN STANDARDS 82
Section 4.06 ACCESSORY USES, BUILDINGS, AND STRUCTURES 89
Section 4.07 TEMPORARY USES, BUILDINGS, AND STRUCTURES 100
Section 4.08 PERFORMANCE STANDARDS 102

Article 5 Buildings Standards 104

Section 5.01 Building Types by District 104
Section 5.02 Building Type Standards 105

Article 6 Site Development Standards 141

Section 6.01 LOT REGULATIONS 141
Section 6.02 LANDSCAPE REGULATIONS 141
Section 6.03 LIGHTING REGULATIONS 161
Section 6.04 SIGN REGULATIONS 166
Section 6.05 OFF-STREET PARKING REGULATIONS 193
Section 6.06 OFF-STREET LOADING REGULATIONS 203

Article 7 Use Standards 209

Section 7.01 ACCESORY DWELLING 209
Section 7.02 BAKERY 209
Section 7.03 BAR/TAVERN 209
Section 7.04 BANQUET HALL/EVENT HALL 210
Section 7.05 BED & BREAKFAST 210
Section 7.06 BOARDING HOUSE/ROOMERS 210
Section 7.07 CHILD CARE FACILITY 210
Section 7.08 CONGREGATE CARE/CONGREGATE LIVING FACILITY 211
Section 7.09 COMMUNITY GARDEN 211
Section 7.10 CONTROLLED USES 212
Section 7.11 DWELLING, MULTI-FAMILY 217
Section 7.12 DWELLING, MULTI-FAMILY TOWNHOUSE/APARTMENT 217
Section 7.13 DWELLING, SINGLE-FAMILY AND TWO-FAMILY 218
Section 7.14 DWELLING, UNIT – UPPER LEVEL MIXED USE 218
Section 7.15 DRIVE-THROUGH WINDOW FACILITY 219
Section 7.16 GREENHOUSE/NURSERY 220
Section 7.17 HOME OCCUPATIONS 220
Section 7.18 KENNEL 222
Section 7.19 MANUFACTURING FACILITY REQUIRING OUTDOOR STORAGE 223
Section 7.20 MANUFACTURING FACILITY – NO OUTDOOR STORAGE 223
Section 7.21 MOBILE FOOD VENDORS 223
Section 7.22 NEIGHBORHOOD RECYCLING COLLECTION POINTS 227
Section 7.23 OUTDOOR DINING 227
Section 7.24 OUTDOOR SALES 228

DRAFT

Section 7.25 OUTDOOR STORAGE 229
Section 7.26 POWER PLANTS 229
Section 7.27 RECREATION FACILITY – INDOOR 229
Section 7.28 RECREATION FACILITY – OUTDOOR 229
Section 7.29 RELIGIOUS USES 230
Section 7.30 RESIDENTIAL FACILITIES FOR THE MENTALLY ILL 230
Section 7.31 RETAIL SALES (PACKAGED ALCOHOL) 230
Section 7.32 RETAIL SALES – HEAVY COMMERCIAL 231
Section 7.33 SELF-STORAGE (MINI) WAREHOUSE 231
Section 7.34 SHOWROOM 231
Section 7.35 STATE LICENSED FACILITY 231
Section 7.36 VEHICLE FUELING STATION (GAS STATION) 232
Section 7.37 VETERINARY HOSPITAL 232
Section 7.38 WIND ENERGY CONVERSION SYSTEMS 233
Section 7.39 WIRELESS COMMUNICATION FACILITY 240

Article 8 Nonconformities 253

Section 8.01 INTENT 253
Section 8.02 INCOMPATIBILITY OF LEGALLY ESTABLISHED NONCONFORMING USES. 253
Section 8.03 AVOIDANCE OF UNDUE HARDSHIP. 254
Section 8.04 LEGALLY ESTABLISHED NONCONFORMING LOTS. 254
Section 8.05 LEGALLY ESTABLISHED NONCONFORMING BUILDINGS OR STRUCTURES (EXCLUDING SIGNS). 254
Section 8.06 LEGALLY ESTABLISHED NONCONFORMING USES OF LAND. 255
Section 8.07 DISCONTINUATION OF LEGALLY ESTABLISHED NONCONFORMING USES OF LAND. 255
Section 8.08 LEGALLY ESTABLISHED NONCONFORMING USES WITHIN LEGALLY ESTABLISHED NONCONFORMING BUILDINGS OR STRUCTURES. 256
Section 8.09 REPAIRS AND MAINTENANCE OF LEGALLY ESTABLISHED NONCONFORMING BUILDINGS OR STRUCTURES (EXCLUDING SIGNS). 256
Section 8.10 LEGALLY ESTABLISHED NONCONFORMING SIGNS. 257
Section 8.11 DETERMINATION OF COST OF CONSTRUCTION. 259
Section 8.12 RECONSTRUCTION, REMODELING OR ENLARGEMENT OF A LEGALLY ESTABLISHED NONCONFORMING SINGLE FAMILY DWELLING OR 2 FAMILY DWELLING. 259
Section 8.13 AGRICULTURAL NONCONFORMING USE. 260

Article 9 Administration and Enforcement 261

Section 9.01 ADMINISTRATION 261
DEVELOPMENT REVIEW PROCEDURES 270
Section 9.02 270
Section 9.03 ENFORCEMENT 279
Section 9.04 ZONING VIOLATIONS 280
Section 9.05 FINES 285

DRAFT

Article 10 Historic Preservation Ordinance 289

Section 10.01 PURPOSE 289
Section 10.02 DEFINITIONS. 289
Section 10.03 REVIEW BOARD. 290
Section 10.04 POWERS AND DUTIES OF THE REVIEW BOARD. 291
Section 10.05 INTERIM PROTECTION. 292
Section 10.06 APPROVAL BY TOWN COUNCIL REQUIRED. 293
Section 10.07 FURTHER SURVEYING AND MAPPING. 293
Section 10.08 CERTIFICATE OF APPROPRIATENESS REQUIRED. 293
Section 10.09 APPLICATION FOR CERTIFICATE OF APPROPRIATENESS. 294
Section 10.10 ACTION OF APPLICATIONS FOR CERTIFICATES OF APPROPRIATENESS. 294
Section 10.11 DEVELOPMENT STANDARDS. 295
Section 10.12 APPEAL PROVISIONS. 295
Section 10.13 MAINTENANCE. 296
Section 10.14 RELATIONSHIP TO ZONING DISTRICTS. 296
Section 10.15 STAFF ADMINSTRATIVE APPROVALS. 296
Section 10.16 VISUAL COMPATIBILITY. 297
Section 10.17 PHASED DISTRICTS. 298
Section 10.18 PAINT COLORS. 298
Section 10.19 INTERESTED PARTIES. 298
Section 10.20 PENALTY. 299

Article 11 Subdivision Control Ordinance 301

Section 11.01 Basic Provisions 301
Section 11.02 Subdivision Types - PLAT PROCEDURES, PLANS, AND SURETY 305
Section 11.03 Subdivision Design Regulations - REQUIREMENTS FOR DESIGN, RESERVATIONS, AND IMPROVEMENTS 339
Section 11.04 SUBDIVISION ADMINISTRATION 353
Section 11.05 HEARINGS 354
Section 11.06 WAIVERS 355
Section 11.07 VACATION OF LAND IN A PLAT 357
Section 11.08 DEFINITIONS 358
Section 11.09 Forms & Applications 370

Article 12 APPENDIX A: FORMS 371

Section 12.01 A-1 Area Plan Commission Commitments 371
Section 12.02 A-2 Area Plan Commission Modification of Commitments 371
Section 12.03 A-3 Board of Zoning Appeals Commitments 371
Section 12.04 A-4 Board of Zoning Appeals Modification of Commitments 371
Section 12.05 A-5 Consent Form 371
Section 12.06 A-6 Consent Form 371

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Article 1 Purpose, Intent, and Validity

This chapter shall hereinafter be known and cited as “Town of New Carlisle Zoning Ordinance,” and hereinafter referred to as the “Ordinance” or “this chapter.”

(Ord. 1221, § 1.01(a), passed 1-26-2010)

Section 1.01 STATUTORY AUTHORITY.

A. This chapter is adopted pursuant to the authority contained in I.C. 36-7-4 et seq.

B. Whenever any provision of this chapter refers to or cites a section of the Indiana Code and that section is later amended or superseded, this chapter shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

(Ord. 1221, § 1.01(b), passed 1-26-2010)

Section 1.02 PURPOSE.

In adopting this chapter, the Town Council has given reasonable consideration to, among other things: the Comprehensive Plan; current conditions and the character of current structures and uses in each district; the most desirable use for which the land in each district is adapted; the conservation of property values throughout the town; and responsible development and growth of the town, and hereby adopts this chapter for the purpose of:

A. Securing adequate light, air, convenience of access, and safety from fire, flood, and other danger;

B. Lessening or avoiding congestion in public ways;

C. Promoting the public health, safety, comfort, morals, convenience, and general welfare;

D. Guiding the future development of the town;

E. Ensuring that residential areas provide healthful surroundings for family life;

F. Ensuring that the needs of business and industry be recognized in future growth;

G. Ensuring that growth be commensurate with and promotive of the efficient and economical use of public funds; and

H. Otherwise accomplishing the purposes of I.C. 36-7-4 et seq.

(Ord. 1221, § 1.01(c), passed 1-26-2010)

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Section 1.03 FINDINGS FOR ADOPTION OF THIS CHAPTER.

The Town Council, in adopting this chapter, finds that this chapter has paid reasonable regard to:

A. The general policies and patterns of development set out in the Comprehensive Plan for the town;

B. Current conditions and the character of current structures and uses in each district;

C. The most desirable use for which the land in each district is adapted;

D. The conservation of property values throughout the town; and

E. The responsible development and growth of the town.

(Ord. 1221, § 1.01(d), passed 1-26-2010)

Section 1.04 EFFECTIVE DATE.

This chapter shall be effective at 12:01 a.m., on January 26, 2010.

(Ord. 1221, § 1.01(e), passed 1-26-2010)

Section 1.05 PRIOR OR CONFLICTING ORDINANCES.

The Zoning Ordinance for the Town of New Carlisle, St. Joseph County, Indiana, as previously adopted by the Town Council as Chapter 10, Article 1 of the 1992 Code, and all amendments thereto, are repealed as of the effective date of this chapter.

(Ord. 1221, § 1.01(f), passed 1-26-2010)

Section 1.06 SEPARABILITY.

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses, and phrases of this chapter are severable and, if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, the unconstitutionality or invalidity shall not affect any remaining sections, paragraphs, sentences, clauses or phrases of this chapter because the same would have been enacted without the incorporation into this chapter of the unconstitutional or invalid section, paragraph, sentence, clause, or phrase.

(Ord. 1221, § 1.01(g), passed 1-26-2010)

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Section 1.07 EMINENT DOMAIN OR USE.

Nothing in this chapter or in any rules, regulations, or orders issued pursuant to this chapter shall be deemed to restrict or regulate or to authorize any unit of government, legislative body, Plan Commission, or Board of Zoning Appeals now or hereafter established, to restrict or regulate:

A. United States of America. The exercise of the power of eminent domain by the United States of America or by any department or agency of the United States of America, or the use of property owned or occupied by the United States of America or any department or agency of the United States of America; or

B. State of Indiana. The exercise of the power of eminent domain by the State of Indiana or by any agency of the State of Indiana, or the use of property owned or occupied by the State of Indiana or any agency of the State of Indiana.

(Ord. 1221, § 1.01(h), passed 1-26-2010)

Statutory reference:

Similar provisions, see I.C. 36-7-4-1104

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Section 1.08 INTERPRETATION OF THIS CHAPTER/CONFLICT WITH OTHER ORDINANCES.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the health, safety, comfort, morals, convenience, and the general welfare of the public. In the case of any conflict or inconsistency between 2 or more provisions of this chapter (e.g., the restrictions set forth in an overlay district versus the restrictions set forth in a primary district) or any other ordinance of the town, the provision which imposes the greater or higher or more restrictive standard of performance shall control.

(Ord. 1221, § 1.01(i), passed 1-26-2010)

Section 1.09 JURISDICTION.

Upon both adoption of this chapter by the Town Council of the Town of New Carlisle and the effective date of this chapter, the Area Plan Commission of St. Joseph County shall be the duly authorized Plan Commission for the incorporated areas of the town pursuant to the Area Planning Law of the Indiana Code, and this chapter shall apply to all real property located within the corporate boundaries of the town.

(Ord. 1221, § 1.01(j), passed 1-26-2010)

Section 1.10 SUBDIVISION OF LAND.

The subdivision of land may occur in any and all districts established by this chapter. Whenever a subdivision occurs, the rules, regulations, and procedures of the town Subdivision Regulations, or any subsequently adopted replacement Subdivision Control Ordinance for the town shall apply.

(Ord. 1221, § 1.01(k), passed 1-26-2010)

Section 1.11 SCOPE AND APPLICATION.

Except as expressly provided otherwise in this chapter:

A. No person may use or occupy any land, building, structure, or improvement or authorize or permit the use or occupancy of any land, building, structure, or improvement under his or her control except in accordance with the applicable provisions of this chapter;

B. No land, building, structure, or improvement shall be used and no building, structure, or improvement shall be erected, reconstructed, or structurally altered, which is arranged, intended, or designed to be used for any purpose other than a use which is permitted in the district in which the land, building, structure, or improvement is located; and

C. No building, structure or improvement shall be placed, erected, moved or structurally altered with respect to height, area, bulk, or setback except in compliance with the regulations of this chapter.

(Ord. 1221, § 1.01(l), passed 1-26-2010)

Section 1.12 PRIVATE PROVISIONS.

The provisions of this chapter are not intended to nullify, abolish, or repeal any easement, covenant or other private agreement or restriction.

(Ord. 1221, § 1.01(m), passed 1-26-2010)

Section 1.13 SAVING PROVISION FOR PENDING ENFORCEMENT ACTIONS.

Except as shall be expressly provided for in this chapter, the adoption of this chapter shall not:

A. Nullify or make void any action pending under, or by virtue of, any prior Zoning Ordinance or Subdivision Control Ordinance;

B. Discontinue, nullify, void, abate, modify or alter any penalty accruing or about to accrue under, or by virtue of, any prior Zoning Ordinance or Subdivision Control Ordinance;

C. Affect the liability of any person, firm, or corporation under, or by virtue of, any prior Zoning Ordinance or Subdivision Control Ordinance;

D. Waive any right of the town under any section or provision of any prior Zoning Ordinance or Subdivision Control Ordinance; or

E. Vacate or annul any rights obtained by any person, firm, or corporation by lawful action of the town under, or by virtue of, any prior Zoning Ordinance or Subdivision Control Ordinance.

(Ord. 1221, § 1.01(o), passed 1-26-2010)

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Section 1.14 TRANSITION RULES.

A. Pending permit applications (per I.C. 36-7-4-1109).

1) As used in this section, the term ZONING APPROVAL OR PERMIT shall include the following: an improvement location permit; a building permit; a certificate of occupancy; approval of site-specific development plan; approval of a primary plat or secondary plat; approval of a conditional use, special exception, or special use; or approval of a planned unit development.

(a) (a)For any full and complete application for a zoning approval or permit required by the prior existing Zoning Ordinance of the town and which application is pending on the effective date of this chapter, the granting of the zoning approval or permit, and the granting of any secondary, additional, or related permits or approvals required from the town, with respect to the general subject matter of the application of the permit, are governed for at least 3 years after the date of application by the statutes, ordinances, rules, development standards, and regulations in effect and applicable to the real estate when the application is filed, even if: before the issuance of the permit or while the permit approval process is pending; or before the issuance of any secondary, additional, or related permits or approvals or while the secondary, additional, or related permit or approval process is pending: the statutes, ordinances, rules, development standards, or regulations governing the granting of the permit or approval are changed by the General Assembly or the Town Council.

(b) However, this division (A)(2) shall not apply if the development or other activity to which the permit relates is not completed within 7 years after the development or activity is commenced.

B. Zone map amendments. Any application for zone map amendment which has been filed with the Town Council and which application is full and complete under the provisions of the prior existing Zoning Ordinance of the town shall be allowed to continue to be processed to completion pursuant to the terms and conditions of the prior existing Zoning Ordinance of the town; provided, however:

1) If the proposed use would no longer be permitted in the proposed district as a result of changes to that district resulting from the adoption of this chapter, such application shall be deemed amended to request the district of this chapter in which the proposed use is first permitted; or

2) If the proposed district would no longer be in existence as a result of the adoption of this chapter, such application shall be deemed to be amended to request the district of this chapter which is most comparable to zoning classification requested in the application for zone map amendment.

C. Special exception use, variance of development standards. Any application before the Board of Zoning Appeals (i.e., special exception use or variance of development standards) which has been filed with Board of Zoning Appeals of the town and which application is full and complete under the provisions of the prior existing Zoning Ordinance of the town shall be allowed to continue to be processed to completion pursuant to the terms and conditions of the prior existing Zoning Ordinance of the town. However:

1) If the application is no longer required by the terms of this chapter, the application shall be considered dismissed for lack of jurisdiction; or

2) If the proposed use or development requires additional approvals from the Board of Zoning Appeals pursuant to the terms and conditions of this chapter (and which additional approvals from the Board of Zoning Appeals were not required by the terms and conditions of the prior existing Zoning Ordinance of the town), the application shall be deemed amended to include only those additional approvals which are minimally required and within the jurisdiction of the Board of Zoning Appeals to approve for the proposed use or site plan for the development.

(Ord. 1221, § 1.01(p), passed 1-26-2010)

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Section 1.15 AMENDMENTS TO THIS CHAPTER.

In its continuing administration of the purposes set forth in § 152.003 above, the Town Council of the town may find it reasonable and necessary to propose and adopt amendments to the text of this chapter or determine changes to the zone maps incorporated into this chapter. All such amendments shall be considered and adopted in compliance with I.C. 36-7-4-600 et seq., the provisions of this chapter, and any applicable Rules of Procedure subsequently adopted by the Area Plan Commission or the Town Council governing such procedures.

(Ord. 1221, § 1.01(q), passed 1-26-2010)

Section 1.16 COMPLIANCE REQUIRED FOR USE AND DEVELOPMENT OF REAL PROPERTY.

Compliance with the terms and provisions of this chapter shall be a prerequisite for the use and development of real property within the town. Failure to comply with the terms and provisions of this chapter shall be deemed to be a civil zoning violation enforceable by the Zoning Administrator, as provided for in I.C. 36-7-4 et seq., and §§ 152.405 through 152.413 of this chapter.

(Ord. 1221, § 1.01(r), passed 1-26-2010)

Section 1.17 EXEMPTIONS FOR TRANSPORTATION, COMMUNICATION, AND UTILITY LINES.

A. Service easements, including but not limited to those providing for: roadways; railroad lines; pipelines; electric power lines, conduits or systems; telephone lines, conduits or systems; cable television lines, conduits or systems; water mains, lines valves or fire hydrants; sanitary sewer mains, lines, laterals, manhole structures or lift stations; drainage or storm sewer inlets, pipes or roof drains; and similar and comparable utility services and facilities, shall be exempt from the provisions of this chapter.

B. Bus stations, park and ride facilities, railway terminals, gas storage tanks, power stations, utility substations, water treatment plants, pumping stations, water towers, sewage treatment plants and other facilities which generate, create, or process such transportation, communication, or utility services, shall be subject to all use and development standards regulations of this chapter.

(Ord. 1221, § 1.01(s), passed 1-26-2010)

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Article 2 Definitions

Section 2.01 INTERPRETATION OF TERMS OR WORDS.

The language of this chapter shall be interpreted in accordance with the following regulations:

A. The word “person” includes a firm, association, organization, partnership, trust, limited liability company, corporation, or other legal entity, as well as an individual;

B. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular, in each case, if the context so requires;

C. The word “shall” is mandatory, the word “may” is permissive;

D. The words “used” or “occupied” include the words “intended,” “designed,” “constructed,” “altered,” or “arranged” to be used or occupied;

E. The word “lot” includes the words “plot,” “tract,” or “parcel;” and

F. Where a regulation involves 2 or more items, conditions, provisions or events connected by the conjunction “and,” “or,” or “either... or,” the conjunction shall be interpreted as follows:

1) (a)“And” indicates that all the connected items, conditions, provisions or events shall apply;

2) (b)“Or” indicates that the connected items, conditions, provisions or events may apply singly or in any combination; and

3) (c)“Either... or” indicates that all the connected items, conditions, provisions or events shall apply singly but not in combination.

G. The terms “more intense” and “less intense” are terms used herein to describe relationships between particular districts. This relationship is based upon the uses permitted within each district. A “more intense” district permits more uses or a greater density of uses than a “less intense” district. District intensity groupings progress from Agricultural, to Residential, to Commercial/Town Center, to Industrial Districts, in the sequence listed within each group of districts from least intense to the most intense.

(Ord. 1221, § 12.01, passed 1-26-2010)

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Section 2.02 DEFINITIONS.

The following terms or words used in the text of this chapter shall have the following meanings, unless a contrary meaning is either required by the context of a particular sentence or phrase or specifically prescribed in a particular sentence or phrase.

ABANDONED. A condition that exists after a voluntary act or failure to act by the owner of a nonconforming use which evidences that the owner neither claims nor retains the right to exercise the nonconforming use.

ACCESS. The way in which vehicles ingress and egress a lot from a street fronting along the lot.

ACCESS DRIVE. That area within the right-of-way between the pavement edge or curb and the right-of-way line to provide ingress and egress to and from a lot.

ACCESSORY (STRUCTURE, BUILDING, OR USE). A subordinate structure, building, or use that is customarily associated with, and is appropriately and clearly incidental and subordinate in use, size, bulk, area and height to the primary structure, building, or use, and is located on the same lot as the primary building, structure, or use.

ACCESSORY PARKING LOT. See PARKING LOT, ACCESSORY.

ADULT BUSINESS. See §§ 152.330 through 152.332.

ADULT CABARET. See CABARET, ADULT.

AGRICULTURAL NONCONFORMING USE. An agricultural use of land that is not permitted under this chapter, including any amendments hereto.

AGRICULTURAL USE. An operation which consists of the following uses, individually or in combination: the production of livestock or livestock products, commercial aquaculture, equine or equine products, land designated as a conservation reserve plan, pastureland, poultry or poultry products, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, bees and apiary products, tobacco, or other agricultural crops; uses accessory to agricultural operations on the site; or uses accessory to agricultural operations in the area.

ALLEY, PRIVATE. A private right-of-way for public use as a secondary means of public access to a lot otherwise abutting upon a public street or private street and not intended for traffic other than public services and circulation to and from the lot.

ALLEY, PUBLIC. Any public right-of-way which has been dedicated or deeded to and accepted by the public for public use as a secondary means of public access to a lot otherwise abutting upon a public street and not intended for traffic other than public services and circulation to and from the lot.

AMUSEMENT ARCADE. Any establishment which keeps, maintains, or operates for hire on the premises 4 or more amusement devices, including by way of example: automatic baseball court, shooting gallery, pinball machines, tenpin machines, electronic or video game machines, prize machines, and the like. An establishment which has 4 or more amusement devices, and which establishment does not dedicate and/or derive its business and/or income primarily from these amusement devices, shall not be considered a controlled use.

AMUSEMENT CENTER. Any indoor and/or outdoor establishment which keeps, maintains, or operates for hire on the premises 1 or more recreational activities, including by way of example: go-cart tracks, skateboard facilities, water slides, model car or model railroad tracks, ice and roller skating rinks, and the like. Establishments of this type generally charge fees for each activity, and may include food, beverage, amusement arcade, and waiting areas.

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AMUSEMENT PARK. A primarily outdoor establishment which keeps, maintains, and operates on the premises 1 or more recreational activities, including by way of example: roller coasters, water

slides, merry-go-rounds, plays, dance shows, and any and all assortment of mechanical rides, amusement booths, restaurants, and snack areas. Establishments of this type generally have controlled access to the entire facility, and have a general admission charge. Selected venues within the park may have additional fees and/or charges and may include elements of an amusement arcade and an amusement center.

ANTENNA. Any structure or device designed and used to:

Receive direct broadcast satellite service, including direct-to-home satellite services;

(1) Receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services;

(2) Receive radio or television broadcast signals; or

(3) Collect or radiate electromagnetic waves, including both directional antennas, such as panel antenna, and dish antenna, and omnidirectional antennas, such as whip antennas, but not including satellite earth stations.

ANTENNA ARRAY. A structure attached to a telecommunications tower that supports a telecommunications antenna.

ANTENNA, DISH. A dish shaped device which may be freestanding or mounted on a building or structure and is designed to receive direct broadcast satellite service.

ANTENNA, FLAGPOLE. A telecommunications tower designed to appear and function as a large diameter flagpole where panel antenna are integrally designed into and located inside of a telecommunications tower and are not visible from the exterior. A FLAGPOLE ANTENNA may or may not include flying of a flag. FLAGPOLE ANTENNA may be ground mounted or roof mounted.

ANTENNA, NON-WHIP. An antenna which is not a whip antenna, such as dish antennas, panel antennas, and the like.

ANTENNA, PANEL. A flat, rectangular antenna or antenna array designed to concentrate a radio signal in a particular area. Panel antenna are also known as directional antenna or sectored antenna.

ANTENNA, RADIO/TELEVISION. A wire or combination of wires and support structures designed for directly transmitting electric waves (broadcast radio or television) into space, or receiving them therefrom.

ANTENNA, SLICK. Panel antennas that are mounted directly to tapering monopole telecommunications tower where the furthest point of the panel antenna is no greater than 18 inches from the exterior of the tapering monopole telecommunications tower.

ANTENNA, STEALTH. An antenna or antenna array placed on or in an existing or proposed building, structure, or telecommunications tower and designed or placed in a manner intended to disguise, hide, or minimize the appearance of the antenna or antenna array. A STEALTH ANTENNA may or may not have a secondary function (e.g., bell tower, church steeple, spire, flagpole, clock tower, cupola, and the like). STEALTH ANTENNA may include, but are not limited to: flagpole antenna; slick antenna; or a surface-mount antenna with a color and appearance that is compatible with or blends with the color and materials of the surface of the building or structure to which the surface-mount antenna is attached.

ANTENNA, TELECOMMUNICATION. An antenna used to provide a telecommunications service.

ANTENNA, WHIP. An omnidirectional dipole antenna of cylindrical shape which is no more than 6 inches in diameter.

APPROVED HOTEL. See HOTEL, APPROVED.

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AREA BOARD OF ZONING APPEALS. The Board of Zoning Appeals having jurisdiction over all real property within the town.

AREA PLAN COMMISSION. The Area Plan Commission of St. Joseph County, established pursuant to the Area Planning Law of the state.

ARTIFICIAL LAKE. Either:

An artificially created body of water which is not required in connection with a storm water management system; or

That portion of an artificially created body of water developed in connection with a storm water management system which exceeds the capacity required to manage the 100-year storm event.

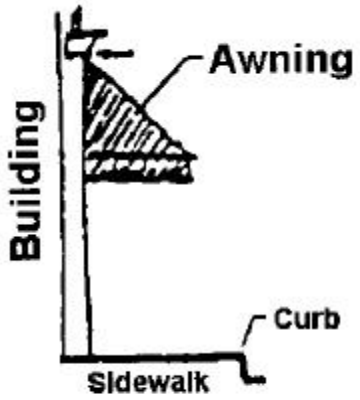
ASSEMBLY (when used in reference to an industrial operation). The fitting together of previously manufactured parts or sub-assemblies, that does not require additional manufacturing or machining, into a finished item or unit.

AUTHORIZED AGENT. Any party duly authorized in writing by the owner of a subject parcel to act on the owner's behalf with respect to any development petition, including but not limited to a petition for: zone map change; platting of a subdivision; development plan approval; variance; special exception use; or vacation of land in a plat.

AUTOMOBILE REPAIR, MAJOR. Servicing and repairs which include muffler repair or installation, brake repair or installation, shock replacement, transmission repair, tire recapping, motor overhaul, or body or fender repair work (not including the dismantling or wrecking of motor vehicles, or the storage of inoperable, damaged, or wrecked vehicles, other than those awaiting immediate repair).

AUTOMOBILE REPAIR, MINOR. Servicing and repairs limited to tune-ups, oil changes, sale and installation of lubricants, tires, batteries, and other minor maintenance operations.

AWNING. A roof-like cover, often of fabric, metal, plastic, fiberglass, or glass designed and intended for protection from the weather or as a decorative embellishment, and which is supported by and projects from a wall or roof of a building or structure over a window, door, sidewalk, walkway, or the like.



Awning

BANNER. See SIGN, BANNER.

BAR. A premises used primarily for the sale or dispensing of liquor by the drink for on-site consumption, and where packaged liquor may be sold or food may be available for consumption on the premises as accessory to the primary use.

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BASEMENT. That portion of a building with an interior vertical height clearance of not less than 78 inches and having 1/2 or more of its interior vertical height clearance below grade level.

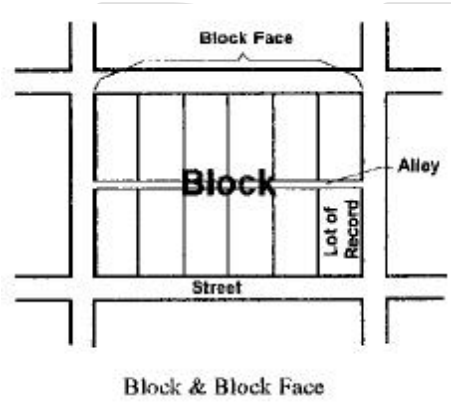
BED & BREAKFAST. The commercial leasing of bedroom(s) for guest(s) within a private, owner-occupied, single family dwelling unit or 2 family dwelling unit. Such leasing provides temporary accommodations, typically including a morning meal, to overnight guests for a fee. The leasing may also provide for the temporary accommodation of daytime meetings or receptions for guests for a fee. The leasing caters largely to tourists and the traveling public.

BILLIARD HALL. See POOL HALL.

BINGO. A game of chance as defined in I.C. 4-32.3-2-3, and all other games of chance or other allowable events as regulated by I.C. 4-32.3.

BLOCK. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines, or municipal boundary lines.

BLOCK FACE. The frontage of a block, which may contain 1 or more lots, along 1 side of a public street or private street between intersections.



Block & Block Face

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BOARD OF ZONING APPEALS. See AREA BOARD OF ZONING APPEALS.

BOARDING HOUSE. A building or part of a building, other than hotels, motels, restaurants, bed & breakfast, or multifamily dwellings, containing accommodation facilities in common where lodging, typically with meals reserved solely for the occupants thereof, is provided, whether or not for compensation.

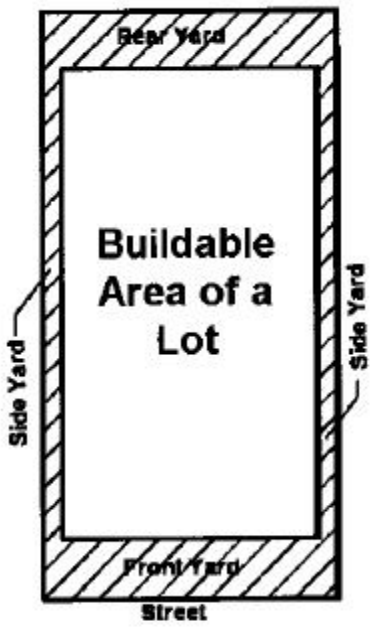
BUFFERYARD. See RESIDENTIAL BUFFERYARD.

BUFFERYARD, FRONT. See RESIDENTIAL BUFFERYARD, FRONT.

BUFFERYARD, REAR. See RESIDENTIAL BUFFERYARD, REAR.

BUFFERYARD, SIDE. See RESIDENTIAL BUFFERYARD, SIDE.

BUILDABLE AREA. The area of a lot remaining after the minimum yard and lot area requirements of this chapter have been met and in which development may occur subject to compliance with all applicable development standards.



Buildable Area

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BUILDING. Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods, or materials of any kind or nature.

BUILDING COMMISSIONER. The Building Commissioner of the Town of New Carlisle.

BUILDING HEIGHT. The vertical distance measured from the average elevation of the proposed finished grade at the front of the building or structure to the highest point of the building (typically the roof) or structure; provided, however, appurtenances such as chimneys, spires, cupolas, steeples, antenna attached to a building or structure shall not be included in the calculation of building height.

BUILDING LINE. A line parallel to any front lot line, side lot line, or rear lot line which passes through the nearest point of any building or structure.

BUILDING LINE, FRONT. A line parallel to any front lot line which passes through the nearest point of any building or structure and terminates at the point of contact with any side lot line.

BUILDING LINE, REAR. A line parallel to any rear lot line which passes through the nearest point of any building or structure and terminates at the point of contact with any side lot line.

BUILDING LINE, SIDE. A line parallel to any side lot line which passes through the nearest point of any building or structure and terminates at the point of contact with any front lot line or rear lot line.

BUILDING MATERIAL. Exterior surface materials, exclusive of materials used for: windows; doors; roofing; fascia; soffit; balconies; railings; handrails; stairs; foundations; vents; and support beams or columns less than 18 inches in width.

BUILDING PERMIT. A permit issued in compliance with the terms and provisions of the Building Code for the town.

BUS. A motor vehicle designed for carrying more than 10 passengers, exclusive of the driver.

BUSINESS. An enterprise involving selling, storing or processing goods or commodities or the rendering of services.

BUSINESS DAY. A day when the offices of the town and the Area Plan Commission of St. Joseph County are open to the public for the transaction of business for the entire period of its normal operating hours.

CABARET. A commercial establishment where persons congregate for the purpose of eating, drinking, dancing or singing and where live musical or live entertainment is provided.

CABARET, 21 & OVER (a.k.a. CLASS A CABARET). Any cabaret, not including an adult cabaret or a family cabaret, or family restaurant with lounge, which has on the premises an area where:

(1) Alcoholic beverages are sold, bartered, exchanged, given away, or furnished; and

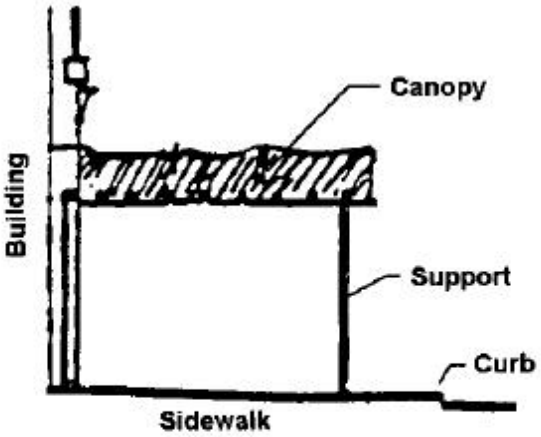
(2) From which minors are excluded pursuant to I.C. 7.1-5-7-9, 7.1-5-7-10 and 7.1-5-7-11.

CABARET, ADULT (a.k.a. CLASS B CABARET). See § 152.332.

CABARET, FAMILY (a.k.a. CLASS C CABARET). Any cabaret in which minors are not excluded pursuant to I.C. 7.1-5-7-9, 7.1-5-7-10, and 7.1-5-7-11, and which is not a 21 & over cabaret, an adult cabaret, or a family restaurant with lounge.

CALIPER. The diameter of a tree trunk, measured in inches, at 6 inches above the ground.

CANOPY. A roof-like cover, often of fabric, metal, plastic, fiberglass, or glass on a support, which is supported in total or in part, from the ground and providing shelter over, for example, a doorway, outside walk, interior access drive, or parking area.



Canopy

CANOPY, VEHICULAR. A roofed, open, drive-through structure designed to provide temporary shelter for vehicles and vehicle occupants while receiving a business service.

CARE GIVER. See DWELLING, CARE GIVER.

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CARE RECEIVER. See DWELLING, CARE RECEIVER.

CARPORT. A roofed structure designed and intended to shelter the automotive vehicle of occupant or owner of the premises, with at least 1 side open to the weather.

CASINO. A building, facility or room where any gambling games, not operated by a qualified organization are conducted. (For reference see I.C. 4-32.3 et seq.)

CERTIFICATE OF OCCUPANCY. A certificate issued authorizing an occupancy under the local Building Codes of the town.

CHILD CARE. A service that provides for the care, health, safety, and supervision of a child's social, emotional, and educational growth.

CHILD CARE CENTER. A nonresidential building where at least 1 child receives child care from a provider:

While unattended by a parent, legal guardian, or custodian;

For regular compensation; and

For more than 4 hours but less than 24 hours in each of 10 consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

CHILD CARE HOME. A residential structure in which at least 6 children (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative or any child who is at least 14 years of age and does not require child care) at any time receive child care from a provider:

(1) While unattended by a parent, legal guardian, or custodian;

(2) For regular compensation; and

(3) For more than 4 hours but less than 24 hours in each of 10 consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

(4) The term includes:

(5) A Class I child care home; and

(6) A Class II child care home as defined in state law.

CHILD CARE MINISTRY. Child care operated by a church or religious ministry that is a religious organization exempt from federal income taxation under Section 501 of the Internal Revenue Code.

CHILD CARE PROGRAM, SCHOOL AGE. A program operated by a school corporation or a nonprofit organization that offers care to children who are at least 5 years of age but less than 15 years of age for the following periods of time:

(1) Before or after the school day, or both;

(2) When school is not in session; or

(3) When school is in session for students who are enrolled in a half-day kindergarten program.

CLASS A CABARET. See CABARET - 21 AND OVER.

CLASS B CABARET. See CABARET - ADULT.

CLASS C CABARET. See CABARET - FAMILY.

CLUB. An association or corporation:

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(1) Organized, in good faith, under authority of law;

(2) Maintaining, in good faith, a membership roll of paid-up membership:

(3) Owning, leasing, or occupying an establishment operated solely for objects of a nation, social, patriotic, religious, political, or athletic nature, or the like;

(4) Not operated for pecuniary gain;

(5) With property and advantages of the organization belonging to its members;

(6) Where the sale or provision of alcoholic beverages, if undertaken, is done pursuant to a club permit issued by the State Alcoholic Beverage Commission.

CO-LOCATION. The placement of 2 or more antenna or antenna arrays by telecommunication service providers on a common support structure.

COMMITMENT. A legally binding, written restriction on the use and development of real estate entered into in connection with a petition for: zoning map change; development plan approval; special exception; or variance.

COMPREHENSIVE PLAN. The Comprehensive Plan for the town or any supplemental or replacement comprehensive plan subsequently recommended by the Area Plan Commission and adopted by the Town Council pursuant to state law.

CONCEPT PLAN. An informal site plan of a proposed subdivision, project, planned unit development or other development intended to convey the scope, content and nature of a proposed development, but lacking sufficient detail to determine compliance with chapter requirements.

CONCEPT PLAN REVIEW. A cursory review of a concept plan or sketch plan for a proposed subdivision, project, planned unit development or other development in which staff provides initial review comments to a prospective petitioner on the design and layout of a proposed subdivision, project, planned unit development or other development.

CONDOMINIUM. A building, group of buildings, or portion thereof, in which units are owned individually, and the structure, common areas, or facilities are owned by all the owners on a proportional, undivided basis. (For reference see I.C. 32-25.)

CONFORMING. The state of being in compliance with the permitted use or development standards regulations of the district to which the real estate is zoned pursuant to this chapter.

CONTROLLED USE. Any use recognized as having objectionable secondary impacts. See §§ 152.330 through 152.332 and Appendix A for a listing of **CONTROLLED USES.**

COTTAGE BUSINESS/RESIDENTIAL. A business operated out of the same building or tenant space as the primary dwelling unit of the proprietor when located in a district which permits such mixed-use occupancy.

COTTAGE SCHOOL. A private school which:

Provides educational services for a maximum of 6 children at a time;

Is operated in a residential property; and

Provides educational instruction for students between and including grades K - 12.

COUNTRY CLUB. Land area and buildings containing golf courses, recreational facilities, clubhouse, and customary accessory uses, open only to members and their guests.

CUTOFF. A luminaire where light distribution does not exceed:

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Two and one-half percent above an angle of 90 degrees; and

Ten percent at an angle between 80 degrees and 90 degrees.

CUTOFF, FULL. A luminaire equipped with a light fixture (i.e., lamp, lens, reflective surface, and the like) that does not protrude below the bottom edge of the light fixture and is designed so that:

No light is emitted above an angle of 90 degrees; and

Light distribution does not exceed 10% at an angle between 80 degrees and 90 degrees.

CUTOFF, NON. A luminaire where light distribution is unrestricted.

CUTOFF, SEMI. A luminaire where light distribution does not exceed:

Five percent above an angle of 90 degrees; and

Twenty percent at an angle between 80 degrees and 90 degrees.

DECK. A ground-supported, unenclosed, platform accessory structure, usually constructed of wood, of which any permanent horizontal area(s) of the platform is raised above grade level and is designed and intended for the recreational enjoyment of the occupant(s) and guest(s) of the primary use or structure.

DETAILED TERMS. The uses and development standards specified in a PUD District ordinance with sufficient information from which to determine if an improvement location permit application is in compliance with the use, area and bulk regulations specified in the PUD District ordinance. Specific information including but not limited to: permitted uses; gross density; frontage; setbacks; minimum yards; use of yards; building height; parking area requirements; loading area requirements; landscaping requirements; signs; open space; building design and appearance requirements; and the like, is provided.

DEVELOPED RECREATIONAL OPEN SPACE. The total horizontal area of those portions of a lot which are located outside of any required yard and which are set aside and developed for the recreational use and enjoyment of all residents of a project.

DEVELOPMENT PETITION. Any petition or review process required by this chapter prior to the issuance of a improvement location permit, including but not limited to petitions for: zone map changes; variances; special exception uses; primary plats; secondary plats; re-plats; vacations; or development plans.

DEVELOPMENT PLAN. Specific plans development of property filed in connection with development incentives review under the terms of this chapter. **A DEVELOPMENT PLAN** may include but not be limited to: a site plan; landscape plan; signs; lighting plans; building elevations; and pedestrian and vehicular circulation plans, which are reasonably necessary to depict or describe certain information and data as required by this chapter.

DEVELOPMENT REQUIREMENTS. Permitted uses, development standards and any additional requirement specified in this chapter which must be satisfied in connection with the approval of a development plan.

DEVELOPMENT STANDARDS. Area, bulk, height, setback, parking, loading, landscaping, lighting, performance standards, building materials, pedestrian and vehicular circulation, and other applicable regulations of a district contained in this chapter which govern the physical development of real estate.

DIRECTOR. See EXECUTIVE DIRECTOR.

DISTRICT. Any zoning district or overlay district applicable to a section of the territory within the jurisdiction of this chapter.

DISTRICT, OVERLAY. A section of the territory within the jurisdiction of this chapter in which additional requirements are imposed on certain properties within one or more underlying zoning district.

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DISTRICT, ZONING. A section of the territory within the jurisdiction of this chapter for which uniform regulations over the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land, including, but not limited to: permitted uses; height; area; size; and intensity of use of buildings, structures, land, and open spaces about buildings or structures, are established by this chapter.

DRAINAGE POND. An artificially created body of water which is required in connection with a storm water management system.

DRIVE, INTERIOR ACCESS. A way for internal vehicular movement in and around an individual lot or integrated center.

DRIVE-THROUGH FACILITY. A feature of an establishment which typically includes an opening in the exterior of the building, or the use of pneumatic dispatch or similar devices, which encourage or permit customers to receive goods or services while remaining in or on a motor vehicle.

DRIVEWAY. Access for vehicular egress/ingress between the right-of-way of a public street or private street and the minimum required setback line on a lot.



Drives & Related Areas

DRIVEWAY, INTERIOR ACCESS. A way for vehicular egress/ingress between the minimum required setback lines of separate lots or between lots within the boundaries of an integrated center.

DWELLING. Any building, or portion of a building, which is designed or used primarily for residential purposes, including a single family dwelling, 2 family dwelling, and multifamily dwelling but not including hotels, motels, boarding houses, lodging houses, and bed & breakfast.

DWELLING, ACCESSORY. A dwelling unit which is subordinate and incidental to the primary use of a lot for a single family dwelling.

DWELLING, CARE GIVER. A second dwelling unit located on a lot in a Residential District which permits only 1 single family dwelling as a matter of right and which is:

DRAFT

(1) Occupied by a family who provides weekly assistance to the family residing in the permitted single family dwelling; and

(2) Approved by the Board of Zoning Appeals through the grant of a special exception.

DWELLING, CARE RECEIVER. A second dwelling unit located on a lot in a Residential District which permits only 1 single family dwelling as a matter of right and which is:

Occupied by a family who receives weekly assistance from the family residing in the permitted single family dwelling; and

Approved by the Board of Zoning Appeals through the grant of a special exception.

DWELLING, MANUFACTURED HOME. A dwelling unit which is fabricated in one or more modules at a location other than the home site, by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process.

DWELLING, MOBILE. A movable or portable dwelling unit that:

(1) Is fabricated in 1 or more modules at a location other than the home site, by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process;

(2) Is designed for occupancy by 1 family;

(3) Is erected or located as specified by the town Building Code; and

(4) Was either:

(5) Constructed prior to June 15, 1976; or

(6) Constructed subsequent to or on June 15, 1976 and bears a seal, certifying that it was built in compliance with the Federal Mobile Home Construction and Safety Standards law.

DWELLING, MODULAR HOME. A dwelling unit which is fabricated in 1 or more modules at a location other than the home site by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process, provided that the dwelling unit must have been built in compliance with the Indiana One and Two Family Dwelling Code and the Town Building Code.

DWELLING, MULTIFAMILY. A building consisting of 3 or more dwelling units, including condominiums, with varying arrangements of entrances and party walls.

DWELLING, SINGLE FAMILY. An individual, detached building containing 1 dwelling unit which is either:

Built in compliance with the Indiana One and Two Family Dwelling Code and the Town Building Code;

A modular dwelling; or

A manufactured home dwelling.

DWELLING, TWO FAMILY. A building consisting of 2 dwelling units which may be either attached side by side or one above the other, and each dwelling unit having a separate or combined entrance.

DWELLING UNIT. A room or group of rooms designed and equipped exclusively for use as living quarters for only 1 family and its household employees, including provisions for sleeping, lawful cooking, and sanitary facilities. The term shall include mobile dwellings, modular dwellings and manufactured dwellings but shall not include recreational vehicles.

EIA-222. Electronics Industries Association Standard 222, “Structural Standards for Steel Antenna Towers and Antenna Support Structures.”

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ELECTRONIC VARIABLE MESSAGE SIGN (EVMS). See SIGN, ELECTRONIC VARIABLE MESSAGE.

ESCORT. A person who, for consideration, agrees or offers to act as a date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY. A person or business who furnishes, offers to furnish, or advertises to furnish escorts as a primary business purpose for a fee, tip, or other compensation.

EXECUTIVE DIRECTOR. The Executive Director of the Area Plan Commission of St. Joseph County, or the designee of the Executive Director of the Area Plan Commission of St. Joseph County.

FAÇADE. That portion of any exterior elevation of a building, extended from grade to the top of the parapet wall or eaves, and extending the entire width of the building elevation.

FAÇADE, FRONT. The façade of a building which is oriented toward a front lot line of the lot on which the building is located.

FAÇADE, REAR. The façade of a building oriented toward a rear lot line of a lot on which the building is located.

FAÇADE, SIDE. The façade of a building oriented toward a side lot line of a lot on which the building is located.

FAMILY. One or more persons related by blood, marriage, legal adoption, foster care or guardianship, living and cooking together as a single housekeeping unit, exclusive of incidental domestic servants and temporary, non-compensating guests; or not more than 2 persons not so related, living and cooking together as a single housekeeping unit. A person or persons residing with a family as hereinabove defined by reasons of placement by a publicly licensed placement agency shall be considered as members of that FAMILY.

FAMILY RESTAURANT. See RESTAURANT, FAMILY.

FAMILY RESTAURANT WITH LOUNGE. See RESTAURANT, FAMILY, WITH LOUNGE.

FLAG. See SIGN, FLAG.

FLOOR AREA. For single family dwellings and 2 family dwellings, the sum of all horizontal surface areas of all floors of all roofed portions of a building enclosed by and within the surrounding exterior walls or roofs, or the centerline(s) of party walls separating the buildings or portions thereof. The floor area of such a building shall exclude all areas with a vertical height clearance less than 78 inches, exterior open balconies, and open porches.

(1) For multifamily dwellings, the sum of all horizontal surface areas of all floors of all roofed portions of all buildings enclosed by and within the surrounding exterior walls or roofs, or the centerline(s) of party walls separating the buildings or portions thereof. However, the floor area of such a building shall not include the following:

(2) All areas with a vertical height clearance less than 78 inches;

(3) All exterior open balconies and open porches;

(4) Floor area or basement floor area devoted to off-street parking or off-street loading, including aisles, ramps, and maneuvering space;

(5) Floor area or basement floor area provided for recreational uses, available to occupants of 2 or more dwelling units within a project; or

(6) Basement FLOOR AREA provided for storage facilities, allocated to serve individual dwelling units with a project.

FLOOR AREA, FINISHED. That portion of floor area constructed, completed and usable for living purposes with normal living facilities which includes sleeping, dining, cooking, sanitary, or combination thereof. A floor area or

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portion thereof used only for storage purposes and not equipped with the facilities mentioned above shall not be considered FINISHED FLOOR AREA.

FLOOR AREA, GROSS.

(1) For dwelling units, the total area, computed on a horizontal plane inclusive of finished basements, attached garages, entrances, hallways, stairways, and other enclosed areas, but exclusive of unfinished basements, cellars, and attics.

(2) For commercial or industrial buildings or structures, the sum of all horizontal surface areas of all floors of a building or structure measured from the exterior faces of the exterior walls or from the centerline of walls separating abutting buildings or structures.

FLOOR AREA, GROSS LEASABLE. The portion of the gross floor area which is designated for the exclusive use and occupancy of a tenant.

FLOOR AREA, MAIN. That portion of the finished floor area located on the first floor of the dwelling unit.

FOUNDATION LANDSCAPING. Landscaping installed along or in relation to the perimeter foundation of a building or structure.

FOUNDATION LANDSCAPING AREA. The area along or in proximity to the perimeter foundation of a building or structure which is required to be set aside for the installation of foundation landscaping.

FRATERNITY HOUSE. A building containing sleeping rooms, bathrooms, common rooms, and a central kitchen and dining room maintained exclusively for fraternity members and their guests or visitors and affiliated with an instruction of higher learning.

FRONT FAÇADE. See FAÇADE, FRONT.

FRONTAGE. The line of contact of an abutting property with the street right-of-way along a front lot line which allows unobstructed, direct access to the lot.

FRONTAGE STREET or **FRONTAGE ROAD.** See STREET, FRONTAGE.

FULL CUTOFF. See CUTOFF, FULL.

GAMBLING GAME. Any of the activities governed by the State Gaming Commission as a wagering device set forth in I.C. 4-33-2-9, as it may be amended from time to time.

GAME COURT. In Residential Districts, a type of recreation facility which consists of an unpaved or paved, accessory, surface area of ground open and essentially unobstructed to the sky, on the same lot as the primary building, designed and intended for the playing of a recognized sport as an accessory, recreational activity by the occupants and guests of the primary building, which may include fencing, screening, nets, goals, or other necessary appurtenances required for recreational use.

GARAGE. An accessory building to a residential use, or an enclosed area attached to or integrated into a residential building, which is primarily designed and intended to be used for the storage of the private vehicle(s) for the occupant(s) of the residence and is not a separate commercial enterprise available to the general public.

GARAGE, PARKING. See PARKING GARAGE.

GARAGE SALE. A public or private sale conducted by the owner or occupier of a premises of 6 or more items of personal property owned by the owner or occupier of the premises, which personal property was not acquired by the owner or occupier for the purpose of resale.

GASOLINE SERVICE STATION. Any building, land area or other premises or portion thereof, used or intended to be used for the retail dispensing or sales of vehicular fuels, which may include as an accessory use: minor

DRAFT

automotive repairs; the sale and installation of lubricants, tires, or batteries; car washes; and similar uses. The establishments shall provide a facility where gasoline and other motor fuels are stored and subsequently dispensed by means of fixed, approved dispensing equipment by customers or employees.

GENERAL TERMS. The uses and development standards expressed in a PUD District ordinance (such as designations of areas in terms of: units per acre; multifamily; retail; office; and the like) which do not provide sufficient information from which to be able to determine if an improvement location permit application for a particular development is in compliance with the use, area and bulk regulations for the PUD District ordinance. Detailed information regarding: permitted uses; gross density; frontage; setbacks; minimum yards; use of yards; building height; parking requirements; loading requirements; landscaping requirements; sign information; open space; building design and appearance requirements; and the like, are not specified.

GLARE. The harsh appearance of a direct source of light as discernible from adjacent properties and which causes annoyance, discomfort or loss of visual performance and visibility.

GOLF COURSE. A tract of land laid out for at least 9 holes for playing the game of golf and improved with tees, greens, fairways and hazards, and may include a clubhouse or shelter (with ancillary pro shop, food service, locker room facilities, fitness center, and the like). See also COUNTRY CLUB.

GRADE. The average level of the finished surface of the ground 5 feet from the building, structure or proposed building pad; provided, however, when referring to “street grade” the term GRADE shall mean the slope of a street specified in percentage (%) terms.

GREENBELT. An open space along the perimeter of a development, subdivision or project which is maintained in its natural vegetative state and which, at a minimum, contains sufficient vegetation to meet or exceed perimeter landscape yard requirements.

GREENWAY. May include any of the following:

(1) A linear open space established along either a natural corridor (i.e., a riverfront, stream valley or ridge line) or over land (i.e., along a railroad right-of-way, a canal, a scenic road, or other route) converted to or available for recreational use;

(2) Any natural or landscaped course for pedestrian or bicycle passage; or

(3) An open space connector linking parks, natural features, cultural features, or historic sites with each other or with residential, employment or shopping areas, which are designated on an officially adopted plan of the town or the county.

GROUP HOME. A residential facility for children which, in addition to providing food and shelter, may also provide some combination of personal care, social services, counseling services, or transportation to residents and is licensed by the state.

GROUP RESIDENCES. A residential facility which, in addition to providing food and shelter, may also provide some combination of personal care, social services, counseling services or transportation to residents. GROUP **RESIDENCES** would include student housing, halfway houses, work release houses or any other similar form of residential facility for individuals which do not qualify as a family or any other form of residential facility expressly provided for in this chapter.

GUN AND GUNSMITH SHOPS. Any location where firearms or ammunition are being sold or repaired as the primary business items.

HALF STORY. See STORY, HALF.

HEDGE PLANT. A woody plant of relatively low height (not exceeding 10 to 12 feet in height), branching from the base.

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HISTORIC LANDMARK. A building, structure, object, district, land use, area or site of historical significance and designated as an historic landmark on the historic preservation plan.

HISTORIC PRESERVATION. The research protection, maintenance, restoration, rehabilitation, reconstruction or development of historic landmarks and Historic Preservation Districts. For the purposes of this chapter, this definition shall apply to the preservation of exterior features only.

HISTORIC PRESERVATION COMMISSION. The Historic Preservation Commission established under the provisions of this chapter.

HISTORIC PRESERVATION DISTRICT. A geographically definable area with a significant consideration of buildings, structures, sites, spaces, or objects unified by past events, physical development, design, setting, materials, workmanship, a sense of cohesiveness, or related historic association and designated as an historic preservation district on the historic preservation plan.

HOME OCCUPATION. An occupation or business activity carried on within a legally established dwelling unit by a resident of the dwelling.

HOTEL. Any building or group of buildings containing 5 or more rooms without direct entrance to or from the outside, designed or intended to be occupied for sleeping purposes by guests for a fee, often with general kitchen and dining room facilities provided within the building or an accessory building, and which caters to the traveling public.

HOTEL, APPROVED. A hotel where gambling may be conducted, and contains: at least 250 rooms, or a lesser number established by the State Gaming Commission; an indoor public space used for exhibit space; meeting rooms; banquet rooms; restaurants; lobbies; lounges or bars; show theaters; parking areas; and shops. This definition shall also include the definition of “approved hotel” contained in I.C. 4-33-2-3, as that definition may be amended from time to time.

IMPROVEMENT. Any man-made, immovable item which becomes part of, placed upon, or is affixed to real estate.

IMPROVEMENT LOCATION PERMIT. A permit stating that the proposed erection, construction, enlargement, or moving of a building or structure, and uses thereof, complies with the provisions of this chapter, or a building permit which includes a site plan review or which authorizes the proposed erection, construction, enlargement, or movement of any sign.

INCIDENTAL. A minor occurrence or condition which is customarily associated with a permitted use and is likely to ensue from normal operations.

INDUSTRIAL PARK. An integrated center zoned for and primarily used by industrial businesses. See INTEGRATED CENTER.

INTEGRATED CENTER. An area of development (commercial/town center, industrial, or any combination of commercial/town center, industrial, and residential uses) of 1 or more lots or out lots, comprised of:

(1) Two or more individual, non-related and separately operated uses in 1 building sharing common site facilities;

(2) One or more buildings containing non-related and separately operated uses occupying a common site, which utilizes 1 or a combination of common site facilities, such as driveways, parking areas, loading areas, interior access drives, maintenance, and similar common services; or

(3) One or more buildings containing non-related and separately operated uses occupying individual sites, which are interrelated by the utilization of 1 or a combination of common facilities, such as driveways, internal public street or private street network developed in accordance with an approved master plan or preliminary plan of a subdivision, parking areas, loading areas, maintenance, or other services.

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INTERIOR YARD. See YARD, INTERIOR.

JUNK YARD. Any place at which personal property:

Is or may be salvaged for reuse, resale, or reduction or similar disposition;

Is owned, possessed, collected, accumulated, dismantled, or assorted (including but not limited to: used or salvaged base metal or metals, their compounds or combinations; used or salvaged rope, bags, paper, rags, glass, rubber, lumber, millwork, brick and similar property except animal matter; and used motor vehicles, machinery or equipment which does not carry a current, valid license); or

Is used, owned, or possessed for the purpose of wrecking or salvaging parts therefrom.

LAWFUL COOKING. A room or area in which food may be prepared and cooked and which contains the following:

(1) A kitchen sink in good working condition and properly connected to an approved water supply and approved sewer/septic system. The sink must provide an adequate amount of water under pressure, both unheated and heated to no more than 120ºF;

(2) Cabinets, shelves, counters, or tables used for storage of food, eating, drinking, or cooking equipment and utensils shall be of sound condition furnished with surfaces that are easily cleanable and that will not impart any harmful effect to food; and

(3) A stove, oven, or microwave oven for cooking food and a refrigerator for safe storage of food at temperatures less than 45ºF. These appliances shall be properly installed with all necessary connections for safe, sanitary, and efficient operation and shall be maintained in good working condition.

LEGALLY ESTABLISHED. The condition of being in compliance with all applicable development regulations at the time of recording, construction or erection of a lot, building, structure, use, or sign.

LEGALLY ESTABLISHED NONCONFORMING. See NONCONFORMING BUILDING OR STRUCTURE, LEGALLY ESTABLISHED OR NONCONFORMING USES, LEGALLY ESTABLISHED.

LIQUOR STORE. A retail establishment whose primary business, in terms of gross floor area or sales, is related to the sale of alcoholic beverages. A grocery store or drug store which sells alcoholic beverages, but whose sales of such beverages is incidental to the overall gross floor area or sales receipts of the business, shall not be considered a LIQUOR STORE.

LOADING AREA. Any area maintained and intended for the maneuvering and temporary parking of vehicles while transferring goods or materials to and from a facility. LOADING AREA includes the loading space and maneuvering area required to enter the loading space.

LOADING, OFF-STREET. A loading area located completely on a lot and accessed via interior access drives, interior access driveways, access drives, or driveways in which no individual loading spaces gain direct access to a public street or private street.

LOADING SPACE. A hard-surfaced, off-street area used for the temporary parking of a commercial vehicle while transferring goods or materials to and from a facility.

LOT.

(1) A piece, parcel, plot, or tract of land designated by its owner or developer to be used, developed or built upon as a unit under single ownership or control and may consist of:

(2) A single lot of record; or

(3) A combination of complete lots of record.

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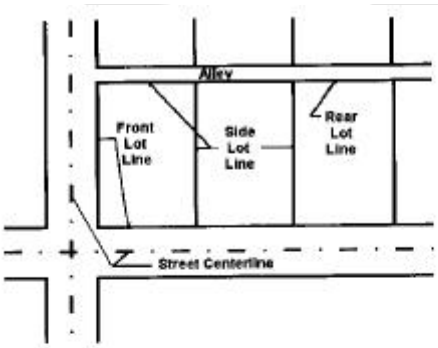
(4) For purpose of this definition, the ownership of a LOT is further defined to include:

(5) The person(s) who holds either fee simple title to the property or is a life tenant as disclosed in the records of the assessor; or

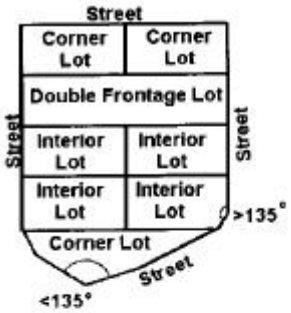
(6) A long-term lessee (but only if the lease is recorded among the records of the St. Joseph County Recorder and has a term (exclusive of non-exercised extensions and renewals) of at least 25 years remaining before its expiration at the time of applying for a permit).

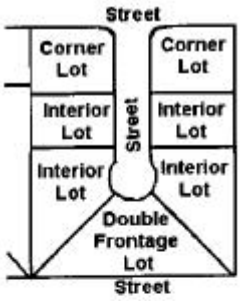
(7) Provided, however, for the purposes of the Subdivision Control Ordinance, the term LOT shall mean that portion of a subdivision which is proposed to be recorded in the office of the St. Joseph County Recorder as a LOT OF RECORD.

LOT AREA. The total area of a lot bounded on all sides by any front lot line, rear lot line, and side lot line, provided, however, LOT AREA shall not include: any area lying within the right-of-way of any public street or private street or easement for surface access into the subject lot or adjoining lots; or land reserved for drainage pond, wetland, or lands subject to periodic flooding. No part of the minimum lot area required under the applicable district, commitment, variance grant, or development plan approval may be satisfied by land that is under water.

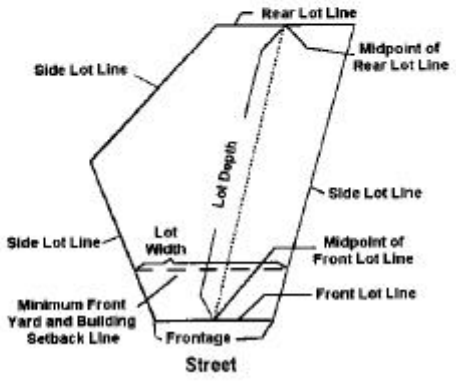


Lot Lines

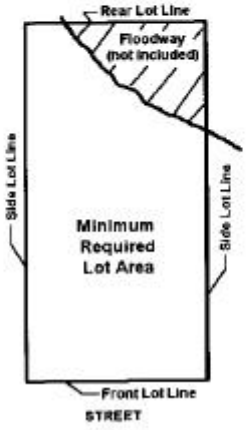




Types of Lots



Lot Depth & Lot Width



Lot Area

LOT, CORNER. A lot abutting 2 or more streets at their intersections, or upon 2 parts of the same street forming an interior angle of less than 135 degrees.

LOT COVERAGE. The total ground area within the lot or project covered by the primary structure plus any accessory structures (including decks over 30 inches above grade, above-ground pools, in-ground pools,

garages, carports, storage sheds, or any under roof areas), excluding driveways, walkways, fences, grade level decks and patios, and walls not attached in any way to a roof.

LOT DEPTH. The distance from the midpoint of the front lot line to the midpoint of the rear lot line.

LOT, DOUBLE FRONTAGE. A lot abutting 2 parallel streets, or abutting 2 streets which do not intersect at the boundaries of the lot.

LOT, INTERIOR. A lot which is not a corner lot or a double frontage lot.

LOT LINE. The line of separation of a lot from any abutting street or adjoining lot.

LOT LINE, FRONT. The lot line separating a lot from any abutting street or limited access highway.

LOT LINE, REAR. A lot line which is opposite and most distant from the front lot line, or in the case of a triangularly shaped lot, a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line. However, in the case of a corner lot, any lot line which intersects with a front lot line shall not be considered a REAR LOT LINE.

LOT LINE, SIDE. Any lot line not designated as a front lot line or rear lot line.

LOT OF RECORD. A lot which is part of a final plat recorded in the office of the Recorder of St. Joseph County, or for which a deed has been so recorded prior to May 6, 1958.

LOT WIDTH. The full width of a lot measured along the minimum front yard and minimum building setback line required by this chapter.

LUMINAIRE. A complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute light on any property, to position and protect the lamps and to connect the lamps to the power supply.

LUMINOUS TUBE LIGHTING. Gas-filled tubing which, when subjected to high voltage, becomes luminescent in a color characteristic of the particular gas used, e.g., neon, argon, and the like.

MANUFACTURE. The mechanical or chemical transformation of materials or substances into new products or into a useable form. MANUFACTURE may include the creation of products (including subsequent assembly of previously manufactured parts), or the blending of materials such as lubricating oils, plastics, resins, or liquors.

MANUFACTURED HOME DWELLING. See DWELLING, MANUFACTURED HOME.

MANUFACTURING RETAILER. A food sales and service establishment which where food or beverage products are produced in a limited quantity (not industrial manufacturing) sufficient to support on-site sales as a primary or accessory portion of the on-site business. Examples include confectioners, bakeries and brew pubs.

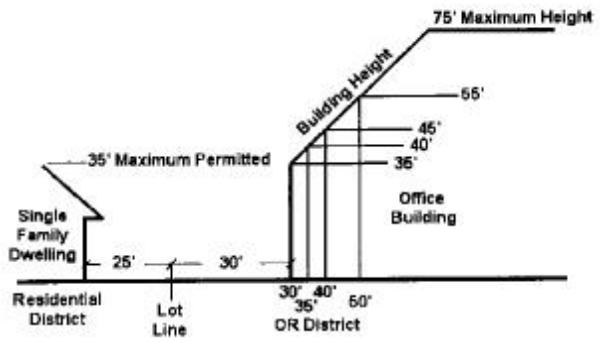
MASSAGE. The manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping by hand or mechanical device.

MASSAGE BUSINESS. Any establishment or business wherein massage is practiced, including message therapy by a licensed health professional and establishments commonly known as health clubs, physical culture studios, massage studios, or massage parlors. Any MASSAGE BUSINESS which involves any specified anatomical areas or any specified sexual activities shall be deemed an adult business.

MASTER PLAN. A drawing, map, plan, or other graphic representation of an overall project, drawn to an appropriate scale by hand or other drawing method, but containing sufficient detail to depict the patterns proposed for an overall project and to determine general compliance with the use and development standards provisions of this chapter.

MAXIMUM BUILDING HEIGHT. The height which a building or structure may not exceed. See also BUILDING HEIGHT.

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Maximum Building Height Calculation

MET TOWER. A meteorological tower used for the measurement of wind speed.

MINI (SELF STORAGE) WAREHOUSE. A building or structure designed and used for the purpose of renting or leasing individual storage spaces to occupants who are to have access to such for the purpose of storing and removing personal property.

MINOR. A person less than 21 years of age.

MOBILE DWELLING. See DWELLING, MOBILE.

MOTEL. Any building or group of buildings containing 5 or more rooms with at least 25% of all rooms having direct entrance to and from the outside without the necessity of passing through the main lobby of the building(s), designed and intended to be occupied for sleeping purposes by guests for a fee, where general kitchen and dining room facilities may be provided within the building or an accessory building, and which caters to the traveling public.

NEIGHBORHOOD RECYCLING COLLECTION POINT. A site where individuals bring household recyclable materials to either drop off without compensation, or, to redeem the materials for monetary compensation. Beyond any limited sorting, no other processing of the materials takes place at the site. All materials are stored completely within the structure while awaiting periodic shipment to the processing facilities. While these collection points may be developed as freestanding sites, they typically are accessory uses sharing the site of a larger primary use. Possible structures for this type of operation include such recycling containers as “igloos,” reverse vending machines, trailers, or similar structures.

NIGHTCLUB. An establishment: offering liquor by the drink or food for on-site consumption; and in which music, dancing, or entertainment is conducted.

NONCONFORMING. The state of not being in compliance with the permitted use or development standards regulations of the district to which the real estate is zoned pursuant to this chapter.

NONCONFORMING BUILDING OR STRUCTURE. Any building or structure erected or constructed but which fails to conform to the present requirements of the district.

NONCONFORMING BUILDING OR STRUCTURE, LEGALLY ESTABLISHED. Any continuous, lawfully established building or structure erected or constructed:

(1) Prior to the time of adoption, revision or amendment of this chapter but which fails by reason of the adoption, revision or amendment to conform to the present requirements of the district;

(2) Pursuant to a granted variance; or

DRAFT

(3) Prior to a right-of-way acquisition or access rights acquisition by a governmental entity but which fails by reason of the right-of-way acquisition or access rights acquisition by a governmental entity to conform to the present requirements of the district.

NONCONFORMING USE. Any land use which fails to conform to the present requirements of the district.

NONCONFORMING USE, LEGALLY ESTABLISHED. Any continuous, lawful land use having commenced:

Prior to the time of adoption, revision, or amendment of this chapter but which fails by reason of the adoption, revision, or amendment to conform to the present requirements of the district; or

Pursuant to a granted variance.

NON-CUTOFF. See CUTOFF, NON.

NON-WHIP ANTENNA. See ANTENNA, NON-WHIP.

OCCUPANCY. The use to which a building or premises is devoted.

OFF-STREET. An area, typically set aside for parking or loading, which is located on private property and does not occur in the right-of-way of any public street or private street.

ON-STREET. An area, typically set aside for parking or loading, which is located within the right-of-way of any public street or private street.

OPEN SPACE. A lot, a portion of a lot or common area set aside as a playground, plaza, park, parkway, greenbelt, residential bufferyard, or other landscape area and maintained free from buildings or structures, except for those structures which are directly related to and essential to the use of the open space for recreational purposes, including, but not limited to swimming pools, play equipment for youngsters, game courts, and picnic tables. In the case of individual residential lots, open space shall be an area landscaped with grass, trees, shrubbery, or other suitable vegetative ground cover and maintained free from buildings or structures.

OUT LOT.

The portion of land in a integrated center, industrial park, or other planned development which does not contain the central or primary building of the development and is:

(1) Usually located adjacent to a street or frontage street; and

(2) Is intended for the development of a smaller, additional, and separate building or buildings.

(3) In an integrated center or industrial park where there is no clearly identifiable central or primary building of the development, or where individual lots are developed independently of each other, each lot shall be considered an OUT LOT; provided, however, for the purposes of the Subdivision Control Ordinance, the term OUT LOT shall mean a non-buildable portion of a subdivision.

OUTDOOR DISPLAY AREA. The part of lot used for the display of merchandise or goods available for purchase or lease from the business located on that lot.

OUTDOOR LIGHT FIXTURE. Any outdoor electrically powered illuminating devices, outdoor light, or reflective or refractive surfaces, lamps, and similar devices, including all parts used to distribute the light or protect the lamp, permanently installed or portable, used for flood lighting, general illumination, or location identification.

OUTDOOR STORAGE. See STORAGE, OUTDOOR.

PARK. An open space designed and used by the public for passive or active recreational use.

DRAFT

PARK, ACTIVE. An open space improved with active recreational facilities, including but not limited to: tennis or basketball courts; softball, baseball, football, or soccer fields; slides; playgrounds, and the like, and maintained for the continued use and enjoyment of area residents.

PARK, PASSIVE. An open space improved with passive features, including but not limited to park benches, picnic tables, gazebos, and the like, and maintained for the continued use and enjoyment of area residents.

PARKWAY. An open space entirely bounded by street or pedestrian rights-of-way within a developed area.

PARKING AREA. Any area other than an open exhibition or display area (not inclusive of interior access drives, driveways, interior access driveways and access drives) intended for the temporary storage of automotive vehicles, including parking spaces and the area allocated to the egress/ingress of automotive vehicles to and from the actual parking space.

PARKING GARAGE. Any building or structure designed and intended for the storage of motor vehicles for compensation.

PARKING LOT. The primary use or accessory use of a lot or a portion of a lot for the parking of automotive vehicles.

PARKING LOT, ACCESSORY. The use of a lot in a Residential District as a parking lot where the parking lot is accessory to a permitted use which is either: located on an adjacent lot in a Commercial/Town Center District or Industrial District; or located in a Commercial/Town Center District or Industrial District separated from the lot in a Residential District by a street or alley not over 30 feet in width. Such ACCESSORY PARKING LOTS are intended to create an effective buffer between residential uses and a commercial/town center or industrial use and, where practical, are developed in compliance with all off-street parking standards and all landscaping standards applicable parking lots in a Commercial/Town Center District or Industrial District.

PARKING, OFF-STREET. A parking area located completely on a lot and accessed via interior access drives, interior access driveways, access drives, or driveways in which no individual parking spaces gain direct access to a public street or private street.

PARKING, ON-STREET. A parking area located partially or completely within the right-of-way of a public street or private street.

PARKING SPACE. That portion of the parking area used only for the temporary placement of an operable motor vehicle.

PATIO. A hard-surfaced area accessory structure to a primary use or structure of which the horizontal area is at grade level with at least 1 side open to the weather and essentially unobstructed to the sky. This area is specifically designed and intended for the recreational enjoyment of the occupant(s) and guest(s) of the primary use or structure and is not designed or intended for use by automotive vehicles.

PENNANT. See SIGN, PENNANT.

PERFORMANCE BOND. A legally binding agreement whereby the developer or subdivider posts a surety for the construction of improvements, installations, and lot improvements required by this chapter, any other applicable ordinances of the town, and any requirements, covenants, conditions, or commitments which may be imposed pursuant to this chapter.

PERMITTED USE. The use of land or the use of a building or structure on land which is allowed, either as a matter of right or under limited conditions (i.e., as a special exception use, an accessory use, a home occupation, or a temporary use) in the district applicable to the land.

PLAN COMMISSION. A commission established pursuant to I.C. 36-7-4 et seq., and which is responsible for: making recommendations regarding adoption and amendments to the Comprehensive Plan; making recommendations regarding adoption or text amendments of the initial zoning ordinance, replacement zoning

DRAFT

ordinance, and subdivision control ordinance; making recommendations regarding adoption or amendment of a PUD District ordinance; making recommendations regarding zone map changes; rendering decisions concerning plats, re-plats and amendments to plats; making determinations regarding development plans; and other duties or powers authorized by I.C. 36-7-4 et seq., and ordinance. See also AREA PLAN COMMISSION.

PLAN REVIEW COMMITTEE (PRC). A committee of technical consultants established to provide the Executive Director, Building Commissioner/Zoning Administrator with technical assistance in the review of plans for compliance the provisions of this chapter and other applicable rules and regulations of federal, state, or local agencies.

PLANNED UNIT DEVELOPMENT. A site to be developed, operated, or maintained as a single entity and containing 1 or more residential areas, public areas, quasi-public areas, commercial areas or industrial areas, and containing a range of uses as specified in the PUD District ordinance.

PLAYGROUND. An open space which contains an active recreational area with a variety of facilities, including equipment for younger children, game courts, and fields for games.

PLAZA. An open space that may be improved and landscaped, usually surrounded by streets or buildings.

POOL HALL or BILLIARD HALL. Any establishment which keeps, maintains or operates for hire on the premises 4 or more pool or billiard tables.

PORCH. A roofed accessory structure with at least 1 side exposed to the weather, supported from the ground and attached to or part of a building at the area of entrance or exit to the building.

PRELIMINARY PLAN. A drawing, map, plan, or other graphic representation of a planned unit development, drawn to an appropriate scale by hand or other drawing method, but containing sufficient detail to depict the general land use patterns, major street network, and generalized infrastructure proposals proposed for the planned unit development. A PRELIMINARY PLAN may be supplemented with text to provide sufficient details to determine applicable permitted use and development standards provisions for the planned unit development.

PRIMARY BUILDING. The building in which the primary permitted use of the lot is conducted.

PRIMARY USE. A permitted use of land or a permitted use of a building or structure on land which is allowed as a matter of right in the district applicable to the land, subject only to compliance with the development standards applicable to that district.

PROJECT. A single use site, integrated center, mixed use development, single family dwelling subdivision, 2 family dwelling subdivision, multifamily development, or any other form of development of real estate.

PROJECT AREA. The total land area of a site, less area included in: the existing right-of-way or proposed right-of-way of a perimeter street; and the area included in floodway or other undevelopable portions of the site.

PROPOSED SITE PLAN. A plan drawn to scale, showing uses and structures proposed for a parcel of land, as required by this chapter.

PUD. See PLANNED UNIT DEVELOPMENT.

PUD DISTRICT ORDINANCE. A petition for zone map change which designates a parcel of real property as a planned unit development, specifies uses or a range of uses permitted in the planned unit development, specifies development requirements in the planned unit development, specifies plan documentation and supporting information that may be required prior to development in a planned unit development, and specifies any limitations applicable to the planned unit development.

REAR FAÇADE. See FAÇADE, REAR.

RECREATIONAL VEHICLE. A vehicular-type portable structure without permanent foundation that can be towed, hauled, or driven and primarily designed as a temporary living accommodation for recreational, camping, and

DRAFT

travel use, including but not limited to: travel trailers, truck campers, camping trailers, self-propelled motor homes; personal watercraft; and boats.

RECYCLING CONTAINER. A receptacle designed and intended for the collection of cleaned, sorted, solid household waste products, including, but not limited to glass, plastic, metal, and paper.

RECYCLING FACILITY. A recycling operation involving further processing (relative to a neighborhood recycling collection point) of materials to improve the efficiency of subsequent hauling. Such a facility typically features sorting, the use of a crushing apparatus, and the storage of the material until it is shipped out.

RELIGIOUS USE. A land use and all buildings and structures associated therewith devoted primarily to the purpose of divine worship together with reasonably related accessory uses, which are subordinate to and commonly associated with the primary use, which may include but are not limited to educational, instructional, social, residential, or child care ministry uses.

RESIDENTIAL BUFFERYARD. A front yard, side yard, or rear yard of a nonresidential land use on a lot which faces or abuts a Residential District or residential land use designation within a planned unit development. A **RESIDENTIAL BUFFERYARD** may include landscape plantings, fences, walls, or berms required to provide screening or buffering for adjacent residential properties. A RESIDENTIAL BUFFERYARD shall not apply to any front yard abutting a limited access highway.

RESIDENTIAL BUFFERYARD, FRONT. The front yard of a nonresidential land use on a lot which faces or abuts a Residential District. See also RESIDENTIAL **BUFFERYARD.**

RESIDENTIAL BUFFERYARD, REAR. The rear yard of a nonresidential land use on a lot which faces or abuts a Residential District. See also RESIDENTIAL BUFFERYARD.

RESIDENTIAL BUFFERYARD, SIDE. The side yard of a nonresidential land use on a lot which faces or abuts a Residential District. See also RESIDENTIAL BUFFERYARD.

RESOURCE RECOVERY. The processing of solid waste into commercially valuable materials or energy.

RESTAURANT, DRIVE-IN. Any family restaurant or fast food restaurant designed to permit or facilitate the serving of food or beverages directly to, or permitted to be consumed by patrons in or on motor vehicles parking or stopped on the premises.

RESTAURANT, DRIVE-THROUGH. Any family restaurant or fast food restaurant designed to permit or facilitate the serving of food or beverages directly to patrons in or on motor vehicles at a drive-through facility.

RESTAURANT, FAMILY. Any establishment whose main business function is the retail sale of food for consumption on the premises, and which does not have on the premises an area from which minors are excluded pursuant to I.C. 7.1-5-7-9, 7.1-5-7-10, and 7.1-5-7-11 or pursuant to any policy of the establishment.

RESTAURANT, FAMILY, WITH LOUNGE. Any family restaurant which has on the premises an area constituting not more than 25% of the gross floor area from which minors are excluded pursuant to I.C. 7.1-5-7-9, 7.1-5-7-10, and 7.1-5-7-11 or pursuant to any policy of the establishment.

RESTAURANT, FAST FOOD. An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, on-premises or off-premises.

RIGHT-OF-WAY. Specific and particularly described land, property, or interest therein devoted to and subject to the lawful use, typically as a thoroughfare for passage of pedestrians, vehicles, or utilities, as set forth in a written grant, declaration, or conveyance that is recorded in the office of the Recorder of St. Joseph County.

RIGHT-OF-WAY, EXISTING. The total right-of-way width of a street as created or expanded by the most recent grant, declaration, or conveyance that is recorded in the office of the Recorder of St. Joseph County.

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RIGHT-OF-WAY, PRIVATE. Specific and particularly described strip of privately-held land devoted to and subject to use for general transportation purposes or conveyance of utilities, whether or not in actual fact improved or actually used for those purposes, as set forth in a written grant, declaration, or conveyance that is recorded in the office of the Recorder of St. Joseph County.

RIGHT-OF-WAY, PROPOSED. The recommended right-of-way width for a street based upon that street's classification in the thoroughfare plan for the town, as shown in the Comprehensive Plan.

RIGHT-OF-WAY, PUBLIC. Specific and particularly described strip of land, property, or interest therein dedicated to and accepted by the municipality, county or state to be devoted to and subject to use by the general public for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for those purposes, as set forth in a written grant, declaration, or conveyance that is recorded in the office of the Recorder of St. Joseph County.

ROOF MOUNT. The placement of an antenna, antenna array, or flag pole on the roof of an existing building or structure.

SECONDARY APPROVAL. A review of a planned unit development required when the development requirements of a planned unit development are expressed only in general terms in the PUD District ordinance.

SEMI CUTOFF. See CUTOFF, SEMI.

SEMI-TRAILER. A freight trailer, tanker, or other large vehicles or machinery with a forward portion designed to be supported by a fifth wheel device of a truck tractor when in motion.

SETBACK. That distance measured perpendicularly from the lot line to the closest point of the building, structure, sign structure, parking area, or any other permanent improvement.

SETBACK LINE. A line that establishes the minimum distance that a building, structure, or portion thereof, can be located from a lot line or right-of-way line.

SETBACK, MAXIMUM. The largest distance allowed by this chapter from a front lot line for the location of a building, structure, or any other permanent improvement (excluding parking areas).

SETBACK, MINIMUM. The smallest distance required by this chapter from a lot line to the closest point of a building, structure, sign structure, parking area, loading area, storage area, or any other permanent improvement. A MINIMUM SETBACK may be a minimum front setback, minimum side setback, or minimum rear setback. The distance shall be measured perpendicularly from the lot line.

SETBACK, MINIMUM FRONT. The minimum distance required by this chapter from a front lot line to the closest point of the building, structure, sign structure, parking area, loading area, storage area, or any other permanent improvement. The distance shall be measured perpendicularly from the front lot line.

SETBACK, MINIMUM REAR. The minimum distance required by this chapter from a rear lot line to the closest point of the building, structure, sign structure, parking area, loading area, storage area, or any other permanent improvement. The distance shall be measured perpendicularly from the rear lot line.

SETBACK, MINIMUM SIDE. The minimum distance required by this chapter from a side lot line to the closest point of the building, structure, sign structure, parking area, loading area, storage area, or any other permanent improvement. The distance shall be measured perpendicularly from the side lot line.

SIDE FAÇADE. See FAÇADE, SIDE.

SIDEWALK. A defined pedestrian way which is typically constructed of concrete, separated from and located parallel to the improved surface of a public street or private street, and located within a right-of-way of the street.

SIGN. Any object, device, display, structure, fixture, placard, announcement, declaration, demonstration or insignia, or part thereof, used to draw attention; provide direction, information, identification; or advertise, identify,

DRAFT

display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

SIGN, A-FRAME. A portable sign containing 2 sign faces and whose framing is hinged at the apex at an angle less than 45 degrees.

SIGN, ADVERTISING. See SIGN, OFF-PREMISES.

SIGN, ANIMATED. Any sign, or any portion thereof, which moves, assumes any motion, uses a change in lighting to depict motion or create a special effect or scene, or gives the illusion of moving.

SIGN, AWNING. Any sign or graphic printed on or in some fashion attached directly to the material of an awning.

SIGN, BALLOON. A temporary sign consisting of a bag made of lightweight material which is either filled with a gas lighter than air; or continuously filled with blown air, and designed to rise or float in the atmosphere or is attached to the ground or a building.

SIGN, BANNER. A sign of lightweight fabric or similar material mounted to a pole or building at 2 opposite edges or 4 corners.

SIGN, BUILDING. Any sign placed upon or supported by a building, including, by way of example but are not limited to wall signs, projecting signs, awning signs, canopy signs, marquee signs, suspended signs, and roof signs.

SIGN CABINET. The frame of an internally illuminated sign which contains and supports the sign face. SIGN CABINET does not apply to painted signs or 1-piece, non-illuminated, individual letter signs.

SIGN, CANOPY. Any sign or graphic printed on or in some fashion attached directly to a canopy.

SIGN, CHANGEABLE COPY. A sign, or portion thereof, where the message copy includes characters, letters, or illustrations that can be physically altered without altering the primary surface of the sign. The message copy of a **CHANGEABLE COPY SIGN** may be changed manually in the field or through remote electronic or electric techniques. Methods of changing the message copy include the use of:

(1) Changeable letters, numbers, symbols, and similar characters;

(2) Changeable pictorial panels; or

(3) Rotating panels or other similar devices. See also SIGN, ELECTRONIC VARIABLE MESSAGE.

SIGN, ELECTRONIC VARIABLE MESSAGE (EVMS). A sign, or portion thereof, where the message copy includes characters, letters or illustrations that can be changed or rearranged electronically without touching or physically altering the primary surface of the sign. Message copy may be changed in the field or from a remote location.

SIGN FACE. See SIGN SURFACE.

SIGN, FLAG. A sign of lightweight fabric or similar material mounted to a pole or building at 1 edge or 2 corners.

SIGN, FREESTANDING. A sign that is attached to, erected on or supported by some structure (such as a pole, mast, or frame) that is not itself an integral part of or attached to a building or structure where the principal function of the building or structure is something other than the support of a sign. See also **SIGN, MONUMENT** and SIGN, POLE.

SIGN, GROUND. See SIGN, MONUMENT.

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SIGN, INCIDENTAL. A sign relating to the lot or use thereof which provides information or directions necessary or convenient for visitors coming on the lot, including but not limited to signs marking entrances and exits, parking areas, circulation direction, restrooms and pickup or delivery areas.

SIGN, MARQUEE. Any sign or graphic printed on or attached directly to a marquee.

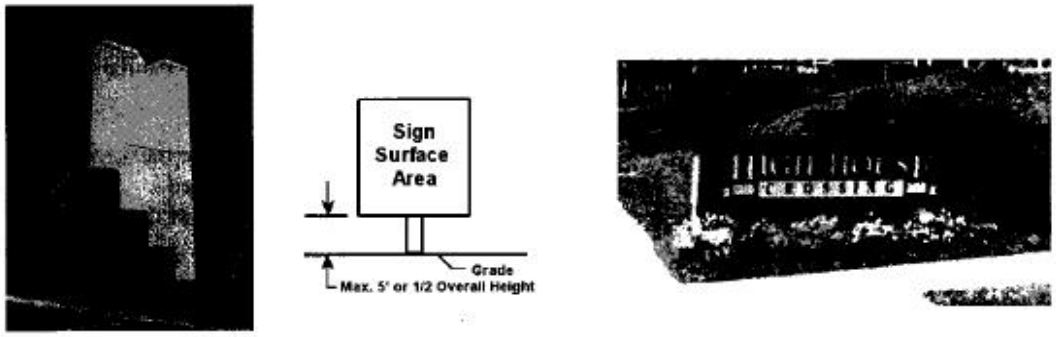
SIGN, MENU BOARD. A permanent sign located in connection with a drive-through facility, which is oriented toward motor vehicles located in a drive-through lane, and which provides information to the occupants of motor vehicle, related to the products and services available at the drive-through facility.



Menu Board Sign

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SIGN, MONUMENT. Any freestanding sign constructed in or on the ground surface with its sign display surface extending upward from the ground surface and which has the lowest portion of the sign display surface elevated by no more than the lesser of 5 feet above grade or 1/2 the overall height above grade.



Monument Signs (a/k/a Ground Signs or Pylon Signs)

SIGN, NONCONFORMING. A sign which qualifies as a legally established nonconforming structure.

SIGN, OFF-PREMISES. A sign which directs attention to an activity, business, entertainment, commodity, product, profession or service conducted, manufactured, offered, or sold at a location other than the premises on which the sign is located.

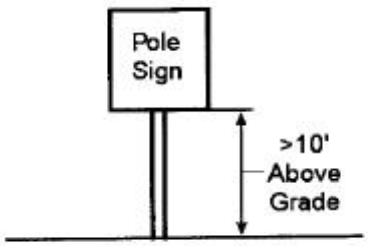
SIGN, ON-PREMISES. A sign which directs attention to an activity, business, entertainment, commodity, product, profession, or service conducted, manufactured, offered, or sold on the premises where the sign is located.

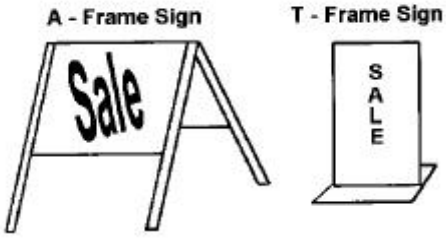
SIGN, OUTDOOR ADVERTISING. See SIGN, OFF-PREMISES SIGN.

SIGN, OUTDOOR DISPLAY AREA. A sign located within an outdoor display area and which directs attention to or provides information about the display area or the good, products, or merchandise on display.

SIGN, PENNANT. A sign of lightweight plastic, fabric, or other similar material which is suspended from a rope, wire or string, usually in a series, and which is designed to move in the wind.

SIGN, POLE. Any freestanding sign which has its supportive structure(s) anchored in the ground and which has the lowest portion of its sign display surface elevated by more than 10 feet above the grade.





SIGN, PORTABLE. Any sign or sign structure not securely attached to the ground or other permanent structure, or a sign designed to be transported from place to place, including but not limited to signs transported by means of wheels; a sign attached to A- or T-frames; a temporary menu and sandwich board sign; a balloon used as a sign; table or patio umbrellas which include a sign; and a sign attached to or painted on a vehicle parked and visible from the public right-of-way, unless the vehicle is used in the normal day-to-day operation of the business.

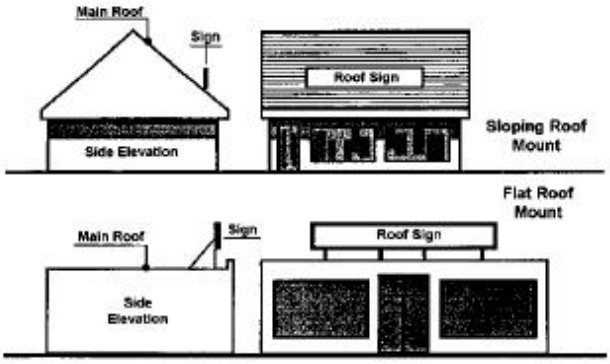
SIGN, PROJECTING. Any sign which is affixed to a building or wall in such a manner that the leading edge extends more than 18 inches beyond the surface of the building or wall face.



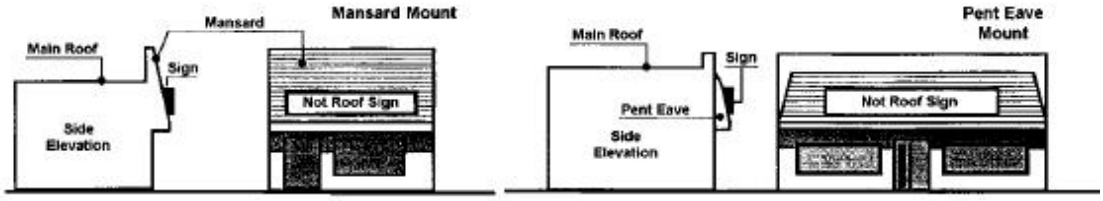
Projecting Sign

SIGN, PYLON. See SIGN, MONUMENT.

SIGN, ROOF. Any sign erected on or wholly constructed upon a roof of any building and supported solely on the roof structure.



Examples of Roof Signs



Examples of Signs Which Are Not Roof Signs

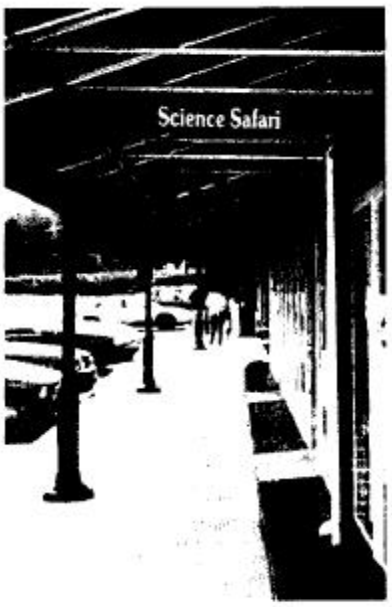
SIGN, SPANDREL. Any sign that is a part of or attached to the spandrel.

SIGN STRUCTURE. Any structure including any pole, base, foundation, support, tie rods, upright, bracing, or framework which supports or is capable of supporting any sign.

SIGN SURFACE. The surface of the sign upon, against, or through which the message of the sign is exhibited.

SIGN SURFACE AREA. The area of a sign surface (which is also the sign surface area of a wall sign or other sign with only 1 sign face). Sign surface area shall be computed by using the smallest area contained within 1, 2, or 3 distinct squares, rectangles, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which the sign is placed, but not including any supporting framework, bracing 24 inches in width or less, or any decorative fence or wall when the fence or wall otherwise meets the applicable regulations of this chapter and is clearly incidental to the display itself.

SIGN, SUSPENDED. Any sign that is suspended from the underside of a horizontal plane surface and is connected to the horizontal plane surface.



Suspended Sign

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SIGN, T-FRAME. A portable sign utilizing an inverted “T” style of framing to support the sign.

SIGN, TEMPORARY. Any sign or sign structure which is not permanently affixed or installed, and is intended to be displayed for limited periods only. Examples of TEMPORARY SIGNS include but are not limited to signs erected or placed in connection with the following activities or occurrences. sale or lease of real estate; announcement of pending construction; special event; political campaign; garage sale; home improvement/remodeling; model home; and seasonal/holiday signs.

SIGN, WALL. Any sign attached to or erected on a wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of the wall, within 18 inches of the wall, and containing only 1 sign surface.

SIGN, WIND. A sign of lightweight fabric or similar material attached at one end to a pole or similar apparatus so as to swing freely, inflate, and flutter by movement of the wind.

SIGN, WINDOW. Any sign placed inside of and within 2 feet of a window; or upon a window; and is intended to be seen from the exterior of the window.

SINGLE USE SITE. An area of development (commercial/mixed use or industrial) on 1 lot occupied by 1 business. Any commercial/mixed use or industrial development which does not qualify as an integrated center.

SKETCH PLAN. A graphic representation of a project or subdivision, drawn to an appropriate scale by hand or other drawing method, and capable of depicting the general pattern proposed for the development of a project or subdivision.

SMALL WIND ENERGY CONVERSION SYSTEM (SWECS).

A wind energy conversion system consisting of a wind turbine with its associated tower and control or conversion electronics, which has a rated capacity of not more than 10 kilowatts (kW) each, and whose dual purpose is to:

Primarily reduce on-site consumption of utility power; and

Produce clean, on-site energy for homes, farms, and businesses.

A SMALL WIND ENERGY CONVERSION SYSTEM can consist of a system either designed to be firmly anchored into the ground using a self-supporting tower, or firmly anchored to the sides or roof of the primary or accessory structure, or a combination thereof.

SORORITY HOUSE. A building containing sleeping rooms, bathrooms, common rooms, and a central kitchen and dining room maintained exclusively for sorority members and their guests or visitors and affiliated with an instruction of higher learning.

SPANDREL. A roof-like structure that covers the gasoline pump dispenser, serves as a second-tier canopy, may be a lighting source for the dispensing area, may identify the gasoline pumps by numerical or other designation, and may display signs.

SPECIAL EVENT. Any of the following occurrences: commencement of construction; fairs, carnivals, circus or festivals; grand openings; Independence Day; Labor Day; listing of properties for sale or lease; Memorial Day; posting of notices at the direction of a governmental agency; Presidents' Day; Veterans' Day; or other occurrence officially recognized by the town as a special event for the town.

SPECIAL EXCEPTION USE. The use of land or the use of a building or structure on land which is allowed in the district applicable to the land only through the grant of a special exception.

STAFF. Shall include: the Executive Director of the Area Plan Commission; the Building Commissioner for the Town of New Carlisle; the Zoning Administrator for the Town of New Carlisle; any employee of the Area Plan Commission; any attorney, agent or designee of the Executive Director of the Area Plan Commission; any attorney, agent, or designee of the Building Commissioner for the Town of New Carlisle; any attorney, agent, or designee of the Zoning Administrator; or any other employee of the Town of New Carlisle related to the review, recommendation, or approval process for development.

STORAGE, OUTDOOR. The storage of any product, goods, equipment, machinery, vehicles, boats, supplies, building materials or commodities, including raw, semi-finished and finished materials for a period of time in excess of 1 week, the storage of which is not accessory to a residential use; provided, however, that vehicular parking and the display of automobiles, boats, trucks or farm equipment associated with a legally established dealership shall not be deemed OUTDOOR STORAGE.

STORY. The part of a building, with an open height of no less than 78 inches, except a mezzanine, included between the upper surface of one floor and the lower surface of the next floor, or if there is no floor above, then the ceiling next above. A basement shall constitute a STORY only if it provided finished floor area. A STORY shall not include a mechanical penthouse.

STORY, HALF. A story under a gable, gambrel or hip roof, to wall plates of which on at least 2 opposite exterior walls, are not more than 2 feet above the floor of the story.

STREET. Any public right-of-way or private right-of-way, with the exception of alleys, essentially open to the sky and open and dedicated to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, lane, road, drive, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for those purposes. A STREET may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking spaces, and similar features.

STREET, FRONTAGE. A street located along side and generally parallel with a more heavily traveled street and which provides access to abutting property or properties.

STREET, PRIVATE. A privately-held right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, easement, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for those purposes. A PRIVATE STREET may be comprised of pavement, shoulders, curbs, sidewalks, parking spaces, and similar features.

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STREET, PUBLIC. A publicly dedicated, accepted, and maintained right-of-way, with the exception of alleys, which has been improved to town standards and is essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, lane, road, drive, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a public right-of-way for those purposes. A PUBLIC STREET may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking spaces, and similar features.

STRUCTURE. Anything constructed or erected, the use of which requires location on the ground, or attachment to something having a fixed location on the ground. Among other things, STRUCTURES include buildings, mobile homes, fences, walls, parking areas, loading areas, towers, antenna and signs.

STRUCTURE MOUNT. The placement of an antenna or antenna array on an existing structure such as a water tower, athletic field light standards, or electric-line transmission towers.

SUBDIVIDER. The owner, developer, or authorized agent of the owner or developer of real estate, who is responsible for all designs, reservations, and improvements related to the petition for primary or secondary plat approval or the development of a subdivision.

SUBDIVISION. The division of a parcel of land into 2 or more lots, parcels, sites, units, plats, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any and all other plans, terms, and conditions, including resubdivision. SUBDIVISION includes the division or development of land opened for residential and nonresidential uses, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument.

SUBDIVISION, MAJOR. Any of the following:

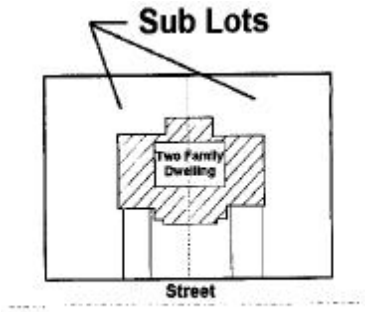
A subdivision of a tract of land into 4 or more parcels or lots, including any remainder of the original tract, for single family or 2 family dwelling purposes; or

Any subdivision which involves the creation of new streets, extension of water lines or sewer lines, or the creation of public improvements; or

SUBDIVISION, MINOR. A subdivision of a tract of land into less than 4 parcels or lots, including any remainder of the original tract, which does not involve the creation of new streets, extension of water lines or sewer lines, or the creation of public improvements.

SUBDIVISION, NONRESIDENTIAL INCREMENTAL. A subdivision of a tract of land, including any remainder of the original tract, for any commercial, industrial, or special exception use which is submitted for primary and secondary plat approval through the incremental plat approval process.

SUB-LOTS. Portions of a lot of record created in connection with the transfer of ownership of individual dwelling units in a 2 family or multifamily dwelling.



LOT OF RECORD

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SURFACE MOUNT. The placement of an antenna or antenna array on the existing or proposed surface of a building or structure.

TAVERN. See BAR.

TATTOO, BODY PIERCING, SCARIFYING, AND BRANDING ESTABLISHMENTS. All types of businesses where services are provided which include: deliberately scarring, burning, or pricking the skin so as to leave a mark or a color that cannot be removed without a surgical procedure. This includes: figurative tattooing; permanent coloring; scarifying and branding; and the piercing of the human body to create a permanent hole (excluding ear piercing services).

TELECOMMUNICATIONS. The transmission between or among points specified by the user of information of the user's choosing, without change in the form or content of the information as sent and received.

TELECOMMUNICATIONS ANTENNA. See ANTENNA, TELECOMMUNICATIONS.

TELECOMMUNICATIONS SERVICE. The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

TELECOMMUNICATIONS TOWER. A structure more than 10 feet tall, built primarily to support 1 or more telecommunications antennas.

TEMPORARY LIVING QUARTERS. A manufactured home dwelling or mobile dwelling located on a lot and intended to serve as a temporary dwelling unit for a care giver; care receiver; or family in the process of building a permanent single family dwelling on a lot.

TEMPORARY SEASONAL RETAIL SALES. A temporary use established for a fixed period of time, for the retail sale of seasonal products, including but not limited to such items as food, Christmas trees, pumpkins, and live plants. A TEMPORARY SEASONAL RETAIL SALES use may or may not involve the construction or alteration of any permanent building or structure.

TEMPORARY USE. A land use established for a limited and fixed period of time with the intent to discontinue the use upon the expiration of the time period.

THOROUGHFARE PLAN. That portion of the Town Comprehensive Plan, or other officially adopted plan of the town, which sets forth recommendations for major street alignments and street classifications.

TOBACCO STORE. A retail establishment whose primary business, in terms of gross floor area or sales, is related to the sale of tobacco products. A grocery store, convenience store, gasoline service station or drug store which sells tobacco products, but whose sales of the products is incidental to the overall gross floor area or sales receipts of the business, shall not be considered a **TOBACCO STORE**.

TOWN. The Town of New Carlisle, Indiana.

TOWN ENGINEER. The Town Engineer of the Town of New Carlisle.

TOWNHOUSE. A multifamily dwelling with: all dwelling units constructed in a row; with each dwelling unit having an individual front and rear ingress and egress; and no dwelling unit located over another dwelling unit.

TRAILER. A non-automotive vehicle designed to be hauled on the road.

TRANSFER STATION. A facility where solid waste is transferred from a vehicle or container to another vehicle or container for transportation. The term does not include the following:

(1) A facility where the solid waste that is transferred has been generated by the facility; or

(2) A recycling facility.

TRUCK. A motor vehicle designed, used, or maintained primarily for the transportation of property.

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TRUCK TERMINAL. An area and buildings used for the temporary parking of motor freight vehicles or trucks of common carriers during unloading and loading of cargo or freight and where cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation.

TRUCK TRACTOR. A truck equipped with a fifth wheel device for the towing of a semi-trailer, tanker, or other vehicles or machinery.

UNDERGROUND FACILITIES. An accessory structure which is at least 75% subterranean, utilized for storage of personal property or as a temporary shelter for people, such as a storm cellar or fallout shelter.

USE. The purpose or activity for which land, buildings, or structures are designed, arranged, or intended or which land, buildings, or structures are occupied or maintained.

USE, PERMITTED. See PERMITTED USE.

VARIANCE. Permission granted by the Board of Zoning Appeals to depart from the literal requirements of this chapter.

VEHICULAR CANOPY. See CANOPY, VEHICULAR.

WAGERING, OFF-TRACK PARI-MUTUEL FACILITY. A location, other than a racetrack, authorized by the Indiana Horse Racing Commission, at which pari-mutuel wagering is conducted.

WAIVER/WAIVED. Permission granted in connection with the approval of a development plan; the approval of a primary plat for a subdivision; or a special exception, to allow a deviation from the development standards or development requirements of this chapter.

WALKWAY. A defined pedestrian way, typically improved with concrete or asphalt, which provides for pedestrian movement on private property. A WALKWAY may or may not be located in an pedestrian easement.

WAREHOUSE. A building or structure, including but not limited to a distribution center and truck terminal, for the storage and/or transfer of goods, materials, or products awaiting shipment to another location for wholesale or retail trade.

WHIP ANTENNA. See ANTENNA, WHIP.

WINDBLOWN DEVICE. Any banner, pennant, spinner, streamer, propeller, disc, moored blimp, gas balloon, or flag that is designed to inform or attract attention, whether or not the device carries a message, all or part of which is set in motion by or remains inflated by wind, mechanical, electrical, or any other means.

WIND ENERGY CONVERSION SYSTEM. Any combination of equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the system. A WIND ENERGY CONVERSION SYSTEM includes but is not limited to a small wind conversion system and a wind energy facility.

WIND ENERGY FACILITY. An electricity generating facility consisting of 1 or more commercially-rated wind turbines under common ownership or operating control, and whose main purpose is to supply electricity to off-site customer(s), and includes but is not limited to substations, MET towers, cables/wires and operations and maintenance buildings accessory to the facility. Also known as a **WIND FARM** or a **WIND POWER PLANT.**

WIRELESS TELECOMMUNICATIONS FACILITY. Any facility constructed by or constructed for use by a licensed wireless telecommunication service provider and which consists of the equipment and structures involved in the receiving and transmitting of electromagnetic waves associated with wireless telecommunication services.

YARD. An open space, unobstructed to the sky, extending fully across the lot while situated between the front lot line, side lot line, or rear lot line and the established front building line, side building line, or rear building line.

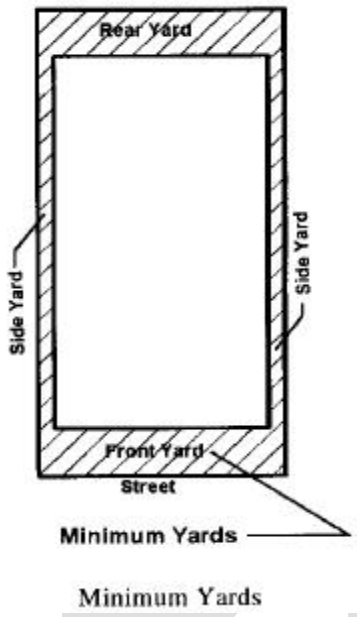
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YARD, AGGREGATE SIDE. The total combined distance of both side yards on an individual interior lot or double frontage lot.

YARD, FRONT. An open space, unobstructed to the sky, extending fully across the lot while situated between the front lot line and the established front building line.

YARD, INTERIOR. An open space, unobstructed to the sky, extending out from the wall of a multifamily dwelling.

YARD, MINIMUM. An open space unobstructed to the sky, extended fully across the lot situated between a lot line and a setback line. MINIMUM YARD may be a front yard, a side yard, or a rear yard, depending on which lot line the minimum yard abuts and is measured from.



Minimum Yards

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YARD, PERIMETER. An open space, unobstructed to the sky, extending fully across the lot while situated between any front lot line, side lot line, and rear lot line and the minimum front setback, minimum side setback, and minimum rear setback.

YARD SALE. See GARAGE SALE.

YARD, SIDE. An open space, unobstructed to the sky, extending fully across the lot while situated between a side lot line and the established side building line.

YARD, REAR. An open space, unobstructed to the sky, extending fully across the lot while situated between the rear lot line and the established rear building line.

ZONING ADMINISTRATOR. The individual(s) designated by the Town Council in this chapter as having the responsibility for the interpretation and administration of this chapter.

(Ord. 1221, § 12.02, passed 1-26-2010)

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Article 3 Districts and Uses

Section 3.01 ESTABLISHMENT OF DISTRICTS.

A. Districts. The following districts are hereby established for the corporate limits of the town, and land within those areas shall be designated on the Official Zone Map by the following symbols:

Table 3.A – Zoning Districts	
Districts by Name	***Districts by Symbol***
Open Space Conservation	OSC
Residential Districts	
Low Density Residential	LR
Town Residential	TR
Moderate Density Residential	MR
Commercial/Town Center Districts	
Local Business	LB
Community Business	CB
Town Center	TC
Mixed Use	MU
Industrial Districts	
Light Industrial	LI
General Industrial	GI
Planned Unit Developments	**PUD**

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B. Overlay Districts. Overlay districts are hereby established for the town as to be later determined by the Town Council.

(Ord. 1221, § 1.02(a), passed 1-26-2010)

Section 3.02 Order of Districts

The districts listed in § 152.035 above are ranked in the order from the “least intense” district on the top, through each successively “more intense” district as the list progresses to the bottom, except for the Planned Unit Development District, which shall not be considered part of the progression. PUDs shall be ranked individually based upon the permitted uses authorized in each PUD and the district in which such permitted uses would otherwise be allowed as a matter of right.

(Ord. 1221, § 1.02(b), passed 1-26-2010)

Section 3.03 OFFICIAL ZONE MAP.

In order to carry out the purpose of this chapter and to allow a variety of uses in different districts which are appropriate in location, arrangement, and density to the character of the individual districts and the establishment of a well considered pattern of development for the town, all real property located within the corporate boundaries of the town are hereby divided into districts as shown on the Official Zone Map which, together with all explanatory matter, is incorporated by reference and declared to be a part of this chapter.

(Ord. 1221, § 1.02(c), passed 1-26-2010)

Section 3.04 IDENTIFICATION OF THE OFFICIAL ZONE MAP.

A. An Official Zone Map for the town shall be maintained by the Executive Director. The Official Zone Map shall be maintained by the Executive Director as a paper hard copy or in electronic format.

B. If the Official Zone Map is maintained as a paper hard copy, the Official Zone Map may be identified by the signature of the President of the Town Council and the signature of the Executive Director under the following words: “This is to certify that this is the Official Zone Map of the Town of New Carlisle, Indiana,” together with the date of adoption of this chapter.

C. If the Official Zone Map is maintained in electronic format, the Executive Director shall be the custodian of the electronic format Official Zoning Map. The Executive Director may depict the Official Zone Map, in total or in part, in various formats and scales as appropriate to the need.

(Ord. 1221, § 1.02(d), passed 1-26-2010)

Section 3.05 OFFICIAL ZONE MAP CHANGES.

A. If, after adoption of the Official Zone Map, the Town Council, in accordance with the provisions of this chapter and the I.C. 36-7-4-600 et seq., changes any of the district boundaries or other matter portrayed on the Official Zone Map, such changes shall be entered by Executive Director as follows: if hard copy, changes shall be depicted on a “working copy” of the Official Zone Map; or if electronic format, changes shall be entered to the electronic format Official Zone Map, which is maintained in the office of the Area Plan Commission. If the Official Zone Map is a hard copy, the working copy of the Official Zone Map shall be maintained as an interim representation of the actual zoning changes approved by the Town Council since the most recent adoption of an Official Zone Map. The working copy of the Official Zone Map or, if maintained in electronic format, a hard copy depiction of the Official Zone Map, shall be available for public inspection and reference during all normal business hours. In case of discrepancy between changes noted on the working copy of the Official Zone Map and the official printed record of the Town Council, the official printed record of the Town Council shall control.

B. In the event that the Official Zone Map becomes worn, damaged, destroyed, lost, or difficult to interpret, staff shall, on an as-needed basis, prepare a revised Official Zone Map for review and recommendation by the Area Plan Commission to the Town Council at a public hearing for which proper notice has been provided. A revised Official Zone Map shall incorporate all official actions of the Town Council related to matters depicted on the Official Zone Map since the adoption of the prior Official Zone Map. A revised Official Zone Map may also include revisions to correct drafting errors and changes in the base information related to subdivision plats or streets.

C. The Area Plan Commission shall certify its recommendation of the revised Official Zone Map to the Town Council for official adoption by the Town Council. Any such revised Official Zone Map shall be identified as described above with the addition of the phrase: “As amended to and including the Town Council agenda of_____.”

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D. No change of any nature shall be made in the Official Zone Map, or matter shown thereon, except in conformity with the amendment procedures set forth in this chapter.

(Ord. 1221, § 1.02(e), passed 1-26-2010)

Section 3.06 RETENTION AND PRESERVATION OF RECORD.

Unless the prior Official Zone Map has been lost or completely destroyed, the prior Official Zone Map, along with all available records pertaining to its adoption or amendment, shall be retained and preserved in the office of the Area Plan Commission.

(Ord. 1221, § 1.02(f), passed 1-26-2010)

Section 3.07 INTERPRETATION OF THE OFFICIAL ZONE MAP.

Where uncertainty exists with respect to the boundaries of districts shown on the Official Zone Map, the following rules shall apply to the interpretation of those boundaries.

A. Boundaries indicated as approximately following the centerlines of thoroughfares, highways, streets, or alleys shall be construed to follow the centerlines.

B. Boundaries indicated as approximately following platted lot lines shall be construed to follow the platted lot lines.

C. Boundaries indicated as approximately following the corporate boundary of the town shall be construed as following the corporate boundary of the town.

D. Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks.

E. Boundaries indicated as approximately following along a public right-of-way which is subsequently vacated shall be construed to follow the centerline of the vacated public right-of-way.

F. Boundaries indicated as approximately following the centerlines of streams, rivers, lakes, or other bodies of water shall be construed as following the centerlines of those bodies of water.

G. Boundaries indicated as approximately following floodplain lines shall be construed to follow the floodplain lines. If the floodplain lines are changed, either naturally or as permitted by law, and the floodplain line changes are documented and concurred with by the Town Engineer, the boundary shall be construed as moving with that change.

H. Boundaries indicated as following the contours of certain elevations or soils of a particular type shall be construed as following the actual height or soil contour as determined by accepted surveying practices.

I. Boundaries indicated as parallel to or extensions of features indicated in the divisions above shall be so controlled.

J. Distances not specifically indicated on the Official Zone Map shall be determined by the scale of the map.

K. Where a discrepancy exists between the depictions on the Official Zone Map and the text of a legal description accompanying an ordinance for zone map change duly adopted by the Town Council, the text of the legal description shall control.

L. Where physical or cultural features existing on the ground do not agree with those shown on the Official Zone Map, or in other circumstances not covered above, the Executive Director shall interpret the boundaries. Any party dissatisfied with the interpretation of the Executive Director may appeal the interpretation to the Board of Zoning Appeals.

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(Ord. 1221, § 1.02(g), passed 1-26-2010)

Section 3.08 ZONING OF NEWLY ANNEXED LAND TO THE TOWN.

A. General. The Town Council may annex property into the corporate limits of the Town of New Carlisle subject to this annexation ordinance and pursuant to Indiana law (Code § 36-4-3).

B. Initiation of Annexation. Annexation into the Town may be initiated in the following ways:

1. By the Town Council, in accordance with Indiana Code § 36-4-3-3 (Annexation of contiguous territory; authorization) and Indiana Code § 36-4-3-4 (Annexation of contiguous territory or noncontiguous territory occupied by certain facilities or businesses); or
2. By the filing of a petition with the Area Planning Commission and in accordance with Indiana Code § 36-4-3-5, which requires the petition is signed by at least one (1) of the following:
    a. Fifty-one percent (51%) of the owners of land in the territory sought to be annexed. An owner of land may not: (i) be counted in calculating the total number of owners of land in the annexation territory; or (ii) have the owner's signature counted; with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.
    b. The owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes. Land that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year may not be included in calculating the total assessed valuation of the land in the annexation territory. The court may not count an owner's signature on a petition with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.
    c. The owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes. Land that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year may not be included in calculating the total assessed valuation of the land in the annexation territory. The court may not count an owner's signature on a petition with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

C. Public Hearing by Town Council. After the filing of a petition for annexation, said petition shall be transmitted to the Town Council for introduction. The Town Council shall schedule a public hearing after a petition is received. Said hearing shall be held no earlier than sixty (60) days after the annexation ordinance is introduced by the Town Council, with notice given at least sixty (60) days before the public hearing, except in cases of voluntary annexation under Ind. Code §36-4-3-5.1, when the notice shall be given at least twenty (20) days before the hearing. All notices shall be given in the manner prescribed in Ind. Code § 36-4-3-2.1.

D. Adoption of Fiscal Plan. A fiscal plan that meets the requirements of Ind. Code § 36-4-3-13 shall be prepared for all annexations, as required by Ind. Code § 36-4-3-3.1. The fiscal plan for each annexation shall be adopted by the Town Council prior to the adoption of the annexation ordinance.

E. **Town Council Action.** Following adoption, an annexation ordinance shall be published in accordance with Ind. Code § 36-4-3-7. The annexation ordinance shall take effect ninety (90) days after publication, unless a petition for written remonstrance is initiated in accordance with Ind. Code § 36-4-3-11 et. seq. Said remonstrance must be filed within ninety (90) days following the publication of the annexation ordinance.

F. All real property annexed into the town after the effective date of this chapter shall be considered zoned to the OSC Open Space Conservation, LR Low Density Residential or Residential Planned Unit Development District of this chapter. The applicant shall indicate at the beginning of the annexation process which district they are requesting, The Planning Commission shall consider the request and recommend approval of the district during the review process.

G. In those instances, in which the owner of real property proposed for annexation into the town desires annexation only if the zoning of the real property is zoned to a district other than OSC, LR, or Residential Planned Unit Development, the owner may file a petition for zone map change which shall identify the real property and the requested district. The Area Plan Commission shall consider the petition for zone map change and certify the petition for zone map change to the Town Council with a favorable recommendation, an unfavorable recommendation, or no recommendation. The Town Council shall consider the request for annexation and zone map change at a combined hearing and shall determine the annexation question and zone map change under a single combined vote. The Area Plan Commission and Town Council shall have all powers delegated to them by I.C. 36-7-4-600 et seq. and this chapter in determining the zone map change.

H. The Area Plan Commission shall not be obligated to recommend approval, nor shall the Town Council be obligated to approve a request for zone map change which, in the sole discretion of the Area Plan Commission or Town Council, is not consistent with the Comprehensive Plan, the purpose and intent of this chapter, or the requirements for the approval of a zone map change contained in this chapter and state law.

(Ord. 1221, § 1.02(h), passed 1-26-2010)

Section 3.09 ZONING OF VACATED AREAS.

Whenever any street, alley or other public way within the Town shall be vacated, such street, alley or other public way or portion thereof, shall automatically be classified in the same zoning district as the property to which it is attached.

Section 3.10 APPLICATION OF THIS ORDINANCE.

Except as otherwise provided in this Ordinance, the construction of buildings and uses of land shall conform to the specific provisions for the zoning districts involved. No land shall be redeveloped or use commenced, expanded or continued within the Town except as specifically, or by necessary implication, authorized by this Ordinance. Lawful nonconforming structures and uses existing at the time of passage of this Ordinance are specifically governed by Article VII, Nonconformities, and generally governed by this Ordinance.

Section 3.11 DETERMINATION OF LAND USES NOT LISTED IN THIS ORDINANCE.

A. It is recognized that this chapter may require interpretation to assign all possible uses to individual districts. Therefore, any use which is not specifically set forth in this chapter shall be reviewed by the Zoning Administrator for consistency with the intent set forth in each district and for compatibility with use characteristics typical of uses permitted within those districts. Based upon this review, the Zoning Administrator shall determine the appropriate district for any use which is not specifically set forth herein.

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B. In case of disagreement with the determination of the Zoning Administrator in assigning a use to an appropriate district, any aggrieved party may file an appeal with the Board of Zoning Appeals pursuant to the provisions of § 152..

Section 3.12 PURPOSE OF DISTRICTS.

The following zoning districts make up the Town of New Carlisle, and the intents for each zoning district are provided below:

A. **OSC Open Space Conservation.** The Open Space Conservation (OSC) District is intended to preserve open space, provide a desirable environment, ensure that the benefits of open space, light, air and private recreational activities exist in well-planned locations throughout the town, protect vacant lands until their appropriate land usage can be determined; and to control the proximity of these uses to other uses. Open space conservation areas are designated along significant natural features and in those areas of the town that contain environmentally sensitive resources such as wetlands, woodlands, and sloped areas. These resources present constraints to development for which the use of land should be restricted or even precluded. The open space conservation areas are also meant to strengthen the edges or boundaries of the town and protect its character from surrounding new development. Therefore, development in the open space conservation areas should be discouraged to protect the environmental resources and to maintain the town character

B. **LR – Low Density Residential.** LR – Low Density Residential. The LR Low Density Residential District includes single-family and two-family homes on lots with setbacks that provide more space between structures to create a lower density level. The LR District includes requirements to ensure that vacant and agricultural land within the Town boundaries is compatible with the goals and visions of the Town Master Plan. The LR Low Density Residential District will promote and maintain a quiet and stable low density character and provide for the preservation of natural features while allowing for land that is currently vacant to be developed in the future. All residential dwellings within the LR district should be connected to public utilities and developed according to this ordinance in order to minimize negative impacts on surrounding natural features.

C. **TR – Town Residential.** TR – Town Residential. The intent of the TR, Town Residential Zoning District is to promote and maintain the traditional residential character of the historic town footprint, promote and maintain a safe and stable environment for families and multigenerational living, and facilitate improvement of properties that is harmonious with the surrounding neighborhood. The TR District is located in areas of town which have already been developed and adjacent areas that can be developed with the same character and scale. The TR district implements site and building regulations that attempt to preserve the physical environment and character of existing neighborhoods is preserved. The existing character of the TR district includes moderate to mid-density residential in the form of single-family and two-family dwellings on individual lots. Some medium-to-high density development may be found along major roads and near the central business district. The redevelopment of lots in this Zoning District shall be consistent with the scale and relationship between buildings that have contributed to a pedestrian scale community.

D. **MR – Moderate Density Residential.** MR – Moderate Density Residential. The MR Moderate Density Residential District is intended to provide for the development of residential dwellings at a higher density to create a wide variety of housing types and provide the most residential alternatives for residents. This district is intended to provide for multiple family dwellings which are designed to be compatible with and connected to surrounding land uses while minimizing negative impacts on adjacent homes. Multiple family dwellings shall be arranged and improved to allow for ease of pedestrian as well as vehicle access, to provide adequate parking while avoiding large expanses of impervious surfaces, and to utilize high quality standards of design and craftsmanship.

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E. LB – Local Business. The LB Local Business Zoning District is intended to provide for small- to medium-scale commercial activities that are in close proximity to residential areas or are intended to serve both local and regional needs. While businesses in this district may be accessed by both pedestrians and people with vehicles, these businesses should be somewhat pedestrian oriented, with short front setbacks to improve visibility and activity, and parking located to the side or rear of a lot. High intensity commercial uses shall be buffered from adjacent residential uses through a combination of landscaping screening and fencing to provide privacy and reduce sound pollution. When designed to the scale of surrounding buildings, mixed-use buildings or businesses that include a residential component are encouraged to create live-work opportunities and offer unique housing types that emulate historic commercial and residential trends. Auto-oriented uses should be buffered from residential uses and should be designed to minimize negative impacts on traffic and potential conflicts with pedestrians through utilizing shared parking lots and reducing curb cuts.

F. CB – Community Business. The CB Community Business Zoning District is intended to allow for high intensity commercial uses and accommodate heavy traffic from motorists using major vehicle routes. The CB District is intended to encourage a variety of uses to serve a regional market or draw a large number of employees. Buildings in this zoning district typically are arranged as a single principal structure and use on a property, however, commercial shopping centers are also appropriate within this zoning district, and future developments are encouraged to utilize shared parking areas and drives to minimize curb cuts and excessive areas of impervious surface. The standards for the Community Business Zoning District are intended to facilitate commercial development that is planned and orderly, so as to protect the public health, safety, and general welfare, especially relative to vehicular and pedestrian traffic. Such developments can have significant impacts on their surroundings, and measures should be taken to minimize effects such as excessive runoff, noise, light, or any other environmental impact on any existing natural features.

G. TC – Town Center District. TC – Town Center District. The intent of the TC Town Center District is to provide for a thriving town center with opportunities for shopping, eating, entertainment, education, civic and culture activities. The TC encompasses Downtown New Carlise and is intended allow for a mix of small- and medium-scale businesses and residential uses that serve local and regional needs and provide opportunities for work and play The historic fabric of Downtown New Carlisle has been developed as a pedestrian-oriented environment that encourages public activity and allows local residents to easily walk to and within the District; this is encouraged by connected sidewalks, small lot sizes, observable street-oriented entrances, large storefront windows, on-street or hidden off-street parking, and short setbacks. The reuse of existing buildings within the TC is highly encouraged, and new development within the TC shall be designed to maintain a compact, walkable, mixed-use environment. Multi-story buildings are permitted in this district with residential and non-retail uses to ensure the long term economic viability and flexibility of projects.

H. MU – Mixed Use District. The MU Mixed Use zoning district is intended to promote compatible combinations of commercial, office, service, and residential development along W. Michigan St. from County Line Rd to serve as a gateway leading into the Town Residential and Town Center district. Commercial, office and service development should be located along W. Michigan St. with residential land uses located to their rear to buffer existing single-family neighborhoods from the impacts of non-residential uses and W. Michigan St. Development in this district is intended to serve the nearby neighborhoods and is not intended to be highway-oriented in scale. Parking lots are not intended to be exposed to view from W. Michigan St. but should be screened from these important frontages by buildings. Site design should maintain and enhance pedestrian and/or image connectivity to the Downtown area.

I. LI – Light Industrial. The LI Light Industrial Zoning District is intended to allow for production, warehousing and industrial uses at from a small to moderate scale. The majority if not all activities associated with production are envisioned to be completely contained within structures. The LI district requirements are designed to minimize impacts on adjacent land uses, particularly residential neighborhoods and public uses such as schools and places of worship.

J. GI – General Industrial. The GI General Industrial Zoning District is the most intense development that is permitted within the Town, including manufacturing uses, processing of raw materials, transportation and logistics, and warehousing at a large or regional scale. Industrial uses which utilize raw materials in the manufacturing process as well as regional distribution facilities and utility scale energy production are permitted within this Zoning District, however, some heavier industrial uses must be considered as Special Exceptions Uses. The GI District is located in areas furthest from dense residential neighborhoods however, development requirements have also been established to minimize impacts on adjacent land uses to the greatest extent feasible.

Section 3.13 TABLE OF LAND USES BY ZONING DISTRICT

A. Permissive Zoning. Land uses are permitted specifically in the various zoning districts of this Ordinance as listed in Table 3.B. Where not specifically permitted, uses are thereby specifically prohibited unless construed to be similar to a use expressly permitted as outlined in Sec. 152.038. No land contained within any zoning district within the Town of New Carlisle shall be used for any purpose other than those uses specifically set forth in the following sections, except as permitted by Article 7, Nonconformities or as interpreted by the Zoning Administrator and outlined in Sec. 152.038. A blank cell in Table 3.B means that the use is not permitted in the corresponding district.

B. Principal Permitted Uses. Within each zoning district there are uses which when developed in accordance with sound planning and site plan principles are consistent with the purpose and objectives of the district. For the purpose of this Ordinance these uses shall be known as “principal permitted uses,” or “uses permitted by right”, set forth in the individual district as identified in Table 3.B with a “P” in the corresponding row and column and shall be allowed within that particular district subject to the development requirements for the district.

C. Special Land Uses. Within each zoning district there are uses which may be consistent with the purpose and objectives of the particular zoning district only in specific locations, under specific conditions and when developed in accordance with sound planning and site plan principals. For the purpose of this Ordinance these uses shall be known as "Special Exception Uses" as set forth in the individual district as identified in Table 152.X.A with an “SE” in the corresponding row and column and shall be allowed within that particular district subject to the development requirements for the district and conditions deemed necessary and appropriate by the Planning Commission, provided the Planning Commission finds the proposed use meets the criteria set forth in Section 152.xxx

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Table 3.B – Land Uses by Zoning District.

Land Use	OSC	LR	TR	MR	LB	CB	TC	MU	LI	GI	Additional Use Standards
ACCESSORY USES											
Storage tanks - non-hazardous					P	P	SE		P	P	
Dwelling, Accessory		SE	SE	SE							Sec. 7.01
Child Care Home		P	SE								Sec. 7.07
Outdoor Storage (Accessory)*											Sec. 7.25
Home Occupation											Sec.7.17
Outdoor Dining											Sec. 7.23
Neighborhood Recycle Collection Point											Sec. 7.22
Mobile Food Truck/Vendor											Sec. 7.21
AGRICUTLURAL USES											
Animal Husbandry/Livestock Farming											
Community Garden											Sec. 7.09
Crop Production/Orchards											
CONTROLLED USES											Sec. 7.10
Adult business										SE	
Cabaret, 21 & over, Adult										SE	
Casinos, approved hotels and other areas where gambling games are conducted										P	
Check Cashing						SE					
Off-track pari-mutuel wagering facility										P	
Pawnshop					SE	SE					
Smoke Shop						SE					
Tattooing, body piercing, scarifying, and branding establishments					SE	SE					
COMMERCIAL											
Amusement park									P	P	
Amusement arcade					P	P	P		P	P	
Bus station						P			P	P	
Campground									P	P	
Art gallery					P	P	P				
Bank machines - free-standing/walk-up					P	P	P	P	P	P	
Banquet hall/Event hall					P	P			P	P	Sec. 7.04
Bakery											Sec. 7.02
Bar/tavern					P	P	P	P	P	P	Sec. 7.03
Bed & Breakfast		SE	SE		P	P		P			Sec. 7.05
Billiard/pool hall					P	P	SE	P	P	P	
Child Care Facility				SE	P	P			SE	P	Sec. 7.07
Contractor's Office/Showroom					P	P			P	P	Sec. 7.34
Drive-Through Window Facility					SE	SE			SE	SE	Sec. 7.15
Farmers Market		P			SE	P	SE	P	P	P	

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Land Use	OSC	LR	TR	MR	LB	CB	TC	MU	LI	GI	Additional Use Standards
Financial Institution					P	P	P	P			
Fireworks Sales, Outdoor											
Fitness Studio					P	P	P	P	P	P	
Funeral home					P	P			P		
Golf course					SE	SE			SE	SE	
Greenhouse/Nursery											Sec. 7.16
Gun shop and gunsmith shop					P	P					
Hotel/Motel						SE		SE			
Kennel						SE					Sec. 7.18
Laundry, self-service					P	P		P	P	P	
Lodge, fraternal organization or private club					P	P		P	P	P	
Office, Dental, Medical or Professional					P	P	P	P	P		
Personal Service Establishment					P	P	P	P			
Parking lot/garage					P	P	SE	P	P	P	
Public dance hall/Place of Assembly						P		P	P	P	
Recreation Facility - Indoor					P	P	SE	P	P	P	Sec. 7.27
Recreation Facility - Outdoor					P	P	SE	P	P	P	Sec. 7.28
Restaurant					P	P	P	P	P		
Retail Sales											
Retail Sales – Heavy Commercial						P			P	P	Sec. 7.32
Retail Sales – Packaged Alcohol											Sec. 7.31
Retail Sales & On-Site Production or Services (Maker Space)					P	P	SE	P	P	P	
Theater - indoor					P	P	SE	P	P	P	
Theater - outdoor		SE				SE		SE	P	P	
Vehicle Fueling Station (i.e. Gas Station)					SE	P					
Vehicle Repair Facility - Major					SE	P			P	P	
Vehicle Sales					SE	SE		SE	P	P	
Veterinary hospital					P	P					Sec. 7.37
INSTITUTIONAL/PUBLIC											
Cemetery with or without Crematory		SE	SE	SE	SE	SE			P	P	
Crematory										P	
Community center					P	P			P	P	
Fairgrounds									P	P	
Fire station		SE	SE	SE	SE	P			P	P	
Hospital/Sanitarium						P					
Libraries, public		SE	SE	SE	P	P	P		P	P	
Municipal/state road maintenance facility									P	P	
Museum					P	P	P		P	P	
Offices, government					P	P	P		P	P	
Park/Recreation Facility - Public		SE	SE	SE	P	P	SE		P	P	
Police station		SE	SE	SE	SE	SE	SE		SE	SE	

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Land Use	OSC	LR	TR	MR	LB	CB	TC	MU	LI	GI	Additional Use Standards
Post office - with outdoor storage of delivery vehicles						P			P	P	
Post office - without outdoor storage of delivery vehicles					P	P	P		P	P	
Public utility Facility							SE		P	P	
Public wells		P	P	P	P	P	P		P	P	
Pumping station		P	P	P	P	P	P		P	P	
Religious use					P	P			P	P	Sec. 7.29
School - commercial, trade, industrial or business					P	P	SE		P	P	
School-Cottage					SE	SE	SE		SE	SE	
School – Public or Private		SE	SE	SE	P	P					
Swimming pool, private or public		SE	SE	SE	P	P			P	P	
INDUSTRIAL											
Airport and landing fields - public or private										P	
Contractor's Office w/Storage Yard						SE			P	P	
Correctional (penal) institution										P	
Data Center											
Distribution center									P	P	
Electric transmission and distribution and relay station									P	P	
Flex-space									P	P	
Foundries										P	
Heliports - landing pads and stations for helicopters (helistop) including facilities for maintenance of helicopters and accessory uses										P	
Laboratories/Office-Tech									P	P	
Lumber mill/Saw Mill										P	
Machine shop									P	P	
Manufacturing Facility w/ outdoor storage										P	Sec. 7.19
Manufacturing Facility – No Outdoor Storage									SE	P	Sec. 7.20
Outdoor Storage *											Sec. 7.25
Petroleum tank farm (commercial)										SE	
Power plants, including: electric, steam and thermal										SE	Sec. 7.26
Reclamation/Recycling Facility/Junk Yard										SE	
Sanitary land fill, public or commercial										SE	
Self-storage (mini-) warehouse										SE	Sec. 7.33
Slaughter house										SE	
Vehicle storage										SE	
Wrecker service										SE	
Water tower									P	P	
Wholesale business									P	P	
Wireless communication facility						SE			SE	SE	Sec. 7.38
Wind Energy Conversion Systems											Sec. 7.39

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Land Use	OSC	LR	TR	MR	LB	CB	TC	MU	LI	GI	Additional Use Standards
RESIDENTIAL											
Boarding & Rooming House		SE	SE	P							Sec. 7.06
Congregate Care/Congregate Living Facility				P	P	P		P			Sec. 7.08
Dwelling, multifamily				P				P			Sec. 7.11
Dwelling, multifamily townhouse				P				P			Sec. 7.12
Dwelling, single family		P	P								Sec. 7.13
Dwelling, two family			P	P				P			Sec. 7.13
Dwelling, unit - upper level			SE	SE	P	P		P			Sec. 7.14
Group home (State License)				P							Sec. 7.35
Group residence				P							Sec. 7.35
Manufactured home park											
Residential facility for the developmentally disabled		P	P	P							Sec. 7.30
Residential facility for the mentally Ill		P	P	P							Sec. 7.30

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Section 3.14 PLANNED UNIT DEVELOPMENT DISTRICT

A. INTENT.

1) The Planned Unit Development (PUD) District is designed and intended to: encourage creativity and innovation in the design of developments; provide for more efficient use of land; permit special consideration of property with outstanding natural or topographical features; facilitate use of the most appropriate construction techniques in the development of land; and provide for any individual land use not otherwise specified elsewhere in this chapter. The PUD District encourages imaginative uses of open space, promotes high standards in design and construction, and furthers the purposes of the Comprehensive Plan.

2) The PUD District is not intended for the development of residential subdivisions or other developments which are provided for as a matter of right within any district of this chapter.

(Ord. 1221, § 6(a), passed 1-26-2010)

B. PERMITTED USES, DEVELOPMENT STANDARDS, AND MINIMUM REQUIREMENTS.

1) **Permitted uses.**

(a) Primary uses in the PUD District shall be any use or range of uses specified in the PUD District ordinance establishing the district, either in text form or as noted in the preliminary plan filed with the petition for zone map change, or any combination thereof. Primary uses, by way of example, may include any residential, commercial, or industrial land use, or any individual land use or combination of land uses deemed appropriate for the real estate.

(b) Accessory uses, home occupations, or temporary uses, unless otherwise specified in the petition for zone map change to the PUD District and incorporated into the PUD District ordinance establishing the district, shall be permitted in a manner customarily associated with the primary use specified in the PUD District ordinance.

2) Development standards.

(a) Development standards applicable to a PUD shall be those standards specified in the PUD District ordinance establishing the district, either in text form or as noted on the preliminary plan filed with the petition for zone map change, or any combination thereof. Every petition for zone map change to the PUD District shall specify development standards applicable to each permitted use in the PUD and, at a minimum, shall adopt or include a variation of each development standard that is applicable to each such use in the district in which each use is first permitted. In any case in which an applicable development standard has not been specified in the petition for zone map change to the PUD District, the development standard shall be that which is specified in the district in which the use is first permitted unless the petition for zone map change to the PUD District contains: a statement that the petitioner does not want an otherwise applicable development standard for any permitted use in the PUD to be applicable; an alternate development standard; and the statement and alternate development standard are included in the PUD District ordinance establishing the district.

(b) Accessory uses, home occupations or temporary uses, unless otherwise specified in the PUD District ordinance and the petition for zone map change, shall be subject to the development requirements or development standards specified in the district which imposes the highest standard for site development on the associated primary use (i.e., minimum yards, minimum bufferyards, landscaping, lighting, architectural and site design requirements, and the like). If the petitioner does not want an otherwise applicable development requirement or development standard for any accessory use, home occupation or temporary use in the development to be applicable, then the petition for zone map change shall contain a statement to that effect.

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(c) Area requirements. Minimum area requirements: There shall be no minimum area requirement for the filing of a petition for zone map change to the PUD District; provided, however, for any petition which does not exceed the following divisions (a) and (b), the petitioner shall file a statement with the petition for zone map change to the PUD District as to why a PUD District is required and how the proposed PUD District meets the intent of this section:

1. In-fill development: 5 acres; and
2. All other developments: 20 acres.

(Ord. 1221, Art. 6(b), passed 1-26-2010)

C. PROCEDURE FOR APPROVAL OF A PLANNED UNIT DEVELOPMENT.

1) **Generally.**

(a) The complete review and approval process for a Planned Unit Development consists of 3 elements:

1. Concept plan review;
2. Zone map change and preliminary plan approval; and
3. Secondary approval.

(b) To facilitate the use of this PUD District, a petitioner may elect to proceed with each element listed above separately or may elect to combine certain elements for joint approval as set forth in division (D)(2), below. If a petitioner elects to combine certain elements, all elements elected to be combined shall be docketed before the Area Plan Commission for a joint hearing.

(c) If filed separately, the procedure for filing for approval of a zone map change shall be the same as that required for any other petition for zone map change before the Area Plan Commission, except as otherwise provided for in this section. The procedure for filing for secondary approval is set forth in this section.

2) Filing of a concept plan for review by staff.

(a) The petitioner shall submit a concept plan, which may be supplemented with a written description of the proposed PUD, for review by the staff prior to filing a petition for zone map change to the PUD District.

(b) Staff shall review the proposed concept plan taking into consideration information regarding the terrain of the site and any unique natural features of the site. In doing so, the review by staff may include, but shall not be limited to, the following:

1. Protection of unique topographical features on the site, including, but not limited to, slopes, streams, natural water features, floodways, floodplains, and regulated drains;
2. Protection and preservation of wooded areas, individual trees of significant size, wetlands, or other environmentally sensitive features;
3. Development of common areas, open space or recreational areas (passive or active) accessible to the residents or users of the PUD by way of sidewalks, footpaths, or combined walkways/bikeways;
4. A more efficient use of the land including the reduction of land area disturbed for utility lines and motor vehicle access;
5. Creation of innovative residential and business environments;
6. Minimize the alteration of the natural site features through the design and situation of individual lots, streets, and buildings;

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7. Diversity and originality in lot layout;
8. Utilization of individual building designs which achieve an enhanced relationship between the development and the land;
9. The extent to which a project is not otherwise provided for by any primary zoning district without significant variances of permitted use regulations or development standards; and
10. Relationship to surrounding properties.

(c) The Executive Director shall notify the petitioner of any staff comments related to the design of the proposed concept plan submitted for review within 15 business days of the submittal. Upon receipt of staff comments, the petitioner may either: modify the proposed concept plan and resubmit a revised concept plan for a second round of review by staff; or file a petition for zone map change as set forth below.

(d) Notwithstanding anything contained in this chapter to the contrary, neither the staff's review of the proposed concept plan submitted for review nor staff's comments to the petitioner relating thereto shall be considered a denial, approval, or decision concerning the proposed concept plan.

3) Filing petition for zone map change.

(a) **Petition.** A PUD District ordinance petition shall contain a preliminary plan that satisfies the requirements below, and shall specify in either general terms or detailed terms the permitted uses and development standards that will apply to the real property included in the petition.

(b) **Detailed terms.** A preliminary plan which includes a detailed description of all development requirements that apply to the proposed PUD on any of the site plans, building elevations, landscape plans, sign plans, or any other plan required by this chapter in sufficient detail to fulfill the requirements for the issuance of an improvement location permit, shall be deemed to have expressed, in detailed terms, the development requirements that apply.

(c) **General terms.** All preliminary plans or submittals which do not comply with the requirements above for detailed terms shall be deemed to have expressed the development requirements that apply to the proposed PUD in general terms only and shall require the secondary approval, as set forth below, prior to the issuance of an improvement location permit.

(d) **Preliminary plan.** A preliminary plan shall satisfy the following requirements:

1. Preliminary plan contents:
    a. A drawing, map, plan, or other graphic representation of the overall development which:
        i. Depicts the location of proposed land uses and maximum land use densities; and
        ii. Expresses development standards in either general terms or detailed terms.
    b. Proposed layout of streets, open space, and other basic elements of the development;
    c. Proposals for handling traffic, parking, sewage disposal, drainage, tree preservation, and other pertinent development features;
    d. The current zoning of the area proposed to be developed as well as the current zoning of the adjacent land;
    e. A proposed breakdown of sections to be contained in the overall development along with a statement as to the order and timing of development;
    f. All public and private streets and pedestrian ways within 200 feet of the site;
    g. North arrow, written and graphic scale, general location map; and

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h. Percentage of site devoted to open space.

2. The preliminary plan shall be drawn to a scale of not more than 1 inch=100 feet and shall be on plan sheets that shall not exceed 24 inches by 36 inches in size.

3. Determination by the Area Plan Commission: In its determination of the appropriateness of the proposed PUD and whether to recommend approval of the zone map change to the Town Council, the Area Plan Commission shall pay reasonable regard to the extent to which the proposal:

a. Accomplishes the intent set forth in § 152.165, above; and

b. Provides for the protection or provision of the site features and amenities outlined in division (B), above.

4) Preliminary plan approval and secondary approval.

(a) **Preliminary plan approval.** If the preliminary plan expresses development standards in general terms, as described above, secondary approval as set forth in division (F) of this section, below, shall be required prior to the issuance of an improvement location permit for any development pursuant to the PUD District ordinance.

(b) **Combined preliminary plan approval and secondary approval.** If the preliminary plan expresses development standards in detailed terms, as described above, the petitioner may also request secondary approval in connection with the approval of the zone map change to the PUD District, provided that any such approval shall be conditioned upon the Town Council adopting the zone map change to the PUD District. The requirements for a secondary approval are set forth in division (F), below. If the preliminary plan expresses the development standards in detailed terms, as described above, the PUD District ordinance must specify any plan documentation or supporting information that must be supplied before an improvement location permit may be issued for development of real property in the Planned Unit Development District.

5) Commitments, conditions or surety.

(a) **Commitments.** Commitments may be permitted or required of the owner of the real property in connection with: a zone map change for a PUD District; a secondary approval of a PUD; or a modification of permitted uses or development requirements of a PUD, as set forth in § 152.366(D).

(b) **Conditions.** Conditions may be imposed on the approval of a PUD District which are reasonably necessary to assure compliance with the permitted use, development standards and minimum requirements of the PUD District ordinance.

(c) **Surety.** Bonds, letters of credit or other written assurance may be required which are reasonably necessary to guarantee the timely completion of a public improvement required by the proposed by the PUD District ordinance. The bond, letter of credit, or other written assurance shall be satisfactory to the Executive Director, shall run to the Board of Public Works and shall be provided prior to the issuance of permits required for the public improvement.

6) Secondary approval.

(a) **Secondary approval required.** Secondary approval is required in the PUD District as a prerequisite to the issuance of an improvement location permit for development of any real property in the district.

(b) Secondary approval.

1. Secondary approval authority is hereby delegated to the Executive Director. The Executive Director shall have a period of not more than 15 business days in which to review the proposed secondary approval application and either:

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a. Render a decision of approval or denial concerning the secondary approval; or

b. Request, in writing, additional information from the applicant. If additional information is requested, the Executive Director shall have an additional period of 15 business days to review the information from the date the requested information is received.

2. The Executive Director may seek the advice and comment of the Executive Committee of the Area Plan Commission or other staff members, as deemed appropriate, prior to making a decision.

3. Any decision of the Executive Director under this chapter, may be appealed by any interested party to the Area Plan Commission in accordance with the procedures of § 152.171.

4. If, in the sole discretion of the Executive Director, there are questions regarding how the application for secondary approval fulfills the intent of the PUD District ordinance or how the secondary approval expresses in detailed terms the general terms approved as part of the preliminary plan and zone map change to the PUD District, the Executive Director may refer the proposed secondary approval to the Area Plan Commission for review and determination.

(c) **Proceedings/notice.** The proceedings required for secondary approval shall be the same as those required by this Zoning Ordinance for the review and issuance of an improvement location permit.

(d) Supporting documentation.

1. Before the issuance of a secondary approval, the petitioner must file an application requesting secondary approval and submit plans consisting of the following:

a. Area map insert showing the general location of the proposed development referenced to major streets and section lines;

b. Location map showing the names of all metes and bounds property owners, boundary lines of recorded subdivisions, zoning, and land uses of adjacent properties;

c. Proposed name of the PUD;

d. Legal description of the real estate;

e. Boundary lines of the proposed PUD;

f. Location and name of all existing and proposed public or private streets, roads, access easements, and rights-of-way within 200 feet of the real estate;

g. Location of all existing and proposed utility facilities and easements, including, but not limited to: sanitary sewer, water, storm water management, electric, gas, telephone and cable within 200 feet of the real estate;

h. Layout, number, and dimension of all lots and out lots with zoning setback lines;

i. Location, delineation, and elevation of all floodway and floodway fringe areas within the boundaries of the PUD;

j. Drainage plan;

k. Landscape plan;

l. Sign plan;

m. An erosion control plan for all areas of site disturbance;

n. Topographic contour every 2 feet superimposed upon the proposed site plan portion of the site covered by the submitted plans;

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o. Proposed elevation of all building pads within the proposed development;

p. All improvements to street system, on-site and off-site;

q. Sidewalk plan or alternate plan for walkways or other pedestrian ways;

r. Plans and specifications for all infrastructure improvements required or proposed in the PUD;

s. Areas reserved for park, conservation, wetland, common area, lake, or other similar uses;

t. Proposed covenants, conditions, and restrictions, if any;

u. The character and approximate density of all proposed uses and structures in the plan area;

v. Any other information specified elsewhere in this chapter as a prerequisite to the issuance of an improvement location permit; and

w. Any other information requested in writing by the Executive Director or Area Plan Commission in connection with the preliminary plan approval or requested in writing by the Executive Director within 15 business days of filing.

2. The Area Plan Commission or Executive Director, during secondary approval review, shall specify any additional plan documentation or supporting information beyond that required by this division (F), which must be supplied before an improvement location permit may be issued for the development of any real estate located in the PUD District.

(e) Required findings.

1. The Area Plan Commission or Executive Director may issue a secondary approval only upon a finding that:

a. The plans submitted for secondary approval satisfy the permitted uses and development standards specified in the PUD District ordinance establishing the PUD District;

b. The plans submitted for secondary approval accomplish the intent set forth in § 152.165, above; and

c. The plans submitted for secondary approval provide for the protection or provision of the site features and amenities outlined in division (B), above.

2. Written findings of each determination to approve or disapprove a secondary approval. If the Area Plan Commission makes a determination regarding a secondary approval, the written findings shall be signed by the President of the Area Plan Commission. If the Executive Director makes a determination regarding a secondary approval, the written findings shall be signed by the Executive Director.

3. The secondary approval and written findings, upon approval, shall be sealed with the Seal of the Area Plan Commission and retained in the office of the Area Plan Commission to be used in its continuing administration of the PUD.

(Ord. 1221, § 6(c), passed 1-26-2010)

D. MODIFICATION OF PRELIMINARY PLAN OR SECONDARY APPROVAL.

1) Minor modifications to a preliminary plan or secondary approval which has already received approval from the Area Plan Commission or the Executive Director and which do not involve: the designation of additional land uses; and/or an encroachment into any drainage easement, regulated drain setback, or floodplain, may be authorized by the Executive Director without a public hearing in its continuing

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administration of the PUD if, in the determination of the Executive Director, the requested minor modifications do not adversely impact the purpose or intent of the overall development.

2) If the Executive Director determines that the proposed modification is of such a nature as to adversely impact the purpose or intent of the overall development, or if the proposed modification includes: the designation of additional land uses; and/or an encroachment into any drainage easement, regulated drain setback, or floodplain, petitioner shall be required to file a new petition for zone map change.

(Ord. 1221, § 6(d), passed 1-26-2010)

E. SECONDARY PLAT APPROVAL.

The process for the approval and recording of a secondary plat for any development in a PUD approved pursuant to this subchapter shall be issued in a manner consistent with that for any other subdivision within the town as set forth in the Subdivision Control Ordinance for the town and with any additional requirements or commitments entered into in connection with the approval of the preliminary plan pursuant to this subchapter. The approval and recording of a secondary plat is required prior to the issuance of an improvement location permit for any improvements on a lot.

(Ord. 1221, § 6(e), passed 1-26-2010)

F. MAINTENANCE OF COMMON OPEN SPACE.

In those PUD Districts in which open space, common areas, or recreation areas are provided for the use and enjoyment of residents or users of the PUD District, the petitioner shall file documentary assurances that the permanent dedication and continuous maintenance of open space, common areas, or recreation areas shall be made in accordance with the approved preliminary plan and secondary approval, and that the open space, common areas, and recreation areas shall be made available to the residents and users of the overall development in the PUD at a reasonable and non-discriminatory rate of charge. Such documentary assurances shall be incorporated into the secondary plat that is recorded in the office of the St. Joseph County Recorder or otherwise provided for through legally binding perpetual agreements as approved by the Area Plan Commission and the Town Council. The open space shall perpetually run with the PUD and shall not be developed or separated from the overall development in the PUD at a later date (unless no development of any portion of the PUD which is benefitted by the open space, common areas or recreation areas has occurred and the entire area subject to the PUD is presented for zone map change).

(Ord. 1221, § 6(f), passed 1-26-2010)

G. APPEALS OF EXECUTIVE DIRECTOR'S DECISIONS.

1) **Appeal process.** Any order, requirement, decision, or determination by the Executive Director regarding a secondary approval, or a modification of a preliminary plan or secondary approval, may be appealed to the Area Plan Commission by any person claiming to be adversely affected by that order, requirement, decision, or determination.

2) **Procedures.** The procedures for such an appeal are as follows.

   (a) Every appeal shall be filed within 30 days from the order, requirement, decision, or determination.

   (b) All appeals shall be determined by the Area Plan Commission at a public hearing for which:

      1. The party bringing the appeal has provided stamped envelopes for the owner of the real estate and all abutting property owners in accordance with the Area Plan Commission Resolution No. 168-06, as the same may be amended from time to time, regarding notice for rezoning petitions; and

      2. Notice has been mailed to the owner of the real estate and all abutting property owners by the Area Plan Commission.

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(c) The Area Plan Commission hearing shall be de novo, in the same manner as though the application was originally filed with the Area Plan Commission.

(d) The decision of the Area Plan Commission with respect to a secondary approval, or a modification of a preliminary plan or secondary approval, shall be a final decision that may be reviewed only by certiorari procedures as provided in I.C. 36-7-4-1016.

(Ord. 1221, § 6(g), passed 1-26-2010)

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Article 4 General Standards

Section 4.01 CLEAR VISION AREA

A. Corner lots shall provide an unobstructed triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street property lines, or in the case of a rounded corner, from the intersection of the street property lines extended. See Figure 4.A.

B. All driveways shall provide an unobstructed triangular area formed by the street property line, the driveway pavement edge and a line connecting them at points on each of the two lines measured ten (10) feet from their intersection. See Figure 4.A.

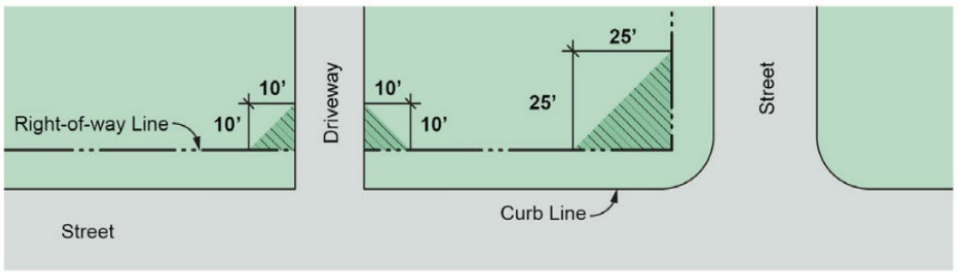
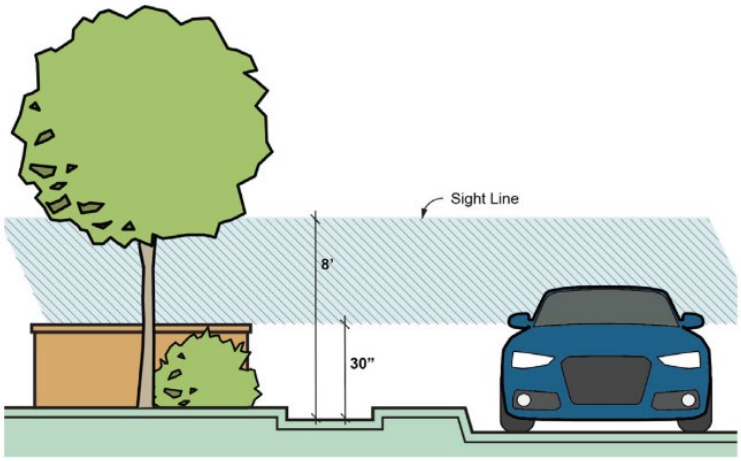


Figure 4.A Clear Vision Area - Corner

C. No structure, wall, fence, sign, shrub, or tree shall be erected, planted, or maintained on any lot which will obstruct the view of the driver of a vehicle approaching an intersection; excepting that signs, shrubs and low retaining walls not exceeding thirty (30) inches in height above the curb level and trees where all branches are not less than eight (8) feet above the street level will be permitted in the unobstructed triangular area. See Figure 4.B.



Maximum Height 30" for Shrubs and Other Landscape Features

Section 4.02 REQUIREMENTS FOR ALL PRIVATE STREETS AND PRIVATE ALLEYS.

All private streets and private alleys, when specifically authorized for use by the town through grant of a variance, development incentive, plat or subdivision waiver, shall be developed to the following standards.

A. **Pavement width for private streets.** Minimum pavement width for that portion of a private street available for through traffic (i.e., exclusive of parking spaces):

1) Residential Districts:

(a) One-way traffic: 12 feet; and

(b) Two-way traffic: 24 feet.

2) Commercial/Mixed Use Districts or Industrial Districts:

(a) One-way traffic: 18 feet; and

(b) Two-way traffic: 36 feet.

B. Pavement width for private alleys. Minimum pavement width for that portion of a private alley available for through traffic (i.e., exclusive of parking spaces):

1) Residential Districts: 12 feet; and

2) Commercial/Mixed Use Districts or Industrial Districts: 16 feet.

C. Depth and materials. Minimum pavement depth and materials for that portion of a private street or private alley available for through traffic, as noted above, shall be as required by the town for public streets or public alleys. Curb sections shall be as required by the town for public streets or public alleys.

D. Emergency vehicles. The geometric design of private streets or private alleys shall provide for the through movement or turnaround of emergency vehicles. Turnaround design may include cul-de-sac, hammerhead, or other design approved by the Town Board of Public Works.

E. Maintenance/services. Prior to the issuance of an improvement location permit or obtaining secondary plat approval, the developer or subdivider shall file documentary assurances with the Town Council that all lots served by the private streets or private alleys shall be provided with the following services: regular trash pick-up; leaf pick-up; snow removal; daily mail delivery service; roadway maintenance and repair, including but not limited to driving surface, roadway subgrade, subsurface drainage, roadside drainage, curbs, sidewalks, street lights, street name signs, traffic-control signs, and traffic-control signals; and powers to enforce speed control and parking regulations. Such services shall be provided in accordance with the specifications approved by the Town Council, which shall include the establishment of a maintenance fund or escrow account by the developer or subdivider, which may be supplemented by regular or special assessments against each lot owner, provided the assessments are at reasonable and non-discriminatory rate of charge. Such documentary assurances shall be incorporated into the applicable final plat that is recorded in the office of the Recorder of St. Joseph County, or otherwise provided for through legally binding perpetual agreements as approved by the Town Council.

(Ord. 1221, § 1.01(u), passed 1-26-2010)

Section 4.03 EXEMPTION FOR ANTI-TERRORISM DEVICES AND PORTABLE TOWERS.

Sensors and special devices specifically designed to monitor air quality and to alert governmental authorities of biological, chemical, or nuclear attack(s) shall be allowed on any building or structure, including telecommunications towers, subject to the final review of the Zoning Administrator. Integrated portable tower systems, which are specifically designed to monitor air quality and which may alert governmental authorities of biological, chemical, or nuclear attack(s), may be permitted on an emergency basis, subject to the final review of the Zoning Administrator with regard to location(s) and duration.

(Ord. 1221, § 1.01(v), passed 1-26-2010)

Section 4.04 ADDITIONAL DEVELOPMENT STANDARDS

A. RESIDENTIAL DISTRICT STANDARDS.

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1) **Additions along a legally established nonconforming setback.** The minimum front yard, minimum side yard, or minimum rear yard for any legally established nonconforming building having a setback which is less than that which is required by this chapter shall be allowed to expand 1 or more times along the legally established nonconforming setback.

2) **Additional front setback provisions.**

(a) **Public streets.** In the case where the thoroughfare plan does not include a proposed right-of-way, or where the existing right-of-way is greater than the proposed right-of-way, the existing right-of-way line shall be used for setback measurement.

(b) **Public streets and private streets.**

1. The minimum front yard and minimum building setback from the right-of-way line of a private street shall be the same as for “all other streets” in the applicable Residential District.

2. The setback provisions of this chapter are subject to the following modification:

a. In any block in any Residential District contained in this chapter in which an existing front yard setback is established by existing, legally established nonconforming buildings or structures on more than 60% of the total number of lots within the same block face fronting on the same public street, the minimum front yard setback for any new building, structure, or addition along the block face shall be the average of that established front yards, if the average dimension is less than the minimum front yard setback established by this chapter.

3. Any development permitted within a minimum front yard setback shall be those specified in the “Use of Minimum Yards” divisions of the applicable Residential District or by §§ 152.083 through 152.090.

(c) **Double frontage lots.**

1. Limited access highway rights-of-way. That portion of a double frontage lot which abuts a limited access highway right-of-way shall be subject to setback and landscaping requirements of this chapter applicable to minimum rear yards.

2. All other streets. That portion of a double frontage lot which abuts any perimeter street in which a “non-access easement” is provided for by a properly approved and recorded plat shall be subject to setback and landscaping requirements of this chapter applicable to minimum rear yards.

(d) **Enclosure of legally established nonconforming porches.** Legally established nonconforming porches which encroach no more than 8 feet into a minimum front yard, may be enclosed subject to compliance with the following regulations:

1. Shall not exceed 17 feet or 2 stories in height;

2. Enclosing walls shall contain windows over a minimum of 75% of the width of the outside wall and a minimum average window sash height of 50% of the room height; and

3. Containing no interior partitions.

3) **Setback regulations for laterally-supported extensions.** Notwithstanding any setback regulations of this chapter to the contrary, laterally-supported extensions, such as either division (C)(1) or (C)(2):

(a) Canopies, sills, belt courses, eaves, cornices, bay windows, roof overhangs, or other ornamental features, may extend a maximum of:

1. Three feet into any minimum front yard or minimum rear yard; or

2. Twelve inches into any minimum side yard.

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(b) Open or enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers may extend a maximum of 5 feet into any minimum front yard, minimum side yard or minimum rear yard.

4) **Height regulations for roof mounted or roof piercing structures.** The following regulations shall apply to the roof mounted or roof piercing structures in any Residential District:

(a) Parapet walls may exceed the maximum building height, provided the parapet wall does not exceed 4 feet in height above the roof line; and

(b) Roof mounted or roof piercing chimneys, cooling towers, elevator bulkheads, mechanical penthouses, stacks, water towers, radio or television antenna, ornamental towers, cupolas, domes, steeples, and spires may exceed the maximum building height, provided the structures do not exceed 25 feet in height above the roof line.

5) **Lot area and lot width regulations for legally established nonconforming lots of record.** See § 152.058.

6) **Additional standards for manufactured home dwellings.**

(a) **Construction.** All manufactured home dwellings shall comply with the following requirements:

1. Compliance with federal standards. Each module of a manufactured dwelling home must bear a label certifying that it is built in compliance with the federal Manufactured Home Construction and Safety Standards Law of 1974 (42 U.S.C. 5401 et seq.);
2. Date of construction. Each manufactured home dwelling shall have been constructed after January 1, 1981;
3. Main floor area. Each manufactured home dwelling shall have at least 950 square feet of main floor area (exclusive of garages, carports, and open porches); and
4. Multiple sections. Each manufactured home dwelling shall be composed of more than 1 section.

(b) **Installation standards.** All manufactured home dwellings shall be installed in compliance with the following requirements:

1. Permanent perimeter enclosure required. Each manufactured home dwelling shall be set into an excavated area with crawl space walls or basement walls constructed in accordance with the terms of the Indiana One and Two Family Dwelling Code. The space between the floor joists of the manufactured home dwelling and the excavated under-floor grade shall be completely enclosed with a permanent perimeter enclosure, except for required openings; and
2. Support system. All load-bearing foundations for a manufactured home dwelling shall be installed in conformance with the regulations of the Indiana One and Two Family Dwelling Code and with the manufacturer's installation specifications.

B. COMMERCIAL DISTRICT STANDARDS.

1) **Additions along a legally established nonconforming setback.**

(a) The minimum front yard, minimum side yard, or minimum rear yard for any legally established nonconforming building having a setback which is less than that which is required by this chapter shall be allowed to expand 1 or more times along the legally established nonconforming setback provided the applicant can demonstrate that:

1. All other applicable development standards, except the 1 legally established nonconforming building setback to be expanded upon, are in compliance with the requirements of the district;

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2. A minimum of 2 of the other applicable development standards will be brought into compliance with the requirements of the district; or

3. A minimum of 4 of the other applicable development standards will be reduced as to their extent of nonconformity by the maximum extent feasible given site constraints and such that, in the determination of the Zoning Administrator, conditions on the lot will be improved.

(b) For the purposes of this division (A), other applicable development standards shall include the following divisions of each district: use of minimum yards and residential bufferyards; maximum building height; landscaping; lighting; signs; parking; loading; greenway connection; and outdoor operations.

(c) The provisions of this division (A) shall not be applicable to any lot which includes a side residential bufferyard or a rear residential bufferyard (i.e., abuts a Residential District on along a side lot line or a rear lot line).

2) **Additional front setback provisions.**

(a) Public streets. In the case where the thoroughfare plan does not include a proposed right-of-way, or where the existing right-of-way is greater than the proposed right-of-way, the existing right-of-way line shall be used for setback measurement.

(b) Public streets and private streets.

(c) The minimum front yard and minimum building setback from the right-of-way line of a private street shall be the same as for a local public street in the applicable Commercial/Town Center District.

(d) The setback provisions of this chapter are subject to the following modification:

1. In any block in any Commercial/Town Center District contained in this chapter in which an existing front yard setback is established by existing, legally established buildings or structures on more than 60% of the total number of lots within the same block face fronting on the same public street, the minimum required front yard setback for any new building, structure, or addition along the block face shall be the average of the established front yards if the dimension is less than the minimum front yard setback established by this chapter.

(e) Any development permitted within a required front yard shall be those specified in the “Use of Minimum Yards and Residential Bufferyards” divisions of the applicable Commercial/Town Center District.

3) **Setback regulations for laterally-supported extensions.** Notwithstanding any setback regulations of this chapter to the contrary, laterally-supported extensions, such as:

(a) Canopies, sills, belt courses, eaves, cornices, bay windows, roof overhangs, or other ornamental features, may extend:

1. A maximum of 12 inches into any minimum front yard, minimum side yard, or minimum rear yard; or

2. For a building with a setback of less than 3 feet, a maximum of 12 inches into a public right-of-way, subject to the upon approval of the Indiana Department of Transportation (if applicable) and the town.

(b) Open or enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers may extend:

1. A maximum of 5 feet into any minimum front yard, minimum side yard or minimum rear yard; or

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2. For a building with a setback of less than 3 feet, a maximum of 3-1/2 feet into a public right-of-way, subject to the upon approval of the Indiana Department of Transportation (if applicable) and the town.

4) **Height regulations for roof mounted or roof piercing structures.** The following regulations shall apply to the roof mounted or roof piercing structures in any Commercial/Town Center District:

(a) Parapet walls may exceed the maximum building height, provided the parapet wall does not exceed 4 feet in height above the roof line; and

(b) Roof mounted or roof piercing chimneys, cooling towers, elevator bulkheads, mechanical penthouses, stacks, stage towers, scenery lofts, water towers, radio or television antenna, ornamental towers, cupolas, domes, steeples and spires, may exceed the maximum building height, provided the structures do not exceed 25 feet in height above the roof line.

(Ord. 1221, § 4.11(f), passed 1-26-2010)

C. INDUSTRIAL DISTRICT STANDARDS.

1) **Additions along a legally established nonconforming setback.**

(a) The minimum front yard, minimum side yard, or minimum rear yard for any legally established nonconforming building having a setback which is less than that which is required by this chapter shall be allowed to expand 1 or more times along such legally established nonconforming setback provided the applicant can demonstrate that:

1. All other applicable development standards, except the 1 legally established nonconforming building setback to be expanded upon, are in compliance with the requirements of the district;

2. A minimum of 2 of the other applicable development standards will be brought into compliance with the requirements of the district; or

3. A minimum of 4 of the other applicable development standards will be reduced as to their extent of non-conformity by the maximum extent feasible given site constraints and such that, in the determination of the Zoning Administrator, conditions on the lot will be improved.

(b) For the purposes of this division (A), other applicable development standards shall include the following divisions of each district: use of minimum yards and residential bufferyards; maximum building height; landscaping; lighting; signs; parking; loading; greenway connection; and outdoor operations.

(c) The provisions of this division (A) shall not be applicable to any lot which includes a side residential bufferyard or a rear residential bufferyard (i.e., abuts a Residential District on along a side lot line or a rear lot line).

2) **Additional front setback provisions.**

(a) **Public streets.** In the case where the thoroughfare plan does not include a proposed right-of-way, or where the existing right-of-way is greater than the proposed right-of-way, the existing right-of-way line shall be used for setback measurement.

(b) Public streets and private streets.

1. The minimum front yard and minimum building setback from the right-of-way line of a private street shall be the same as for a local public street in the applicable Industrial District.

2. The setback provisions of this chapter are subject to the following modification:

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a. In any block in any Industrial District contained in this chapter in which an existing front yard setback is established by existing, legally established buildings or structures on more than 60% of the total number of lots within the same block face fronting on the same public street, the minimum required front yard setback for any new building, structure or addition along the block face shall be the average of the established front yards if the dimension is less than the minimum front yard setback established by this chapter.

(c) Any development permitted within a required front yard shall be those specified in the "Use of Minimum Yards and Residential Bufferyards" divisions of the applicable Industrial District.

3) **Setback regulations for laterally-supported extensions.** Notwithstanding any setback regulations of this chapter to the contrary, laterally-supported extensions, such as canopies, sills, belt courses, eaves, cornices, bay windows, roof overhangs or other ornamental features, may extend a maximum of 12 inches into any minimum front yard, minimum side yard, or minimum rear yard.

4) **Height regulations for roof mounted or roof piercing structures.** The following regulations shall apply to the roof mounted or roof piercing structures in any Industrial District:

(a) Parapet walls may exceed the maximum building height, provided the parapet wall does not exceed 4 feet in height above the roof line; and

(b) Roof mounted or roof piercing chimneys, cooling towers, elevator bulkheads, mechanical penthouses, stacks, stage towers, scenery lofts, water towers, radio or television antenna, ornamental towers, cupolas, domes, steeples, and spires, may exceed the maximum building height, provided the structures do not exceed 25 feet in height above the roof line.

5) **LI – Light Industrial Development standards.**

(a) **Minimum lot width and frontage.** Each lot or industrial park shall have a minimum lot width and frontage on a public street of 100 feet.

(b) **Minimum yards and minimum building setbacks.**

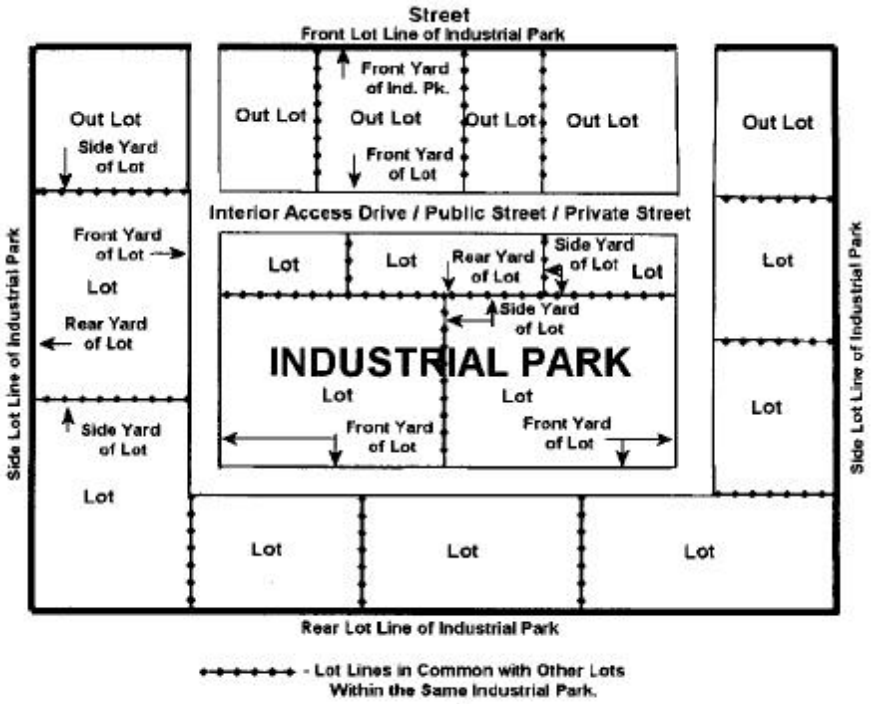
1. **Front:** a minimum front yard and building setback of 30 feet measured from the proposed right-of-way of all streets shall be provided along all streets.
2. **Minimum side yard and setback:** shall be provided from the lot line as follows:
   a. Minimum side yard: 10 feet.
   b. Minimum side residential bufferyard: 50 feet.
3. **Minimum rear yard and setback:** shall be provided from the lot line as follows:
   a. Minimum rear yard: 10 feet.
   b. Minimum rear residential bufferyard: 50 feet.

(c) **Use of minimum yards and residential bufferyards.** All minimum yards and residential bufferyards shall be landscaped in compliance with the requirements for perimeter yard landscaping as set forth in §§ 152.185 through 152.194 and shall remain free from structures except where expressly permitted below:

1. **Minimum front yards may include:** parking areas, loading areas, interior access drives, or interior access driveways, provided that no portion of the area may be located closer to the right-of-way than 25 feet; or signs as regulated by §§ 152.230 through 152.236, and shall be otherwise maintained as open space free from buildings or structures;

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2. **Minimum front residential bufferyards may include:** driveways; or signs as regulated by §§ 152.230 through 152.236, and shall otherwise be maintained as open space free from buildings or structures;
3. **Minimum side and rear yards may include:** interior access driveways connecting to adjoining lots provided that the remainder of the yards shall be maintained as open space free from buildings or structures;
4. **Minimum side and rear residential bufferyards:** shall be landscaped with grass and shrubbery, trees, or hedge, or in combination with other suitable ground cover materials and maintained as open space free from buildings or structures; and
5. **Minimum yards for lots within the same industrial park:** along all lot lines in common with other lots located within the same industrial park (see graphic below):



Minimum Yards for Lots Within the Same Industrial Park

a. **Intent.** This provision is intended to provide more flexibility in the use of a minimum side yard (division (C)(3)1.a. below) or rear yard (division (C)(3)1.b. below) on lots within an industrial park when those minimum side yards or rear yards abut other interior lots in the same industrial park. The use of yards along lot lines located around the perimeter of the industrial park shall comply with the applicable use of side yards and rear yards as specified in divisions (C)(3)(a) through (C)(3)(d) above.

i. Use of side yards on lots interior to an industrial park (either of the following divisions (C)(3)1.a.i. or (C)(3)1.a.ii. applies): the portion of a minimum side yard on a lot interior to an industrial park:

- Located between the front lot line and minimum front building setback line may include: driveways; or interior access driveways connecting to adjoining lots; or
- Located behind the minimum front building setback line may include: parking areas; loading areas; interior access driveways; interior access drives; trash containers; or outdoor storage.

ii. Use of rear yards on lots interior to an industrial park: the portion of a minimum rear yard on a lot interior to an industrial park may include parking areas, loading areas, interior access driveways, interior access drives, or outdoor storage.

b. **Remaining area.** Provided, however, that the remainder of the yards shall be maintained as open space free from buildings or structures, and that the area of each such minimum yard that would have been devoted to perimeter yard landscaping and the amount of landscape material that would have been required to be installed in the perimeter yard landscaping, if not complying with the special provisions of this division (C), are provided elsewhere on each of the affected lots as either additional foundation landscaping, additional interior parking area landscaping or additional front perimeter landscape yard landscaping, and documentary assurances are provided on the final plat or by other legally binding instrument which binds the adjoining lots to be developed in compliance with the special provisions of this division allowing such minimum yards to be used for parking areas, loading areas, interior drives or interior access drives subject to the provision of such additional foundation landscaping area or additional interior parking area landscaping.

(d) **Maximum building height.** Sixty feet or 5 stories; provided, however, that the setback for that portion of any building, or structure which is in excess of 35 feet shall be increased by 1 foot for each 1 foot of the height of the building or structure above 35 feet until the maximum height of the building or structure is allowed.

6) GI – General Industrial Development standards.

(a) **Minimum lot width and frontage.** Each lot or industrial park shall have a minimum lot width and frontage on a public street of 150 feet.

(b) Minimum yards and minimum building setbacks.

1. **Front:** a minimum front yard and building setback of 30 feet measured from the proposed right-of-way of all streets shall be provided along all streets.
2. **Minimum side yard and setback:** shall be provided from the lot line as follows:
   a. Minimum side yard: 10 feet.
   b. Minimum side residential bufferyard: 100 feet; provided, however, a minimum side residential bufferyard may be reduced to 50 feet through the provision of additional landscaping in an amount equal to a Type B Partial Screening landscaping being added to the required Type C Full Screening landscaping required by this district (see § 152.187, Table, Notes B and C for details).
3. **Minimum rear yard and setback:** shall be provided from the lot line as follows:
   a. Minimum rear yard: 10 feet.

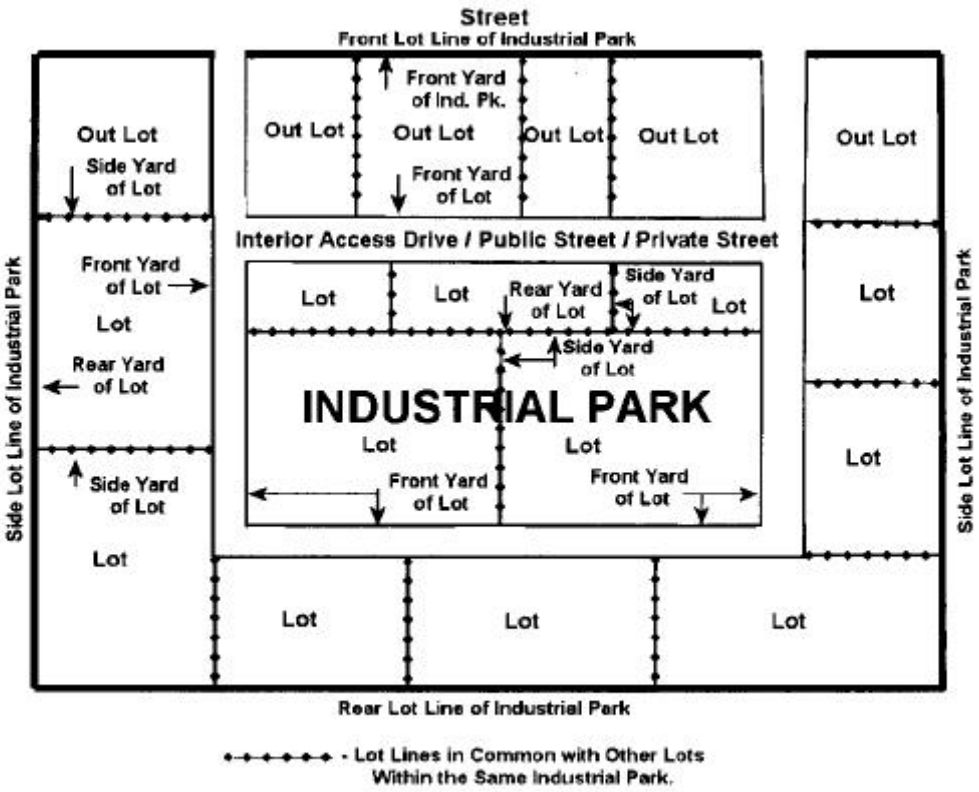
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b. Minimum rear residential bufferyard: 100 feet, provided, however, a minimum side residential bufferyard may be reduced to 50 feet through the provision of additional landscaping in an amount equal to a Type B Partial Screening landscaping being added to the required Type C Full Screening landscaping required by this district (see § 152.187, Table, Notes B and C for details).

(c) **Use of minimum yards and residential bufferyards. All** minimum yards and residential bufferyards shall be landscaped in compliance with the requirements for perimeter yard landscaping as set forth in §§ 152.185 through 152.194 and shall remain free from structures except where expressly permitted below:

1. Minimum front yards may include: parking areas, loading areas, interior access drives, or interior access driveways, provided that no portion of the area may be located closer to the right-of-way than 25 feet; or signs as regulated by §§ 152.230 through 152.236, and shall be otherwise maintained as open space free from buildings or structures;
2. Minimum front residential bufferyards may include: driveways; or signs as regulated by §§ 152.230 through 152.236, and shall otherwise be maintained as open space free from buildings or structures;
3. Minimum side and rear yards may include: interior access driveways connecting to adjoining lots provided that the remainder of the yards shall be maintained as open space free from buildings or structures;
4. Minimum side and rear residential bufferyards: shall be landscaped with grass and shrubbery, trees, or hedge, or in combination with other suitable ground cover materials and maintained as open space free from buildings or structures;
5. Minimum yards for lots within the same industrial park: along all lot lines in common with other lots located within the same industrial park: (see graphic below):

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Minimum Yards for Lots Within the Same Industrial Park

a. **Intent.** This provision is intended to provide more flexibility in the use of a minimum side yard or rear yard on lots within an industrial park when those minimum side yards or rear yards abut other interior lots in the same industrial park. The use of yards along lot lines located around the perimeter of the industrial park shall comply with the applicable use of side yards and rear yards as specified in divisions (a) through (d) above.

i. Use of side yards on lots interior to an industrial park. The portion of a minimum side yard on a lot interior to an industrial park:

- Located between the front lot line and minimum front building setback line may include: driveways; or interior access driveways connecting to adjoining lots; or

- Located behind the minimum front building setback line may include: parking areas; loading areas; interior access driveways; interior access drives; trash containers; or outdoor storage; or

ii. Use of rear yards on lots interior to an industrial park. The portion of a minimum rear yard on a lot interior to an industrial park may include parking areas, loading areas, interior access driveways, interior access drives or outdoor storage;

b. Provided, however, that the remainder of the yards shall be maintained as open space free from buildings or structures, and that the area of each such minimum yard that would have been devoted to perimeter yard landscaping and the amount of landscape material that would have been required to be installed in such perimeter yard landscaping, if not complying with the special provisions of this division (C), are provided elsewhere on each of the affected lots as either additional foundation landscaping, additional interior parking area landscaping or additional front perimeter landscape yard landscaping, and documentary assurances are provided on the final plat or by other legally binding instrument which binds the adjoining lots to be developed in compliance with the special provisions of this division (C) allowing the minimum yards to be used for parking areas, loading areas, interior drives or interior access drives subject to the provision of such additional foundation landscaping area or additional interior parking area landscaping.

(d) **Maximum building height.** Unlimited; provided, however, that the setback for that portion of any building or structure which is in excess of 35 feet shall be increased by 1 foot for each 1 foot of the height of the building or structure above 35 feet.

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Section 4.05 DESIGN STANDARDS

A. Residential

(a) The following standards apply to manufactured homes in residential zoning districts.

1. Siding standards. The siding materials used on all manufactured home dwellings shall be limited to the following:

   a. Residential horizontal aluminum lap siding;

   b. Residential horizontal vinyl lap siding;

   c. Wood-grain, weather resistant, pressboard siding;

   d. Stucco siding;

   e. Brick siding; or

   f. Stone siding.

2. Roofing standards. The roofing materials used on all manufactured home dwellings shall be limited to the following:

   a. Asbestos shingles on a roof pitched according to the design specifications of the shingles;

   b. Fiberglass shingles on a roof pitched according to the design specifications of the shingles;

   c. Shake shingles on a roof pitched according to the design specifications of the shingles;

   d. Asphalt shingles on a roof pitched according to the design specifications of the shingles;

   e. Slate; or

   f. Tile.

B. Commercial

(a) The following standards apply to structures in the LB Local Business and CB Community Business zoning districts.

1. Architecture.

   a. Additions to existing buildings. All additions to existing buildings shall utilize building materials that are compatible and harmonious with the materials used on the existing building.

   b. Exterior renovations, major additions and accessory buildings. Exterior renovations, major additions and accessory buildings to existing buildings or facilities are encouraged to comply with the provisions in division (C)(13)(c) below, for new construction, however, the minimum requirement for exterior renovations, major additions and accessory buildings shall be the same as in division (C)(13)(a), above, for additions to existing buildings.

   c. New construction. In order to create variation and interest in the built environment, all new primary buildings shall comply with 1 of the following 2 sets of architectural regulations regarding building material and architectural features on each façade visible from a public street:

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i. All brick (excluding window, display window, door, roofing, fascia and soffit materials), provided that the brick used on each applicable façade shall include:

a) At least 2 architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, and the like); or

b) At least 2 colors of brick, with the secondary color constituting a minimum of 10% of the façade (excluding windows, display windows, doors, roofing, fascia or soffit materials); or

ii. Two or more building materials (excluding window, display window, door and roofing materials), provided:

c) Primary building material. The primary building material shall be either: brick; stone (limestone, granite, fieldstone, and the like); architectural pre-cast concrete, if the surface looks like brick or stone; or exterior insulation and finish system (E.I.F.S.) or equivalent, and shall constitute a minimum of 50% of each applicable façade.

d) Secondary building material. The secondary building material shall constitute a minimum of 10% of the façade. Glass curtain wall or a faux window (not intended for use as a window or display window) may qualify as a secondary building material.

e) Architectural features. In addition, the exterior building material selection shall be supplemented with the use of multiple colors, textures (e.g., rough, smooth, striated, and the like) or architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, and the like) on each façade visible from a public street.

(b) The following standards apply to structures in TC Town Center zoning districts.

1. *Architecture.* The intent of these architecture regulations is to encourage the development of buildings with simple, 3-dimensional forms that include the characteristic appearance and scale of early 1900s main streets and which are oriented to the main street through the town (U.S. 20/Michigan Street).

a. *Additions to existing buildings.* All additions to existing buildings shall utilize building materials that are compatible and harmonious with the materials used on the existing building.

b. *Exterior renovations, major additions, and accessory buildings.* Exterior renovations, major additions, and accessory buildings to existing buildings or facilities are encouraged to comply with the provisions in division (C)(12)(c) below, for new construction; however, the minimum requirement for exterior renovations, major additions, and accessory buildings shall be the same as in division (C)(12)(a) above, for additions to existing buildings; provided, however, the following additional regulations shall apply to all exterior renovations or building remodeling:

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i. Any stone, brick, or other original masonry façade material shall not be covered with any kind or horizontal or vertical siding;

ii. Any window or door openings in the façade shall not be boarded, blocked-in, or bricked-in; and

iii. Any exterior renovation of a building façade that includes added horizontal or vertical siding over stone, brick, or other original masonry façade material shall include the removal of the horizontal or vertical siding and restore the original stone, brick, or other masonry façade.

c. *New construction.* In order to create variation and interest in the built environment and to ensure that the size and scale of new development is consistent with the established character of the town, all new primary buildings shall comply with the following regulations.

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i. One of the following 2 sets of architectural regulations regarding building material and architectural features on each façade visible from a public street:

a) All brick (excluding window, display window, door, roofing, fascia, and soffit materials), provided that the brick used on each applicable façade shall include:

a. At least 2 architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, and the like); or

b. At least 2 colors of brick, with the secondary color constituting a minimum of 10% of the façade (excluding windows, display windows, doors, roofing, fascia or soffit materials); or

b) Two or more building materials (excluding window, display window, door and roofing materials), provided:

a. *Primary building material.* The primary building material shall be either: brick; stone (limestone, granite, fieldstone, and the like); or architectural pre-cast concrete, if the surface looks like brick or stone, and shall constitute a minimum of 50% of each applicable façade.

b. *Secondary building material.* The secondary building material shall constitute a minimum of 10% of the façade. Glass curtain wall or a faux window (not intended for use as a window or display window) may qualify as a secondary building material.

c. *Architectural features.* In addition, the exterior building material selection shall be supplemented with the use of multiple colors, textures (e.g., rough, smooth, striated, and the like) or architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, and the like) on each façade visible from a public street.

ii. *Trash enclosures.* All trash enclosures shall utilize 3 solid-walled sides. The materials of the 3 solid-walled sides of the enclosure shall be consistent and compatible with the materials of the primary building. Gates shall be located on the non-solid-walled side of the trash enclosure and shall be covered with a wood, simulated wood or a similar material painted a compatible color with the primary building. The opening of a trash enclosure shall not be oriented to or within 90 degrees from being parallel to any front lot line.

iii. *Articulation.* In order to assure that new development in the town center maintains a scale and relationship to the street and sidewalk which can promote pedestrian activity in the downtown area, all buildings shall comply with the following design features.

a) *Human scale.* Architectural elements such as colonnades, canopies, awnings, display windows, lighting, and variation in building materials may be used to create a human scale to buildings.

b) *Detailing.* Architectural detailing (i.e., variation in building materials, surface recesses, protrusions, cornices, and the like) shall be used to distinguish the ground floor from upper levels of a building. Such architectural detailing used to distinguish the ground floor from upper levels shall be no lower than 18 feet above grade.

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c) *Vertical rhythm.* The vertical rhythm of architectural detailing on a building shall be consistent or compatible with the pattern established on adjacent buildings located within the same block face.

d) *Building entrances.* All buildings which front on U.S. 20/Michigan Street shall orient a main entrance to U.S. 20/Michigan Street.

iv. Mechanical equipment.

a) *Roof mounted.* All roof mounted mechanical equipment shall be screened based upon an elevation view of the building on all sides.

b) *Ground mounted.* All ground mounted mechanical equipment shall be screened on all sides by: the building; screen walls or fences of a material and color which is compatible with the primary building; or evergreen or densely twigged hedge plants (with or without mounding) of a height at time of planting which is not less than the height of the mechanical equipment to be screened.

v. Fenestration.

a) Ground floor: window openings on the ground floor of a building shall occupy a minimum of 60% of the ground floor façade area (i.e., that portion of the façade located below 18 feet above grade).

b) Upper floors: window openings on the upper floors of buildings shall occupy no more than 40% of the entire upper floor façade area (i.e., that portion of the façade located above 18 feet above grade).

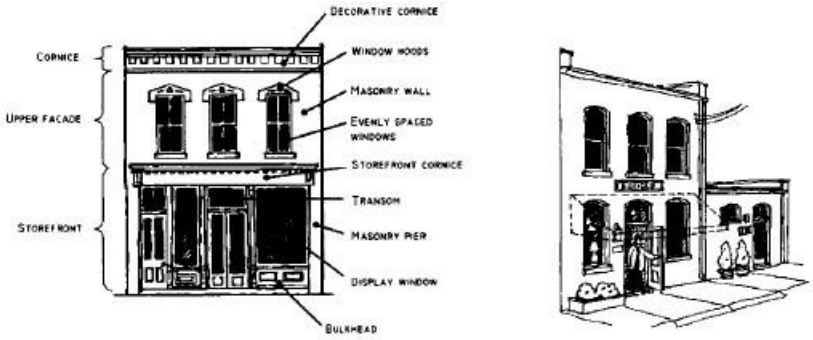
c) Any nonresidential building shall have windows (or faux windows) on the upper façade (i.e., that portion of the façade located below 18 feet above grade).

d) Window size and shape shall be compatible with those of adjacent buildings and shall have a generally vertical orientation.

e) Windows, doors, eaves, and parapets on a building shall be proportional and shall relate to one another.

vi. Awnings, canopies, and marquees.

a) Design: awnings, canopies and marquees shall be of a simple design intended to complement the architectural elements (storefront cornices, windows, or doors) of the building façade and shall not obscure significant architectural details of a building.



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b) Materials:

a. Awnings and canopies shall be constructed of high-quality canvas or canvas-like materials such as matte finish canvas or matte finish vinyl coated canvas.

b. Awnings or canopies shall not utilize bubble, box, or shiny plastic or vinyl coated materials.

c. Awnings or canopies shall not utilize any transparent or translucent vinyl.

d. Awnings or canopies shall not utilize any wood.

c) Illumination:

a. Wall mounted lighting, such as gooseneck lamps with a metal shade and decorative mounting over awnings or canopies, shall be permitted.

b. Backlit or internally-illuminated vinyl or plastic awnings, canopies, or marquees shall be prohibited.

d) Clearance to grade: the bottom edge of the:

a. Awning or canopy shall not be less than 8 feet, 6 inches above grade over a walkway;

b. Marquee shall not be less than 9 feet above grade over a walkway; or

c. Awning, canopy, or marquee shall not be less than 15 feet above grade over a driveway, interior access drive, or alley.

e) Projection from building: the maximum projection of an awning, canopy, or marquee shall not exceed 8 feet from or beyond the supporting building and shall not project beyond any walkway adjacent to the building.

f) Encroachment over public right-of-way: no awning, canopy, or marquee shall encroach into the air rights of any public street right-of-way unless approved by the town prior to the placement of the awning, canopy or marquee.

g) Signs on awnings, canopies, or marquees: see §152.235.

C. Historic District

Except as provided in § 35.19, within the primary area of the historic district, new buildings and structures as well as buildings, structures, and appurtenances that are moved, reconstructed, materially altered, repaired, or changed in color, must be visually compatible with buildings, squares, and places to which they are visually related generally in terms of the following visual compatibility factors.

1) Height. The height of proposed buildings must be visually compatible with adjacent buildings.

2) Proportion of building's front façade. The relationship of the width of a building to the height of the front elevation must be visually compatible to buildings, squares, and places to which it is visually related.

3) Proportion of openings within the facility. The relationship of the width of the windows to the height of windows in a building must be visually compatible with buildings, squares and places to which it is visually related.

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4) Rhythm of solids to voids in front façades. The relationship of solids to voids in the front façade of a building must be visually compatible with buildings, squares and places to which it is visually related.

5) Rhythm of spacing of buildings on streets. The relationship of a building to open space between it and adjoining buildings must be visually related.

6) Rhythm of entrances and porch projections. The relationship of entrances and porch projections to sidewalks of a building must be visually compatible to the buildings, squares, and places to which it is visually related.

7) Relationship of materials, texture, and color. The relationship of the materials, texture and color of the façade of a building must be visually compatible with the predominant materials used in the buildings to which it is visually related.

8) Roof shapes. The roof shape of a building must be visually compatible with the buildings to which it is visually related.

9) Walls of continuity. Appurtenances of a building, such as walls, wrought iron fences, evergreen landscape masses, and building façades, must form cohesive walls of enclosure along the street, if necessary, to ensure visual compatibility of the building to the buildings, squares, and places to which it is visually related.

10) Scale of a building. The size of a building and the building mass of a building in relation to open spaces, windows, door openings, porches, and balconies must be visually compatible with the buildings, squares, and places to which it is visually related.

11) Directional expression of front elevation. A building must be visually compatible with the buildings, squares, and places to which it is visually related in its directional character, including vertical character, horizontal character, or non-directional character.

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Section 4.06 ACCESSORY USES, BUILDINGS, AND STRUCTURES

A. Applicability. Accessory uses, buildings, and structures shall be permitted in all zoning districts, provided that the primary use which is supported by the accessory use, building, or structure is a permitted use within the district in which the lot is located.

B. General Standards

1) No accessory use, building, or structure shall be established on a lot prior to the erection of the primary building.

2) Accessory uses, buildings, and structures shall comply with all development standards of the applicable zoning district unless an exception is specifically provided in this Ordinance.

3) Accessory uses, buildings, and structures shall not encroach upon any platted or recorded easement unless specifically authorized by the terms of the easement or by written consent of the agency in whose favor the easement is granted.

C. Residential District Standards

1) Permitted accessory uses, buildings, and structures.

(a) Accessory uses, buildings, or structures shall be permitted in all Residential Districts; provided, however, that the primary use which is supported by the accessory use, building, or structure is a permitted use within the district to which a lot is zoned.

(b) Accessory uses, buildings, or structures shall not be permitted on a lot prior to the erection of the primary building.

(c) By way of example only, some typical accessory uses, buildings and structures in Residential Districts are: garages; carports; porches; decks; awnings; canopies; mini-barns/storage sheds; patios; outdoor fireplaces; bathhouses; cabanas; children's playhouses; swings; game courts, including tennis or basketball courts; fences; parking areas; signs; swimming pools; hot tubs; radio sending and receiving antennas; and satellite dish antennas.

2) **Development standards for accessory uses, buildings, or structures in all Residential Districts**.

(a) Accessory uses, buildings, or structures shall comply with all development standards of the applicable district unless an exception is specifically provided for in §§ 152.083 through 152.090.

(b) Accessory uses, buildings, or structures shall not encroach upon any platted or recorded easements unless specifically authorized by the terms of the easement or by written consent of the agency in whose favor the easement is granted.

3) **Additional development standards for accessory uses, buildings, or structures in any Residential District.** Accessory uses, buildings, or structures permitted in any Residential District shall also comply with the following additional development standards.

(a) Accessory buildings.

1. Detached. The total square foot area of a detached accessory building shall be less than the main floor area of the primary building containing a dwelling unit.

2. Attached. The total floor area of accessory use portions of a primary building containing a dwelling unit shall be less than the main floor area of dwelling unit.

3. Maximum capacity of garage(s). No garage or garages, in combination, whether attached or detached, shall exceed a capacity of 4 cars in total. Carports shall be included in determining the maximum capacity of a garage or garages.

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4. Maximum number of accessory buildings. The total number of detached accessory buildings on a lot shall not exceed 1 accessory building; provided, however, a storage shed with a total floor area of 120 square feet or less shall not count as an accessory building for the purposes of this division.

5. Location. Detached accessory buildings shall not be located between the established front building line and the front lot line.

(b) Swimming pools or hot tubs.

1. A swimming pool or hot tub shall not be located between any front lot line and the established front building line.

2. A swimming pool or hot tub shall not be located in any minimum side yard or minimum rear yard for an accessory building.

3. The swimming pool or hot tub, either above or below ground, shall comply with the applicable requirements of the Indiana Swimming Pool Code (675 I.A.C. 20) or the applicable town Building Code.

4. No pool or hot tub shall be erected or constructed unless adequate distance from overhead electrical wires is provided in accordance with the National Safety Code and the National Electrical Code, current editions.

5. Abandoned or unused swimming pools or hot tubs, situated on a premises which are not occupied for periods of 30 days or more, shall be drained or equipped with a cover adequate to prevent persons, children, or animals from danger or harm.

6. All swimming pools or hot tubs, including associated decking and aprons over 30 inches above grade, shall be included in the calculation of maximum lot coverage.

(c) Stoops, patios, porches, gazebos, and decks.

1. Stoops, patios, porches, gazebos, and decks over 30 inches above grade or which include a roof or roof-like structure (e.g., trellis, arbor, and the like) shall comply with all minimum yards and building setbacks, and maximum building height regulations of the applicable district for accessory structures.

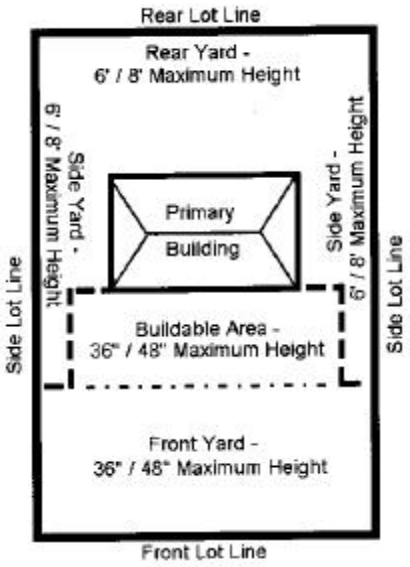
2. Notwithstanding anything in this chapter to the contrary, stoops, patios, porches, and decks less than 30 inches above grade and which do not include a roof or roof-like structure may be located in a:

   a. Minimum front yard; provided, however, the stoop, patio, porch, or deck shall not encroach more than 8 feet into the minimum front yard; or

   b. Minimum side yard or minimum rear yard.

(d) **Fences.** Fences typical of a residential setting, including but not limited to chain link, solid, shadow-box, stockade, architectural screen, lattice-work or masonry, shall be regulated by divisions (C)(4)(a) through (C)(4)(d) below. Other types of fences, including but not limited to barbed wire, electric, razor wire, or other similar types of security wire in any yard, shall be regulated by division (C)(4)(d) below.

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Fence Regulations on a Single Family Lot

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1. Individual lots; front yards.
    a. Fences located in a minimum front yard or in the buildable area of a lot located between the front line of the primary building and the minimum front yard shall not exceed:
        i. Thirty-six inches in height above grade, if the open space percentage of the fence is equal to or less than 70%; or
        ii. Forty-eight inches in height above grade if the open space percentage of the fence is greater than 70%.
    b. Fences erected in the front yard shall be natural fences of hedges, trees, shrubbery, or an ornamental type, such as treated wood, painted wood, treated split rail, ornamental wrought iron, split rail, vinyl, brick, stone, open picket (with 40% open space between pickets in any front or corner side yard) and similar materials commonly used in urban residential applications as deemed appropriate by the Building Commissioner. Scrap lumber, plywood, sheet metal, plastic, or fiberglass sheets are expressly prohibited.
2. Subdivision frontage. Fences shall not exceed 6 feet in height above grade when located along a perimeter street of a recorded, platted residential subdivision where individual lots do not have direct access to the perimeter street.
3. All other fences. Fences located elsewhere on a lot shall not exceed:
    a. Six feet in height above grade, if the open space percentage of the fence is equal to or less than 70%; or
    b. Eight feet in height above grade if the open space percentage of the fence is greater than 70%.
4. Fences, including but not limited to barbed wire, electric, razor wire, or other similar types of security wire fences:

a. Shall only be permitted for nonresidential uses, including but not limited to: utility sites such as water, sewer, electric, and gas main facilities; heating, ventilating, and air-conditioning equipment; restricted public access areas such as airports, sewer, and water treatment facilities; public safety facilities; public and private communication facilities such as wireless, radio, and television communication towers; and

b. Such fences shall not exceed 10 feet in height.

5. All fences. All fences shall comply with the clear sight requirements of § 152.020.

(e) Satellite dish antennas in Residential Districts.

1. The regulations of this section shall apply to satellite dish antennas in all Residential Districts which are greater than 1 meter (39.37 inches) in diameter. These regulations are intended to allow satellite dish antennas to be located in a manner that:

   a. Does not unreasonably delay or prevent the installation, maintenance, or use of the antenna;

   b. Does not unreasonably increase the cost of installation, maintenance, or use of the antenna; or

   c. Preclude reception of an acceptable quality signal.

2. The regulations of this section are intended to accomplish the following specific and clearly defined health, safety, and aesthetic objectives:

   a. To promote the public health and safety by providing criteria for the placement of satellite dish antennas greater than 1 meter (39.37 inches) in diameter which ensure that all such installations are performed in a manner which limits endangerment of life and property on the site and on surrounding properties if the antennas should collapse or are felled by ice or high winds; and

   b. To ensure the aesthetic harmony of residential areas by providing for a harmonious streetscape, consistent with the Comprehensive Plan, uncluttered by nonresidential structures, including guy wires, poles, masts, cables or other appurtenances which can create a visual blight offensive to those who reside, work, or travel in the town.

3. The following regulations are intended to meet the above objectives without unnecessarily burdening the federal interests in ensuring the availability of satellite services and in promoting fair and effective competition among competing communication service providers. In any Residential District, satellite dish antennas greater than 1 meter (39.37 inches) in diameter shall be permitted as either ground mounted or roof mounted, provided that:

   a. If ground mounted, satellite dish antennas shall:

      i. Not be located in any minimum front yard, minimum side yard, minimum rear yard, or between the established front building line and the front lot line; and

      ii. Not exceed the maximum building height allowed for an accessory structure.

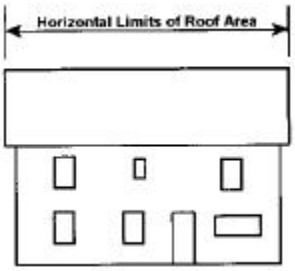
   b. If roof mounted, satellite dish antennas shall:

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i. Not exceed the lesser of 5 feet above the peak of the roof or the maximum building height limit allowed for a primary building;

ii. Not extend beyond the horizontal limits of the roof area; and

iii. Be installed in accordance with applicable Building Codes. Furthermore, written documentation of such compliance, including load distribution within the building's support structure, may be required.



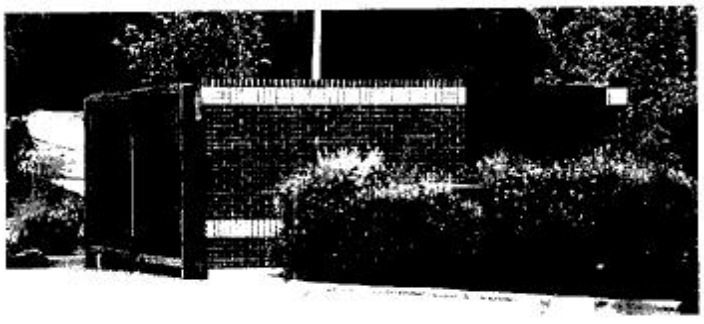
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(f) **Grade level improvements.** Grade level improvements which do not include a foundation shall be permitted as follows:

1. In a minimum front yard: walkways and driveways.
2. In a minimum side yard or minimum rear yard: walkways, and interior access drives; provided, however, that an interior access drive may only be located in 1 minimum side yard and shall not be less than 8 feet in width nor greater than 16 feet in width.

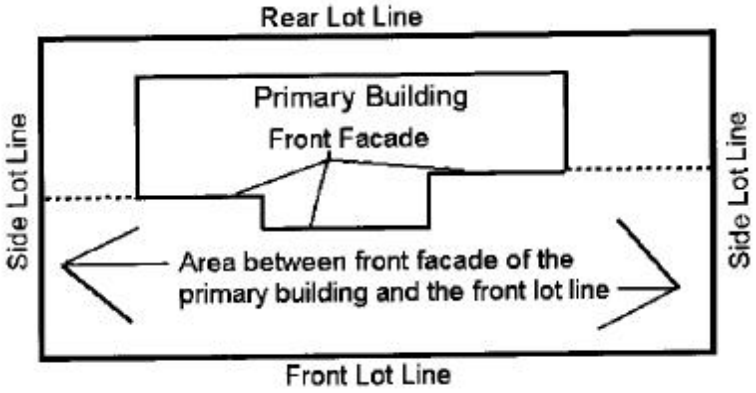
(g) **Game courts.** Game courts shall not be located in any minimum front yard, minimum side yard, minimum rear yard, or between the established front building line and the front lot line; provided, however, a permanent or temporary basketball goal may be located adjacent to a driveway or interior access drive in any minimum yard in any Residential District.

(h) **Trash containers.** Any trash container exceeding 36 cubic feet in capacity shall:



1. Be screened on at least 3 sides by a building wall or a solid-walled enclosure, not less than 6 feet in height nor more than 10 feet in height above grade, equipped with an opaque screen gate, and any solid-walled portion of the enclosure shall be provided with foundation landscaping;
2. Not be located between the front façade of the primary building and the front lot line; and

3. Not be located in any minimum front yard, minimum side yard, or minimum rear yard.



D. Commercial District Standards

1) **Permitted accessory uses, buildings, and structures.** Accessory uses, buildings, or structures shall be permitted in all Commercial/Town Center Districts; provided, however, that the primary use which is supported by the accessory use, building, or structure is a permitted use within the district to which a lot is zoned.

(a) Accessory uses, buildings, or structures shall not be permitted on a lot, out lot, or main portion of an integrated center prior to the erection of the primary building on the lot, out lot, or main portion of the integrated center.

(b) By way of example only, some typical accessory uses, buildings, and structures in the Commercial/Town Center Districts are: fences, trash containers, recycling containers, drive-through facilities, gasoline pump islands, and canopies.

2) Development standards for accessory uses, buildings, or structures in all Commercial/Town Center Districts.

(a) Accessory uses, buildings, or structures shall comply with all development standards of the applicable district unless an exception is specifically provided for in this section.

(b) Accessory uses, buildings, or structures shall not encroach upon any platted easements unless specifically authorized by the terms of the easement or by written consent of the agency in whose favor the easement is granted.

3) **Additional development standards for accessory uses, buildings, or structures in any Commercial/Town Center District.** Accessory uses, buildings, or structures permitted in any Commercial/Town Center District shall also comply with the following additional development standards:

(a) **Residential uses.** Accessory uses, buildings, or structures provided for any legally established residential uses located in any Commercial/Town Center District shall comply with the provisions of this division (C).

(b) Fences (including chain link, solid, architectural screen, lattice-work, or masonry).

1. Fences located in a minimum front yard or in the buildable area of a lot located between the front line of the primary building and the minimum front yard shall not exceed:

a. Thirty-six inches in height above grade, if the open space percentage of the fence is equal to or less than 70%; or

b. Forty-eight inches in height above grade if the open space percentage of the fence is greater than 70%.

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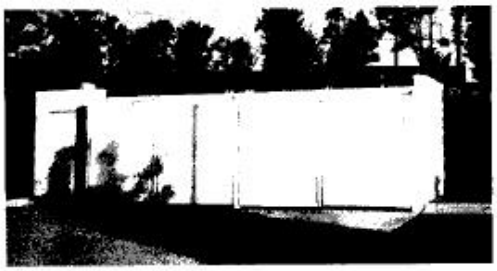
2. Shall not exceed 8 feet in height above grade in a required side yard or a required rear yard;
3. Shall not include any barbed, electric, razor, or other similar types of security wire when located between the front façade of the primary building and the front lot line; and
4. Shall comply with the clear sight area requirements of this chapter, § 152.020.

(c) **Trash containers.** Trash containers exceeding 36 cubic feet shall:

1. Be screened on at least 3 sides by a building wall or a solid-walled enclosure, not less than 6 feet in height nor more than 10 feet in height above grade, equipped with an opaque screen gate, and any solid-walled portion of the enclosure shall be provided with foundation landscaping;



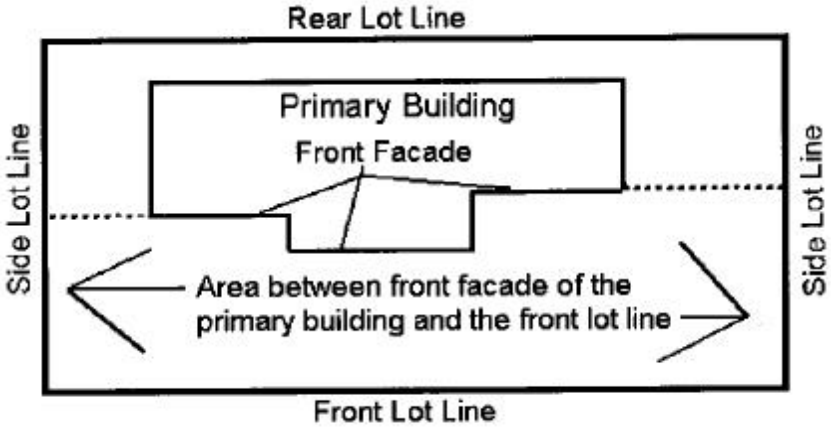
Solid Walled Trash Enclosure with Foundation Plantings



Solid Walled Trash Enclosure with Opaque Screen Gate

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2. Not be located between the front façade of the primary building and the front lot line; and



3. Not be located in any minimum front yard, minimum side yard, minimum rear yard, minimum front residential bufferyard, minimum side residential bufferyard, or minimum rear residential bufferyard.

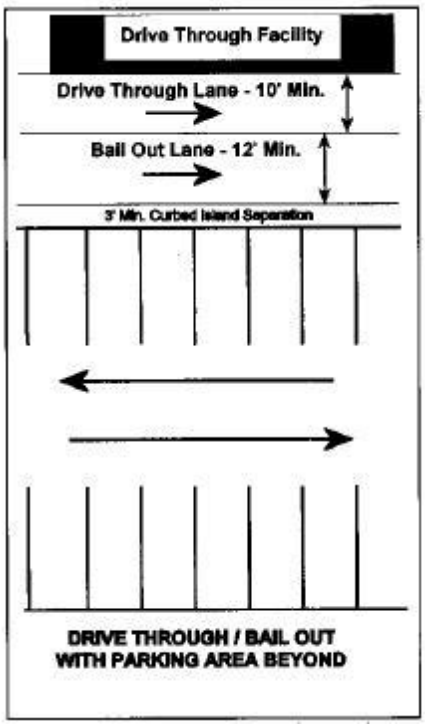
(d) **Parking areas.** Shall comply with the provisions of §§ 152.250 through 152.258.

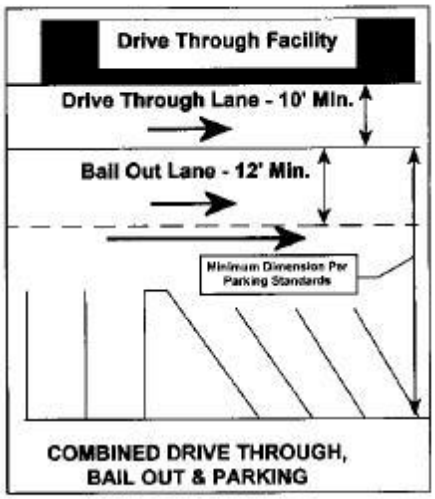
(e) **Loading areas.** Shall comply with the provision of §§ 152.270 through 152.277.

(f) **Signs.** Shall comply with the provisions of §§ 152.230 through 152.236.

(g) **Drive-through facilities.** Shall be so designed that:

1. Drive-through lanes do not conflict with the safe and efficient flow of traffic into and out of required parking spaces or loading spaces;
2. Drive-through lanes have a “bail out” capability for all vehicles which have entered the drive-through lane;
3. The minimum drive-through facility standards include:
    a. A drive-through lane with a minimum width of 10 feet measured from the furthest point of projection of a drive-through facility from the building or structure; and
    b. A “bail out” lane with a minimum width of 12 feet measured from and running parallel to the full length of the drive-through lane;





4. If a “bail out” lane also serves as an interior access drive providing access to parking spaces, the “bail out” lane/interior access drive shall be limited to a 1-way traffic pattern following the direction of the drive-through lane;
5. If a parking area is developed beyond the “bail out” lane, the parking area shall be separated from the “bail out” lane by a curbed island having a minimum width of 3 feet;
6. Provide at least 5 waiting spaces including the first occurrence of any ordering, pick-up or service facility; and
7. Provide sufficient room for at least 1 waiting space after exiting the last pick-up or service facility.

(h) **Gasoline dispensers and pump island canopies.** Gasoline dispensers and pump island canopies shall:

1. Not be located within any minimum front yard, side yard, rear yard, front residential bufferyard, side residential bufferyard or rear residential bufferyard unless specifically authorized in the "Use of Minimum Yards and Residential Bufferyards" division of the applicable district; and
2. Shall be provided with adequate on-site maneuverability so as to avoid any interference with through traffic on any public right-of-way.

E. Industrial District Standards

1) **Permitted accessory uses, buildings, and structures.** Accessory uses, buildings, or structures shall be permitted in all Industrial Districts; provided, however, that the primary use which is supported by the accessory use, building, or structure is a permitted use within the district to which a lot is zoned.

(a) Accessory uses, buildings, or structures shall not be permitted on a lot, out lot, integrated center, or industrial park prior to the erection of a primary building on the lot, out lot, integrated center, or industrial park.

(b) By way of example only, some typical accessory uses, buildings, and structures in the Industrial Districts are: fences, trash containers, and recycling containers.

2) Development standards for accessory uses, buildings, or structures in all Industrial Districts.

(a) Accessory uses, buildings, or structures shall comply with all development standards of the applicable district unless an exception is specifically provided for in this section.

(b) Accessory uses, buildings, or structures shall not encroach upon any platted easements unless specifically authorized by the terms of the easement or by written consent of the agency in whose favor the easement is granted.

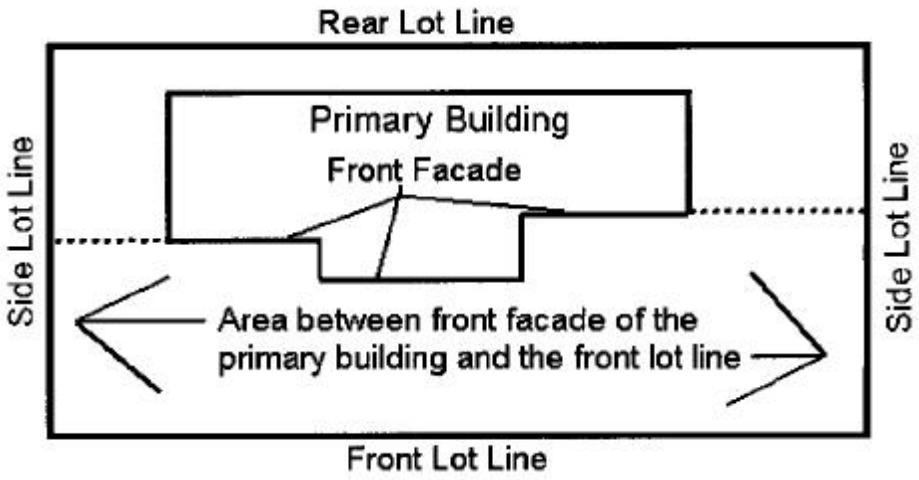
3) **Additional development standards for accessory uses, buildings, or structures in any Industrial District.** Accessory uses, buildings, or structures permitted in any Industrial District shall also comply with the following additional development standards:

(a) **Residential uses.** Accessory uses, buildings, or structures provided for any legally established residential uses located in any Industrial District shall comply with the provisions of § 152.083(C).

(b) Fences (including chain link, solid, architectural screen, lattice-work, or masonry).

1. Shall not exceed 6 feet in height above grade if located between the front façade of the primary building and the front lot line;
2. Shall not exceed 10 feet in height above grade in a required side yard or a required rear yard;
3. Shall not include any barbed, electric, razor, or other similar type of security wire when located between the front façade of the primary building and the front lot line; and
4. Shall comply with the clear sight area requirements of this chapter, § 152.020.

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(c) **Trash containers.** Trash containers exceeding 36 cubic feet shall:

1. Be screened on at least 3 sides by a building wall or a solid-walled enclosure, not less than 6 feet in height nor more than 10 feet in height above grade, equipped with an opaque screen gate, and any solid-walled portion of the enclosure shall be provided with foundation landscaping as specified in §§ 152.185 through 152.194;
2. Not be located between the front façade of the primary building and the front lot line; and
3. Not be located in any minimum front yard, minimum side yard, minimum rear yard, minimum front residential bufferyard, minimum side residential bufferyard or minimum rear residential bufferyard, unless specifically listed as an authorized use of minimum yards in the applicable district.

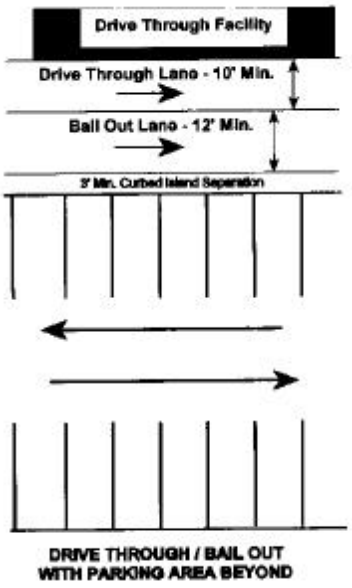
(d) **Signs.** Shall comply with the regulations of §§ 152.230 through 152.236.

(e) **Parking areas.** Shall comply with the regulations of §§ 152.250 through 152.258.

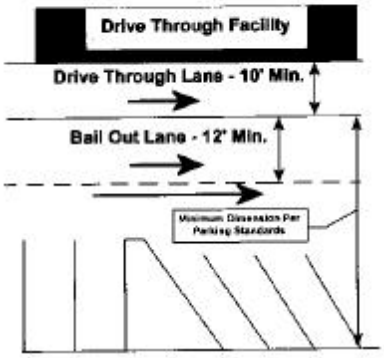
(f) **Loading areas.** Shall comply with the regulations of §§ 152.270 through 152.277.

(g) **Drive-through facilities.** Shall be so designed that:

1. Drive-through lanes do not conflict with the safe and efficient flow of traffic into and out of required parking spaces or loading spaces;
2. Drive-through lanes have a “bail out” capability for all vehicles which have entered the drive-through lane;



DRIVE THROUGH / BAIL OUT WITH PARKING AREA BEYOND



COMBINED DRIVE THROUGH, BAIL OUT & PARKING

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3. The minimum drive-through facility standards include:
   a. A drive-through lane with a minimum width of 10 feet measured from the furthest point of projection of a drive-through facility from the building or structure; and
   b. A “bail out” lane with a minimum width of 12 feet measured from and running parallel to the full length of the drive-through lane.
4. If a “bail out” lane also serves as an interior access drive providing access to parking spaces, the “bail out” lane/interior access drive shall be limited to a 1-way traffic pattern following the direction of the drive-through lane;
5. If a parking area is developed beyond the “bail out” lane, the parking area shall be separated from the “bail out” lane by a curbed island having a minimum width of 3 feet;
6. Provide at least 5 waiting spaces including the first occurrence of any ordering, pick-up or service facility; and
7. Provide sufficient room for at least 1 waiting space after exiting the last pick-up or service facility.

(h) **Gasoline dispensers and pump island canopies.** Gasoline dispensers and pump island canopies shall:

1. Not be located within any minimum front yard, side yard, rear yard, front residential bufferyard, side residential bufferyard or rear residential bufferyard unless specifically authorized in the “Use of Minimum Yards and Residential Bufferyards” division of the applicable district; and
2. Shall be provided with adequate on-site maneuverability so as to avoid any interference with through traffic on any public right-of-way.

Section 4.07 TEMPORARY USES, BUILDINGS, AND STRUCTURES

A. RESIDENTIAL DISTRICT STANDARDS

1) **Permits required.** A temporary use, building, or structure which is in compliance with the provisions of this section shall be allowed in any Residential District. A temporary use, structure, or building which will be converted into a permanent primary or accessory use after the cessation of the temporary use shall be required to obtain an improvement location permit prior to the establishment of the use or the construction of any structure or building. A temporary use, structure, or building which will be removed from the site upon cessation of the temporary use shall comply with the regulations contained in this section, and shall obtain an improvement location permit.

2) **Permitted temporary uses, buildings and structures.** Temporary uses, buildings, or structures shall be permitted in any Residential District as follows.

   (a) Permitted temporary uses. Including but not limited to: construction trailers; sales offices in portions of model homes; temporary signs (see §§ 152.230 through 152.236 for additional regulations); and garage sales (see division (G) below for additional regulations).

   (b) Special exception temporary uses. Including but not limited to: sales office (freestanding); and temporary living quarters.

3) **Duration.** Except as specifically provided otherwise in §§ 152.083 through 152.090, a temporary use, building, or structure shall be permitted for a period not to exceed 1 year. Except as specifically provided otherwise in §§ 152.083 through 152.090, the improvement location permit, if required, may be renewed 1 or more times by the Zoning Administrator, for good cause shown, for an additional period(s) not to exceed a total of 3 years beyond the original expiration date.

4) **Compliance with development standards.** Any temporary use, building, or structure shall comply with all applicable development standards and setback requirements in the district in which the temporary use, building, or structure is located.

5) **Additional development standards for temporary construction trailers or sales offices.**

   (a) Under-skirting shall be installed around the entire perimeter of the building or structure;

   (b) In the case of a new subdivision, shall be located on an approved lot, as shown on the primary plat;

   (c) In the case of a single lot development, shall be located on the lot in compliance with all minimum yard and setback requirements;

   (d) In the case of a redevelopment project, shall be located on the lot, plot, tract, or parcel of the redevelopment project in compliance with all minimum yard and setback requirements; and

   (e) Shall serve only lots or dwelling units within the primary plat, single lot development, or redevelopment project.

6) **Cessation of use.** All buildings, structures, or debris associated with the temporary use shall be removed from the site immediately upon completion or cessation of the temporary use or expiration of the time period set forth above.

7) **Regulations for garage sales/yard sales.** Notwithstanding any regulations above to the contrary, a garage sale may be conducted on a premises which includes a dwelling unit subject to the following regulations:

   (a) A garage sale/yard sale may be conducted 5 times each calendar year per lot and shall not exceed 5 consecutive days in duration;

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(b) A garage sale/yard sale shall only be conducted during the hours from sunrise to sunset;

(c) All personal property exhibited outdoors during a garage sale/yard sale shall be placed within a building or structure or otherwise removed from the premises immediately following the end of the garage sale;

(d) Garage sale signs shall comply with the applicable provisions of § 152.231(L);

(e) Nothing in this section shall be construed to prohibit 1 or more owners or occupants from conducting a combined garage sale on 1 of the lots owned or occupied by the participants, provided that all other provisions of this section are complied with;

(f) A garage sale/yard sale or garage sale sign shall be exempt from the requirement of this chapter to obtain an improvement location permit for a temporary use; and

(g) Personal property exhibited outdoors during a garage sale/yard sale may be located in a minimum front yard, minimum side yard, or minimum rear yard; provided, however, the personal property shall not be located in any public right-of-way.

8) **Mobile classrooms.** Mobile classrooms shall only be permitted as a temporary use in compliance with the following requirements:

(a) Mobile classrooms shall be for use by a religious use or any public or parochial school; and

(b) Mobile classrooms may be permitted for a period not to exceed 5 years from the date of issuance of an improvement location permit.

B. COMMERCIAL DISTRICT STANDARDS

1) **Permits required**. A temporary use, building, or structure which is in compliance with the provisions of this section, shall be allowed on a lot or out lot in any Commercial/Town Center District. A temporary use, structure, or building which will be converted into a permanent primary or accessory use after the cessation of the temporary use shall be required to obtain an improvement location permit prior the establishment of the use or the construction of any structure or building. A temporary use, structure, or building which will be removed from the site upon cessation of the temporary use shall comply with the regulations contained in this section, and shall obtain an improvement location permit.

2) **Permitted temporary uses, buildings, and structures.** By way of example only, permitted temporary uses, buildings, and structures include: construction trailers, sales offices, mobile offices, and temporary seasonal retail sales.

3) **Duration.** Except as specifically provided otherwise in this section, a temporary use, building, or structure shall be permitted for a period not to exceed 1 year. Except as specifically provided otherwise in this section, the improvement location permit, if required, may be renewed 1 or more times by the Zoning Administrator, for good cause shown, for an additional period(s) not to exceed a total of 3 years beyond the original expiration date.

4) **Compliance with development standards.** Any temporary use, building, or structure shall comply with all applicable development standards and setback requirements in the district in which the temporary use, building, or structure is located. Temporary construction trailers, temporary freestanding sales offices, and other temporary uses which shall not be converted into a permanent primary or accessory use, shall be exempt from the requirement to provide a hard surfaced parking area.

5) **Cessation of use.** All buildings, structures, or debris associated with the temporary use shall be removed from the site immediately upon completion or cessation of the temporary use or expiration of the time period set forth above.

6) **Additional regulations for temporary seasonal retail sales uses.** Any temporary seasonal retail sales use, structure, or building shall also comply with the following regulations:

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(a) The use or structure shall comply with all setback requirements applicable to off-street parking spaces on the site;

(b) A minimum of 3 off-street parking spaces shall be provided on-site for the temporary seasonal retail sales use;

(c) The location of the temporary seasonal retail sales use and its required amount of parking spaces shall not interfere with any required parking spaces or safe and efficient flow of vehicular and pedestrian traffic around the parking area for the permanent primary use of the site;

(d) Signs for the temporary seasonal retail sales shall comply with the provisions of §§ 152.230 through 152.236 regarding temporary signs; and

(e) Notwithstanding the provisions above to the contrary, seasonal retail sales uses shall not exceed 45 consecutive days per occurrence nor a total of 120 days during any calendar year.

C. INDUSTRIAL DISTRICT STANDARDS

1) **Permits required.** A temporary use, building, or structure which is in compliance with the provisions of this section, shall be allowed on a lot or out lot in any Industrial District. A temporary use, structure, or building which will be converted into a permanent primary or accessory use after the cessation of the temporary use shall be required to obtain an improvement location permit prior the establishment of the use or the construction of any structure or building. A temporary use, structure, or building which will be removed from the site upon cessation of the temporary use shall comply with the regulations contained in this section, and shall obtain an improvement location permit.

2) **Permitted temporary uses, buildings, and structures.** By way of example only, permitted temporary uses, buildings, and structures include construction trailers and leasing offices.

3) **Duration.** Except as specifically provided otherwise in this section, a temporary use, building, or structure shall be permitted for a period not to exceed 1 year. Except as specifically provided otherwise in this section, the improvement location permit, if required, may be renewed 1 or more times by the Zoning Administrator, for good cause shown, for an additional period(s) not to exceed a total of 3 years beyond the original expiration date.

4) **Compliance with development standards.** Any temporary use, building, or structure shall comply with all applicable development standards and setback requirements in the district in which the temporary use, building, or structure is located. Temporary construction trailers, freestanding leasing offices, and other temporary uses which shall not be converted into a permanent primary or accessory use, shall be exempt from the requirement to provide a hard surfaced parking area.

5) **Cessation of use.** All buildings, structures, or debris associated with the temporary use shall be removed from the site immediately upon completion or cessation of the temporary use or expiration of the time period set forth above.

Section 4.08 PERFORMANCE STANDARDS

All use in existence prior to the effective date of this chapter or established after the effective date of this chapter in any Residential District shall comply with the performance standards of the applicable municipal, state, or federal regulations pertaining to: vibration; smoke, dust, and particulate matter; noxious matter; odor; noise; heat; glare; or waste, and shall be subject to enforcement action by the applicable municipal, state, or federal agency responsible for monitoring and enforcing the regulations.

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Article 5 Buildings Standards

Section 5.01 Building Types by District

A. Newly constructed buildings within the Town shall conform to one of the following permitted building types and shall only be located in those zoning districts indicated by a “P” for “Permitted Building” in the corresponding row and column of Table 5.A.

Table 5.A - Building Types by Zoning District

Building Type	Zoning District								
	LR	TR	MR	LB	CB	TC	MU	LI	GI
Detached Residential	P	P							
Carriage House	P	P							
Garage	P	P							
Accessory Dwelling Unit	P	P	P						
Cottage			P						
Cottage Court			P						
Duplex		P	P						
Townhouse		P	P						
Small Apartment		P	P				P		
Large Apartment			P				P		
Commercial				P	P				
Mixed Use				P	P		P		
Maker Space A				P	P	P	P		
Maker Space B				P	P	P	P		
Maker Space C				P	P	P	P		
Office/Research				P	P	P		P	P
Hotel/Senior Housing		P	P	P	P		P		

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Section 5.02 Building Type Standards

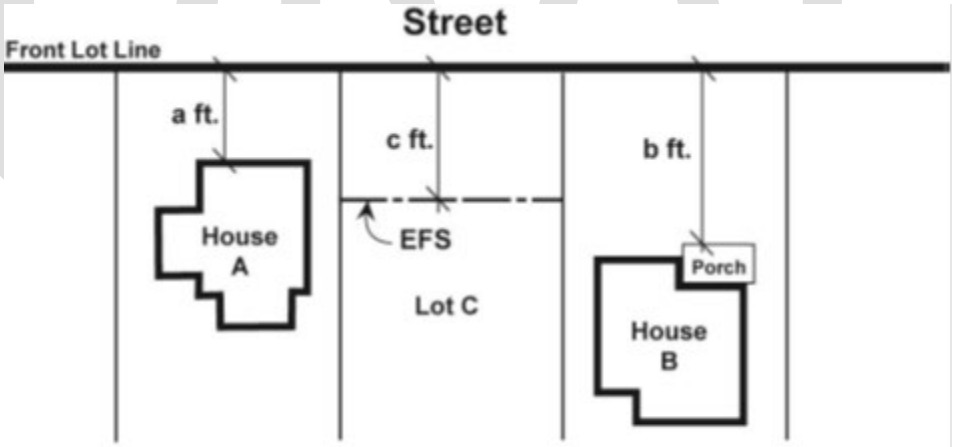
A. Established Front Yard Distance (EFY)

When a building is required to use the established front yard distance to determine the required front yard setback the following method shall be used.

The established front yard (EFY) setback line for a lot shall be the average of the front setbacks of adjacent principal building on each side of the subject lot, provided that the adjacent principal buildings are within 100 feet of the side lot lines of the subject lot. The adjacent principal buildings shall be on the same side of the street and in the same zoning district as the subject lot. See Figure X.xx.

The following procedures shall be used in determining the EFY:

1. On the exterior face of the principal building on each adjacent lot fronting on the same street, measure the distance from the point on the building that is closest to the front lot line. Balconies, porches and decks with surfaces (excluding railings) raised more than 8 inches above the surrounding grade, shall be included when determining the EFY.
2. Any structure 8 inches or less above grade shall be disregarded when determining the EFY.
3. For adjacent lots that are vacant or the adjacent principal building is greater than 100 feet from the side lot line, a minimum required twenty (20) foot front yard shall be used for that lot in calculating the EFY.



4. For corner lots, a minimum required twenty (20) foot front yard shall be used in the EFY calculations as the adjacent setback figure for the side of the lot that adjoins a street.

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B. Detached Residential



The Detached Residential building is a freestanding dwelling unit on a single lot. It is the predominant residential housing type in New Carlisle.

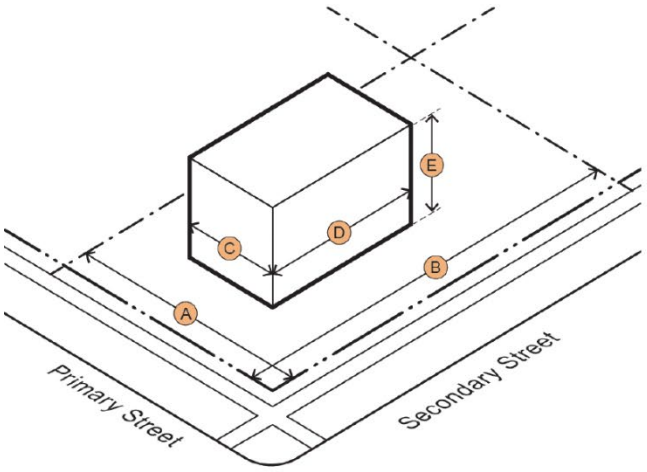
ILLUSTRATIVE EXAMPLES

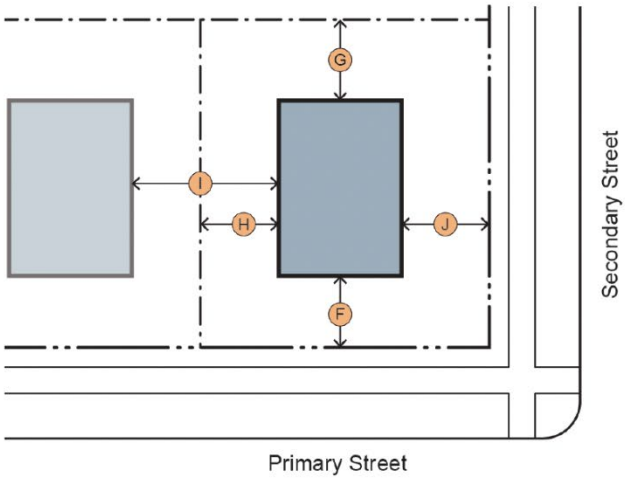


Ross Chapin "Erin"



Ross Chapin "Karina"



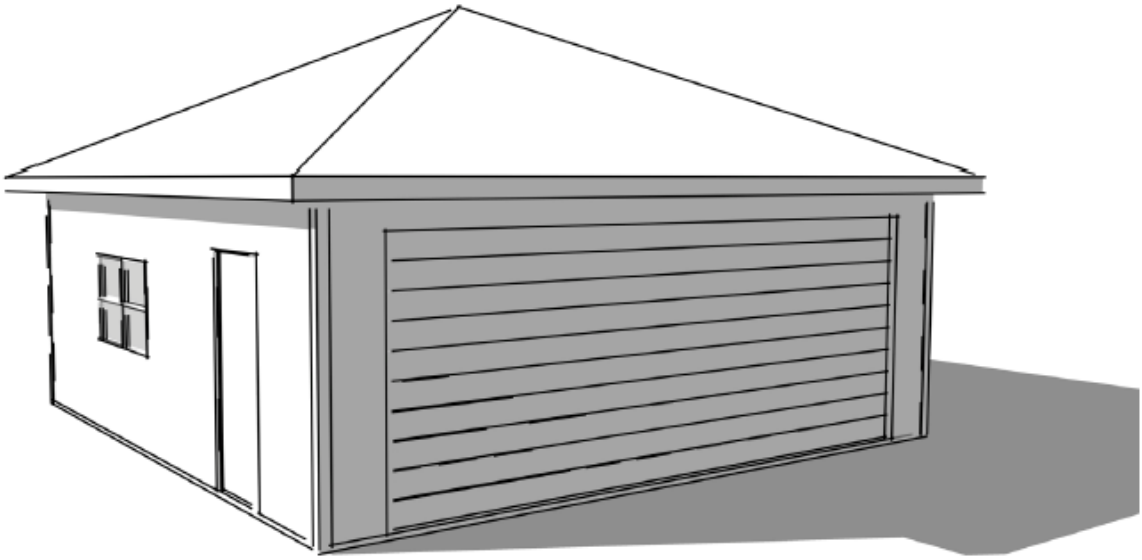


BUILDING TYPE STANDARDS		*≤ is "Less than or equal to" ≥ is "Greater than or equal to"*	
Lot Dimensions			
A	Lot Width	A ≥ 50 ft	
B	Lot Depth	Variable – see below	
Building Dimensions			
C	Building Width	22 ft ≤ C ≤ 48 ft	
D	Building Depth	When B < 130 ft.	30 ft ≤ D ≤ 50 ft
		When 130 ft ≤ B < 160 ft	30 ft ≤ D ≤ 55 ft
		When B ≥ 160 ft	30 ft ≤ D ≤ 60 ft
E	Building Height	E ≤ 34 ft and E ≤ 2.5 stories	
Building Placement			
F	Front	*Calculate EFY based on the standard in Sec. 5.x.*	
		When EFY < 20 ft	F = EFY
		When EFY ≥ 20 ft	F = 20 ft
G	Rear	G ≥ 10 ft	
H	Side *abutting existing residential lot*	H ≥ 4 ft	Each residential structure must have a minimum side setback H of 4 ft from the adjacent lot line, AND the total separation between adjacent residential structures I must be minimum 10 ft.
I		I ≥ 10 ft	
J	Side *abutting R.O.W.*	J = 10 ft	

ALLOWABLE USES	
Residential	1st - 2nd Floors

ALLOWABLE DISTRICTS
LR, TR

C. Garage



The Garage is an accessory structure that is designed to accommodate vehicle storage. It may also be used for personal storage and workshop purposes. The garage building type has no other residential or office accessory uses designed into the building.

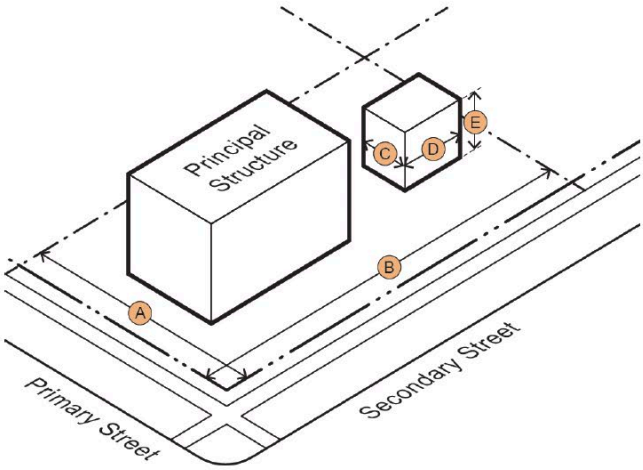
ILLUSTRATIVE EXAMPLES

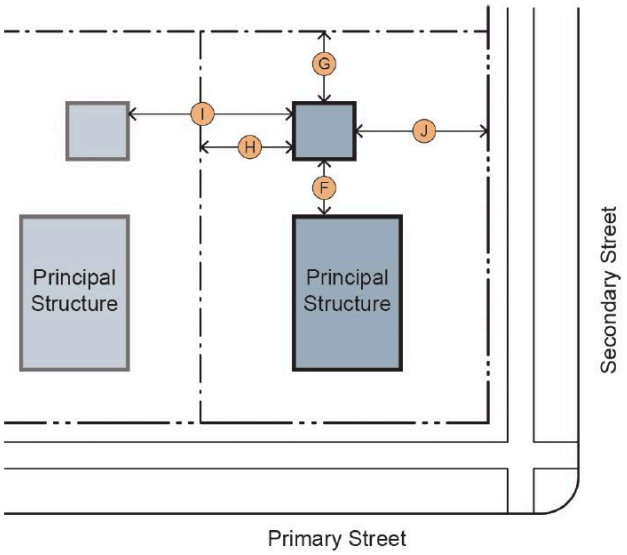


Ross Chapin "Dine's Point Garage"



Ross Chapin "Tomcat Garage"





DRAFT

BUILDING TYPE STANDARDS		*≤ is "Less than or equal to" ≥ is "Greater than or equal to"*
Lot Dimensions		
A	Lot Width	A ≥ 30 ft
B	Lot Depth	B ≥ 100 ft
Building Dimensions		
C	Building Width	C ≤ 36 ft
D	Building Depth	D ≤ 24 ft
E	Building Height	E ≤ 14 ft and E ≤ 1 story
Building Placement		
F	Separation from Principal Structure	F ≥ 10 ft
G	Rear	G ≥ 5 ft
H	Side *abutting existing residential lot*	H ≥ 3 ft
I	Side *abutting R.O.W.*	I = 10 ft

ALLOWABLE USES	
Vehicular Storage and Workshop	1st - 2nd Floors

ALLOWABLE DISTRICTS
LR, TR, MR

D. Carriage House



The Carriage House is an accessory dwelling unit that provides opportunities for affordable housing in walkable neighborhoods. It is typically designed as a small residential unit located above a garage. Structures are typically located at the rear of the lot.

ILLUSTRATIVE EXAMPLES

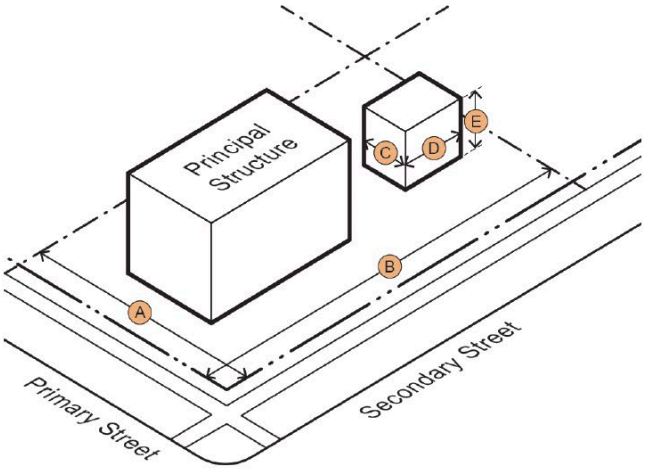


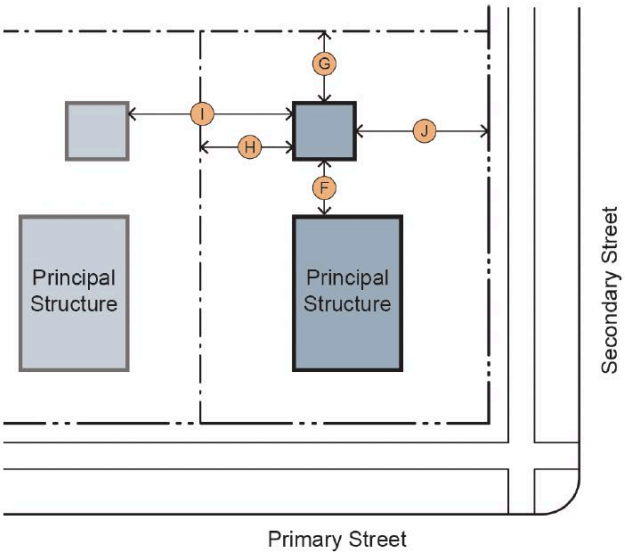
Ross Chapin "Justenuf"



Zionsville, IN

DRAFT





BUILDING TYPE STANDARDS		*≤ is "Less than or equal to" ≥ is "Greater than or equal to"*	
Lot Dimensions			
A	Lot Width	A ≥ 35 ft	
B	Lot Depth	B ≥ 100 ft	
Building Dimensions			
C	Building Width	C ≤ 36 ft	
D	Building Depth	D ≤ 24 ft	
E	Building Height	E ≤ 24 ft and E ≤ 2 stories	
Building Placement			
F	Separation from Principal Structure	F ≥ 10 ft	
G	Rear	G ≥ 5 ft	
H	Side *abutting existing residential lot*	H ≥ 4 ft	Carriage House must be set back a minimum of 4 ft from the adjacent lot line H, AND the total separation between structures on adjacent lots I must be minimum 12 ft.
I		I ≥ 10 ft	
J	Side *abutting R.O.W.*	J = 10 ft	

ALLOWABLE USES		ALLOWABLE DISTRICTS
Vehicular Storage or Workshop	1st Floor	LR, TR
Residential	2nd Floor	

DRAFT

E. Accessory Dwelling Unit (ADU)



The Accessory Dwelling Unit (ADU) is a small accessory dwelling unit that is used for residential purposes. It is typically located at the rear of the principal dwelling unit on the lot. The ADU does not contain any vehicular storage space.

ILLUSTRATIVE EXAMPLES

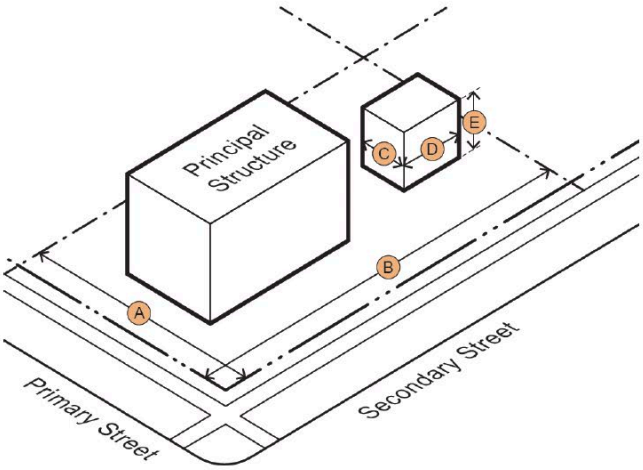


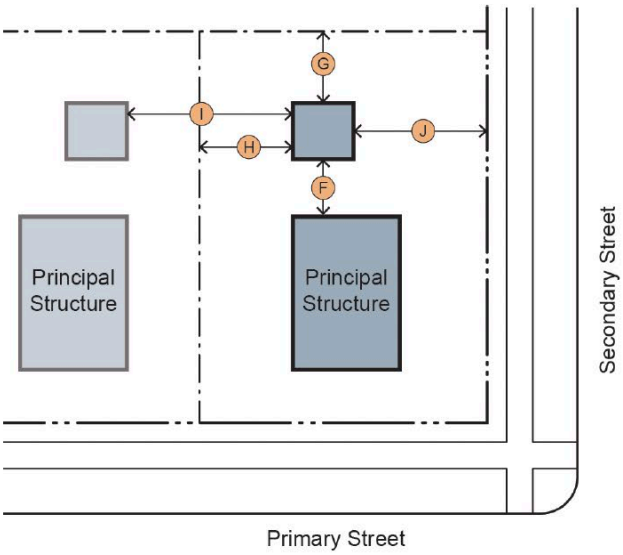
Ross Chapin "Blue Sky Cabin"



Ross Chapin "Backyard Cottage"

DRAFT





BUILDING TYPE STANDARDS			*≤ is "Less than or equal to" ≥ is "Greater than or equal to"*
Lot Dimensions			
A	Lot Width	A ≥ 35 ft	
B	Lot Depth	B ≥ 100 ft	
Building Dimensions			
C	Building Width	C ≤ 24 ft	
D	Building Depth	D ≤ 36 ft	
E	Building Height	E ≤ 24 ft and E ≤ 2 stories	
Building Placement			
F	Separation from Principal Structure	F ≥ 10 ft	
G	Rear	G ≥ 5 ft	
H	Side *abutting existing residential lot*	H ≥ 4 ft	ADU must be set back a minimum of 4 ft from the adjacent lot line H, AND the total separation between structures on adjacent lots I must be minimum 10 ft.
I		I ≥ 10 ft	
J	Side *abutting R.O.W.*	J = 10 ft	

ALLOWABLE USES	
Residential	1st - 2nd Floors

ALLOWABLE DISTRICTS
LR, TR, MR

DRAFT

F. Cottage

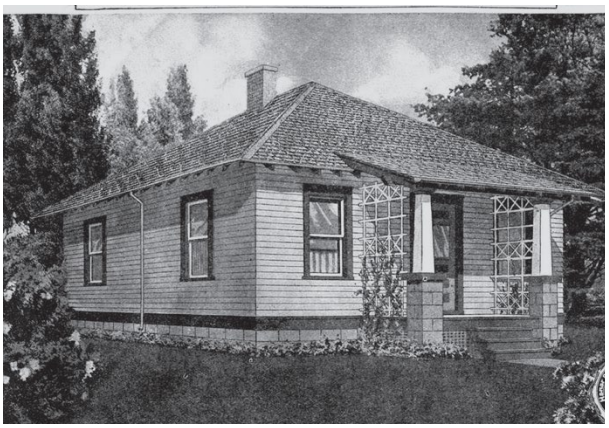


The Cottage is a small, freestanding single dwelling unit on a single lot. It is designed for small and/or irregularly configured individual parcels in existing residential neighborhoods. Due to its size, it is governed by requirements separate from the Detached Residential building.

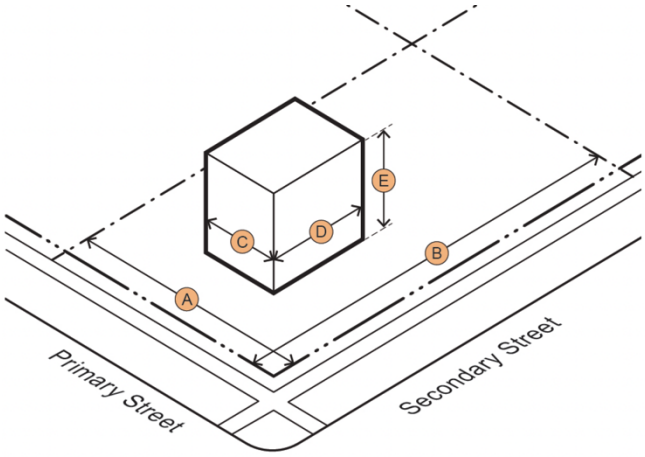
ILLUSTRATIVE EXAMPLES

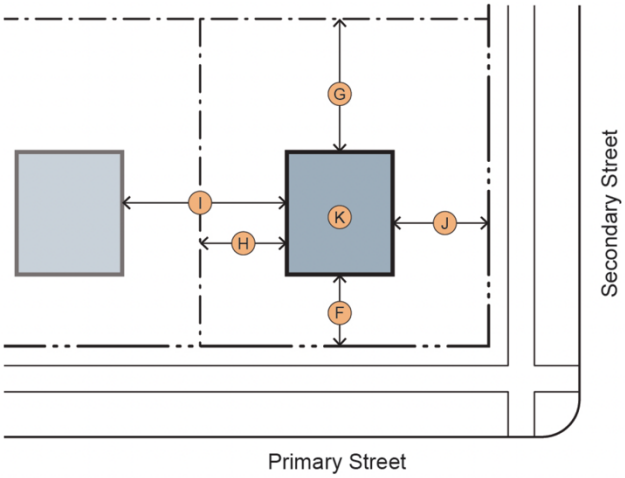


Sears Craftsman "Fairy" model, 1920s



Sears Craftsman "Rosita" model, 1920s





BUILDING TYPE STANDARDS		*≤ is "Less than or equal to" ≥ is "Greater than or equal to"*	
Lot Dimensions			
A	Lot Width	A ≤ 50 ft – for lots greater than 50 ft wide, refer to Detached Residential Building Type	
B	Lot Depth	B ≤ 115 ft	
Building Dimensions			
C	Building Width	C ≤ 26 ft	
D	Building Depth	D ≤ 50 ft	
E	Building Height	E ≤ 26 ft and E ≤ 2 stories	
Building Placement			
F	Front	*Calculate EFY based on the standard in Sec. 17.05.080.*	
		When EFY < 20 ft	F = EFY
		When EFY ≥ 20 ft	F = 20 ft
G	Rear	G ≥ 10 ft	
H	Side *abutting existing residential lot*	H ≥ 4 ft	Each residential structure must have a minimum side setback H of 4 ft from the adjacent lot line, AND the total separation between adjacent residential structures I must be minimum 10 ft.
I		I ≥ 10 ft	
J	Side *abutting R.O.W.*	J = 10 ft	
K	Building Footprint	K ≥ 625 sq ft	

ALLOWABLE USES		ALLOWABLE DISTRICTS
Residential	1st - 2nd Floors	MR

G. Cottage Court



The Cottage Court is a group of small, detached dwelling units arranged to define a shared courtyard oriented perpendicular to the street of address. The courtyard is partially of wholly open to the street.

ILLUSTRATIVE EXAMPLES



Greenwood Avenue Cottages, Shoreline, WA



Danielson Grove, Kirkland, WA

BUILDING TYPE STANDARDS			*≤ is "Less than or equal to" ≥ is "Greater than or equal to"*
Lot Dimensions			
A	Lot Width	100 ft ≤ A ≤ 120 ft	
B	Lot Depth	B ≥ 115 ft	
Building Dimensions			
C	Building Width	C ≤ 32 ft	
D	Building Depth	D ≤ 32 ft	
E	Building Height	E ≤ 26 ft and E ≤ 2 stories	
Building Placement			
F	Front	5 ft ≤ F ≤ 15 ft	
G	Rear	G ≥ 5 ft	
H	Side *abutting existing residential lot*	H ≥ 4 ft	Each residential structure must have a minimum side setback H of 4 ft from the adjacent lot line, AND the total separation between adjacent residential structures I must be minimum 10 ft. Note: If the adjacent lot is used for parking, then H ≥ 0 ft.
I		I ≥ 10 ft	
J	Side *abutting R.O.W.*	J = 7 ft	
K	Separation Between Buildings	5 ft ≤ K ≤ 15 ft	
L	Width of Courtyard	20 ft ≤ L ≤ 30 ft	
M	Depth of Courtyard	M ≥ 55 ft	

ALLOWABLE USES	
Residential	1st - 2nd Floors

ALLOWABLE DISTRICTS
MR

H. Duplex

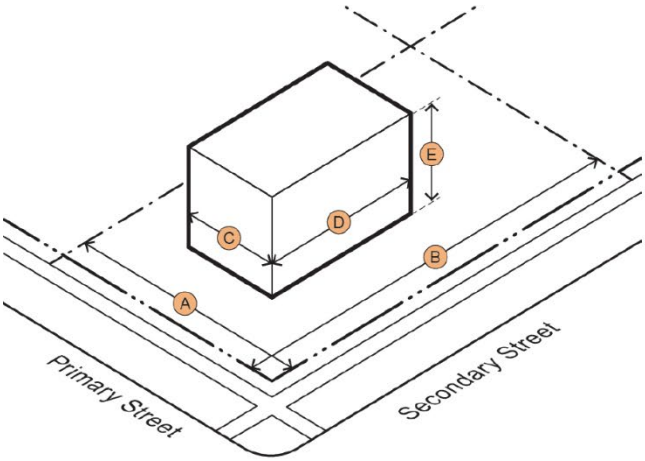


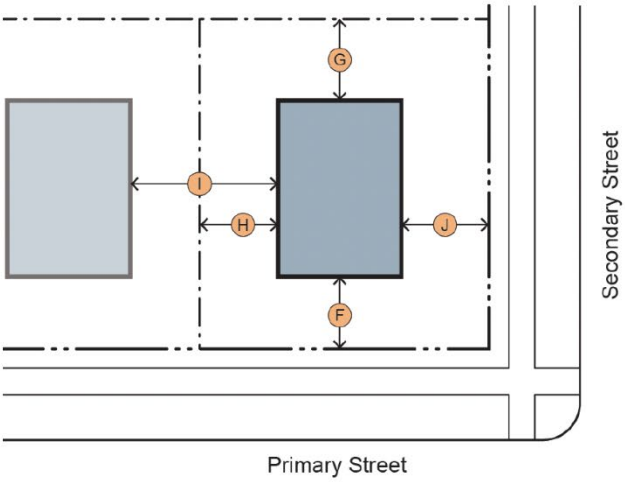
The Duplex is a residential structure with two attached dwelling units contained in one building. Both units face the street of address. The building appears similar to a medium-sized Detached Residential structure.

ILLUSTRATIVE EXAMPLES









BUILDING TYPE STANDARDS		≤ is "Less than or equal to" ≥ is "Greater than or equal to"	
Lot Dimensions			
A	Lot Width	A ≥ 50 ft	
B	Lot Depth	Variable – see below	
Building Dimensions			
C	Building Width	C ≤ 48 ft	
D	Building Depth	When B < 130 ft	3 0 ft ≤ D ≤ 50 ft
		When 130 ft ≤ B < 160 ft	30 ft ≤ D ≤ 55 ft
		When B ≥ 160 ft	30 ft ≤ D ≤ 60 ft
E	Building Height	**E** ≤ 34 ft and **E** ≤ 2.5 stories	
Building Placement			
F	Front	*Calculate EFY based on the standard in Sec. 17.05.080.*	
		When EFY < 20 ft	F = EFY
		When EFY ≥ 20 ft	F = 20 ft
G	Rear	G ≥ 10 ft	
H	Side *abutting existing residential lot*	H ≥ 4 ft	Each residential structure must have a minimum side setback H of 4 ft from the adjacent lot line, AND the total separation between adjacent residential structures I must be minimum 10 ft.
I		I ≥ 10 ft	
J	Side *abutting R.O.W.*	J = 10 ft	

ALLOWABLE USES		ALLOWABLE DISTRICTS
Residential	1st - 2nd Floors	TR, MR

I. Townhouse

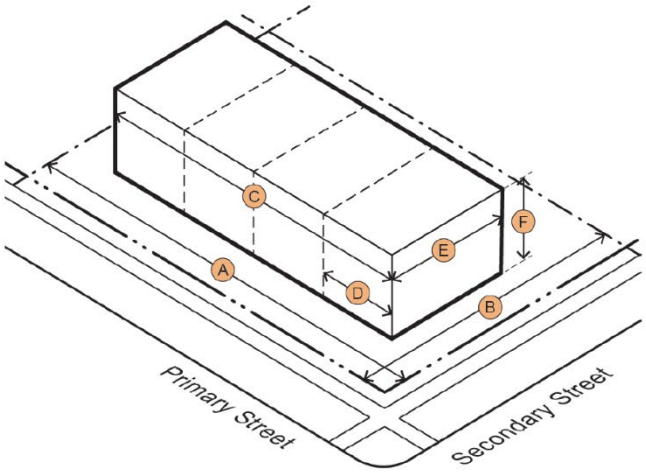


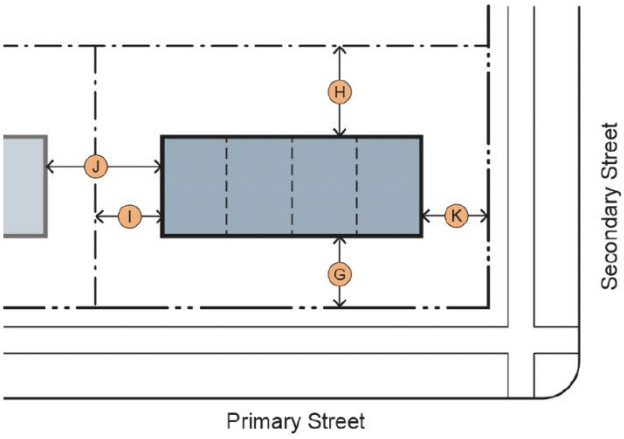
The Townhouse is an attached housing type, wherein a series of 3-8 dwelling units are placed side-by-side, sharing party walls. Each unit has an entrance along the street of address. Garages are accessed from the rear, and may be detached, attached, or tucked under the main living floor.

ILLUSTRATIVE EXAMPLES



Eddy Street Commons, South Bend, IN





BUILDING TYPE STANDARDS			*≤ is "Less than or equal to" ≥ is "Greater than or equal to"*
Lot Dimensions			
A	Lot Width	80 ft ≤ A ≤ 170 ft	
B	Lot Depth	B ≥ 90 ft	
Building Dimensions			
C	Building Width	3 units ≤ C ≤ 8 units	
D	Unit Width	15 ft ≤ D ≤ 22 ft	
E	Building Depth	45 ft ≤ E ≤ 55 ft	
F	Building Height	F ≤ 34 ft and F ≤ 3 stories	
Building Placement			
G	Front	*Calculate EFY based on the standard in Sec. 17.05.080.*	
		When EFY < 20 ft	F = EFY
		When EFY ≥ 20 ft	F = 20 ft
H	Rear	H ≥ 5 ft	
I	Side *abutting existing residential lot*	I ≥ 4 ft	Each residential structure must have a minimum side setback **H** of 4 ft from the adjacent lot line, AND the total separation between adjacent residential structures I must be minimum 10 ft.
J		J ≥ 10 ft	
K	Side *abutting R.O.W.*	K ≥ 10 ft	

ALLOWABLE USES		ALLOWABLE DISTRICTS
Residential	1st - 2nd Floors	TR, MR, MU

J.Small Apartment



DRAFT

The Small Apartment building is intended for at least three residential units in a stacked or side-by-side configuration. These buildings share common entrances. They are appropriate for the contexts of medium-density neighborhoods and transitional areas along mixed-use and commercial corridors.

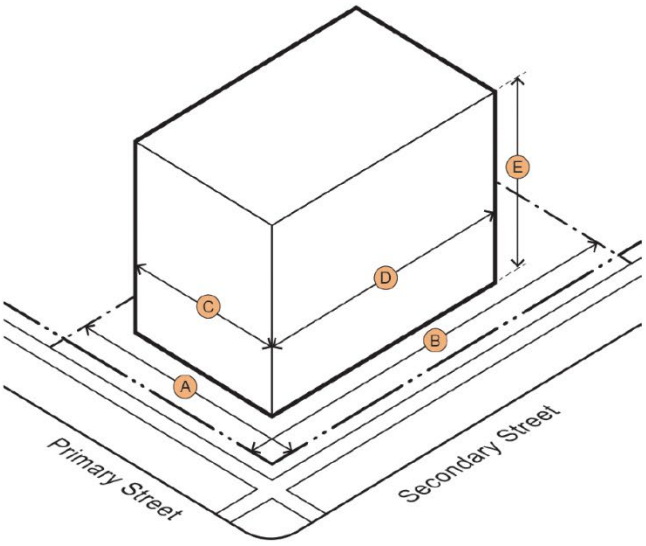
ILLUSTRATIVE EXAMPLES

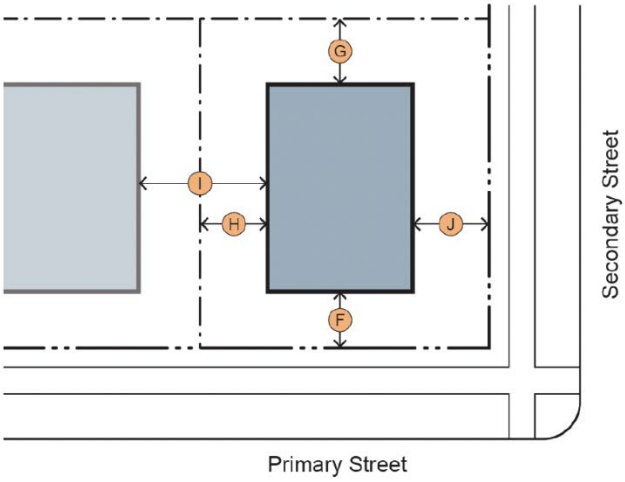


Ferndale, MI: Breckenridge Avenue at Planavon



Dearborn, MI: Porter Street at Oakwood Boulevard





BUILDING TYPE STANDARDS		≤ is "Less than or equal to" ≥ is "Greater than or equal to"	
Lot Dimensions			
A	Lot Width	50 ft ≤ A ≤ 80 ft	
B	Lot Depth	n/a	
Building Dimensions			
C	Building Width	C ≤ 50 ft	
D	Building Depth	D ≤ 140 ft	
E	Building Height	E ≤ 34 ft and E ≤ 3 stories	
Building Placement			
F	Front	*Calculate EFY based on the standard in Sec. 17.05.080.*	
		When EFY < 20 ft	F = EFY
		When EFY ≥ 20 ft	F = 10 ft
G	Rear	G ≥ 0' along rear alley; otherwise, G ≥ 5 ft	
H	Side *abutting like building*	7 ft ≤ H ≤ 12 ft	
I	Side abutting residential lot	I ≥ 10 ft	
J	Side *abutting R.O.W.*	J ≤ 10 ft	

ALLOWABLE USES		ALLOWABLE DISTRICTS
Boarding & Rooming, Dwelling, multifamily, Group Home	1st – 3rd Floors	TR, MR

DRAFT

K. Large Apartment



The Large Apartment building is intended for at least ten residential units in a stacked or side-by-side configuration. These buildings share common entrances. They are appropriate for the contexts of medium-density neighborhoods and transitional areas along mixed-use and commercial corridors.

ILLUSTRATIVE EXAMPLES

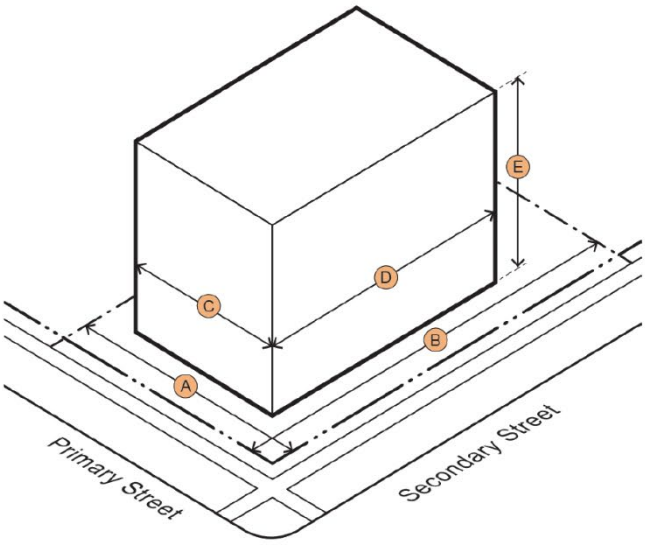


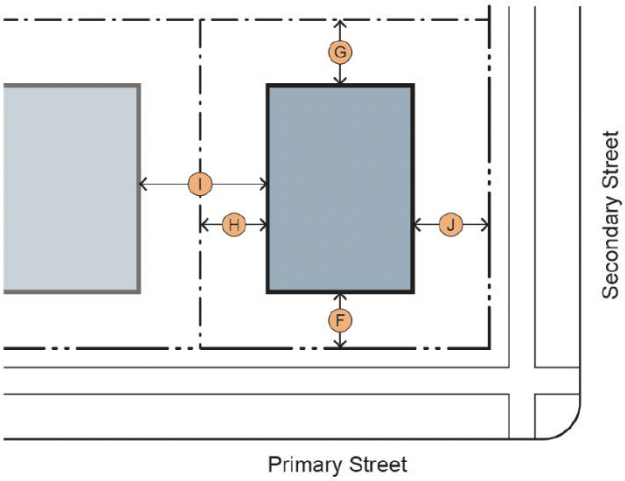
Eddy Street Commons, South Bend, IN



Village Park Apartments, Detroit, MI

DRAFT



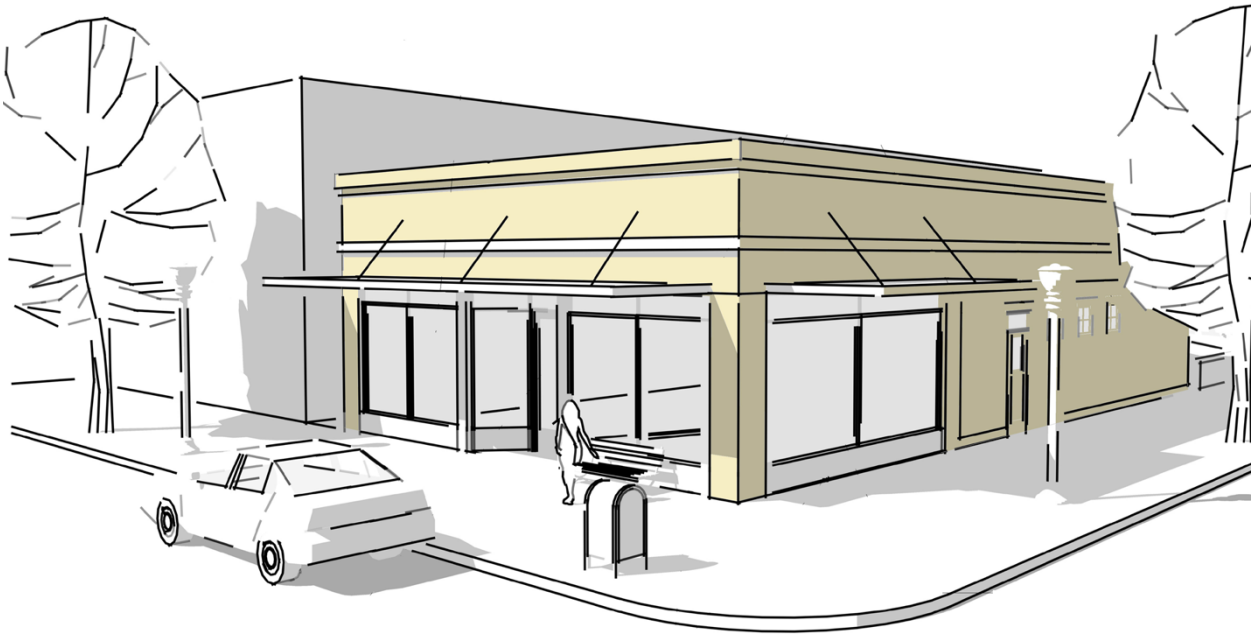


BUILDING TYPE STANDARDS		*≤ is "Less than or equal to" ≥ is "Greater than or equal to"*
Lot Dimensions		
A	Lot Width	A ≥ 60 ft
B	Lot Depth	n/a
Building Dimensions		
C	Building Width	50 ft ≤ C ≤ 120 ft
D	Building Depth	n/a
E	Building Height	E ≤ 70 ft and E ≤ 6.5 stories
Building Placement		
F	Front	*Calculate EFY based on the standard in Sec. 17.05.080.*
		When EFY < 20 ft — F = EFY
		When EFY ≥ 20 ft — F = 10 ft
G	Rear	G ≥ 0 ft along rear alley; otherwise, G ≥ 5 ft
H	Side *abutting like building*	7 ft ≤ H ≤ 12 ft
H	Side *abutting commercial building*	I ≥ 10 ft
J	Side *abutting R.O.W.*	0 ft ≤ J ≤ 5 ft

ALLOWABLE USES		ALLOWABLE DISTRICTS
Dwelling, multifamily, Group Home	1st – 6th Floors	MR

DRAFT

L. Commercial



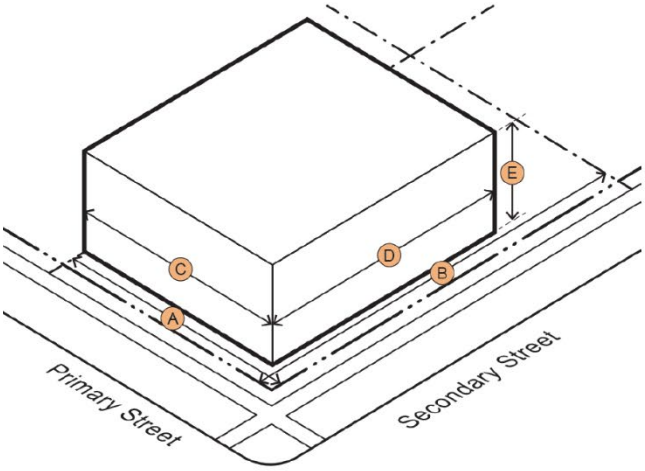
A Commercial building is a structure intended for provision of goods and/or services to the public. This building has a storefront frontage which includes display windows and a primary entrance at-grade. This building is appropriate in contexts ranging from neighborhood to downtown and is essential to cultivating walkability.

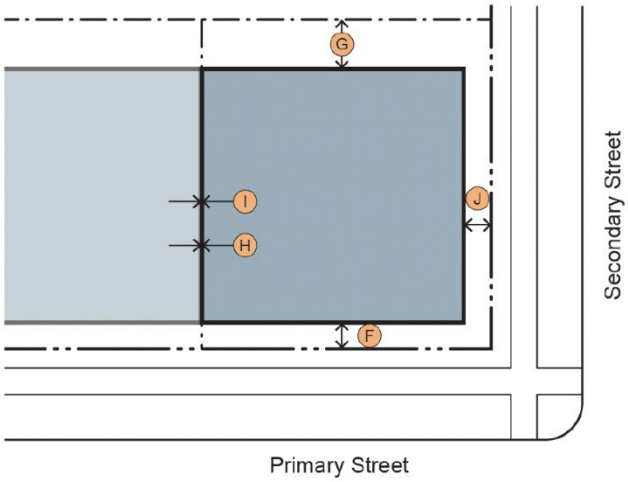
DRAFT

ILLUSTRATIVE EXAMPLES



Ferndale, MI: Marshall Street at LaPrairie





BUILDING TYPE STANDARDS		*≤ is "Less than or equal to" ≥ is "Greater than or equal to"*
Lot Dimensions		
A	Lot Width	A ≥ 40 ft
B	Lot Depth	B ≥ 30 ft
Building Dimensions		
C	Building Width	20 ft ≤ C ≤ 165 ft
D	Building Depth	30 ft ≤ D ≤ 120 ft
E	Building Height	E ≤ 20 ft and E ≤ 1 story
Building Placement		
F	Front	Build to Right-of-Way line – 0 ft
G	Rear	G ≥ 0 ft
H	Side *abutting existing residential lot*	H ≥ 0 ft
I	*Side* *abutting like building*	0 ft ≤ I ≤ 5 ft
J	Side *abutting R.O.W.*	Build to Right-of-Way line – 0 ft

ALLOWABLE USES	
Residential	1st – 3rd Floors
Office	1st Floor
Service	1st Floor
Food Service (all categories)	1st Floor

ALLOWABLE DISTRICTS
LB, CB

DRAFT

M. Mixed Use



A Mixed Use building is a structure intended for provision of goods and/or services to the public on the ground floor, and residential or office uses on upper floors. This building has a storefront frontage which includes display windows and a primary entrance at-grade. This building is appropriate in contexts ranging from neighborhood to downtown and is essential to cultivating walkability.

DRAFT

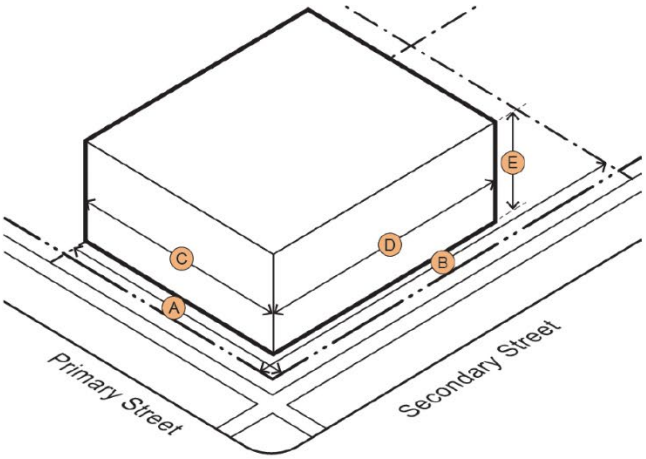
ILLUSTRATIVE EXAMPLES

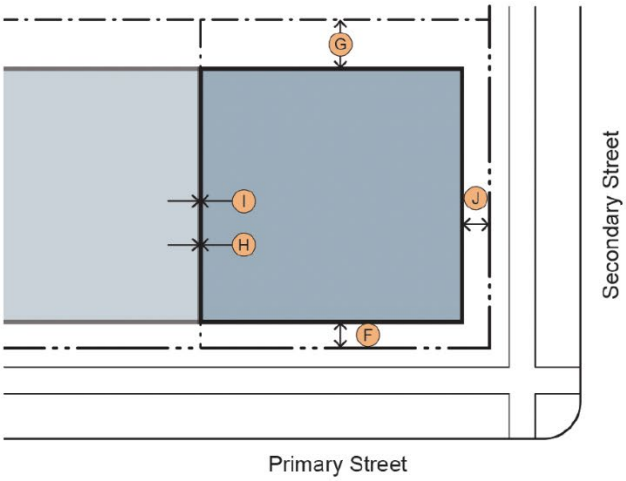


Ferndale, MI: Marshall Street at Allen



New Boston, MI





BUILDING TYPE STANDARDS		*≤ is "Less than or equal to" ≥ is "Greater than or equal to"*
Lot Dimensions		
A	Lot Width	A ≥ 40 ft
B	Lot Depth	B ≥ 30 ft
Building Dimensions		
C	Building Width	20 ft ≤ C ≤ 165 ft
D	Building Depth	30 ft ≤ D ≤ 120 ft
E	Building Height	E ≤ 39 ft and E ≤ 3 story
Building Placement		
F	Front	Build to Right-of-Way line – 0 ft
G	Rear	G ≥ 0 ft
H	Side *abutting existing residential lot*	H ≥ 0 ft
I	*Side* *abutting like building*	0 ft ≤ I ≤ 5 ft
J	Side *abutting R.O.W.*	Build to Right-of-Way line – 0 ft

ALLOWABLE USES	
Commercial	1st Floors
Office	1st – 2nd Floors
Residential	2nd – 3rd Floors

ALLOWABLE DISTRICTS
LB, CB, MU

N. Maker Space “A”



A Maker Space building is a structure intended for provision of goods and/or services to the public when such provision may require on-site production and/or storage of materials. It is pedestrian-scaled and has a storefront frontage but can incorporate garage/service bay(s) and additional utility space as required. The Maker Space is intended to be flexible and accommodate the variety of creative uses that is essential to a vibrant district, including uses heretofore unknown.

The “A”-type variation of the Maker Space is intended for locations where any setback from the Principal Frontage would not be advantageous, and where there is no rear alley access.

ILLUSTRATIVE EXAMPLES

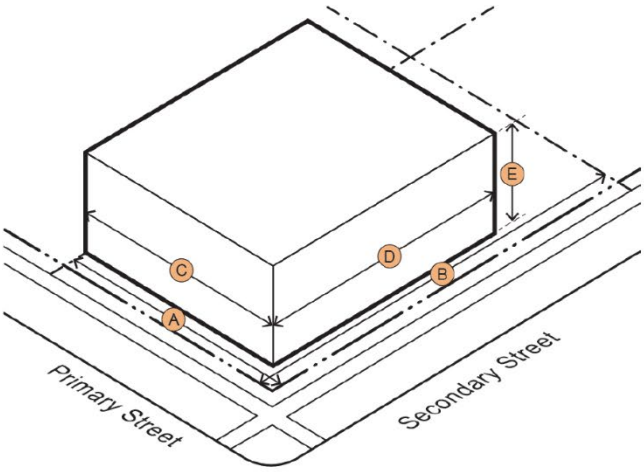


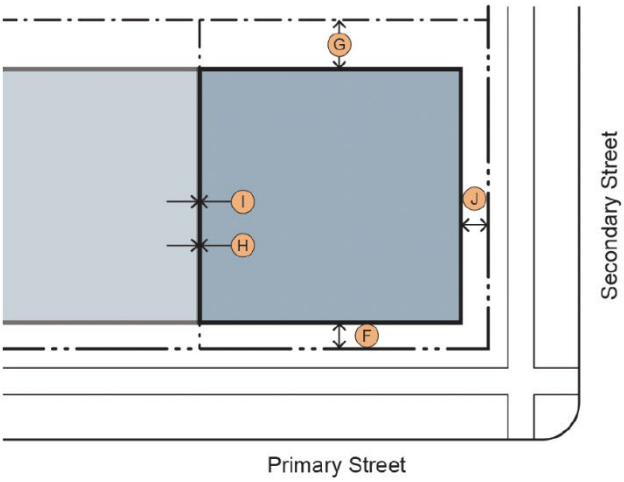
Seattle, WA: 5486 Leary Avenue NW



Detroit, MI: 5940 Second Street

DRAFT





BUILDING TYPE STANDARDS		*≤ is "Less than or equal to" ≥ is "Greater than or equal to"*
Lot Dimensions		
A	Lot Width	A ≥ 50 ft
B	Lot Depth	B ≥ 100 ft
Building Dimensions		
C	Building Width	C ≤ 100 ft
D	Building Depth	n/a
E	Building Height	E ≤ 25 ft at utility bay; E ≤ 20 ft elsewhere; and ≤ 1 story
Building Placement		
F	Front	Build to Right-of-Way line – 0 ft
G	Rear	G ≥ 0 ft
H	Side *abutting existing residential lot*	H ≥ 0 ft
I	*Side* *abutting like building*	0 ft ≤ I ≤ 5 ft
J	Side *abutting R.O.W.*	Build to Right-of-Way line – 0 ft

ALLOWABLE USES	
Retail (all categories)	1st Floor
Food Service (all categories)	1st Floor
Service	1st Floor
Light Industrial	1st Floor

ALLOWABLE DISTRICTS
LB, CB, TC, MU

O. Maker Space “B”



A Maker Space building is a structure intended for provision of goods and/or services to the public when such provision may require on-site production and/or storage of materials. It is pedestrian-scaled and has a storefront frontage but can incorporate garage/service bay(s) and additional utility space as required. The Maker Space is intended to be flexible and accommodate the variety of creative uses that is essential to a vibrant district, including uses heretofore unknown.

The “B”-type variation of the Maker Space is intended for locations where a utility space set back from the Principal Frontage would be contextually appropriate, and where there is no rear alley access.

ILLUSTRATIVE EXAMPLES

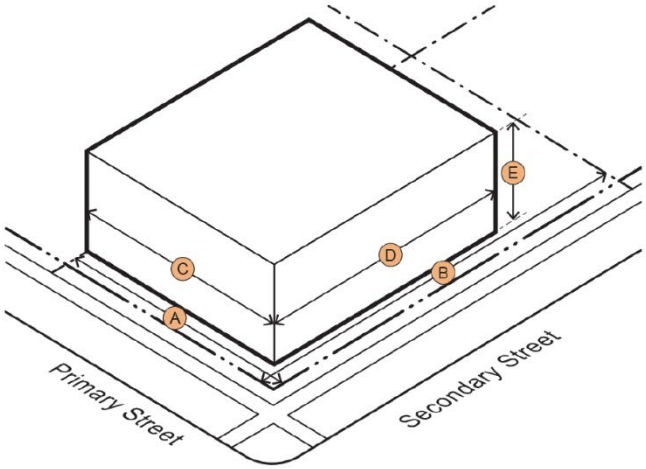


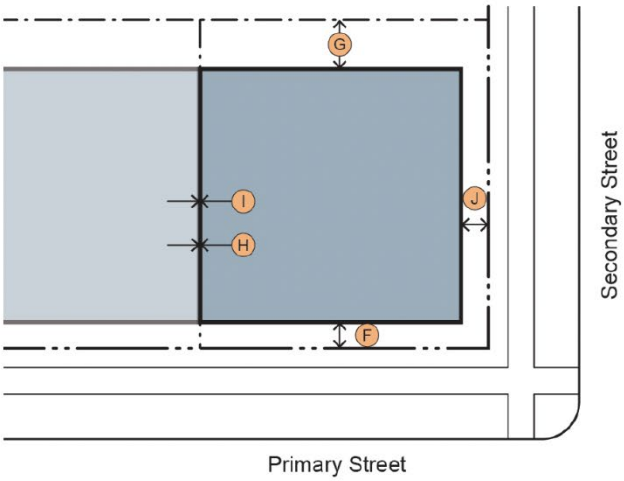
Ann Arbor, MI: Ann Arbor T-Shirt Co.



Ypsilanti, MI: Cultivate Coffee and Brewery

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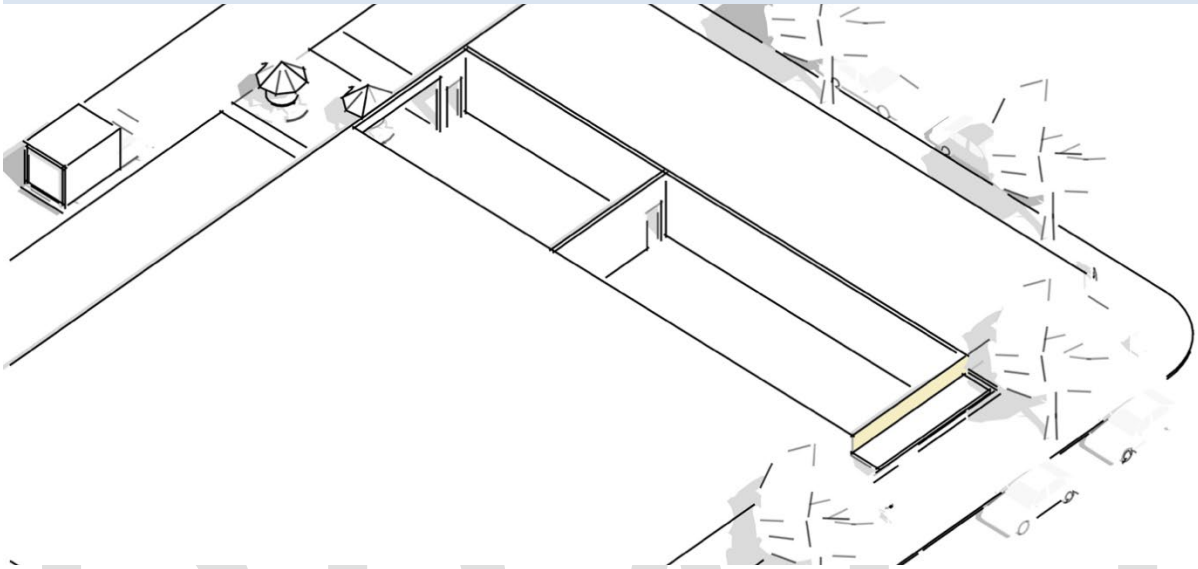


BUILDING TYPE STANDARDS		*≤ is "Less than or equal to" ≥ is "Greater than or equal to"*
Lot Dimensions		
A	Lot Width	A ≥ 50 ft
B	Lot Depth	B ≥ 100 ft
Building Dimensions		
C	Building Width	C ≤ 100 ft
D	Building Depth	n/a
E	Building Height	E ≤ 25 ft at utility bay; E ≤ 20 ft elsewhere; and ≤ 1 story
Building Placement		
F	Front	0 ft ≤ I ≤ 20 ft
G	Rear	G ≥ 0 ft
H	Side *abutting existing residential lot*	H ≥ 0 ft
I	*Side* *abutting like building*	0 ft ≤ I ≤ 5 ft
J	Side *abutting R.O.W.*	Build to Right-of-Way line – 0 ft

ALLOWABLE USES	
Retail (all categories)	1st Floor
Food Service (all categories)	1st Floor
Service	1st Floor
Light Industrial	1st Floor

ALLOWABLE DISTRICTS
LB, CB, TC, MU

P. Maker Space “C”



A Maker Space building is a structure intended for provision of goods and/or services to the public when such provision may require on-site production and/or storage of materials. It is pedestrian-scaled and has a storefront frontage but can incorporate garage/service bay(s) and additional utility space as required. The Maker Space is intended to be flexible and accommodate the variety of creative uses that is essential to a vibrant district, including uses heretofore unknown.

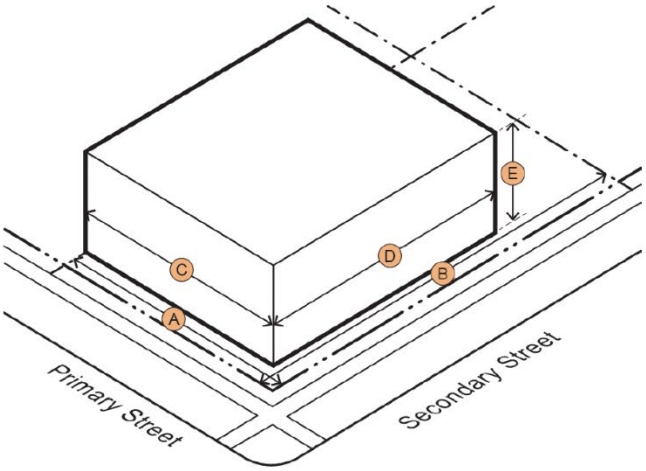
The “C”-type variation of the Maker Space is intended for locations where there is rear alley access. The utility space is located to the rear of the building, with an optional garage/service bay accessible by the rear alley. This rear space could alternatively be used as additional public-facing commercial space, accessed via the rear alley.

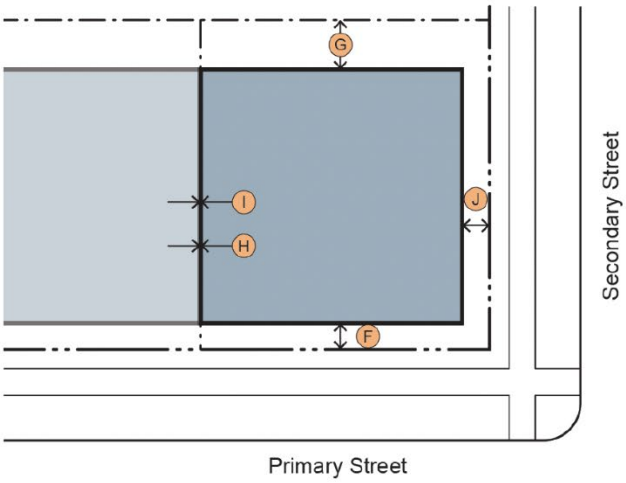
ILLUSTRATIVE EXAMPLES



Ferndale, MI: West Troy Street

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BUILDING TYPE STANDARDS		*≤ is "Less than or equal to" ≥ is "Greater than or equal to"*
Lot Dimensions		
A	Lot Width	A ≥ 50 ft
B	Lot Depth	B ≥ 100 ft
Building Dimensions		
C	Building Width	C ≤ 100’
D	Building Depth	n/a
E	Building Height	E ≤ 30 ft; and ≤ 2 stories over shopfront portion
Building Placement		
F	Front	Build to Right-of-Way line – 0 ft
G	Rear	G ≥ 0 ft
H	Side *abutting existing residential lot*	H ≥ 0 ft
I	*Side* *abutting like building*	0 ft ≤ I ≤ 5 ft
J	Side *abutting R.O.W.*	Build to Right-of-Way line – 0 ft

ALLOWABLE USES	
Retail (all categories)	1st Floor
Food Service (all categories)	1st Floor
Service	1st Floor
Light Industrial	1st Floor

ALLOWABLE DISTRICTS
LB, CB, TC, MU

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Q. Office / Research



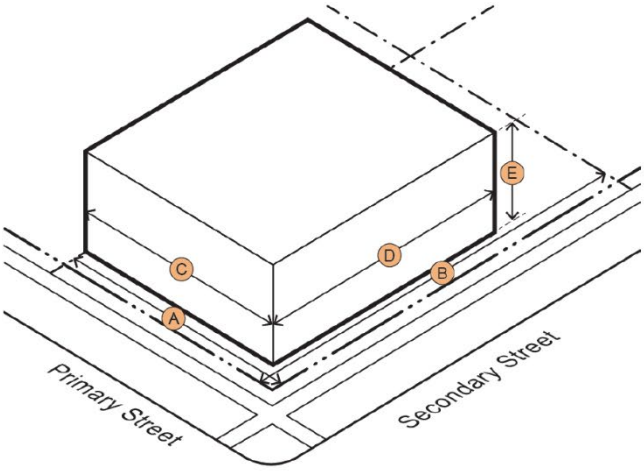
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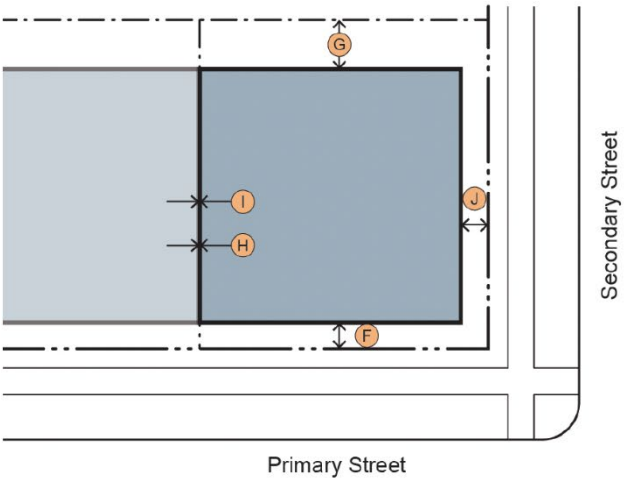
An Office/Research building is a structure intended for professional office, medical office, laboratory, research, technical, and similar purposes. It has a pedestrian orientation to the street but may accommodate parking and loading areas accessed from the rear. The first floor is slightly raised above grade-level to provide privacy while retaining transparent windows along the entire façade.

ILLUSTRATIVE EXAMPLES



Allegan, MI: Perrigo Company Headquarters





BUILDING TYPE STANDARDS		*≤ is "Less than or equal to" ≥ is "Greater than or equal to"*
Lot Dimensions		
A	Lot Width	A ≥ 100 ft
B	Lot Depth	B ≥ 100 ft
Building Dimensions		
C	Building Width	C ≤ 165 ft
D	Building Depth	n/a
E	Building Height	E ≤ 39 ft; and ≤ 3.5 stories
Building Placement		
F	Front	F ≤ 10 ft
G	Rear	G ≥ 0 ft
H	Side *abutting existing residential lot*	n/a
I	*Side* *abutting like building*	I ≤ 0 ft
J	Side *abutting R.O.W.*	J ≤ 10 ft

ALLOWABLE USES	
Office	1st – 3rd Floors
Medical Office	1st – 3rd Floors
Light Industrial	1st – 3rd Floors
Laboratory	1st – 3rd Floors

ALLOWABLE DISTRICTS
LB, CB, TC, LI, GI

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R. Hotel / Senior Housing



The Hotel/Senior Housing building is intended to provide short-term lodging facilities to travelers or long-term residential facilities for senior citizens.

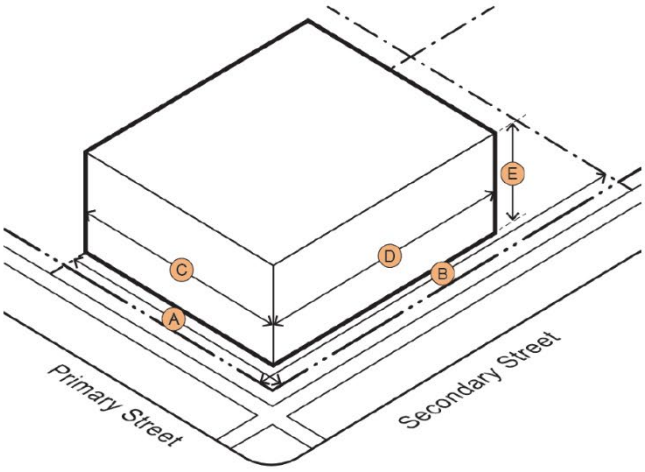
ILLUSTRATIVE EXAMPLES

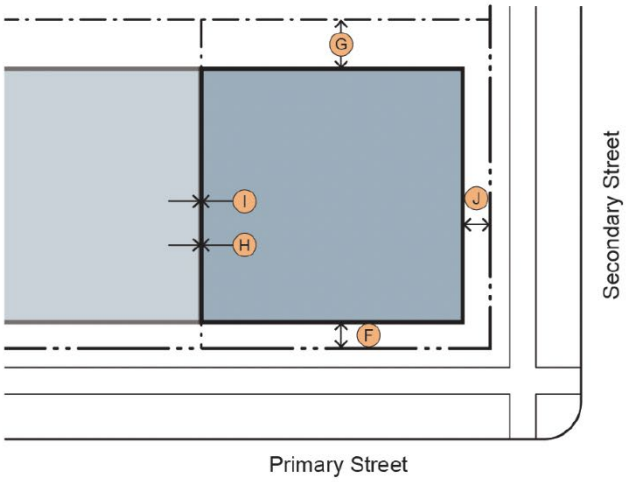


Sault Ste Marie, MI



Clare, MI





BUILDING TYPE STANDARDS		*≤ is "Less than or equal to" ≥ is "Greater than or equal to"*	
Lot Dimensions			
A	Lot Width	A ≥ 60 ft	
B	Lot Depth	n/a	
Building Dimensions			
C	Building Width	50 ft ≤ C ≤ 120 ft	
D	Building Depth	n/a	
E	Building Height	E ≤ 70 ft and ≤ 6.5 stories	
Building Placement			
F	Front	*Calculate EFY based on the standard in Sec. 17.05.080.*	
		When EFY < 20 ft	F = EFY
		When EFY ≥ 20 ft	F = 10’
G	Rear	G ≥ 0 ft along rear alley; otherwise, G ≥ 5’	
H	Side *abutting existing residential lot*	7 ft ≤ H ≤ 12 ft	
I	*Side* *abutting like building*	I ≥ 12 ft	
J	Side *abutting R.O.W.*	0 ft ≤ J ≤ 5 ft	

ALLOWABLE USES	
Retail (all categories)	1st Floor
Food Service (all categories)	1st Floor
Short Term Residential	All Floors
Residential	All Floors

ALLOWABLE DISTRICTS
TR, MR, LB, CB, MU

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Article 6 Site Development Standards

Section 6.01 LOT REGULATIONS

A. Dimensional Standards. All newly created lots within the town shall comply with the following dimensional standards. Any proposed division and combination of lots within an existing plat or unplatted parcels shall comply with the following dimensional standards.

Zoning District	Minimum Lot Size *(Square Feet)*	Minimum Lot Width *(Feet)*	Maximum Lot Coverage
OSC Open Space Conservation			
LR Low Density Residential	7,200 SF	60 ft.	40 %
TR Town Residential	6,000 SF	50 ft.	50 %
MR Moderate Density Residential	6,000 SF	50 ft.	n/a
LB Local Business	n/a	50 ft.	n/a
CB Community Business	n/a	50 ft.	n/a
TC Town Center	n/a	30 ft.	n/a
MU Mixed Use	n/a	50 ft.	n/a
LI Light Industrial	n/a	100 ft.	n/a
GI General Industrial	n/a	150 ft.	n/a

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Section 6.02 LANDSCAPE REGULATIONS

A. PURPOSE.

Landscaping is an essential element of the site design process and is an important feature in promoting the public health, safety, comfort, general welfare and the quality of life of the town. Landscaping is intended to: enhance the visual environment; reduce the negative impacts of higher intensity land uses on less intense adjacent land uses; provide visual and noise buffering between higher intensity districts and less intense districts; alleviate the impact of noise, traffic, and more intensive land uses; preserve natural features; lessen the impact of development on the environment by reducing glare and heat buildup; promote energy conservation; protect property values; minimize visual impacts of parking lots, loading areas and storage areas; and break up large expanses of paved areas so as to reduce impervious surface area, storm water runoff, and the level of pollutants from non-point sources.

The purpose of this Chapter is to establish minimum standards for the design, installation, and maintenance of screening elements and plant materials; to establish reasonable standards for the screening of uses of a significantly different scale or character; and buffering of parking lots, storage areas, and similar activities from street rights-of-way and adjacent lots. It is the intent of this Chapter that required screening and buffering elements shall be immediately effective in achieving the purpose of this Chapter and shall maintain that effectiveness as the plant materials mature.

B. GENERAL STANDARDS.

A. Applicability. Within the town, all new developments and all additions to existing development (i.e., building additions, parking area expansions, and the like) shall provide landscaping as required by this subchapter for the new development or addition.

1) **Landscape Plan Requirement.** The standards of this Chapter shall apply to all uses, lots, and sites altered, developed or expanded after the effective date of this Ordinance that are subject site plan approval or planned unit development approval. A separate Landscape Plan sheet or sheets, distinct from the site plan, shall be provided with each plan set submitted for review. Uses and activities exempt from site plan approval shall be exempt from the requirements of this Chapter.

2) **Minimum Required Standards.** The standards of this Chapter shall be considered the minimum necessary to achieve the purposes of this Chapter and Ordinance. No provision of this Chapter shall preclude a developer and the Town from agreeing to more extensive landscaping or screening. Where existing sites have been developed without adequate screening or buffering, the purposes of this Chapter shall be achieved through improvements that are in reasonable proportion to the scale and construction cost of proposed building improvements, expansions, or other site improvements.

3) **Modifications to Standards.** The Planning Commission may reduce or waive the specific standards of this Chapter, upon determination that the screening requirements and purposes of this Chapter have been satisfied by existing topography, vegetation or other means acceptable to the Planning Commission.

4) No site plan shall be approved unless it shows landscaping consistent with the requirements of this chapter.

5) A certificate of occupancy shall not be issued unless the provisions set forth in this chapter have been met.

B. Location of landscaping. Required landscaping areas shall consist of 4 locations on a site:

(1) Perimeter yards or residential buffer yards, as applicable: landscaping within 3 feet of the lot line of a site.

(2) Foundation landscaping: landscaping within 3 feet of the foundation of a building.

(3) Interior landscaping of off-street parking areas: landscaping within parking islands and parking areas.

(4) Perimeter screening off-street parking areas: landscaping along the perimeter of parking areas.

C. Utility easement landscaping. In those instances where overhead utilities are located within required yards or required residential buffer yards, plant material selections shall be limited to small growing trees which typically do not exceed 25 feet in height at maturity. Appropriate utility easement plant materials include: ornamental trees, such as the redbud, dogwood, and crabapple; or evergreen trees (narrow spread), such as the emerald green arborvitae. See § 152.194 for additional limitations.

D. Live vegetation. All trees and shrubs required by this subchapter shall be living vegetation.

E. Ground cover. Ground cover within landscape areas may consist of: grasses; preserved existing natural vegetation (i.e., thickets); or mulch, chipped bark, or other natural forms of ground cover. Loose stone, rock or gravel may be used as a landscaping accent, but shall not exceed 20% of the area of the required landscape area in which it is used.

F. Alternate landscape plan approval. The Zoning Administrator may approve alternate landscape materials or landscape design option. The Zoning Administrator, upon request by an applicant, shall have the authority to approve an alternate landscape plan prepared in

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accordance with the following requirements:

(A) Redistribution of plant materials. The Zoning Administrator may approve a redistribution of plant materials required for perimeter yard landscaping to other locations on the lot, or, a redistribution of plant materials required for a foundation landscaping area to other locations on the lot. The Zoning Administrator shall not have the authority to modify the landscape requirements of this subchapter pertaining to required residential bufferyards.

(B) Credit for preservation of existing trees and vegetation. In order to encourage the preservation of existing trees and vegetation, the Zoning Administrator may approve a preservation landscape plan which utilizes the designation of 1 or more “Tree Save Areas” in lieu of new plantings within a required yard, a required residential bufferyard, a required foundation landscaping area, or an interior parking area island. The preservation landscape plan shall:

(1) Demonstrate that sufficient trees or vegetation shall be preserved to equal or exceed the level of screening required by the basic provisions of this subchapter; and

(2) Provide that, in the event trees designated for saving in the “Tree Save Area” are damaged or die within 3 years of completion of construction on the site, replacement trees shall be planted in the designated “Tree Save Area” sufficient to provide landscaping which is, at a minimum, equivalent to the minimum requirements of this subchapter for new plantings.

(C) *Alternatives for front yard, side yard, and rear yards in all Commercial/Town Center Districts, Industrial Districts, Residential Districts for multifamily dwellings and along a limited access highway.* In order to provide flexibility and creativity in landscape designs, the Zoning Administrator may approve the following plant substitutions in a required front yard, side yard, or rear yard.

(1) Hedge plants or shrubs may be substituted for a maximum of 25% of the required number of shade trees (rounded down to the nearest whole number) at a rate of 10 hedge plants or shrubs for each shade tree so replaced.

(2) Hedge plants or shrubs may be substituted for a maximum of 25% of the required number of ornamental trees (rounded down to the nearest whole number) at a rate of 6 hedge plants or shrubs for each ornamental tree so replaced.

(3) Evergreen trees may be substituted for ornamental trees at a rate of 1 evergreen tree for each ornamental tree so replaced.

(4) Evergreen trees may be substituted for shade trees at a rate of 3 evergreen trees for every 2 shade trees so replaced.

(5) Ornamental trees and shade trees may be substituted with each other at a rate of 3 ornamental trees for every 2 shade trees.

(6) Evergreen trees (narrow spread) may be substituted for evergreen trees at a rate of 3 evergreen trees (narrow spread) for each evergreen tree.

(D) *Residential bufferyard landscaping alternatives.* In order to provide flexibility and creativity in landscape designs, the Zoning Administrator may approve the following plant substitutions in a residential bufferyard.

(1) Hedge plants or shrubs may be substituted for a maximum of 10% of the required number of evergreen trees (rounded down to the nearest whole number) at a rate of 10 hedge plants or shrubs for each evergreen tree so replaced.

(2) Ornamental trees may be substituted for a maximum of 10% of the required number of evergreen trees (rounded down to the nearest whole number) at a rate of 1

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ornamental tree for each evergreen tree so replaced.

(3) Shade trees may be substituted for a maximum of 10% of the required number of evergreen trees (rounded down to the nearest whole number) at a rate of 1 shade tree for each evergreen tree so replaced.

(4) Evergreen trees (narrow spread) may be substituted for a maximum of 10% of the required number of evergreen trees (rounded down to the nearest whole number) at a rate of 4 evergreen trees (narrow spread) for each evergreen tree.

(5) In no case shall the total combined percentage of hedge plants or shrubs, shade trees, ornamental trees, or evergreen trees (narrow spread) which are substituted for evergreen trees exceed 25%.

(E) *Foundation landscape alternatives.* In order to provide flexibility and creativity in landscape designs, the Zoning Administrator may approve a foundation landscape plan which includes any combination of shade trees, ornamental trees, evergreen trees, or hedge plants/shrubs, provided that the total amount of plant materials along the building remains proportional to the base requirements of § 152.188(B).

(F) *Parking area screening alternatives.* In order to provide flexibility and creativity in landscape designs, the Zoning Administrator may approve a parking area screening plan which includes hedge plants or shrubs in combination with an ornamental or decorative fence, a masonry wall, or an earthen berm, provided that:

(1) Between a front building line and a front lot line:

(a) The ornamental or decorative fence or masonry wall is not less than 24 inches in height nor more than 36 inches in height, with an open space percentage equal to or less than 70%; or

(b) The earthen berm is not less than 24 inches in height nor more than 36 inches in height; or

(2) Between a side building line and any required side residential bufferyard or between a rear building line and any required rear residential bufferyard:

(a) The ornamental or decorative fence or masonry wall is not less than 3 feet in height nor more than:

1. Six feet in height if the open space of the fence is less than 20%; or

2. Ten feet in if the open space of the fence is 20% or greater; or

(b) The earthen berm has a minimum height of not less than 4 feet and a maximum height not to exceed 10 feet; and

(3) The total number of shrubs/hedge plants shall not be reduced by more than 50% of the number of shrubs/hedge plants required in § 152.190, above.

(G) *Fence, wall, or berm alternatives.* In order to provide flexibility and creativity in landscape designs, the Zoning Administrator may approve a fence, wall, or berm installed in compliance with the following regulations as a substitute for up to 50% of the number of shade trees, ornamental trees or evergreen trees required to be installed in a perimeter yard or residential bufferyard pursuant to § 152.187.

(1) *Fence or wall in a front yard or front residential bufferyard.* An ornamental, decorative fence or masonry wall may be used in conjunction with the landscaping required in a front yard, front residential bufferyard, or in a

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Residential District for a special exception use, provided the fence or wall used in a front yard shall:

(a) Maintain a minimum height of 3 feet with a maximum open space of 20%;

(b) Not exceed 3 feet in height if the open space of the fence is less than 20%; or

(c) Not exceed 4 feet in height if the open space of the fence is less than 50% but greater than 20%.

(2) *Fence or wall in a side yard, rear yard, side residential bufferyard, rear residential bufferyard, or in Residential Districts for special exception uses.* An ornamental, decorative fence or masonry wall may be used in conjunction with the landscaping in a required side yard, rear yard, side residential bufferyard, rear residential bufferyard or in a Residential District for a special exception use, provided the fence or wall shall not exceed:

(a) Maintain a minimum height of 6 feet with a maximum open space of 20%;

(b) Six feet in height if the open space of the fence is less than 20%; and/or

(c) Ten feet in height in any Commercial/Town Center District or Industrial District if the open space of the fence is less than 50% but greater than 20% or greater.

(3) *Berm regulations.*

(a) *Berm in a front yard or front residential bufferyard.* An undulating earthen berm, may be used in conjunction with the landscaping required in a front yard, front residential bufferyard or in a Residential District for a special exception use, provided the berm shall have a maximum height not to exceed:

1. Residential District or Commercial/Town Center District: 3 feet; or
2. Industrial District: 6 feet.



Example of 6' Berm with Mature Landscaping

(b) *Berm in a side yard, rear yard, side residential bufferyard, or rear residential bufferyard.* An undulating earthen berm may be used in conjunction with the landscaping in a required side yard, rear yard, side residential bufferyard, rear residential bufferyard, or in a Residential District for a special exception use,

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provided the berm shall have a minimum height of not less than 4 feet and a maximum height not to exceed 10 feet.

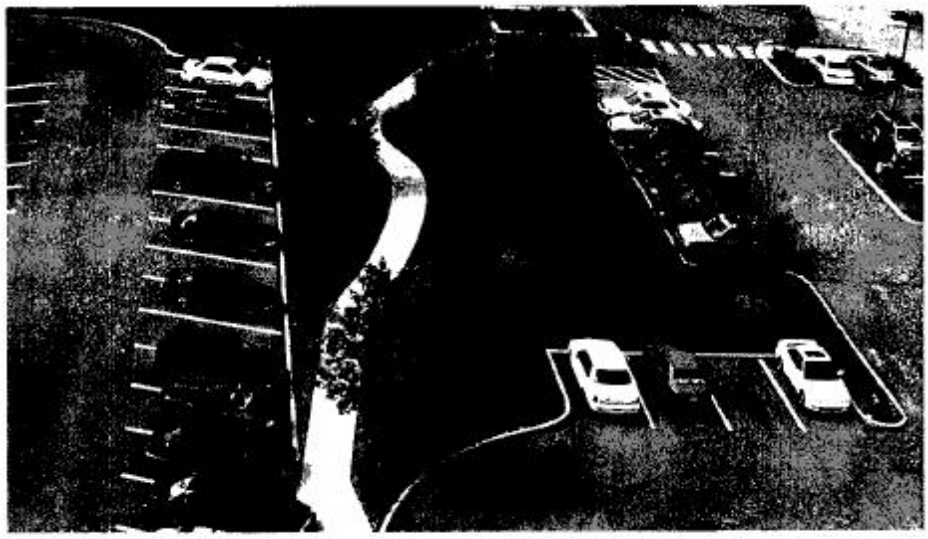
(c) *Construction of berm.* A berm utilized as a landscaping element shall be constructed in accordance with the following regulations:

1. Each berm shall have a minimum crown width of 2 feet;
2. Each berm shall have a side slope of not greater than 3 feet horizontal to 1 foot vertical (3:1);
3. Each berm shall be planted and covered with live vegetation; and
4. A retaining wall may be used on the side of the berm facing away from the public right-of-way or away from the side lot line or rear lot line.

(d) *General regulations for a fence, wall, or berm.* A fence, wall, or berm may be used as an element of a landscape plan subject to the following regulations.

1. *Location of fence, wall, or berm.* A fence, wall, or berm shall be located in such a manner as to not interfere with any regulations of clear sight area requirements in § 152.020.
2. *Design of fence, wall, or berm.* A fence, wall, or berm shall be designed to not interfere with any walkway or pedestrian/bikeway system serving the site.

(H) *Interior landscape island design alternatives.* The Zoning Administrator may approve a design in which the area devoted to individual interior landscape islands may be aggregated into 1 or more larger landscape islands. When aggregated into 1 or more larger landscape islands, such larger landscape islands shall, at a minimum, include the number of trees and area of landscaping as required for individual interior landscape islands, and shall function to: preserve existing trees; create boulevard treatments; create landscape features; create common open space areas for passive recreational activities; or define vehicular and pedestrian traffic patterns.



Example of Aggregating Interior Off-Street Parking Area Landscaping

(I) *Appeals.* If the Zoning Administrator disapproves of a proposed alternative landscape plan, the applicant may, within 5 business days, appeal the Zoning Administrator's decision by

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filing an administrative appeal with the Board of Zoning Appeals, stating the reasons and justification for the appeal. The petition shall be filed consistent with the provisions of § 152.367 and any applicable Rules of Procedure.

(Ord. 1221, § 8.01(i), passed 1-26-2010)

G. Man-made elements. Landscaping may consist, in part, of walls, berms, and fences. When used, these elements shall be combined with live vegetation per the requirements of § 152.194.

H. Credit for preservation of existing trees, vegetation and man-made elements. It is highly encouraged that existing landscaping elements be considered for incorporation into the overall landscape requirements. Credit is provided per § 152.194.

I. Off-Street Parking Area. The regulations of this section shall apply to all new surface, off-street parking areas, and expanded surface off-street parking areas for any use except a single family dwelling or 2 family dwelling.

J. Installation Requirements.

(1) All landscaping required by this subchapter shall be installed prior to the issuance of a final certificate of occupancy for the use on real estate. If seasons, weather conditions, or other conditions beyond the applicant's control create a situation which is not appropriate for the installation of landscaping immediately prior to the issuance of a final certificate of occupancy, the Zoning Administrator may issue a temporary certificate of occupancy pending the installation of landscaping required by this subchapter not later than 3 months after the start of the next planting season after the use of the real estate is commenced. The start of planting seasons shall be March 15 and August 15 of each year.

K. Maintenance Requirements.

(1) The owner shall be responsible for the replacement of any required planting which is removed or dies after the date of planting. The replacement shall occur within 3 months after the start of the next planting season.

(2) Failure to maintain required landscape areas shall constitute a violation of this chapter enforceable under the provisions of §§ 152.405 through 152.413

C. § 152.188 FOUNDATION LANDSCAPING.

Foundation landscaping shall be provided for all new buildings and building additions in all districts (except for the following: buildings in the TCD - Town Center District; and single family dwellings or 2 family dwellings) in compliance with the following requirements.

(A) Foundation landscaping shall be applicable to any elevation of a new building or building addition which is:

(1) Over 35 feet in width; and

(2) Includes the main or primary customer entrance or is oriented toward a front yard.

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Example of Foundation Landscaping

(B) (1) When required, foundation landscaping shall be provided at a rate of:

(a) One shade tree for every 50 feet of width of the applicable elevation;

(b) One ornamental tree or 1 evergreen tree for every 35 feet of width of the applicable elevation; or

(c) Ten hedge plants or shrubs for every 50 feet of width of the applicable elevation.

(2) The above rates of foundation landscaping may be combined or prorated, as necessary, based upon the length of the applicable elevation.

(C) Foundation landscaping areas shall maintain a minimum dimension of 6 feet in the smallest dimension, with a minimum of 36 square feet of foundation landscaping area provided for each tree and for every 2 hedge plants or shrubs.

(D) Location: foundation landscaping areas shall be located along or adjacent to each applicable building elevation; provided, however, where a portion of the building elevation is devoted to pedestrian ingress/egress, vehicular ingress/egress, loading or drop-off zones, foundation landscaping areas may be aggregated into 1 or more locations along or abutting the building elevation.

(E) Relationship to buildings: foundation landscaping areas shall be located:

(1) Adjacent to the building; or

(2) So as to begin within 15 feet of the building (i.e., to allow for a walkway or similar improvements adjacent to the building).

(Ord. 1221, § 8.01(c), passed 1-26-2010)

D. METHODS OF SCREENING.

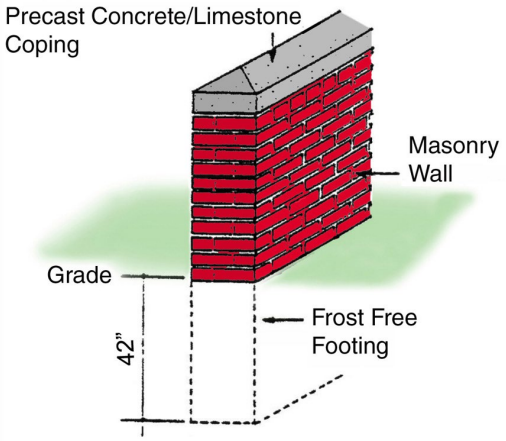
General. The regulations of this section shall apply to all new surface, off-street parking areas, and expanded surface off-street parking areas for any use except a single-family or two-family dwelling. In addition to perimeter yard landscaping, foundation landscaping, and interior parking area landscaping, if an off- street parking area is located: between a front building line and a front lot line; between a side building line and any required side residential buffer yard; or between a rear building line and any required rear residential buffer yard, the edge of the parking area facing the front lot line, side residential buffer yard, or rear residential buffer yard shall be screened by a compact row of shrubs/hedge plants planted 3 feet on-center across the front of the parking area located between the front lot line, side residential buffer yard, or rear residential buffer yard and the edge of the parking area. Minimum planting size shall meet the requirements of Table 152.191 for hedge plants/shrubs, and be maintained at a maximum allowable growth height of 36 inches.

A. Screening Wall. The purpose of this method is to create a solid, year-round barrier and obscuring screen to effectively block noise, light, and other impacts between land uses of differing intensities. Such walls shall be subject to the following (see illustration):

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1) Any parcel or lot located in the LB, CB, TC, LI, GI districts and any parcel or lot with an off-street parking lot, loading, storage and service area in any zoning district, and as required elsewhere in this ordinance, shall install a screening wall along any property line which is adjacent to a residential zoning district. A fence, greenbelt buffer, berm, or evergreen screen may be utilized in place of a wall, subject to the review and approval of the Planning Commission.

Zoning District	Wall Height Requirements
TC District	At least 4 ft
LB and CB Districts	4 ft 6 to 6 ft
LI and GI Districts. Loading, storage and service areas in any zoning district.	6 ft to 8 ft



2) The height of the wall shall be reduced to thirty (30) inches in height when located within 20 feet of a street right-of-way line, to allow for adequate visibility for entering and exiting vehicular and pedestrian traffic.

3) Required walls shall be located on the lot line except where underground utilities interfere with such location or where this Ordinance requires conformance with front yard setback lines in abutting residential districts. Upon review of the site plan, the Planning Commission may approve an alternate location for the wall. Required walls may, upon approval of the Planning Commission, be located on the opposite side of an alley right-of-way from a nonresidential zone that abuts a residential zone when mutually agreeable to affected property owners. The continuity of the required wall on a given block will be a major consideration of the Planning Commission in reviewing such request.

4) Wall materials shall be subject to approval by the Planning Commission. The Planning Commission shall determine whether or not the proposed materials are appropriate based on the following criteria:

   a. The material is aesthetically compatible with the surroundings, especially the principal structure on the site.
   b. The material is suitably durable for the proposed location.
   c. The material provides adequate separation for nearby residents, and will prevent excess noise, dust, debris, and light from negatively impacting residential property.
   d. The material provides an adequate safety barrier from trespass, vehicle crashes, and other dangers.
   e. If necessary, landscaping has been provided to soften the appearance of the wall or to increase the effectiveness of the screening/buffering that the wall provides.

B. Fence. The purpose of this method is to establish a year-round buffer between adjacent land uses or between uses and adjacent street rights-of-way. This method is intended to provide a partial visual screen but also to block most noises, light, and other impacts between uses or to create a buffer between developed and undeveloped areas of a site. Fences shall meet the following standards:

1) Height Requirements.

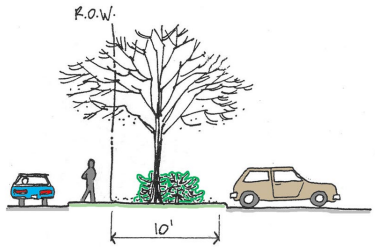
Zoning District	Fence Height Requirements
TC District	At least 4 ft
LB and CB Districts	4 ft 6 to 6 ft
LI and GI Districts. Loading, storage and service areas in any zoning district.	6 ft to 8 ft

2) The height of the wall shall be reduced to thirty (30) inches in height when located within 20 feet of a street right-of-way line, to allow for adequate visibility for entering and exiting vehicular and pedestrian traffic.

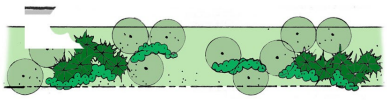
3) Fences shall be located on the lot line except where underground utilities interfere with such location or where this Ordinance requires conformance with front yard setback lines in abutting residential districts. Upon review of the site plan, the Planning Commission may approve an alternate location for the fence. Required fences may, upon approval of the Planning Commission, be located on the opposite side of an alley right-of-way from a nonresidential zone that abuts a residential zone when mutually agreeable to affected property owners. The continuity of the required fence on a given block will be a major consideration of the Planning Commission in reviewing such request.

4) If necessary, landscaping may be provided to soften the appearance of the fence or to increase the effectiveness of the screening/buffering that the fence provides.

C. Greenbelt Buffer. The purpose of this method is to establish a buffer between adjacent land uses, or between uses and adjacent street rights-of-way. This method is intended to provide a partial visual screen, particularly where the adjacent uses (including uses that are adjacent across a street right-of-way) are less intense than the use of the subject site. Greenbelt buffers shall consist of the following:



SECTION


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1) Greenbelts shall have a minimum width of ten (10) feet and may be interrupted only to provide for pedestrian or vehicular access.

2) Greenbelts shall be sodded, hydro-seeded, or planted with appropriate groundcovers.

3) A mixture of deciduous shade trees, ornamental trees, evergreen trees, and shrubs shall be planted along the greenbelt buffer at a minimum concentration of one (1) tree and three (3) shrubs per 15 linear feet of greenbelt length along a property line or street frontage.

   i. Such required plant materials may be placed at uniform intervals, at random or in groupings.

   ii. The greenbelt length shall be measured along the centerline of the greenbelt for its entire length, inclusive of all driveways.

D. Berm. The purpose of this method is to effectively screen visual and noise impacts using natural-appearing landforms. This method is intended to provide an obscuring screen to block noise and light from adjacent uses or street rights-of-way, or to create a buffer between developed and

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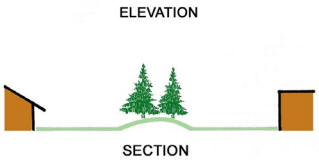
undeveloped areas of a site. Berms shall consist of a combination of a sculpted earth mound and plantings, which shall meet the following standards:

1) Berms shall have side slopes no steeper than four (4) feet horizontal to one (1) foot vertical (4:1 ratio).
2) Berms shall have a minimum height of three (3) feet above the grade elevation. Overall berm height shall be adequate for the intended screening function. Grade elevation shall be the ground elevation at the nearest lot line adjacent to the proposed berm.
3) The interior face of the berm may be constructed as an earthen slope, or may be retained by means of a wall, terrace or similar means acceptable to the Planning Commission.
4) The berm shall be designed and graded to blend with existing topography and sodded, hydro-seeded or planted with appropriate groundcovers.
5) The Planning Commission may require greenbelt plantings on the berm, per Section 7.2.4B. For the purpose of determining any required plant materials, the length of any required berm shall be measured from one toe of the berm (the farthest point at one end of the berm's long dimension where the berm height equals the surrounding grade level) along the berm's centerline to the toe at the opposite end of the berm.



SECTION

E. Evergreen Screen. The purpose of this method is to create a dense obscuring screen that meets the objectives of this Chapter. This method is intended to establish a year-round screening barrier between land uses of differing intensities, to effectively block noise and light, or to completely separate developed and undeveloped portions of a site.



This method shall consist of closely spaced evergreen trees with year-round screening characteristics. Such trees shall be planted a maximum of 15 feet apart in at least two (2) staggered rows.

E. TYPES OF LANDSCAPE SCREENING.

The types of landscape screening are provided for in this subchapter and are intended to provide a progression of screening options suitable to a variety of landscaping and buffering needs between land uses and districts. The 3 types of landscape screening are:

(1) Type A: Open. Creates a pleasant visual experience but provides a minimal visual or sound barrier. Therefore, Type A landscaping is intended for use on lots where the district of the abutting lots includes permitted uses with similar intensities, lights, sounds, and regular operations and would have minimal, if any, negative impact on adjacent properties. Open landscaping requires a majority of the landscape materials to be of a shade tree variety with flexibility to add color, interest, or heavier visual screening, if desired.

i. Methods included in Type A:Open.

1. Berms

(2) Type B: Partial Screening. The Type B Screening landscaping creates a partial visual and sound barrier and is intended for use on lots where the district of the abutting lots includes permitted uses that may be similar in land use intensity, but may still contain lights, sounds, and regular operations which may adversely impact adjacent

properties. Partial Screening landscaping requires the use of evergreen trees to provide year-round buffering while allowing flexibility to add color and interest with deciduous trees or shrubs/hedge plants.

i. Methods included in Type B: Partial.

1. Fences
2. Greenbelt Buffer
3. Evergreen Screen

(3) Type C: Full Screening. The Type C landscaping shall be designed to create a substantial visual barrier from grade to at least 6 feet above grade at time of planting. Full Screening landscaping should also provide a sound barrier effect. Type C landscaping is intended to be placed on lots in higher intensity districts which abut lots located in lesser intense districts that may be adversely impacted by the lights, sounds, and regular operations of the higher intensity district. Full Screening landscaping requires significant use of evergreen trees to provide year- round buffering while allowing flexibility to add color and interest with deciduous trees or shrubs/hedge plants. Any evergreen species that drops its lower branches (e.g., white pines, and the like) shall not be permitted as a “evergreen” tree in a Type C landscape area.

i. Methods included in Type C: Full Screening,

1. Walls

F. Types of Screening Allowed by District:

Zoning District	Type A	Type B	Type C
Low Density Residential	X	X	
Town Residential		X	
Medium Density Residential		X	X
Mixed-Use		X	X
Town Center		X	
Local Business	X	X	X
Central Business		X	X
Light Industrial	X	X	X
General Industrial	X	X	X

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Historical	X	X	X

G. PLANT MATERIAL STANDARDS.

1) **General.** The following shall apply to all plant materials:

(a) All plant material shall conform to size and description set forth in the current edition of "American Standard for Nursery Stock" sponsored by the American Horticulture Industry Association (AmericanHort), or its successor agency, and approved by the American National Standards Institute, Inc. (ANSI Z60.1), as amended and updated, or other equivalent source accepted by the Town.

(b) All plant material shall be true to name in conformance to the current edition of Standardized Plant Names established by the American Joint Committee on Horticultural Nomenclature, or other equivalent source accepted by the Town.

(c) All plant materials shall be nursery grown; hardy to the climate of Indiana; appropriate for the soil, climatic and environmental conditions; and resistant to disease and insect attack. All plant materials shall be appropriate for the hardiness zone of the Town as identified in the most recent U.S. Department of Agriculture's Plant Hardiness Zone Map, as amended.

(d) Artificial plant material shall be prohibited within required screening areas.

2) **Groundcovers.** The following shall apply to all groundcover materials:

(a) Lawn areas shall be planted in species of grass normally grown as permanent lawns in Indiana. Grass may be sodded or hydro-seeded, provided that adequate measures are taken to minimize soil erosion. Sod or seed shall be clean and free of weeds and noxious pests or disease. Sod shall be provided for all lawn areas located within the road right-of-way.

(b) The creative use of groundcover alternatives is encouraged. Groundcover used in lieu of grass shall be planted to present a finished appearance after one (1) complete growing season.

(c) Synthetic materials shall not be used as a permitted groundcover. Use of stone and gravel as a groundcover shall be limited to decorative accents within a planting bed, subject to Planning Commission approval.

3) **Mulch.** Planting beds shall present a finished appearance; with shredded hardwood bark mulch or similar natural material at a minimum depth of three (3) inches. Mulch used around trees and shrubs shall be a minimum of four (4) inches deep and shall be pulled one (1) inch away from tree trunks. An effective edge treatment shall be provided to contain and prevent migration of the mulch.

4) **Topsoil.** A minimum of four (4) inches of topsoil shall be provided for all lawn areas, ground covers, and planting beds.

5) **Plant Material Species.** The use of plant species native to Indiana is required to ensure the long term viability of the plantings while minimizing the negative impacts of invasive and non-native species. Applicants may reference the Indiana Department of Natural Resources' list of recommended and discouraged plantings to determine suitable plantings. The following table lists acceptable native species.

Additional species as recommended by the Indiana Department of Natural Resources in addition to other organizations acceptable to the Planning Commission may be considered at the time of site plan application. The Town will maintain a supplemental list of recommended species which an applicant may reference. The supplemental list of recommended species may be periodically updated as needed and shall utilize information from the American Society of Landscape Architects,

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the National Association of Landscape Professionals, Indiana Native Plant Society, and Purdue University Extension or other equivalent professional or academic organizations.

Recommended Tree and Shrub Species	
Common Name	**Botanical Name**
Red Maple	*Acer rubrum*
Sugar Maple	*Acer saccharum*
Ohio Buckeye	*Aesculus glabra*
Serviceberry	*Amelanchier arborea*
Leadplant	*Amorpha canescens*
Indigo Bush	*Amorpha fruticose*
Devil's Walking Stick	*Aralia spinosa*
Black Chokeberry	*Aronia melanocarpa*
Pawpaw	*Asimina triloba*
New Jersey Tea	*Ceanothus americanus*
Buttonbush	*Cephalanthes occidentalis*
Redbud	*Cercis canadensis*
Silky Dogwood	*Cornus amomum*
Grey Dogwood	*Cornus racemosa*
Persimmon	*Diospyros virginiana*
Winterberry	*Ilex verticillata*
Spicebush	*Lindera benzoin*
Tulip Tree	*Liriodendron tulipifera*
Ninebark	*Physocarpus opulifolius*
Shrubby Cinquefoil	*Potentilla fruticose*
Black Cherry	*Pranus serotina*
Fragrant Sumac	*Rhus aromatica*
Winged Sumac	*Rhus copallinum*
Prairie Willow	*Salix humilis*
Black Willow	*Salix nigra*
Meadowsweet	*Spirea alba*
Steeplebush	*Spirea tomentosa*
Coralberry	*Symphoricarpos orbiulatus*
American basswood	*Tilia americana*
Highbush Blueberry	*Vaccinium corymbosum*
Maple Leaf Viburnum	*Viburnum acerifolim*
Arrowwood viburnum	*Viburnum dentatum*

Purdue University Extension Recommended Native Species List.

6) **Variety of Plant Materials.** To ensure adequate variety, and to avoid monotony and uniformity within a site, the total number of trees proposed in a landscape plan shall not include more than thirty percent (30%) of any single tree species. This standard shall also apply to the total number of shrubs proposed for planting and the total number of perennials proposed for planting.

7) **Prohibited Plant Materials.** The use of plant species which are subject to known diseases or infestations or have been designated as being invasive is prohibited. The Indiana Department of Natural Resources has identified the following species as species which are prohibited within the Town. Applicants shall confirm that all species proposed in a landscape plan have not been identified by the Indiana Department of natural Resources in their Tree Species List.

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The Town will maintain a supplemental list of additional species which are prohibited that applicants shall comply with. The supplemental list of prohibited species may be periodically updated as needed and shall utilize information from the American Society of Landscape Architects, the National Association of Landscape Professionals, Indiana Native Plant Society, and Purdue University Extension or other equivalent professional or academic organizations.

Prohibited Plant Species	
Common Name	**Botanical Name**
Galega officinalis	*goatsrue*
Heracleum mantegazzianum	*giant hogweed*
Azolla pinnata	*mosquito fern*
Caulerpa taxifolia	*caulerpa*
Lagarosiphon major	*oxygen weed*
Monochoria hastata	*monochoria*
Monochoria vaginalis	*heartshape*
Sagittaria sagittifolia	*arrowhead*
Salvinia auriculata	*giant salvinia*
Salvinia biloba	*giant salvinia*
Salvinia herzogii	*giant salvinia*
Salvinia molesta	*giant salvinia*
Sparganium erectum	*exotic bur-reed*
Acer platanoides	*Norway maple*
Pyrus calleryana	*callery pear*
Cardamine impatiens	*narrowleaf bittercress*
Daucus carota	*Queen Anne's Lace*
Eleagnus angustifolia	*Russian olive*
Euonymus alatus	*burning bush*
Glechoma hederacea	*creeping charlie*
Hedera helix	*English ivy*
Kummerowia stipulacea	*Korean lespedeza*
Kummerowia striata	*striate lespedeza*
Melilotus alba	*white sweet clover*
Melilotus officinalis	*yellow sweet clover*
Miscanthus sinensis	*Chinese maiden grass*
Pastinaca sativa	*wild parsnip*
Saponaria officinalis	*bouncing bet*
Schenodorus arundinacea	*tall fescue*
Ulmus pumila	*Siberian elm*
Vicia cracca	*vetch*
Vinca minor	*periwinkle*
Hypericum perforatum	*St. John's wort*
Ampelopsis brevipedunculata	*porcelain berry*
Arundo donax	*giant reed*
Berberis vulgaris	*common barberry*
Clematis terniflora	*sweet autumn clematis*
Leymus arenarius	*lyme grass*
Ligustrum amurense	*Amur privet*
Ligustrum ovalifolium	*California privet*
Ligustrum sinense	*Chinese privet*

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Ligustrum vulgare	*common privet*
Miscanthus x gigantea	*miscanthus hybrid*
princess tree	*Paulownia tomentosa*
sawtooth oak	*Quercus acutissima*
lesser celandine	*Ficaria verna*
jetbead	*Rhodotypos scandens*
wine raspberry	*Rubus phoenicolasius*
Japanese meadowsweet	*Spiraea japonica*
spreading hedge parsley	*Torilis arvensis*
Japanese hedge parsley	*Torilis japonica*
hybrid cattail	*Typha x glauca*
highbush cranberry	*Viburnum opulus v. opulus*
large-leaved periwinkle	*Vinca major*
wisteria	*Wisteria sinensis*
mimosa	*Albizia julibrissin*
moneywort	*Lysimachia nummularia*
beefsteak plant	*Perilla frutescens*
ravenna grass	*Saccharum ravennae*
Canada thistle	*Cirsium arvense*
Johnson grass	*Sorghum halepense*
kudzu	*Pueraria montana*
flowering rush	*Butomus umbellatus*
Brazilian elodea	*Egeria densa*
anchored water hyacinth	*Eichhornia azurea*
hydrilla	*Hydrilla verticillata*
European frogbit	*Hydrocharis morsus-ranae*
miramar weed	*Hygrophilia polysperma*
Chinese waterspinach	*Ipomoea aquatic*
yellow iris	*Iris pseudacorus*
Asian marshweed	*Limnophila sessiliflora*
purple loosestrife	*Lythrum salicaria*
white mulberry	*Morus alba*
parrotfeather	*Myriophyllum aquaticum*
Eurasian watermilfoil	*Myriophyllum spicatum*
brittle naiad	*Najas minor*
yellow floating hearts	*Nymphoides peltata*
duck lettuce	*Ottelia alismoides*
curly-leaved pondweed	*Potamogeton crispus*
water chestnut	*Trapa natans*
narrow-leaved cattail	*Typha angustifolia*
Japanese chaff flower	*Achyranthes japonica*
tree of heaven	*Ailanthus altissima*
garlic mustard	*Alliaria petiolata*
black alder	*Alnus glutinosa*
mugwort	*Artemisia vulgaris*
small carpgrass	*Arthraxon hispidus*
Japanese barberry	*Berberis thunbergii*
spiny plumeless thistle	*Carduus acanthoides*

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musk thistle	*Carduus nutans*
Asian bittersweet	*Celastrus orbiculatus*
spotted knapweed	*Centaurea stoebe*
bull thistle	*Cirsium vulgare*
poison hemlock	*Conium maculatum*
field bindweed	*Convolvulus arvensis*
crown vetch	*Coronilla varia*
black swallow-wort	*Vincetoxicum nigrum*
pale swallow-wort	*Vincetoxicum rossicum*
Chinese yam	*Dioscorea polystachya (oppositifolia)*
common teasel	*Dipsacus fullonum*
cut-leaved teasel	*Dipsacus laciniatus*
autumn olive	*Eleagnus umbellata*
wintercreeper	*Euonymus fortunei*
leafy spurge	*Euphorbia esula*
glossy buckthorn	*Frangula alnus*
dame's rocket	*Hesperis matronalis*
Japanese hops	*Humulus japonicus*
pepperweed	*Lepidium latifolium*
sericea lespedeza	*Lespedeza cuneata*
blunt leaved privet	*Ligustrum obtusifolium*
Japanese honeysuckle	*Lonicera japonica*
Amur honeysuckle	*Lonicera maacki*
Morrow's honeysuckle	*Lonicera morrowii*
Tatarian honeysuckle	*Lonicera tatarica*
Bell's honeysuckle	*Lonicera x bella*
Japanese stiltgrass	*Microstegium vimineum*
reed canarygrass	*Phalaris arundinacea*
Amur cork tree	*Phellodendron amurense*
common reed	*Phragmites australis*
mile-a-minute Vine	*Polygonum perfoliatum*
Japanese knotweed	*Rynoutria japonica*
Giant knotweed	*Reynoutria sachalinensis*
Bohemian knotweed	*Reynoutria. x Bohemica*
common buckthorn	*Rhamnus cathartica*
bicolor lespedeza	*Lespedeza bicolor*
multiflora rose	*Rosa multiflora*

Indiana Native Plant Society Invasive Species List.

8) **Existing Plant Materials.** Healthy existing trees and other plant materials on a site may be used to satisfy specific screening standards of this Chapter, subject to Planning Commission approval and the following:

(a) The location, size, and species of individual trees and other plant materials to be preserved shall be identified on the site plan.

(b) The Planning Commission may require Town inspection of existing plant materials prior to or as a condition of site plan approval to determine the health and desirability of such materials. Such inspections shall be performed by qualified Town staff or by a certified arborist or similar qualified consultant as selected by the Town.

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(c) Where plant materials are to be saved, prior approval shall be obtained by the property owner from the Building Official or their designee prior to any delimbing, root pruning, or similar work.

(d) Protective fencing shall be placed at the drip-line of existing trees, and around the perimeter of other preserved plant materials, with details of protective measures noted on the site plan. No vehicle or other construction equipment shall be parked or stored within protected areas.

(e) In the event that trees or other plant materials identified to be preserved on an approved site plan are destroyed or damaged, as determined by the Building Official or their designee, the owner, developer or contractor shall replace the plant material with a comparable size, amount, and species.

9) **Minimum Size.** All plant materials specified by this subchapter shall comply with the minimum sizes at time of planting as specified in Table 152.191: Minimum Size at Time of Planting. For minimum sizes required for screening, see Section 5.2.4.E.

Table 152.191: Minimum Size at Time of Planting

Plant Category	***Minimum Size***
Deciduous shade tree (a.k.a. Overstory tree)	2-1/2 in. caliper at 6 in. above the ground
Deciduous ornamental tree (a.k.a. Understory tree)	1-1/2 in. caliper at 6 in. above the ground
Evergreen tree	6 ft. high
Evergreen tree (narrow spread)*	4 ft. high
Hedge plants/shrubs	24 in. high

* Evergreen tree (narrow spread), such as arborvitae, may only be used as an alternate plant material subject to the provisions of § 152.194.

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H. INTERIOR OFF-STREET PARKING AREA LANDSCAPING.

All new surface, off-street parking areas ~~containing 30 parking spaces or more~~, and all expanded surface off-street parking areas ~~which are increased by 30 parking spaces or more~~, whether the increase occurs at 1 time or in successive stages, shall be subject to the following regulations.

(A) All such off-street parking areas shall include at least 1 required interior landscape island for every 15 parking spaces (or fraction thereof), or 5,000 square feet of off-street parking area, whichever yields the greater number.

(B) Each required interior landscape island shall measure a minimum of 8 feet by 18 feet.

(C) Each required interior landscape island shall contain a minimum of 1 deciduous shade tree, 1 deciduous ornamental tree, or 1 evergreen tree.

(D) Interior landscape islands shall be located at the end of parking bays so as to define vehicular and pedestrian traffic patterns.

(E) All trees shall comply with the size at time of planting as indicated in Table 152.191: Minimum Size at Time of Planting.

(F) Area devoted to interior landscape islands shall be in addition to any required perimeter yard landscaping, foundation landscaping, or parking area screening required by this subchapter.



Example of Interior Off-Street Parking Area Landscaping

(G) Off-street parking areas shall include areas used for the parking or display or automobiles, boats, truck, or farm equipment associated with a dealership or leasing business.

(H) Off-street parking areas shall not include areas used for semi-truck loading areas, semi-truck maneuvering areas, and semi-truck parking areas.

(Ord. 1221, § 8.01(d), passed 1-26-2010)

I. OFF-STREET PARKING AREA SCREENING.

(A) The regulations of this section shall apply to all new surface, off-street parking areas, and expanded surface off-street parking areas for any use except a single family dwelling or 2 family dwelling.



Example of Off-Street Parking Area Screening

(B) In addition to perimeter yard landscaping, foundation landscaping, and interior parking area landscaping, if an off-street parking area is located: between a front building line and a front lot line; between a side building line and any required side residential bufferyard; or between a rear building line and any required rear residential bufferyard, the edge of the parking area facing the front lot line, side residential bufferyard, or rear residential bufferyard shall be screened by a compact row of shrubs/hedge plants planted 3 feet on-center across the front of the parking area located between the front lot line, side residential bufferyard, or rear residential bufferyard and the edge of the parking area. Minimum planting size shall meet the requirements of Table 152.191 for hedge plants/shrubs, and be maintained at a maximum allowable growth height of 36 inches.

(Ord. 1221, § 8.01(e), passed 1-26-2010)

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Section 6.03 LIGHTING REGULATIONS

A. INTENT.

The lighting regulations contained in this subchapter are intended to provide for the erection, design, or placement of outdoor light fixtures which: provide for illumination levels on individual lots which are adequate for the safe and efficient movement of individuals or vehicles to and from a lot and within a lot (i.e., areas that are dangerous if unlit, such as stairs, intersections, or changes in grade); are designed to protect against the spillover of light onto abutting properties which may negatively impact occupants of abutting properties; and are designed to protect against objectionable glare onto public rights-of-way which may impair the vision of motorists.

B. APPLICABILITY AND REVIEW.

1) **Applicability**. The standards of this Section apply to all exterior lighting sources visible from a public right-of-way, private road easement, or adjacent property except where specifically exempted, as in the case of single and two-family residences. The installation of any new light fixtures or the replacement of existing light fixtures shall require compliance with the standards of this section.

2) **Review and Approval Required.** Projects Requiring Lighting Plan Submittal. A lighting plan shall be submitted when a site plan review is required by the Planning Commission in accordance with Section 8.02: Development Review Procedures, in connection with an application for an improvement location permit. The lighting plan shall include:

(a) A site plan which includes the outline of buildings, structures, and other improvements (e.g., parking areas, loading areas, interior access drives, and the like) on the lot and the location of all outdoor light fixtures; and

(b) The location, mounting height and light levels for all existing and proposed light sources.

(c) Detailed cut sheets for all fixtures shall be submitted for fixtures in compliance with the standards of this section.

(d) The Zoning Administrator may request the submittal of a lighting plan and/or light fixture cut sheets for projects only requiring administrative sketch plan review or plot plan review should it be deemed necessary.

C. GENERAL REQUIREMENTS.

All outdoor light fixtures on a lot shall comply with the following regulations:

1) Lighting Intensity. The following light intensity requirements shall apply on all sites within the Town.

(a) Maximum Intensity - Within the Site. The intensity of light within a site shall not exceed 10 footcandles. Exception: the maximum intensity permitted in areas of intensive vehicular on outdoor pedestrian task areas, such as the area underneath gas station pump canopies, in the immediate vicinity of ATM facilities, or outdoor sales areas shall be 20 foot candles.

(b) Maximum Intensity. at Street Right-of-Way. The maximum light intensity permitted at a street right-of-way line shall be one (1) footcandle, or the average light intensity generated by public street lighting at the property line (up to a limit of 5 foot candles), whichever is greater.

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(c) Maximum Intensity at Property Lines. The maximum light intensity permitted at any property line other than a street right-of-way shall be 0.5 foot candles.

2) **Correlated Color Temperature Standards.** All light fixtures shall not exceed a color temperature of five-thousand (5,000) kelvins.

3) **Required Sensors and Controls and Hours of Operation.** All light fixtures shall be installed with photocells and an automated power control dimming module that will automatically adjust the light levels and turn on and off the light fixture based on ambient outdoor light conditions. All exterior lighting in non-residential districts shall incorporate automatic timers and shall be turned off between the hours of midnight and sunrise, except for lighting necessary for security purposes or accessory to a use that continues after midnight.

4) **Power Supply**. Outdoor light fixtures located on light poles shall be provided power by underground wiring.

5) **Minimum Setback.** Notwithstanding anything in this chapter to the contrary for the "Use of Minimum Yards" or "Use of Minimum Yards and Residential Bufferyards" for any district, a freestanding outdoor light fixture may be located within a required front yard, side yard, rear yard, front residential bufferyard, side residential bufferyard, or rear residential bufferyard, provided that the freestanding outdoor light fixture is located adjacent to the interior edge of the yard or residential bufferyard and adjacent to a permitted driveway, parking area, interior access drive, interior access driveway, or other outdoor use area requiring illumination.

6) Fixture Mounting and Shielding. (except in Industrial Districts).

(a) All light fixtures shall be fully shielded and directed downward at a 90 degree angle. Oblique lenses (such as many wall-pack fixtures) are prohibited. All fixtures shall incorporate full cutoff housings, louvers, glare shields, optics, reflectors or other measures to prevent off-site glare and minimize light pollution. Only flat lenses are permitted on shoebox-style light fixtures; sag or protruding lenses are prohibited.

(b) Building or wall mounted light fixtures shall not project above the fascia or roof line of the building.

(c) Exterior lighting sources shall be designed, constructed, located and maintained in a manner that does not cause off-site glare on neighboring properties or for vehicles traveling in adjacent streets. In general, the light source or light emitting element of any light fixture should not be directly visible from a neighboring property, as this is the primary cause of glare. Light fixtures shall be located to direct forward light away from adjacent dwellings and into the interior of a site. Light fixtures shall use backlight glare shields to further reduce high and very high backlight from fixtures.

(d) [INSERT FIGURE] shows examples of unshielded fixtures which are prohibited and fully shielded fixtures that are acceptable. The fixtures shown in [INSERT FIGURE] are merely shown to demonstrate options and is not regulatory in and of itself.

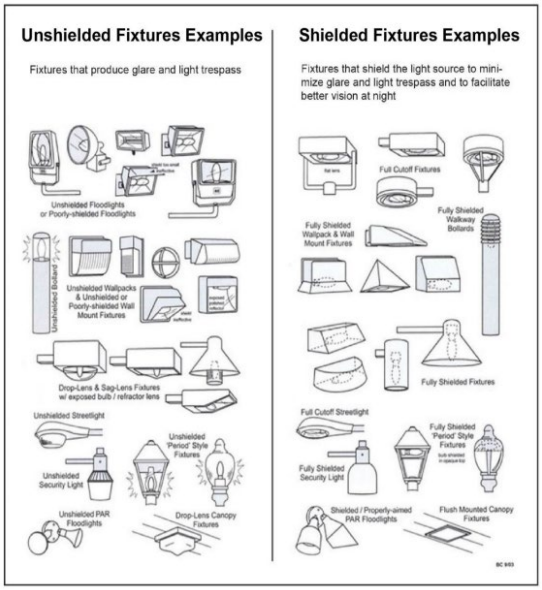
7) **Fixture Height.** All outdoor light fixtures used to illuminate a particular area on a lot (i.e., a parking area; a loading area; or an entry way, sidewalk or walkway areas) shall, within those areas, be of uniform size, design, and height.

(a) Height of fixtures, measured from grade to the bottom of the light source, shall not exceed:

(b) 25 feet in height within parking or vehicular areas;

(c) 15 feet in height within pedestrian areas; and

(d) 15 feet in height when located within 50 feet of any residential property or residentially used structure.



D. SPECIFIC FIXTURE TYPE STANDARDS.

1) **Wall pack lights.** Wall pack outdoor light fixtures shall be subject to the following regulations:

(a) Except in Industrial Districts, wall pack outdoor light fixtures located on a front or side elevations of a building or structure shall be full cutoff.

(b) In all Commercial/Town Center or Industrial Districts, wall pack outdoor light fixtures oriented toward a residential bufferyard and an abutting Residential District shall be full cutoff.

(c) Low intensity architectural style wall pack outdoor light fixtures (which may be cutoff, semi-cutoff, or non-cutoff) may be used to accent architectural elements of the building or structure or to illuminate entrance areas. Illuminance from such fixtures shall not exceed 5 footcandles (fc) on any portion of the building façade or ground plane immediately adjacent to the wall.

2) **Awning and canopy lighting.** Awnings and canopies used for building accents over doors, windows, walkways, and the like, may be internally illuminated or back-lit (i.e., lit from underneath or behind); provided, however, that the primary material is opaque and that translucent material is limited to the actual text or logo of the sign, if any, incorporated into the awning or canopy.

3) **Floodlights.** Outdoor light fixtures equipped with floodlights may only be permitted on a lot as follows:

(a) Floodlights shall be focused on the primary building or the area of the lot located between the floodlight and the primary building; or

(b) Floodlights shall be shielded to the extent that the main beam from the luminaire is not visible from or causes any glare onto adjacent properties or rights-of-way.

4) Sport and athletic field lights.

(a) Notwithstanding anything in this subchapter to the contrary, the following special regulations shall apply to sport and athletic field lights. Freestanding outdoor light fixtures for sport and athletic fields:

(b) Shall not exceed 110 feet in height above grade; and

(c) Shall be of a type and manufacturer that offers a spill and glare control package and shall be fitted with the manufacturer's spill and glare control package.

E. EXEMPT LIGHTS.

1) **Holiday decorations.** Outdoor light fixtures used for holiday decorations.

2) **Public lighting.** All outdoor light fixtures originating from public areas and ways, including but not limited to parks, rights-of-way, public art, or other public facilities, that are installed for the benefit of the public health, safety, and welfare.

3) **Fossil fuel lights.** All outdoor light fixtures producing light directly from the combustion of fossil fuels (i.e., kerosene lanterns or gas lamps).

4) **Construction/emergency lighting.** All outdoor light fixtures provided in connection with construction work or the abatement of an emergency situation necessitating the lighting, provided that the use of such outdoor light fixtures is discontinued during hours when construction activity or emergency abatement is not in progress and that the outdoor light fixtures are removed upon completion of the construction activity or the abatement of the emergency.

5) **Internal illumination of signs.** All outdoor light fixtures which are completely enclosed within a sign cabinet and which provide illumination only for a sign face.

6) **Single family dwelling or 2 family dwelling lots.** All outdoor light fixtures used for the illumination of personal property; provided, however, that the outdoor light fixtures shall be subject to the performance standards in § 152.086(G) regarding glare.

7) **Special Event Lighting.** Lighting in conjunction with a permitted special event is exempt, provided that the lighting will not significantly impact residential areas. Special event lighting shall only be allowed for the duration of the special event.

F. TEMPORARY LIGHTS.

1) Temporary lights permitted.

(a) The following types of outdoor light fixtures may be approved on a temporary basis by the Zoning Administrator prior to placement or use.

(b) Civic events. Temporary outdoor light fixtures used for civic events.

(c) Special events. Temporary outdoor lighting fixtures for such activities as circuses, fairs, carnivals, sporting events, and the like.

(d) Such temporary lights shall not be installed more than 30 days prior to the civic event or special event and shall be removed not more than 15 days after the civic event or special event.

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2) **Searchlights.** Notwithstanding anything contained in § 152.215 to the contrary, temporary outdoor light fixtures used in connection with a civic event or special event may include 1 portable, rotating searchlight; provided, however, that the temporary outdoor light fixture:

(a) Shall not be permitted for more than 3 occurrences during a calendar year;

(b) Shall not be used for a period of more than 2 consecutive days during a civic event or special event;

(c) Shall not be operated between the hours of 12:00 a.m. midnight and 8:00 a.m.; and

(d) Shall otherwise comply with all other applicable provisions of this subchapter.

G. PROHIBITED LIGHTS.

1) **Flashing lights.** Any lights that flash, move, revolve, rotate, scintillate, blink, flicker, vary in intensity or color, or use intermittent electrical pulsation. Permanent exterior site lighting intended to illuminate outdoor areas shall not be of a flashing, moving, animated, or intermittent type.

2) **Floodlights.** Floodlights not in compliance with the regulations set forth above, or other form of outdoor light fixtures not specifically authorized by this subchapter (including but not limited to stringer lights), that are ground mounted or attached to light poles, and used to illuminate the site, buildings, or structures.

3) **Outdoor strings of lights.** Outdoor strings of lights, including but not limited to those used to outline lot lines or outdoor display areas; provided, however, outdoor strings of lights may be allowed when complying with § 152.213(A), holiday decorations.

H. EXCEPTIONS. It is recognized by the Town that there are certain uses or circumstances not otherwise addressed in this section, such as sports fields, street lighting, or lighting for monuments and flags, that may have special exterior lighting requirements. The Zoning Administrator, or the Planning Commission, when site plan or special land use review by the Commission is required, may waive, or modify specific provisions of this section for a particular use or circumstance upon determining that all of the following conditions have been satisfied:

1) The waiver or modification is necessary because of safety or design factors unique to the use, circumstance, or site.

2) The minimum possible light intensity is used that would be adequate for the intended purpose. Consideration shall be given to maximizing safety and energy conservation, and to minimizing light pollution, off-site glare and light trespass on to neighboring properties or street rights-of-way.

3) For lighting related to streets or other vehicle access areas, a determination is made that the purpose of the lighting cannot be achieved by installation of reflectorized markers, lines, informational signs or other passive means.

4) Additional conditions or limitations may be imposed by the review authority to protect the public health, safety or welfare, or to fulfill the purpose of this chapter.

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Section 6.04 SIGN REGULATIONS

A. INTENT.

1) These sign regulations are intended to:

(a) Encourage the effective use of signs as a means of communication;

(b) Encourage signs which, by their design, are integrated with and harmonious to the buildings and sites which they occupy;

(c) Eliminate excessive and confusing sign displays;

(d) Maintain and improve the appearance of the town as an attractive place in which to live and conduct business;

(e) Safeguard and enhance property values by minimizing the possible adverse effects of signs on nearby public and private property;

(f) Support and complement the land use objectives of the Comprehensive Plan and this chapter;

(g) Protect public and private investment in buildings and open spaces;

(h) Eliminate potential hazards to motorists and pedestrians resulting from signs;

(i) Establish reasonable limits on the number, time, and manner (including but not limited to the spacing, materials, and size of signs) to avoid sign clutter; and

(j) Promote the public health, safety, morals, and general welfare of the town.

2) The regulations contained in this subchapter shall apply to the location, erection, and maintenance of signs in any district regulated by this chapter.

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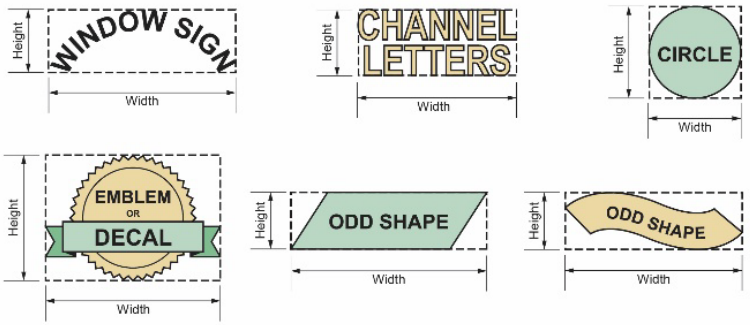
B. SUBSTITUTION OF CONTENT PERMITTED.

Any sign authorized to be displayed by this ordinance may contain a noncommercial message.

C. SIGN HEIGHT AND AREA MEASUREMENT.

1) **Sign Area.** Sign area shall be computed as follows:

(a) **General Requirements.** Where a sign consists of a generally flat surface or sign face on which lettering and other information is affixed, the sign area shall be computed by measuring the entire face of the sign.

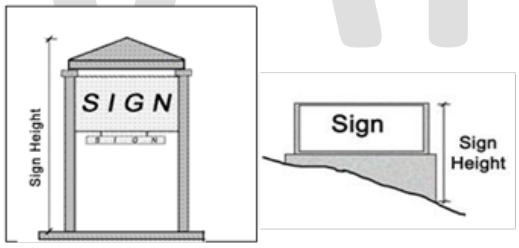


Sign Height and Width

(b) **Individual Letters, Logos, or Irregular Shapes.** For signs made of individual letters, logos, or shapes, the sign area shall be measured by drawing the smallest rectangle that fully encloses all parts of the letters, logo, or message. Irregularly shaped signs shall be measured the same way: by enclosing the outermost points of the sign within the smallest possible rectangle (see illustration below).

(c) **Freestanding Sign.** The area of a double-faced freestanding sign shall be computed using only one (1) face of the sign provided that: 1) the outline and dimensions of both faces are identical, and 2) the faces are back-to-back so that only one face is visible at any given time.

2) **Sign Height Measurement.** The height of a sign shall be measured from the lowest grade directly below the sign. The maximum sign height shall be measured to the top of the sign.



Sign Height

(a) **Additional Maximum Height Requirements.** In addition to the maximum height requirements of, the sign height, including support structures, shall not exceed one and one-half times the width of the sign and the support structures shall not extend more than one foot above the sign face.

3) **Two or More Sides.** A two-sided sign (e.g., V-type sign or double-faced [back-to-back sign]) shall be considered as 1 sign when the angle between the sign faces does not exceed 15 degrees nor does the distance between the backs of each face exceed 3 feet.

4) **Awning, Canopy, or Marquee Measurement.** The total area of the awning, canopy, or marquee shall be the sum of the 2- dimensional surface area of all sides of the awning, canopy, or marquee. Sign surface area shall be calculated according to the Sign Area subsection above.

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D. EXEMPT SIGNS.

Unless otherwise specifically stated, signs that comply with the provisions contained in this section shall be exempt from all other provisions of this chapter, except that the clear sight area provisions specified in § 152.020 shall apply.

1) **Building lighting.** Highlighting of structural/architectural elements of buildings, such as roof lines, doors, window or wall edges, by illumination shall not be considered a sign; provided, however, if the highlighting or outlining contains text or logos, the items shall be considered signs and regulated by this chapter according to the sign type and district in which it is located. In no case shall the building lighting be flashing or animated.

2) **Flags.** Flags shall be exempt. However, flags that clearly promote on-site activities or commercial interests shall be considered banners, and subject to the banner sign standards. There shall be no more than three (3) flags per lot and the maximum size of each flag shall be fifty (50) square feet; however, flags on city-owned or school-owned properties shall be exempt from the area restriction.

3) **Non-logo features.** Integral, decorative, or architectural features of buildings, so long as the features or works do not contain logos, letters, or trademarks, except Signs that cannot be viewed from a public right-of-way.

4) **Miscellaneous signs.** Including but not limited to:

   (a) Signs only giving property identification, names, or numbers of occupants, and containing 2 square feet or less in sign surface area;

   (b) Signs posted on private property only to identify or warn about “Private Property,” “Private Parking,” “No Trespassing,” or “Danger” from animals and containing 2 square feet or less in sign surface area;

   (c) Signs which are integral to the building and only indicating the name of the building, date of erection, monumental citations, commemorative tablets and the like, when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type construction and made an integral part of the building.

5) Government and Official signs.

   (a) Signs authorized by a government or governmental unit which give traffic, directional, or warning information;

   (b) Signs of public service companies indicating danger; and

   (c) Signs erected by or on the order of a public officer in the performance of his or her public duty which aids service or safety.

   (d) Signs required or specifically authorized for a public purpose by any law, statute or ordinance, which may be any type, number, area, height above grade, location or illumination required by the law, statute or ordinance under which the signs are erected.

6) Tombstones.

7) **Works of art.** Three-dimensional works of art (statuary, sculptures), and 2-dimensional works of art (i.e., murals) that clearly are artistic in nature and which do not promote on-site activities or commercial interests; provided, however:

   (a) Two-dimensional works of art which exceed 20% of the side or rear façade of a building on which they are placed shall receive approval as a wall sign; and

   (b) Two-dimensional works of art, regardless of size, shall not be permitted on the front façade of any building.

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8) **Window signs.** Window signs, provided that the signs shall not exceed the lesser of:

(a) Twenty-five percent of the area of the window; provided, in the case of multi-pane windows, the surface area of the window shall be the combined surface area of the individual panes; or in the case of a glass curtain wall, the surface area of the window shall be the combined surface area of the individual glass panels; or

(b) Twelve square feet in sign surface area.

9) **Temporary signs.** In addition to the type, number, sign surface area, setback, and height regulations for signs specified for each district, temporary signs shall be allowed subject to the following regulations:

(a) General regulations applicable to all temporary signs.

1. Time. Temporary signs may be erected for 1 of the following time periods:

a. Special events. Temporary signs may be erected, placed, or located in connection with a special event not more than 30 days prior to the start of a special event and shall be removed not more than 15 days after the end of the special event. A special event related sign shall not be erected, placed or located more than 2 times during a calendar year; or

b. Non-special event. Temporary signs not in connection with a special event may be erected, placed, or located not more than 2 times during a calendar year and shall not exceed 45 days in duration.

2. Place. Temporary signs shall comply with the following location requirements:

a. A temporary sign shall comply with the clear sight area regulations of § 152.020;

b. A temporary sign shall not be located within any public right-of-way;

c. A temporary sign, if a freestanding sign, shall be located in compliance with all setback regulations for a permanent sign; and

d. A temporary sign, if a wall sign, shall be located in compliance with the regulations for a permanent wall sign.

3. Manner. Temporary signs shall be placed in the following manner.

a. A temporary sign shall be permitted on a lot only upon prior authorization by the owner of the lot.

b. Any sign which meets the chapter definition of an on-premises business sign or an outdoor advertising sign shall not be considered or allowed as a temporary sign.

c. A temporary sign shall not be illuminated.

(b) Temporary freestanding sign, LDR,TR, or MDR District. Temporary freestanding sign for any individual lot in any LDR,TR, or MDR District:

1. Number. One temporary freestanding sign shall be permitted for each street or limited access highway which abuts the lot; and

2. Manner.

a. Shall not exceed 6 square feet in sign surface area; and

b. Shall not exceed 4 feet in height above grade.

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(c) Temporary freestanding sign, MU, TC, LB, CB, LI, or GI Districts. Temporary freestanding signs for any MU, TC, LB, CB, LI, or GI District. or for any single or 2 family subdivision development in the LDR,TR, or MDR Districts:

1. Number.
    a. One additional freestanding sign shall be permitted for each street or limited access highway which abuts the lot or integrated center; and
    b. Exception: more than 500 feet. When a lot or integrated center abuts the same street or limited access highway for more than 500 feet, 1 additional freestanding temporary sign shall be permitted on that street or limited access highway, provided that:
        i. Minimum separation between freestanding temporary signs along the same street or limited access highway shall be 300 feet;
        ii. The additional freestanding temporary sign shall be oriented to the street or limited access highway which abuts the lot or integrated center for more than 500 feet;
        iii. The minimum separation between freestanding temporary signs, regardless of orientation of the freestanding temporary signs, shall be 100 feet; and
        iv. The total sign surface area of all freestanding temporary signs shall not exceed 200 square feet.
2. Manner.
    a. Shall not exceed 8 feet in height above grade; and
    b. Shall not exceed 32 square feet in sign surface area.

(d) Temporary window sign. Temporary window sign, in all districts shall not exceed the lesser of:

1. Manner: Twenty-four square feet in surface area; or
2. Manner: Five percent of the window on which it is placed or through which it is viewed; provided, in the case of multi-pane windows, the surface area of the window shall be the combined surface area the individual panes; or in the case of a glass curtain wall, the surface area of the window shall be the combined surface area of the individual glass panels.

(e) Special time and manner regulations for A-frame, T-frame, menu board, or sandwich board signs. Notwithstanding anything above to the contrary, temporary signs which are A-frame, T-frame, menu board, or sandwich board signs shall be subject to the following time and manner regulations:

1. Time: may be erected, placed or located outside of a business establishment on a daily basis;
2. Time: shall only be displayed during business hours;
3. Manner: shall be within 10 feet of the main customer entrance to the business establishment and shall not be located in any public right-of-way;
4. Manner: shall not exceed 6 square feet in sign surface area; and
5. Manner: shall not exceed a maximum height of 4 feet above grade.

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E. PROHIBITED SIGNS.

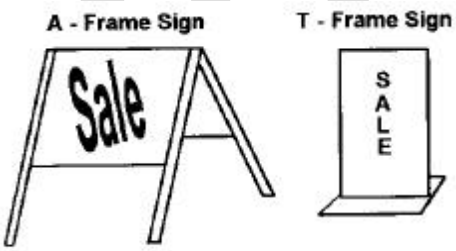
The following signs shall be prohibited in all districts.

1) Signs located on, in or above the right-of-way of any street or alley, except for: official signs or signs erected on behalf of or pursuant to authorization of a governmental body; and projecting signs as expressly permitted by later sections of this subchapter.

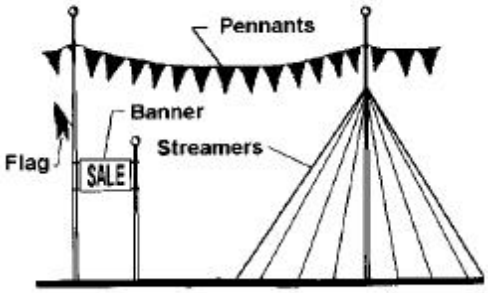
2) Signs which interfere with street intersections. No sign, permanent or temporary, shall be erected so that it interferes with the sight distance as specified in § 152.020.

3) Signs which interfere with, obstruct the view of, imitate, copy, purport to be, or may be confused with any authorized official sign, traffic sign, traffic signal, or traffic-control device.

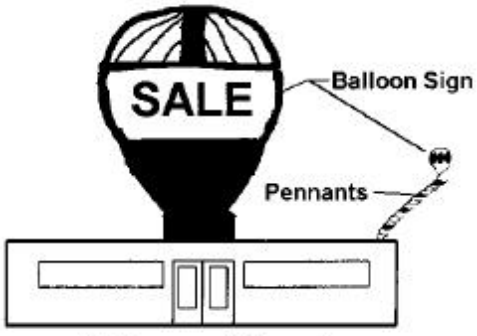
4) Portable signs, including but not limited to: A-frame, T-frame, menu board, and sandwich board signs (except as expressly authorized by § 152.231(L)(5)); signs on portable trailer frames; and signs attached to or painted on a vehicle parked and visible from the public right-of-way; provided, however, a vehicle which is used in the normal day-to-day operation of a business use shall not be considered a portable sign if the vehicle is parked beside or behind the building in which the use is located, or if the sign on the vehicle contains less than 9 square feet in sign surface area.



Portable Signs



Examples of Windblown Devices



Balloons and Pennants

5) Windblown devices, including but not limited to any banner, pennant, spinner, streamer, propeller, disc, moored blimp, gas balloon, or flag that is designed to inform or attract attention (except for exempt flags as set forth in § 152.231).

6) Signs attached to trees.

7) Signs attached to utility poles, except for signs erected on behalf of or pursuant to authorization of a governmental body or the utility company having jurisdiction over the poles.

8) Signs that bear or contain statements, words, or pictures of an obscene, pornographic, immoral character, or which contain advertising matter which is untruthful or will offend public morals or decency.

9) Any sign that obstructs or substantially interferes with any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress, or egress to any building.

10) Any changeable copy sign, including without limitation an electronic variable message sign on which the message changes more than 6 times per minute.

11) Any rotating beam, beacon, intermittent light, lights of changing degrees of intensity, or flashing illumination in connection with any sign surface, except as part of an electronic variable message sign on which the message does not change more than 6 times per minute.

12) Roof signs.

13) Any other type of sign located on private property outside of a public right-of-way not expressly permitted by this subchapter.

F. NONCONFORMING SIGNS.

Refer to Section 7.10 Legally Established Nonconforming Signs.

G. SIGN VARIANCES.

Any party may file a variance request with the Zoning Board of Appeals. The ZBA shall have the authority to grant a variance where the strict application of the regulations would result in peculiar or exceptional practical difficulties upon the applicant, provided relief may be granted without substantially impairing the intent and purposes of this Ordinance. In granting a variance the ZBA may attach conditions regarding the location, character, and other features of the proposed sign as it may deem reasonable. In granting a variance, the ZBA shall state the grounds and findings upon which it justifies granting or denying the variance. The ZBA shall consider the following in arriving at a decision:

1) Conforming signs could not be easily seen by passing motorists due to the configuration of existing buildings, trees, existing signs on nearby parcels, or other obstructions.

2. Conforming signs could not be seen by passing motorists in sufficient time to allow safe deceleration or obstruct the vision of motorists. In determining whether these circumstances exist, the ZBA shall con- sider the width of the road, the number of moving lanes, the volume of traffic, and speed limits.

3. Construction of a conforming sign would require removal or severe alteration to natural features on the parcel, such as but not limited to:

a. removal of trees,

b. alteration of the natural topography, or

c. obstruction of a natural drainage course.

4. A sign that exceeds the allowable height or area requirements of the Ordinance would be more appropriate in scale because of the unusually large size or frontage of the premises or building.

5. The physical surrounding shape, topographical, or location conditions of the specific property or structure involved results in an inability to comply with the Ordinance if the strict application of this Section was carried out, as distinguished from a mere inconvenience.

6. That any increased costs associated with maintaining compliance with the Ordinance are not considered as a basis for granting a variance.

7. The need for the variance has not been created by any person having an interest in the sign, sign structure, or property.

8. The conditions upon which the petition for a variance is based would not be applicable, generally, to any other property, or structure in the same general area.

9. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area which the sign is located or otherwise endanger the public safety, or substantially diminish or impair property values within the area.

H. ON-PREMISES SIGN STANDARDS.

Permitted sign types by zoning district are shown in the table below.

Signs Permitted By District P = Permitted NP = Not Permitted

Sign Type*	LDR	TR	MDR	MU	LB	CB	TC	LI	GI
Monument	P	P	P	P	P	P	NP	P	P
Pole	NP	NP	NP	NP	NP	P	NP	P	P
Wall	P	P	P	P	P	P	P	P	P
Awning or Canopy	P	P	P	P	P	P	P	P	P
Marquee	P	P	P	P	P	P	P	P	P
Incidental	P	P	P	P	P	P	P	P	P
Suspended	P	P	P	P	P	P	P	P	P
Outdoor Display	NP	NP	NP	P	P	P	NP	P	P
Billboard	NP	NP	NP	NP	NP	NP	NP	NP	NP

I. ON PREMISES SIGNS: LDR, TR, AND MDR DISTRICTS.

The following standards shall apply in the LDR Low Density Residential, TR Traditional Residential, and MDR Medium Density Residential Districts.

Monument Signs

Land Use	Maximum Quantity	Maximum Sign Area	Maximum Height Above Finished Grade	Setbacks			Illumination		Materials
				Front	Side	Rear	Internal	External	
Single-Unit Dwellings, Duplexes, Triplexes, Quadplexes, Residential Facilities, Child Care Homes	One (1) per street frontage	2 sq. ft. per sign	4 ft.	10 ft.	Accessory structure setback standards for relevant zoning district apply.		No	No	Shall be constructed of a material(s) which blends in with the residential character of the neighborhood, such as but not limited to, wood or stone.
Multi-Unit Dwellings	One (1) per street frontage	32 sq. ft. per sign	5 ft.	10 ft.	Accessory structure setback standards for relevant zoning district apply.		No	Yes	Shall be constructed of a material(s) which blends in with the residential character of the neighborhood, such as but not limited to, wood or stone.
Recorded Platted Subdivisions	Two (2) per entrance, maximum of one (1) per intersection quadrant.	24 sq. ft. per sign	8 ft.	10 ft.	Accessory structure setback standards for relevant zoning district apply.		No	Yes	Shall be constructed of ornamental metal, stone masonry, or other permanent material.
Institutional Uses (including schools, places of assembly, and care facilities)	One (1) per street frontage	32 sq. ft. per sign	5 ft.	10 ft.	Accessory structure setback standards for relevant zoning district apply.		Yes	Yes	
Other Non-Residential Uses	One (1) per street frontage	16 sq. ft. per sign	5 ft.	10 ft.	Accessory structure setback standards for		Yes	Yes	

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					relevant zoning district apply.			

Wall Signs

Façade Condition	Maximum Quantity	Maximum Sign Area	Maximum Height Above Finished Grade	Maximum Projection	Illumination	
					Internal	External
Front Façade	No Limit	5% of façade area	No Limit	18 in.	Yes	Yes
Side or Rear Façade	No Limit	3% of façade area	No Limit	18 in.	Yes	Yes
Side or Rear Facing Street, Highway, or Customer Parking	No Limit	5% of façade area	No Limit	18 in.	Yes	Yes

Awning Signs and Canopy Signs

Façade Condition	Maximum Quantity	Maximum Total Area	Maximum Sign Surface Area	Maximum Height Above Finished Grade	Setbacks	Maximum Projection	Minimum Clearance Above Finished Grade	Illumination	
								Internal	External
Front Façade	No Limit	5% of façade area	50% of total area	No Limit	Principal structure setbacks standards for relevant zoning district apply.	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	8 ft. 6 in. over walkway 15 ft. over driveway, interior access drive, or alley	Yes	Yes
Side or Rear Façade	No Limit	3% of façade area	50% of total area	No Limit	Principal structure setbacks standards for relevant zoning district apply.	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	8 ft. 6 in. over walkway 15 ft. over driveway, interior access drive, or alley	Yes	Yes
Side or Rear Façade Facing Street, Highway, or Customer Parking	No Limit	5% of façade area	50% of total area	No Limit	Principal structure setbacks standards for relevant zoning district apply.	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	8 ft. 6 in. over walkway 15 ft. over driveway, interior access drive, or alley	Yes	Yes

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Marquee Signs

Façade	Maximum Quantity	Maximum Total Area	Maximum Sign Surface Area	Maximum Height Above Finished Grade	Setbacks	Maximum Projection	Minimum Clearance Above Finished Grade	Illumination	
								Internal	External
Front Façade	No Limit	5% of façade area*	75% of total area	No Limit	Principal structure setbacks standards for relevant zoning district apply.	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	9 ft. over walkway 15 ft. over driveway, interior access drive, or alley	Yes	Yes
Side or Rear Façade	No Limit	3% of façade area*	75% of total area	No Limit	Principal structure setbacks standards for relevant zoning district apply.	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	9 ft. over walkway 15 ft. over driveway, interior access drive, or alley	Yes	Yes
Side or Rear Façade Facing Street, Highway, or Customer Parking	No Limit	5% of façade area*	75% of total area	No Limit	Principal structure setbacks standards for relevant zoning district apply.	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	9 ft. over walkway 15 ft. over driveway, interior access drive, or alley	Yes	Yes

**A marquee sign may include a non-changeable copy sign attached to or mounted on top of a marquee, subject to the sign surface area limitations set forth above.*

Incidental Signs

Condition	Maximum Quantity	Maximum Area	Maximum Height Above Finished Grade	Setbacks			Illumination	
				Front	Side	Rear	Internal	External
Single driveway lot	One (1) sign per driveway. One (1) at each critical turning point along an interior access drive when required to safely direct vehicular traffic (e.g., to direct vehicular traffic to: a drive-up window; a	2 sq. ft. per sign	4 ft.	3 ft.	Accessory structure setback standards for relevant zoning district apply.		No	No

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	customer or employee parking area; or a delivery or loading area).						
Multiple driveway lot	Two (2) at the driveway entrance or exit. One (1) at each critical turning point along an interior access drive when required to safely direct vehicular traffic (e.g., to direct vehicular traffic to: a drive-up window; a customer or employee parking area; or a delivery or loading area).	2 sq. ft. per sign	4 ft.	3 ft.	Accessory structure setback standards for relevant zoning district apply.	No	No

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Suspended Signs

Context	Maximum Quantity	Maximum Area	Minimum Clearance Above Finished Grade	Illumination	
				Internal	External
Buildings with two (2) or more non-related grade-level tenants.*	One (1) per front facade OR one (1) per tenant façade	5 sq. ft.	8 ft. 6 in.	Yes	Yes

1) ON-PREMISES SIGNS: MU AND LB DISTRICTS.

The following standards shall apply in the MU Mixed Use and LB Local Business Districts.

Monument Signs

Land Use	Maximum Quantity	Maximum Sign Area		Maximum Height Above Finished Grade	Setbacks			Separation	Orientation	Illumination
		Frontage	Maximum Area		Front	Side	Rear			
Single-Use Sites	1 per 500 ft of frontage, calculated per street	≤500 ft.	64 sq. ft.	6 ft.	5 ft.	Principal structure setback standards for relevant zoning district apply.		100 ft between any signs; 300 ft between signs facing same street	Must face the street whose frontage permits the sign	Yes
		>500 ft.-≤1,000 ft.	100 sq. ft.*							
		> 1,000	200 sq. ft.**							

*Sign surface area may be all in 1 freestanding sign or divided between all permitted freestanding signs.

**Sign surface area may be all in 1 freestanding sign or divided between all permitted freestanding signs, provided that the maximum sign surface area for any individual freestanding sign shall not exceed 75% of the maximum listed.

Wall Signs

Façade Condition	Maximum Quantity	Maximum Sign Area	Maximum Width	Orientation	Illumination
Front Façade	No Limit	10% of façade area of the structure or tenant space	80% of façade width	Must be mounted to the façade	Yes
Side or Rear Façade	No Limit	5% of façade area of the structure or tenant space	80% of façade width	Must be mounted to the façade	
Side or Rear Facing Street, Highway, or Customer Parking	No Limit	5% of façade area of the structure or tenant space	80% of façade width	Must be mounted to the façade	

Awning Signs and Canopy Signs

Façade Condition	Maximum Quantity	Maximum Total Area	Maximum Sign Surface Area	Maximum Projection	Minimum Clearance Above Finished Grade	Illumination
Front Façade	No Limit	10% of façade area of the structure or tenant space	50% of total area	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	8 ft. 6 in. over walkway 15 ft. over driveway, interior access drive, or alley	Yes
Side or Rear Façade	No Limit	5% of façade area of the structure or tenant space	50% of total area	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	8 ft. 6 in. over walkway 15 ft. over driveway, interior access drive, or alley	

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Side or Rear Façade Facing Street, Highway, or Customer Parking	No Limit	5% of façade area of the structure or tenant space	50% of total area	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	8 ft. 6 in. over walkway 15 ft. over driveway, interior access drive, or alley	

Marquee Signs*

Façade	Maximum Quantity	Maximum Total Area	Maximum Sign Surface Area	Maximum Projection	Minimum Clearance Above Finished Grade	Illumination
Front Façade	No Limit	10% of façade area of the structure or tenant space	75% of total area	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	9 ft. over walkway 15 ft. over driveway, interior access drive, or alley	Yes
Side or Rear Façade	No Limit	5% of façade area of the structure or tenant space	75% of total area	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	9 ft. over walkway 15 ft. over driveway, interior access drive, or alley	
Side or Rear Façade Facing Street, Highway, or Customer Parking	No Limit	5% of façade area of the structure or tenant space	75% of total area	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	9 ft. over walkway 15 ft. over driveway, interior access drive, or alley	

Incidental Signs

Condition	Maximum Quantity*	Maximum Area**	Maximum Height Above Finished Grade***	Setbacks			Illumination
				Front	Side	Rear	
Single driveway lot	One (1) sign per driveway. One (1) at each critical turning point along an interior access drive when required to safely direct vehicular traffic (e.g., to direct vehicular traffic to: a drive-up window; a customer or employee parking area; or a delivery or loading area).	2 sq. ft. per sign	4 ft.	3 ft.	Accessory structure setback standards for relevant zoning district apply.		No

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Multiple driveway lot	Two (2) at the driveway entrance or exit. One (1) at each critical turning point along an interior access drive when required to safely direct vehicular traffic (e.g., to direct vehicular traffic to: a drive-up window; a customer or employee parking area; or a delivery or loading area).	2 sq. ft. per sign	4 ft.	3 ft.	Accessory structure setback standards for relevant zoning district apply.	No

**If a lot is occupied by a use which includes a drive-through facility, 1 menu board shall be permitted adjacent to the drive-through facility as an incidental directional sign to announce the selection of services or products available at the drive-through facility and the prices thereof.*

***Notwithstanding anything contained in this section to the contrary, a menu board sign permitted as an incidental directional sign adjacent to the drive-through facility shall not exceed 48 square feet in sign surface area.*

****Notwithstanding anything contained in this section to the contrary, the Maximum Height Above Finished Grade of a menu board sign permitted as a freestanding incidental directional monument sign adjacent to a drive-through facility shall not exceed 7 feet in height above grade.*

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Suspended Signs

Context	Maximum Quantity	Maximum Area	Minimum Clearance Above Finished Grade	Illumination
Buildings with two (2) or more non-related grade-level tenants.*	One (1) per front facade OR one (1) per tenant façade	5 sq. ft.	8 ft. 6 in.	No

**Suspended Signs are not permitted in other contexts.*

Outdoor Display Area Signs

Maximum Quantity	Maximum Area	Orientation	Illumination
1 sign per light pole	3 sq. ft. per 1,000 sq. ft. of outdoor display area Individual banners must all match in size: 3'×8' or 3.5'×5.5'	Mounted to light poles with upper & lower supports; all banners same dimensions; placed at same height; oriented toward outdoor display area	No

2) ON PREMISES SIGNS: CB DISTRICT.

The following standards shall apply in the CB Community Business District.

Monument Signs

Land Use	Maximum Quantity	Maximum Sign Area		Maximum Height Above Finished Grade	Setbacks			Separation	Orientation	Illumination
		Frontage	Maximum Area		Front	Side	Rear			
Single-Use Sites	1 per 500 ft of frontage, calculated per street	≤500 ft.	100 sq. ft.	8 ft.	5 ft.	Principal structure setback standards for relevant zoning district apply.		100 ft between any signs; 300 ft between signs facing same street	Must face the street whose frontage permits the sign	Yes
		>500 ft.-≤1,000 ft.	150 sq. ft.*							
		> 1,000	300 sq. ft.**							
Integrated Center***	1 per 500 ft of frontage, calculated per street	≤500 ft.	140 sq. ft.	20 ft.	5 ft.	Principal structure setback standards for relevant zoning district apply.		100 ft between any signs; 300 ft between signs facing same street	Must face the street whose frontage permits the sign	Yes
		>500 ft.-≤1,000 ft.	300 sq. ft.*							
		> 1,000	600 sq. ft.**							
Out Lots in an Integrated Center	1 monument sign if wall signs on 0–2 façades; 0 if wall signs on 3+ façades. +1 per abutting street (minimum 100 ft from any other freestanding sign).	48 sq. ft.		6 ft.	**5 ft.**	Principal structure setback standards for relevant zoning district apply.		100 ft between any signs; 300 ft between signs facing same street	Must face the street whose frontage permits the sign	Yes

*Sign surface area may be all in 1 freestanding sign or divided between all permitted freestanding signs.

**Sign surface area may be all in 1 freestanding sign or divided between all permitted freestanding signs, provided that the maximum sign surface area for any individual freestanding sign shall not exceed 75% of the maximum listed.

***Any monument sign for an integrated center shall include the name of the integrated center and the sign shall allocate a minimum of 10% of the sign surface area to the name of the integrated center.

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Pole Signs

Land Use	Maximum Quantity	Maximum Sign Area		Maximum Height Above Finished Grade	Setbacks			Separation	Orientation	Illumination
		Frontage	Maximum Area		Front	Side	Rear			
Single-Use Sites	1 per 500 ft of frontage, calculated per street	≤500 ft.	100 sq. ft.	25 ft.	5 ft.	Principal structure setback standards for relevant zoning district apply.		100 ft between any signs; 300 ft between signs facing same street	Must face the street whose frontage permits the sign	Yes
		>500 ft.-≤1,000 ft.	150 sq. ft.*							
		> 1,000	300 sq. ft.**							
Integrated Center***	1 per 500 ft of frontage, calculated per street	≤500 ft.	140 sq. ft.	40 ft.	5 ft.	Principal structure setback standards for relevant zoning district apply.		100 ft between any signs; 300 ft between signs facing same street	Must face the street whose frontage permits the sign	Yes
		>500 ft.-≤1,000 ft.	300 sq. ft.*							
		> 1,000	600 sq. ft.**							
Out Lots in an Integrated Center	1 monument sign if wall signs on 0–2 façades; 0 if wall signs on 3+ façades. +1 per abutting street	48 sq. ft.		6 ft.	**5 ft.**	Principal structure setback standards for relevant zoning district apply.		100 ft between any signs; 300 ft between signs facing same street	Must face the street whose frontage permits the sign	Yes

*Sign surface area may be all in 1 freestanding sign or divided between all permitted freestanding signs.

**Sign surface area may be all in 1 freestanding sign or divided between all permitted freestanding signs, provided that the maximum sign surface area for any individual freestanding sign shall not exceed 75% of the maximum listed.
***Any pole sign for an integrated center shall include the name of the integrated center and the sign shall allocate a minimum of 10% of the sign surface area to the name of the integrated center.

Wall Signs

Façade Condition	Maximum Quantity	Maximum Sign Area	Maximum Width	Orientation	Illumination
Front Façade	No Limit	10% of façade area of the structure or tenant space	80% of façade width	Must be mounted to the façade	Yes
Side or Rear Façade	No Limit	5% of façade area of the structure or tenant space	80% of façade width	Must be mounted to the façade	Yes
Side or Rear Facing Street, Highway, or Customer Parking	No Limit	5% of façade area of the structure or tenant space	80% of façade width	Must be mounted to the façade	Yes

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Awning Signs and Canopy Signs

Façade Condition	Maximum Quantity	Maximum Total Area	Maximum Sign Surface Area	Maximum Projection	Minimum Clearance Above Finished Grade	Illumination
Front Façade	No Limit	10% of façade area of the structure or tenant space	50% of total area	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	8 ft. 6 in. over walkway 15 ft. over driveway, interior access drive, or alley	Yes
Side or Rear Façade	No Limit	5% of façade area of the structure or tenant space	50% of total area	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	8 ft. 6 in. over walkway 15 ft. over driveway, interior access drive, or alley	Yes
Side or Rear Façade Facing Street, Highway, or Customer Parking	No Limit	5% of façade area of the structure or tenant space	50% of total area	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	8 ft. 6 in. over walkway 15 ft. over driveway, interior access drive, or alley	Yes

Marquee Signs*

Façade	Maximum Quantity	Maximum Total Area	Maximum Sign Surface Area	Maximum Projection	Minimum Clearance Above Finished Grade	Illumination
Front Façade	No Limit	10% of façade area of the structure or tenant space	75% of total area	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	9 ft. over walkway 15 ft. over driveway, interior access drive, or alley	Yes
Side or Rear Façade	No Limit	5% of façade area of the structure or tenant space	75% of total area	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	9 ft. over walkway 15 ft. over driveway, interior access drive, or alley	Yes

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Side or Rear Façade Facing Street, Highway, or Customer Parking	No Limit	5% of façade area of the structure or tenant space	75% of total area	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	9 ft. over walkway 15 ft. over driveway, interior access drive, or alley	Yes

**A marquee sign may include a non-changeable copy sign attached to or mounted on top of a marquee, subject to the sign surface area limitations set forth above.*

Incidental Signs

Condition	Maximum Quantity*	Maximum Area**	Maximum Height Above Finished Grade***	Setbacks			Illumination
				Front	Side	Rear	
Single driveway lot	One (1) sign per driveway. One (1) at each critical turning point along an interior access drive when required to safely direct vehicular traffic (e.g., to direct vehicular traffic to: a drive-up window; a customer or employee parking area; or a delivery or loading area).	6 sq. ft. per sign	4 ft.	3 ft.	Accessory structure setback standards for relevant zoning district apply.		No
Multiple driveway lot	Two (2) at the driveway entrance or exit. One (1) at each critical turning point along an interior access drive when required to safely direct vehicular traffic (e.g., to direct vehicular traffic to: a drive-up window; a customer or employee parking area; or a delivery or loading area).	6 sq. ft. per sign	4 ft.	3 ft.	Accessory structure setback standards for relevant zoning district apply.		No

**If a lot is occupied by a use which includes a drive-through facility, 1 menu board shall be permitted adjacent to the drive-through facility as an incidental directional sign to announce the selection of services or products available at the drive-through facility and the prices thereof.*

***Notwithstanding anything contained in this section to the contrary, a menu board sign permitted as an incidental directional sign adjacent to the drive-through facility shall not exceed 48 square feet in sign surface area.*

****Notwithstanding anything contained in this section to the contrary, the Maximum Height Above Finished Grade of a menu board sign permitted as a freestanding incidental directional monument sign adjacent to a drive-through facility shall not exceed 7 feet in height above grade.*

Suspended Signs

Context	Maximum Quantity	Maximum Area	Minimum Clearance Above Finished Grade	Illumination
Buildings with two (2) or more non-related grade-level tenants.*	One (1) per front facade OR one (1) per tenant façade	5 sq. ft.	8 ft. 6 in.	No

**Suspended Signs are not permitted in other contexts.*

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3) ON-PREMISES SIGNS: TC DISTRICT.

The following standards shall apply in the TC Town Center District.

(a) General regulations for signs in the TC - Town Center District.

1. Illumination.

a. Sign illumination, if provided, shall be provided by way of:

i. Wall or structure mounted decorative sconces or coach lights which are architecturally compatible with the building;

ii. Wall or structure mounted gooseneck lamps with a metal shade and decorative mounting which are architecturally compatible with the building;

iii. Wall-wash lights mounted behind opaque individual letters or elements; or

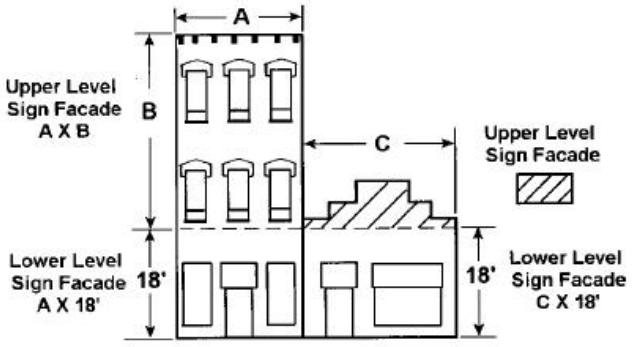
iv. Shielded up-lights mounted in an open area beneath the sign.

2. Design.

a. Sign band. Building identification signs installed above storefronts or on the ground floor façade should form a clearly articulated band and be integrated into the overall building façade design.

b. Architectural detail. Building identification signs shall be designed so as to not interfere with architectural details or interrupt the rhythm of columns or fenestration.

c. Maximum size of letters or logos. The maximum size of any individual letter or logo used as part of any building identification sign shall not exceed 2.5 feet in any horizontal or vertical dimension.



Determination of Lower Level / Upper Level Signs



Projecting Sign

Wall Signs

Façade Condition	Maximum Quantity	Maximum Sign Area	Orientation	Illumination
Front Façade	No Limit	5% of first 18' of façade (lower level)* 3% of façade area above 18' (upper level)*	Must be mounted to the façade	Yes
Side or Rear Façade	No Limit	5% of first 18' of façade (lower level)* 3% of façade area above 18' (upper level)*	Must be mounted to the façade	Yes

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If building height is less than 18 ft, calculate maximum allowable sign area using actual building height

Projecting Signs

Façade Condition	Maximum Quantity	Maximum Area***	Maximum Height Above Finished Grade	Maximum Projection	Minimum Clearance Above Finished Grade	Illumination
Front Façade	1 per 200' of front façade; 100' min separation	5% of first 18' of façade (lower level)* 3% of façade area above 18' (upper level)*	Shall not extend above roof line. Permitted in lower and upper levels.	Must remain at least 3 ft. from curb line. May project a maximum of 5 ft. from building. May encroach into ROW with Town approval.	10 ft. over walkway 15 ft. over driveway	Yes
Corner Lot	1 sign located at corner; 100' min separation	5% of first 18' of façade (lower level)* 3% of façade area above 18' (upper level)* See note**	Shall not extend above roof line. Permitted in lower and upper levels.	Must remain at least 3 ft. from curb line. May project a maximum of 5 ft. from building. May encroach into ROW with Town approval.	10 ft. over walkway 15 ft. over driveway,	Yes

If building height is less than 18 ft, calculate maximum allowable sign area using actual building height

***If located on the corner of a building oriented toward the intersection of 2 or more streets, sign area shall count against the total sign surface area of building identification signs authorized on the smaller front façade.*
****In the case of a projecting building identification sign located partially as a lower level sign and partially as an upper level sign, the sign surface area regulations regarding upper level building identification signs shall apply.*

Awning Signs and Canopy Signs

Maximum Quantity	Maximum Total Area	Maximum Sign Surface Area	Maximum Sign Surface Width	Maximum Height Above Finished Grade	Maximum Projection	Minimum Clearance Above Finished Grade	Illumination
No Limit	5% of first 18' of façade (lower level)*	50% of maximum total area	80% of the width of the awning or canopy	Only permitted within lower-level zone (0–18')	Must remain at least 3 ft. from curb line. May project a maximum of 5 ft. from building. May encroach into ROW with Town approval.	10 ft. over walkway 15 ft. over driveway	Yes

Marquee Signs*

Maximum Quantity	Maximum Total Area	Maximum Sign Surface Area	Maximum Sign Surface Width	Maximum Height Above Finished Grade	Maximum Projection	Minimum Clearance Above Finished Grade	Illumination
No Limit	5% of first 18' of façade (lower level)*	75% of maximum total area	80% of the width of the awning of canopy	Only permitted within lower-level zone (0–18')	Must remain at least 3 ft. from curb line. May project a maximum of 5 ft. from building. May encroach into ROW with Town approval.	10 ft. over walkway 15 ft. over driveway	Yes

Incidental Signs

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Condition	Maximum Quantity	Maximum Area	Maximum Height Above Finished Grade	Setbacks	Illumination
Single driveway lot	One (1) sign per driveway. One (1) at each critical turning point along an interior access drive when required to safely direct vehicular traffic (e.g., to direct vehicular traffic to: a drive-up window; a customer or employee parking area; or a delivery or loading area).	4 sq. ft. per sign	4 ft.	No setback required. Shall not encroach into any public right-of-way.	No
Multiple driveway lot	Two (2) at the driveway entrance or exit. One (1) at each critical turning point along an interior access drive when required to safely direct vehicular traffic (e.g., to direct vehicular traffic to: a drive-up window; a customer or employee parking area; or a delivery or loading area).	4 sq. ft. per sign	4 ft.	No setback required. Shall not encroach into any public right-of-way.	No

Suspended Signs

Maximum Quantity	Maximum Area	Minimum Clearance Above Finished Grade	Illumination
1 per grade-level tenant front façade	5 sq. ft.	8 ft. 6 in.	Yes

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4) ON-PREMISES SIGNS: LI AND GI DISTRICTS.

Monument Signs

Land Use	Maximum Quantity	Maximum Sign Area		Maximum Height Above Finished Grade	Setbacks			Separation	Orientation	Illumination
		Frontage	Maximum Area		Front	Side	Rear			
Single-Use Sites	1 per 500 ft of frontage, calculated per street	≤500 ft.	64 sq. ft.	8 ft.	5 ft.	Principal structure setback standards for relevant zoning district apply.		100 ft between any signs; 300 ft between signs facing same street	Must face the street whose frontage permits the sign	Yes
		>500 ft.-≤1,000 ft.	100 sq. ft.*							
		> 1,000	200 sq. ft.**							
Integrated Center***	1 per 500 ft of frontage, calculated per street	≤500 ft.	64 sq. ft.	8 ft.	5 ft.	Principal structure setback standards for relevant zoning district apply.		100 ft between any signs; 300 ft between signs facing same street	Must face the street whose frontage permits the sign	Yes
		>500 ft.-≤1,000 ft.	150 sq. ft.*							
		> 1,000	300 sq. ft.**							
Out Lots in an Integrated Center	1 monument sign if wall signs on 0–2 façades; 0 if wall signs on 3+ façades. +1 per abutting street (minimum 100 ft from any other freestanding sign).	32 sq. ft.		4 ft.	5 ft.	Principal structure setback standards for relevant zoning district apply.		100 ft between any signs; 300 ft between signs facing same street	Must face the street whose frontage permits the sign	Yes

*Sign surface area may be all in 1 freestanding sign or divided between all permitted freestanding signs.
**Sign surface area may be all in 1 freestanding sign or divided between all permitted freestanding signs, provided that the maximum sign surface area for any individual freestanding sign shall not exceed 75% of the maximum listed.
***Any monument sign for an integrated center shall include the name of the integrated center and the sign shall allocate a minimum of 10% of the sign surface area to the name of the integrated center.

Pole Signs

Land Use	Maximum Quantity	Maximum Sign Area		Maximum Height Above Finished Grade	Setbacks			Separation	Orientation	Illumination
		Frontage	Maximum Area		Front	Side	Rear			
Single-Use Sites	1 per 500 ft of frontage, calculated per street	≤500 ft.	64 sq. ft.	25 ft.	5 ft.	Principal structure setback standards for relevant zoning district apply.		100 ft between any signs; 300 ft between signs facing same street	Must face the street whose frontage permits the sign	Yes
		>500 ft.-≤1,000 ft.	100 sq. ft.*							
		> 1,000	200 sq. ft.**							
Integrated Center***	1 per 500 ft of frontage, calculated per street	≤500 ft.	64 sq. ft.	25 ft.	5 ft.	Principal structure setback standards for relevant zoning district apply.		100 ft between any signs; 300 ft between signs facing same street	Must face the street whose frontage permits the sign	Yes
		>500 ft.-≤1,000 ft.	150 sq. ft.*							
		> 1,000	300 sq. ft.**							

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Out Lots in an Integrated Center	1 monument sign if wall signs on 0–2 façades; 0 if wall signs on 3+ façades. +1 per abutting street (minimum 100 ft from any other freestanding sign).	32 sq. ft.	4 ft.	5 ft.	Principal structure setback standards for relevant zoning district apply.	100 ft between any signs; 300 ft between signs facing same street	Must face the street whose frontage permits the sign	Yes

*Sign surface area may be all in 1 freestanding sign or divided between all permitted freestanding signs.

**Sign surface area may be all in 1 freestanding sign or divided between all permitted freestanding signs, provided that the maximum sign surface area for any individual freestanding sign shall not exceed 75% of the maximum listed.
***Any pole sign for an integrated center shall include the name of the integrated center and the sign shall allocate a minimum of 10% of the sign surface area to the name of the integrated center.

Wall Signs

Façade Condition	Maximum Quantity	Maximum Sign Area	Maximum Width	Orientation	Illumination
Front Façade	No Limit	10% of façade area of the structure or tenant space	80% of façade width	Must be mounted to the façade	Yes
Side or Rear Façade	No Limit	5% of façade area of the structure or tenant space	80% of façade width	Must be mounted to the façade	Yes
Side or Rear Facing Street, Highway, or Customer Parking	No Limit	5% of façade area of the structure or tenant space	80% of façade width	Must be mounted to the façade	Yes

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Awning Signs and Canopy Signs

Façade Condition	Maximum Quantity	Maximum Total Area	Maximum Sign Surface Area	Maximum Projection	Minimum Clearance Above Finished Grade	Illumination
Front Façade	No Limit	10% of façade area of the structure or tenant space	50% of total area	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	8 ft. 6 in. over walkway 15 ft. over driveway, interior access drive, or alley	Yes
Side or Rear Façade	No Limit	5% of façade area of the structure or tenant space	50% of total area	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	8 ft. 6 in. over walkway 15 ft. over driveway, interior access drive, or alley	Yes

Side or Rear Façade Facing Street, Highway, or Customer Parking	No Limit	5% of façade area of the structure or tenant space	50% of total area	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	8 ft. 6 in. over walkway 15 ft. over driveway, interior access drive, or alley	Yes

Marquee Signs*

Façade	Maximum Quantity	Maximum Total Area	Maximum Sign Surface Area	Maximum Projection	Minimum Clearance Above Finished Grade	Illumination
Front Façade	No Limit	10% of façade area of the structure or tenant space	75% of total area	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	9 ft. over walkway 15 ft. over driveway, interior access drive, or alley	Yes
Side or Rear Façade	No Limit	5% of façade area of the structure or tenant space	75% of total area	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	9 ft. over walkway 15 ft. over driveway, interior access drive, or alley	Yes
Side or Rear Façade Facing Street, Highway, or Customer Parking	No Limit	5% of façade area of the structure or tenant space	75% of total area	8 ft. or width of adjacent walkway, whichever is less. Shall not encroach into the air rights of any public street right-of-way.	9 ft. over walkway 15 ft. over driveway, interior access drive, or alley	Yes

**A marquee sign may include a non-changeable copy sign attached to or mounted on top of a marquee, subject to the sign surface area limitations set forth above.*

Incidental Signs

Condition	Maximum Quantity*	Maximum Area**	Maximum Height Above Finished Grade***	Setbacks			Illumination
				Front	Side	Rear	
Single driveway lot	One (1) sign per driveway. One (1) at each critical turning point along an interior access drive when required to safely direct vehicular traffic (e.g., to direct vehicular traffic to: a drive-up window; a customer or employee parking area; or a delivery or loading area).	6 sq. ft. per sign	4 ft.	3 ft.	Accessory structure setback standards for relevant zoning district apply.		No
Multiple driveway lot	Two (2) at the driveway entrance or exit. One (1) at each critical turning point along an interior access drive when required to safely direct vehicular traffic (e.g., to direct vehicular traffic to: a drive-up window; a customer or employee parking area; or a delivery or loading area).	6 sq. ft. per sign	4 ft.	3 ft.	Accessory structure setback standards for relevant zoning district apply.		No

DRAFT

*If a lot is occupied by a use which includes a drive-through facility, 1 menu board shall be permitted adjacent to the drive-through facility as an incidental directional sign to announce the selection of services or products available at the drive-through facility and the prices thereof.

**Notwithstanding anything contained in this section to the contrary, a menu board sign permitted as an incidental directional sign adjacent to the drive-through facility shall not exceed 48 square feet in sign surface area.

***Notwithstanding anything contained in this section to the contrary, the Maximum Height Above Finished Grade of a menu board sign permitted as a freestanding incidental directional monument sign adjacent to a drive-through facility shall not exceed 7 feet in height above grade.

Suspended Signs

Context	Maximum Quantity	Maximum Area	Minimum Clearance Above Finished Grade	Illumination
Buildings with two (2) or more non-related grade-level tenants.*	One (1) per front facade OR one (1) per tenant façade	5 sq. ft.	8 ft. 6 in.	No

*Suspended Signs are not permitted in other contexts.

Outdoor Display Area Sign

Maximum Quantity	Maximum Area	Orientation	Illumination
1 sign per light pole	3 sq. ft. per 1,000 sq. ft. of outdoor display area Individual banners must all match in size: 3'×8' or 3.5'×5.5'	Mounted to light poles with upper & lower supports; all banners same dimensions; placed at same height; oriented toward outdoor display area	No

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J. OFF-PREMISES SIGN STANDARDS.

1) **Districts allowed.** Off-premises signs shall only be permitted in the CB - Community Business Districts, LI - Light Industrial Districts, and GI - General Industrial Districts established under this chapter.

2) **Types of signs.** Off-premises signs shall be limited to pole signs.

3) Sign surface area for off-premises signs.

(a) **Arterial streets.** The maximum sign surface area for off-premises signs oriented toward an arterial street shall be 672 square feet.

(b) **All other streets.** The maximum sign surface area for off-premises signs oriented toward any street not classified as an arterial street shall be 300 square feet.

(c) **Number of displays.** An off-premises sign shall not contain more than 2 displays or messages per sign surface.

(d) **Temporary extensions.** Temporary extensions or embellishments integrally incorporated into the sign surface and having: a vertical height of no more than 4 feet above the top of the main portion of the sign; a maximum horizontal dimension of no more than 1 foot beyond the sides of the main portion of the sign; or a maximum vertical dimension of no more than 1 foot below the bottom of the main portion of the sign, with a maximum combined area not to exceed 200 square feet in additional sign surface area may be added to a 672-square-foot off-premises sign.

(e) **Concealment of sign supports.** The backs of off-premises signs shall be: concealed by another sign surface; screened by suitable architectural treatment; or painted to blend with the surrounding (and maintained as such), so that the supports, tie rods, bracing, or framework which supports the sign surface is screened from view.

(f) **Empty displays prohibited.** Empty sign surfaces, or signs without a display or message covering the entire sign surface, shall be prohibited. This regulation shall apply individually to each display surface.

4) Distance between off-premises signs.

(a) **Linear spacing/all streets.** The minimum separation between off-premises signs located along and oriented toward the same street shall be 750 feet.

(b) **Measurement of linear spacing.** The method of measurement of the spacing between off-premises signs oriented toward the same street shall be along the centerline of the street to which the off-premises sign is oriented, from the point in the centerline closest to the leading edge of the off-premises sign.

(c) **Radial spacing.** In no event shall an off-premises sign be located closer than 300 feet from any other off-premises sign regardless of location or orientation.

5) **Maximum height of off-premises signs.** The maximum height of an off-premises pole sign shall not exceed 35 feet above grade.

6) Minimum front yard setback, side yard setback, and rear yard setback of off-premises signs.

(a) **Front yard setback.** The minimum front yard setback shall be the same as required for any building or structure.

(b) **Side yard setback and rear yard setback.** The minimum side yard setback or minimum rear yard setback for an off-premises sign shall be the same as required for any building or structure.

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7) **Separation from certain districts or uses.**

(a) **Linear spacing.** The minimum distance between an off-premises sign and a Residential District, Town Center District, public park - active or passive, residential use, religious use, private or parochial school, or designated historic landmark shall be 200 feet, measured along the centerline of the street to which the off-premises sign is oriented, from the point in the centerline closest to the leading edge of the off-premises sign to the point in the centerline nearest district boundary or lot line of a use specified herein.

(b) **Radial spacing.** The minimum distance between an off-premises sign and a Residential District, Town Center District, public park - active or passive, residential use, religious use, private or parochial school, or designated historic landmark shall be 100 feet, measured perpendicular from the nearest edge of the sign surface to the nearest district boundary or lot line of a use specified herein.

8) **Construction of off-premises signs.** The supports, uprights, bracing, and framework of an off-premises sign shall be of steel construction.

9) **Separations/jurisdictional boundaries.** The lineal and radial separation distances contained in this section shall not be limited by jurisdictional boundaries. Required separation distances for proposed off-premises signs located within the corporate limits of the town shall also be maintained from off-premises signs located in adjacent municipalities or jurisdictional areas.

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Section 6.05 OFF-STREET PARKING REGULATIONS

A. INTENT.

These off-street parking regulations are intended to provide for the provision of off-street parking areas which are adequate to support the needs of proposed uses and future uses of a site while at the same time assuring that the design and construction of the off-street parking areas meet minimum design standards necessary to promote efficient circulation and prevent undue traffic congestion.

B. APPLICABILITY.

1) **Parking for buildings, structures, or uses.** All new development, additions to buildings or structures, or conversions of use for which an improvement location permit is required by this chapter in any district shall provide required off-street parking areas in accordance with the regulations of this subchapter. Such off-street parking areas may be provided in either a surface parking area or a parking garage. If off-street parking areas are provided in a parking garage, the parking garage shall be located in compliance with the development standards of the applicable district of this chapter regarding: minimum yards and setbacks; landscaping of perimeter yards and residential buffer yards (§ 152.187); and foundation landscaping (§ 152.188).

2) **Exceptions to off-street parking regulations for any TC District**. A site in the TC District may include on-street parking located immediately adjacent to the site, if the adjacent on-street parking is approved as to location and design by the Indiana Department of Transportation (if applicable) and the town. If on-street parking is provided, the amount of off-street parking required by this chapter for the site shall be deemed to be reduced by the number of on-street parking spaces provided immediately adjacent to the site.

C. EXISTING PARKING AREAS.

1) Existing off-street parking areas shall not be reduced below the minimum requirement for such use as required by this chapter. Any off-street parking areas existing prior to the effective date of this chapter which were already below the standards established by this chapter shall not be further reduced.

D. LOCATION OF PARKING AREAS.

1) Off-street parking areas shall be located:

(a) On the same lot as the building, structure, or use served by the off-street parking area;

(b) Within the same integrated center, business park, or industrial park as the building, structure, or use served by the off-street parking area; or

(c) Within 500 feet of the building, structure or use served by the off-street parking area, provided that the off-site location for the off-street parking area is approved by the Town Council as a special exception use where:

1. The off-street parking area shall be located within a district which permits the use for which the off-street parking is provided; and

2. A written agreement, properly drawn and executed by the parties concerned, approved as to form by the Town Attorney, and recorded in the office of Recorder for St. Joseph County assuring the availability of the off-street parking area is filed with the Board of Zoning Appeals as part of the request for approval of the special exception.

DRAFT

2) In addition to the above location requirements, the location of off-street parking areas in Residential Districts shall not be located in violation of the provisions set forth in § 152.087.

E. DESIGN AND CONSTRUCTION OF OFF-STREET PARKING AREAS.

The design and construction of all required off-street parking areas shall be in compliance with the stricter of the regulations contained in this section, or the minimum specifications prescribed by the town.

1) Design of parking areas.

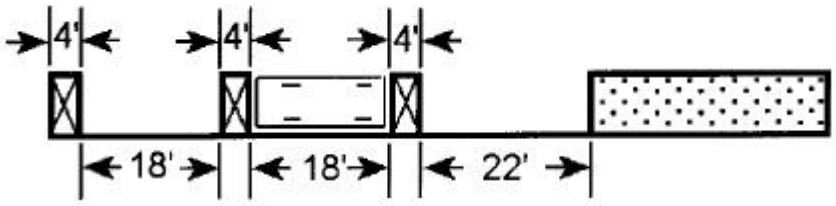
(a) **Layout.** The layout of all off-street parking areas shall be in compliance with 1 of the options set forth below:

Option 1: in the Architectural Graphic Standards, Tenth Edition, or most current edition, for a level of service “A” or “B”; or

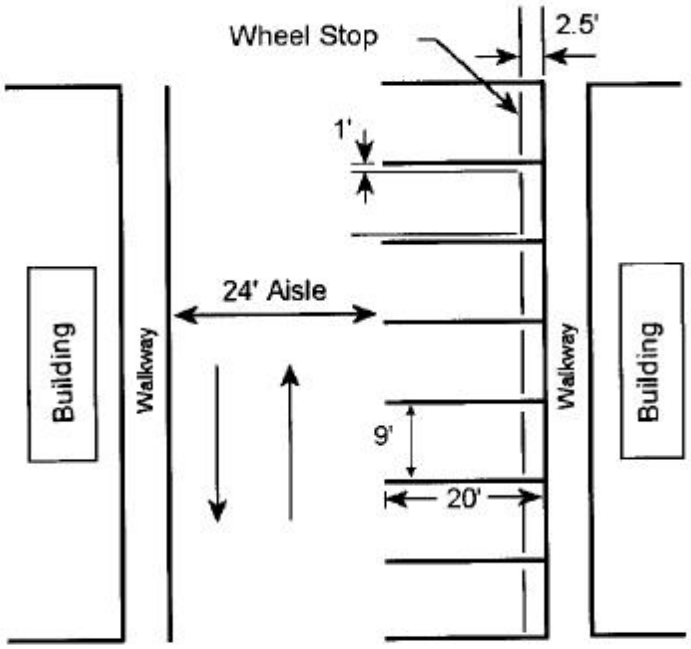
Option 2: in the Table 152.254: Parking Lot Design, below:

Table 152.254: Parking Lot Design

Angle of Parking Space	Minimum Width of Parking Space	Minimum Depth of Parking Space	Minimum Width of Maneuvering Aisle
61°- 90°	9 ft.-0 in.	20 ft.-0 in.	24 ft.-0 in.
46° - 60°	9 ft.-0 in.	19 ft.-0 in.	18 ft.-0 in. (1 way)
45°	8 ft.-6 in.	18 ft.-0 in.	15 ft.-0 in. (1 way)
Parallel	8 ft.-0 in.	22 ft.-0 in.	12 ft.-0 in. (1 way)



Example of Parallel Parking Regulations



Example of Parking Lot Design Regulations

(b) **Landscaping.** Except for individual single family dwellings or 2 family dwellings, the layout of all off-street parking areas shall comply with the design related regulations contained in §§ 152.189 and 152.192.

(c) **Definition of off-street parking spaces.** Except individual single family dwellings or 2 family dwellings, all off-street parking spaces shall be:

1. Identified by painted lines (minimum 4 inches in width), raised curbs, or other means to indicated individual spaces; and

2. Provided with a raised curb, wheel stops, or other devices to ensure that motor vehicles do not encroach beyond the off-street parking area or into a required yard.

(d) Drainage of new improved hard surfaced parking lots.

1. All new paved parking lots will retain on site the additional storm water generated by the new improvements. The owner must store on site the difference between the 10-year pre-developed state and the 100-year post developed state for the site where a positive discharge points exists. Where no there is no positive discharge, the storm water 100-year post developed state must be stored on site.

2. No storm water will be allowed to point discharge across an adjacent property. Maximum allowable water ponding on the improved surface in 6 inches. There will be no discharge of storm water into the sanitary sewer system.

3. The drainage improvements shall be designed in accordance with § 151.080. The drainage design and plans shall be prepared by a professional engineer or professional land surveyor in the state. The plans will be reviewed and approved by the Town Engineer.

2) **Surface of off-street parking areas.** All required off-street parking areas and any driveway, interior access driveway, or interior access drive to and from the off-street parking areas shall be hard surfaced with asphalt, concrete, pervious concrete, or other material to provide a

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durable, dust-free surface, which meets or exceeds the minimum specifications prescribed by the town, provided, however, a temporary or seasonal use permitted by the district in which the temporary or seasonal use is located may use an unimproved or gravel surface for the duration of the temporary or seasonal use. If a temporary gravel surface is provided, the gravel shall be removed and the off-street parking area shall be returned to its prior condition immediately upon cessation of the temporary or seasonal use.

F. MINIMUM NUMBER OF REQUIRED OFF-STREET PARKING SPACES.

Off-street parking for all uses shall be provided in accordance with the minimum requirements set forth in Table 152.256: Minimum ADA Parking Spaces and § 152.258, Required Off-Street Parking, below. When the computation of required off-street parking spaces results in a fraction of 1/2 or greater, the number of required off-street parking spaces shall be rounded up to the next whole number.

1) **Increase in intensity of use.** Additional off-street parking spaces shall be required whenever: a change of use of a building, structure, or lot; or an addition to any unit of measurement specified herein (i.e., dwelling units, gross floor area, seating capacity, number of employees, and the like), results in an increase in the minimum number of required off-street parking spaces to an extent of 15% or more than the number of off-street parking spaces existing on the effective date of this chapter on the single use site, integrated center, or industrial park, as the case may be, whether the total increase occurs at 1 time or in successive stages.

2) Units of measurements.

   (a) **Employees.** The number of employees shall be compiled based upon the maximum number of persons employed on the premises at any 1 time on an average day or average night, whichever is greater.

   (b) **Gross floor area.** Gross floor area shall be determined per the definition of gross floor area in § 152.426.

   (c) **Seating capacity/building capacity.** Seating or building capacity shall be based upon the determination of the Fire Chief/Building Code regarding maximum building capacity.

3) Reduction for combined off-street parking areas.

   (a) Where an integrated center or industrial park proposes uses with dissimilar peak time parking demands are proposed, an alternate parking plan may be approved in connection with the issuance of an improvement location permit in which a combined off-street parking area is provided. The total number of off-street parking spaces which are developed in a shared off-street parking area may be adjusted as indicated in Table 152.255: Parking Reduction Percentages, below.

   (b) The minimum total number of off-street parking spaces to be initially improved under an alternate parking plan shall be the greatest total number of off-street parking spaces calculated under the following scenarios:

Table 152.255: Parking Reduction Percentages

Use	Weekday		Weekend		
	Daytime (6:00 a.m. to 6:00 p.m.)	Evening (6:00 p.m. to midnight)	Daytime (6:00 a.m. to 6:00 p.m.)	Evening (6:00 p.m. to midnight)	Nighttime (Midnight to 6:00 a.m.)
Hotel/motel	75%	100%	75%	100%	75%

DRAFT

Office/ professional service	100%	10%	10%	5%	5%
Industrial	100%	10%	10%	5%	5%
Food sales and service	50%	100%	100%	100%	10%
Retail	60%	90%	100%	70%	5%
Recreation	40%	100%	80%	100%	10%
Other	100%	100%	100%	100%	100%

(c) **Parking Reduction Example:** Assume an integrated center including an office building, multiple retail uses, and movie theater which, under the basic minimum requirements of this chapter, would be required to provide a total of 225 off-street parking spaces as set forth below.

Parking Reduction Example						
	Basic Minimum	Weekday Daytime	Weekday Evening	Weekend Daytime	Weekend Evening	Weekend Nighttime
Office	50	50	5	5	3*	3*
Retail	100	60	90	100	70	5
Theater	75	40	75	60	75	8*
TOTAL	225	150	170	165	148	16
* Note: Numbers have been rounded up per the requirements of § 152.255.						

(d) Result: Under an alternate parking plan approval, the minimum total number of off-street parking spaces may be reduced from 225 off-street parking spaces to 170 off-street parking spaces (the reduction alternative which requires the greatest number of off-street parking spaces).

G. REQUIRED PARKING FOR THE DISABLED.

Every off-street parking area and parking garage available to the public shall have parking spaces reserved for the use of physically handicapped persons as specified in Table 152.256: Minimum ADA Parking Spaces, below (as required by ADA Accessibility Guidelines for Buildings and Facilities, Chapter 4.1.2 (5)(a), published in the Federal Register, Volume 56, No. 144, dated July 26, 1991); provided, however, facilities which provide medical care and other services to persons with mobility impairments shall provide ADA parking spaces as follows:

1) Outpatient units and facilities: 10% of the total number of off-street parking spaces; and

2) Units and facilities that specialize in treatment services for persons with mobility impairments: 20% of the total number of off-street parking spaces.

Minimum ADA parking spaces:

Table 152.256: Minimum ADA Parking Spaces

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Total Parking Spaces Required	Minimum Number of Reserved Spaces
1 - 25	1
26 - 50	2
51 - 75	3
76 - 100	4
101 - 150	5
151 - 200	6
201 - 300	7
301 - 400	8
401 - 500	9
501 - 1,000	2% of the total number of off-street parking spaces
1,001 and over	20, plus 1 for each 100 off-street parking spaces over 1,000

H. BICYCLE RACKS.

In order to encourage alternative means of transportation, any off-street parking area which contains in excess of 50 parking spaces shall provide a bicycle rack capable of parking a minimum of 10 bicycles. The bicycle rack shall be so located as to provide reasonable visibility and security while not interfering with the safe and efficient movement of pedestrians or motor vehicles about the lot.

I. REQUIRED OFF-STREET PARKING TABLE.

All uses shall provide a minimum number of off-street parking spaces as indicated below.

Use	Parking Spaces Required
Ambulance and armored car service	1 per vehicle
Amusement centers, skating rinks, pools, natatoriums, exhibition halls	1 per 500 sf of gross floor area
Amusement park	5 parking spaces per 1,000 square feet of gross floor area within buildings plus 1.5 parking spaces per 1,000 square feet of site area accessible to the public, exclusive of the parking area
Assembly facilities without fixed seats, including dance halls, martial arts schools, aerobic and exercise centers, and similar studios or centers	1 parking space per every 25 square feet of floor area in public use
Automobile, motorcycle, truck, bus, RV and boat sales	1 per 1,000 sf of indoor showroom, plus 1 per 10 outdoor display spaces

Use	Parking Spaces Required
Automotive repair or service facility	3 per vehicle bay (a service bay shall not be considered a parking space)
Bar, tavern, nightclub, cabaret, and other establishments for the sale of beer or intoxicating liquor for consumption on the premises	1 per 200 sf of gross floor area
Barber shop/beauty shop/hair salon/manicure shop/tanning salon	1 per 200 sf of gross floor area
Boarding houses	1 per 2 guest rooms
Bowling alleys	5 parking spaces per alley. If, in addition, there are other uses or accessory uses located within or operated in conjunction with the bowling alley, such as restaurants, bars, taverns, nightclubs, and the like, additional parking spaces, calculated based upon the parking requirements for that specific use, shall be provided (calculation shall be based upon the total square feet of gross leasable floor area for such uses located within or operated in conjunction with the bowling alley)
Broadcasting, movie or video producing or recording studios	1 per 200 sf of gross floor area
Car washes	Stacking spaces per wash bay, as required for a drive-through facility, plus 3.5 parking spaces per 1,000 square feet of gross floor area devoted to office or retail sales
Casinos, approved hotels or buildings wherein gambling games are conducted	
College/university	1 per 200 sf of gross floor area
Commercial, trade, or business schools	1 per 200 sf of gross floor area
Child care centers	1 per 300 sf of gross floor area
Financial institutions/banks	1 per 200 sf of gross floor area
Financial institutions/banks - freestanding bank machines, walk-up or drive-through	1 parking space for each walk-up, drive-through or freestanding bank machine, plus stacking spaces as required for a drive-through facility for any drive-through or freestanding bank machine accessible from an automobile
Funeral homes and mortuaries	1 per 300 sf of gross floor area
Gasoline stations and public garages	1 per 300 sf of retail space (a fueling bay shall not be considered a parking space)
Grocery store	

Use	Parking Spaces Required
	1 per 200 sf of gross floor area
Gun clubs, skeet, target or archery ranges	1 per 1,000 sf of gross floor area
Hardware/paint/home improvement store	1 per 200 sf of gross floor area
Hospitals, sanitariums, rehabilitation centers and emergency medical care service centers	1 parking space per every 4 patient beds, plus 1 parking space per every 2 employees, plus 1 parking space per staff doctor 1 per 200 sf of gross floor area
Hotels and motels	1 per guest room. If, in addition to guest rooms, there are other uses or accessory uses located within or operated in conjunction with the hotel or motel, such as ballrooms, meeting rooms, dining areas, retail stores, auditoriums, bars, restaurants, taverns, nightclubs, and the like, additional parking spaces, calculated based upon the parking requirements for that specific use, shall be provided (calculation shall be based upon the total square feet of gross leasable floor area for such uses located within or operated in conjunction with the hotel or motel)
Laundromats	1 per 200 sf of gross floor area
Libraries, museums and art galleries	1 per 300 sf of gross floor area
Industrial: assembly or manufacturing	1 space per 1,000 sf of gross floor area. If, in addition, there is space devoted to office, retail or other uses specified elsewhere in these regulations, parking required for the additional use shall also be provided
Industrial: warehouse or distribution	1 per 3,000 sf of gross floor area. If, in addition, there is space devoted to office, retail or other uses specified elsewhere in these regulations, parking required for the additional use shall also be provided
Medical and dental clinics	5 parking spaces per each doctor 1 per 300 sf of gross floor area
Mobile home parks	1 per dwelling unit
Nursing, convalescent, rest homes, residential facilities for the developmentally disabled, and other health homes and institutions	1 parking space per every 4 beds plus 1 parking space per every 2 employees, plus 1 parking space per staff doctor 1 per 500 sf of gross floor area
Offices and office buildings	

Use	Parking Spaces Required
	1 per 200 sf of gross floor area
Publishing establishments, newspaper or printing shops	1 spaces per 500 square feet of gross floor area, plus 1 spaces per 300 square feet devoted to office or related retail activities
Railroad or motor bus passenger stations or heliports	1 per 200 sf of gross floor area
Refuse dumps or landfills	1 parking space per employee
Religious uses - churches or temples	1 per 500 sf of gross floor area
Residential: Multifamily, including apartment houses	1 per dwelling unit
Residential: Single Family	1 per dwelling unit
Residential: 2 Family	1 per dwelling unit
Restaurants: family restaurant, family restaurant with lounge, fast food restaurant	1 per 200 sf of gross floor area
Restaurants: drive-in restaurant	1 per 200 sf of gross floor area
Restaurants: drive-through only (no seating)	1 parking space per employee (minimum of 5 parking spaces required)
Retail - integrated centers	< 400,000 sq. ft. - If the total gross leasable floor area of an integrated center is less than 400,000 square feet, 1 space per 250 sf of gross floor area
	400,000 - 600,000 sq. ft. - If the total gross leasable floor area of an integrated center is greater than 400,000 square feet, but less than 600,000 square feet, 1 space per 250 sf of gross leasable floor area
	> 600,000 sq. ft. - If the total gross leasable floor area of an integrated center is greater than 600,000 square feet, 1 space per 200 sf of gross leasable floor area
	Provided, however:
	(1) In no case shall any integrated center provide less than 5 parking spaces; and
	(2) The following individual uses: grocery store; hardware/paint/home improvement store; theaters; bowling alley; bar; tavern; nightclub; cabarets; or other establishments for the sale of beer or intoxicating liquor for consumption on the premises, shall provide parking spaces as required for the individual use by this section, and the calculation shall be separate from the calculation of the gross leasable floor area calculation of the integrated center

Use	Parking Spaces Required
Retail - single use sites	< 100,000 sq. ft. - 1 space for 300 sf of gross floor area, provided, however, that in no case shall any individual use provide less than a total of 5 parking spaces
	100,000 sq. ft. and over -1 space per 500 sf of gross floor area
Schools: nursery, elementary and junior high schools	1 parking space per classroom and office or 1 parking space per every 10 seats in auditorium, whichever is greater
Schools: senior high schools	1 parking space per every 10 classroom seats, plus 1 parking space per every 2 staff members
Theatres, auditoriums, gymnasiums, stadiums, arenas, convention halls, and places of assembly with fixed seats	1 per 500 sf of gross floor area
Veterinary hospitals, animal kennels and pounds	1 per 400 sf of gross floor area
Uses not specified	For any use not specified above, specific requirements shall be determined by the Zoning Administrator and shall be based upon requirements for similar uses, expected demand and traffic generated by the proposed use, and other information from appropriate traffic engineering and planning criteria

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Section 6.06 OFF-STREET LOADING REGULATIONS

A. INTENT.

These off-street loading regulations are intended to provide for the provision of off-street loading areas which are adequate to support the needs of the proposed use and future uses of a site while at the same time assuring that the design and construction of such off-street loading areas meet minimum design standards necessary to provide efficient circulation and prevent undue traffic congestion.

B. LOADING FOR BUILDINGS, STRUCTURES, OR USES.

All commercial/town center or industrial development or conversions of use for which an improvement location permit is required by this chapter shall provide off-street loading areas in accordance with the regulations in this subchapter.

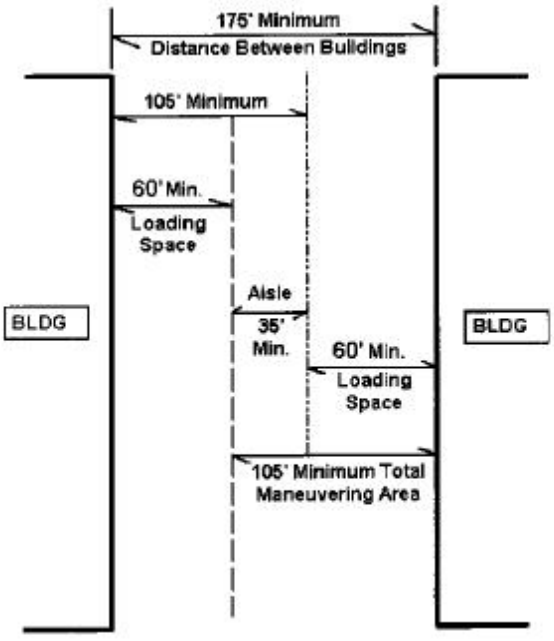
C. DESIGN AND CONSTRUCTION OF LOADING AREAS.

The design and construction of all required loading spaces or excess loading spaces shall be in compliance with the stricter of the regulations contained in this section, or the minimum specifications prescribed by the town.

The following standards shall apply to the design of off-street loading areas.

1) **Loading space dimensions.** A required or excess off-street loading space shall be at least 12 feet in width by at least 60 feet in length, exclusive of aisle and maneuvering space, and shall have a vertical clearance of at least 14 feet.

2) **Minimum aisle width.** Each required off-street loading space shall open directly upon an aisle or interior access drive with a width of at least 35 feet and creating a total maneuvering area, inclusive of the loading space, of at least 105 feet, unless subject to the provisions of division (B)(4) below regarding excess loading spaces.

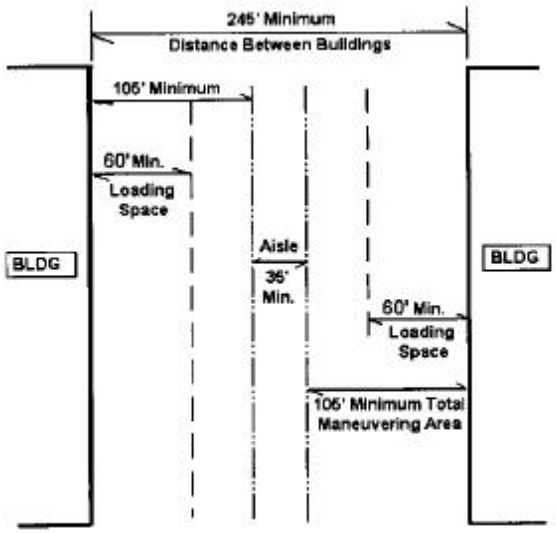


Loading Area Design

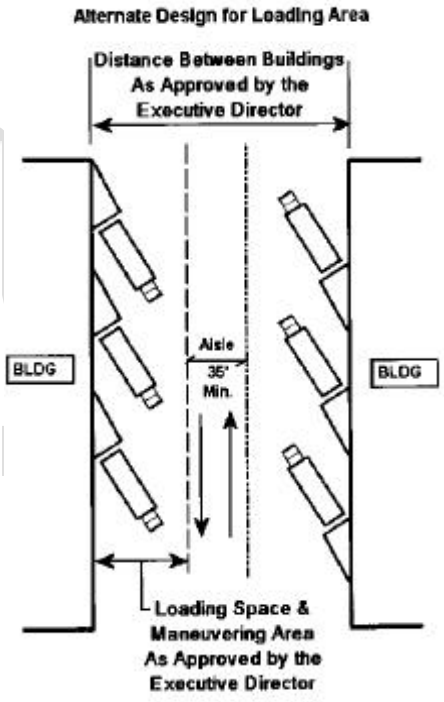
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Maneuvering. Each maneuvering area, aisle and interior access drive utilized to access a required loading space or an excess loading space shall be so designed and located as to provide safe and efficient ingress/egress to each loading space and so that trucks do not back from or into a public street, or onto an adjoining property (unless the subject property and the adjoining property are located within the same integrated center or industrial park and such maneuvering area is subject to a recorded easement allowing the maneuvering).

Design of excess loading areas. Any use which provides loading spaces at a rate of greater than 4 loading spaces, and more than 2 times the minimum required by this chapter, shall provide a total maneuvering area of at least 105 feet which is separate and distinct from the minimum aisle width requirement of 35 feet.



Design of Excess Loading Areas



Alternate Design for Loading Areas

Alternate design for loading areas. In those instances where insufficient area exists to provide for perpendicular loading spaces as allowed by division (B)(2) or division (B)(4) above, angled or parallel loading spaces may be proposed, provided:

The design of the loading area shall include either a 1-way traffic pattern or orients the loading spaces so that traffic flow from the loading spaces is in the direction of traffic movement on the side of aisle on which the loading spaces are located;

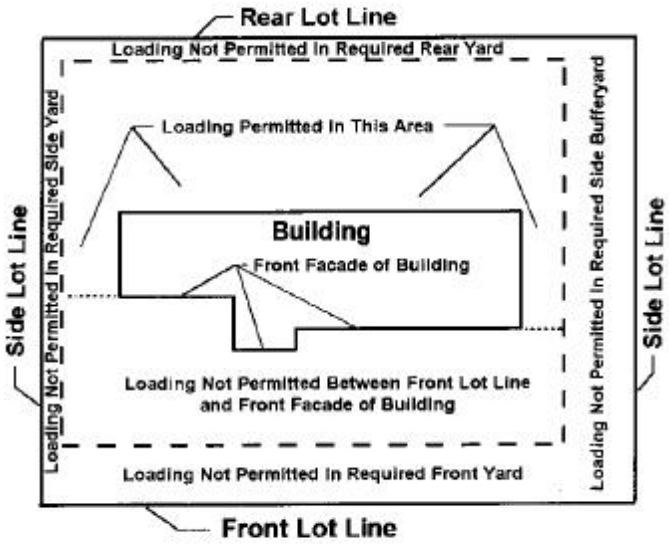
The loading spaces are accessed by an aisle or interior access drive having a width of not less than 35 feet plus sufficient maneuvering area outside of the aisle of the interior access drive, based upon the angle of the loading spaces, to provide safe and efficient maneuverability; and

The design of the angled or parallel loading spaces shall be subject to the approval of the Public Works Director/Town Engineer.

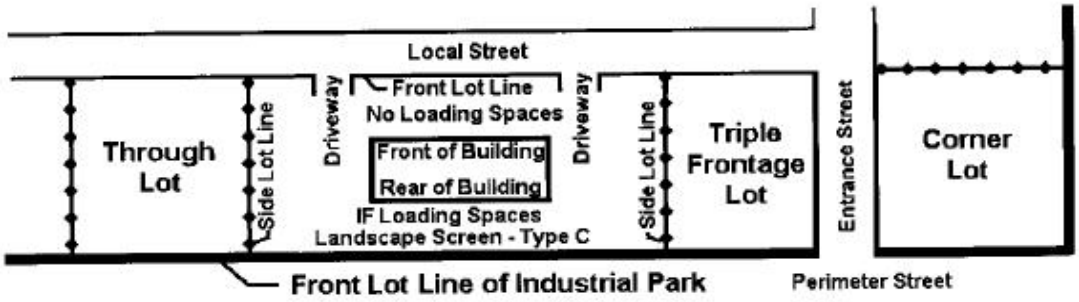
LOCATION OF OFF-STREET LOADING SPACES.

All off-street loading spaces shall be located on the same lot as the use served.

No off-street loading spaces shall be located between the front lot line and the front façade of any portion of the building served; provided, however, in the case of a double frontage lot, off-street loading spaces may be located between a front lot line of a perimeter street and the rear of the building served if: no access is provided across the front lot line; and the yard between the off-street loading spaces and the front lot line is landscaped in compliance with the regulations of §§ 152.185 through 152.194 for a Type C: Full Screening landscaping.



Locations for Off-Street Loading Spaces



Location of Off-Street Loading Areas on a Through Lot (Screening Required)

All off-street loading spaces shall be oriented toward a side lot line or rear lot line.

No off-street loading spaces shall be located in a required side yard, required rear yard, required side residential bufferyard or required rear residential bufferyard.



Pull-Off Loading Area

Office, professional services, retail, or other non-industrial uses may provide 1 required loading space per building in a “pull-off” loading area located adjacent to an interior access drive. A “pull-off” loading area shall not be subject to the prohibition against being located between the front lot line and front façade of any portion of the building served set forth in division (C) above.

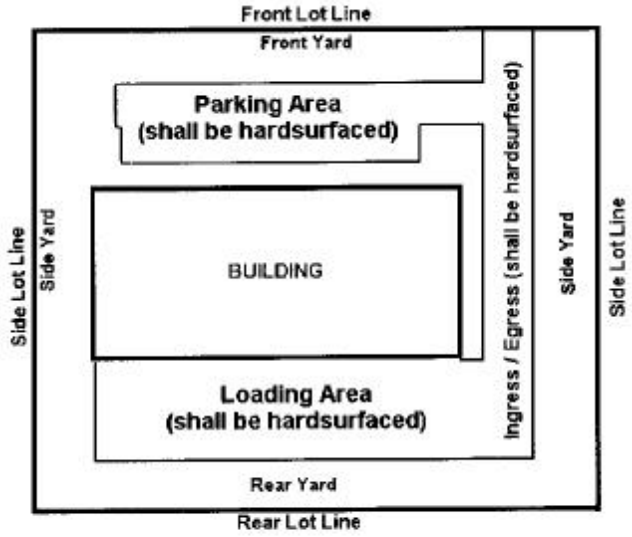
USE OF REQUIRED LOADING AREA.

Space allocated for required or excess off-street loading spaces and associated maneuverability shall not be used to satisfy off-street parking space requirements.

SURFACE OF LOADING AREAS.

All off-street loading areas and the ingress/egress to and from such off-street loading areas located on the lot shall be hard surfaced with asphalt, concrete or other material to provide a durable, dust-free surface.

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Hard Surfacing of Loading Area Required

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SPECIAL REGULATIONS FOR GASOLINE SERVICE STATIONS.

The site design of any gasoline service station shall provide for the safe and efficient ingress and egress to the site for fuel delivery vehicles and an area for the fuel delivery vehicles to park while unloading which does not interfere with or impede ingress or egress to or from any public street.

MINIMUM NUMBER OF OFF-STREET LOADING SPACES.

Off-street loading spaces for all buildings or uses shall be provided in accordance with the minimum requirements set forth in the table below.

Table 152.277: Required Off-Street Loading

Use	Gross Floor Area of Building (Square Feet)*	Required Number of Loading Spaces
Office/professional service	Up to 10,000	0
	10,000 - 100,000	1
	100,000 - 200,000	2
	Each additional 200,000 or portion thereof	1 additional
Retail	Up to 10,000	0
	10,000 - 25,000	1
	25,000 - 60,000	2
	60,000 - 120,000	3
	Each additional 100,000 or portion thereof	1 additional
	Up to 10,000	0

Industrial	10,000 - 40,000	1
	40,000 - 100,000	2
	100,000 - 200,000	3
	Each additional 200,000 or portion thereof	1 additional
Other nonresidential	Up to 10,000	0
	10,000 - 100,000	1
	Each additional 100,000 or portion thereof	1 additional
* Interpretation of numbers: Number ranges shall be interpreted as follows: "Over ##,###, and less than or equal to ##,###".		

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Article 7 Use Standards

Section 7.01 ACCESORY DWELLING

A. Definition. An accessory dwelling unit is an accessory building located at the rear of a lot. It typically provides either a small residential unit in the rear yard or above the garage.

B. Location. An Accessory Dwelling Unit is typically permitted in all residential districts.

C. Standards. The Accessory Dwelling Unit (ADU) requires a Special Land Use permit in all Zoning Districts and shall meet the following standards:

1) ADUs are only permitted as a SLU in the Medium Density Residential District (MDR), the Low Density Residential District (LDR), and the Town Residential District (TR).

2) ADU shall meet the setback and yard requirements for the Standard Zoning District that it is proposed in.

3) Parking. One parking space must be provided on site for the ADU in addition to the parking required for the primary dwelling. Required parking spaces for the ADU and primary dwelling unit may be provided in tandem on a driveway. A tandem arrangement consists of one car behind the other.

4) Impacts on Residential Districts. The second dwelling unit shall not adversely impact adjacent residential with increased traffic, noise, lighting, and/or other similar environmental elements.

5) Living Quarters Permits. Living quarters shall meet the Town's building code requirements as amended, including requirements for ingress and egress.

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Section 7.02 BAKERY

Bakeries or confectionaries shall have a retail component of the use, and shall not exceed a floor area of 2,000 square feet in a residential district, or 10,000 square feet in a commercial district.

Section 7.03 BAR/TAVERN

A. Bar, tavern, taproom, or tasting room uses that require a Special Land Use permit shall meet the following standards:

1) Size of bar, tavern, taproom, or tasting room uses. The gross square footage shall not exceed 3,000 square feet.

2) Hours of Operation. The Planning Commission may establish limits on hours of operation, time limits on the validity of the Special Land Use approval, or any other measures deemed necessary to minimize negative impacts on nearby uses and traffic operations along public streets.

3) Parking. Parking and access shall be compatible with the adjacent neighborhood and this use shall not create a shortage in parking for the subject property.

Section 7.04 BANQUET HALL/EVENT HALL

Section 7.05 BED & BREAKFAST

Bed and breakfast operations may be permitted subject to the following conditions:

A. **Residence Required in Residential Districts.** The dwelling unit in which the bed and breakfast takes place shall be the principal residence of the real property owner or operator, and the real property owner or operator shall live on the premises.

B. **Location in R-1 and TR Districts.** Bed and breakfast uses shall be located on an A or B street in the R-1 and TR districts.

C. **Neighborhood Character.** Buildings shall be suitable in, and shall not be cause for a change in the existing or established character of the neighborhood.

D. **Maximum Number of Rooms.** Not more than ten sleeping rooms shall be available for guests of the bed and breakfast.

E. **Kitchens and Meals.** There shall be no separate cooking facilities provided for the bed and breakfast occupants. Meals, other than those served as a part of the normal operation of the household, shall be served only to occupants of the bed and breakfast facility.

F. **Occupancy.** Occupancy shall be of a transient nature for periods not to exceed two weeks in duration in anyone month by any transient occupant. A guest registry indicating name, address, phone number and vehicle license number shall be kept indicating dates of arrival and departure of guests and shall be available to the Town for inspection upon request and shall further be presented for inspecting at the time of annual license renewal.

Section 7.06 BOARDING HOUSE/ROOMERS

A. **Location.** Such uses may only be located along an A or B street.

B. **Separation of Facilities.** New boarding and/or lodging houses shall be located a minimum of 1,500 feet from any other boarding and/or lodging house, state licensed residential facility, or unlicensed residential facility, as measured between the nearest points on the property lines of the lots in question. The Planning Commission may permit a smaller separation between such facilities upon determining that such action will not result in an excessive concentration of such facilities in a single neighborhood or in the Town overall.

Section 7.07 CHILD CARE FACILITY

A. **Building Design.** The proposed building shall be harmonious with the predominant type of building in the particular zone by reason of its scale, size, character or location.

B. **Hours of Operation** shall not exceed 16 hours in a 24-hour period, and activity shall be limited to the hours 6:00 a.m. and 10:00 p.m.

C. **Licensing.** In accordance with applicable state laws, all child care centers shall be registered with or licensed by the State of Indiana, and shall comply with the minimum standards outlined for such facilities.

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D. **Outdoor Play Area.** An outdoor play area with a minimum area of 1,200 square feet shall be provided in accordance with State rules. The outdoor recreation area shall be suitably secured, and screened from abutting residential uses by a fence or natural barrier with a minimum height of 48 inches. The Planning Commission may approve the use of off-site outdoor recreational facilities to satisfy this requirement, provided that the applicant can submit documentation demonstrating State approval of the use of off-site recreational facilities.

E. **Pick-up and Drop-off.** Adequate areas shall be provided for employee parking and pick-up and drop-off of children or adults in a manner that minimizes pedestrian-vehicle conflicts and disruption of traffic flow on the public streets.

F. **Access and Frontage.** Child care centers shall have frontage on, and direct vehicle access to, a public street classified as an A or B street. Vehicle access to C streets shall be limited to secondary access where necessary for health and safety purposes.

Section 7.08 CONGREGATE CARE/CONGREGATE LIVING FACILITY

Nursing homes, convalescent homes, and assisted living facilities are subject to the following requirements, which shall supersede any other applicable requirements of this Ordinance.

A. **Setbacks.** All buildings shall be set back 30 feet from any adjacent one-family residential district.

B. **Location.** Such uses shall only be located on sites that have a minimum frontage of 100 feet of frontage on an A or B street.

C. **Common Areas and Facilities.** Common areas (exclusive of corridors, entrance vestibules and hallways) that are incidental to and/or enhance any primary use shall be provided and shall amount to a minimum of 50 square feet per dwelling unit or bed in the facility. Such facilities may include, but are not limited to, recreational rooms, meeting or social rooms, common areas, or exercise facilities for the use of residents.

Section 7.09 COMMUNITY GARDEN

Gardening and associated activities are permitted subject to the rules and regulations in this ordinance. Buildings or structures for the purposes of storing materials and equipment for the community garden may be permitted in community gardens as an accessory building. Such buildings may have a maximum area of 150 square feet and shall comply with the setback requirements for an accessory building in the zoning district.

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Section 7.10 CONTROLLED USES

A. CONTROLLED USES GENERALLY.

Controlled uses are hereby recognized as having objectionable secondary impacts. A concentration of controlled uses in a particular area can increase the impact of those objectionable secondary impacts to the point where a deleterious impact is created on area properties. In order to prevent the concentration of controlled uses and to prevent such deleterious impacts from leading to the development of blighted areas, any controlled use, in addition to the permitted use and development standard regulations specified in any primary zoning district, shall also be subject to the following additional regulations of this subchapter.

(Ord. 1221, Art. 9.03, passed 1-26-2010)

B. ADULT CABERET

C. PAWN SHOP

D. Location. Pawn shops shall be located on a site with at least 60 feet of frontage on an A or B street.

E. Separation Requirements. The clustering of certain business can, when located in close proximity to each other, tend to create a “skid-row” atmosphere. Accordingly, a 1,000 foot separation shall be maintained at all times between pawn shops.

F. Other Codes and Ordinances. Pawn shops shall comply with all other applicable federal, state and local laws and regulations, including those contained in the New Carlisle Code of Ordinances.

G. ADDITIONAL DEVELOPMENT STANDARDS FOR CONTROLLED USES.

Controlled uses shall be subject to the following additional development standards:

1) Spacing regulations.

(a) **General.** No building or lot may be used and no building may be erected, moved, structurally altered or enlarged for any controlled use, if the building or lot is located within 1,000 feet of any 2 of the following divisions (A)(1)(a) through (d); provided, however, a controlled use may be structurally altered for the purposes of constructing, enlarging, or refurbishing kitchen, food service, restroom, or indoor storage areas, if the structural alterations are performed within the existing building; and the seating capaTown or patron service area is not increased:

1. Controlled uses;
2. Family restaurant with lounge;
3. Any business establishment with 4 or more amusement devices; or
4. Cabaret - family.

(b) **Adult businesses.** No adult business shall be located within 500 feet of any:

1. District of any other planning and zoning jurisdiction which allows any dwelling use as a primary use;
2. Lot being legally established for a dwelling use, religious use, school use or park use; or

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3. Any of the following districts:

a. In the Town of New Carlisle:

R1	Single Family District
R2	Single Family and 2 Family District
MF	Multifamily District
OB	Office/Buffer District
LB	Local Business District
CB	Community Business District
TC	Town Center District
PUD	Planned Unit Development District (that does not specifically include adult businesses as permitted uses)

b. In St. Joseph County:

A	Agricultural District
R	Single Family District
R-2	Residential District
O/B	Office/Buffer District
O	Office District
B	Business District
C	Commercial District
PUD	Planned Unit Development (that does not specifically include adult businesses as permitted uses)
U	University District

Tattoo, body piercing, scarifying, and branding establishments. No tattoo, body piercing, scarifying, and branding establishment shall be located within 500 feet of:

4. Any religious use; or

5. Any public or parochial school for children in any grades from K through 12.

(c) Gun sales or gunsmith shops. No firearms or ammunition shall be sold in any gun sales or gunsmith shops within 200 feet of any:

1. Any public or parochial school for children in any grades from K through 12;

2. Child care center; or

3. Child care ministry.

2) **Measurement of distance.** Measurement of distance for controlled uses shall be as follows:

(a) Single use sites. All measurements shall be from the lot lines of the lot or out lot occupied by the controlled use.

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(b) Integrated centers. All measurements shall be from the perimeter walls of the tenant space occupied by the controlled use.

(c) Straight line. All distance measurements shall be measured in a straight line, without regard to intervening buildings, structures, or objects.

3) **Exterior display for adult businesses.** Notwithstanding any other provisions of this chapter to the contrary, all exterior displays for an adult business shall comply with the following regulations.

4) **View from right-of-way.** No adult business shall be conducted in any manner that permits the observation of any material depicting, describing, or relating to specified sexual activities or specified anatomical areas by display, decorations, sign, show window, or other opening from any public right-of-way.

(a) Number of signs. Not more than 1 business wall sign shall be permitted for an adult business and the business wall sign shall be permitted only on the front façade of the building. In addition to the 1 permitted business wall sign, an adult business may be permitted not more than 1 freestanding sign structure (i.e., a pole sign, a pylon sign, or a ground sign) if permitted by §§ 152.230 through 152.236, and any amendments thereto, and if the freestanding sign meets all of the requirements of the district in which it is located. All other sign structures shall be prohibited.

(b) Sign surface area. The sign surface area of a business wall sign for an adult business shall not exceed 16 square feet. The maximum sign surface area of a freestanding sign structure (i.e., a pole sign, a pylon sign, or a ground sign), where permitted, shall not [exceed] 48 square feet.

(c) Lighting. Signs and sign structures may be illuminated, provided, however, the illumination shall not be by way of exposed neon, exterior lighting (e.g., spot or flood lights) or any flashing or animated lights (either interior to the sign, on the exterior of the sign, or as a border to the sign).

5) **Continuation of nonconforming use.** This section is subject to the provisions of §§ 152.055 through 152.067.

(Ord. 1221, § 9.03(a), passed 1-26-2010)

H. § 152.332 DEFINITIONS FOR ADULT BUSINESSES.

The following terms related to adult businesses shall be defined as set forth below. All other terms shall have the meanings set forth in §§ 152.425 and 152.426 of this chapter.

ADULT BUSINESS. An adult bookstore, adult motion picture theater, adult mini motion picture theater, adult motion picture arcade, adult cabaret (a.k.a. Class B cabaret), adult drive-in theater, adult live entertainment arcade, adult motel, or adult service establishment.

ADULT BOOKSTORE. An establishment having as a preponderance of its stock-in-trade or its dollar volume in trade, books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records, or other forms of visual or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

ADULT CABARET (a.k.a. CLASS B CABARET). Any cabaret, nightclub, bar, tavern, restaurant or similar establishment, not including a 21 and over cabaret, a family cabaret, family restaurant, or family restaurant with lounge, which features:

(1) Persons who appear in a state of semi-nudity;

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(2) Live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers where the performances are distinguished or characterized by the exposure of specified anatomical areas or by emphasis on specified sexual activities;

(3) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons; or

(4) Persons who engage in lewd, lascivious, or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

ADULT DRIVE-IN THEATER. An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats in which a preponderance of the total presentation time is devoted to the showing of materials distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons.

ADULT LIVE ENTERTAINMENT ARCADE. Any building or structure which contains or is used for commercial entertainment where the patron directly or indirectly is charged a fee to view from an enclosed or screened area or booth a series of live dance routines, strip performances, or other gyrational choreography which performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas.

ADULT MINI MOTION PICTURE THEATER. An enclosed building with a capaTown of more than 5 but less than 50 persons, used for presenting films, motion pictures, video cassettes, slides, or similar photographic reproductions in which a preponderance of the total presentation time is devoted to the showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

ADULT MOTEL. A hotel, motel, or similar establishment offering public accommodations for any form of consideration which provides patrons, upon request, with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

ADULT MOTION PICTURE ARCADE. Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-reducing devices are maintained to show images to 5 or fewer persons per machine at one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

ADULT MOTION PICTURE THEATER. An enclosed building with a capaTown of 50 or more persons used for presenting films, motion pictures, video cassettes, slide or similar photographic reproductions in which a preponderance of the total presentation time is devoted to showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

ADULT SERVICE ESTABLISHMENT. Any building, structure, premises, or other facility, or any part thereof, under common ownership or control which provides a preponderance of services involving specified sexual activities or display of specified anatomical areas.

ENLARGEMENT OF AN ADULT BUSINESS. An increase in the size of the building, structure, or premises in which the adult business is conducted by either construction or use of:

(1) An adjacent building;

(2) An additional building; or

(3) The construction or use of any portion of an adjacent building or additional building, whether located on the same or an adjacent lot or parcel of land.

ESTABLISHING AN ADULT BUSINESS. Any of the following:

(1) The opening or commencement of an adult business as a new business;

(2) The conversion of an existing business, whether or not an adult business, to any of the adult businesses defined herein;

(3) The addition of any of the features of 1 or more of the adult businesses defined herein to an existing business;

(4) The addition of any of the adult businesses defined herein to any other existing adult business; or

(5) The relocation of any adult business.

NONCONFORMING ADULT USE. Any building, structure, or land legally established as an adult business prior to the effective date of this chapter, but which would be prohibited, regulated, or restricted under the provisions of this chapter.

RECONSTRUCTION OF AN ADULT BUSINESS. The rebuilding or restoration of any nonconforming adult business use which was damaged or partially destroyed by an exercise of the power of eminent domain, or by fire, flood, wind, explosion, or other calamity, or act of God if the damage or destruction exceeds 50% of the fair market value of the building, structure, or the facilities affected.

RESUMPTION. The reuse or reoccupation of a nonconforming adult business use which has been discontinued for a period of 6 or more consecutive months.

SERVICES INVOLVING SPECIFIED SEXUAL ACTIVITIES OR DISPLAY OF SPECIFIED ANATOMICAL AREAS (as used to define an “adult service establishment”). Any combination of 2 or more of the following activities:

(1) The sale or display of books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records, or other forms of visual or audio representations which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas;

(2) The presentation of films, motion pictures, video cassettes, slides, or similar photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons;

(3) The operation of coin- or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors or other image producing devices to show images to 5 or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas; or

(4) Live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where the performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

SPECIFIED ANATOMICAL AREAS. Any of the following:

(1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Any of the following:

(1) Human genitals in a state of sexual stimulation or arousal;

(2) Acts of human masturbation, sexual intercourse, or sodomy;

(3) Fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts;

(4) Flagellation or torture in the context of a sexual relationship;

(5) Masochism, erotic or sexually oriented torture, beating, or the infliction of pain;

(6) Erotic touching, fondling, or other such contact with an animal by a human being; or

(7) Human excretion, urination, menstruation, vaginal, or anal irrigation as part of or in connection with any of the activities set forth in divisions (1) through (6) of this definition.

STRUCTURAL ALTERATION OF AN ADULT BUSINESS. Any change which would prolong the life of the supporting members of a building or structure such as bearing walls, columns, beams or girders, except such changes as are ordered made pursuant to the provisions of the Unsafe Building Law, I.C. 36-7-9-1, and any amendments thereto.

(Ord. 1221, § 9.03(b), passed 1-26-2010)

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Section 7.11 DWELLING, MULTI-FAMILY

Section 7.12 DWELLING, MULTI-FAMILY TOWNHOUSE/APARTMENT

Multiple family uses may include any number of structures on a lot, with any number of units in each structure. Multiple family uses shall comply with the following requirements:

A. **Street Frontage in Mixed Use Districts.** Such uses shall have frontage on an A or B street in a mixed use district.

B. **Building Design Standards.** Apartment buildings shall comply with the design requirements specified in Section 2.404.

C. **Street Design and Vehicular Circulation.** Ingress and egress from the public streets shall be designed to minimize congestion and interference with normal traffic flow. All interior roads, drives, and parking areas within a multi-family development shall be hard surfaced and provided with curbs and gutters. Roadway drainage shall be appropriately designed such that storm water from the roadway will not drain onto the adjacent lots.

D. **Private Streets or Access Drives** may be permitted within multiple family housing developments, provided that the following minimum requirements are met:

1) All dimensions for private drives, streets or roadways, including the length of dead-end drives, shall meet the municipal standards requirements.

2) Arrangements satisfactory to the Town regarding the maintenance and repair of streets, roadways, or access drives.

E. **Pedestrian Circulation.** Minimum five-foot (5') wide concrete sidewalks shall be provided to connect king areas, public sidewalks and recreation areas to all building entrances; along collector roads and streets within the development; and streets adjacent to the development

F. Parking. On-street parking spaces on interior streets are encouraged and shall count towards the minimum parking requirement. Parking spaces on streets exterior to the development shall not be counted towards the minimum parking requirement.

G. Recreation Areas.

1) Passive or active outdoor recreation areas (including but not limited to seating areas, playgrounds, swimming pools, walking paths, plazas, courtyards, and other recreational elements in accordance with the intended character of the development) shall be provided at a ratio of at least five percent (5%) of the gross site area of the development, except in the commercial districts, where open space must be provided at a ratio of at least 2.5% of the gross site area.

2) The minimum area of each area shall be not less than 1,200 square feet in any zoning district other than the commercial districts where there is no minimum area requirement other than that specified in subsection 1, above.

3) The length to width ratio of each area, as measured along the perimeter, shall not exceed four to one (4:1).

4) Such areas shall be centrally and conveniently located to be physically and visibly accessible to residents, and shall not be located within any required yard setbacks or building separations.

Section 7.13 DWELLING, SINGLE-FAMILY AND TWO-FAMILY

A. One Principal Structure per Lot. Only one dwelling unit structure shall occupy a lot or site condominium unit and the dwelling shall comply in all respects to the building code adopted by the Town of New Carlisle

B. Historic Districts. New construction, additions and all exterior improvements, excepting routine maintenance and repair, of properties located within New Carlisle's designated Historic Districts (see Sec. 74-53 of Town Code) requires prior approval by the New Carlisle Historic District Commission, pursuant to Sections 74-51 thru 74-62 of Town Code.

C. Building Design Standards. One and two-family dwelling unit structures shall comply with the design requirements specified in Section 2.404.

Section 7.14 DWELLING, UNIT – UPPER LEVEL MIXED USE

A) **Location of Residential Units.** No residential unit shall be located on a floor underneath a floor containing a nonresidential use.

B) **Permitted Uses.** Non-residential uses permitted in a mixed-use building are limited to those that are permitted in the district by Table 2. Uses Permitted by District and Table 2.1. Uses Permitted by District. Special exception approval is required if a particular use that is proposed within a mixed-use building is listed as a special exception use in Table 2 and Table 2.1.

C) **Private Frontages.** Mixed use buildings shall have a common yard, stoop, or streetfront private frontage type.

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Section 7.15 DRIVE-THROUGH WINDOW FACILITY

Any use or building that contains a drive-through facility that is designed to provide service to a patron who remains in their car shall comply with the requirements of this section. These requirements are intended to support, enhance, and create a high-quality public realm; to support and enhance the pedestrian environment and pedestrian connections; and to encourage development that fits well with and improves its existing or planned context.

A. Street Access. Drive-through facilities may only be located on sites having frontage upon an A or B street.

B. Building Design. Drive-through uses must be built as an integral architectural element of the primary structure and use. Building materials shall be the same as those used in the primary structure. Drive-through facilities and structures separate from the primary structure are prohibited.

C. Building Location and Orientation. The principal building to which the drive-through use is accessory should be located at or near street setback lines. Any building with a drive-through use shall have a prominent pedestrian entrance facing the principal street upon which it has frontage.

D. Drive-Through Setback. Physical elements of the drive-through use that are visible from the exterior of the building, including the drive-through window, speaker or ordering stations, and any canopies shall be set back a minimum of 10 feet from any street-facing building wall of the primary structure.

E. Number of Spaces Required. The minimum number of required off-street stacking spaces is as follows:

Use	Stacking Spaces per Lane
Banks or other financial institutions	3
Photo service, pharmacy, dry cleaning outlets	2
Restaurants	8
Car wash (self-serve)	Entrance: 2
	Exit: 1
Car wash (automatic)	Entrance: 8
	Exit: 1

F. Modification of Minimum Requirement. The planning commission may modify the minimum number of required spaces based on evidence submitted by the applicant demonstrating that the proposed number of spaces is adequate.

G. Stacking Space Dimension. Each stacking space shall be nine (9) feet in width and eighteen (18) feet in length.

H. Stacking Lane Location. Stacking lanes shall not be located between the building and a street, and may not be located in a required front yard.

I. Headlight Glare. Drive-through uses shall be configured and screened such that glare from the headlights of vehicles waiting in the stacking lane is obstructed from shining into a public right-of-way or neighboring residential use.

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J. Escape Lane. All Drive-up/Drive-through facilities shall provide an escape lane, which allows other vehicles to pass those waiting to be served. An alley may be used for the required escape lane if the Planning Commission determines that minimum conflict would exist between the users of the alley and the commercial traffic.

Section 7.16 GREENHOUSE/NURSERY

The storage of soil, fertilizer or similarly loosely packaged materials shall be sufficiently contained to prevent any adverse effect upon adjacent properties. Outdoor storage shall be permitted only in the rear or side yards of the property and shall be set back a minimum of 10 feet from any property line or the setback applicable to the principal building, whichever is greater.

Section 7.17 HOME OCCUPATIONS

A. Intent. This section provides standards to ensure compatibility of home occupations with other permitted uses and with the residential character of the district and neighborhood in which the home occupation is located as well as clearly establishing the secondary or incidental status of home occupations in relation to the primary use of the lot for dwelling purposes.

B. Required standards. Home occupations are permitted as accessory uses in all districts where dwelling units are permitted, including Residential and Commercial districts with legally established dwelling units and shall be subject to the following standards:

1) The use of the dwelling unit for the home occupation shall be incidental and subordinate to the use for residential purposes by the occupants.

2) There shall be no structural alterations to the interior of the dwelling to accommodate a home occupation which would render the dwelling undesirable for residential use.

3) There shall be no structural additions, enlargements, or exterior alterations changing the residential appearance of the dwelling or the lot or other visible indications of the conduct of the home occupation.

4) There shall be no additional or separate entrance to the dwelling for the purpose of conducting the home occupation.

5) There shall be no internal or external alterations, construction features, or use of electrical or mechanical equipment which would change the fire rating of the structure.

6) There shall be no outdoor storage of any kind related to the home occupation.

7) All aspects of the home occupation shall be conducted within the dwelling structure in which the occupant makes his or her residence. No home occupation shall be conducted in any detached accessory building.

8) There shall be no traffic generated by a home occupation which is greater in volume than that which would be normally expected in the residential area in which the home occupation is located.

9) There shall be no equipment or process used in the home occupation which creates noise, vibration, glare, smoke, fumes, odors, or electrical interference detectable to the normal senses at any point beyond the lot line in such a manner as to annoy, disturb, frighten, or otherwise interfere with the use and quiet enjoyment of adjacent properties, or which creates water usage or the production of sewage other than domestic in nature.

10) The home occupation shall not involve the use of commercial vehicles for delivery of materials to or from the premises other than vehicles normally associated with residential home delivery (i.e., postal or parcel delivery vehicles).

DRAFT

11) The dwelling shall not be altered in its appearance and the home occupation shall not be conducted in such a manner as to differentiate the dwelling from the residential character of the area by either use of materials, construction, separate entrances, lighting, signs, or other means.

12) There shall be no signage advertising the home occupation other than the address and name of any resident.

13) Activities conducted and equipment, material or hazardous materials used shall be identified on the Zoning Conformance Review application, as required by Section 152.085 (E), and shall not change the fire safety or occupancy classifications of the premises.

C. Prohibited home occupations. The following uses, by the nature of the investment or operation, have a pronounced tendency, once started, to rapidly increase beyond the limits specified above for home occupations and impair the use, value, and quiet enjoyment of adjacent residential properties. Therefore, the uses specified below and other similar or comparable uses shall not be permitted as home occupations:

1) Antique, book, or gift shop;
2) Appliance repair, large or small;
3) Auto/vehicle repairs, major or minor;
4) Bicycle repair of service;
5) Dance studio;
6) Dental office or clinic;
7) Freight, trucking, or shipping;
8) Lawn mower repair or service;
9) Medical office or clinic;
10) Painting of vehicles, trailers, boats, and the like;
11) Photography studio;
12) Private schools with organized classes;
13) Restaurants, eating or drinking establishments;
14) Upholstering;
15) Television or radio repair;
16) Tool or equipment rental;
17) Tooling, welding or machine shop;
18) Veterinary clinic, kennel, or stable; and
19) Any use not in compliance with the intent and conditions set forth in this section.

D. Permitted home occupations. By way of example, the following uses, when conducted in compliance with the conditions set forth above, qualify as permitted home occupations:

1) Artist's, musician's, or writer's studio;
2) Cake making or decorating (not a catering or commercial bakery facility);
3) Data processing, word processing, or transcription services;
4) Dressmaking, millinery, sewing, or tailoring;

DRAFT

5) Barber shop/beauty shop;

6) Home school, including cottage schools;

7) Personal office;

8) Short Term Rentals

9) Teaching or tutoring, including musical instruments or dance, when limited to 1 pupil at a time; and

10) Other uses that comply with the intent and conditions set forth above in this section.

E. Procedures.

1) The establishment of a home occupation requires Zoning Conformance Review to ensure consistency with all of the standards of this Section. Zoning Conformance Review shall not be required for any existing approved home occupation relocating to another unit on the same parcel.

2) Every operator of a home occupation shall obtain and maintain a business license, if applicable.

3) The applicant for a home occupation shall agree in writing to operate the home occupation in conformance with the standards of this Section.

Section 7.18 KENNEL

The boarding, breeding, raising, grooming, or training of three or more dogs, cats, or other household pets of any age either 1) not owned by the owner or occupant of the premises, or 2) for commercial gain may be permitted provided the following requirements are met:

A. Minimum Site Area. Such activity shall be permitted only on a parcel of land not less than two acres in area.

B. Enclosures. All animals shall be kept in pens or cages designed, constructed and maintained so as to be harmonious and appropriate in appearance with the character of the general area in which located, and such use will not affect the character of the same area in a negative way.

C. Outdoor Runs. All pens or cages shall be located not less than 75 feet from any property line and all animals shall be kept therein or within a building. No animal shall be allowed to run at large.

D. Noise and Odor. Such activity shall be conducted so as not to be detrimental to any person, property or the general welfare by reason of excessive noise or odor.

E. Disposal of Waste. All used material shall be properly disposed of in appropriate on-site containers for transport to a licensed waste facility. Provisions must be made for disposal of animal wastes in conformance with local health department regulations.

F. Noise. Such uses shall comply with the requirements of the Town of New Carlisle Code of Ordinances.

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Section 7.19 MANUFACTURING FACILITY REQUIRING OUTDOOR STORAGE

Heavy manufacturing and processing activities are permissible only if, in the opinion of the planning commission, adequate conditions exist or can be imposed that will make such uses compatible with the purposes of this ordinance and will minimize impacts on residential neighborhoods.

Section 7.20 MANUFACTURING FACILITY – NO OUTDOOR STORAGE

A. In the LB and CB Districts.

1) Ground floor areas along streets shall be used for retail or showroom purposes, or commercial, office uses, or community uses, and institutional uses. Such uses shall be located in a space that has a minimum depth of 40 feet, measured from the front of the building on a line perpendicular to the street upon which the building fronts. The purpose of this regulation is to maintain active ground floor uses that contribute to an active street life in the commercial districts.

2) Any equipment requiring greater power than 220 volts, 3 phase current or the equivalent will not be permitted.

3) No chemical processing or solutions considered dangerous to the area would be permitted for storage or use in the area unless specifically approved by the Town inspectors.

4) All light manufacturing and processing activities shall occur entirely within a completely enclosed building.

Section 7.21 MOBILE FOOD VENDORS

A. **Purpose.** The provisions of this section are intended to prevent predatory practices on brick-and-mortar restaurants and retail businesses while allowing for new food vending and retail vending opportunities that can add vitality to vacant commercial lots, underutilized sites, and residential lots with specific conditions. These provisions shall apply to properties on which businesses engaged in cooking, preparation and distribution of food or beverages operate. This section does not apply to mobile vendors that move from place to place and are stationary for less than 15 minutes at a time, which are subject to regulations of the New Carlisle Code of Ordinances.

B. **General Regulations.**

1) All mobile food vendors must apply and receive approval for an annual license from the Town of New Carlisle and must receive annual inspection from the New Carlisle Fire Department.

2) All operating mobile food vendors shall be prohibited from parking in on-street parking spaces.

3) All mobile food vendors and parts thereof located on or near a fueling station must be a minimum of 35 feet from all fueling pumps.

4) All mobile food vendors must secure an annual mobile food vendor temporary use permit that licensed mobile food vendors that are part of an approved community event or temporary use may not be subject to the regulations below as part of the approved event. The event organizer is responsible for obtaining proper community event and/or temporary use permits and licensure with location and list of mobile food vendors for the properties requested for the event.

5) Each mobile food vehicle shall be allowed one freestanding temporary sign or flag which may be displayed only while the vendor is operating. Scrolling or flashing signs are prohibited. Internally lit signs are prohibited. Signs may be lit externally.

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6) No flashing or blinking lights or strobe lights are allowed on mobile food vehicles or related signage when the vehicle is parked and engaged in serving customers. All exterior lights with over 60 watts shall contain opaque hood shields to direct the illumination downward.

C. Permitted Zoning Districts and Regulations.

1) R-1, TR, and MDR Zoning Districts.

(a) Mobile food vendors are prohibited from operating on public streets in front of a residential zoned district and on private properties except where outlined in this ordinance.

(b) A mobile food vendor may operate in a public park, school, or community center between the hours of 8:00 a.m. and 8:00 p.m.; provided, that the applicant has approval from the property owner. If the mobile food vendor is a standalone mobile food truck, the use can operate as part of an annual mobile food vendor location permit.

(c) A private residence where catering is being offered, the event is not open to the general public, and patrons are not paying individually for food or items are exempt from this ordinance.

(d) No more than one mobile food vendor can be located on a parcel of property at any given time as part of a mobile food vendor location permit. This provision does not apply to mobile food vendors operating in the course of a separately approved minor or major temporary use permit.

2) LC and CB Zoning Districts.

(a) *Hours of Operation.* Mobile food vendors cannot operate for more than 10 hours in a given day. Hours of operation can only be between the hours of 8:00 a.m. and 9:00 p.m. except on Thursday, Friday, Saturday, and all holidays recognized by the Town of New Carlisle on which the hours of operation may be between 8:00 a.m. and 11:00 p.m.

(b) No more than one mobile food vendor can be located on a parcel of property at any given time as part of a mobile food vendor location permit. This provision does not apply to mobile food vendors operating in the course of a separately approved minor or major temporary use permit.

(c) Applicant must provide sketch plan and adequately account for parking of existing business and for customers of the mobile food vendor.

(d) Mobile food vendors are not permitted within 150 feet[2] of the property of a restaurant unless the restaurant(s) provides written, notarized authorization for the mobile food vendor to operate.

(e) Mobile food vendors are prohibited on sites that are vacant and do not have an active business with a current certificate of occupancy.

3) MU and TC Zoning Districts.

(a) Hours of operation are permitted between 8:00 a.m. and 3:00 a.m.

(b) Applicant must provide sketch plan and adequately account for parking of existing businesses and for customers of the mobile food vendor.

(c) Mobile food vendors are not permitted within 100 feet* of a restaurant unless the restaurant(s) provides written, notarized authorization for the mobile food vendor to operate.

(d) Mobile food vendors are prohibited in public on-street parking except when part of an approved major temporary use.

DRAFT

(e) No more than two mobile food vendors can be located on a parcel of property at any given time as part of a mobile food vendor location permit. This provision does not apply to mobile food vendors operating in the course of a separately approved minor or major temporary use permit.

4) LI and GI Zoning Districts.

(a) Mobile food vendors cannot operate for more than ten hours in a given day.

(b) No more than two mobile food vendors can be located on a parcel of property at any given time as part of a mobile food vendor location permit. This provision does not apply to mobile food vendors operating in the course of a separately approved minor or major temporary use permit.

(c) Applicant must provide sketch plan and adequately account for parking of existing businesses and for customers of the mobile food truck.

(d) Mobile food vendors are not permitted within 150 feet* of the property of a restaurant unless the restaurant(s) provides written, notarized authorization for the mobile food vendor to operate.

D. Permit Required. All mobile food vendors must receive a license in accordance with the New Carlisle Code of Ordinances. All property owners of the parcel on which a mobile food vendor is operating must receive either an annual mobile food vendor location permit in accordance with subsection E of this section.

E. Annual Mobile Food Vendor Location Temporary Use Permit.

1) Application. Any individual seeking to obtain an annual mobile food vendor zoning permit shall obtain an application from the Planning Commission. The application shall include the following information:

(a) Applicant's name, address, and telephone number.

(b) Whether the applicant has previously received a permit for a mobile food vendor in the Town.

(c) The physical address of the real property on which the mobile food vendor will be located.

(d) If not the owner of the real property, an affidavit from the property owner providing written permission to place the mobile food truck on the property, as well as an acknowledgment from the property owner of receipt of a copy of this section and understands the regulations and requirements set forth in this section, must be submitted. For purposes of this subsection, the affidavit and acknowledgment may be executed by an individual who is an officer, director, member or manager of an entity owning the property.

(e) A nonrefundable fee in accordance with the Town's fee schedule.

(f) Nature of proposed mobile food vendors, including food/beverage type (nonalcoholic only).

(g) Vehicle or structure type.

(h) Site signage diagram.

(i) Duration that sales will occur on the site.

(j) Hours of operation.

2) Sketch Drawing. The application shall also include a sketch drawing of the premises on which the mobile food truck will be located. The sketch drawing shall include the following:

DRAFT

(a) Location and dimensions of any stand, trailer, wagon or vehicle, and any other outdoor activity associated with mobile food vendors;

(b) Site dimensions of any existing buildings on the lot including building setbacks;

(c) Existing public improvements, such as fire hydrants, bus shelters, and trees;

(d) Surface type of the lot (e.g., unimproved/paved);

(e) A parking plan, including traffic circulation patterns;

(f) Site lighting plan;

(g) Location of trash receptacles;

(h) Location of on-site water, generator, and/or electric utilities that will serve concession vendor(s);

(i) Location of sanitary facilities;

(j) Business district map identifying existing restaurants located within buildings, as well as other mobile food vehicle vendor locations within 300 feet; and

(k) Photographs of the area.

F. Approvals. In addition to satisfying the requirements of the Town of New Carlisle Zoning Ordinance, evidence of approval from the St. Joseph County Health Department shall be provided for all mobile food vendors.

G. Storage Not Permitted. Unless granted temporary approval by the Planning Commission, a mobile food truck shall not be left unattended and unsecured at any time. Any mobile food truck found to be unattended shall be considered a public safety hazard and may be ticketed and impounded.

H. Parking Area. The area occupied by mobile food vendors shall be no more than 20 percent of any required parking spaces or area on a site. Sufficient on-site or district parking shall be provided for each mobile food truck on a lot; this shall be in addition to any other required parking for retail business buildings located on the same parcel.

I. Pedestrian Space. A minimum pedestrian clear space of five feet is required along all public walkways, unless waived in accordance with provisions of the Town of New Carlisle Zoning Ordinance.

J. Public ROW and Clear Vision. Mobile food vendors shall not be located in the public right-of-way or on public property unless otherwise approved and shall be outside of clear vision areas.

K. Sanitary Facilities. Tables and chairs may be provided for customer use only if arrangements are made and documentation is provided for sanitary facilities within 100 feet. Trash receptacles shall be provided. Any and all tables and chairs must be located no less than ten feet from any operating mobile food vendors.

L. Sound. No outdoor amplified music, sound, or noise shall be permitted for mobile food vendors. Any electrical or outdoor generators that provide power must be approved by the Building Department; such generators may be prohibited if it is anticipated that such an operation will create a nuisance to neighbors due to noise, exhaust or vibration.

M. Revocation of Permit, Removal of Mobile Food Vendor, and Liability.

1) The Planning Commission shall have the right to revoke any permit issued hereunder for a violation of this section. Any of the grounds upon which the Planning Commission may refuse to issue an initial permit shall also constitute grounds for such revocation. In addition, the failure of the permittee to comply with the provisions of this section or other provisions of this code or other law shall also constitute grounds for revocation of the permit. The Planning Commission

DRAFT

shall provide a written notification to the permittee and property owner stating the specific grounds for a revocation and a demand for correction and abatement. Should the permittee receive two or more written notifications within a calendar year, the permit shall be revoked by the Planning Commission and, thereafter, the permittee shall not be eligible for a permit on the property for the subsequent calendar year.

2) Similarly, any two notices of violation from the Building Department, Planning Commission, Police Department, or Fire Department within a 12-month period shall constitute grounds for the revocation of a permit. Notice shall be deemed given upon mailing of the same to the designated applicant.

3) Upon revocation, the mobile food truck shall be removed from the real property within ten days.

N. Penalty and Remedies.

1) In addition to revocation of permit pursuant to subsection M of this section, any person violating the provisions of this section is guilty of a civil infraction.

2) In addition to the penalty provided in subsection (M)(1) of this section, condition caused or permitted to exist in violation of the provisions of this section, or any ordinance, shall be deemed a new and separate offense for each day that such condition continues to exist.

3) Nothing in this section shall prevent the Town from pursuing any other remedy provided by law in conjunction with or in lieu of prosecuting persons under this subsection for violation of this section.

4) The real property owner and permittee shall be jointly and severally liable for each violation and for payment of any fine and costs of abatement.

O. Repeal. All ordinance or parts of ordinances in conflict herewith are repealed only to the extent necessary to give this section full force and effect.

Section 7.22 NEIGHBORHOOD RECYCLING COLLECTION POINTS

In a residential zoning district, a neighborhood recycling collection point may be established as an accessory use to a religious use, school, library, or other use containing not less than 20 parking spaces, provided that the area used for the neighborhood recycling collection point does not reduce the number of required off-street parking spaces for the primary use or special exception use below the minimum requirements established in §§ 152.250 through 152.258.

Section 7.23 OUTDOOR DINING

In the interest of promoting business by increasing activity and improving the general business climate, the Town may administratively issue revocable permits to businesses that apply for a permit to operate a sidewalk cafe as an extension of or compatible with the existing business on a portion of a Town sidewalk adjacent to the business, or an outdoor dining patio located elsewhere on the site. The permit may be issued under the following terms and conditions:

A. Sidewalk Cafes.

1) *Conditions.* Sidewalk cafe permits shall be issued if the occupancy will not:

(a) Interfere with the use of the street for pedestrian or vehicular travel.

(b) Reduce any sidewalk width to less than 60 inches. Where constrained conditions exist due to an existing narrow sidewalk width or the presence of obstructions including, but not limited to trees, utility infrastructure, or public improvements such as parking meters, benches, or planters, the minimum clear width shall be 42 inches.

DRAFT

(c) Interfere with street cleaning or snow removal activities.

(d) Cause damage to the street or to sidewalks, trees, benches, landscaping or other objects lawfully located there.

(e) Cause a violation of any state or local laws.

(f) Be in or adjacent to property zoned exclusively for residential purposes.

2) *Enclosure.* Businesses selling food or beverages to be consumed in a public sidewalk area adjacent to the business may enclose the area with a temporary structure, subject to approval by the building official. Prior to approval, written plans shall be submitted to the building official. All construction shall conform to existing building codes and regulations of the Town and shall not be permanent.

3) *Liability Insurance.* Prior to the issuance of a sidewalk cafe permit, the applying business must provide the Town with a certificate of liability insurance in an amount to be determined solely by the Town. The certificate of insurance must be in effect for at least the period of the permit to be issued. In addition, the applying business shall, by written agreement with the Town, indemnify and hold harmless the Town from all claims or damages incident to the establishment and operation of a sidewalk cafe.

4) *Fee.* Prior to the issuance of a sidewalk cafe permit, a fee set from time to time by resolution of the Town council shall be paid by the requesting business for the period of the permit.

5) *Period.* The period of a sidewalk cafe permit shall not exceed 180 days. The dates and duration shall be specified on the permit. The permit shall be subject to immediate revocation for failure to properly maintain the area being used as a sidewalk cafe, or for any other violation of this Ordinance.

B. Outdoor Dining Areas.

1) No music or other noises generated by the operation of an outdoor dining area shall be audible on adjacent residential properties before 4pm or after 10 pm. Music or other noises generated by the operation of the outdoor dining area shall comply with the performance standards for noise contained in Article 4, Chapter 7. Exception: noises generated by outdoor dining areas in the commercial districts are exempt from the noise limitations of this section.

2) Outdoor dining areas are exempt from Town parking regulations and shall not be included in calculations for minimum parking requirements.

Section 7.24 OUTDOOR SALES

Accessory outdoor retail sales are the outdoor display or sales of goods that are accessory to a principal use and that do not exceed 20% of the indoor sales or display area.

Areas for outdoor display of merchandise associated with a principal retail sales use may require screening, depending on the nature of the outdoor sales use. Outdoor sidewalk sales areas in the commercial districts will not require screening, but an outdoor sales area attached to a nursery or garden center would require screening. The screening requirement shall be determined by the reviewing authority for the application (see Article 5, Chapter 2 for site plan review requirements). The building official shall review applications for limited outdoor retail sales uses if sketch plan, site plan, or special exception approval is not required.

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Section 7.25 OUTDOOR STORAGE

Major outdoor storage shall comply with the following requirements:

A. The outdoor storage of goods or materials shall be limited to areas other than the required front setback area and shall be hidden by an eight foot high obscuring fence or wall.

B. There shall be no burning of refuse except in an incinerator in a manner that meets the performance standards listed in this ordinance.

Section 7.26 POWER PLANTS
Section 7.27 RECREATION FACILITY – INDOOR

A. Standards. Indoor recreational facilities that require a Special Land Use permit shall meet the following standards:

1) Recreation Uses. All uses shall be conducted completely within a fully enclosed building.
2) Integration Into Residential Districts. The facility shall relate to and be integrated into the design of the adjacent residential development pattern.
3) Scale in Residential Districts. The facility shall be subordinate in size, scale, and mass to the adjacent residential development pattern.
4) Impacts on Residential Districts. The facility shall not adversely impact adjacent residential with increased traffic, noise, lighting, and/or other similar environmental nuisances.

Section 7.28 RECREATION FACILITY – OUTDOOR

The following development standards apply to large outdoor private recreation uses, with the exception that such uses in the commercial district are exempt from these standards.

A. Minimum Lot Area. The minimum lot area for such a use shall be two acres.

B. Setbacks. A front yard setback of at least 60 feet from the right-of-way line of any existing or proposed street must be maintained.

C. Buildings. Buildings primarily for the purpose of operating a large outdoor private recreation use may include sales and dispensing of food or beverages, retail sales or rental of equipment related to the principal use of the property and storage of equipment used in maintaining the property.

D. Lighting. All lighting shall be shielded from adjacent residential districts. All site lighting, except necessary security lighting, shall be extinguished after 11 pm.

E. Buffering. A buffer (see Article 5) shall be maintained between the recreation area and all other adjacent land uses.

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Section 7.29 RELIGIOUS USES

A. **Location.** May only be located on a parcel with at least 100 feet of frontage on an A or B street.

B. **Setbacks.** The principal buildings on the site shall be set back from abutting properties zoned for residential use not less than 20 feet or the minimum setback required by the district, whichever is greater.

C. **Building Height.** Buildings of greater than the maximum height allowed in the zoning district may be allowed provided front, side and rear yards are increased above the minimum requirements by one foot for each foot of building that exceeds the maximum height allowed. This provision applies to the main mass of the building and not building elements that are exempted from the height requirements by Section 2.301C.

Section 7.30 RESIDENTIAL FACILITIES FOR THE MENTALLY ILL

A. LOCATIONS.

A residential facility for the mentally ill as defined in this chapter and by state law may not be located within 3,000 feet of another residential facility for the mentally ill, as measured between lot lines.

(Ord. 1221, Art. 9.02, passed 1-26-2010)

Section 7.31 RETAIL SALES (PACKAGED ALCOHOL)

A. The property shall be located no less than 500 feet, except as provided in subsection C of this section, from any and all: churches or similar places of worship, parks, playgrounds, daycare facility, pre- and/or K-12 schools; and

B. Not more than two properties upon which the retail sale of packaged alcoholic beverages is permitted shall be located within one mile. Any establishment meeting the criteria of subsection C of this section shall be exempt from this spacing calculation.

C. The retail sales of packaged alcoholic beverages within a grocery store or pharmacy with a useable floor area of no less than 10,000 square feet, within which no more than 20 percent of said usable floor area is devoted to the display, storage, or sale of packaged alcoholic beverages are exempt from the spacing requirements of subsections A and B of this section.

D. Retail alcoholic beverage sales businesses that existed on or before October 16, 2014, may continue to operate legally subject to all the following conditions:

1) All such businesses shall possess a valid Certificate of Occupancy from the Town of New Carlisle Building Department to operate a business in New Carlisle with an effective date on or before October 16, 2014.

2) All such businesses shall possess a valid Specially Designated Merchant (SDM) License or Specially Designated Distributor (SDD) License

3) All such retail alcoholic beverage sales businesses shall be required to obtain and maintain a Town of New Carlisle business license.

4) All such retail alcoholic beverage sales businesses shall be required to pay Town of New Carlisle income taxes in accordance with State Law and the Town of New Carlisle Code of Ordinances.

5) Failure to meet these conditions shall result in enforcement action.

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Section 7.32 RETAIL SALES – HEAVY COMMERCIAL

A. Lot Requirements. The minimum lot area shall be 10,000 square feet, and the minimum lot width shall be 100 feet.

B. Setbacks.

1) Display areas shall meet the setback requirement applicable to principal buildings in the zoning district.

2) Storage areas. The outdoor storage of operative automobiles and other products for sale shall not be in any required yard and shall be handled and stored so as to present an orderly, planned, efficient operation at all times. Any area used for storage of products for sale shall be effectively hidden from any area zoned for residential use by an obscuring fence or wall not less than six feet in height.

C. Vehicle Sales Lots. All areas subject to vehicular use shall be paved with durable dust-free surfacing, with appropriate bumper guards where needed.

Section 7.33 SELF-STORAGE (MINI) WAREHOUSE

A. Fencing. The perimeter of the storage area shall be fenced. The fence shall have a minimum height of eight feet, and decorative fencing shall be used in the front yard. An entrance gate shall be provided with a minimum access width of 12 feet, with either electronic or manual control.

B. Buildings.

1) In Industrial Districts. Storage buildings shall be of a consistent design and construction, and storage buildings shall be separated by access aisles of a minimum width of 20 feet, as measured from building front to building front.

2) In Commercial Districts. All storage units shall be located in one building. The building may not use metal or cinder block as its primary building material and shall be designed consistent with other commercial buildings in the vicinity of the site.

C. Indoor Storage Only. All items shall be stored inside an enclosed facility.

Section 7.34 SHOWROOM

A. In the commercial districts. Ground floor areas shall be used for retail or showroom purposes for a minimum depth of 30 feet, measured from the front of the building on a line perpendicular to the street upon which the building fronts. The purpose of this regulation is to maintain active ground floor uses that contribute to an active street life in the commercial districts.

B. In Any Other Zoning District. Not more than 70 percent of the floor area of the building or part of the building occupied by the establishment is used for making, assembling, remodeling, repairing, altering, finishing or refinishing its products or merchandise.

Section 7.35 STATE LICENSED FACILITY

State licensed residential facilities and/or homes, as defined by this ordinance and as licensed by the State of Indiana, shall comply with the following requirements:

A. Licensing. In accordance with applicable state laws, all state licensed residential facilities and/or homes shall be registered with or licensed by the State of Indiana, and shall comply with applicable standards for such facilities.

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B. Compatibility With Neighborhood. Any state licensed residential facility and/or home and the property included therewith shall be maintained in a manner consistent with the visible characteristics of the neighborhood in which it is located.

C. Separation of Facilities. New state licensed residential facilities and/or homes shall be located a minimum of 1,500 feet from any other state licensed residential facility and/or home, boarding and/or lodging house, or unlicensed residential facility and/or home, as measured between the nearest points on the property lines of the lots in question. The Planning Commission may permit a smaller separation between such facilities upon determining that such action will not result in an excessive concentration of such facilities in a single neighborhood or in the Town overall.

D. Adult Foster Care Congregate Facilities and Adult Foster Care Large Group Homes may only be located on sites that have at least 80 feet of frontage on an A or B street.

E. Zoning Compliance Permit Required. A change in use of property from any other use to a state licensed residential facility shall be considered a change of use for which a zoning compliance permit shall be required as provided in Section 6.701. The building official shall inspect the premises where the proposed use is to be located and shall issue a zoning compliance permit only if the premises meet the requirements of this ordinance and all other codes and ordinances of the Town as applied to the proposed use.

1) Thereafter, such premises shall be inspected by the building official annually, and if any violations of this ordinance or any other code or ordinance of the Town are found to exist that are not corrected within reasonable time after notice thereof to the licensee of the facility, the zoning compliance permit shall be terminated, and the building official shall report such violations to the state licensing agency for the facility, and may take any other enforcement measures permitted by law. A fee shall be charged for the inspections provided for herein, the amount of which shall be as set from time to time by resolution of the Town Council.

Section 7.36 VEHICLE FUELING STATION (GAS STATION)

A. Standards. Gas station uses that require a Special Land Use permit shall meet the following standards:

1) Compatibility. Gas Station shall be compatible with all approved town development plans and policies.

2) Frontage and Access. Any gas station to be approved shall have frontage on an arterial or collector roadway and shall provide safe and efficient access and maneuvering area for all on-site traffic.

3) Commercial Character. Gas stations shall not adversely impact the character which is the intent of the Zone District, including street spaces, the public realm, and an active building edge along primary streets.

4) All gasoline pumps shall be located not less than 50 feet from any lot line, and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or over-hanging any public sidewalk, street, or right-of-way.

Section 7.37 VETERINARY HOSPITAL

A. Outdoor Runs or similar "holding" areas shall be at least 50 feet from any adjacent property line or any adjacent property used by the public and shall not be located in any required front, rear or side yard setback area. Animals must be housed within an enclosed building between the hours of 9:00 p.m. and 6:30 a.m.

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B. Disposal of Waste. All used material shall be properly disposed of in appropriate on-site containers for transport to a licensed waste facility. Provisions must be made for disposal of animal wastes in conformance with local health department regulations.

C. Licensing. Facilities and operational procedures must meet necessary licensing requirements.

D. Location of Procedures. All medical and surgical procedures must occur within a completely enclosed building.

Section 7.38 WIND ENERGY CONVERSION SYSTEMS

A. INTENT.

This subchapter creates the framework for the siting of wind energy conversion systems, which convert the power of the wind into the generation of electricity. It is the intent of this subchapter to:

1) Facilitate the comprehensive provision of wind energy conversion systems ("WECS") to the residents and businesses of town;

2) Minimize the height, obtrusiveness, and the visual impacts of WECS, and all associated equipment and buildings;

3) Encourage WECS to be located in such a manner as to minimize their impact to residential uses; public parks, open space, and greenways; and streams, creeks, and rivers;

4) Ensure that the height of WECS have the least visual impact, and are no greater than required to achieve their designated service;

5) Protect views of and vistas from architecturally or historically significant structures and historically significant landscapes so that these architectural or historical resources are not impaired or diminished by the placement of WECS; and

6) Avoid potential damage to adjacent properties from the failure of a WECS, through structural design standards and setback requirements.

(Ord. 1221, § 9.04A., passed 1-26-2010)

B. WIND ENERGY CONVERSION SYSTEMS; GENERALLY.

1) **Classification.** WECS shall be classified as either:

(a) A small wind energy conversion system ("SWECS"), designed and installed exclusively for the on-site use of any associated electric power generation; or

(b) A wind energy facility ("WEF"), designed and installed exclusively for off-site use of any associated electric power generation.

2) **Districts permitted.** A SWECS is permitted in all zoning districts as an accessory use; a WEF is permitted as a special use in designated zoning districts.

3) **Building permit.** A building permit is required for the installation of all WECS.

(a) Building permit applications for a SWECS shall be accompanied, at a minimum, by:

(b) Standard manufacturer's drawings of the engineering specifications for the installation requirements of the wind turbine structure, including the tower, base, and footings. This analysis is frequently supplied by the manufacturer;

(c) A statement that the system shall comply with all applicable rules and regulations of the electric service provider for the property and the Indiana Utility Regulatory Commission;

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(d) A plot plan showing the location of the SWECS relative to all property lines, on-site structures, off-site structures within 1.5 times the height of the SWECS, utility locations (such as but not limited to overhead utilities, transformers, and junction boxes), and measured distances from all streams, creeks, rivers, public parks, public open space and greenways, and historic preservation districts;

(e) Certification that the installer of the SWECS is certified by the manufacturer of the SWECS, and has received the necessary training to properly and safely install the SWECS. Owner-installed SWECS will require an affidavit certifying that the installation will comply with the manufacture's specifications and the requirements of the electric service provider of the property; and

(f) A drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. This information is frequently supplied by the manufacturer.

(g) Building permit applications for a WEF shall be accompanied by a certification of the approval of the special use by the County Council.

4) **Compliance with other laws and ordinances.** All WECS shall comply with all federal, state and local laws and ordinances not in conflict with this division, including, but not limited to placement in floodplains and historic preservation districts.

5) **Compliance with Federal Aviation Agency (FAA) regulations.** WECS must comply with any applicable FAA regulations, including any necessary approvals for installations close to airports.

6) **Electric utility notification.** No WECS shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected, customer-owned WECS. Off-grid systems shall be exempt from this requirement.

7) **Signs.** No WECS turbine, tower, or associated building or structure may be used to advertise or promote any product or service. No word or graphic representation that may be construed as advertising, other than appropriate warning signs and the manufacturers technical information, shall be placed on a wind turbine, tower, or other associated building or structure.

8) **Signal disturbance.** Generators and alternators should be constructed so as to prevent the emission of radio and television signals. Upon a complaint of any signal disturbance, the operation of the WECS shall cease. The owner/operator shall correct any signal disturbance problem that is identified before the operation of the system can resume.

9) **Appearance, color, and finish.** The exterior surface of any visible components must be a non-reflective, neutral color, and blend into the surrounding environment as practical as possible. White or light grey is the color of preference unless the manufacturer's color preference is proven to better blend into the environment. Rotors (blades) or vanes may be painted black to better assist in the prevention of ice build-up. Decorative items, such as flags, streamers, and holiday and commemorative decorations are prohibited.

10) **Lighting.** No WECS shall be artificially lighted, unless required by the FAA or appropriate authority.

11) **Support tower.** The tower component of any WECS shall be one that is recommended and certified by the manufacturer.

(a) A building-mounted SWECS must be firmly anchored to the building (roof or wall) according to the manufacturer's recommendations. Additional support brackets or cables must be anchored to the structure on which the SWECS is located.

(b) A WECS mounted on a self-supporting tower shall be on a tower that is of monopole design and does not require the use of guy wires or any other means of lateral support.

(Ord. 1221, § 9.04B., passed 1-26-2010)

C. SMALL WIND ENERGY CONVERSION SYSTEMS; DEVELOPMENT STANDARDS.

1) **Accessory use.** A SWEC may be installed as an accessory use to a primary use. No SWEC shall be installed on any property without the existence of a primary use.

2) **Minimum lot size, number, maximum height.** The minimum lot size, the maximum number of SWECS on a lot or parcel, and the maximum height of a SWEC shall be as specified in Table 152.347, below:

Table 152.347

District	Minimum Lot/Parcel Size	Maximum Number of SWECS	Maximum Height
R1 Single Family	1 acre	1	60 ft.
R1 Single Family	10 acres	2	60 ft.
R2 Single Family and 2 Family	1 acre	1	60 ft.
MF Multifamily	1 acre	2	60 ft.
O/B Office Buffer	1 acre	1	60 ft.
LB Local Business	1 acre	2	60 ft.
CB Community Business	1 acre	2	60 ft.
TC Town Center	1 acre	1	60 ft.
LI and GI Industrial	1 acre	1	80 ft.
LI and GI Industrial	2 acre	2	80 ft.
LI and GI Industrial	3 acre	3	80 ft.

3) **Height.** The height of a SWECS shall be measured from 1 foot above ground level to the highest extension of the blade, rotor, or vane. The minimum distance between the ground and the blade, rotor, or vanes shall be 10 feet, as measured at the lowest point of the arc of the blade, rotor, or vane.

4) **Noise.** SWECS shall not exceed 60 decibels (dB), as measured at the closest property line. However, the 60 dB standard may be exceeded during short-term events such as utility outages and/or severe windstorms.

5) **Survival speed.** SWECS shall be rated by the manufacturer as having a minimum survival wind speed of 100 miles per hour.

6) **Setback.** The minimum setback of a SWEC shall meet all of the following, measured from the edge of the support tower:

(a) Two hundred feet from public parks, public open space, public greenway, historic preservation districts, streams, and rivers, measured from the nearest property lines, district lines, and/or the top of any stream or river bank;

(b) One-half the height of the to the nearest occupied off-site structure; and

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(c) Ten feet from any side and rear property line. Any property line adjacent to a street shall be deemed a front yard and meet the location requirements in the illustrations below.

7) **Location on property.** The location of a SWECS on a property shall be in accordance with division (F), above, and with Illustrations 1 and 2 below.

Illustration 1

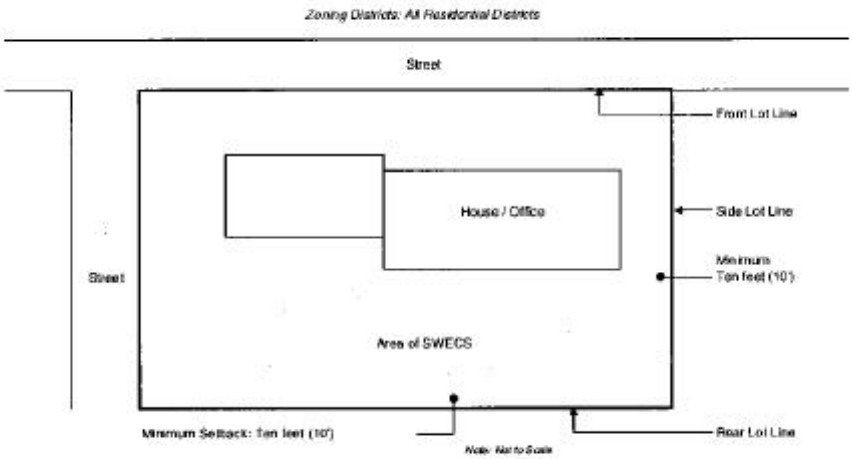
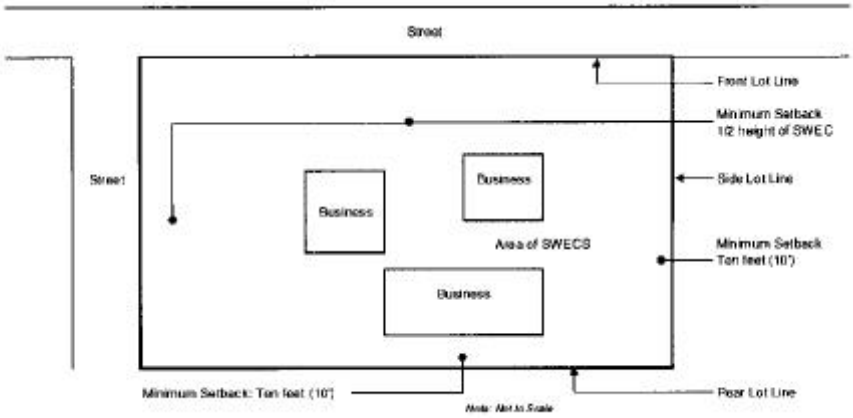


Illustration 2



8) **Abandonment.** A SWEC that is out of service for a continuous 24-month period will be deemed to have been abandoned and shall be removed. Maintenance events which require extended periods of time beyond a 24-month period shall be brought to the attention of the Building Department.

(Ord. 1221, § 9.04C., passed 1-26-2010)

D. WIND ENERGY FACILITY; GENERAL.

1) **Special exception use required.** A wind energy facility (WEF) is allowed in designated districts only as a special use, and after a public hearing by the Area Board of Zoning Appeals and approval by the County Council.

2) **Preliminary site development project meeting required.** A WEF is a unique facility having to meet specific location and technical requirements. A preliminary site development project meeting is required with the local agencies, and where at a minimum, the following information is to be provided:

(a) The location of the WEF identified on an aerial photograph, and the property tax ID numbers of the properties involved;

(b) The number and specifications of the wind turbines;

(c) The method and route of transportation of all equipment;

(d) The construction timeline and the production life of the WEF;

(e) A site plan showing the location of floodplains; wetlands; forested areas; on-site structures; structures within 500 feet of the development site; streams and legal ditches; utility lines, cables, and pipelines; and

(f) Developer's determination of public infrastructure needs.

(Ord. 1221, § 9.04D., passed 1-26-2010)

E. WIND ENERGY FACILITY; APPROVAL.

1) In addition to the requirements of division (B) of this section, the developer of the WEF shall provide all applicable information under § 152.346, and any additional information requested from the preliminary site development project meeting.

2) Applications for WEF as a special use shall be accompanied by the items outlined under § 152.367(I) in addition to the following:

(a) A site plan showing, at a minimum:

1. North arrow, written and graphic scale, general location map;
2. Legal description;
3. The location and height (including the top of the arc of the blade) of the wind turbines;
4. The location of all other supporting structures such as but not limited to sheds, offices, operation and maintenance facilities, drives, and parking areas;
5. Location of all structures on adjacent properties within 300 feet of all property lines;
6. Topography lines at 2-foot intervals;
7. Location of all natural features such as streams, ditches, floodplain, wetlands, and tree canopy;
8. Drainage and soil erosion control, including location of all drainage tiles; and
9. Location of all utilities and utility corridors, such as but not limited to electric transmission lines, natural gas pipe lines, petroleum pipe lines, fiber optic lines, sewer lines, and water lines.

(b) A site development report, including but not limited to the following items:

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1. The schedule and phasing of construction; the transportation route for the delivery of and the maintenance of all equipment; provisions for the repair of any public infrastructure such as roads, ditches, and culverts;
2. A statement describing the service area and the primary customers of the WEF;
3. Statements indicating that all utilities have been contacted relative to the location and construction of the WEF along with their responses and requirements;
4. Technical details of the facility and individual wind turbines, including but not limited to height of all wind turbines; power generation capaTown; long-term maintenance and replacement requirements; survival wind speed, and any other information deemed appropriate by the developer, and the professional staff of town;
5. An analysis of how the WEF will effect the operations of other facilities such as radio and television transmissions, cell phone transmissions, and radar transmissions;
6. A statement outlining the security arrangements that will be placed on the site;
7. An analysis of the maximum decibel levels to be anticipated at all property lines and at all inhabitable structures within 300 feet of all property lines;
8. The maintenance plan that has been established for the WEF; and
9. A decommissioning plan outlining the method, timing, and cost of the removal of 1 or more of the wind turbines upon the termination, abandonment, discontinuation, decommissioning; or cessation of 1 or more of the wind turbines, or complete cessation of the operations of the WEF.

(c) Other information.

1. A list of all adjacent property owners within 300 feet of the project boundary lines, along with stamped and addressed envelopes; and
2. Reports from the following agencies and responses to any concerns raised by the respective agencies:
   a. Indiana Department of Environmental Management;
   b. Indiana Department of Natural Resources;
   c. Town Building Inspector;
   d. Town Engineer; and
   e. New Carlisle Town Council.

3) Any project-specific agreements, such as public infrastructure improvements or a payment-in-lieu-of-taxes agreement, must be approved prior to final project approval.

4) Liability insurance covering bodily injury and property damage naming the town as an additional insurer with limits of at least $2,000,000 per occurrence and $5,000,000 in the aggregate, with a deductible of no more than $5,000.

(Ord. 1221, § 9.04E., passed 1-26-2010)

F. WIND ENERGY FACILITY; ABANDONMENT, DISCONTINUATION, OR DECOMMISSIONING OF WIND TURBINES AND REMOVAL OF WIND ENERGY FACILITIES.

1) **Abandonment and/or decommissioning.** Wind turbines, wind energy facilities, and all associated equipment and buildings which have not been used for a continuous 24 months from the last day of any known transmission of energy shall be deemed abandoned and shall be

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removed from the site per the decommissioning plan. Maintenance events which require extended periods of time beyond a 24-month period shall be brought to the attention of the Building Inspector.

2) **Security fund.** The wind energy facility owner shall establish a cash security fund, bond or irrevocable letter of credit to secure the payment of removing any abandoned wind energy facility, including the wind turbines and associated equipment and buildings that have been determined to be abandoned or found to be in noncompliance with this chapter, and to provide the town with a fund from which to deduct fines and penalties for noncompliance with this chapter or other applicable laws in the amount of 125% of the cost of construction of the wind energy facility based upon a licensed engineer's estimate of the cost of construction. Any reduction in the security fund provided because of deductions of fines, penalties, or removal costs shall be replenished to the total of the required amount within 30 days after notice from the town of the amount deducted and the deficiency created hereby. Within a reasonable period of time, not to exceed 3 months after the wind turbine facility is removed, any remaining funds on deposit with the town pursuant to this chapter, after application and above all expenses provided for herein, shall be refunded to the appropriate owner or provider who created the security fund.

(Ord. 1221, § 9.04F., passed 1-26-2010)

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Section 7.39 WIRELESS COMMUNICATION FACILITY

A. INTENT AND POLICY.

1) **Intent.** This subchapter creates the framework for the siting of wireless telecommunications facilities in a manner which: protects the public health, safety, and general welfare of the community; provides comprehensive service to the community; protects the community from visual clutter; is compatible with existing and future land use; and preserves significant view corridors.

2) **Policy.** The following policy statements are set forth to provide guidance to wireless communication facility providers in the placement of wireless telecommunication facilities within the town. It is hereby declared that the town telecommunications policies for the corporate limits of the town shall be to:

   (a) Facilitate the comprehensive provision of wireless telecommunication services to the residents and businesses of the town;

   (b) Maximize the use of existing and approved telecommunication towers, buildings, and structures to accommodate new wireless telecommunication antennas in order to minimize the number of telecommunication towers needed to comprehensively serve the community;

   (c) Minimize the number, height, obtrusiveness, and the visual impacts of telecommunications towers, associated equipment, and buildings;

   (d) Encourage wireless telecommunication facilities to be located in areas which are least disruptive to residential, park, open space, and greenway uses and to be as unobtrusive and invisible as reasonably possible;

   (e) Ensure that the height of telecommunications towers has the least visual impact and is no greater than required to achieve service area requirements and potential co-location;

   (f) Site telecommunications towers to minimize locations which are visually solitary or prominent when viewed from residential areas or any public way;

   (g) Site telecommunications towers at locations which are obscured by vegetation, tree cover, topographic features, buildings, or other structures to the maximum extent feasible;

   (h) Protect views of and vistas from architecturally or historically significant structures and historically significant landscapes so that these architectural or historical resources are not impaired or diminished by the placement of telecommunications towers; and

   (i) Avoid potential damage to adjacent properties from telecommunication towers failure through structural design standards and setback requirements.

B. WIRELESS TELECOMMUNICATIONS FACILITIES REQUIREMENTS.

1) **Applicability.** Notwithstanding any other provision of this chapter to the contrary, wireless telecommunications facilities, when such are permitted by and in compliance with federal law and the laws of the State of Indiana (including but not limited to non-interference with public safety telecommunications), shall be regulated and governed by the regulations and requirements of this section.

2) **Amateur radio exemption.** This section shall not apply to nor be construed to apply to amateur radio operators who are licensed to operate a radio or transmitter by the Federal Communications Commission under Part 97 of the Federal Communications Commission's Rules.

3) **Compliance with other laws**. A telecommunications tower shall be erected and operated in compliance with the most current Federal Communication Commission and Federal Aviation Administration rules and regulations and other applicable federal and state standards. All

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telecommunications towers shall comply with all ordinances of the town not in conflict with this section.

C. SITING HIERARCHY OF WIRELESS TELECOMMUNICATIONS FACILITIES.

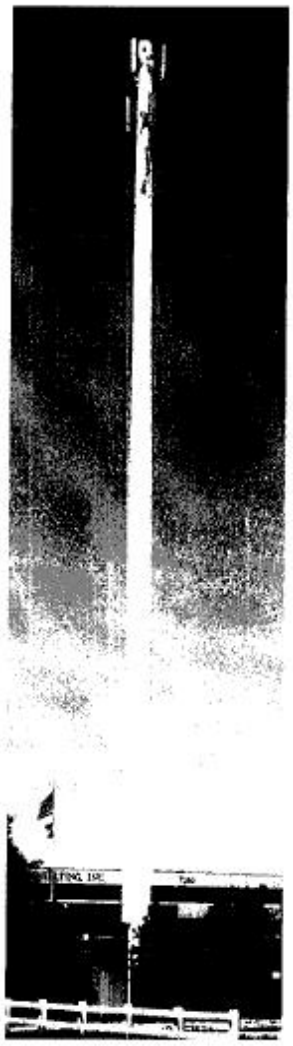
Development of wireless telecommunications facilities shall be in accordance with the following siting alternatives hierarchy. The order of ranking, from highest to lowest, shall be from division (A), to division (B), to division (C), outlined below. Where a lower ranked alternative is proposed, the applicant must demonstrate by substantial evidence that higher ranked options are not technically feasible or available.

1) **Co-location.** The co-location of antenna on existing telecommunication towers and associated equipment or buildings shall comply with the following regulations:

   (a) The co-location or placement of new telecommunications antennas upon existing telecommunications towers are hereby declared as permitted uses in all districts and may be issued an improvement location permit provided all development standards outlined in § 152.293(B) are met.

   (b) Associated equipment or buildings, when located within an existing compound area that is in compliance with this chapter, may be issued an improvement location permit provided all development standards outlined in § 152.293(C), below, are met.

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Tapering Monopole
with Co-Location
Using Slick Antenna

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2) **Existing structure or building utilization.** The utilization of existing structures and buildings for placement of antenna and associated equipment or buildings, including surface mounted and roof mounted applications of telecommunication antennas on existing buildings and structure mounted applications of telecommunication antennas on water towers, electric-line transmission towers, or other existing structures, shall comply with the following regulations:

   (a) The placement of new telecommunications antennas upon existing structures and buildings are hereby declared as permitted uses in all districts and may be issued an improvement location permit provided all development standards outlined in § 152.293(B), below, are met.



Antenna on an Existing Structure

(b) Associated equipment or buildings, when located within an existing building or compound area that is in compliance with this chapter, may be issued an improvement location permit provided all development standards outlined in § 152.293(C) - Associated Equipment or Buildings and Compound Area Requirements below are met.

3) **New telecommunications tower locations.** New telecommunications towers and associated equipment or buildings shall comply with the following regulations:

(a) **Where permitted.** Wireless telecommunications facilities requiring the construction of a telecommunications tower, building, or structure are hereby declared as special exception uses in and requiring the approval of a special exception prior to the issuance of an improvement location permit, provided, however, no new telecommunications tower shall be located within 500 feet of a Residential District or use unless the applicant can demonstrate through the materials required by division (C)(4) of this section, that there are no other locations, buildings, or structures beyond 500 feet of a Residential District or use which are available and which can provide the necessary wireless telecommunications services to the residents and businesses of the town.

(b) **Alternatives exhausted.** The applicant for a wireless telecommunications facility special exception shall demonstrate that they have exhausted all efforts to locate the proposed telecommunications antennas upon existing telecommunications towers, buildings, or structures in the geographical area of the proposed telecommunications antennas. In the event that a wireless communications provider claims that efforts to locate the proposed telecommunications antennas upon existing telecommunications towers, buildings, or structures failed because of the demanded lease amount of the owner of an existing telecommunications tower, the dispute over fair market value shall be settled as set forth in division (C)(3), below.

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(c) **Fair market value.** In the event of dispute between wireless telecommunications providers regarding the fair market value of rental for a co-location on an existing telecommunications tower which is subject to a requirement to provide co-location at a reasonable and nondiscriminatory basis and at a cost not materially exceeding fair market value, the applicant, at the applicant's cost, shall select an independent appraiser to determine fair market value of the rental. In the event of a dispute over the appraisal results, the wireless telecommunication providers shall employ a new appraiser subject to the approval of the Zoning Administrator. The new appraisal shall be performed at the expense of the wireless telecommunication providers involved in the dispute. The expense of the new appraisal shall be equally shared between the wireless telecommunication providers and the results shall be conclusive.

(d) **Additional special exception filing requirements.** In addition to the requirements specified in § 152.367(I) and any applicable Rules of Procedure, all applications for a special exception for a new telecommunications tower location shall include the following:

1. **A service plan for the town.** The service plan shall demonstrate efforts to minimize the size and number of telecommunications tower locations throughout the geographical area, taking into consideration existing technology. The service plan shall include, but not be limited to the following information:

    a. A narrative detailing:

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i. The reason of need (coverage, capaTown, new users, and the like) for a telecommunications tower or wireless communication facility at the requested site;

ii. The nature of any existing wireless communication facility sites indicated on the map required by division (C)(4)(a)2., below, shall be documented (i.e., freestanding structure with available heights noted, roof mounted applications, existing telecommunications towers with information regarding co-location opportunities or limitations, service providers utilizing each such wireless communication facility site, and the like); and

iii. The manner in which the proposed placement will promote the town telecommunications policies.

iv. A map of the town identifying the following:

All existing telecommunications towers; and

All structures or buildings within a 1-mile radius of the proposed site that have a height equal to or greater than the height of the proposed telecommunications tower minus 30 feet.

v. In the event that a telecommunications tower is proposed within 1 mile of the boundary of the town, the map shall include the information required above for all areas within 1 mile of the proposed telecommunications tower.

vi. If the applicant is a licensed provider of wireless communication services, the applicant shall supply individual coverage maps of the town jurisdiction, which:

Identify all existing locations utilized by the licensed provider's network and reflects the current coverage levels to the town; and

Identify the proposed coverage levels of the licensed provider's network after the installation of the proposed wireless telecommunication facility.

vii. In the event that the licensed provider proposes multiple sites, a separate coverage map for each additional wireless telecommunication facility, and an overall coverage map based upon all proposed wireless telecommunication facilities shall be provided.

(e) A certification, in a manner acceptable to the town, from the owner of the telecommunications tower or the property on which the telecommunications tower is located, that the telecommunications tower is available for use by another wireless telecommunications provider on a reasonable and nondiscriminatory basis and at a cost not exceeding the fair market value for the use of the facilities.

(f) A designation by the owner of the telecommunications tower or the property on which the telecommunications tower is located of an area which is set aside for the equipment of future users of the telecommunications tower and is located:

a. Within the proposed compound area; or

b. Within a separate compound area located on the same lot and located no further from the telecommunications tower than the distance from the telecommunications tower to the proposed compound area plus 50 feet.

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2. Color photo simulations showing the site of the proposed telecommunications tower with a photo-realistic representation of the proposed telecommunications tower as it would appear viewed from the closest Residential District and from adjacent public right-of-way, and photographs of the same views as in the photo simulations showing the current appearance of the site without the proposed telecommunications tower.

D. DEVELOPMENT STANDARDS.

In addition to complying with the requirements for a special exception use for the district in which the lot is located, all wireless telecommunications facilities shall comply with the following additional development standards.

1) Telecommunication tower and antenna array.

(a) **Height.** The maximum height of a telecommunications tower, including antenna array, shall be less than 200 feet above grade.

(b) **Telecommunications tower type.** All new telecommunications towers shall be of a tapering monopole construction unless a determination is made in connection with a special exception request that an alternative design would better blend into the surrounding environment and is approved as a waiver of development standards as provided for and regulated in § 152.367(I).

(c) **Guys and guy anchors.** If a guyed telecommunication tower is approved, all guys and guy anchors shall be located within the buildable area of the lot and shall not be located within any required yard or required residential bufferyard.

(d) **Security fencing.** The base of a telecommunications tower and all guy anchors shall be enclosed by security fencing. This fencing shall conform with the requirements detailed in division (C)(1), below.

(e) **Structural design.** A telecommunications tower shall be designed and built so as to:

1. Be capable of use by at least 2 wireless communications providers for a telecommunications tower less than 80 feet in height;

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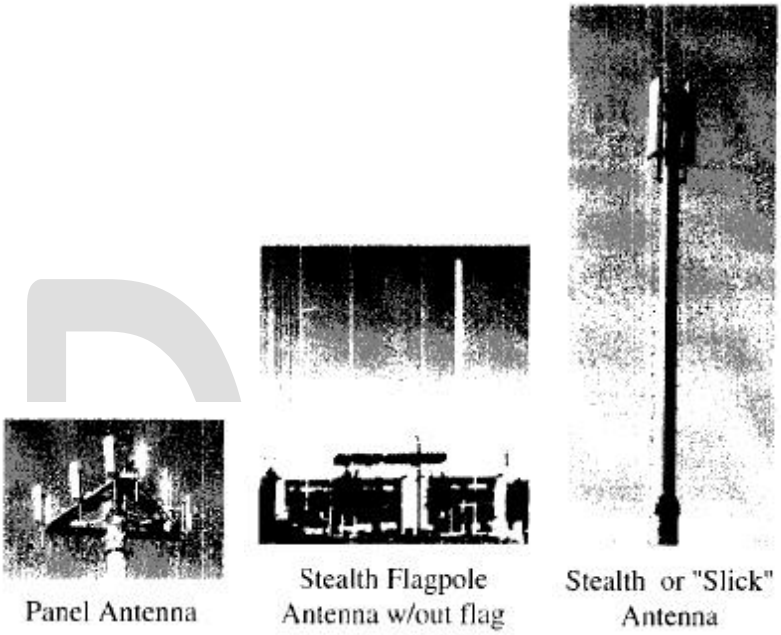
Tapering Monopole
with "Slick" Antenna

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2. Be capable of use by 3 or more wireless communications providers for a telecommunications tower of 80 feet in height or greater;
3. Accommodate antenna arrays consisting of 9 to 12 antennas for each antenna array, provided, however, this regulation shall not apply to slick antenna applications;
4. Locate the antenna arrays within 15 vertical feet of each other;
5. Have no more than 3 degrees of twist and sway at the top elevation; and
6. Provide internal cable routing for all tapering monopole telecommunication towers.

(f) **Antenna arrays and types.** To minimize adverse visual impacts, the antenna type used shall be in accordance with the following alternatives hierarchy. The order of ranking, from highest to lowest, shall be (a), (b), (c), (d), and (e), outlined below. Where a lower ranked alternative is proposed, the applicant must demonstrate by substantial evidence that higher ranked options are not technically feasible or available:

1. Flagpole antenna (with or without a flag, as appropriate to the setting) (see § 152.231 for information regarding flags);
2. Slick antennas or stealth antennas other than flagpole antennas;
3. Panel antennas, also known as directional or sectored antennas;
4. Whip antennas; and
5. Dish antennas.



(g) **Signs.** No lettering, symbols, images, trademarks, signs (including banners, pennants, or streamers), or advertising shall be placed on or affixed to any part of a telecommunications tower, antenna array or antenna, other than as required by Federal Communications Commission regulations regarding telecommunications tower registration or other applicable law.

(h) **Safety.** Telecommunications towers shall be constructed to minimize potential safety hazards. Telecommunications towers shall be constructed so as to meet or exceed the most recent EIA-222 standards, and prior to issuance of an improvement location permit, the Zoning Administrator shall be provided with an engineer's certification that the telecommunications tower's design meets or exceeds the EIA-222 standards. Guyed telecommunications towers shall be located in such a manner that if the telecommunications tower should fall along its longest dimension, the telecommunications tower will remain within the lot lines and avoid dwelling units, habitable structures, public street rights-of-way, utility lines, and other telecommunications towers.

(i) **Lights.** No signals, lights, or other illumination (including holiday lights or outdoor strings of lights) shall be permitted on telecommunications towers unless required by the Federal Communications Commission, the Federal Aviation Administration, or the town. When incorporated into the approved design of the telecommunications tower, outdoor light fixtures used to illuminate ball fields, parking areas, or similar areas, in compliance with the requirements of §§ 152.210 through 152.215 of this chapter, may be attached to the telecommunications tower.

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(j) Modifications. If any additions, changes, or modifications are to be made to a telecommunications tower, the Zoning Administrator shall have the authority to require proof, through the submission of engineering and structural data, that the addition, change, or modification conforms to structural wind load and all other requirements of the current Building Code adopted by the town.

2) Telecommunications antennas mounted on existing buildings or structures.

(a) **Roof-mount.** Roof mounted telecommunications antennas are permitted on buildings and structures in all districts, except for single family dwellings or 2 family dwellings, without a special exception, provided:

1. A non-whip antenna:
    a. Does not exceed the height of the building by more than 10 feet; and
    b. Shall be no closer than 10 feet to the perimeter of the building.
2. A whip antenna:
    a. Does not exceed the height of the building by more than 15 feet; and
    b. Shall be no closer than 15 feet to the perimeter of the building.
3. Prior to installation of a roof mounted telecommunications antenna or equipment, the Zoning Administrator shall be provided with an engineer's certification that the roof will support the proposed telecommunications antenna or associated roof mounted equipment.

(b) **Surface mount.** Surface mounted telecommunications antennas are permitted on buildings or structures in all districts without a special exception, provided:

1. The antenna is of the non-whip antenna type;
2. The non-whip antenna is mounted flush with the exterior of the building or structure so that it projects no more than 30 inches from the surface of the building or structure to which it is attached; and



Surface Mount Antenna

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3. The non-whip antenna's appearance is designed to blend with the color or texture of the surrounding surface of the building or structure.

(c) **Other existing structures.** Telecommunications antennas are permitted on existing utility, lighting, telecommunications towers and other structures in all districts without a special exception, provided:

1. The existing utility, lighting, telecommunications towers, and other structure exceeds 50 feet in height above grade;

2. The telecommunications antenna does not exceed the height of the structure by more than 10 feet if a non-whip antenna, or 15 feet if a whip antenna; and

3. Existing structures may be rebuilt if necessary to support the load of the new telecommunications antenna without further zoning proceedings provided:

4. If the structure to be rebuilt is not an existing telecommunications tower, the rebuilt structure shall comply with all applicable regulations of the district in which the structure is located; or

5. If the structure to be rebuilt is an existing telecommunications tower, the new telecommunications tower shall:

6. Not exceed the height of the existing telecommunications tower; and

7. Comply with all other regulations contained in this section for the erection of a new telecommunications tower, except that a special exception shall not be required.

(d) **Application.** When an application for an improvement location permit to locate a telecommunications antenna on an existing building or other structure is made, the Zoning Administrator shall be provided with color photo simulations showing the site of the existing structure with a photo-realistic representation of the proposed telecommunications antenna and the existing structure or any proposed reconstruction of the structure as it would appear viewed from the closest Residential District and from adjacent public right-of-way. The applicant shall also submit photographs of the same views as in the photo simulations showing the current appearance of the site without the proposed telecommunications antenna.

3) **Associated equipment or buildings and compound area requirements**.

(a) Fencing and landscaping of ground mounted associated equipment or buildings.

1. Fencing required. The compound area and all guy anchors shall be secured with a board-on-board or chain link fence of not less than 6 feet in height nor more than 10 feet in height. A security wire (barbed, razor, and the like) may be located on the telecommunications tower-side of the fence but shall not extend above the top of the fence. A chain link fence, if used, shall be black vinyl coated.

2. Landscaping required. Landscaping shall be installed around the perimeter of the fenced compound area running the full length of all sides of the compound area or building, except for entry gates or doors. The type of landscaping required shall be based upon the open space of the fence. If the fence has an open space of:

a. Fifty percent or greater, a 10-foot wide landscaping strip running the full length of all sides of the compound area or building, except for entry gates or doors, with 4 evergreen trees for every 30 feet shall be installed on the outside of the fenced area;

b. Less than 50% but greater than 20%, a 10-foot wide landscaping strip running the full length of all sides of the compound area or building, except for entry gates or doors, with 2 evergreen trees for every 25 feet shall be installed on the outside of the fenced area; or

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c. Twenty percent or less, a 10-foot wide landscaping strip running the full length of all sides of the compound area or building, except for entry gates or doors, with 1 ornamental tree (minimum 1-1/2 inch caliper) planted for every 25 feet shall be installed on the outside of the fenced area.

3. Interior access drives or walkways that lead to the entry into the compound area or building shall be hard-surfaced with asphalt or concrete.

(b) Exterior materials and roof pitch of associated equipment or buildings.

1. Associated equipment buildings, whether ground or roof mounted and not enclosed by a fence providing a complete sight barrier (i.e., a fence with zero open space), shall be similar in color, exterior material, and character to the main or adjoining building or structure. If ground mounted the roof pitch of the associated equipment building shall match the pitch of any existing building or structure.



2. When an equipment building is located on a lot that does not contain an existing building or structure and is not enclosed by a fence providing a complete sight barrier (i.e., a fence with zero open space), the exterior material shall be either brick or stone. The roof pitch shall not be less than a 3-foot vertical rise for each 12-foot horizontal run nor greater than a 12-foot vertical rise for each 12- foot horizontal run.

E. ABANDONMENT AND REMOVAL OF TELECOMMUNICATIONS TOWERS, ANTENNA ARRAYS, ASSOCIATED EQUIPMENT, AND BUILDINGS.

1) **Abandonment.** Telecommunications towers, antenna arrays, associated equipment, and buildings which have not been used for a period of 1 year shall be deemed abandoned and shall be removed from the site.

2) **Notice required.** The owner of the telecommunications tower and the last service provider to use a telecommunications tower shall notify the Zoning Administrator within 30 days that use of a telecommunications tower has been discontinued.

3) Security.

(a) Every telecommunications tower owner and all service providers shall establish a cash security fund, bond or irrevocable letter of credit to secure the payment of removing the telecommunications towers, antenna arrays, associated equipment and buildings that have been determined to be abandoned, or found to be in noncompliance with this chapter, and to provide the town a fund from which to deduct fines and penalties for noncompliance with this chapter or other applicable laws in the following amounts.

1. The amount to be provided for each telecommunications tower shall be 125% of the cost of construction based upon a licensed engineer's estimate of the cost of construction of the telecommunications tower.

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2. The amount for each antenna array on the telecommunications tower shall be 125% of the cost of construction based upon a licensed engineer's estimate of the cost of installation of the antenna array.

(b) Any reduction in the security fund provided, because of deductions of fines, penalties, or removal costs, shall be replenished to the total of the required amount within 30 days after notice from the town of the amount deducted and the deficiency created hereby.

4) **Refund.** Within a reasonable period of time, not to exceed 3 months after the telecommunications tower and/or antenna array is removed, any remaining funds on deposit with the town pursuant to this section, after application and above all expenses provided for herein, shall be refunded to the appropriate owner or provider who created the security fund.

F. LIMITATIONS ON SPECIAL EXCEPTIONS.

1) A special exception which does not fully comply with the telecommunications policies contained herein for telecommunications towers may be granted upon a determination that such a grant better accomplishes the telecommunications policies set out in this section than would a strict application of these telecommunication policies. Such deviations from the town telecommunications policy shall be no greater than necessary to accomplish those policies.

2) A special exception which does not comply with the development standards of this subchapter may only be granted upon:

(a) Approval of a waiver of development standards as provided for in § 152.367(I) and regulated in § 152.367(H); or

(b) Separate application for and approval of a variance of development standards filed for and obtained in accordance with the requirements of § 152.367 and any applicable Rules of Procedure.

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Article 8 Nonconformities

Section 8.01 INTENT.

A. Within the districts established by this chapter, there exist the following, which were legally established prior to the effective date of the adoption, revision, or amendment of this chapter, but which would be prohibited, regulated, or restricted under the provisions of this chapter:

1) Nonconforming lots of record;
2) Nonconforming buildings or structures;
3) Nonconforming uses of land;
4) Nonconforming uses within nonconforming buildings or structures; and
5) Nonconforming signs.

B. It is the intent of this chapter to permit these legally established nonconforming lots of record, buildings, structures, uses, and signs to continue until they are removed, but not to encourage their survival. It is further the intent of this chapter that legally established nonconforming buildings, structures, uses, and signs shall not:

1) Be enlarged upon, expanded, or extended; or
2) Be used as grounds for adding other buildings, structures, uses, or signs which are prohibited elsewhere in the same district.

C. Nonconforming lots of record, nonconforming buildings or structures, nonconforming uses of land, nonconforming uses within nonconforming buildings or structures, and nonconforming signs that are either illegal or not legally established on the effective date of this chapter shall not become legally established by virtue of the enactment of this chapter.

D. Nonconforming lots of record, nonconforming buildings or structures, nonconforming uses of land, nonconforming uses within nonconforming buildings or structures, and nonconforming signs which are in full compliance with the regulations of this chapter pertaining to the permitted uses and development standards of the district to which the real estate is zoned shall, after the effective date of this chapter, be considered validated as conforming lots of record, buildings, structures, uses, and signs for the purposes of interpreting and applying this chapter.

(Ord. 1221, § 1.03(a), passed 1-26-2010)

Section 8.02 INCOMPATIBILITY OF LEGALLY ESTABLISHED NONCONFORMING USES.

A. Legally established nonconforming uses are declared by this chapter to be incompatible with permitted uses in the district in which the legally established nonconforming use is located.

B. A legally established nonconforming use of a building or structure, or a legally established nonconforming use of land, shall not be extended, expanded, or enlarged after the effective date of this chapter.

(Ord. 1221, § 1.03(b), passed 1-26-2010)

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Section 8.03 AVOIDANCE OF UNDUE HARDSHIP.

To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans for or construction of any building, structure, or sign, or the designation of use of any building or structure, for which an improvement location permit has been properly issued prior to the effective date of this chapter; provided that:

A. The construction of the building, structure, or sign is commenced within 3 years of the effective date;

B. Construction of the building, structure, or sign is diligently prosecuted to completion; and

C. Construction of the building, structure, or sign shall be completed within 7 years of the issuance of the improvement location permit.

(Ord. 1221, § 1.03(c), passed 1-26-2010)

Section 8.04 LEGALLY ESTABLISHED NONCONFORMING LOTS.

A. Legally established nonconforming lots of record. Any legally established lot recorded or any legally established platted lot recorded prior to the effective date of this chapter, having less than the required minimum lot area or minimum lot width required by the applicable district regulations of this chapter, shall be deemed a permitted exception to the minimum lot area or minimum lot width and may be used for any permitted use within the applicable district in which the lot is located, provided that all other development standards are met, and the lot must be in separate ownership and not of continuous frontage with other lots in the same ownership.

B. Legally established nonconforming lot frontage or lot area resulting from acquisition of right-of-way. Any legally established lot in which the frontage of the lot or the area of the lot has been reduced below that which is required by the applicable district regulations of this chapter by the acquisition of right-of-way or access rights by a governmental entity shall be deemed a permitted exception to the minimum frontage requirements and may be used for any permitted use within the applicable district in which the lot is located, provided that all other development standards are met.

(Ord. 1221, § 1.03(d), passed 1-26-2010)

Section 8.05 LEGALLY ESTABLISHED NONCONFORMING BUILDINGS OR STRUCTURES (EXCLUDING SIGNS).

Where a legally established nonconforming building or structure exists on the effective date of this chapter that could not be built under the terms of this chapter by reason of restrictions on: gross floor area; lot coverage; building height limitations; front, side, and rear setbacks and yards; location on the lot; bulk; or other provisions of this chapter applicable to the building or structure, the building or structure may continue to exist so long as it remains otherwise lawful, subject to compliance with the following provisions:

A. Such legally established nonconforming building or structure may not be enlarged, expanded or altered in a way which increases its nonconformity, provided the building or structure may be altered so as to decrease the extent of nonconformity;

B. Should the legally established nonconforming building or structure, or legally established nonconforming portion of a building or structure, be damaged or destroyed by any means to the extent that restoration will exceed 50% of the cost of construction of the entire building or structure at the time the damage or destruction is reported, as determined pursuant to § 152.065 below, the building or structure shall not be reconstructed except in conformity with the provisions of this chapter; and

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C. Should such legally established building or structure be moved for any reason for any distance whatsoever, the legally established building or structure shall thereafter conform to the provisions of this chapter.

(Ord. 1221, § 1.03(e), passed 1-26-2010)

Section 8.06 LEGALLY ESTABLISHED NONCONFORMING USES OF LAND.

Where legally established nonconforming uses of land exist on the effective date of this chapter which would not be permitted by the provisions of this chapter, the uses may be continued so long as they remain otherwise lawful, provided that:

A. Such legally established nonconforming uses shall not be enlarged, expanded, increased, or extended to occupy a greater area of land than was occupied on the effective date of this chapter;

B. Such legally established nonconforming uses shall not be moved in whole or in part to any portion of the lot or parcel other than that occupied by the uses on the effective date of this chapter;

C. No additional building or structure shall be erected in connection with such legally established nonconforming use of land; and

D. A legally established nonconforming use may be changed to a less intense use permitted within the same district grouping pursuant to § 152.036 (i.e., from one use permitted in the various districts of §§ 152.115 through 152.125, to a less intense use listed within the various districts of §§ 152.115 through 152.125; but not from a use listed in 1 of the various districts of §§ 152.115 through 152.125 to a use listed in 1 of the various districts of §§ 152.080 through 152.090, provided all other regulations of this section are complied with.

(Ord. 1221, § 1.03(f), passed 1-26-2010)

Section 8.07 DISCONTINUATION OF LEGALLY ESTABLISHED NONCONFORMING USES OF LAND.

A. **Commercial/town center, industrial, or multifamily uses.** If any legally established nonconforming commercial/town center, industrial, or multifamily use of land is either of the following, any subsequent use of the land shall conform to the provisions of this chapter:

1) Abandoned for any period of time; or

2) Discontinued for more than 12 consecutive months (except when a probate related court order or government action impedes access to the premises).

B. **Single family or 2 family uses.** If any legally established nonconforming single family or 2 family use is converted to a permitted use in the district in which it is located, any subsequent use of the land shall conform to the provisions of this chapter.

(Ord. 1221, § 1.03(g), passed 1-26-2010)

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Section 8.08 LEGALLY ESTABLISHED NONCONFORMING USES WITHIN LEGALLY ESTABLISHED NONCONFORMING BUILDINGS OR STRUCTURES.

A. If any legally established nonconforming use is located within a legally established nonconforming building or structure, and the legally established nonconforming building or structure becomes unsafe or unlawful by reason of physical condition and is razed, the legally established nonconforming use previously being conducted in the legally established nonconforming building or structure shall be extinguished and no longer permitted.

B. If any legally established nonconforming use is located within a legally established nonconforming building or structure, and the legally established nonconforming building or structure is damaged or destroyed by any means to the extent that restoration will exceed 50% of the cost of construction of the entire building or structure at the time the damage or destruction is reported, as determined pursuant to § 152.065 below, the legally established nonconforming use previously being conducted in the legally established nonconforming building or structure shall be extinguished and no longer permitted.

C. A legally established nonconforming use within a legally established nonconforming building or structure may be changed to a less intense use pursuant to § 152.036 (i.e., within §§ 152.115 through 152.125, or within §§ 152.412 through 152.147, but not from §§ 152.115 through 152.125 to §§ 152.080 through 152.090, provided all other regulations of this section are complied with.

(Ord. 1221, § 1.03(h), passed 1-26-2010)

Section 8.09 REPAIRS AND MAINTENANCE OF LEGALLY ESTABLISHED NONCONFORMING BUILDINGS OR STRUCTURES (EXCLUDING SIGNS).

A. **Ordinary repairs.** On any legally established nonconforming building or structure, or portion of a building or structure containing a legally established nonconforming use, work may be done on ordinary repairs or on the repair or replacement of non-bearing walls, fixtures, wiring or plumbing, provided that the cubic feet content existing when the building or structure, or portion of a building or structure containing a legally established nonconforming use, became nonconforming shall not be increased. Nothing herein shall be deemed to prevent the strengthening, repairing, or restoring to safe condition of any building or structure, or part thereof, declared to be unsafe by any official charged with protecting the public safety, upon order of the official.

B. **Reconstruction prohibited.** If a legally established nonconforming building or structure or portions of a building or structure containing a legally established nonconforming use becomes unsafe or unlawful by reason of physical condition and is razed, the building or structure shall not thereafter be rebuilt or used except in conformity with the provisions of this chapter.

C. **Remodeling.** The gross floor area and the maximum building height devoted to the legally established nonconforming use shall not be increased, except as such increase is required to comply with other applicable federal, state, or local regulations (i.e., minor enlargements to accommodate ADA accessibility guidelines or current building codes).

D. **Parking area, outside storage area or outside operations area.**

1) A legally established nonconforming parking area, outside storage area or outside operations area may be maintained, repaired, or upgraded by hardsurfacing with asphalt or concrete, provided that:

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(a) There is no increase in the total area occupied by the parking area, outside storage area or outside operations area; and

(b) If, in the discretion of the Zoning Administrator, the hardsurfacing would serve to reduce a potential negative impact of the existing parking area, outside storage area, or outside operations area on surrounding properties (e.g., reduction in fugitive dust emissions, noise, erosion, and the like).

2) In case of disagreement with the determination of the Zoning Administrator, any aggrieved party may file an appeal with the Board of Zoning Appeals pursuant to the provision of § 152.367. Such hardsurfacing shall require an improvement location permit and shall also be subject to full review under and compliance with the storm drainage requirements of the town.

(Ord. 1221, § 1.03(i), passed 1-26-2010)

Section 8.10 LEGALLY ESTABLISHED NONCONFORMING SIGNS.

A. Continued existence. Any legally established nonconforming sign may continue to exist, including the performance of normal and routine maintenance, so long as the sign remains otherwise lawful.

B. Repair and maintenance. Legally established nonconforming signs may receive normal and routine repair and maintenance subject to the following provisions:

1) A legally established nonconforming sign may not be enlarged, expanded, or altered in a way which increases its nonconformity;

2) A legally established nonconforming sign erected pursuant to the grant of a variance of either a previously enacted zoning regulation or this chapter for number of signs, height of sign, setback of sign, or sign surface area may be altered so as to decrease the extent of nonconformity authorized by the grant of variance;

3) Except as provided for in division (B)(2) above, the removal of a sign structure or a sign cabinet shall be deemed definitive evidence that the sign requires work beyond normal and routine repair and maintenance, and the sign shall not be repaired, maintained, or reconstructed except in conformity with the provisions of this chapter;

4) If a legally established nonconforming sign is damaged or destroyed by any means to the extent that the repair or reconstruction of the sign exceeds 50% of the cost of construction of the entire sign, determined pursuant to § 152.065 below, the legally established nonconforming sign shall not be reconstructed except in conformity with the provisions of this chapter;

5) If the cost of normal and routine repair and maintenance of a legally established nonconforming sign exceeds 50% of the cost of construction of the entire sign, determined pursuant to § 152.065 below, the legally established nonconforming sign shall not be repaired, maintained, or reconstructed except in conformity with the provisions of this chapter; and

6) Should a legally established nonconforming sign be moved for any reason for any distance whatsoever, the legally established nonconforming sign shall thereafter conform to the provisions of this chapter.

C. Amortization of off-premises signs (i.e., billboards).

1) Intent and purpose.

(a) Attractive and integrated design features tend to improve the image of the community, raise property values within the community, attract new business and residents to the community, and improve the overall quality of life of the community. Attention to urban design features, therefore, is determined by the Town Council to be in the best economic interest of the citizens and business owners of the town.

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(b) Signs, due to their inherent visibility and incursion upon the landscape, represent a prominent design feature. The regulations contained in the sign regulations, §§ 152.230 through 152.236, were prepared in recognition of the impact of signs as a prominent urban design feature. The intent of the sign regulations of this chapter is, in part: to encourage the effective use of signs as a means of communication; to create a more attractive economic and business climate; to minimize the possible adverse effects of signs on nearby public and private property; to foster and improve the economic vitality of the community by enhancing and protecting the physical appearance of the community; and to promote the public health, safety, and general welfare of the community.

(c) The purpose of the regulations contained in this division (C) are intended to implement the intent set forth above.

2) **Impact of off-premises signs.** It is hereby declared by the Town Council that off-premises signs have the greatest potential of all signs to have a significant negative impact on the urban design features of the town and the public health, safety, and general welfare of the community due to: sign surface area in relation to lot area; sign surface area in relation to size of buildings; sign surface area in relation to the sign surface area permitted for on-premises business signs; sign surface area in relation to the sign surface area of traffic-control signs; inherent needs for high visibility; and predominantly being located along highly traveled thoroughfares.

3) **Declaration of nonconforming off-premises signs.** By operation of law, any off-premises sign which is in existence on the effective date of this chapter and which does not comply with the provisions of §§ 152.230 through 152.236 is either a nonconforming off-premises sign or a legally established nonconforming off-premises signs.

4) **Declaration of legally established off-premises signs.** A nonconforming off-premises sign shall be deemed to be a legally established nonconforming off-premises sign relative to both use and development standards if the following conditions apply:

(a) The off-premises sign was erected in compliance with regulations applicable on the date of erection;

(b) If a permit was required at the time of erection of the off-premises sign, the permit was issued in full compliance with all applicable regulations of the town Zoning Ordinance in effect at the time of issuance of the permit, and the off-premises sign was constructed, completed and maintained in full compliance with all applicable regulations of the town Zoning Ordinance in effect at the time of issuance of the permit;

(c) The off-premises sign existed prior to the date of adoption of this Zoning Ordinance;

(d) The off-premises sign has continued to exist from the date of adoption of this Zoning Ordinance to the present;

(e) The off-premises sign has not been abandoned; and

(f) The sign surface of the off-premises sign has not been left blank for a period of 365 consecutive days.

5) **Removal of nonconforming off-premises signs.** Any nonconforming off-premises sign (i.e., an off-premises sign which was not in compliance with applicable sign regulations or grant of variance at the time of the construction, erection or placement of the sign) shall be subject to immediate enforcement pursuant to §§ 152.405 through 152.413.

6) Removal of legally established nonconforming off-premises signs.

(a) Any legally established nonconforming off-premises sign which either: is not brought into compliance with the terms and conditions of §§ 152.230 through 152.236, sign regulations; or does not obtain the variance(s) necessary to establish the sign as a permitted sign under this chapter, shall be removed within 5 years of the effective date of this chapter.

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(b) Any off-premises sign which becomes a legally established nonconforming off-premises sign by virtue of: any future amendment of this chapter; any future zone map amendment; or any annexation of lands into the corporate jurisdiction of the town, which either: is not brought into compliance with the terms and conditions of §§ 152.230 through 152.236 (as such regulations may be amended from time to time); or does not obtain the variance(s) necessary to establish the sign as a permitted sign under this chapter, shall be removed within 5 years of the amendment or annexation.

(c) Removal shall include the removal of the sign surface and any sign structure (including any sign cabinet, pole, base, foundation, support, tie rods, upright, bracing, or framework) which supports or is capable of supporting the sign surface.

7) **Maintenance of legally established nonconforming off-premises signs.** Legally established nonconforming off-premises signs shall be subject to the provisions of division (B) above, regarding maintenance.

(Ord. 1221, § 1.03(j), passed 1-26-2010)

Section 8.11 DETERMINATION OF COST OF CONSTRUCTION.

In determining the reported cost of construction of a building or structure or the cost of construction of a sign, the Zoning Administrator may consider the following items:

A. **Building or structure:** documentation prepared by and provided by the applicable insurance company responsible for adjusting the loss;

B. **Sign:** documentation prepared by and provided by an appraiser licensed by the state to appraise the type of property involved; or

C. Other documentary evidence relevant to reported cost of construction deemed appropriate by the Zoning Administrator.

(Ord. 1221, § 1.03(k), passed 1-26-2010)

Section 8.12 RECONSTRUCTION, REMODELING OR ENLARGEMENT OF A LEGALLY ESTABLISHED NONCONFORMING SINGLE FAMILY DWELLING OR 2 FAMILY DWELLING.

Notwithstanding any provision of this section to the contrary, any legally established nonconforming single family dwelling or 2 family dwelling may be either reconstructed if damaged or destroyed by fire, natural disaster, or for any other reasons; or remodeled or enlarged; provided that the remodeling or additions comply with the development standards of the applicable R1 or R2 District related to maximum lot coverage, minimum yards and building setbacks, maximum building height, and off-street parking.

(Ord. 1221, § 1.03(l), passed 1-26-2010)

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Section 8.13 AGRICULTURAL NONCONFORMING USE.

An agricultural nonconforming use may be changed to another agricultural use without losing agricultural nonconforming use status; provided, however, the agricultural nonconforming use shall be:

A. Maintained for at least any 3 years in a 5-year period;

B. Maintained and operated in compliance with all state environmental and state health laws and rules; and

C. Maintained and operated in compliance with all requirements of the St. Joseph County Zoning Ordinance applicable to conforming agricultural uses, as that ordinance may be amended from time to time.

(Ord. 1221, § 1.03(m), passed 1-26-2010)

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Article 9 Administration and Enforcement

Section 9.01 ADMINISTRATION

A. TOWN COUNCIL.

In order to effectuate the purpose of this chapter regarding the implementation of the Comprehensive Plan and this chapter, the Town Council shall, to the fullest extent permitted by applicable law, including without limitation I.C. 36-7-4 et seq. have the powers and duties to:

1) Approve, reject, or amend a Comprehensive Plan, or segment thereof, certified to it by the Area Plan Commission;
2) Initiate amendments to the text of this chapter;
3) Adopt, reject, or amend proposals to amend or partially repeal the text of this chapter;
4) Initiate amendments to the text of the town Subdivision Control Ordinance;
5) Adopt, reject, or amend proposals to amend or partially repeal the text of the town Subdivision Control Ordinance;
6) Adopt or reject proposals to amend zone maps;
7) Adopt, reject, or modify a PUD District ordinance;
8) Approve or disapprove all petitions for special exception uses after receiving such petitions from the Board of Zoning Appeals with a favorable recommendation, unfavorable recommendation, or no recommendation; and
9) Such additional powers and duties as may be set forth for the Town Council elsewhere in this chapter or Indiana state law.

(Ord. 1221, § 10.01, passed 1-26-2010)

B. AREA PLAN COMMISSION.

1) **Establishment.** The area planning law is hereby re-adopted and the Area Plan Commission is hereby reestablished as the Plan Commission for the Town of New Carlisle, Indiana, in accordance with I.C. 36-7-4-200 et seq.
2) **Membership, qualifications and terms.** The membership of the Area Plan Commission, the qualification of its members, and the terms of membership shall be in accordance with I.C. 36-7-4-200 et seq.
3) **Duties and powers.** The Area Plan Commission is hereby vested with the duties and powers imposed upon and granted to an Area Plan Commission under the area planning law, including without limitation the powers and duties listed below. To effectuate the purposes of this chapter, the Area Plan Commission may, to the fullest extent permitted by applicable laws:
   (a) Supervise and make rules for the administration of the affairs of the Planning Department;
   (b) Prescribe uniform rules pertaining to investigations and hearings, and other matters authorized by Indiana planning and zoning laws;

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(c) Keep a complete record of all departmental proceedings;

(d) Record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the Planning Department;

(e) Prepare, publish and distribute reports, ordinances and other material related to the Area Plan Commission activities authorized by state law or this chapter;

(f) Adopt a seal;

(g) Certify to all official acts;

(h) Supervise the fiscal affairs of the Planning Department;

(i) Prepare and submit an annual budget and be limited in all expenditures to the provisions made for expenditures by the legislative bodies of participating municipalities or the Board of Commissioners of St. Joseph County;

(j) Prescribe the qualifications of, with the consent of the Executive Director, fix the compensation of the employees of the Planning Department, which compensation shall conform to salaries and compensations fixed before that time by the Board of Commissioners of St. Joseph County;

(k) Delegate authority to its employees to perform ministerial acts in all cases except where final action of the Area Plan Commission is necessary;

(l) Designate a hearing examiner or a committee of the Commission to conduct any public hearing required to be held by the Area Plan Commission;

(m) (13)Appoint a plat committee to hold hearings on and approve plats and replats on behalf of the Area Plan Commission;

(n) (14)Make recommendations to the Town Council concerning:

1. The adoption of the Comprehensive Plan and amendments to the Comprehensive Plan;
2. The adoption of this chapter, a text amendment to this chapter, a replacement Zoning Ordinance, or the town Subdivision Control Ordinance;
3. The adoption or amendment of a PUD District ordinance; and
4. Zone map changes.

(o) Render decisions concerning and approve plats or replats of subdivisions;

(p) Assign street numbers to lots and structures or renumber lots and structures on streets or highways within the Area Plan Commission’s jurisdiction to conform with the numbers of structures on streets within cities within St. Joseph County. The Area Plan Commission hereby delegates the assignment of street numbers to the Town Clerk-Treasurer;

(q) The naming or renaming of streets when performed in connection with a plat or replat (the naming or renaming of streets within the corporate limits of the town, when not performed in connection with a plat or replat, shall be within the jurisdiction of the Town Council);

(r) Render decisions concerning development plans and amendments to development plans;

(s) Establish advisory committees of citizens interested in problems of planning and zoning which shall report to the Area Plan Commission and shall make inquires and reports only on the subject and problems specified in the resolution establishing the advisory committee of citizens by the Area Plan Commission;

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(t) Establish an executive committee which may act in the name of the Area Plan Commission as set forth in I.C. 36-7-4-408;

(u) Negotiate for grants-in-aid and agree to terms and conditions attached to the grants-in-aid;

(v) Establish a schedule of reasonable fees to defray the administrative costs connected with:

1. Processing and hearing administrative appeals and petitions for zone map change, special exception uses, variances, planned unit developments, and development plan approvals;

2. Issuing improvement location permits; and

3. Other official actions taken under this chapter.

(w) Invoke any legal, equitable, or special remedy available under this chapter or applicable law for the enforcement of the provisions of this chapter or actions taken hereunder; and

(x) Exercise all powers conferred on it by state law, local ordinance, or rule in the manner so prescribed. This subchapter shall not be construed as a limitation on those powers.

4) Commitments.

(a) Requirement of commitments by the Area Plan Commission.

1. The Area Plan Commission may, when in the discretion of the Area Plan Commission it is deemed necessary either: to assure the compatibility of a proposed development with surrounding properties; or to minimize the potential for the occurrence of detrimental affects from any attributes of a proposed development on surrounding properties, require or allow the owner of a parcel of property to make written commitments concerning the use or development of the subject property in connection with:

a. A development plan approval as provided for in this chapter;

b. A recommendation to the Town Council regarding a zone map change to any district classification contained in this chapter;

c. A recommendation to the Town Council regarding a PUD District ordinance;

d. A secondary approval of a PUD; or

e. A modification of permitted uses or development requirements of a PUD.

2. The commitments shall be reduced to writing in recordable form and signed by the owner(s) of the real estate. The commitments shall be in effect for:

a. As long as the zone map applicable to the parcel remains unchanged;

b. The parcel is designed as a PUD under §§ 152.165 through 152.171; or

c. Modified or terminated as provided below.

3. Commitments required or allowed in connection with a zone map change or the adoption of a PUD District ordinance shall be voted upon by the Town Council as certified by the Area Plan Commission.

4. The commitments shall authorize their recording by staff in the office of the Recorder of St. Joseph County upon the final approval of the applicable petition. The staff shall be reimbursed by the petitioner for any and all fees associated with the recording of the commitments.

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5. Following the recording of the commitments, staff shall return the original recorded commitments to petitioner and shall retain a copy of the recorded commitments in its file.

6. The Area Plan Commission, Town Attorney, Zoning Administrator, appropriate enforcement official, owners of all parcels of ground located within 300 feet of the real estate and all owners of real estate within the area included in the petition who were not petitioners for approval, and other specially affected persons designated in such commitments shall be entitled to enforce the commitments pursuant to I.C. 36-7-4-1015 or as otherwise provided by applicable law.

7. The commitments required or allowed by the Area Plan Commission shall be in substantially the form set forth in Appendix B-1 of this chapter.

(b) Modification or termination of commitments by the Area Plan Commission.

1. Commitments required or allowed by the Area Plan Commission may be modified or terminated by a decision of the Area Plan Commission.

2. Any modification or termination of the commitments shall not be effective until:

a. Reduced to writing;

b. Approved by the Area Plan Commission;

c. Executed and notarized by the present owner(s) of the real estate; and

d. Recorded in the office of the Recorder of St. Joseph County.

3. The modification or termination of commitments shall be in substantially the form set forth in Appendix B-2 of this chapter.

4. Procedures to be followed regarding form of filing, public hearing and notice, and reasons for modification or termination shall be those set forth in § 152.391.

(Ord. 1221, § 10.02, passed 1-26-2010)

C. BOARD OF ZONING APPEALS.

1) **Establishment and jurisdiction.** The Board of Zoning Appeals for St. Joseph County, is hereby re-established in accordance with I.C. 36-7-4-900 et seq. The Board of Zoning Appeals for the shall have exclusive authority over all matters set forth under I.C. 36-7-4-900 et seq., within the corporate limits of the Town of New Carlisle.

2) **Membership, qualifications, and terms.** The membership of the Board of Zoning Appeals, the qualification of its members, and the terms of membership shall be in accordance with I.C. 36-7-4-900 et seq.

3) **Duties and powers.** The Board of Zoning Appeals shall have the duty and power to:

(a) Hear and determine appeals from and review any order, requirement, decision, or determination made by staff, hearing officer, or administrative official under this chapter;

(b) Hear and determine appeals from and review any order, requirement, decision, or determination made by an administrative board or other body except the Area Plan Commission in relation to the enforcement of this chapter;

(c) Hear and determine appeals from and review any order, requirement, decision, or determination made by an administrative board or other body except the Area Plan Commission in relation to the enforcement of those provisions of this chapter requiring the procurement of an improvement location permit or a certificate of occupancy;

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(d) Hear and make a favorable recommendation, unfavorable recommendation or no recommendation to the Town Council on all special exception uses in accordance with the provisions of division (I), below; and

(e) Hear and determine all variances from development standards of this chapter.

4) Conditions.

(a) The Board of Zoning Appeals, in connection with its making of a favorable recommendation, unfavorable recommendation or no recommendation to the Town Council regarding the approval of a special exception use, may recommend that the Town Council impose certain reasonable conditions as a part of the Town Council's approval of any special exception use.

(b) Such conditions may include any reasonable site, development, operational standards, performance standards, requirements, and restrictions (including duration of approval) deemed necessary to ensure compliance with the findings of fact determinations.

5) **Amendments.** The Board of Zoning Appeals, in connection with making a determination on a variance of development standards, may accept amendments to a petition which, in the sole discretion of the Board of Zoning Appeals, are necessary for the Board of Zoning Appeals to make the determination and findings of fact required by division (H), below.

6) Commitments.

(a) The Board of Zoning Appeals may recommend or the Town Council may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel in the case of a petition for a special exception use.

(b) The Board of Zoning Appeals may permit or require the owner of a parcel of property to make a written commitment concerning the development of that parcel in the case of a petition for a variance of development standards.

(c) Such commitments may include any reasonable site, development, operational standards, performance standards, requirements, and restrictions (including duration of approval) deemed necessary to ensure compliance with the findings of fact determinations.

(d) All such commitments shall be in recordable form and shall be recorded in the office of the County Recorder and shall take effect upon the granting of the special exception use or variance. A recorded commitment shall be binding on the owner of the parcel, each subsequent owner, and each other person acquiring an interest in the parcel.

(e) The commitments shall be in substantially the form set forth in Appendix B-3 of this chapter.

(f) A recorded commitment may be modified or terminated only by a decision of the Board of Zoning Appeals.

(g) The modification or termination of commitments shall be in substantially the form set forth in Appendix A-4 of this chapter.

(h) Procedures to be followed regarding form of filing, public hearing and notice, and reasons for modification or termination shall be those set forth in § 152.391.

(i) By recommending, permitting or requiring commitments, the Board of Zoning Appeals does not obligate itself to make a favorable recommendation nor does the Town Council obligate itself to approve or deny any request.

(j) This section does not affect the validity of any covenant, easement, equitable servitude, or other land use restriction created in accordance with law.

7) Rules.

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(a) The Board of Zoning Appeals shall adopt rules concerning: the filing of appeals; applications for special exception uses and variances; the giving of notice; the determination of interested parties to receive notice; the conduct of hearings; the creation, form, recording, modification, enforcement, and termination of commitments; and the designation of which specially affected persons and classes of specially affected persons are entitled to enforce commitments.

(b) Rules adopted by the Board of Zoning Appeals shall be printed and made available to all applicants and other interested persons.

8) **Variance of development standards**. A variance from any of the development standards of this chapter may only be approved upon the Board of Zoning Appeals making a written determination and adopting appropriate findings of fact, based upon the evidence presented at a public hearing, that:

(a) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

(b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and

(c) The strict application of the terms of this chapter would result in practical difficulties in the use of the property.

9) Special exceptions.

(a) Statement of purpose. Certain land uses, while they may be generally appropriate in certain districts and under certain circumstances, may have characteristics and locational impacts which, if inappropriately located, may have a detrimental effect upon other land uses within the district and the town. It is therefore recognized that such land uses should be regulated in order to preserve property values, as well as promote the public health, safety, comfort, community moral standards, convenience, and general welfare of the town.

(b) Uses permitted by special exception. Only those uses identified in each individual district as uses permitted by special exception shall be permitted by special exception in each district.

(c) Grant of a special exception.

1. The Board of Zoning Appeals is hereby authorized to hear and make a favorable recommendation, unfavorable recommendation or no recommendation to the Town Council on a petition for a special exception use.

2. The Town Council shall, within 60 days of a recommendation by the Board of Zoning Appeals, vote on the petition for a special exception use.

3. All petitions for a special exception use shall comply with the following requirements:

a. Petition for special exception. A petition for special exception shall be initially filed with the Board of Zoning Appeals in accordance with the requirements for the filing of a variance, except as such requirements may be modified in this section. The petition shall include proposed detailed findings of fact pursuant to division (I)(3)(c)4., below, in support of the determinations required to be made.

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b. Waiver of development standards. A petition for special exception may contain a request to waive development standards of the district determined to be inappropriate for the individual special exception use. The waiver may only be approved if the waiver is specifically requested in the petition and specifically approved at the public hearing. Any development standards which are waived in this manner shall require additional findings as specified in division (H) of this section, above, for the grant of a variance of development standards.

c. Basis of review of a special exception use.

i. In reviewing a special exception petition with regard to compliance with the required findings of fact, the Board of Zoning Appeals and Town Council shall give consideration to the particular needs and circumstances of each special exception application and shall examine the following items as they relate to the proposed use:

Topography and other natural site features;

Zoning of the site and surrounding properties;

Driveway locations and street access;

On-site and off-site accommodations for vehicular and pedestrian circulation patterns;

Amount, location, and design of parking areas and loading areas;

Building character, including height, intensity, materials, and architecture;

Landscaping, screening, and buffering of adjacent properties;

Compatibility of the proposed use, site design, and architecture with the district in which the use is proposed to be located;

Extent to which the proposed use, site design, and architecture comply with the regulations and development standards that would be applicable if the site were zoned to a Commercial/Town Center District or Industrial District of this chapter which would permit the proposed use as a primary use;

Open space and other site amenities; and

Availability and adequacy of streets, sanitary facilities, potable water, storm water management system, and other utilities.

ii. The Board of Zoning Appeals and the Town Council shall find that the above items are dealt with appropriately by the petition for special exception use such that divisions (I)(3)(c)4. and (I)(3)(c)5., below, are complied with.

iii. In addition to the requirements of this division (I)(3), special exception uses shall be subject to any additional development standards as determined by the Town Council.

d. Findings of fact for a special exception. A special exception may only be granted upon making a written determination and adopting appropriate findings of fact, based upon the evidence presented at a public hearing, that:

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i. The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;

ii. The proposed use will not injure or adversely affect the use of the adjacent area or property values therein;

iii. The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein; and

iv. The proposed use is compatible with the recommendations of the town Comprehensive Plan.

e. Requirements for the grant of a special exception. The grant of a special exception shall comply with the following requirements.

i. The proposed use shall conform to all development standards of the applicable zoning district (unless a waiver of the development standards is requested as part of the special exception petition and approved as set forth above).

ii. The proposed use shall conform to all conditions or commitments attached to the grant of the special exception.

10) **Other powers.** The Board of Zoning Appeals shall exercise all powers conferred on it by state law, local ordinance, or rule in the manner so prescribed. This section shall not be construed as a limitation on those powers.

(Ord. 1221, § 10.03, passed 1-26-2010)

D. STAFF AGENCIES.

1) **Establishment.** The Office of the Area Plan Commission of St. Joseph County, is hereby reestablished as the Planning Department for the Town of New Carlisle.

2) **Administration of Planning and Zoning Authority.** The Office of the Area Plan Commission is hereby delegated the authority to perform all ministerial acts of the Area Plan Commission not required by law to be performed by the Area Plan Commission or the Board of Zoning Appeals within the town.

3) **Duties and powers of the Executive Director and Zoning Administrator**.

(a) It shall be the duty of the Executive Director to supervise the general administration of the Planning Department.

(b) It shall be the duty of the Executive Director to receive and review all applications required by this chapter for zone map changes, development plan approvals, and planned unit developments.

(c) It shall be the duty of the Zoning Administrator to enforce and administer this chapter, receive and review all applications required by this chapter for determination by the Board of Zoning Appeals, and issue improvement location permits.

(d) The Executive Director shall, when requested by the Area Plan Commission or Board of Zoning Appeals, or when the interests of the town so require, make investigations in connection with matters referred to in this chapter and render written reports on the same.

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(e) The Executive Director shall keep the records of the Planning Department, including, without limitation, records of applications and reports rendered. The Executive Director shall maintain records of all final determinations, decisions, and recommendations of the Area Plan Commission.

(f) The Town Clerk-Treasurer shall maintain records including, without limitation, records of all permits issued, certificates issued, and notice or orders issued.

(g) The St. Joseph County/Town of South Bend Building Department shall maintain records including, without limitation, records of all: applications before the Board of Zoning Appeals; and final determinations, decisions, and recommendations of the Board of Zoning Appeals.

(h) The Executive Director shall transmit to the Area Plan Commission the recommendation of the Planning Department on all applications, petitions, or matters requiring official action by the Area Plan Commission.

(i) The St. Joseph County/Town of South Bend Building Department shall transmit to the Board of Zoning Appeals technical advice on all applications, petitions, or matters requiring official action by the Board of Zoning Appeals.

(j) The Executive Director shall transmit to the Board of Zoning Appeals the recommendation of the Planning Department on applications, petitions, or matters requiring official action by the Board of Zoning Appeals.

(k) The Executive Director shall maintain the Official Zone Maps and designate on the Official Zone Maps all map amendments granted under the terms of this chapter.

(l) The Executive Director shall provide and maintain information for the public relative to all matters arising out of this chapter.

(m) (13)The Executive Director may designate staff to assist in the daily administration of the duties and responsibilities set forth in this chapter.

(n) (14)The Executive Director shall perform such other duties as the Area Plan Commission may direct in accordance with the provisions of this chapter.

4) **Zoning Administrator.** The Zoning Administrator is hereby charged with the administration of this chapter and, in particular, shall have the jurisdiction, authority, and duties described below:

(a) To conduct preliminary consultations with potential applicants regarding development proposals regulated by this chapter;

(b) To review all improvement location permit applications for compliance with the provisions of this chapter; and

(c) To issue improvement location permits upon a determination that the permit application is in full compliance with all terms and provisions of this chapter, the town Subdivision Control Ordinance, and all other duly adopted applicable ordinances, rules, or regulations of the town.

(Ord. 1221, § 10.04, passed 1-26-2010)

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Section 9.02 DEVELOPMENT REVIEW PROCEDURES

A. INTENT.

The development review procedures for the town are intended to provide for the protection of the public health, safety, morals, and general welfare of the residential and business citizens of the town by providing for the thorough review of all permit applications and development petitions so that informed decisions regarding the permit applications and development petitions may be rendered while balancing the needs of the development community for the timely review of those permit applications and development petitions.

(Ord. 1221, Art. 10.05, passed 1-26-2010)

B. IMPROVEMENT LOCATION PERMITS.

1) **Improvement location permit required.** No building, structure, improvement, sign, or use of land may be altered, changed, enlarged, placed, erected, or located, unless the building, structure, improvement, sign, or use and its location conform to the provisions of this chapter and an improvement location permit for the alteration, change, placement, erection, or location of the building, structure, improvement, sign, or use has been issued.

2) Duration of improvement location permit.

(a) An improvement location permit shall be valid for a period of 1 year after date of issuance.

(b) The Zoning Administrator shall have the power to extend the period of validity of any improvement location permit one or more times, provided, however, the total time period of all extension(s) shall not exceed 6 months.

3) Review of improvement location permit application.

(a) Improvement location permits for single family and 2 family dwellings and related accessory buildings or structures. ~~The Zoning Administrator may take up to 5 business days to study an application for an improvement location permit. During this 5-business day period, the Zoning Administrator may consult with other staff or appropriate technical consultants. If, after the 5-day period, the Zoning Administrator has not requested any additional information or stated any objections in writing to the applicant, and the proposed building, structure, or improvement, and the proposed use conform in all respects to the provisions of this chapter, the Zoning Administrator shall issue the improvement location permit.~~

~~(b)~~ Improvement location permits for all: multifamily, commercial/town center, industrial or special exception buildings, structures, improvements or uses; signs; and accessory buildings, structures or improvements related to multifamily, commercial/town center, industrial, or special exception uses. ~~The Zoning Administrator may take up to 15 business days to study the application for an improvement location permit. During the 15-day period, the Zoning Administrator may consult with other staff or appropriate technical consultants. If, after the 15-day period, the Zoning Administrator has not requested any additional information or stated any objections in writing to the applicant, and the proposed building, structure, improvement or sign, and the proposed use conform in all respects to the provisions of this chapter, the Zoning Administrator shall issue the improvement location permit.~~

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(c) Improvement location permits for buildings, structures, improvements, signs, or uses authorized by variance. In addition to the requirements above, an improvement location permit for a building, structure, improvement, sign, or use authorized by variance shall not be issued until:

1. Receipt by the Zoning Administrator of written notice from the Board of Zoning Appeals that the application therefor has been approved by the Board of Zoning Appeals; and

2. A determination by the Zoning Administrator that the improvement location permit application is in full compliance with the terms of any conditions which may have been imposed by the Board of Zoning Appeals and commitments which may have been made by the owner.

(d) Improvement location permits for buildings, structures, improvements, signs, or uses authorized by special exception. In addition to the requirements above, an improvement location permit for a building, structure, improvement, sign or use authorized by special exception shall not be issued until:

1. Receipt by the Zoning Administrator of written notice from the Town Council that the application therefor has been approved by the Town Council; and

2. A determination by the Zoning Administrator that the improvement location permit application is in full compliance with the terms of any conditions which may have been imposed by the Town Council and commitments which may have been made by the owner.

4) **Appeal of determination.** Any determination by the Zoning Administrator concerning the issuance of an improvement location permit may be appealed to the Board of Zoning Appeals by any party claiming to be adversely affected by that decision.

5) **Record of permits.** A record of all improvement location permits shall be kept on file in the office of the Zoning Administrator and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected and shall be available for public inspection and copying as provided by applicable state law.

6) **Amended improvement location permit.** When a builder, developer, or owner of any building, structure, improvement, or sign for which an improvement location permit has been obtained, for any reason, proposes that the construction of the building, structure, improvement, or sign deviate from the plans filed with the improvement location permit application and approved by the Zoning Administrator, the builder, developer, or owner shall make application for an amended improvement location permit. The Zoning Administrator shall review the application for the amended improvement location permit in accordance with the procedures set forth above to determine compliance of the amended improvement location permit application with the provisions of this chapter and any other applicable conditions, commitments, or restrictions. If the amended improvement location permit application is found to be in compliance, the Zoning Administrator shall issue an amended improvement location permit. Any determination by the Zoning Administrator with respect to an amended improvement location permit shall be subject to the same appeal rights and procedures as set forth above for an initial application for an improvement location permit.

7) **Revocation in event of violation.** If the Zoning Administrator determines that construction or development is proceeding or has proceeded in violation of any applicable law, ordinance, rule, regulation, site plan, or condition approval, or that the improvement location permit has been issued in violation of any applicable law, ordinance, rule, regulation, site plan, zoning commitment, or condition of approval, the Zoning Administrator may revoke the improvement location permit. In the event that an improvement location permit is revoked, the Zoning Administrator shall send written notice of the revocation to the permit applicant.

8) **Fees.** Fees for improvement location permits shall be as established by the Town Council.

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(Ord. 1221, § 10.05(a), passed 1-26-2010)

C. COMPLIANCE WITH OTHER LAWS, ORDINANCES, RULES, OR REGULATIONS.

The issuance of an improvement location permit does not substitute for or supersede the requirement to obtain approvals specified in other laws, ordinances, rules, and regulations, as the same may be amended from time to time, before the construction of any building, structure, improvement or sign, including, but not limited to:

1) Town Building Code;
2) Town Subdivision Control Ordinance;
3) Any other applicable federal, state or local law, ordinance, rule, or regulation, including, but not limited to:
   (a) Rule 5 Erosion Control Regulations;
   (b) Driveway permit regulations for the town; and
   (c) State or federal environmental permits.

(Ord. 1221, § 10.05(b), passed 1-26-2010)

D. APPLICATION FORM AND PLAN REQUIREMENTS.

1) **All improvement location permit applications shall comply with the form of application specified by the town.** When an improvement location permit is required by this chapter, additional site plans, landscape plans, lighting plans, sign plans, and building elevations, as described below, may be required to determine compliance with the requirements of this chapter.
   (a) A site plan for a single family dwelling or a 2 family dwelling on a platted lot:
      1. North arrow;
      2. Address of the lot;
      3. Scale (not more than 1 inch = 100 feet);
      4. Legal description of the lot;
      5. Names, centerlines, and right-of-way widths of all streets, alleys, thoroughfares, public ways, water ways, or railroad rights-of-way abutting or within the lot;
      6. The location and dimensions of all buildings, structures, or improvements currently existing on the lot;
      7. Structures proposed for demolition should be indicated as such;
      8. The location and dimensions of all proposed buildings, structures or improvements, including fences, sheds, paved areas, storage areas, parking areas (indicate if parking is hard surfaced). Cross-hatch or shade lightly all proposed buildings;
      9. Location of any proposed or existing driveway and its width at the property line (any connection to an alley must also be indicated);
      10. The distance from lot lines for all existing and proposed buildings, structures or improvements (this distance is measured as a line from the point where the building, structure or improvement is closest to the property line. This measurement is taken perpendicular to the property line.);

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11. The height of the existing and proposed buildings, structures or improvements; and
12. All other information required by the Zoning Administrator for the proper administration of this chapter.

(b) The Zoning Administrator may waive or relax any of the site plan requirements listed above, as circumstances dictate.

(c) A site plan for any commercial/town center, industrial, or special exception use:

1. North arrow;
2. Address of the site;
3. Scale (not more than 1 inch = 100 feet);
4. The actual shape, size, and dimensions of the lot;
5. Area map or sketch to indicate the location of the lot;
6. Names, centerlines, and right-of-way widths of all streets, alleys, thoroughfares, public ways, water ways, or railroad rights-of-way abutting or within the lot;
7. The location and dimensions of all buildings, structures, improvements or signs currently existing on the lot;
8. Structures proposed for demolition should be indicated as such;
9. The location and dimensions of all proposed buildings, structures, improvements, or signs, including fences, sheds, paved areas, storage areas, parking areas (indicate if parking is hard surfaced). Cross-hatch or shade lightly all proposed buildings;
10. Location of any proposed or existing driveway and its width at the property line. (Any connection to an alley must also be indicated);
11. If applicable, location of all existing and proposed freestanding signs on the site. See division (E), below, for requirements regarding proposed signs;
12. The distance from lot lines for all existing and proposed buildings, structures, improvements or signs. (This distance is measured as a line from the point where the building, structure, improvement or sign is closest to the property line. This measurement is taken perpendicular to the property line.);
13. The height of the existing and proposed buildings, structures or improvements;
14. The number of dwelling units (if applicable) of existing and proposed buildings or structures;
15. The current and proposed use to be made of all buildings, structures, improvements, or lands within the lot (e.g., parking area, loading area, residence, office, outdoor storage);
16. Locational engineering information regarding all utilities to provide service to the buildings or structures on the lot;
17. The location and dimensions of all off-street parking areas and off-street loading areas and facilities;
18. The location, size, and dimension of all fences, walls, or other screening and buffering devices;
19. Site data summary (a text summary in table format describing: square footage of existing and proposed buildings; existing, proposed, and required parking; existing, proposed, and required loading; proposed and permitted maximum building height; accommodation of drainage, sanitary sewer, water, and other utility services; legal description; lighting; and landscaping);

DRAFT

20. The seal of the registered professional engineer or architect responsible for the site plan; and
21. All other information required by the Zoning Administrator for the proper administration and enforcement of this chapter.

(d) The Zoning Administrator may waive or relax any of the site plan requirements listed above, as circumstances dictate.

2) **Building elevations**.

1. Address of the site;
2. Proposed name of the development;
3. Scale;
4. Elevations for each façade of the building;
5. Specification or sample of the type and color of building materials to be used for all wall, window, roof, and other architectural features; and
6. Any other information requested in writing by the Zoning Administrator.

(b) The Zoning Administrator, in its sole discretion, may waive or relax any of the building elevation requirements listed above, as circumstances dictate.

3) Sign plan.

(a)

1. Address of the site;
2. Proposed name of the development;
3. Scale;
4. (Freestanding signs): a site plan indicating the location of any existing or proposed freestanding signs;
5. (Wall signs): a site plan indicating the location of any building upon which a sign is to be mounted, with the location of the signs indicated;
6. Elevation of proposed signs including size, materials, and color;
7. Illumination details for proposed signs;
8. Placement, size, color, and illumination details for any proposed wall sign; and
9. Any other information requested in writing by the Zoning Administrator.

(b) The Zoning Administrator, in its sole discretion, may waive or relax any of the sign plan requirements listed above, as circumstances dictate.

4) Landscape plan.

1. Address of the site;
2. Proposed name of the development;
3. Scale (not more than 1 inch = 100 feet);
4. The location of any existing or proposed freestanding signs;
5. Outline of all existing or proposed buildings or structures, including parking areas and loading areas;
6. Boundary lines of the site;
7. Location of all floodway and floodway fringe areas within the boundaries of the site;

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8. All existing elevations and proposed land contour lines having at least 2-foot intervals;
9. Proposed sidewalk, walkway, or alternate plan for pedestrian ways;
10. Size, species, and spacing (on center) of all proposed trees, landscaping and ground cover;
11. Location of existing trees in required yards and required residential bufferyards, indicating type and size of trees and whether the trees are to be removed or preserved;
12. Description of methods to preserve trees without injury and with sufficient area for the root system to sustain the tree;
13. Description of protective care and physical restraint barriers at the drip line to prevent alteration, compaction or increased depth of the soil in the root system area prior to and during groundwork and construction; and
14. Any other information requested in writing by the Zoning Administrator.

(b) The Zoning Administrator, in his or her sole discretion, may waive or relax any of the landscape plan requirements listed above, as circumstances dictate.

5) Lighting plan.

(a) North arrow;

(b) Address of the site;

(c) Scale (not more than 1 inch = 100 feet);

(d) Proposed name of the development;

(e) Boundary lines of the site including all dimensions of the site;

(f) Outline of buildings, structures, and other improvements (e.g., parking areas, loading areas, interior access drives, and the like) on the lot and the location of all outdoor light fixtures;

(g) A description of the outdoor light fixtures, including but not limited to manufacturers or electric utility catalog specifications sheets, drawings, or photometric report, which indicate:

1. The outdoor light fixture classification (e.g., cutoff, semi-cutoff, full cutoff, or non-cutoff);
2. Mounting height of freestanding outdoor light fixtures; and
3. Wattage proposed for each outdoor light fixture.

(h) If architectural building lighting is proposed, indicate the location, type, and intensity of lighting on each building façade; and

(i) Any other information requested in writing by the Zoning Administrator.

(j) The Zoning Administrator, in his or her sole discretion, may waive or relax any of the lighting plan requirements listed above, as circumstances dictate.

(Ord. 1221, § 10.05(c), passed 1-26-2010)

E. ZONING ORDINANCE AMENDMENT PROCEDURES.

1) **Text amendments.** The procedures and requirements for the preparation and consideration of proposal to amend or partially repeal the provisions of this chapter shall be as follows:

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(a) **Text of Zoning Ordinance.** The Town Council may, from time to time, upon its own motion or upon the petition of the Area Plan Commission, amend or partially repeal the text of this chapter in accordance with the provisions of I.C. 36-7-4-602 et seq.

(b) **Town Council action.** In the case of proposal to amend or partially repeal the text of this chapter or in the case of a zone map change, the Town Council may act upon the amendment only after a report has been presented by the Area Plan Commission after public notice and hearing in accordance with the provisions of I.C. 36-7-4-604 et seq.

(c) **Town Council may initiate proposal.** The Town Council may initiate and also require the Area Plan Commission to: prepare a proposal to amend or partially repeal the text of this chapter; or consider and recommend a proposal for zone map change, and submit the amendment to a public hearing by the Area Plan Commission within 60 days after formal written request by the Town Council.

(d) **Review procedure and time limits.** The procedure for the referral of a proposed amendment to the Area Plan Commission and the time limits for action by the Area Plan Commission and the Town Council shall be as set forth in I.C. 36-7-4-607 et seq.

2) **Zone map amendments (a.k.a. rezoning petitions).** The procedures and requirements for the preparation and consideration of proposal to amend zone maps shall be as follows:

(a) **Zone map change.** Proposals to change the zone maps, whether by incorporating an additional map or by amending or deleting a map, incorporated by reference into this chapter may be initiated by the Town Council, the Area Plan Commission, or by a petition of the owners of property of at least 50% of the area involved in the petition in accordance with the provisions of I.C. 36-7-4-602 et seq.

(b) **Filing of proposal.** A proposal for zone map change (a/k/a rezoning petition) shall be filed in the office of the Town Council. The proposal shall be on forms substantially as provided by the town and available from the Area Plan Commission.

(c) **Required plans.** Each proposal for zone map change shall be accompanied by 6 copies of a proposed site plan which conforms generally to the requirements set forth in § 152.388, above.

(d) **Referral to Area Plan Commission.** The Town Council shall refer a proposal for zone map change to the Area Plan Commission for public hearing and recommendation.

(e) **Supplemental plans.** Depending on the nature of the proposal, the Executive Director shall have the authority to request the submission of other supplemental information, including, but not limited to building elevations, sign plans, landscape plans, lighting plans, or traffic studies. If requested, such additional building elevations, sign plans, landscape plans, or lighting plans shall conform to the requirements set forth in § 152.388, above.

(f) **Certification.** After public hearing, the Area Plan Commission shall certify the proposal with:

1. A favorable recommendation;
2. An unfavorable recommendation; or
3. No recommendation.

(g) **Commitments.** The certification of a proposal by the Area Plan Commission to the Town Council may include written commitments as set forth in § 152.366(D). Such commitments may include: limitations upon certain uses; requirements for specific building or parking area setback or screening; requirements for specific site design features or project amenities; or requirements that development conform with site plans, building elevations, sign plans, landscape plans, or lighting plans which were submitted in connection with the proposal.

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(h) The Town Council may adopt or reject the proposal for zone map change, as certified.

(Ord. 1221, § 10.05(d), passed 1-26-2010)

F. VARIANCE AND SPECIAL EXCEPTION PROCEDURES.

The procedures and requirements for the preparation and consideration of petition for a variance of development standards or a special exception use shall be as follows:

1) **Petitions.** Petitions for a variance of development standards or for a special exception use shall be filed in office of the St. Joseph County/Town of South Bend Building Department/the Town Clerk- Treasurer of the Town of New Carlisle, Indiana. The proposal shall be on the form provided, available in the office of the Building Commissioner/from the town.

2) **Town referral.** Each petition for a variance of development standards or for a special exception use shall include a letter from the town describing the nature of the variance or special exception required.

3) **Required plans.** Each petition for a variance of development standards or for a special exception use shall be accompanied by a site plan which conforms to the requirements set forth in § 152.388, above.

4) **Supplemental plans.** Depending on the nature of the petition, the Zoning Administrator shall have the authority to request the submission of plans of operation, traffic studies, radio frequency studies, or other supplemental information including, but not limited to building elevations, sign plans, landscape plans or lighting plans. If requested, the additional building elevations, sign plans, landscape plans or lighting plans shall conform to the requirements set forth in § 152.388, above.

5) **Variance of development standards.** The Board of Zoning Appeals, at a public hearing, shall hear and determine all variances of development standards.

6) **Special exception uses.** Upon receipt of a petition for a special exception use, the St. Joseph County/Town of South Bend Building Department shall forward a copy of the petition to the town. The Board of Zoning Appeals, at a public hearing, shall hear and make a favorable recommendation, unfavorable recommendation or no recommendation to the Town Council on all special exception uses. The Town Council shall, approve or disapprove all petitions for special exception uses within 60 days after the Board of Zoning Appeals makes its recommendation. If the Town Council does not vote to deny the petition for a special exception use within 60 days, the petition is approved.

(Ord. 1221, § 10.05(e), passed 1-26-2010)

G. MODIFICATION OR TERMINATION OF COMMITMENTS.

In those instances where a property owner wishes to request that commitments which were entered into in connection with a development plan approval, zone map change, PUD District ordinance, secondary approval of a PUD, modification of permitted uses or development requirements of a PUD, variance, or a special exception, be modified or terminated, the request for modification or termination shall comply with the following requirements:

1) **Form of filing.** Such request shall be filed as an “Petition for Modification or Termination of Commitments” with the body which permitted or required the commitments (i.e., the Area Plan Commission or the Board of Zoning Appeals).

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(a) In the case of a modification or termination of commitments permitted or required by the Area Plan Commission, the petition shall be on forms provided by the office of the Area Plan Commission.

(b) In the case of a modification or termination of commitments permitted or required by the Board of Zoning Appeals, the petitions shall be on forms provided by the St. Joseph County/Town of South Bend Building Department/the Town Clerk-Treasurer.

2) **Public hearing and notice.** Each request for modification or termination of commitments shall be determined after a public hearing. The notification requirements and other procedural requirements for conducting the public hearing on a modification or termination of commitments shall be the same as for the initial public hearing at which the commitments were originally permitted or required.

3) **Reasons for modification or termination.** The petitioner or property owner shall be responsible for presenting convincing evidence to the Area Plan Commission or the Board of Zoning Appeals as to the reasons, need, or justification for the proposed modification or termination of commitments.

(Ord. 1221, § 10.05(f), passed 1-26-2010)

H. COMBINED HEARING PROCEDURE.

1) The Area Plan Commission may designate a hearing examiner or Committee of the Commission to conduct a combined hearing relative to developments that require more than one hearing under this section.

2) The decision to use this procedure shall be made by the applicant.

3) In conducting a combined hearing, the hearing examiner or Committee of the Commission may exercise the following:

(a) The powers of the Area Plan Commission in making recommendations to the Common Council on rezoning petitions and text amendments under the I.C. 36-7-4-600 series.

(b) The powers of the Plat Committee in approving or denying subdivision plats under the I.C. 36-7-4-700 series.

(c) The powers of the Board of Zoning Appeals to grant variances and make recommendations on special exceptions under the I.C. 36-7-4-900 series.

(d) The powers of the Executive Director, hearing examiner or Committee of the Area Plan Commission as it concerns the approval of Development Plans under the I.C. 36-7-4-1400 series.

4) Dimensions of the hearing examiner or committee of the Area Plan Commission under the combined hearing procedure may be excepted or appealed as follows:

(a) Decisions made in relation to the powers granted under division (C)(1) above may be appealed to the Area Plan Commission not later than five days after the date the decision is made.

(b) Decisions made in relation to the powers granted under division (C)(2) above may be appealed to the Area Plan Commission not later than five days after the date the decision is made.

(c) Decisions made in relation to the powers granted under division (C)(3) above may be appealed to the Area Plan Commission not later than five days after the date the decision is made.

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5) The Area Plan Commission shall make rules governing the hearing of cases under the combined hearing procedure. The rules may not require a petitioner or an applicant to use the combined hearing procedure.

(Ord. 1270, passed 4-9-2013)

Section 9.03 ENFORCEMENT

A. AUTHORITY.

The Zoning Administrator of the town is hereby designated to enforce the terms and provisions of this chapter in accordance with state law.

(Ord. 1221, Art. 11(a), passed 1-26-2010)

B. ALLEGED VIOLATIONS.

Whenever the Zoning Administrator of the town receives a complaint or has reason to suspect that an alleged violation of the terms and provisions of this chapter is occurring, the Zoning Administrator shall investigate the complaint or suspicion and shall take whatever action is warranted in accordance with the provisions of this subchapter.

(Ord. 1221, Art. 11(b), passed 1-26-2010)

C. RESPONSIBILITY FOR VIOLATIONS.

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists, directs, creates, or maintains any situation that is in violation of the terms and provisions of this chapter, may be held responsible for the violation, suffer the penalties, and be subject to the remedies herein provided.

(Ord. 1221, Art. 11(c), passed 1-26-2010)

D. INSPECTION OF PROPERTY; RIGHT OF ENTRY.

1) Zoning Administrator may enter upon any building, structure, or land or part thereof at any reasonable time for the purpose of inspecting all buildings, structures, or lands located within the corporate limits of the town for the purpose of carrying out their duties in the enforcement of this chapter. Prior to entering upon any premises, the Zoning Administrator shall furnish sufficient identification and information to enable the owner, tenant, or occupant to determine the purpose of the inspection and that the person conducting the inspection is an authorized representative of the town.

2) In the event that entry is denied by the owner, tenant, or occupant of a premises, the Zoning Administrator may make application to any court of competent jurisdiction for the issuance of a search warrant. The application shall identify the premises upon which entry is sought and the purpose for which entry is desired. The application shall state the facts giving rise to the belief that a condition which is in violation of this chapter exists on the premises, or that such a violation in fact exists and must be abated, and that the condition or violation is not a lawful nonconforming use to the best of the affiant's belief. Any warrant issued pursuant to the application shall order the owner, tenant, or occupant to permit entry to the Zoning Administrator for the purposes stated therein.

(Ord. 1221, Art. 11(d), passed 1-26-2010)

E. CEASE AND DESIST ORDER.

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The Zoning Administrator is empowered to issue a cease and desist order requiring the suspension of land improvement of any kind when any of the following circumstances exist:

1) A site improvement is occurring without an improvement location permit or any other permit required by this chapter having first been obtained;

2) A site improvement is occurring in violation of:

   (a) The terms, conditions, or provisions of this chapter;

   (b) The terms and conditions of an improvement location permit;

   (c) The terms and conditions of any other permit required as a pre-requisite to the issuance of an improvement location permit;

   (d) The terms, provisions, conditions, or commitments of a variance or special exception use;

   (e) Other approval grant authorized by this chapter; or

   (f) Other applicable federal, state, or local law or ordinance.

3) The cease and desist order shall be posted on the property in a conspicuous place, or personally delivered to the owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists, directs, creates, or maintains any situation that is in violation of the terms and provisions of this chapter and state the conditions under which construction or other activity may be resumed. The Zoning Administrator shall meet with the recipient of a cease and desist order upon request to explain the conditions under which construction or other activity may be resumed.

4) In addition to any other remedies available pursuant to any other applicable law and this chapter, the Town Attorney, Zoning Administrator, or appropriate enforcement official may institute a lawsuit in a court of competent jurisdiction to enforce the provisions of a cease and desist order, including but not limited to injunctive relief.

(Ord. 1221, Art. 11(e), passed 1-26-2010)

Section 9.04 ZONING VIOLATIONS

A. GENERAL

Subject to the provisions of §§ 152.055 through 152.067 on nonconforming lots, uses, buildings, structures of signs, each of the following shall constitute a zoning violation which may be enforced by the town in accordance with the provisions set forth in § 152.411 below:

   (a) The location, erection, or maintenance of any sign not specifically permitted by this chapter;

   (b) The failure to obtain an improvement location permit when one is required by the terms and provisions of this chapter;

   (c) The outdoor storage of junk, trash, or debris in any district, the provisions of which do not specifically permit such a use;

      1. The parking or storage in any district, the provisions of which do not specifically permit such a use, of any:

         a. Motor vehicle used or designed for use in pulling, towing, hauling, transporting; or

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b. Motor vehicle or separate trailer as a temporary or permanent base, platform or support for equipment, machinery, materials, or other goods (including but not limited to stake body trucks, dump trucks, trucks, or tractors having dual real wheels or more than 2 axles, semi-trailer tractors, semi-trailers and trailers having dual real wheels or more than 1 axle or having an overall length of more than 12 feet).

2. However, this provision does not apply to motor vehicles which do not exceed 3/4 ton load classification in size and which are the primary source of transportation for an individual whose primary place of residence is the particular dwelling at which the commercial motor vehicle is parked on a regular basis.

(d) The outdoor storage or display of merchandise or goods in any district the provisions of which do not specifically permit such a use or in violation of the district development standards regulating such a use;

(e) The conduct of any activity in a Residential District that is not specifically enumerated as a permitted primary or accessory use in that district, and which activity has not been legally established by a currently valid special exception use or other approval grant;

(f) Failure to comply with district development standards, including but not limited to landscaping, paving of parking areas, minimum parking space requirements, minimum loading space requirements, trash dumpster enclosure, fencing, landscaping, or screening requirements;

(g) The failure to comply with:

1. The terms, provisions, conditions, or commitments of a variance grant or special exception use grant;

2. The terms of commitments made in connection with a zoning map change or the approval of a development plan;

3. The terms, provisions, or conditions of any other permit required as a prerequisite to the issuance of a improvement location permit; or

4. Other approval grant authorized by this chapter;

(h) The violation of a cease and desist order issued pursuant to this subchapter; and

(i) Failure to comply with any other provisions of this chapter or other applicable federal, state, or local law or ordinance.

(Ord. 1221, Art. 11(f), passed 1-26-2010)

B. RESIDENTIAL DISTRICTS.

(a) **Use.** The conduct of any activity in a Residential District that is not specifically enumerated as a permitted primary use or accessory use in that district, and which activity has not been legally established by a currently valid variance, special exception, or other approval grant.

(b) **Development standards.** Failure to comply with district development standards, including but not limited to landscaping, paving of parking areas, minimum parking space requirements, trash dumpster enclosure, fencing, or screening requirements.

(c) **Approvals.** The failure to comply with the terms, provisions or conditions of: a grant of variance or special exception; an approval of a development plan; or other approval grant authorized by this chapter.

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(d) **Large vehicles.** No tractor, trailer, tractor-trailer combination, or vehicle (including but not limited to a tow truck, dump truck, flatbed truck, semi-trailer, and the like) equal to or in excess of 1-1/2 tons capaTown, or which has a bed more than 8 feet long, may be parked upon any land or premises in any Residential District. However, the foregoing shall not apply to school buses used for the transportation of school children to and from school or to and from a school sponsored activity, between the hours of 8:00 a.m. and 5:00 p.m. any day except Saturdays, Sundays, and legal holidays on designated snow routes of a sufficient width as determined by the town. Nothing in this section is intended to affect the already regulated parking on designated snow routes during a snow emergency, or other areas in which parking is regulated by duly authorized signs.

(e) **Parking, storing, maintaining, or keeping of any recreational vehicle or recreational trailer in any Residential District.** Notwithstanding any provision in this chapter to the contrary, no recreational vehicle or recreational trailer shall be parked, stored, maintained, or kept on any property in any Residential District unless in compliance with the following:

1. Recreational vehicles or recreational trailers may be parked or stored:
    a. Inside an accessory building or garage; or
    b. Outside in such a manner that no part of any such recreational vehicle shall project into any:
        i. Minimum front yard for a primary building;
        ii. Minimum side yard for a primary building; or
        iii. Minimum rear yard for an accessory building.
2. Not more than a total of 2 recreational vehicles/recreational trailers shall be permitted to be parked or stored in the open on the same lot at any one time.
3. Parked or stored recreational vehicles shall not be occupied or used for living, sleeping, or housekeeping purposes in any Residential District.

(f) Parking of vehicles; general.

1. Notwithstanding anything in this chapter to the contrary, the parking of any motor vehicles of any size or nature for any period of time on a lot of record without a primary building also being located on the lot of record shall be a zoning violation.
2. If a primary building exists on a lot of record, parking on the lot of record shall be accessory to the use of the primary building located on the lot of record.
3. The prohibition against parking set forth above in this division (F) shall not apply to a “parking lot - accessory” authorized by the grant of a special exception.
4. Notwithstanding anything in this chapter to the contrary, the parking of any vehicle within the required minimum front setback shall not be allowed unless the parking is on a legal, properly hard-surfaced driveway or parking space which has a durable and dust-free surface, as required by §§ 152.250 through 152.258.

(g) **Parking of vehicles; family.** In order to avoid congestion in the public ways, promote safety for vehicular and pedestrian traffic, and ensure that residential areas provide healthful surroundings for family life, no family, consisting of persons not related by blood, legal adoption or marriage, living and cooking together as a single housekeeping unit, shall consist of more persons who possess an automotive vehicle than the number of off-street parking spaces provided on-site in a garage, interior access drive, or driveway on the lot, plus the number of legal, on-street parking spaces located immediately adjacent to and on the same side of the street as the front lot line of the lot.

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(Ord. 1221, § 3.11(e), passed 1-26-2010)

C. COMMERCIAL/TOWN CENTER DISTRICTS.

The following shall be deemed violations of this chapter and shall be enforceable by the town as set forth in §§ 152.405 through 152.413:

1) The conduct of any activity in a Commercial/Town Center District that is not specifically enumerated as a permitted primary use or accessory use in that district, and which activity has not been legally established by a currently valid variance, special exception, or other approval grant;

2) Failure to comply with district development standards, including but not limited to landscaping, paving of parking areas, minimum parking space requirements, trash dumpster enclosure, fencing or screening requirements; or

3) The failure to comply with the terms, provisions, or conditions of: a grant of variance or special exception; an approval of a development plan; an approval of a conditional use district; or other approval grant authorized by this chapter.

(Ord. 1221, § 4.11(e), passed 1-26-2010)

D. INDUSTRIAL DISTRICTS.

The following shall be deemed violations of this chapter and shall be enforceable by the town as set forth in §§ 152.405 through 152.413:

1) The conduct of any activity in an Industrial District that is not specifically enumerated as a permitted primary use or accessory use in that district, and which activity has not been legally established by a currently valid variance, special exception, or other approval grant;

2) Failure to comply with district development standards, including but not limited to landscaping, paving of parking areas, minimum parking space requirements, trash dumpster enclosure, fencing, or screening requirements; or

3) The failure to comply with the terms, provisions or conditions of: a grant of variance or special exception; an approval of a development plan; an approval of a conditional use district; or other approval grant authorized by this chapter.

(Ord. 1221, § 5.11(d), passed 1-26-2010)

4) REMEDIES OR PENALTIES FOR VIOLATION.

(a) Generally.

1. Any owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who commits, participates in, assists, directs, creates, or maintains any situation that is in violation of the terms and provisions of this chapter as defined in § 152.410, above, may be issued a citation by the Zoning Administrator.

2. Subject to the provisions of divisions (B) and (C), below, each day a zoning violation remains uncorrected is a distinct and separate zoning violation subject to an additional citation and fine in the amount prescribed in this chapter.

(b) Procedures for initial notice of zoning violation or citation.

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1. The Zoning Administrator may issue a notice of zoning violation to a person (i.e., any owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person) who commits a zoning violation or allows a zoning violation to be committed on real estate in which the person has a possessory interest. The notice of zoning violation may be served by: personal service; certified mail, return receipt requested; registered mail; or by posting the notice in a conspicuous place on the property where the violation occurs, and shall serve as notice that a zoning violation has been committed.

2. No citation shall be issued unless notice as required by division (B)(1) above has been provided at least 10 days before the citation is issued, in order to allow the person receiving notice an opportunity to correct the violation and to come into compliance with the terms and provisions of this chapter, provided, however, the service of a notice of zoning violation and the provision of time to correct the zoning violation is not required before issuing a citation for: violation of a cease and desist order issued pursuant to § 152.409; or violation of § 152.293(A)(7) or (A)(9) regarding signs or lights located on a wireless telecommunications facility. If upon re-inspection, the zoning violation remains unabated, a second notice of zoning violation may be served, or a citation accompanied by the fines as specified in § 152.412, below, may be issued.

(c) **Action after second notice or citation.** A person (i.e., any owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person) who is served with a second notice of zoning violation or receives a citation shall have 10 days from service of a second notice of zoning violation or receipt of citation to take 1 of the following actions:

1. The person may elect to file a petition for zoning map change, variance, special exception use or development plan approval to correct the violation, in which case the person must indicate the intent to file such a petition on the served second notice or citation and return a copy to the Zoning Administrator or appropriate enforcement official. During the pendency of the petition the issuance of additional notices or citations and additional monetary fines as prescribed in § 152.412, shall be stayed. A person who files the petition within the time period shall pursue the petition in an expeditious and diligent manner. If the petition is denied, withdrawn or dismissed and the zoning violation continues, then a lawsuit may be commenced by the Town Attorney, Zoning Administrator, or appropriate enforcement official as provided by applicable laws; or

2. The person or any other interested party may elect to appeal the decision of the enforcement official pursuant to § 152.367(C) as an Administrative Appeal before the Board of Zoning Appeals.

(d) **Legal action for failure to correct violation.** If an owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who is served with a second notice of zoning violation or receives a citation fails to either correct the violation or take such actions to come into compliance within 10 days as set forth in division (B) above, then the Town Attorney, Zoning Administrator, or appropriate enforcement official may institute legal action in a court of competent jurisdiction to enforce the terms and conditions of this chapter, including but not limited to: enforcement of a cease and desist order as provided in § 152.409; assessment and collection of fines as provided in § 152.412; or the pursuit of injunctive and other equitable relief and remedies available under state law.

(Ord. 1221, Art. 11(g), passed 1-26-2010)

5) FINES.

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Monetary fines for zoning violations shall be assessed as set forth in §§ 152.440 through 152.446 and the Fee Schedule, Chapter 98.

(Ord. 1221, Art. 11(h), passed 1-26-2010)

6) ADDITIONAL REMEDIES.

(a) Seeking a penalty as authorized in this section does not preclude the designated enforcement entity from seeking alternative and additional relief from the Court in the same action, or from seeking injunctive relief or any other remedy in a separate action for the enforcement of this chapter available under applicable state law.

(b) In the event that a violation of this chapter is determined to exist by a court of competent jurisdiction, the owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who commits, participates in, assists, directs, creates, or maintains any situation that is in violation of the terms and provisions of this chapter shall be liable to the town for the town's reasonable attorney fees in accordance with state law.

(Ord. 1221, Art. 11(i), passed 1-26-2010)

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Section 9.05 FINES

A. RESERVED

B. RESERVED

C. RESERVED

D. RESERVED

E. RESERVED

F. RESERVED

G. RESERVED

H. RESERVED

I. RESERVED

J. RESERVED

K. RESERVED

L. RESERVED

M. RESERVED

N. INTENT.

This subchapter establishes the monetary fines for zoning violations which may be assessed against those who violate the terms and conditions of this chapter.

(Ord. 1221, Art. 14, passed 1-26-2010)

O. ALL RESIDENTIAL DISTRICTS.

1) The monetary fine for the first citation for a zoning violation shall be as set forth in the Fee Schedule, Chapter 98. Monetary fines as set forth in the Fee Schedule, Chapter 98 shall apply for each subsequent citation:

Second Citation	Minimum as set forth in the Fee Schedule, Chapter 98
Third Citation	Minimum as set forth in the Fee Schedule, Chapter 98
Each additional	Not to exceed a $300 increase in the previously assessed monetary fine, to a maximum monetary fine for each citation as set forth in the Fee Schedule, Chapter 98

2) Each day that a zoning violation remains uncorrected shall constitute a violation which may result in the issuance of a subsequent citation.

(Ord. 1221, Art. 14(a), passed 1-26-2010)

P. ALL COMMERCIAL/TOWN CENTER DISTRICTS AND ALL INDUSTRIAL DISTRICTS.

1) The monetary fine for the first citation for a zoning violation shall be as set forth in the Fee Schedule, Chapter 98. The following monetary fines shall apply for each subsequent citation:

Second Citation	Minimum fine per day that the zoning violation remains uncorrected, as set forth in the Fee Schedule, Chapter 98
Third Citation	Minimum fine per day that the zoning violation remains uncorrected, as set forth in the Fee Schedule, Chapter 98
Additional Citations	Not to exceed a $300 increase in the previously assessed monetary fine for each day that the zoning violation remains uncorrected, to a maximum monetary fine for each zoning violation as set forth in the Fee Schedule, Chapter 98 per day that the zoning violation remains uncorrected

2) Each day that a zoning violation remains uncorrected shall constitute a violation which may result in the issuance of a subsequent citation.

(Ord. 1221, Art. 14(b), passed 1-26-2010)

Q. ALL WIRELESS TELECOMMUNICATIONS FACILITIES.

1) Notwithstanding the provisions of § 152.413(A) or (B), to the contrary, the monetary fine for the first citation for a zoning violation of § 152.293(A)(7) or § 152.293(A)(9) regarding signs or lights located on a wireless telecommunications facility shall be as set forth in the Fee Schedule, Chapter 98.

2) The following monetary fines shall apply for each subsequent day that the zoning violation remains uncorrected:

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Second Day	Minimum and maximum as set forth in the Fee Schedule, Chapter 98
Third Day	Minimum and maximum as set forth in the Fee Schedule, Chapter 98
Fourth Day	Minimum and maximum as set forth in the Fee Schedule, Chapter 98
Fifth Day	Minimum and maximum as set forth in the Fee Schedule, Chapter 98
Additional Days	Minimum fine, not to exceed an increase of $300 per day in the previously assessed monetary fine for each day that the zoning violation remains uncorrected, to a maximum monetary fine for each zoning violation as set forth in the Fee Schedule, Chapter 98 per day that the zoning violation remains uncorrected

(Ord. 1221, Art. 14(d), passed 1-26-2010)

R. PAYMENT OF ALL FINES PRESCRIBED BY THIS SUBCHAPTER FOR ZONING VIOLATIONS.

All fines prescribed by this subchapter for zoning violations shall be paid as follows:

1) To the General Fund of the town; and
2) The person making the payment shall receive a receipt stating the amount and purpose for which the fine has been paid, a duplicate of which shall be made a part of the records of the town.

(Ord. 1221, Art. 14(d), passed 1-26-2010)

S. FAILURES OF PERSON WHO RECEIVES A CITATION; ENFORCEMENT.

If a person who receives a citation fails to do the following divisions (A) through (C) of this section, the Town Attorney, Zoning Administrator, or appropriate enforcement official may file a lawsuit as provided by applicable law to enforce the terms and provisions of this chapter:

1) Pay the assessed fine within:
   (a) In a Residential District, 14 days after the issuance of a citation;
   (b) In a Commercial/Town Center District or Industrial District, 7 days after the issuance of a citation; or
   (c) For a wireless telecommunications facility, 5 days after the issuance of a citation or day upon which a fine has accrued.
2) File a petition as prescribed in § 152.411(C)(1); or
3) Give notice of his or her intention to stand trial as prescribed in § 152.411.

(Ord. 1221, Art. 14(e), passed 1-26-2010)

T. VIOLATIONS IN A PLANNED UNIT DEVELOPMENT (PUD) DISTRICT.

In the event of a citation for a zoning violation in a Planned Unit Development District, fines shall be assessed based upon the use authorized for the property on which the violation has occurred. Any property approved for residential uses only shall be assessed as if the property was located in a Residential District. Any property approved for commercial/town center development or industrial uses shall be assessed as if the property was located in a Commercial/Town Center District or an Industrial

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District. Any property used for a wireless telecommunications facility shall be assessed as specified above for a wireless telecommunications facility.

(Ord. 1221, Art. 14(f), passed 1-26-2010)

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Article 10 Historic Preservation Ordinance

Section 10.01 PURPOSE

A. Purpose of historic preservation and protection:
    1. To promote the educational, cultural and general welfare of the citizens of New Carlisle and to ensure the harmonious and orderly growth and development of the municipality;
    2. To maintain established residential neighborhoods in danger of having their distinctiveness destroyed;
    3. To enhance property values and attract new residents;
    4. To ensure the viability of the traditional Downtown area and to enhance tourism within the Town of New Carlisle.
    5. It is deemed essential by the Town of New Carlisle that qualities relating to its history and harmonious outward appearance of its structures be preserved.
B. These purposes are advanced through the restoration and preservation of historic areas and buildings, the construction of compatible new buildings where appropriate, and the maintenance and ensurance of compatibility in regard to style, form, proportion, texture, and material between historic buildings and those of contemporary design.
C. It is the intention of the Town of New Carlislie through this ordinance to preserve and protect historic or architecturally worthy buildings, structures, sites, monuments, streetscapes, squares and neighborhoods of the historic districts created in accordance with this ordinance.

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Section 10.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ALTERATION. Any material change in the external architectural features of any historic structure within an historic district.

TOWN: the Town of New Carlisle, Indiana.

COMMISSION: the historic preservation commission established by this ordinance.

DEMOLITION. The substantial deterioration or complete or substantial removal or destruction of any historic structure or any structure which is located within an historic district.

HISTORIC DISTRICT. A concentration of buildings, structures, objects, spaces, or sites or the boundaries of a property containing a single building, structure, object, or site and in either case which has been designated by ordinance by the Town Council.

INTERESTED PARTY: means one of the following:

(1) the Mayor.

(2) the Town Council.

(3) the city plan commission or other agency having land use planning jurisdiction over a historic district designated by ordinance.

(4) a neighborhood association, whether incorporated or unincorporated, a majority of whose members are residents of a historic district designated by an ordinance adopted by the Town Council.

(5) an owner or occupant of property located in a historic district established by an ordinance adopted by the Town Council.

(6) Historic Landmarks Foundation of Indiana, Inc., or any of its successors.

(7) the state historic preservation officer designated under I.C. 14-21-1-19.

PRESERVATION GUIDELINES: locally developed criteria which identify design concerns to assist property owners in maintaining the character of the historic district or buildings during the process of rehabilitation or new construction.

PRIMARY AREA: the principal area of historic and / or architectural significance within a historic district as delineated on the map establishing the boundaries of the historic district.

ROUTINE MAINTENANCE: work for which no Certificate of Appropriateness is required.

SECONDARY AREA: an area in a historic district delineated on the map establishing the boundaries of the historic district that is adjacent to a primary area and which has a visual relationship to the primary area and could affect the preservation of the primary area. The purpose of designating a secondary area is to assure its compatibility and harmony with an adjacent, primary area.

STREETSCAPE: appearance from a public way, the distinguishing characteristics of which are created by the width of the street and sidewalks, their paving materials and color, the design of the street furniture (e. g., street lights, trash receptacles, benches, etc.) use of plant materials such as trees and shrubs, and the setback, mass, and proportion of those buildings which enclose the street.

VISUAL COMPATIBILITY: those elements of design that meet the guidelines set out in Section 8 of this ordinance.

REVIEW BOARD. The Historic Review Board of the Town of New Carlisle, Indiana.

Section 10.03 REVIEW BOARD.

(A) There is hereby established the Historic Review Board of the town. The Review Board shall consist of 3 members. However, the Town Council may in the future appoint up to 6 more members if needed. The voting members shall be appointed by the Town Council President, subject to the approval of the Town Council.

(B) Voting members shall serve for a term of 3 years; however, the initial terms of members shall be for 1 year, 2 years, and 3 years in order for the terms to be staggered. A vacancy shall be filled within 90 days for the duration of the term of the member who is being replaced.

(C) Voting members shall be residents of the town, who are interested in the preservation and development of historic areas. To the extent available to the community, the Review Board shall include professional members from the disciplines of architecture, history, architectural history, preservation planning, archeology, or other historic preservation-related disciplines, such as urban planning, American studies, art history, American civilization, cultural geography, or cultural anthropology.

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(D) The Town Council President may, with the approval of the town, appoint such advisory members as the Town Council considers appropriate.

(E) The Clerk-Treasurer shall serve as the ex officio administrator of the Review Board. The Clerk-Treasurer shall provide staff assistance to the Review Board, act as the Review Board's secretary, and issue certificates of appropriateness as directed by the Review Board.

(F) Members of the Review Board shall serve without compensation but may be paid for reasonable expenses incurred in the performance of their duties.

(G) The Review Board shall elect from its membership a Chairperson and Vice-Chairperson who shall serve for 1 year and who may be re-elected. The Review Board shall adopt rules for the transaction of its business not inconsistent with this subchapter. The rules must include the time and place of regular meetings and a procedure for the calling of special meetings. Meetings of the Review Board must be open to the public in accordance with the Open Door Law, being I.C. 5-14-1.5-1 et seq., and a public record shall be kept of the Review Board's resolutions, proceedings, and actions.

(H) The Review Board shall hold regular meetings at least monthly except when it has no business pending.

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Section 10.04 POWERS AND DUTIES OF THE REVIEW BOARD.

(A) The Review Board shall be concerned with those elements of development, redevelopment, rehabilitation, and preservation that affect visual quality in an historic district. However, the Review Board may not consider details of design, interior arrangements, or building features, if those details, arrangements, or features, are not subject to public view, and may not make any requirement except for the purpose of preventing development, alteration, or demolition in the historic district obviously incongruous with the historic district.

(B) The Review Board shall conduct a survey to identify historic buildings, structures, and places located within the town; however, neither the survey nor any other action of the Review Board shall affect any property not located within the town limits.

(C) Based on its survey, the Review Board shall submit to the Town Council a map describing the boundaries of an historic district or historic districts. A district may be limited to the boundaries of a property containing a single building, structure, or site. The map may divide a district into primary and secondary areas.

(D) Owners of property in fee simple wishing to establish an historic district which includes their property may petition the Review Board to consider drawing and submitting a map of the property to the Town Council for its approval. The Review Board may establish in its rules criteria to be met before it considers a petition.

(E) The Review Board shall classify and designate on the map all buildings and structures within each historic district described on the map. Buildings and structures shall be classified as historic or non-historic, in the following manner:

(1) Historic buildings and structures must possess identified historic or architectural merit of a degree warranting their preservation. They may be further classified as:

(a) Exceptional;

(b) Excellent;

(c) Notable; or

(d) Of value as part of the scene.

(2) In lieu of the further classifications set forth in divisions (E)(1)(a) through (d) above, the Review Board may devise its own system of further classification of historic buildings and structures.

(3) Non-historic: those buildings and structures not classified on the map as historic.

(F) The Commission may adopt preservation guidelines for architectural review. If adopted, preservation guidelines shall be published and made readily accessible to the general public.

(G) The Commission has the authority to receive funds in order to promote its stated purposes.

(H) The Review Board may promote public interest in historic preservation by initiating and carrying on public relations and community education programs.

(I) The Commission shall have the authority to:

(1) acquire by purchase, gift, grant, bequest, devise, or lease any real or personal property, including easements, that is appropriate for carrying out the purposes of the Commission;

(2) hold title to real and personal property; and,

(3) sell, lease, rent, or otherwise dispose of real and personal property at a public or private sale on the terms and conditions that the Commission considers best;

(4) establish procedures that the Commission must follow in acquiring and disposing of property.

(J) Each official of the town who has responsibility for building inspection, building permits, planning, or zoning shall provide such technical, administrative, and clerical assistance as may be requested by the Review Board. The attorney for the town is the attorney for the Review Board. However, the Review Board may employ other legal counsel authorized to practice law in Indiana if it considers it to be necessary or desirable.

(J) When submitting a map to the Town Council under § 35.04, the Historic Review Board may declare 1 or more buildings or structures that are classified and designated as historic on the map to be under interim protection.

Section 10.05 INTERIM PROTECTION.

(1) Not more than 2 working days after declaring a building, structure, or site to be under interim protection under this section, the Historic Review Board shall, by personal delivery of first class mail, provide the owner or occupant of the building, structure, or site with a written notice of the declaration. The written notice must:

(a) Cite the authority of the Historic Review Board to put the building, structure, or site under interim protection under this section;

(b) Explain the effect of putting the building, structure, or site under interim protection; and

(c) Indicate that the interim protection is temporary (not more than 60 days).

(2) A building or structure put under interim protection under this section remains under interim protection until the map is:

(a) Submitted to; and

(b) Approved in an ordinance or rejected by the Town Council.

(3) While a building, structure, or site is under interim protection under this section:

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(a) The building, structure, or site may not be demolished or moved; and

(b) The exterior appearance of the building, structure, or site may not be conspicuously changed by:

1. Addition;
2. Partial or whole demolition;
3. Reconstruction; or
4. Alteration.

(4) The Historic Review Board may approve a certificate of appropriateness at any time during the period of interim protection, provided the proposed change meets the criteria for considering effect of actions on historic buildings in § 35.09 and any proposed preservation guidelines prepared for the building, structure, or site, but the certificate of appropriateness shall have no effect, and no action may be taken pursuant thereto, unless the map including the building, structure, or site is approved by the Town Council.

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Section 10.06 APPROVAL BY TOWN COUNCIL REQUIRED.

The map setting forth the historic district boundaries and building classifications must be submitted to and approved in an ordinance by the Town Council before the historic district is established and the building classifications take effect.

Section 10.07 FURTHER SURVEYING AND MAPPING.

The Review Board may conduct additional surveys and draw and submit additional maps for approval of the Town Council as it considers appropriate.

Section 10.08 CERTIFICATE OF APPROPRIATENESS REQUIRED.

Except as provided in §§ 35.18 through 35.20, a certificate of appropriateness must be issued by the Review Board of the town before a permit is issued for, or work is begun on any of the following:

(A) Within all areas of the historic district:

(1) The demolition of any building;

(2) The moving of any building;

(3) A conspicuous change in the exterior appearance of historic buildings by additions, construction, alteration or maintenance; or

(4) Any new construction of a principal building or accessory building or structure subject to view from a public way.

(B) Within a primary area of the historic district:

(1) A change in walls and fences or construction of walls and fences, if along public ways; or

(2) A conspicuous change in the exterior appearance of non-historical buildings subject to view from a public way by additions, reconstruction, alteration, or maintenance.

(C) Within the first phase of a two-phase establishment of a historic district:

(1) The moving of any building;

(2) The demolition of any building; or

(3) Any new construction of a principal building or accessory building or structure subject to view from a public way.

Section 10.09 APPLICATION FOR CERTIFICATE OF APPROPRIATENESS.

An application for certificates of appropriateness may be made in the office of the Clerk-Treasurer on forms provided by that office and shall be subject to the following requirements.

(A) The Review Board may adopt, as a part of its rules, filing requirements which it finds reasonable and necessary to expedite the business of the Review Board. These rules may include, but are not limited to, filing deadlines and application requirements such as sketches, drawings, photographs, descriptions, or other information which the Review Board requires to make a decision.

(B) A fee may be charged for the application to cover the cost of processing the application.

(C) Applications are to be received 2 weeks prior to the regularly scheduled Review Board meeting.

Section 10.10 ACTION OF APPLICATIONS FOR CERTIFICATES OF APPROPRIATENESS.

(A) The Review Board may advise and make recommendations to the applicant before acting on an application for a certificate of appropriateness.

(B) If an application for a certificate of appropriateness is approved by the Review Board, or is not acted on by the Review Board within 30 days after it is filed, a certificate of appropriateness shall be issued. If the certificate is issued, the application shall be processed in the same manner as applications for building or demolition permits required by the town if any are processed. If no building or demolition permits are required by the town, the applicant may proceed with the work authorized by the certificate.

(C) If the Review Board denies an application for a certificate of appropriateness within 30 days after it is filed, the certificate may not be issued. The Review Board must state its reason for the denial in writing, and must advise the applicant. An application that has been denied may not be processed as an application for a building or demolition permit and does not authorize any work by the applicant.

(D) The Review Board may grant an extension of the 30-day limit prescribed by divisions (B) and (C) above if the applicant agrees to it.

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Section 10.11 DEVELOPMENT STANDARDS.

(A) An historic building or structure or any part of or appurtenance to such a building or structure, including stone walls, fences, light fixtures, steps, paving and signs may be moved, reconstructed, altered, or maintained only in a manner that will preserve the historical and architectural character of the building, structure, or appurtenance. In considering historic and architectural character, the Commission shall consider, among other things, the following:

(1) Purposes of this ordinance;

(2) Historical and architectural value and significance of the building, structure, site or appurtenance;

(3) Compatibility and significance of additions, alterations, details, materials, or other non-original elements which may be of a different style and construction date than the original;

(4) The texture, material, color, style, and detailing of the building, structure, site or appurtenance;

(5) The continued preservation and protection of original or otherwise significant structure, material, and ornamentation;

(6) The relationship of buildings, structures, appurtenances, or architectural features similar to one within the same historic district, including for primary areas, visual compatibility as defined in Section 8(b) of this ordinance; and,

(7) The position of the building or structure in relation to the street, public right-of-way and to other buildings and structures.

(B) An historic building may be relocated to another site only if it is shown that preservation on its current site is inconsistent with division (A) of this section.

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Section 10.12 APPEAL PROVISIONS.

(A) The purpose of this section is to preserve historic districts that are important to the education, culture, traditions, and economic values of the town, and to afford the town historical organizations, and other interested persons the opportunity to acquire or to arrange for the preservation of these buildings.

(B) If the Review Board denies the issuance of a certificate of appropriateness for the demolition of a building or structure, a demolition permit may be issued by other agencies and a building may be demolished, but only after the property owner has demonstrated to the Review Board that an historic building or structure is incapable of earning an economic return on its value, as appraised by a licensed real estate appraiser.

(C) Notice of the proposed demolition must be given for a period fixed by the Review Board based on the Review Board's classification on the approved map, but not less than 60 days nor more than 1 year. Notice must be posted on the premises of the building or structure proposed for demolition in a location clearly visible from the street. In addition, notice must be published in a newspaper of general local circulation at least 3 times before demolition, with the first publication not more than 15 days after the application for a permit to demolish is filed and the final publication at least 15 days before the date of the permit.

(D) The Review Board may approve a certificate of appropriateness at any time during the notice period under division (C) above. If the certificate is approved, a demolition permit shall be issued without further delay and demolition may proceed.

Section 10.13 MAINTENANCE.

(A) Historic buildings shall be maintained to meet the applicable requirements established under state and local laws for buildings generally so as to prevent the loss of historic material and the deterioration of important character defining details and features.

(B) Ordinary repairs and maintenance: nothing in this section shall be construed to prevent the ordinary repairs and maintenance of any historic building, provided that such repairs or maintenance do not result in a conspicuous change in the design, form, proportion, mass, configuration, building material, texture, color, location, or external visual appearance of any structure, or part thereof.

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Section 10.14 RELATIONSHIP TO ZONING DISTRICTS.

The historic district regulation provided in this subchapter is intended to preserve and protect the historic or architecturally worthy buildings, structures, sites, monuments, streetscapes, squares, and neighborhoods of the historic districts. Zoning districts lying within the boundaries of the historic district are subject to the regulations for both the zoning district and the historic district. If there is a conflict between the requirements of the zoning district and the historic district, the more restrictive requirements shall apply.

Section 10.15 STAFF ADMINSTRATIVE APPROVALS.

(A) The staff of the commission is authorized to grant or deny a Certificate of Appropriateness for the following types of applications:

1) Signage

2) Minor Alterations & Repair with similar materials

3) Restoration & Repairs

(B) The staff may not grant or deny a Certificate of Appropriateness for the following

(1) The demolition of a building.

(2) The moving of a building.

(3) The construction of an addition to a building.

(4) The construction of a new building.

Section 10.16 VISUAL COMPATIBILITY.

Except as provided in § 35.19, the construction of a new building or structure and the moving, reconstruction, alteration, major maintenance, or repair involving a color change conspicuously affecting the external appearance of any non-historic building, structure, or appurtenance within the primary area must be generally of a design, form, proportion, mass configuration, building material, texture, color, and location on a lot compatible with buildings in the historic district (particularly with buildings designated as historic) and with squares and places to which it is visually related.

(A) Height. The height of proposed buildings must be visually compatible with adjacent buildings.

(B) Proportion of building's front façade. The relationship of the width of a building to the height of the front elevation must be visually compatible to buildings, squares, and places to which it is visually related.

(C) Proportion of openings within the facility. The relationship of the width of the windows to the height of windows in a building must be visually compatible with buildings, squares and places to which it is visually related.

(D) Rhythm of solids to voids in front façades. The relationship of solids to voids in the front façade of a building must be visually compatible with buildings, squares and places to which it is visually related.

(E) Rhythm of spacing of buildings on streets. The relationship of a building to open space between it and adjoining buildings must be visually related.

(F) Rhythm of entrances and porch projections. The relationship of entrances and porch projections to sidewalks of a building must be visually compatible to the buildings, squares, and places to which it is visually related.

(G) Relationship of materials, texture, and color. The relationship of the materials, texture and color of the façade of a building must be visually compatible with the predominant materials used in the buildings to which it is visually related.

(H) Roof shapes. The roof shape of a building must be visually compatible with the buildings to which it is visually related.

(I) Walls of continuity. Appurtenances of a building, such as walls, wrought iron fences, evergreen landscape masses, and building façades, must form cohesive walls of enclosure along the street, if necessary, to ensure visual compatibility of the building to the buildings, squares, and places to which it is visually related.

(J) Scale of a building. The size of a building and the building mass of a building in relation to open spaces, windows, door openings, porches, and balconies must be visually compatible with the buildings, squares, and places to which it is visually related.

(K) Directional expression of front elevation. A building must be visually compatible with the buildings, squares, and places to which it is visually related in its directional character, including vertical character, horizontal character, or non-directional character.

§ 35.17 RECORDING THE FACT OF HISTORIC DISTRICT DESIGNATION.

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(A) The boundaries of any historic district may be recorded in the office of the St. Joseph County Recorder.

(B) Two copies of the boundaries of any historic district shall be maintained in the office of the Clerk-Treasurer and shall be available for public inspection during regular business hours.

Section 10.17 PHASED DISTRICTS.

(A) In an ordinance approving the establishment of a historic district, the town may provide that the establishment occur in 2 phases. Under the first phase, which lasts 3 years from the date the ordinance is adopted, a certificate of appropriateness is required only for the activities described in § 35.08(A)(1), (2), and (4). At the end of the first phase, the district becomes fully established, and subject to division (B) below, a certificate of appropriateness must be issued by the Board before a permit may be issued for or work may begin on an activity described in § 35.08.

(B) The first phase described in division (A) continues and the second phase does not become effective if a majority of the property owners in the district object to the Board, in writing, to the requirement that certificates of appropriateness be issued for the activities described in § 35.08(A)(3), (B)(1), and (B)(2). The objections must be received by the Board not earlier than 180 days or later than 60 days before the third anniversary of the adoption of the ordinance.

Section 10.18 PAINT COLORS.

In an ordinance approving the establishment of an historic district, the town may exclude changes in paint colors from the activities requiring the issuance of a certificate of appropriateness under § 35.08 of this subchapter before a permit may be issued or work begun.

Section 10.19 INTERESTED PARTIES.

(A) As used in this section, INTERESTED PARTY means 1 of the following:

1) The Council President of the town;

2) The Town Council of the town;

3) The agency having land use planning jurisdiction over a historic district designated by the ordinance adopted under this subchapter;

4) A neighborhood association, whether incorporated or unincorporated, a majority of whose members are residents of a historic district designated by an ordinance adopted under this subchapter;

5) An owner or occupant owning or occupying property located in a historic district established by an ordinance adopted under this subchapter;

6) Historic Landmarks Foundation of Indiana, Inc., or any of its successors; and/or

7) The state historic preservation officer designated under I.C. 14-21-1-19.

(B) Every interested party has a private right of action to enforce and prevent violation of a provision of this subchapter or an ordinance adopted by the town under this subchapter, and with respect to any building, structure, or site within a historic district, has the right to restrain, enjoin, or enforce by

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restraining order or injunction, temporarily or permanently any person from violating a provision of this subchapter or an ordinance adopted under this subchapter.

(C) The interested party does not have to allege or prove irreparable harm or injury to any person or property to obtain relief under this section.

(D) The interested party bringing an action under this section does not have to post a bond unless the court, after a hearing, determines that a bond should be required in the interest of justice.

(E) The interested party that brings an action under this section is not liable to any person for damages resulting from bringing or prosecuting the action unless the action was brought without good faith or without a reasonable belief that a provision of this subchapter, or an ordinance adopted by a unit under this subchapter, had been or was about to be violated.

(F) An interested party who obtains a favorable judgment in an action under this section may recover reasonable attorneys' fees and court costs from the person against whom judgment was rendered.

(G) An action arising under this section must be brought in the Circuit or Superior Court of the county in which the historic district lies and no change of venue from the county shall be allowed in this action.

(H) The remedy provided in this section is in addition to other remedies that may be available at law or in equity.

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AMEND AND REVISION SECTION 35.99 (B)(1-3) REVISED PENALTY REFERENCES

Section 10.20 PENALTY.

(B) (1) Any person, whether as principal, agent, owner, lessee, tenant, contractor, builder, architect, engineer, or otherwise, who violates any provision of §§ 35.01 through 35.20 shall be subject to a fine as follows, for each offense:

(3) The erection, construction, enlargement, alteration, repair, demolition, color change, moving, or maintenance of any building, structure, or appurtenance which is begun, continued, or maintained contrary to any provisions of §§ 35.01 through 35.20 is hereby declared to be a nuisance and in violation of this chapter and unlawful. The town may institute a suit for injunction in the Circuit Court or Superior Court of St. Joseph County to restrain any person or government unit from violating any provision of §§ 35.01 through 35.20 and to cause the violation to be prevented, abated, or removed. Such action may also be instituted by any property owner who is adversely affected by the violation of any provision of §§ 35.01 through 35.20 .

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Article 11 Subdivision Control Ordinance

Section 11.01 Basic Provisions

A. 151.001 TITLE.

This chapter shall hereinafter be known and cited as “Town of New Carlisle Subdivision Control Ordinance” or “this chapter.”

(Ord. 1223, § 1.1, passed 5-11-2010)

B. § 151.002 AUTHORITY.

(A) This chapter is adopted pursuant to the authority contained in I.C. 36-7-4 et seq.

(B) Whenever any provision of this chapter refers to or cites a section of the Indiana Code and that section is later amended or superseded, this chapter shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

(Ord. 1223, § 1.2, passed 5-11-2010)

C. § 151.003 PURPOSE.

In adopting this chapter, the Town Council is acting for the purpose of:

(A) Promoting the public health, safety, comfort, morals, convenience, and general welfare;

(B) Guiding the future development of the town in accordance with the Comprehensive Plan and related policies and objectives;

(C) Securing adequate light, air, convenience of access, and safety from fire, flood, and other danger;

(D) Lessening or avoiding congestion in public ways;

(E) Providing adequate and efficient public and private facilities and the conservation of natural resources;

(F) Providing for the safety, comfort, and soundness of the built environment; and

(G) Otherwise accomplishing the purposes of I.C. 36-7-4 et seq.

(Ord. 1223, § 1.3, passed 5-11-2010)

D. § 151.004 EFFECTIVE DATE.

This chapter shall be effective at 12:01 a.m., on the first day of _____, 20___.

(Ord. 1223, § 1.4, passed 5-11-2010)

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E. § 151.005 EMINENT DOMAIN AND USE–UNITED STATES OF AMERICA OR STATE OF INDIANA OWNED PROPERTY.

Nothing in this chapter or in any rules, regulations, or orders issued pursuant to this chapter shall be deemed to restrict or regulate or to authorize any unit of government, legislative body, Plan Commission, or Board of Zoning Appeals now or hereafter established, to restrict or regulate the exercise of the power of eminent domain by the State of Indiana or by any agency of the State of Indiana, or the use of property owned or occupied by the State of Indiana or any agency of the State of Indiana.

(Ord. 1223, § 1.7, passed 5-11-2010)

F. § 151.006 INTERPRETATION.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the health, safety, comfort, morals, convenience, and the general welfare of the public. In the case of any conflict or inconsistency between 2 or more provisions of this chapter or any other ordinance of the town, the provision which imposes the greater or higher or more restrictive standard of performance shall control.

(Ord. 1223, § 1.8, passed 5-11-2010)

G. § 151.007 JURISDICTION.

Upon adoption of this chapter by the Town Council and the effective date of this chapter, the Area Plan Commission shall have exclusive control over the approval of plats, replats, and the vacation of plats or parts of plats involving all real property located within the corporate boundaries of the town.

(Ord. 1223, § 1.9, passed 5-11-2010)

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H. § 151.008 FINDINGS.

In adopting this chapter, the Town Council has paid reasonable regard to:

(A) The general polices and patterns of development set out in the Comprehensive Plan for the town;

(B) Current conditions and the character of current structures and uses in each zoning district;

(C) The conservation of property values throughout the town; and

(D) The responsible development and growth of the town.

(Ord. 1223, § 1.10, passed 5-11-2010)

I. § 151.009 PRIVATE PROVISIONS.

The provisions of this chapter are not intended to abrogate any easement, covenant, or other private agreement or restriction.

(Ord. 1223, § 1.11, passed 5-11-2010)

J. § 151.010 SAVING PROVISION.

Except as shall be expressly provided for in this chapter, the adoption of this chapter shall not: abate any action pending under, or by virtue of, any prior subdivision control ordinance; discontinue, abate, modify, or alter any penalty accruing or about to accrue under, or by virtue of, any prior subdivision control ordinance; affect the liability of any person, firm, or corporation under, or by virtue of, any prior subdivision control ordinance; waive any right of the town under any section or provision of any prior subdivision control ordinance; or vacate or annul any rights obtained by any person, firm, or corporation by lawful action of the town under, or by virtue of, any prior subdivision control ordinance.

(Ord. 1223, § 1.12, passed 5-11-2010)

K. § 151.011 TRANSITION RULES FOR APPLICATIONS FOR PRIMARY PLAT APPROVAL, SECONDARY PLAT APPROVAL, OR THE VACATION OF PLATS OR PARTS OF PLATS.

Any application for primary plat approval, secondary plat approval, or the vacation of plats or parts of plats which has been filed with the Executive Director of the Area Plan Commission and which application is full and complete under the provisions of the Subdivision Regulations (Ord. 1221, as amended) prior to the effective date of this chapter shall continue to be processed to completion pursuant to the terms and conditions of the Subdivision Regulations (Ord. 1221, as amended).

(Ord. 1223, § 1.13, passed 5-11-2010)

L. § 151.012 AMENDMENTS.

In its continuing administration of the purposes set forth in § 151.003 above, the Town Council may find it reasonable and necessary to propose and adopt amendments to the text of this chapter. All such amendments shall be considered and adopted in compliance with I.C. 36-7-4-600 et seq., the provisions of this chapter, and any applicable rules of procedure subsequently adopted by the Area Plan Commission or the Town Council governing such procedures.

(Ord. 1223, § 1.14, passed 5-11-2010)

M. § 151.013 COMPLIANCE.

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Compliance with the terms and provision of this chapter shall be a prerequisite for the use and development of real property within the town. Failure to comply with the terms and provisions of this chapter shall be deemed to be a civil zoning violation enforceable by the Zoning Administrator as provided for in I.C. 36-7-4 et seq. and §§ 152.405 through 152.413.

(Ord. 1223, § 1.15, passed 5-11-2010)

N. § 151.014 INCORPORATION BY REFERENCE.

Throughout the various subchapters of this chapter, reference is made to other regulations of the Town of New Carlisle, and each such regulation is hereby incorporated by this referenced into this chapter. Two copies of each such regulation of the town are on file in the office of the Clerk-Treasurer of the town and are available for public inspection.

(Ord. 1223, § 1.18, passed 5-11-2010)

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Section 11.02 Subdivision Types - PLAT PROCEDURES, PLANS, AND SURETY

A. § 151.055 PLAT PROCEDURES; INTRODUCTION AND INTENT.

(A) The subdivision process is intended to assure that all platted lots created for sale: are buildable lots that comply with the standards set forth in the Zoning Ordinance and the Subdivision Control Ordinance; and are provided with all the services and utilities required for initial development and the continued use and enjoyment of the lot by the owner. To accomplish this purpose, a drawing of the proposed subdivision, known as a plat, is submitted for review and approval. The review and approval process takes place on 2 levels: a primary plat approval, and a secondary plat approval. The primary plat review is where the overall concept of a proposed subdivision is reviewed for its ability to comply with all zoning, subdivision, and other regulations applicable to development (including but not limited to erosion control, sanitary sewer, potable water, storm sewer, and street standards). The secondary plat review is where the specific details of the subdivision are approved and authorized for recording so that the sale of a buildable lot may legally occur. The procedures contained in this subchapter describe how the plat drawings are prepared and reviewed.

(B) Within the primary plat process, depending on the nature and complexity of the proposed development, a subdivision may be classified as either a minor subdivision or a major subdivision. A minor subdivision is a division of land into a very limited number of lots where there is no need for the extension of streets or utilities. A major subdivision involves a larger number of lots, street or utility extensions. Primary plats may also include re-plats as described below. See §§ 151.125 and 151.126 for a more detailed explanation of each type of primary plat.

(C) Secondary plats may be approved for recording in 1 of 2 ways: complete all the improvements necessary to provide buildable, serviced lots in accordance with approved construction plans, demonstrate compliance with all conditions imposed on the primary plat by the Area Plan Commission and provide a bond for their maintenance prior to final approval and recording; or provide performance bonds to assure the completion of all construction activities necessary to provide buildable, serviced lots in accordance with approved construction plans and demonstrate compliance with all conditions imposed on the primary plat by the Area Plan Commission. The performance bonds will be replaced with maintenance bonds as individual construction elements or phases are completed. Secondary plats may also include corrective plats as described below.

Overview of Subdivision Procedures



(Ord. 1223, § 2.1, passed 5-11-2010)

B. § 151.056 OVERVIEW OF PLAT APPROVAL PROCESS.

All requests for platting shall follow the procedures as generally outlined below, and as more specifically set forth in §§ 151.057, 151.058, 151.059, 151.060, or 151.061.

(A) Primary plat filing procedures.

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(1) Subdivision plats shall be initiated by the filing of a notarized petition, in a form as prescribed by the Area Plan Commission, signed by the owners or an authorized agent of the owners of the land involved in the petition. An authorized agent shall file a written statement signed by the owner at the time of filing a petition which authorizes the agent to act on the owner's behalf.

(2) The Area Plan Commission has delegated the review and approval authority for subdivision plats to the Plat Committee.

(3) Petitions for Primary Plat approval shall be filed with the Area Plan Commission no later than 12:00 p.m. on the day of the filing deadline set forth under "Subdivision Dates" of the Plat Committee schedule adopted annually by the Area Plan Commission.

(4) When findings of fact are required by this chapter, the petitioner shall prepare proposed detailed written findings of fact which shall be filed at the time of filing of the petition.

(5) All petitions shall specify the approvals requested. Any items, including proposed waivers of the standards set forth in this chapter, even if indicated on the proposed plans, shall not be considered a part of the request presented for consideration unless such waivers are specified in the petition.

(6) Each petition filed in proper form pursuant to the guidelines established by the Area Plan Commission shall, within 30 days of filing, be numbered and docketed by the Executive Director for review by the Plat Committee.

(B) Primary plat standards for approval. Primary plats shall only be approved by the Plat Committee upon determination that the primary plat is in full compliance with all terms and provisions of this chapter, the town Zoning Ordinance, and that:

(1) Adequate provisions have been made for regulation of minimum lot width, minimum lot depth, and minimum lot area;

(2) Adequate provisions have been made for the widths, grades, curves and coordination of subdivision public ways with current and planned public ways; and

(3) Adequate provisions have been made for the extension of water, sewer, and other municipal services.

(C) Primary plat conditions of approval. The Plat Committee may specify reasonable conditions on the approval of a primary plat related to the following:

(1) The manner in which public ways shall be laid out, graded, and improved. The Plat Committee may determine the need for additional street rights-of-way and improvements based upon existing plans, reports, or studies undertaken by the Area Plan Commission, or other county, state, or federal agency's reports or studies. The Plat Committee may require additional studies to be done by the subdivider or other professional consulting firms to determine the need for additional street rights-of-way and improvements as a result of the proposed development and its impact on the surrounding areas;

(2) A provision for water, sewage, electric, and other utility services;

(3) A provision for lot size, number, and location;

(4) A provision for drainage design;

(5) A provision for other services specified in this chapter; and

(6) Technical, drafting, or other minor corrections being made to the primary plat.

(D) Secondary plat approval.

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(1) Secondary plats are approved administratively by staff upon providing an accurate and complete secondary plat drawing and proof that the improvements required by the primary plat approval have either been:

(a) Completed to the appropriate construction standards and bonds for the maintenance thereof have been provided; or

(b) Performance bonds have been provided to assure the completion of these required improvements to the appropriate construction standards.

(2) All conditions imposed by the Area Plan Commission on the approval of the primary plat have been complied with.

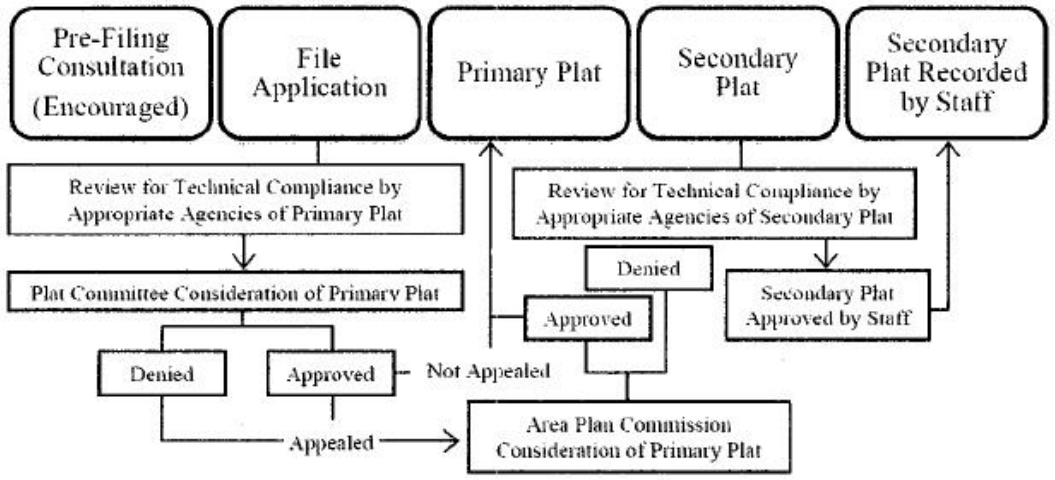
(Ord. 1223, § 2.2, passed 5-11-2010)

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C. § 151.057 MINOR SUBDIVISIONS.

The minor subdivision process is intended to provide a streamlined process for the platting and development of a limited number of lots where the creation or extension of streets, water lines, sewer lines, or other public improvements is not required.

Overview of Minor Subdivision Procedure



(A) Consultation encouraged.

(1) Prior to the submission of a minor subdivision, the subdivider is encouraged to consult informally with the staff. This will create an understanding between the staff and the subdivider which may help to alleviate future misunderstandings and extensive revisions.

(2) Notwithstanding anything contained in this chapter to the contrary, neither the staff's conceptual plat review of the sketch plan submitted at a pre-filing consultation nor staff's comments to the petitioner relating thereto shall be considered a denial, approval, or decision concerning the proposed primary plat.

(B) Name of subdivision. The name of the subdivision shall not duplicate or closely approximate the name of any other subdivision within the town or other areas of the county. Care should be taken to keep the names short and, if applicable, consistent with adjacent subdivisions which have been previously approved and recorded.

(C) Minor subdivision; filing requirements for primary and secondary approval. An application for a minor subdivision shall be submitted to the Area Plan Commission in accordance with the filing schedule established by the Area Plan Commission. The submission shall include the following:

(1) Drawing. An original drawing on 24-inch by 36-inch vellum, linen or Mylar film, at a scale not less than 1 inch equals 100 feet or greater than 1 inch equals 50 feet. All printed numbers, letters, and typed information shall be in capital letters and the size of an 11 point type font so that the drawing is adaptable to photographic reduction and will maintain complete legibility. The original drawing shall be accompanied by 6 prints and include the following.

(a) Name of the subdivision, which shall not duplicate or closely approximate the name of any other subdivision within the incorporated or unincorporated areas of the county.

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(b) Legal description of the subdivision which shall include section, township, range, and governmental township.

(c) Boundary of subdivision, based on accurate traverse survey with accurate dimensions in feet and hundredths thereof, and bearings expressed in degrees, minutes, and seconds. The traverse survey shall be closed to the minimum requirements of the State Standards for the practice of land surveying as required by 865 I.A.C. 1-12-7 et seq. A separate boundary closure sheet need not be submitted.

(d) Name, address, seal, signature, and certification of the registered land surveyor preparing or certifying the subdivision, in a manner prescribed by the Area Plan Commission.

(e) Numeric scale, graphic bar scale, north point, and date.

(f) Elevation and delineation of the 100-year regulatory flood and certification of compliance with the National Flood Insurance Program, when applicable.

(g) A note shall be placed on the plat, when applicable, to indicate the presence of any condition on any lot which would not be conducive to the development of basements (e.g., seasonal high water table, and the like).

(h) A blank area of 4 inches vertical by 9 inches horizontal within which to affix the Area Plan Commission's certificate of approval without obscuring or obliterating any other items on the plat.

(i) The location of all public wells and the delineation of any wellhead protection area, when applicable.

(j) Delineation of those soils that may not be suitable for a conventional subsurface on-site sewage disposal system by a either a soil investigator or as shown in the Soil Survey of St. Joseph County, and a note concerning restrictions for on-site sewage disposal systems.

(k) Delineation of wetlands identified by the National Wetlands Inventory, when applicable.

(l) A note shall be placed on the plat indicating that building setbacks shall conform to the applicable provisions of the Zoning Ordinance.

(m) Owner's certification, in a manner prescribed by the Area Plan Commission.

(n) All right-of-way lines and width of right-of-way, existing and required for dedication.

(o) Statement that all easements that are indicated on documentation provided by the property owner are shown on the drawing.

(p) Statement regarding how the subdivision will be served by water, sewer, and electric, i.e., municipal water, sewer, and electric.

(q) Lot numbers.

(r) All lot lines and easements with accurate dimensions in feet and hundredths thereof, and bearings expressed in degrees, minutes, and seconds. All easements shall be identified as to their specific use.

(s) Deed of dedication, in a manner prescribed by the Area Plan Commission.

(t) Notarization and seal, in a manner prescribed by the Area Plan Commission.

(u) Certification of compliance with the National Flood Insurance Program, when applicable.

(v) Statement concerning any encroachments upon existing building setback lines and/or easements.

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(w) Accurate location and type of all existing and required monuments conforming to State Standards 865 I.A.C. 1-12-18 et seq.

(x) Township, range, and section lines accurately tied to the subdivision by bearing and distances in feet and hundredths thereof.

(y) Coordinate data which ties the subdivision to the North American Datum 1983 State Plane Coordinates System, to the standards adopted by the County Surveyor, or provide a letter from the County Surveyor which indicates that ties to such State Plane Coordinates System is not required.

(z) This drawing shall be accompanied by such other information as the Area Plan Commission may require under the provisions of this chapter.

(2) Site Data Sheet (SDS). Six prints of a drawing on a sheet 24 inches by 36 inches, at a scale not less than 1 inch equals 100 feet or greater than 1 inch equals 50 feet, including, but not limited to the following.

(a) Name of the subdivision.

(b) The adjacent county roads and the nearest major intersection, with right-of-way widths labeled.

(c) Name and address of the registered land surveyor preparing the subdivision.

(d) Numeric scale, graphic bar scale, north point, and date.

(e) Known or suspected location of landfills, dumpsites, or sites used for disposing of hazardous substances.

(f) Location of soil borings and test pits.

(g) Existing man-made structures and improvements within the proposed subdivision, including driveways, culverts, fences, utility poles, hydrants, and the like. Profiles of ditches at 25-foot intervals may be required at the request of the Town Engineer.

(h) Natural features such as wooded areas, swamps, marshes, streams, and drainage courses, and objects which may be located within the public rights-of-way, including trees.

(i) Existing topographic contours at vertical intervals of 2 feet or less. Vertical control data shall be based on National Geodetic Vertical Datum or the St. Joseph County GIS. United States Geological Survey contours shall not be acceptable.

(j) A graphic and/or textual summary of any known environmental site studies which contains a recommendation or conclusion which impacts the site of the proposed subdivision.

(k) The location of all public wells and the delineated wellhead protection area, if any.

(l) Legal description and tract boundary drawing of the entire property which is being subdivided.

(m) A vicinity key map at a noted scale of 1 inch equals 2,000 feet or 1 inch equals 3,000 feet showing the location of the subdivision, major streets, and physical features, such as rivers and creeks, within a distance of 2 miles.

(n) Name and address of the subdivider.

(o) The address and approximate distance of the nearest house to the subdivision or within the subdivision.

(p) The existing Tax Key Number for the property to be subdivided.

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(q) If the property within 300 feet of the subdivision has been subdivided, the subdivision layout, name, section, and instrument number shall be included.

(3) Engineering feasibility report. Three copies of a report including, but not limited to the following.

(a) Sanitary sewage:

1. Type of public sanitary sewage disposal system to be used; and

2. Distance from the nearest public sewer.

(b) Water supply:

1. Type of public water supply to be used; and

2. Distance from the nearest public water main.

(c) If within 500 feet on an existing public sewer or water main, provide a letter from the owner of the system indicating adequate capacity exists and approval to connect, or an analysis of the feasibility of connecting to the system. The analysis shall include the distance to the point of connection, estimate of cost of extending the system through the subdivision, and the capacity of the existing system to handle the additional load.

(d) Electrical supply:

1. Type of electrical supply to be used, i.e., underground or overhead; and

2. Distance from nearest public electric distribution system.

(4) Drainage plan. A drainage plan, as required for major subdivisions under § 151.058, may be required for a minor subdivision upon request by the Town Engineer or County Surveyor.

(5) Traffic impact study. A traffic impact study may be required by the Town Engineer when warranted in compliance with the INDOT Traffic Impact Study Guidelines. The traffic impact study shall be prepared by a registered professional engineer and shall evaluate the impact of present and future traffic generated by the proposed development on the adjacent roadway network.

(6) Digital data submission. All minor plats submitted for secondary review shall include a digital copy of the proposed subdivision prepared in accordance with the requirements set forth in the “Digital Data Submission Standards” as set forth by the Area Plan Commission.

(7) Ownership and subsequent divisions report. One copy of a report including the following.

(a) Proof of ownership of the property to be subdivided as contained within a parcel or tract of land in single or separate ownership as of December 4, 1979.

(b) A history of any divisions to that original parcel or tract of land subsequent to December 4, 1979.

(8) Ownership. Proof of ownership of the subdivision.

(9) Other approval. The applicant shall provide a summary of any other local, state, or federal governmental approvals required for the development of the subdivision and a statement of the status of each such approval.

(10) Rule 5. Any subdivision subject to Rule 5 shall provide proof of application for a notice of sufficiency.

(11) Fee. The submission of the subdivision shall be accompanied by fees as prescribed by the Area Plan Commission.

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(12) Application. A completed application shall be submitted upon forms provided and in a manner prescribed by the Area Plan Commission.

(D) Minor subdivision; review, appeal, and approval procedure. The review, appeal, and approval procedure for minor subdivisions shall be as follows.

(1) Completeness.

(a) All of the required information shall be complete upon filing in order for staff to begin its review. Applications with incomplete plans shall not be docketed until complete plans have been filed with the Area Plan Commission.

(b) The staff shall determine if all required elements of an application for a minor subdivision have been provided. If staff determines that an application is complete, staff shall begin the review process in accordance with the filing schedule established by the Area Plan Commission.

(c) If, however, staff notes a deficiency in the application materials, staff shall notify the applicant of that deficiency. Upon receipt of the materials required to complete the application, staff shall begin the review process for the next available meeting of the Plat Committee.

(d) The Executive Director, in his or her sole discretion, may waive or relax any of the requirements listed above for a primary plat of a minor subdivision, as circumstances dictate.

(2) Referral and review. The staff shall refer prints of the subdivision to the appropriate agencies.

(a) 1. If the subdivision falls within a designated special flood hazard area, the subdivision shall be reviewed by the Department of Natural Resources.

2. If the proposed subdivision is to be located in a special flood hazard area, the subdivider's registered land surveyor or engineer shall forward pertinent plans and materials to the Department of Natural Resources for review and comment. Appropriate changes and modifications may be required in order to assure that the development of the proposed subdivision is consistent with the need to minimize flood damages, including but not limited to the following: all public utilities and facilities, such as sewer, gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage; adequate drainage shall be provided so as to reduce exposure to flood hazards; and on-site waste disposal systems, if provided, shall be so located as to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.

3. All subdivisions to be located in a special flood hazard area shall have the elevation of the 100-year flood noted on the secondary plat and a delineation of the special flood hazard area thereon.

(b) The staff may also refer the subdivision to any federal, state, or county agency, board, or department which has regulations or rules which affect the use or design of the subdivision, or the location or height of structures to be placed within the subdivision.

(c) The agencies shall review the subdivision and submit a report to the staff. The staff shall review the subdivision for technical conformity with the standards fixed in this chapter and the requirements, recommendations, and comments of the reviewing agencies, and prepare a report with a recommendation for the Plat Committee's consideration.

(3) Submission to Plat Committee. Within the time frame as established by resolution of the Area Plan Commission, the staff shall announce the date, time, and place of the meeting at which the Plat Committee shall consider the subdivision, and give due notice in writing to all interested parties at least 10 days before the date set for the meeting.

(4) Plat Committee consideration. After receiving the staff report and recommendation, the Plat Committee shall consider the subdivision for primary approval without public notice and hearing.

(5) Plat Committee action.

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(a) If, after consideration, the Plat Committee finds that the subdivision complies with all standards regarding primary approval of minor subdivisions, the Plat Committee shall give primary approval to the subdivision, with or without modifications and conditions imposed, and make written findings of fact and a decision which shall include any modifications or conditions imposed. The Chairperson and Secretary of the Plat Committee shall seal and certify 2 copies of the subdivision, provide the subdivider's registered land surveyor with 1 copy and retain the second copy in the Area Plan Commission's files.

(b) If, after consideration, the Plat Committee finds that the subdivision does not comply with all standards regarding primary approval of subdivisions, the Plat Committee shall deny primary approval to the subdivision and make written findings of fact and a decision which sets forth its reasons for disapproval.

(6) Notice of Plat Committee's action. Within 5 days after the Plat Committee's action on the subdivision, the Secretary of the Plat Committee shall provide all interested parties with a copy of the findings of fact and decision, and notify them in writing of their right to appeal the Plat Committee's decision to the Area Plan Commission. Appeals shall be in writing, shall indicate the desire to have the minor subdivision reviewed by the Area Plan Commission, shall state the reason for the appeal and shall be filed within 5 days of the date of the notice by the Secretary.

(7) If no appeal has been filed.

(a) If the minor subdivision, for which primary and secondary approval has been requested, received primary approval by the Plat Committee, and no appeal has been filed within 5 days of the date of the notice of Plat Committee's action, and all modifications or conditions placed upon the subdivision by the Plat Committee, if any, have been complied with or corrected, the staff shall grant secondary approval to the subdivision and the Chairperson and Secretary of the Plat Committee shall seal and certify the original drawing. The staff shall record the subdivision as required below.

(b) If the minor subdivision, for which primary and secondary approval has been requested, received primary approval by the Plat Committee, and no appeal has been filed within 5 days of the date of the notice of Plat Committee's action, and all modifications or conditions placed upon the subdivision by the Plat Committee, if any, have not been complied with or corrected within 2 years, the staff shall deny secondary approval to the subdivision. The Secretary of the Plat Committee shall provide written notice to the subdivider which sets forth its reasons for denying secondary approval, and release the original drawing of the subdivision to the registered land surveyor who prepared it.

(c) If the minor subdivision was denied primary approval by the Plat Committee and no appeal has been filed within 5 days of the notice of Plat Committee's action, the staff shall release the original drawing of the subdivision to the registered land surveyor who prepared it.

(8) If an appeal has been filed. If an appeal has been filed within 5 days of the date of the notice of Plat Committee's action, the staff shall announce the date, time, and place of the meeting at which the Area Plan Commission shall consider the subdivision, and shall give due notice in writing to all interested parties at least 10 days before the date set for the meeting of the Area Plan Commission at which the plat shall be considered. The staff shall prepare a report with a recommendation for Area Plan Commission consideration.

(9) Area Plan Commission consideration after appeal. After receiving the staff report and recommendation, the Area Plan Commission shall consider the subdivision without public notice and hearing. The Area Plan Commission shall consider the subdivision as though the Plat Committee had not acted upon it. The subdivision shall be considered in its entirety, as if it were a new submission, with all items considered, not just the items appealed.

(10) Area Plan Commission action.

(a) If, after consideration, the Area Plan Commission finds that the subdivision complies with all standards regarding primary approval of minor subdivisions, the Area Plan Commission shall give primary approval to the subdivision, with or without modifications and conditions imposed, and make written

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findings of fact and a decision, which shall include any modifications or conditions imposed. The Secretary of the Area Plan Commission shall then provide the subdivider with a copy of the findings of fact and decision. The President and Secretary of the Area Plan Commission shall seal and certify 2 copies of the subdivision and provide the subdivided registered land surveyor with 1 copy along with a copy of the findings of fact and decision, signed by the Secretary of the Area Plan Commission. The second copy of the sealed and certified subdivision shall be retained in the records of the Area Plan Commission. When all modifications or conditions placed upon the subdivision by the Area Plan Commission, if any, have been complied with or corrected, the staff shall give secondary approval to the subdivision. The President and Secretary of the Area Plan Commission shall seal and certify the original drawing. The staff shall record the subdivision as required below.

(b) If the subdivision, for which secondary approval has been requested, received primary approval by the Area Plan Commission and all modifications or conditions placed upon the subdivision by the Area Plan Commission have not been complied with or corrected within 2 years, the staff shall deny secondary approval to the subdivision. The Secretary of the Area Plan Commission shall provide written notice to the subdivider which sets forth its reasons for denying secondary approval, and release the original drawing of the subdivision to the registered land surveyor who prepared it.

(c) If, after consideration, the Area Plan Commission finds that the subdivision does not comply with all standards regarding primary approval of minor subdivisions, the Area Plan Commission shall deny the subdivision primary approval and make written findings of fact and a decision which sets forth its reasons for disapproval. The Secretary of the Area Plan Commission shall provide the subdivider with a copy of the findings of fact and decision, and release the original drawing to the subdivided registered land surveyor.

(11) Recording. Within 7 days of secondary approval, the staff shall record the subdivision in the Recorder's office and so notify the subdivider. The staff shall have the original drawing of the subdivision duplicated at a reduced scale and release the original drawing to the registered land surveyor who prepared it. The staff shall distribute reduced copies of the subdivision as prescribed by the Area Plan Commission.

(Ord. 1223, § 2.3, passed 5-11-2010; Am. Ord. 1252, passed 12-28-2011)

D. § 151.058 MAJOR SUBDIVISIONS.

The major subdivision process is intended to provide for the platting of larger residential, commercial, industrial, and other nonresidential redevelopments.

(A) Consultation required.

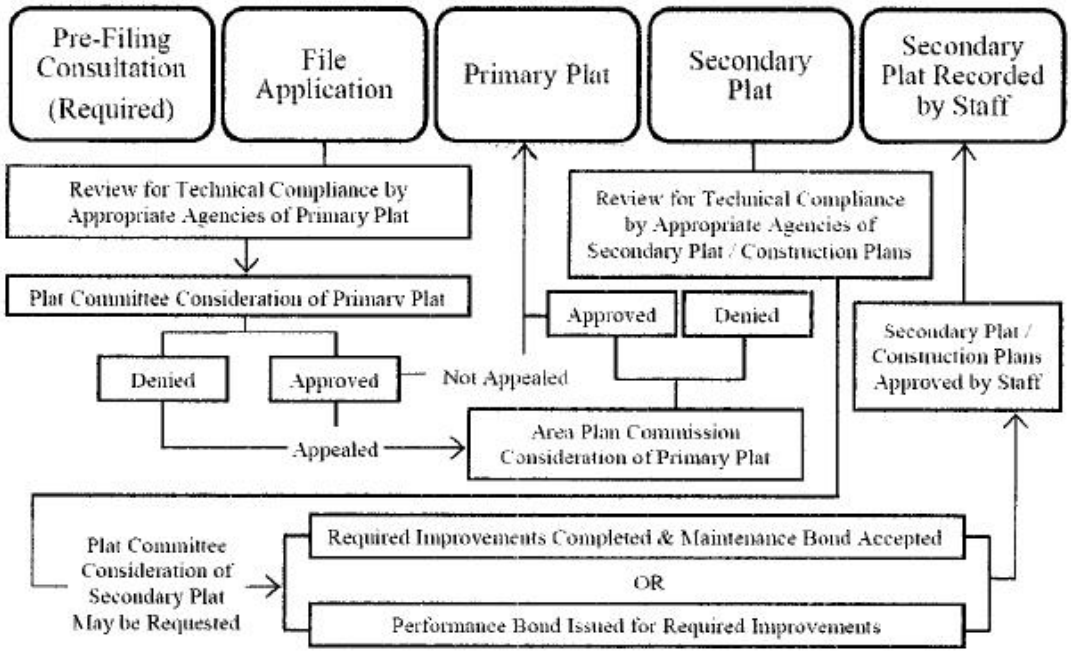
(1) Prior to the submission of a major subdivision, the subdivider shall consult informally with the staff, the County Surveyor, the Town Engineer, and other agencies deemed appropriate by the staff. This will create an understanding between the staff and the subdivider which may help to alleviate future misunderstandings and extensive revisions.

(2) The level of information received by the developer at a consultation is dependent upon the quality and quantity of information provided by the developer for review and comment. It is strongly recommended that a consultation take place a minimum of 2 weeks prior to an application deadline to allow time to prepare the required plans; however, a consultation may take place at any time prior to filing.

(3) Staff shall review the sketch plan and shall notify the subdivider of any comments related to the design or contents of the sketch plan within 10 business days of the submittal for conceptual plat review.

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Overview of Major Subdivision Procedure



(4) Notwithstanding anything contained in this chapter to the contrary, neither the staff's conceptual plat review of the sketch plan submitted at a pre-filing conference nor staff's comments to the petitioner relating thereto shall be considered a denial, approval, or decision concerning the proposed primary plat.

(5) Petitioner may modify the sketch plan and file a petition for primary plat approval after the expiration of the 10-business day period referred to above.

(B) Name of subdivision. The name of the subdivision shall not duplicate or closely approximate the name of any other subdivision within the town or other areas of the county. Care should be taken to keep names short and, if applicable, consistent with adjacent subdivisions which have been previously approved and recorded.

(C) Major subdivision application; primary approval. An application for primary approval of a major subdivision shall be submitted in accordance with the filing schedule established by the Area Plan Commission. The submission shall contain the following:

(1) Drawing. An original drawing on 24-inch by 36-inch vellum, linen or Mylar film, at a scale of 1 inch equals 200 feet or less. All printed numbers, letters, and typed information shall be in capital letters and the size of an 11 point type font so that the drawing is adaptable to photographic reduction and will maintain complete legibility. The original drawing shall be accompanied by 6 prints and include the following.

(a) Name of the subdivision.

(b) Location of the subdivision by section, township, range, and governmental township.

(c) Boundary of the proposed subdivision based on accurate traverse survey with accurate dimensions in feet and hundredths thereof, and bearings expressed in degrees, minutes and seconds. The traverse survey shall be closed to the minimum requirements of the State Standards for the practice

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of land surveying as required by 865 I.A.C. 1-12-7 et seq. A separate boundary closure sheet need not be submitted.

(c) Name, address, seal, signature, and certification of the registered land surveyor preparing or certifying the subdivision, in a manner prescribed by the Area Plan Commission.

(e) Numeric scale, graphic bar scale, north point, and date.

(f) Elevation and delineation of the 100-year regulatory flood, when applicable.

(g) A note shall be placed on the plat, when applicable, to indicate the presence of any condition on any lot which would not be conducive to the development of basements (e.g., seasonal high water table, and the like).

(h) A blank area 4 inches vertical by 9 inches horizontal, within which the Area Plan Commission may affix its certificate of approval without obscuring or obliterating any other items on the plat.

(i) The location of all public wells and the delineation of any wellhead protection area, when applicable.

(j) Delineation of wetlands identified by the National Wetlands Inventory, when applicable.

(k) A note shall be placed on the plat indicating that building setbacks shall conform to the applicable provisions of the Zoning Ordinance.

(l) Name and address of subdivider.

(m) Layout of proposed streets, which shall include: the classification of each street; the names and widths; walkways; easements; and location of any accel/decel lane or passing blister.

(n) Statement that all easements that are indicated on documentation provided by the property owner are shown on the drawing.

(o) Statement regarding how the subdivision will be served by water, sewer, and electric i.e., municipal water, sewer, and electric.

(p) Layout and approximate dimensions of lots.

(q) Lot numbers.

(r) All existing easements in exact dimensions of feet and hundredths thereof, and bearings expressed in degrees, minutes, and seconds.

(s) Coordinate data which ties the subdivision to the North American Datum 1983 State Plane Coordinates System to the standards adopted by the County Surveyor, or provide a letter from the County Surveyor which indicates that ties to such State Plane Coordinates System is not required.

(t) Any areas other than public rights-of-way to be dedicated or reserved for public or semi-public use, or areas to be reserved for the use of all property owners, shall be shown on the drawing and labeled as to their use and shall have a separate legal description on the drawing with accurate dimensions in feet and hundredths thereof and bearings expressed in degrees, minutes, and seconds.

(u) Show in dotted or dashed line, the location, width, and names of previously subdivided and recorded streets and lots in the proposed subdivision and within 300 feet of the proposed subdivision.

(v) The frontage streets and the nearest major intersections, with existing and proposed rights-of-way labeled.

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(w) A vicinity key map at a noted scale of 1 inch equals 2,000 or 1 inch equals 3,000 feet showing the location of the subdivision, major streets, and physical features, such as rivers and creeks, within a distance of 2 miles.

(x) Location of any public on-site water and/or wastewater treatment plants.

(y) The drawing shall be accompanied by such other information as the Area Plan Commission may require under the provisions of this chapter.

(2) Watershed map. Six prints (if placed on a sheet other than the site analysis), on 24-inch by 36-inch sheets, of the Area Plan Commission's watershed map or similar map showing:

(a) Location of the subdivision within the watershed;

(b) Intermediate streams, drainage courses, and reaches within the total watershed;

(c) Delineation of the watershed flowing into the proposed subdivision and the number of acres within that part of the watershed; and

(d) Delineation of the watershed flowing out of the proposed subdivision and the number of acres within that part of the watershed.

(3) Site Data Sheet (SDS). Six prints of a map or a series of maps, on 24-inch by 36-inch sheets, at a scale of 1 inch equals 200 feet or less (the Area Plan Commission's section maps may be used as base maps) showing the following information for the proposed subdivision and the adjacent area within 300 feet, including, but not limited to the following.

(a) Name of the subdivision.

(b) Show in dotted or dashed line, the location, width, and names of previously subdivided and recorded streets and lots in the proposed subdivision and within 300 feet of the proposed subdivision.

(c) Name and address of the registered land surveyor preparing the subdivision.

(d) Numeric scale, graphic bar scale, north point, and date.

(e) Known or suspected location of landfills, dumpsites, or sites used for disposing of hazardous substances.

(f) Soil information, as determined by a soil investigator or the Soil Survey of St. Joseph County, with soil boundaries, identification codes, names, slope, and erosion factors. Location of soil borings and test pits.

(g) Existing man-made structures and improvements within the proposed subdivision, including driveways, culverts, fences, utility poles, hydrants, and the like. Profiles of ditches at 25-foot intervals may be required at the request of the Town Engineer.

(h) Natural features such as wooded areas, swamps, marshes, streams, drainage courses, and objects which may be located in the public right-of-way, including trees.

(i) Existing topographic contours at vertical intervals of 2 feet or less. Vertical control data shall be based on National Geodetic Vertical Datum or the St. Joseph County GIS. United States Geological Survey contours shall not be acceptable.

(j) A graphic and/or textual summary of any known environmental site studies which contains a recommendation or conclusion which impacts the site of the proposed subdivision.

(k) The location of all public wells and the delineated wellhead protection area, if any.

(l) Location of the subdivision by section, township, range, and governmental township.

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(m) Boundary of subdivision, with approximate dimensions in feet.

(n) Floodplains and floodways as shown on maps published by the Federal Emergency Management Agency.

(o) Delineation and location of all watersheds, streams, drainage courses, reaches, and swales which flow into and/or through the proposed subdivision, if not shown on a separate watershed map.

(p) At the boundary of the proposed subdivision, the acreage of all watersheds which flow into and out of the subdivision, if not shown on a separate watershed map.

(q) Acres of watersheds at the confluence of streams, drainage courses, reaches, and swales within the proposed subdivision, if not shown on a separate watershed map.

(r) If adjoining property within 300 feet of the subdivision has not been subdivided, the names of property owners, as shown in the Assessor's office, Auditor's office, or Recorder's office shall be included. If the property within 300 feet of the subdivision has been subdivided, the subdivision layout, name, section, and instrument number shall be included.

(4) Engineering feasibility report. Three copies of a typed feasibility report covering sewage, water, and drainage facilities and streets to serve the subdivision, including but not limited to the following.

(a) Existing system. The applicant shall connect to an existing public sewer, water, and electric supply system, a letter from the utility indicating the ability of the utility to service the subdivision, and approval for that subdivision to connect to the utility. The report shall include the distance from the nearest public electric supply, and sewer and water mains, the capacity of the existing systems intended to handle the additional load and the estimated cost.

(b) Drainage system. If the connection to an existing storm drain system is not feasible, the type of drainage system to be utilized shall be stated.

(c) Street construction. A preliminary report on type of street construction to be used based on the latest standards adopted by the town.

(5) Drainage plan. The drainage plan shall be prepared and certified by a registered engineer or registered land surveyor in accordance with standards adopted by the Board, and submitted to the Town Engineer. Prior to the preparation of a drainage plan, the registered engineer or registered land surveyor shall confirm the watershed area with the County Surveyor and shall submit such watershed confirmation to the Town Engineer along with the proposed drainage plan. The submittal of the subdivision to the Area Plan Commission shall not be accepted unless 1 copy of the approved drainage plan or, when appropriate, a letter of no objection to submittal from the Town Engineer accompanies the submittal and a report from the County Surveyor which indicates that the County Drainage Board has received an application for approval of the subdivision's drainage system as an "Urban Drain" as specified in the 1965 Indiana Drainage Code, Chapter 305, Acts of 1965, as amended.

(6) Traffic impact study. A traffic impact study may be required by the Town Engineer when warranted in compliance with the INDOT Traffic Impact Study Guidelines. Such traffic impact study shall be prepared by a registered professional engineer and shall evaluate the impact of present and future traffic generated by the proposed development on the adjacent roadway network.

(7) Digital data submission. All major plats submitted for primary review shall include a digital copy of the proposed subdivision prepared in accordance with the requirements set forth in the "Digital Data Submission Standards" as set forth by the Area Plan Commission.

(8) Ownership. A letter from the subdivider showing his or her interest in the property to be subdivided, or that he or she is the agent for the owner of the land, or proof of ownership, or a copy of a purchase agreement.

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(9) Property list. A list showing names and addresses of property owners within 300 feet of the proposed subdivision and 2 sets of stamped, addressed envelopes for property owners within 300 feet of the proposed subdivision. Names and addresses may be obtained from the Assessor's office or the Auditor's office.

(10) Other approval. The applicant shall provide a summary of any other local, state, or federal governmental approvals required for the development of the subdivision and a statement of the status of each such approval.

(11) Fee. The submission of the subdivision shall be accompanied by fees as prescribed by the Area Plan Commission.

(12) Application. A completed application upon forms provided and in a manner prescribed by the Area Plan Commission.

(D) Major subdivision; primary review, appeal, and approval procedure. The primary review, appeal, and approval procedure for major subdivisions shall be as follows.

(1) Completeness.

(a) All of the required information shall be complete upon filing in order for staff to begin its review. Applications with incomplete plans shall not be docketed until complete plans have been filed with the Area Plan Commission.

(b) The staff shall determine if all required elements of an application for a major subdivision have been provided. If staff determines that an application is complete, staff shall begin the review process in accordance with the filing schedule established by the Area Plan Commission.

(c) If, however, staff notes a deficiency in the application materials, staff shall notify the applicant of the deficiency. Upon receipt of the materials required to complete the application, staff shall begin the review process for the next available meeting of the Plat Committee.

(d) The Executive Director, in his or her sole discretion, may waive or relax any of the requirements listed above for a primary plat of a major subdivision, as circumstances dictate.

(2) Referral and review. The staff shall refer prints of the subdivision to the appropriate agencies.

(a) 1. If the subdivision falls within a designated special flood hazard area, the subdivision shall be reviewed by the Department of Natural Resources.

2. If the proposed subdivision is to be located in a special flood hazard area, the subdivider's registered land surveyor or engineer shall forward pertinent plans and materials to the Department of Natural Resources for review and comment. Appropriate changes and modifications may be required in order to assure that the development of the proposed subdivision is consistent with the need to minimize flood damages, including but not limited to the following: all public utilities and facilities, such as sewer, gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage; adequate drainage shall be provided so as to reduce exposure to flood hazards; and on-site waste disposal systems, if provided, shall be so located as to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.

3. All subdivisions to be located in a special flood hazard area shall have the elevation of the 100-year flood noted on the secondary plat and a delineation of the special flood hazard area thereon.

(b) The staff may also refer the subdivision to any federal, state, or county agency, board, or department which has regulations or rules which affect the use or design of the subdivision, or the location or height of structures to be placed within the subdivision.

(c) The agencies shall review the subdivision and submit a report to the staff. The staff shall review the subdivision for technical conformity with the standards fixed in the Subdivision Ordinance and the

DRAFT

requirements, recommendations, and comments of the reviewing agencies, and prepare a report with a recommendation for the Plat Committee's consideration.

(3) Submission to Plat Committee. Within the time frame as established by resolution of the Area Plan Commission, the staff shall announce the date, time, and place of the meeting at which the Plat Committee shall consider the subdivision; mail due notice to all interested parties at least 10 days before the date set for hearing, and give notice of the hearing by publication in accordance with I.C. 5-3-1 et seq.

(4) Plat Committee consideration. After receiving the staff report and recommendation, the Plat Committee shall consider the subdivision at a public hearing.

(5) Plat Committee action.

(a) If, after consideration, the Plat Committee finds that the subdivision complies with all standards regarding primary approval of major subdivisions, the Plat Committee shall give primary approval to the subdivision, with or without modifications or conditions imposed, and make written findings of fact and a decision which shall include any modifications or conditions imposed.

(b) If, after consideration, the Plat Committee finds that the subdivision does not comply with all standards regarding primary approval of major subdivisions, the Plat Committee shall deny primary approval to the subdivision, make written findings of fact and a decision which sets forth its reasons for disapproval.

(6) Notice of Plat Committee's action. Within 5 days after the Plat Committee's action on the subdivision, the Secretary of the Plat Committee shall provide the subdivider with a copy of the findings of fact and decision, and notify all interested parties of the Plat Committee's decision and their right to appeal the Plat Committee's decision to the Area Plan Commission. Appeals shall be in writing, shall indicate the desire to have the major subdivision reviewed by the Area Plan Commission, shall state the reason for the appeal, and shall be filed within 5 days of the date of the notice by the Secretary.

(7) If no appeal has been filed.

(a) If the subdivision received primary approval by the Plat Committee, and no appeal has been filed within 5 days of the date of the notice of Plat Committee's action, the Chairperson and Secretary of the Plat Committee shall seal and certify the original drawing and 1 copy of the original drawing. The original drawing shall then be released to the subdivider's registered land surveyor and the copy of the original drawing shall be retained in the files of the Area Plan Commission.

(b) If the subdivision was denied primary approval by the Plat Committee and no appeal has been filed within 5 days of the notice of Plat Committee's action, the staff shall release the original drawing of the subdivision to the registered land surveyor who prepared it.

(8) If an appeal has been filed. If an appeal has been filed within 5 days of the date of the notice of Plat Committee's action, the staff shall place the subdivision on the agenda of the Area Plan Commission's first available meeting, mail due notice in writing to all interested parties at least 10 days before the date set for hearing, and give notice of the hearing by publication in accordance with I.C. 5-3-1 et seq. The staff shall prepare a report with a recommendation for Area Plan Commission consideration.

(9) Area Plan Commission consideration. After receiving the staff report and recommendation, the Area Plan Commission shall consider the subdivision at a public hearing. The Area Plan Commission shall consider the subdivision as though the Plat Committee had not acted upon it. The subdivision shall be considered in its entirety, as if it were a new submission, with all items considered, not just the items appealed.

(10) Area Plan Commission action.

(a) If, after consideration, the Area Plan Commission finds that the subdivision complies with all standards regarding primary approval of major subdivisions, the Area Plan Commission shall give primary approval to the subdivision, with or without modifications and conditions imposed and make written

DRAFT

findings of fact and a decision which shall include any modifications and conditions imposed. The Secretary of the Area Plan Commission shall then provide the subdivider with a copy of the findings of fact and decision. The President and Secretary of the Area Plan Commission shall seal and certify the original drawing and 1 copy of the original drawing, and release the original drawing to the subdivider's registered land surveyor. The copy of the original drawing shall be retained in the records of the Area Plan Commission.

(b) If, after consideration, the Area Plan Commission finds that the major subdivision does not comply with all standards regarding primary approval of major subdivisions, the Area Plan Commission shall deny primary approval to the subdivision and make written findings of fact and a decision which sets forth its reasons for disapproval. The Secretary of the Area Plan Commission shall then provide the subdivider with a copy of the findings of fact and decision, and release the original drawing to the subdivided registered land surveyor.

(11) Effective approval. Primary approval of the subdivision shall be effective indefinitely; however, all subdivisions receiving secondary approval shall be developed to the latest standards adopted by the Board, and applicable codes and ordinances at the time of secondary approval.

(E) Major subdivision; secondary review and approval procedure. The secondary review and approval procedure for a major subdivision shall be as follows.

(1) Referral and review. The staff shall refer prints of the subdivision to the appropriate agencies. The appropriate agencies shall review the subdivision and submit a report to the staff. The staff shall review the subdivision for technical conformity with the standards fixed in the Subdivision Ordinance and the requirements, recommendations, and comments of the appropriate agencies.

(2) Request for hearing by Plat Committee. Upon review of prints for a subdivision, the County Surveyor, the Town Engineer, the County Health Officer, or the developer may request that the secondary review of the plat be referred to the Plat Committee for review and determination and the subdivision shall be placed on the agenda of the first available meeting of the Plat Committee.

(3) Approval. Within the time frame as established by resolution of the Area Plan Commission and upon receipt of the reports from the appropriate agencies, and after the 10-day appeal period for primary approval of the subdivision has expired and an appeal, if any, has been acted upon by the Area Plan Commission, the staff shall grant secondary approval to the subdivision and the Chairperson and the Secretary of the Plat Committee shall seal and certify the original drawing.

(4) Determination of major change. A subdivision being considered for secondary approval shall be considered to be a major change from the subdivision having received primary approval if:

(a) Any interior minor collector street or local street has been relocated in such a way as to adversely impact abutting property owners;

(b) Any entrance streets have been relocated in such a way as to adversely impact abutting property owners;

(c) Any stub streets have been relocated in such a way as to adversely impact abutting property owners;

(d) The drainage plan has been altered in such a way as to adversely impact abutting property owners;

(e) An increase in the number of lots shown on the approved primary plat; or

(f) The Executive Director in its sole discretion believes it advisable, because of the collective effect of numerous small changes.

(5) Committee/staff action.

DRAFT

(a) If, after consideration the Plat Committee/staff finds: that the major subdivision complies with all standards regarding secondary approval of major subdivisions; all required improvements meet the applicable requirements of the town or that surety has been posted; that it does not constitute a major change from the subdivision which received primary approval; and that it complies with all the conditions and modifications imposed upon the subdivision by either the Plat Committee or the Area Plan Commission as a condition of primary approval, the Plat Committee/staff shall give secondary approval to the subdivision, and staff shall record the subdivision. The Chairperson and Secretary of the Plat Committee shall certify and seal the original drawing. The Secretary of the Plat Committee shall provide written notification to the subdivider that the subdivision was approved by the Plat Committee/staff and that the subdivision will be recorded within 7 days of secondary approval as required below.

(b) If the Plat Committee/staff finds: that the major subdivision does not comply with all standards regarding secondary approval of major subdivisions; or that any required improvement does not meet the applicable requirements of the town, or that surety has not been posted; or that the subdivision constitutes a major change from the subdivision which received primary approval, or that it does not comply with all the conditions and modifications imposed upon the subdivision by the Area Plan Commission or Plat Committee as a condition of primary approval, the Plat Committee/staff shall deny the subdivision secondary approval. The Secretary of the Plat Committee shall then provide written notice to the subdivider, which sets forth the Plat Committee's/staff's reasons for disapproval, and release the original drawing to the subdivider's registered land surveyor.

(6) Recording. Within 7 days of the secondary approval, the staff shall record the subdivision in the Recorder's office and so notify the subdivider. The staff shall have the original drawing of the subdivision duplicated at a reduced scale and release the original drawing to the registered land surveyor who prepared it. The staff shall distribute reduced copies of the subdivision as prescribed by the Area Plan Commission.

(F) Major subdivision application; secondary approval. An application for secondary approval of a major subdivision may be submitted at the convenience of the subdivider. The submission shall contain the following.

(1) Drawing. An original drawing on 24-inch by 36-inch vellum, linen, or Mylar film, at a scale of not less than 1 inch equals 100 feet or greater than 1 inch equals 50 feet. All printed numbers, letters and typed information shall be in capital letters and the size of an 11 point type font so that the drawing is adaptable to photographic reduction and will maintain complete legibility. The subdivision may include all or part of the subdivision which received primary approval, and shall retain the lot numbers and overall characteristics of the subdivision which received primary approval. The original drawing shall be accompanied by 6 prints and include the following.

(a) Name of the subdivision, which shall not duplicate or closely approximate the name of any other subdivision within the incorporated or unincorporated areas of the county. If the subdivision is only a portion of the subdivision which received primary approval, each section or addition shall be separately and sequentially designated.

(b) Legal description of the subdivision which shall include section, township, range, and governmental township.

(c) Boundary of subdivision, based on accurate traverse survey with accurate dimensions in feet and hundredths thereof, and bearings expressed in degrees, minutes, and seconds. The traverse survey shall be closed to the minimum requirements of the State Standards for the practice of land surveying as required by 865 I.A.C. 1-12-7 et seq. A separate boundary closure sheet need not be submitted.

(d) Name, address, seal, signature, and certification of the registered land surveyor preparing or certifying the subdivision as prescribed by the Area Plan Commission.

(e) Numeric scale, graphic bar scale, north point, and date.

DRAFT

(f) Elevation and delineation of the 100-year regulatory flood and certification of compliance with the National Flood Insurance Program, when applicable.

(g) A note shall be placed on the plat, when applicable, to indicate the presence of any condition on any lot which would not be conducive to the development of basements (e.g., seasonal high water table, and the like).

(h) A blank area 4 inches vertical by 9 inches horizontal, within which the Area Plan Commission may affix its certificate of approval without obscuring or obliterating any other items on the plat.

(i) The location of all public wells and the delineation of any wellhead protection area, when applicable.

(j) Delineation of those soils that may not be suitable for the development of basements.

(k) Delineation of wetlands identified by the National Wetlands Inventory, when applicable.

(l) A note shall be placed on the plat indicating that building setbacks shall conform to the applicable provisions of the Zoning Ordinance.

(m) Owner's certification, in a manner prescribed by the Area Plan Commission.

(n) Exact location, width and name of all streets, alleys and walkways within the subdivision.

(o) Statement that all easements that are indicated on documentation provided by the property owner are shown on the drawing.

(p) Statement regarding how the subdivision will be served by water and sewer, and electric.

(q) Lot numbers - lots in sections or additions to a subdivision with the same name shall be numbered consecutively throughout the several sections or additions.

(r) All lot lines and easements with accurate dimensions in feet and hundredths thereof and bearings expressed in degrees, minutes, and seconds. All easements shall be identified as to their specific use.

(s) Any areas other than public rights-of-way to be dedicated or reserved for public or semi-public use, or areas to be reserved for the use of all property owners, shall be shown on the drawing and labeled as to their use and shall have a separate legal description on the drawing with accurate dimensions in feet and hundredths thereof and bearings expressed in degrees, minutes, and seconds.

(t) Deed of dedication, in a manner prescribed by the Area Plan Commission.

(u) Notarization and seal, in a manner prescribed by the Area Plan Commission.

(v) Statement concerning any encroachments upon building setback lines and/or easements.

(w) Accurate location and type of all existing and required monuments conforming to the State Standards 865 I.A.C. 1-12-18 et seq.

(x) All recorded subdivisions bounding the subdivision shall be shown in dotted lines with name, section, or addition and Recorder's instrument number.

(y) Urban drain certificate, as prescribed by the Area Plan Commission, when applicable.

(z) Township, range, or section line accurately tied to the subdivision or a corner of a recorded subdivision by bearing and distances in feet and hundredths thereof.

DRAFT

(aa) Coordinate data which ties the subdivision to the North American Datum 1983 State Plane Coordinates System, to the standards adopted by the County Surveyor, or provide a letter from the County Surveyor which indicates that ties to the State Plane Coordinates System is not required.

(bb) All radii, central angles, points of curvature and tangency, length of tangents, lengths of arcs, widths of rights-of-way, and similar data shall be shown for all streets. All street lines shall be tied to other streets and alleys with accurate dimensions in feet and hundredths thereof and angles or bearings.

(cc) The drawing shall be accompanied by such other information as the Area Plan Commission may require under the provisions of this chapter.

(2) Town Engineer's report. A report from the Town Engineer shall be submitted to the staff prior to secondary approval of the subdivision. The report shall indicate whether the applicable requirements of the town have been satisfactorily completed or whether plans and specifications for improvements have been approved and performance guarantees for the required improvements have been filed and approved. These guarantees shall:

(a) Run to the town; and

(b) Provide satisfactory surety as required by the latest standards adopted by the town.

(3) County Surveyor's report. A report from the County Surveyor shall be submitted to the staff prior to secondary approval of the subdivision. The report shall indicate, whether an "urban drain" was initially required, that the County Drainage Board has classified the subdivision's drainage system as an "urban drain" as specified in I.C. 36-9-67 through 36-9-27-69, as amended.

(4) Digital data submission. All major plats submitted for secondary review shall include a digital copy of the proposed subdivision prepared in accordance with the requirements set forth in the "Digital Data Submission Standards" as set forth by the Area Plan Commission.

(5) Ownership. Proof of ownership of the subdivision.

(6) Fee. The submission of the subdivision shall be accompanied by fees as prescribed by the Area Plan Commission.

(7) Application. A completed application upon forms provided and in a manner prescribed by the Area Plan Commission.

(8) Rule 5. Any subdivision subject to Rule 5 shall provide proof of application for a notice of sufficiency.

(9) Construction plans. Construction plans for all improvements, installations, and lot improvements required by this chapter, the Area Plan Commission, or other applicable ordinances of the town, including, but not limited to street base, street binder, curbs, municipal water, municipal electric, sanitary sewer, storm drainage, street topcoat, street signs, sidewalks, monumentation, lot drainage, soil preservation, erosion control, fencing, debris, and waste removal, and final grading and lawn preparation shall contain the details required for review of such improvements, installations, and lot improvements as specified by the town.

(10) Other approval. The applicant shall provide a summary of any other local, state, or federal governmental approvals required for the development of the subdivision and a statement of the status of each such approval.

(Ord. 1223, § 2.4, passed 5-11-2010; Am. Ord. 1252, passed 12-28-2011)

DRAFT

E. § 151.059 SUBDIVISION REPLATS.

The subdivision replat process is intended to provide a streamlined process for the replatting of a recorded subdivision to accommodate minor revisions to a plat which does not affect number of lots.

(A) Consultation encouraged.

(1) Prior to the submission of a subdivision replat, the subdivider is encouraged to consult informally with the staff. This will create an understanding between the staff and the subdivider which may help to alleviate future misunderstandings and extensive revisions.

(2) Notwithstanding anything contained in this chapter to the contrary, neither the staff's conceptual plat review of the sketch plan submitted at a pre-filing consultation nor staff's comments to the petitioner relating thereto shall be considered a denial, approval, or decision concerning the proposed primary plat.

(B) Name of subdivision replat. The name of the subdivision replat shall not be identical to that of the original subdivision, but the name of the original subdivision shall be contained within that of the subdivision replat.

(C) Subdivision replats; application. An application for primary or secondary approval of a subdivision replat shall be submitted to the Area Plan Commission in accordance with the filing schedule established by the Area Plan Commission. The submission shall include the following.

(1) Drawing. An original drawing on 24-inch by 36-inch vellum, linen or Mylar film, at a scale of not less than 1 inch equals 100 feet or greater than 1 inch equals 50 feet. All printed numbers, letters, and typed information shall be in capital letters and the size of an 11 point type font so that the drawing is adaptable to photographic reduction and will maintain complete legibility. The original drawing shall be accompanied by 6 prints and include the following.

(a) Name of the subdivision.

(b) Legal description of the subdivision which shall include section, township, range, and governmental township.

(c) Boundary of subdivision, based on accurate traverse survey with accurate dimensions in feet and hundredths thereof, and bearings expressed in degrees, minutes, and seconds. The traverse survey shall be closed to the minimum requirements of the state standards for the practice of land surveying as required by 865 I.A.C. 1-12-7 et seq. A separate boundary closure sheet need not be submitted.

(d) Name, address, seal, signature, and certification of the registered land surveyor preparing or certifying the subdivision, in a manner prescribed by the Area Plan Commission.

(e) Numeric scale, graphic bar scale, north point, and date.

(f) Elevation and delineation of the 100-year regulatory flood and certification of compliance with the National Flood Insurance Program, when applicable.

(g) A blank area 4 inches vertical by 9 inches horizontal, within which the Area Plan Commission may affix its certificate of approval without obscuring or obliterating any other items on the plat.

(h) The location of all public wells and the delineation of any wellhead protection area, when applicable.

(i) A note shall be placed on the plat, when applicable, to indicate the presence of any condition on any lot which would not be conducive to the development of basements (e.g., seasonal high water table, and the like).

(j) Delineation of wetlands identified by the National Wetlands Inventory, when applicable.

DRAFT

(k) A note shall be placed on the plat indicating that building setbacks shall conform to the applicable provisions of the Zoning Ordinance.

(l) Owner's certification, in a manner prescribed by the Area Plan Commission.

(m) Exact location, width, and name of all streets, alleys, and walkways within the subdivision.

(n) Statement that all easements that are indicated on documentation provided by the property owner are shown on the drawing.

(o) Original lot lines and lot numbers in dotted lines.

(p) New lots shall be designated by letters.

(q) All lot lines and easements with accurate dimensions in feet and hundredths thereof and bearings expressed in degrees, minutes, and seconds. All easements shall be identified as to their specific use.

(r) Any areas other than public right-of-way to be dedicated or reserved for public use or semi-public use, or areas to be reserved for the use of all property owners, shall be shown on the drawing and labeled as to their use and shall have a separate legal description on the drawing with accurate dimensions in feet and hundredths thereof and bearings expressed in degrees, minutes, and seconds.

(s) Deed of dedication in a manner, prescribed by the Area Plan Commission.

(t) Notarization and seal, in a manner prescribed by the Area Plan Commission.

(u) Statement concerning any encroachments upon existing building setback lines and/or easements.

(v) Accurate location and type of all existing and required monuments conforming to State Standards 865 I.A.C. 1-12-18 et seq.

(w) All recorded subdivisions bounding the subdivision shall be shown in dotted lines with name, section, or addition and Recorder's instrument number.

(x) Urban drain certificate, as prescribed by the Area Plan Commission, when applicable.

(y) The drawing shall be accompanied by such other information as the Area Plan Commission may require under the provisions of this chapter.

(2) Application. A completed application shall be submitted upon forms provided and in a manner prescribed by the Area Plan Commission.

(3) Digital data submission. All subdivision replats submitted for secondary review shall include a digital copy of the proposed subdivision prepared in accordance with the requirements set forth in the "Digital Data Submission Standards" as set forth by the Area Plan Commission.

(4) Ownership. Proof of ownership of the subdivision replat.

(5) Fee. The submission of a subdivision replat shall be accompanied by fees as prescribed by the Area Plan Commission.

(D) Subdivision replat; review, appeal, and approval procedure. The review, appeal, and approval procedure for subdivision replats shall be as follows.

(1) Referral and review. The staff shall refer prints of the subdivision replat to the appropriate agencies.

DRAFT

(a) 1. If the subdivision falls within a designated special flood hazard area, the subdivision shall be reviewed by the Department of Natural Resources.

2. If the proposed subdivision is to be located in a special flood hazard area, the subdivider's registered land surveyor or engineer shall forward pertinent plans and materials to the Department of Natural Resources for review and comment. Appropriate changes and modifications may be required in order to assure that the development of the proposed subdivision is consistent with the need to minimize flood damages, including, but not limited to the following: all public utilities and facilities, such as sewer, gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage; adequate drainage shall be provided so as to reduce exposure to flood hazards.

3. All subdivisions to be located in a special flood hazard area shall have the elevation of the 100-year flood noted on the secondary plat and a delineation of the special flood hazard area thereon.

(b) The staff may also refer the subdivision replat to any federal, state, or county agency, board, or department which has regulations or rules which affect the use or design of the subdivision replat, or the location or height of structures to be placed within the subdivision replat.

(c) The agencies shall review the subdivision replat and submit a report to the staff. The staff shall review the subdivision replat for technical conformity with the standards fixed in the Subdivision Ordinance and the requirements, recommendations and comments of the reviewing agencies, and prepare a report with a recommendation for the Plat Committee's consideration.

(2) Submission to Plat Committee. Within the time frame as established by resolution of the Area Plan Commission, the staff shall announce the date, time, and place of the meeting at which the Plat Committee shall consider the subdivision replat, and shall give due notice in writing to all interested parties at least 10 days before the date set for the hearing.

(3) Plat Committee consideration. After receiving the staff report and recommendation, the Plat Committee shall consider the subdivision replat for primary approval without public notice and hearing.

(4) Plat Committee action.

(a) If, after consideration, the Plat Committee finds that the subdivision replat complies with all standards regarding primary approval of subdivision replats, the Plat Committee shall give primary approval to the subdivision replat, with or without modifications or conditions imposed, and make written findings of fact and a decision which shall include any modifications or conditions imposed. The Chairperson and Secretary of the Plat Committee shall seal and certify 2 copies of the subdivision replat, provide the subdivider's registered land surveyor with 1 copy and retain the second copy in the Area Plan Commission's files.

(b) If, after consideration, the Plat Committee finds that the subdivision replat does not comply with all standards regarding primary approval of subdivision replats, the Plat Committee shall deny primary approval to the subdivision replat and make written findings of fact and a decision which sets forth its reasons for disapproval.

(5) Notice of Plat Committee's action. Within 5 days after the Plat Committee's action on the subdivision replat, the Secretary of the Plat Committee shall provide all interested parties with a copy of the findings of fact and decision of the Plat Committee, and notify them in writing of their right to appeal the Plat Committee's decision to the Area Plan Commission. Appeals shall be in writing, shall indicate the desire have the subdivision replat reviewed by the Area Plan Commission, shall state the reason for such appeal and shall be filed within 5 days of the date of the notice by the Secretary.

(6) If no appeal has been filed.

(a) If the subdivision replat, for which primary and secondary approval has been requested, received primary approval by the Plat Committee, and no appeal has been filed within 5 days of the date of the notice of Plat Committee's action, and all modifications or conditions placed upon the subdivision

DRAFT

replat by the Plat Committee, if any, have been complied with or corrected, the staff shall grant secondary approval to the subdivision replat. The Chairperson and Secretary of the Plat Committee shall seal and certify the original drawing. The staff shall record the subdivision replat as set forth below.

(b) If the subdivision replat, for which primary and secondary approval has been requested, received primary approval by the Plat Committee, and no appeal has been filed within 5 days of the date of the notice of Plat Committee's action, and all modifications or conditions placed upon the subdivision replat by the Plat Committee, if any, have not been complied with or corrected within 2 years, the staff shall deny secondary approval to the subdivision replat. The Secretary of the Plat Committee shall provide written notice to the subdivider, which sets forth its reasons for denying secondary approval, and release the original drawing of the subdivision replat to the registered land surveyor who prepared it.

(c) If the subdivision replat was denied primary approval by the Plat Committee and no appeal has been filed within 5 days of the notice of Plat Committee's action, the staff shall release the original drawing of the subdivision replat to the registered land surveyor who prepared it.

(7) If an appeal has been filed. If an appeal has been filed within 5 days of the date of the notice of Plat Committee's action, the staff shall announce the date, time, and place of the meeting at which the Area Plan Commission shall consider the subdivision, and shall give due notice in writing to all interested parties at least 10 days before the date set for the hearing. The staff shall prepare a report with a recommendation for Area Plan Commission consideration.

(8) Area Plan Commission consideration. After receiving the staff report and recommendation, the Area Plan Commission shall consider the subdivision replat without public notice and hearing. The Area Plan Commission shall consider the subdivision replat as though the Plat Committee had not acted upon it. The subdivision replat shall be considered in its entirety, as if it were a new submission, with all items considered, not just the items appealed.

(9) Area Plan Commission action.

(a) If, after consideration, the Area Plan Commission finds that the subdivision replat complies with all standards regarding primary approval of subdivision replats, the Area Plan Commission shall give primary approval to the subdivision replat, with or without modifications and conditions imposed, and make written findings of fact and a decision, which shall include any modifications or conditions imposed. The Secretary of the Area Plan Commission shall then provide the subdivider with a copy of the findings of fact and decision. The President and Secretary of the Area Plan Commission shall seal and certify 2 copies of the subdivision replat and provide the subdivider's registered land surveyor with 1 copy along with a copy of the findings of fact and decision, signed by the Secretary of the Area Plan Commission. The second copy of the sealed and certified subdivision replat shall be retained in the records of the Area Plan Commission. When all modifications or conditions placed upon the subdivision replat by the Area Plan Commission, if any, have been complied with or corrected the staff shall give secondary approval to the subdivision replat. The President and Secretary of the Area Plan Commission shall seal and certify the original drawing. The staff shall record the subdivision replat as set forth below.

(b) If the subdivision replat, for which secondary approval has been requested, received primary approval by the Area Plan Commission and all modifications or conditions placed upon the subdivision by the Area Plan Commission have not been complied with or corrected within 2 years, the staff shall deny secondary approval to the subdivision replat. The Secretary of the Area Plan Commission shall provide written notice to the subdivider, which sets forth its reasons for denying secondary approval, and release the original drawing of the subdivision replat to the registered land surveyor who prepared it.

(c) If, after consideration, the Area Plan Commission finds that the subdivision replat does not comply with all standards regarding primary approval of subdivision replats, the Area Plan Commission shall deny the subdivision replat primary approval and make written findings of fact and a decision which sets forth its reasons for disapproval. The Secretary of the Area Plan Commission shall provide the subdivider with a copy of the findings of fact and decision, and release the original drawing to the subdivider's registered land surveyor.

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(10) Recording. Within 7 days of secondary approval, the staff shall record the subdivision replat in the Recorder's office and so notify the subdivider. The staff shall have the original drawing of the subdivision replat duplicated at a reduced scale and release the original drawing to the registered land surveyor who prepared it. The staff shall distribute reduced copies of the subdivision replat as prescribed by the Area Plan Commission.

(Ord. 1223, § 2.5, passed 5-11-2010; Am. Ord. 1252, passed 12-28-2011)

F. § 151.060 CORRECTIVE SECONDARY PLATS.

The corrective secondary plat is intended to provide a streamlined process for the approval of a corrective secondary plat to address minor corrections or adjustments to a recorded secondary plat where such corrections or adjustments are consistent with the intent, terms, and conditions of the original primary plat as approved by the Plat Committee.

(A) Scope of corrective plats. Corrective plats may apply to an entire recorded secondary plat or only that portion of a recorded secondary plat which is impacted by the correction.

(B) Limitations on corrective plats. The provisions above for corrective plats shall not be applicable to any of the following changes to a recorded secondary plat.

(1) The vacation of a plat or portion of a plat, including plat covenants required by the Plat Committee.

(2) The vacation of a public place.

(3) The vacation of a platted easement.

(4) The vacation of a public way or platted right-of-way.

(5) The vacation of any public lands or public places.

(C) Types of corrective secondary plat. There are 3 different types of corrective secondary plats as follows.

(1) Type 1 corrective plat.

(a) A procedure whereby the surveying firm, or its successors or assigns, or firm that employed the registered land surveyor who prepared a recorded subdivision may correct the following minor drafting or typographical errors:

1. The legal description, political jurisdiction, or section, township, or range numbers;

2. Addition, deletion, or modification of a note that does not affect the use or enjoyment of a lot;

3. Any bearing, distance, or curve data provided the bearing, distance, or curve data of an adjoining lot or an easement that crosses or adjoins a lot is not affected;

4. A misspelling; or

5. To correct an incorrect or missing signature(s).

(b) A Type 1 corrective plat may not change the name of a recorded subdivision. A Type 1 corrective plat may be filed without the consent of the property owners.

(2) Type 2 corrective plat. A procedure whereby any registered land surveyor may correct the following drafting, typographical, or surveying errors, or the name of a recorded subdivision where the owners of all the affected lots have signed the corrective plat:

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(a) The legal description, political jurisdiction, or section, township, or range numbers;

(b) Addition, deletion, or modification of a note that does not affect the use or enjoyment of a lot;

(c) Any bearing, distance, or curve data;

(d) A misspelling;

(e) Addition, deletion, or modification of a note that does not affect the use or enjoyment of a lot;

(f) The addition, deletion, or modification of the delineation of a feature (e.g., notations regarding areas subject to the National Flood Insurance Program);

(g) The addition, location, size, or clarification of the function of an easement (e.g., change of a “Sewer Easement” to a general “Drainage and Utility Easement”);

(h) The name of a recorded subdivision; or

(i) To correct an incorrect or missing signature(s).

(3) Type 3 corrective plat.

(a) A procedure whereby any registered land surveyor may correct the following drafting, typographical, or surveying errors where not all of the owners of all the affected lots have signed the corrective plat:

1. The legal description, political jurisdiction, or section, township, or range numbers;

2. Addition, deletion, or modification of a note that does not affect the use or enjoyment of a lot;

3. Any bearing, distance or curve data;

4. A misspelling;

5. The delineation of a feature such as an area subject to the National Flood Insurance Program;

6. The addition, location, size, or clarification of the function of an easement (e.g., change of a “Sewer Easement” to a general “Drainage and Utility Easement”); or

7. To correct an incorrect or missing signature(s).

(b) A Type 3 corrective plat may change a name of a recorded subdivision only when at least 2/3 of the lot owners have agreed in writing to the name change.

(D) Application procedure for Type 1 corrective plats. An application for a Type 1 corrective plat may be submitted at the convenience of the firm, or its successors or assigns, that employed the registered land surveyor or who prepared the recorded subdivision. The submission shall contain the following.

(1) Drawing. An original drawing on 24-inch by 36-inch vellum, linen, or Mylar film, at a scale not less than 1 inch equals 50 feet to 1 inch equals 200 feet. All printed numbers, letters, and typed information shall be in capital letters with a minimum size of an 11 point type font so that the drawing is adaptable to photographic reduction and will maintain complete legibility. The original drawing shall be accompanied by 3 prints and include the following.

(a) The name of the Type 1 corrective plat shall be: “The name and section number of the recorded subdivision being corrected followed by [number, i.e. 1st] Corrective Plat”. The Area Plan Commission staff shall assign the number.

(b) Location of the Type 1 corrective plat by section, township, range, and governmental township.

(c) Lot numbers.

DRAFT

(d) All easements, including their functions, labeled and dimensioned.

(e) Building setback lines, labeled and dimensioned.

(f) All right-of-way lines, labeled and dimensioned.

(g) Name, address, seal, signature, and certification of the registered land surveyor preparing the Type 1 corrective plat.

(h) Name and address of the registered land surveyor who prepared the recorded subdivision being corrected and the name and address of the surveying firm, if any, who employed the registered land surveyor.

(i) Numeric scale, graphic bar scale, north point, and date.

(j) A blank area 4 inches vertical by 9 inches horizontal, within which the Area Plan Commission may affix its certificate of approval without obscuring or obliterating any other items on the Type 1 corrective plat.

(k) Date of recording and instrument number of the recorded subdivision for which the Type 1 corrective plat is being submitted.

(l) If the error being corrected is a bearing, distance, curve data, or other dimension, indicate only the incorrect and correct data. Unaffected bearing, distance, curve data, or other dimension need not be shown.

(m) Any information that is necessary to explain the error being corrected, or the reason for the correction.

(n) The drawing shall be accompanied by such other information as the Area Plan Commission may require under the provisions of this chapter.

(o) A “Certificate for Correction of Errors” which includes the name of the registered land surveyor who prepared the Type 1 corrective plat, a complete description of the error, and identifies how the recorded and correct data are noted or identified on the drawing.

(p) A statement by the registered land surveyor preparing the Type 1 corrective plat that the correction does not affect the name, section number, lot numbers, or letters of the recorded subdivision; a bearing, distance, or curve data of a lot line; or a bearing, distance, curve data, or function of an easement.

(2) Digital data submission. All Type 1 corrective plats submitted for secondary review shall include a digital copy of the proposed subdivision prepared in accordance with the requirements set forth in the “Digital Data Submission Standards” as set forth by the Area Plan Commission.

(3) Fee. The submission of the Type 1 corrective plat shall be accompanied by fees as prescribed by the Area Plan Commission.

(4) Application. A completed application upon forms provided and in a manner prescribed by the Area Plan Commission.

(E) Type 1 corrective plat; referral, review, approval, and recording procedures.

(1) Referral and review. After the filing date, the staff may, if necessary, refer prints of the corrective plat to the appropriate agencies for their review and recommendation. The agencies shall review the Type 1 corrective plat and submit a report to the staff. The staff shall review the Type 1 corrective plat for technical conformity with the standards fixed in this chapter and the requirements, recommendations, and comments of the appropriate agencies.

DRAFT

(2) Consideration. Upon receipt of the reports, if any, from the appropriate agencies and completion of its own review, the staff shall consider the Type 1 corrective plat without public notice or hearing and determine whether the Type 1 corrective plat meets the requirements of this subchapter.

(3) Staff action.

(a) If, after consideration, the staff finds that the Type 1 corrective plat complies with all standards regarding primary and secondary approval of Type 1 corrective plats, the staff shall grant primary and secondary approval. The Chairperson and Secretary of the Committee shall seal and certify the corrective plat. The staff shall record the Type 1 corrective plat as set forth below.

(b) If, after consideration, the staff finds that the Type 1 corrective plat does not comply with all standards regarding primary and secondary approval of Type 1 corrective plats, the staff shall deny primary and secondary approval to the Type 1 corrective plat. The Secretary of the Committee shall provide written notice to the registered land surveyor which sets forth the reasons for disapproval, and release the original drawing to the registered land surveyor who prepared it.

(F) Application procedure for Type 2 corrective plats. An application for a Type 2 corrective plat may be submitted at the convenience of the registered land surveyor. The submission shall contain the following.

(1) Drawing. An original drawing on 24-inch by 36-inch vellum, linen, or Mylar film, at a scale of 1 inch equals 50 feet to 1 inch equals 200 feet. All printed numbers, letters, and typed information shall be in capital letters with a minimum size of an 11 point type font so that the drawing is adaptable to photographic reduction and will maintain complete legibility. The original drawing shall be accompanied by 3 prints and include the following.

(a) Except when the purpose of a Type 2 corrective plat is to change the name of a subdivision, the name of the Type 2 corrective plat shall be the name and section number of the recorded subdivision being corrected followed by a number assigned by the Area Plan Commission staff (e.g., 1st) and the words “corrective plat”. If the purpose of the Type 2 corrective plat is to change the name, the name of the subdivision shall not duplicate or closely approximate the name of any other subdivision within the incorporated areas of the county.

(b) Location of the Type 2 corrective plat by section, township, range, and governmental township.

(c) Lot numbers.

(d) All easements, including their functions, labeled and dimensioned.

(e) Building setback lines, labeled and dimensioned.

(f) All right-of-way lines, labeled and dimensioned.

(g) Name, address, seal, signature, and certification of the registered land surveyor preparing the Type 2 corrective plat.

(h) Name and address of the registered land surveyor who prepared the recorded subdivision being corrected and the name and address of the surveying firm, if any, who employed the registered land surveyor.

(i) Numeric scale, graphic bar scale, north point, and date.

(j) A blank area 4 inches vertical by 9 inches horizontal, within which the Area Plan Commission may affix its certificate of approval without obscuring or obliterating any other items on the Type 2 corrective plat.

(k) Date of recording and instrument number of the recorded subdivision for which the Type 2 corrective plat is being submitted.

DRAFT

(l) If the error being corrected is a bearing, distance, curve data, or other dimension, indicate only the incorrect and correct data. Unaffected bearing, distance, curve data, or other dimension need not be shown.

(m) Any information that is necessary to explain the error being corrected, or the reason for the correction.

(n) The drawing shall be accompanied by such other information as the Area Plan Commission may require under the provisions of this chapter.

(o) A “Certificate for Correction of Errors” which includes the name of the registered land surveyor who prepared the Type 2 corrective plat, a complete description of the error, and identifies how the recorded and correct data are noted or identified on the drawing.

(p) Lots, lot numbers, and the names and addresses of lot owners immediately adjacent to the lot line, curve, or easement being corrected.

(2) Ownership. Proof of ownership of any lot affected by the Type 2 corrective plat for correcting errors shall be submitted.

(3) Property owners list. A list of all affected property owners, as of 10 days before the Type 2 corrective plat is submitted to the Area Plan Commission.

(4) Signatures of all affected owners. All affected owners shall sign the plat.

(5) Notary statement. Notarization and seal as prescribed by the Area Plan Commission.

(6) Digital data submission. All Type 2 corrective plats submitted for secondary review shall include a digital copy of the proposed subdivision prepared in accordance with the requirements set forth in the “Digital Data Submission Standards” as set forth by the Area Plan Commission.

(7) Fee. The submission of Type 2 corrective plats shall be accompanied by fees as prescribed by the Area Plan Commission.

(8) Application. A completed application upon forms provided and in a manner prescribed by the Area Plan Commission.

(G) Type 2 corrective plat; referral, review, appeal, and approval procedure. The primary and secondary review, consideration, action, notice of committee action, appeal procedures, notice of Area Plan Commission action, and recording procedures shall be the same as for a minor subdivision and as set out in § 151.057.

(H) Application procedure for Type 3 corrective plats. An application for a Type 3 corrective plat may be submitted at the convenience of the registered land surveyor. The submission shall contain the following.

(1) Drawing. An original drawing on 24-inch by 36-inch vellum, linen, or Mylar film, at a scale of 1 inch equals 50 feet to 1 inch equals 200 feet. All printed numbers, letters and typed information shall be in capital letters with a minimum size of an 11 point type font so that the drawing is adaptable to photographic reduction and will maintain complete legibility. The original drawing shall be accompanied by 3 prints and include the following.

(2) Purpose. Except when the purpose of a Type 3 corrective plat is to change the name of a subdivision, the name of the Type 3 corrective plat shall be the name and section number of the recorded subdivision being corrected followed by a number assigned by the Area Plan Commission staff (e.g., 1st) and the words “corrective plat.” If the purpose of the Type 3 corrective plat is to change the name, the name of the subdivision shall not duplicate or closely approximate the name of any other subdivision within the incorporated areas of the county.

DRAFT

(a) Location of the Type 3 corrective plat by section, township, range, and governmental township.

(b) Lot numbers.

(c) All easements, including their functions, labeled and dimensioned.

(d) Building setback lines, labeled and dimensioned.

(e) All right-of-way lines, labeled and dimensioned.

(f) Name, address, seal, signature and certification of the registered land surveyor preparing the Type 3 corrective plat.

(g) Name and address of the registered land surveyor who prepared the recorded subdivision being corrected and the name and address of the surveying firm, if any, who employed the registered land surveyor.

(h) Numeric scale, graphic bar scale, north point, and date.

(i) A blank area 4 inches vertical by 9 inches horizontal, within which the Area Plan Commission may affix its certificate of approval without obscuring or obliterating any other items on the corrective plat.

(j) Date of recording and instrument number of the recorded subdivision for which the Type 3 corrective plat is being submitted.

(k) If the error being corrected is a bearing, distance, curve data or other dimension, show only the incorrect and correct data. No other bearing, distance, curve data, or other dimension need be shown.

(l) Any information that is necessary to explain the error being corrected, or the reason for the correction.

(m) The drawing shall be accompanied by such other information as the Area Plan Commission may require under the provisions of this chapter.

(n) A “Certificate for Correction of Errors” which includes the name of the registered land surveyor who prepared the Type 3 corrective plat, a complete description of the error, and identifies how the recorded and correct data are noted or identified on the drawing.

(o) Lots, lot numbers, and the names and addresses of lot owners immediately adjacent to the line, curve or easement being corrected.

(3) Ownership. Proof of ownership of all lots affected by the Type 3 corrective plat for correcting errors shall be submitted.

(4) Property owners list.

(a) A list of all affected property owners, as of the day before the Type 3 corrective plat for correcting errors is submitted to the Area Plan Commission, prepared and certified by an abstract company.

(b) Two sets of addressed and stamped envelopes for delivery by registered mail with return receipts for affected property owners.

(5) Signatures of owners petitioning for the Type 3 corrective plat. At least 1 of the affected owners shall sign the plat.

(6) Notary statement. Notarization and seal as prescribed by the Area Plan Commission.

DRAFT

(7) Digital data submission. All Type 3 corrective plats submitted for secondary review shall include a digital copy of the proposed subdivision prepared in accordance with the requirements set forth in the "Digital Data Submission Standards" as set forth by the Area Plan Commission.

(8) Fee. The submission of the Type 3 corrective plat shall be accompanied by fees as prescribed by the Area Plan Commission.

(9) Application. A completed application upon forms provided and in a manner prescribed by the Area Plan Commission.

(I) Type 3 corrective plat; referral, review, appeal and approval procedure. The primary and secondary review, consideration, action, notice of Committee action, appeal procedures, notice of Area Plan Commission action, and recording procedures shall be the same as for a major subdivision and as set out in § 151.058.

(J) Recording of corrective plats. The staff shall record an approved corrective plat within 7 days of approval in the Recorder's office and so notify the registered land surveyor. The staff shall have the original drawing of the corrective plat duplicated at a reduced scale and release the original drawing to the registered land surveyor who prepared it. The staff shall distribute reduced copies of the corrective plat as prescribed by the Area Plan Commission.

(Ord. 1223, § 2.6, passed 5-11-2010)

G. § 151.061 COMPLETION AND MAINTENANCE OF IMPROVEMENTS.

All improvements, installations, and lot improvements required by this chapter shall either be: complete and maintenance thereof assured; or assurance for their completion and maintenance shall be provided as set forth below, for all subdivisions which involve the dedication and extension of any easement or public improvement, or the acceptance of any easement or public improvement by the town. Minor residential subdivisions which do not involve the dedication and extension of any easement or public improvement shall be exempt from the provisions of this section.

(A) Completion of improvements, installations, and lot improvements. Before the secondary plat is signed by the President and Secretary of the Area Plan Commission, the subdivider shall complete, in accordance with the Area Plan Commission's decision and to the satisfaction of the town, all public improvements (including, but not limited to: street, street signs, municipal water, municipal electric, sanitary sewer, storm drainage, sidewalk, and water) and lot improvements (including, but not limited to: erosion control, final grading and soil preservation, lot drainage, removal of debris and waste, fencing, and lawn seeding or sodding), as required by this chapter and specified in the secondary plat approved pursuant to this chapter, and dedicate the public improvements to the town, free and clear of all liens and encumbrances on the dedicated property and public improvements.

(B) Surety for improvements, installations and lot improvements.

(1) Before the secondary plat is signed by the President and Secretary of the Area Plan Commission, the subdivider shall post a performance bond or irrevocable letter of credit in a form acceptable to the Area Plan Commission and the town, in which the subdivider covenants to complete all required sanitary sewer, water system, street base, binder and curbs and storm drainage improvements no later than 2 years following the date on which the certificate of approval of secondary plat is duly signed, and to complete all other required improvements, installations, and lot improvements, including but not limited to sidewalks, erosion control, fencing, debris and waste removal, soil preservation, lot drainage, final grading and lawn preparation, street signs, monumentation, and street topcoat improvements. The subdivider shall covenant to maintain each required improvement and also shall warrant that all required improvements will be free from defects for a period of 3 years following the acceptance by the town of the dedication of the last completed improvement. The performance bond shall provide that the covenants contained in the performance bond shall run with the land and bind all heirs,

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executors, administrators, successors, and assigns of the subdivider. The performance bond shall contain such other terms and conditions as agreed to by the subdivider and the Area Plan Commission and the town.

(2) The subdivider shall provide a performance bond or irrevocable letter of credit before the certificate of approval of the Area Plan Commission is affixed and attached to the secondary plat and duly signed.

(a) A performance bond shall:

1. Run to the Town Council;

2. Be in an amount equal to 125% of the cost, as established pursuant to an estimate submitted to and approved by the Town Engineer, for the completion of all improvements and installations required by this chapter;

3. Provide surety satisfactory to the town;

4. Be in effect until compliance with the terms and provisions of the performance bond and the execution of a written release of performance bond by the Town Engineer;

5. Specify that all improvements and installations shall be completed in accordance with the requirements and specifications of this chapter:

a. For single family or 2 family subdivisions, prior to the time that single family or 2 family dwellings are upon 90% of the lots shown upon the secondary plat, or within 3 years after the date on which the certificate of approval of the Area Plan Commission is duly signed and affixed to the secondary plat, whichever occurs first; or

b. For multifamily, commercial, or industrial subdivisions, within 3 years after the date on which the certificate of approval of the Area Plan Commission is duly signed and affixed to the secondary plat.

6. Provide that upon completion of the improvements and installations, but prior to acceptance thereof for public maintenance by the town, the subdivider shall provide a maintenance bond as required by this chapter;

7. The performance bond shall be filed on bond or letter of credit forms approved for use by the Area Plan Commission; and

8. The beneficiary of all performance bonds shall be the Town Council.

(b) An irrevocable letter of credit shall:

1. Run to the Town Council;

2. Be in an amount equal to 125% of the cost, as established pursuant to an estimate submitted to and approved by the Town Engineer, for the completion of all improvements and installations required by this chapter;

3. Provide surety satisfactory to the town;

4. Be in effect until:

a. The execution of a written release of irrevocable letter of credit by the Town Engineer;

b. Compliance with the terms and provisions of this chapter;

c. All improvements and installations have been completed in accordance with the requirements and specifications of this chapter:

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i. For single family or 2 family subdivisions, prior to the time that single family or 2 family dwellings are upon 90% of the lots shown upon the secondary plat or within 3 years after the date on which the certificate of approval of the Area Plan Commission is duly signed and affixed to the secondary plat, whichever occurs first; or

ii. For multifamily, commercial or industrial subdivisions, within 3 years after the date on which the certificate of approval of the Area Plan Commission is duly signed and affixed to the secondary plat.

d. The provision by the subdivider of a maintenance bond as required by this chapter prior to acceptance of improvements and installations for public maintenance by the town.

5. The irrevocable letter of credit shall be filed on letter of credit forms approved for use by the Area Plan Commission; and

6. The beneficiary of all irrevocable letters of credit shall be the Town Council.

(C) Proof of compliance. Upon completion of all improvements and installations as required by this chapter, the subdivider shall furnish the Town Engineer with appropriate documentation indicating that the improvements, installations, and lot improvements have been constructed, installed, and completed in compliance with the provisions of this chapter, the requirements of the Area Plan Commission and the provisions of other applicable ordinances of the town.

(D) Completion letter. Upon acceptance of a required improvement or installation, the town shall provide a completion letter to the subdivider stating that the required improvements and installations for which the town is responsible have been accepted for maintenance by the town, subject to the terms of a maintenance bond, as required below, and shall file a copy of the completion letter with the Executive Director of the Area Plan Commission.

(E) Maintenance bond. Upon completion of all required improvements and installations, but prior to the acceptance of such improvements and installations for public maintenance, the subdivider shall provide a 3-year maintenance bond, with the subdivider or some other person satisfactory to the Town as principal, which shall:

(1) Run to the Town Council of New Carlisle;

(2) Be in an amount equal to 10% of the amount of the performance bond for the improvements and installations subject to the maintenance bond;

(3) Provide surety satisfactory to the town;

(4) Warrant the workmanship and materials used in the construction, installation and completion of said improvements and installations to be of good quality and have been constructed and completed in a workmanlike manner in accordance with the standards, specifications and requirements of this chapter and the satisfactory construction plans and specifications therefor submitted to the Town Engineer;

(5) Provide that for a period of 3 years after formal acceptance, the subdivider shall, at the subdivider's expense, make all repairs to the improvements and installations, or the foundations thereof, which may become necessary by reason of improper workmanship or materials, but not including any damage to the improvements and installations resulting from forces or circumstances beyond the control of the subdivider or occasioned by the inadequacy of the standards, specifications or requirements of this ordinance;

(6) Maintenance bonds shall be filed on forms substantially as set forth in Appendix C of this chapter; and

(7) The beneficiary of all maintenance bonds shall be the Town Council.

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(F) Use of bond funds. Any funds received from the performance bonds for subdivision improvements and installations or from the maintenance bonds for the maintenance of improvements and installations required by this chapter shall be used only for the purpose of making improvements, installations, or repair, for which the bonds were provided in accordance with the standards, specifications, and requirements of this chapter.

(G) Deferral or waiver of required improvements.

(1) The Area Plan Commission shall have the authority to defer or waive, in its discretion, at the time of primary plat approval and subject to any appropriate conditions, the provision of any or all of the public improvements required by this chapter which, in the judgment of the Area Plan Commission, are: not required to protect the public health, safety, and general welfare; inappropriate because of incompatible grades, future planning, the inadequacy or non-existence of connecting facilities; or inappropriate for other reasons presented to and agreed to by the Area Plan Commission. Any determination to defer or waive the provisions of any public improvements or installations required by this chapter shall be accomplished by way of a motion, approved by a majority vote of the Area Plan Commission at a public hearing, which motion shall include the reasons for the deferral or waiver.

(2) When the Area Plan Commission, in its discretion, determines that a deferral of an improvement or installation is appropriate, the subdivider shall post a separate performance bond or irrevocable letter of credit, in an amount determined by the town, guaranteeing completion of the deferred improvements or installations upon demand by the town.

(H) Approval of construction plans. No construction of any improvement within a subdivision required by this chapter, the Area Plan Commission, Plat Committee, or any other applicable ordinance of the town, shall commence prior to the approval of construction plans by the Town Engineer, Public Works Director, and the Town Council. Failure to obtain approval of construction plans prior to commencement of construction is a violation of this chapter which is enforceable under the provisions of division (I) of this section.

(I) Compliance and enforcement. Compliance with the terms and provisions of this chapter shall be a prerequisite for the use and development of real property within the town. Failure of a developer or subdivider to comply with the terms and provisions of this chapter shall be deemed to be a civil zoning violation enforceable by the Area Plan Commission as provided in I.C. 36-7-4 et seq. and §§ 152.405 through 152.413. For the purposes of enforcing this chapter, the term “staff” as used in §§ 152.405 through 152.413 shall also include any applicable Town Engineer, the County Surveyor, or an authorized agent of such engineer or surveyor, which shall specifically have the right of entry for inspection purposes and the power to issue a cease and desist order, all in accordance with §§ 152.405 through 152.413.

(Ord. 1223, § 2.7, passed 5-11-2010)

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Section 11.03 Subdivision Design Regulations - REQUIREMENTS FOR DESIGN, RESERVATIONS, AND IMPROVEMENTS

A. § 151.075 GENERAL IMPROVEMENTS.

In addition to the requirements established in this chapter, the subdivider is required to follow other laws, rules, and regulations which have been duly adopted under state law, which apply to all subdivision plats. In particular, the subdivider is required to comply with the following laws, rules, and regulations:

(A) All applicable state and local statutory provisions;

(B) The town Zoning Ordinance, Building Code, and all other applicable laws and ordinances of the appropriate jurisdictions;

(C) Adopted plans of the town, including but not limited to the Comprehensive Plan, thoroughfare plan, as shown in the Comprehensive Plan, parks plan, master water plan, master electric plan, master sewer plan, master utilities plan and capital improvements program, including all streets, drainage systems, and parks shown on the Comprehensive Plan;

(D) The special requirements of this chapter and any applicable rules of the County Health Department and appropriate state agencies;

(E) The standards, rules, and regulations of the Indiana Department of Transportation, if the subdivision or any lot contained therein abut a state highway;

(F) The standards and specifications adopted by the Town Engineer and all Boards, Commissions, agencies and officials of the town; and

(G) All pertinent standards contained within still valid planning guides published and adopted by the Area Plan Commission.

(Ord. 1223, § 3.1, passed 5-11-2010)

B. § 151.076 LOTS.

(A) Lot arrangement.

(1) The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing improvement location permits or building permits to build on all lots in compliance with the town Zoning Ordinance, Building Code or other applicable local, state, or federal regulations.

(2) The design, character, grade, location, and orientation of all lots shall be appropriate for the uses proposed, and logically related to existing and proposed topography.

(3) Every lot shall have sufficient and adequate access to a street constructed, or to be constructed, in accordance with the provisions, standards, and specifications of this chapter.

(B) Block and lot numbering.

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(1) Blocks shall be consecutively numbered or lettered in alphabetical order. The blocks in numbered additions to subdivisions bearing the same name shall be numbered and lettered consecutively throughout the several additions.

(2) All lots in each block shall be consecutively numbered. Out lots shall be lettered in alphabetical order. If blocks are numbered or lettered, out lots shall be lettered in alphabetical order within each block.

(C) Lot dimensions.

(1) Lot dimensions, including but not limited to lot width, lot depth, and lot area, shall comply with the minimum standards of the applicable zoning ordinance, zoning commitment, or variance grant.

(2) Land reserved for any proposed street, drainage pond, wetland, or lands subject to periodic flooding shall not be counted in satisfying the minimum yard and lot area requirements of the town Zoning Ordinance.

(3) In general, lots shall be arranged so that:

(a) Side lot lines are at right angles to street lines (or radial to curving street lines) unless a deviation from this rule will give a better street or lot plan;

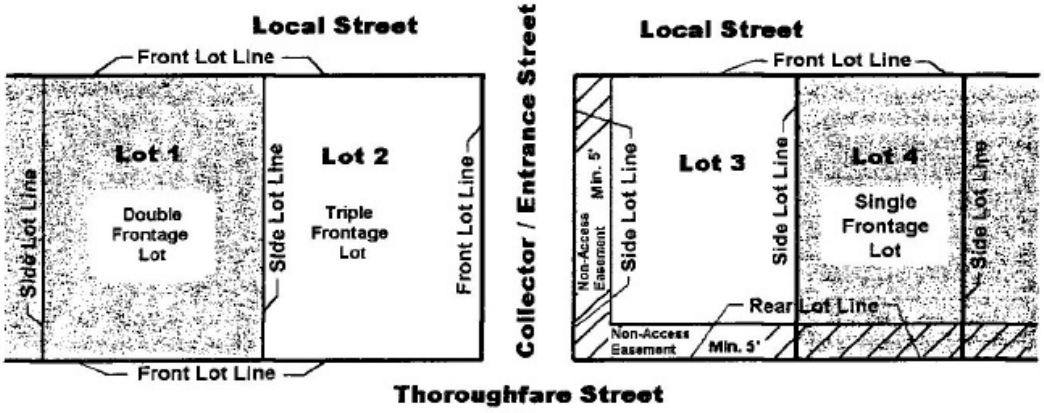
(b) Dimensions of corner lots shall be large enough to allow for the erection of buildings while observing the minimum required front yard setback applicable on each street frontage; and

(c) Commercial or industrial lots shall be of adequate size and configuration to provide for off-street parking, off-street loading, residential bufferyards, and other applicable requirements of the town Zoning Ordinance.

(D) Lot orientation. The lot line common to the street right-of-way line shall be the front lot line. All lots shall, whenever practical, face the front lot line. Whenever feasible, lots shall be arranged so that the rear lot lines do not abut the side lot line of an adjacent lot.

(E) Double frontage lots. Double frontage lots shall be avoided whenever practical. Double frontage lots may be acceptable when necessary to provide for the separation of a development and its related access points from the traffic on a bordering thoroughfare or collector street or to overcome specific disadvantages of topography and orientation affecting the subdivision.

(F) Triple frontage lots. Triple frontage lots (i.e., those lots which have frontage on 3 streets and do not include a non-access easement along the abutting major streets) shall be prohibited in residential developments.



Single, Double and Triple Frontage Lots

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(G) Lot access. Lots shall not, in general, derive access exclusively from a thoroughfare or collector street. Where a driveway from a primary or secondary street is determined to be necessary, the Area Plan Commission may require that such driveway be developed as a common driveway or frontage street in order to limit possible traffic hazards on the primary or secondary street. Where possible, driveways shall be designed and arranged so as to avoid requiring or encouraging vehicles to back into traffic on primary or secondary streets.

(H) Lot drainage. All lots shall be laid out so as to provide positive drainage away from all buildings, and individual lot drainage shall be coordinated with the general storm water drainage pattern for the Subdivision. Drainage shall be designed so as to avoid the concentration of storm water runoff from a lot onto adjacent lots. Each lot owner shall maintain the lot grade, as it relates to storm water drainage, in compliance with the approved construction plans.

(I) Debris and waste. No junk, rubbish, or other waste materials of any kind, whether natural (i.e., cut trees, debris, or rocks) or construction related (i.e., concrete or building materials) shall be buried in any land at any time, nor shall these materials be left or deposited on any lot or street at the time of the release of the maintenance bond. No items and materials described above shall be left or deposited in any area of the subdivision at the time of dedication of public improvements.

(J) Soil preservation, final grading and lawn preparation.

(1) No final certificate of occupancy shall be issued until final grading and seeding or sodding has been completed for the entire lot including the area between the street curb and the sidewalk in accordance with approved construction plans, except those portions of the lot covered by buildings, parking areas, interior access drives, or other improvements authorized by improvement location permit, or where the grade has not been changed and natural vegetation has not been damaged.

(2) It is recommended that all lawn areas not provided with automatic irrigation systems should be seeded or sodded during the planting seasons of between March 15 and May 15, or between August 15 and September 30 of each year.

(3) The Zoning Administrator/Building Commissioner may issue a temporary certificate of occupancy between October 1 and March 15, or between May 15 and August 15 of each year conditioned upon the completion of seeding or sodding during the next planting season.

(K) Waterbodies and watercourses. No part of the minimum lot area required under the applicable zoning ordinance, zoning commitment, or variance grant may be satisfied by land that is under water. Where a watercourse separates the buildable area of the lot from the street by which it has access, provisions shall be made for the installation of a culvert or other appropriate structure, of a design approved by the Town Engineer. If a subdivision contains an existing or to be developed waterbody, watercourse, or portion thereof, appropriate documentary assurances acceptable to the town shall be provided for the maintenance of the waterbody or watercourse.

(L) Fencing. The Area Plan Commission may, in its discretion, require the subdivider to install fencing on or around such lot, block, common area, or other portion of a proposed subdivision in order to mitigate a potential hazard. Fencing so required shall be installed in accordance with standards required by the Area Plan Commission and approved by the Town Engineer.

(M) Building setback lines. Minimum building setback lines shall be regulated by the setback provisions of the town Zoning Ordinance applicable to the subdivision. Setbacks in excess of the Zoning Ordinance standards may be platted; however, such excess setback requirements will not be enforced by the town unless the excess setback requirement is part of a zoning commitment or variance grant.

(N) Lot addressing. Addresses for all lots within a subdivision shall conform as closely as practical to the address grid pattern established for the town. The east/west baseline grid shall be Filbert Street. The north/south baseline grid shall be Michigan. Wherever possible, the grid pattern for new subdivisions shall be laid out so as to reserve 1 address number for each 20 feet of frontage of a lot. Addresses shall conform to the nearest number which approximates the location of the proposed driveway, building, or

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entrance doorway on a lot. Numbers assigned to the west side of north/south streets and the north side of east/west streets shall be even numbers. Numbers assigned to east side of north/south streets and the south side of east/west streets shall be odd numbers.

(Ord. 1223, § 3.2, passed 5-11-2010)

C. § 151.077 STREETS.

(A) Classification. All proposed subdivision plats submitted for Area Plan Commission approval pursuant to this chapter shall allocate adequate areas for streets in conformity with the Comprehensive Plan and shall designate and label all such streets thereon in accordance with the street classifications set forth below.

(1) Collector street.

(2) Local street.

(3) Private street.

(4) Public street.

(5) Thoroughfare street.

(B) General requirements for street design. All streets, whether public or private, shall comply with the following general requirements for street design.

(1) Street names. Streets which are extensions or a continuation of, or obviously in alignment with, any existing streets, either constructed or appearing on any validly recorded plat or survey, or valid plat previously approved by the Area Plan Commission, shall bear the names of such existing streets. Names for all other streets shall be sufficiently different in sound and in spelling from other streets in the town or other nearby areas so as to avoid confusion. All street name assignments shall be coordinated with the County Surveyor and the local emergency 911 system.

(2) Alleys. Alleys may be proposed in such instances where the use of alleys is specifically approved by the Area Plan Commission, or where the development represents an in-fill situation and the use of alleys would be compatible with the development pattern of the area surrounding the proposed subdivision.

(3) Access to areas abutting thoroughfares. If the proposed subdivision abuts upon or contains an existing or proposed thoroughfare, the street plan shall provided vehicular access to each lot abutting such streets by one of the following means:

(a) A frontage street running generally parallel to thoroughfares and whose right-of-way is separate from the right-of-way of the thoroughfare;

(b) A local or collector street running generally parallel to the thoroughfare street with the rear of the lots backing up to the thoroughfare street and no access shall be provided to the thoroughfare street; or

(c) A series of cul-de-sac streets, U-shaped streets, or short loop streets entered from and designed generally at right angles to a local or collector street running generally parallel to the thoroughfare street, with the rear lines of their terminal lots backing onto the thoroughfare street.

(4) Secondary means of access.

(a) Secondary access to a subdivision. Any major residential subdivision which contains 30 or more lots shall provide 1 of the following, back to a point of intersection with an internal street network where all lots can be accessed by more than 1 direction. A temporary access road may be used to satisfy

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this requirement if the design and width of the temporary access road is approved by both the Town Engineer and the Plat Committee:

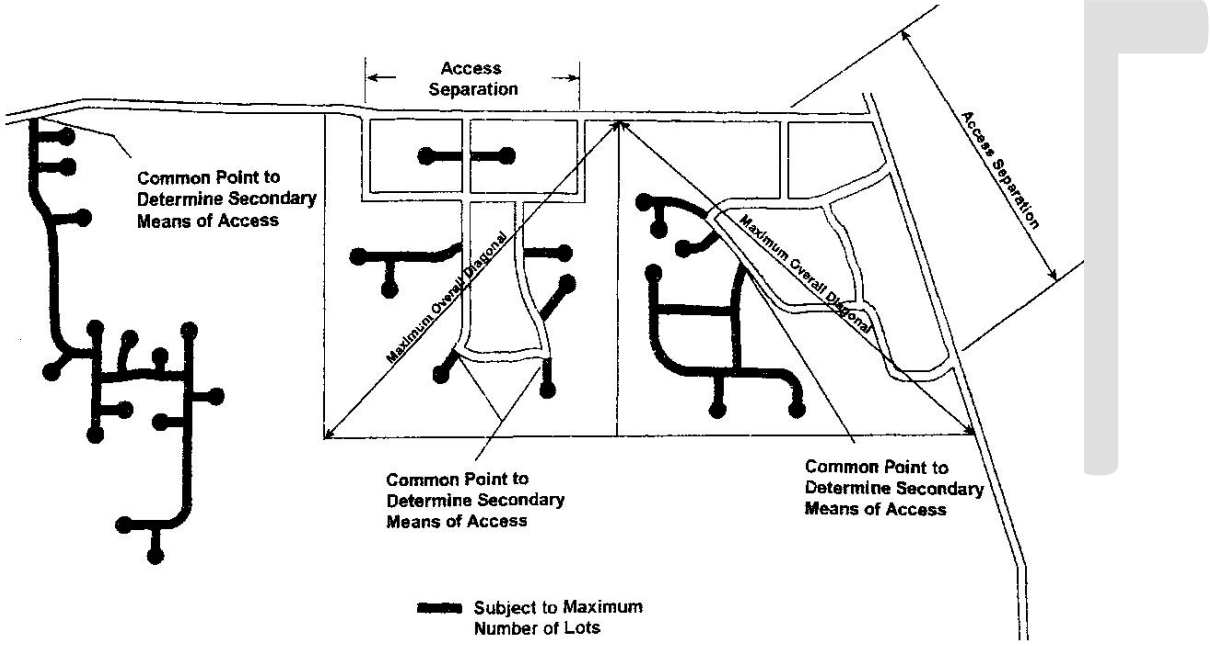
1. Provide a secondary means of access from an improved perimeter public street; or

2. Provide a divided collector street as the means of access from an improved perimeter public street.

(b) Secondary access within a subdivision. Within a major residential subdivision, no portion of the subdivision shall include more than 30 lots which cannot be accessed from more than 1 direction.

(c) Remote secondary access. Any major residential subdivision which contains 60 or more lots shall provide a remote secondary means of access that is separated from at least 1 other access point into the subdivision by a distance apart equal to not less than 1/2 of the length of the maximum overall diagonal dimension of the property or area to be served, measured in a straight line between access points.

SECONDARY MEANS OF ACCESS



(d) Design of remote secondary access.

1. A remote secondary means of access may be designed as:

a. A dedicated public street; or

b. A gated or un-gated emergency vehicle access easement providing direct access to an improved perimeter public street or connecting to a public street in an abutting subdivision which provides access to an improved perimeter public street.

2. If a remote secondary means of access is provided by way of an emergency vehicle access easement, the emergency vehicle access easement shall be designed to comply with the requirements for a “Fire Apparatus Access Road,” including having a minimum pavement width of 20 feet and being

constructed of a heavy duty pavement section of asphalt, concrete or other driving surface approved by the Town Fire Chief or his or her designee, and capable of supporting an imposed load of fire apparatus weighing at least 75,000 pounds.

(5) Dead end streets. Permanently dead-end streets (except for cul-de-sac streets provided in compliance with the provisions of this chapter) shall be prohibited. A temporary dead-end street may be permitted in any case in which a street is proposed to be and should logically be extended beyond the limits of the subdivision, but is not yet constructed beyond the subdivision limits. The right-of-way of a temporary dead-end street shall extend to the property line of the subdivision. An adequate easement for turnaround shall be provided for any such temporary dead-end street which extends 250 feet or more, with a temporary turnaround provided. A notation on the plat shall state that the land outside the normal street right-of-way shall revert to the abutting lots and property owners when the street is continued, constructed and, if a public street, accepted by the town.

(6) Frontage on improved streets.

(a) No subdivision shall be approved unless the area to be subdivided shall have frontage on and gain access from:

1. An existing town, county, or state street; or

2. A street shown upon a plat approved by the Area Plan Commission and recorded in the office of the County Recorder.

(b) Such street must be improved as required by the rules, regulations, or specifications of the responsible agency, or be secured by a performance bond as required by this chapter, with the width of the right-of-way and pavement to be in compliance with the thoroughfare plan, as shown in the Comprehensive Plan, and this chapter.

(7) Grading and improvement plan. Streets shall be graded and improved to conform with the construction standards and specifications set forth in the town standards and in Table 151.077: Minimum Design Standards for Streets, at the end of this section. Such construction standards and specifications shall be indicated on construction plans required prior to secondary plat approval and shall be approved as to design and specification by the Town Engineer and the Public Works Director.

(8) Topography and arrangement.

(a) Streets shall be appropriately related to site topography. All streets shall, wherever practical, be arranged so as to maximize the number of lots located at, or above, the street grades. Street grades shall conform as closely as possible to the original topography. A combination of steep grades and sharp curves shall be avoided wherever practical.

(b) All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rights-of-way as established in the thoroughfare plan, as shown in the Comprehensive Plan.

(c) Local streets shall be laid out to conform to as much as possible to the topography, to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient, safe, and efficient access to the subdivision.

(d) Proposed collector streets shall, where appropriate, be extended to the boundary lines of the subdivision unless the extension is prevented by topography or other physical conditions, or unless, in the opinion of the Area Plan Commission, the extension is not necessary or desirable for the purpose of coordinating with existing street layouts or providing for the most advantageous development of future tracts.

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(e) Streets, access drives, driveways, interior access driveways, and interior access drives shall be planned in connection with the groupings of buildings, location of rail facilities, and the provision of public or private alleys, truck loading areas and truck maneuvering areas, walkways,

bikeways, and parking areas so as to minimize conflict of movement between the various types of vehicular and pedestrian traffic.

(9) Street signs, pavement markings, and traffic-control signs. The subdivider shall provide street signs at every street intersection within the subdivision. The subdivider shall also provide pavement markings and traffic-control signs at required locations. All street signs, pavement markings, and traffic-control signs shall conform to the town standards and the Indiana Manual on Uniform Traffic Control Devices for Streets and Highways as published by the Indiana Department of Transportation.

(10) Street lights. The subdivider shall provide and install street lights within the subdivision to conform with the town construction standards and specifications for street lights. Street light plans shall be approved by the Town Engineer, Public Works Director, and the Town Council.

(11) Reserve strips. Except where specifically authorized by the Area Plan Commission for the purpose of minimizing traffic conflicts with thoroughfare streets or railroads, the creation of reserve strips adjacent to the right-of-way which may be used to deny access to a street shall not be permitted, unless a written agreement between the subdivider and the town, setting forth the terms for the sale of such strip or area, is submitted to the Plat Committee at the time the subdivision is submitted for secondary approval.

(12) Arrangement of streets. In order to provide for the convenient movement of traffic, effective fire protection, efficient provision of utilities or where such connection is in accordance with the Comprehensive Plan, streets shall be arranged so as to provide for the continuation of collector streets and larger streets between adjacent subdivisions.

(13) Cul-de-sac streets. Cul-de-sac streets, when approved by the Area Plan Commission, shall not normally be located nearer to a subdivision boundary than 50 feet. All cul-de-sac streets shall be provided with adequate rights-of-way and pavement width in accordance with the design specifications of the town construction standards and specifications set forth in the town standards and Table 151.077: Minimum Design Standards for Streets. The Area Plan Commission may, however, require the provision of appropriate easements between the end of the cul-de-sac and the subdivision boundary necessary to accommodate drainage facilities, pedestrian ways, or utilities. In no event shall a cul-de-sac measure more than 800 feet in length, measured from centerline of an intersecting street (excluding another cul-de-sac) to the center point of the radius of the turnaround.

(14) New perimeter streets. Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half-streets. Where an existing half-street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The Area Plan Commission may authorize a new perimeter street around a proposed subdivision where the subdivider improves and dedicates the entire required right-of-way width within the boundary of the proposed subdivision.

(15) Widening and realignment of existing streets. Where a subdivision boarders an existing narrow street or when the thoroughfare plan, as shown in the Comprehensive Plan indicates plans for realignment or widening of a street that would require use of some of the land in the subdivision, the subdivider shall be required to dedicate that portion of the existing street which is contained within the land subject to the secondary plat of the subdivision to the full width required by this chapter, and improve the street as required by the Area Plan Commission. Land reserved for any street purposes shall not be counted in satisfying the minimum yard or lot area requirements of the town Zoning Ordinance.

(16) Dedication. All public streets shall be dedicated to the town on the secondary plat free and clear of all liens and encumbrances by use of the following language: “All streets shown on this plat, and not heretofore dedicated, are hereby dedicated to the Town of New Carlisle, Indiana.”

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(C) Design standards for all public streets. In order to provide for streets which are of a suitable location, width, material, and improvement to accommodate prospective traffic and afford satisfactory access to police, firefighting, snow removal, sanitation, and road maintenance equipment, and to coordinate streets so as to compose a convenient system and avoid undue hardships to adjoining properties, all streets which are to be dedicated to and accepted for maintenance by the town shall be designed and constructed in accordance with:

(1) Table 151.077: Minimum Design Standards for Streets, following division (F) of this section;

(2) Current town standards as approved by the Town Council;

(3) American Association of State Highway and Transportation Officials (AASHTO): A Policy on Geometric Design of Highways and Streets (commonly referred to as the “Green Book”);

(4) Indiana Department of Transportation Standard Specifications; and

(5) Indiana Manual on Uniform Traffic Control Devices for Streets and Highways.

(D) Excess right-of-way. Right-of-way widths in excess of those recommended by the thoroughfare plan, as shown in the Comprehensive Plan and required by this chapter shall be required whenever, due to topography, additional width is necessary to provide for adequate and stable earthen side slopes. Such earthen side slopes shall not be in excess of 1 foot vertical for each 3 feet horizontal.

(E) Bridges. Bridges of primary benefit to the subdivider, as determined by the Area Plan Commission, shall be constructed at the full expense of the subdivider without reimbursement from the town. The sharing of expense for the construction of bridges not of primary benefit to the subdivider, as determined by the Area Plan Commission, will be fixed by special agreement between the town, the County Engineer, and the subdivider. Plans for all bridges shall be reviewed and approved by the County Engineer.

(F) Design standards for all private streets. Private streets (which are not intended to be dedicated to or accepted by the town for maintenance), which have been authorized for use by zoning commitment or variance grant, shall comply with the minimum pavement width standards set forth in § 152.021 and the minimum depth and materials standards set forth in division (C) of this section.

Table 151.077: Minimum Design Standards for Streets (Reformat Table Below) **Insert**

(1) Standards as required by Town Engineer or Indiana DOT Design Standards

(2) Figures listed in terms of radius to right-of-way/back of curb

(3) Minimum length of vertical curve - 100 feet, but not less than 20 feet for each percent of algebraic difference in grade or as required by AASHTO

(Ord. 1223, § 3.3, passed 5-11-2010)

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D. § 151.078 SIDEWALKS.

(A) Sidewalk location. Sidewalks shall be located along each side of a street within the dedicated, non-paved portion of the street right-of-way.

(B) Pedestrian/bike path alternative. Under circumstances considered appropriate by the Area Plan Commission, an alternative pedestrian/bike path may be proposed in lieu of sidewalks. Pedestrian/bike paths shall be a minimum of 8 feet in width to a maximum of 18 feet in width and may be located in easements reserved for that use outside of the street right-of-way. The developer must build the path either in concrete or asphalt construction at the time streets are built.

(C) Sidewalk and pedestrian/bike path standards.

(1) Sidewalks shall be constructed in compliance with the town standards.

(2) Pedestrian/bike paths may be constructed of concrete, asphalt, or other material approved by the Area Plan Commission and installed in compliance with the requirements specified by the town.

(D) Pedestrian access easements. In order to facilitate pedestrian access from streets to schools, parks, playgrounds, or other nearby streets, the Area Plan Commission may require perpetual, unobstructed pedestrian access easements at least 15 feet in width. These pedestrian access easements shall be indicated on the secondary plat.

(Ord. 1223, § 3.4, passed 5-11-2010)

E. § 151.079 MONUMENTATION.

(A) The subdivider shall place permanent reference monuments in the subdivision as required by this chapter and as approved by an state registered land surveyor to provide interior and exterior control as well as lot location within the subdivision. The control is to be established so as to provide a record of the registered land surveyor who is responsible tor the location of the monumentation. All markers installed shall meet the spirit and intent of this section while providing specific reference to the registration number of the survey professional.

(B) (1) Street monuments. The subdivider shall have set under the supervision of a registered land surveyor appropriate permanent monuments at all angle points and intersections of street centerlines providing horizontal street control throughout the subdivision. Such permanent monuments shall be set as soon as practical after the potential for damage by continued construction activity has ended. The permanent monuments shall be presented complete and correct in location at the time of subdivision acceptance.

(2) Subdivision boundary monuments. The subdivider shall have set under the supervision of a registered land surveyor appropriate permanent monuments at all corners, angle points, or other horizontal control along the outside boundary of the subdivision. These permanent monuments shall be set following the final grading and utility installation for each development phase or section of the subdivision. The permanent monuments shall be presented complete and correct in location at the time of subdivision acceptance.

(3) Lot monuments. The subdivider shall have set under the supervision of a registered land surveyor appropriate permanent monuments at all lot corners. Such permanent monuments shall be set prior to the issuance of an improvement location permit for any building, structure or improvement on the lot. It shall be the responsibility of the applicant for the improvement location permit to maintain or replace, under the supervision of a state registered land surveyor, the permanent monuments located at all lot corners that may be damaged during construction.

(Ord. 1223, § 3.5, passed 5-11-2010)

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F. § 151.080 DRAINAGE.

(A) General drainage requirements.

(1) The Area Plan Commission shall not approve any subdivision which does not make adequate provision for storm or flood water runoff channels or basins.

(2) The storm water drainage system shall be separate and independent of any sanitary sewer system.

(3) Storm sewers, where required, shall be designed by the rational method, or other methods as approved by the Town Engineer, and a copy of the design computations shall be submitted along with the construction plans.

(4) Inlets shall be provided so that surface water is not carried across or around any intersection, nor for a distance of greater than 400 feet on local streets, 300 feet on collector streets, and as indicated by approved calculations submitted to the Town Engineer based upon a 10-year design storm and maximum spread as provided by the Town Engineer on arterial streets. Additional inlets shall be required when encroachment of storm water into the street disrupts traffic under the 10-year design storm.

(5) The subdivider shall provide a grading plan at a maximum scale of 1 inch equals 60 feet showing surface water drainage patterns on each lot and street.

(6) The subdivider shall provide storm water conveyance facilities in accordance with the town standards and the Storm Water Drainage Manual by Christopher B. Burke, Highway Extension and Research Project for Indiana Counties and Cities, School of Engineering, Purdue University, West Lafayette, Indiana.

(B) Nature of storm water facilities.

(1) Location.

(a) The subdivider may be required by the Area Plan Commission to carry away, by pipe or open ditch, any spring or surface water that may exist, either previously to or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way or in perpetual, unobstructed easements of appropriate width, and shall be constructed in accordance with the town construction standards and specifications.

(b) Whenever a change of land use occurs, concentrated storm water discharge to adjacent areas shall not be permitted unless the discharge is conveyed through a suitable drainage feature to: an approved outlet within the right-of-way; an existing drainage easement; a defined drainageway as approved by the Town Engineer; or an open ditch which appears as a dashed or solid blue line on the 7.5 Minute Series Topographic Quadrangle Map as published by the United States Geological Survey. The drainage feature used to convey the site discharge to the approved outlet shall be located in the right-of-way or easement of appropriate width.

(2) Public storm sewers. With the exception of storm water conveyance along nonresidential local streets within industrial districts, all storm water conveyance within or parallel to and adjacent to the public right-of-way shall be fully contained in storm sewers with an adequate and approved outlet. Residential subdivisions containing lots of less than 15,000 square feet and nonresidential subdivisions shall be provided with storm sewers to convey all on-site drainage. However, on-site drainage swales with required conveyance capacity of less than 5 cubic feet per second under the 10-year post-development design storm may be allowed.

(3) Accommodation of upstream drainage areas. A culvert, storm sewer, open ditch, or other drainage facility shall, in each case, be large enough to convey potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The minimum conveyance provided for upstream, off-site drainage areas shall be the runoff resulting from the 100-year storm over the present state of upstream, off-site drainage areas. The conveyance provided for upstream waters may be

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decreased to the extent that hydrograph routing and detention on land controlled by the subdivider and dedicated to the town of as a drainage easement allows for decreased capacity; provided, that the runoff resulting from the 100-year storm is staged less than 1 foot above the stage on the natural drainage way at the interface of the development with the upstream drainage area. Culvert capacities for conveyance under interior local, collector, and arterial streets without roadway overtopping shall be the runoff resulting from the 25-year, 50-year, and 100-year storms respectively over off-site areas in present state and on-site areas in post-development state. Driveway culvert capacities shall be the capacities required for the street classification to which the driveway connects. Greater culvert capacity shall be required to protect the finished floor elevation of buildings from the post-development 100-year storm when, in the opinion of the design engineer or the Town Engineer, the finished floor elevation is threatened. It is recommended that drainage of loading docks or other building features which are proposed at an elevation lower than adjacent roadways be considered with respect to culvert drainage impacts.

(4) Effect on downstream drainage areas. The release rate of storm water from development, redevelopment, and new construction shall not exceed the storm water runoff rate from the land in its present state of development.

(5) Areas of poor drainage. Areas which are not in the floodplain, but which contain soils subject to flooding, may be approved for subdivision by the Area Plan Commission, provided that the subdivider fills the affected areas of the subdivision to an elevation sufficient to place building sites and streets 2 feet above the ponding levels.

(6) Areas of high seasonal water tables. In areas characterized by soils having a high seasonal water table as determined by the County Soil and Water Conservation District, lots shall be limited to slab type construction unless the Area Plan Commission determines that appropriate engineering techniques will be applied to alleviate the subsurface problem.

(C) Dedication of drainage easements.

(1) General requirements.

(a) When a subdivision is traversed by a watercourse, drainageway, channel, or stream, a storm water easement or drainage right-of-way shall be provided granting or dedicating to the town/County Drainage Board that area in an amount conforming substantially to the lines of the watercourse, and of such width and construction as will be adequate for the purpose of accommodating drainage and providing for the maintenance of the right-of-way.

(b) Wherever possible, it is desirable that the drainage be maintained as an open channel with landscaped banks and adequate width for maximum potential volume of flow.

(c) All storm water easements and drainage rights-of-way which are to be dedicated to the town on the secondary plat shall use the following language: “All storm water easements and drainage rights-of-way shown on this plat are hereby dedicated to the Town of New Carlisle, Indiana.”

(2) Drainage easements.

(a) Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within street rights-of-way, perpetual, unobstructed easements for drainage facilities measuring at least 20 feet in width shall be provided across property outside of street right-of-way lines. All drainage easements shall provide access to a public street. Drainage easements shall extend from the street to a natural watercourse or to other drainage facilities.

(b) The subdivider shall dedicate, either in fee or by drainage or conservation easement to the town, land on both sides of existing watercourses of a width to be determined by the Area Plan Commission and, in the case of legal drains, by the County Drainage Board.

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(c) When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights satisfactory to the Area Plan Commission shall have been secured and indicated on the secondary plat.

(d) Low-lying land along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways. Such land or lands subject to periodic flooding shall not be counted in satisfying the minimum yard or lot area requirement of the town Zoning Ordinance.

(e) All drainage easements shall be indicated on the secondary plat and which are to be dedicated to the Town/County Drainage Board shall use the following language: “All drainage easements shown on this plat are hereby dedicated to the Town of New Carlisle, Indiana/St. Joseph County Drainage Board.”

(D) Connection to town drainage utilities. Whenever practical, all subdivisions within the town shall connect to drainage utilities provided by the town. In those instances where the Area Plan Commission determines that connection to town drainage utilities would pose an unusual or unnecessary hardship at the time of development, the Area Plan Commission may make a recommendation to the Town Council to approve a connection to another public or semi-public drainage utility; provided, however, that all drainage facilities are installed to town standards or alternative standards approved by the Town Engineer, and provision is made in the design and layout of the drainage facilities for connection to the town drainage utilities at such time as the town extends drainage utility facilities to the subdivision.

(E) Maintenance responsibility for detention/retention facilities. The subdivider shall be responsible for the maintenance of all detention and retention facilities during construction. After construction, the owner of the real estate shall be responsible for the maintenance of all detention and retention facilities unless the Town/County Drainage Board formally accepts the responsibility for the maintenance of the detention or retention facilities.

(Ord. 1223, § 3.6, passed 5-11-2010)

G. § 151.081 WATER FACILITIES.

(A) The subdivider shall take all actions necessary to extend or create a water supply system capable of providing for domestic water use and fire protection.

(B) All mainline water mains, whether public or private, shall be a minimum of 8 inches in diameter; provided, however, a dead-end mainline water main serving a permanent residential cul-de-sac street which is less than 400 feet in length and which serves no more than 12 equivalent dwelling units may be 6 inches in diameter.

(C) Water capacity allocations shall be approved by the Public Works Director.

(D) The location of all fire hydrants, water supply improvements, and boundary lines of proposed districts indicating all improvements proposed to be served, shall be shown on the primary plat, and the cost of installing all fire hydrants and water supply improvements shall be included in the performance bond furnished by the subdivider.

(E) Fire hydrants with isolation valves shall be provided along all water mains at a spacing of every 350 feet to 450 feet. Actual spacing shall be determined by the Town Engineer and Town Fire Chief based upon the land use being served and the physical characteristics of the land and buildings served.

(F) All water easements which are to be dedicated to the town of on the secondary plat shall use the following language: “All water easements shown on this plat are hereby dedicated to the Town of New Carlisle, Indiana.”

(G) The subdivider shall provide water facilities in accordance with the standards set forth in the town standards and the Great Lakes-Upper Mississippi River Board of State Public Health and Environmental

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Managers, Recommended Standards for Water Facilities. The design shall be approved by the appropriate town, local, state, and federal agencies where required by those agencies.

(Ord. 1223, § 3.7, passed 5-11-2010)

H. § 151.082 SEWAGE FACILITIES.

(A) General requirements.

(1) Sanitary sewers shall be located within street or alley rights-of-way or in perpetual, unobstructed easements. When sanitary sewer facilities are located in easements, access easements to all manholes shall be provided. Whenever sewer lines in private easements cross a public street or alley right-of-way, a manhole shall be provided in the public right-of-way.

(2) A minimum horizontal distance of 10 feet shall be maintained between parallel water lines and sewer lines. Perpendicular or angled crossings of water and sewer lines shall generally be at a spacing of not less than 18 inches. If the minimum spacing cannot be met, special design details (such as encasement in sleeves) may be approved by the Town Engineer.

(3) Sanitary sewer capacity allocations shall be approved by the Public Works Director.

(4) All sanitary sewer easements which are to be dedicated to the town on the secondary plat shall use the following language: “All sanitary sewer easements shown on this plat are hereby dedicated to the Town of New Carlisle, Indiana.”

(5) The subdivider shall provide sanitary sewer facilities in accordance with the town standards and the Great Lakes-Upper Mississippi River Board of State Public Health and Environmental Managers, Recommended Standards for Wastewater Facilities. The design shall be approved by the appropriate town, local, state, and federal agencies where required by those agencies.

(B) Connection to town sanitary sewer utility. Sanitary sewer facilities shall connect to a public sanitary sewer facility provided by the town.

(Ord. 1223, § 3.8, passed 5-11-2010)

I. § 151.083 ELECTRIC FACILITIES.

(A) The subdivider shall take all actions necessary to extend or create an electrical distribution system capable of providing efficient voltage for the development.

(B) The electrical distribution system shall be located within street or alley rights-of-way or in perpetual unobstructed easements.

(C) Electric capacity allocations shall be approved by the Public Works Director.

(D) The location of all electric poles, transformers, pedestals, and other electric supply equipment shall be shown on the primary plat and the cost of installing all electric supply improvements shall be included in the performance bond furnished by the subdivider.

(E) The electric distribution system shall be designed and installed in accordance to the current National Electrical Code.

(F) All electric easements, which are to be dedicated to the town on the secondary plat, shall use the following language: “All electric easements shown on this plat are to be dedicated to the Town of New Carlisle, Indiana.”

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(Ord. 1223, § 3.9, passed 5-11-2010)

J. § 151.084 UTILITIES.

(A) Underground utility location required.

(1) All new utility facilities, including but not limited to gas, electric, telephone, and cable television shall be located underground throughout the subdivision. Whenever practical, existing utility facilities which are located above ground, except when existing in public street rights-of-way, shall be removed and placed underground. All utility facilities existing and proposed throughout the subdivision shall be shown on the plans submitted for primary plat approval.

(2) Underground service connections at the street property line shall be provided to each platted lot by the subdivider. At the discretion of the Area Plan Commission, the requirement for individual service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.

(B) Utility easements.

(1) As a general rule, utility easements shall be located along all rear lot lines and those side lot lines reasonably necessary to provide access to the utilities for maintenance and repair. These combined utility easements shall provide an aggregate easement width of 20 feet, unless an alternative size is required by the Town Engineer or the applicable utility provider.

(2) Utility easements located along a street right-of-way shall have a minimum width of 20 feet; provided, however, the first 5 feet of the utility easement measured from the street right-of-way shall be reserved exclusively for use as a town utility easement for sewer, water, and electric.

(Ord. 1223, § 3.10, passed 5-11-2010)

K. § 151.085 PUBLIC SITES.

(A) All plats submitted under the provisions of this chapter may, subject to Area Plan Commission approval, allocate adequate areas for park, school, recreational, or other public and semi-public sites, wherever necessary in conformity with the Comprehensive Plan and as required by the Area Plan Commission. The location, shape, extent, orientation, use, and access to such areas shall be appropriate for each location based upon existing and proposed site conditions as well as the needs of the proposed subdivision. Such areas shall be made available by 1 of the following methods:

(1) Dedication for public use;

(2) Reservation for use by the owners of land contained in the subdivision by deed restriction or covenant which shall specify how and under what circumstances the area or areas shall be used, developed, and maintained; or

(3) Reservation for acquisition by a governmental unit or agency; provided, however, the area shall become available for private use if both of the following (a) and (b) apply:

(a) After the expiration of a period of 18 months from the date of recording the secondary plat:

1. No governmental unit or agency proceeds with such acquisition within the 18- month period; or

2. The appropriate governmental unit releases the area from reservation.

(b) The secondary plat indicated the nature and extent of the private use into which the area may be placed if the area is not used by a governmental unit as specified.

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(B) Any area so reserved on the secondary plat shall be clearly marked on the plat as “Reserved for _____ Purposes.”

(Ord. 1223, § 3.11, passed 5-11-2010)

Section 11.04 SUBDIVISION ADMINISTRATION

A. § 151.025 IMPROVEMENT LOCATION PERMITS.

No improvement location permit shall be issued for any building, structure, or improvement unless the location of the building, structure, or improvement conforms with the applicable provisions of the Zoning Ordinance and this chapter.

(Ord. 1223, § 1.16, passed 5-11-2010)

B. § 151.026 RECORDING REQUIRED FOR ISSUANCE OF AN IMPROVEMENT LOCATION PERMIT.

(A) No improvement location permit for any building, structure, or improvement shall be issued for any lot within a subdivision prior to a copy of the properly signed and recorded secondary plat of that subdivision being filed with the Area Plan Commission.

(B) Exception: A conditional improvement location permit and certificate of zoning compliance for the construction and use of a permitted temporary use (including 2 model homes, construction office, or similar related use) within the real estate affected by a subdivision may be issued by the Zoning Administrator after all construction plans for required improvements have been approved by the town. If the temporary use is a model home, the model home shall not be converted to a residential use prior to the installation, inspection, and approval of all required improvements that directly or indirectly affect the model home and upon secondary approval of the subdivision.

(Ord. 1223, § 1.17, passed 5-11-2010)

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Section 11.05 HEARINGS

A. § 151.040 PLAT COMMITTEE AUTHORITY TO HEAR PLATS AND REPLATS.

The Plat Committee of the Area Plan Commission for the county is hereby designated as the Plat Committee for the town. The authority to hold hearing on and approve plats and replats is hereby delegated to the Plat Committee.

(Ord. 1223, § 1.19, passed 5-11-2010)

B. § 151.041 PLAN COMMISSION AUTHORITY TO HEAR VACATIONS OF PLATS OR PARTS OF PLATS.

The authority to hold hearings on the vacation of plats or parts of plats is reserved for the Area Plan Commission.

(Ord. 1223, § 1.20, passed 5-11-2010)

C. § 151.042 TOWN COUNCIL AUTHORITY TO HEAR VACATIONS OF PUBLIC WAY OR PLACE AND PLATTED EASEMENTS.

The authority to hold hearings on the vacation of: public ways or places; or platted easements, within the corporate limits of the town is reserved to the Town Council.

(Ord. 1223, § 1.21, passed 5-11-2010)

D. § 151.043 APPEALS FROM DETERMINATIONS OF THE PLAT COMMITTEE.

Determinations of the Plat Committee regarding the approval or disapproval of a plat or replat may be appealed by an applicant or other interested party to the Area Plan Commission. A notice of such appeal shall be filed with the Area Plan Commission within 10 days after the action of the Plat Committee.

(Ord. 1223, § 1.22, passed 5-11-2010)

E. § 151.044 APPEALS FROM DETERMINATION OF THE PLAN COMMISSION.

Determinations of the Area Plan Commission relating to this chapter, including determinations of appeals from the Plat Committee and determinations of vacations of plats or parts of plats, may be reviewed by certiorari procedure. The appeal shall be filed within 30 days of the date of the decision upon which the grievance is based.

(Ord. 1223, § 1.23, passed 5-11-2010)

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Section 11.06 WAIVERS

A. § 151.095 GENERALLY.

The Area Plan Commission may grant waivers to the requirements, standards, and specifications of this chapter as set forth in this subchapter.

(Ord. 1223, § 4.1, passed 5-11-2010)

B. § 151.096 WAIVERS OF SUBDIVISION CONTROL ORDINANCE REGULATIONS.

Where the Area Plan Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations, or the purposes and intent of these regulations may be served to a greater extent by an alternative proposal, it may approve waivers to the standards and specifications set forth in this chapter so that substantial justice may be done and the public interest served, provided that such waivers shall not have the effect of nullifying the intent and purpose of this chapter.

(Ord. 1223, § 4.2, passed 5-11-2010)

C. § 151.097 WAIVER GUIDELINES.

The Area Plan Commission shall not approve waivers unless it shall make written findings based upon the evidence presented to it in each specific case that:

(A) The granting of the waiver will not be detrimental to the public safety, health, or welfare, or injurious to other property;

(B) The conditions upon which the request for a waiver is based are unique to the property for which a waiver is sought and are not applicable generally to other property;

(C) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out;

(D) The waiver will not contravene the provisions of the town Zoning Ordinance or the Comprehensive Plan; and

(E) Where the waiver impacts on the design, construction, or maintenance obligations of public facilities, that the appropriate public agency has reviewed and approved the proposed development in writing to the Area Plan Commission.

(Ord. 1223, § 4.3, passed 5-11-2010)

D. § 151.098 PROCEDURES FOR REVIEW OF WAIVER REQUESTS.

At the time of filing a petition for primary plat approval for consideration by the Area Plan Commission, petitioner shall submit a detailed written statement of all waivers of this chapter sought which shall fully state the grounds for the request and file proposed detailed written findings of fact in support of such waiver request. Only those standards and specifications specifically described in the request may be waived by the Area Plan Commission.

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(Ord. 1223, § 4.4, passed 5-11-2010)

E. § 151.099 JURISDICTION OF WAIVERS.

(A) It is not within the powers or jurisdiction of the Board of Zoning Appeals to grant waivers of any of the regulations in this chapter. Only the Area Plan Commission shall have the authority to waive any of the regulations in this chapter.

(B) It is not within the powers or jurisdiction of the Area Plan Commission to grant a variance of development standards or to approve a special exception use. Only the Board of Zoning Appeals shall have the authority to grant a variance of development standards. Only the Town Council shall have the authority to approve a special exception use.

(Ord. 1223, § 4.5, passed 5-11-2010)

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Section 11.07 VACATION OF LAND IN A PLAT

A. § 151.110 JURISDICTION.

Pursuant to I.C. 36-7-3 et seq. and I.C. 36-7-4-711 et seq., the Plat Committee has jurisdiction to vacate all or part of a plat pertaining to land owned by the petitioner while the County Council has jurisdiction to vacate a public way, public place or a platted easement.

(Ord. 1223, § 5.1, passed 5-11-2010; Am. Ord. 1252, passed 12-28-2011)

B. § 151.111 VACATION OF LAND IN A PLAT BY THE PLAN COMMISSION.

(A) In a case in which all of the owners of land in a plat are in agreement regarding a proposed vacation, the owners may file a written instrument to vacate all or part of that plat under I.C. 36-7-3-10 et seq. The instrument may be approved under this section without notice or a hearing.

(B) In a case in which not all of the owners of land in a plat are in agreement regarding a proposed vacation, the owners may file a written instrument to vacate all or part of that plat under I.C. 36-7-4-711 et seq.

(C) Within 30 days after receipt of a plat vacation petition, the Committee may approve or disapprove a petition for the vacation of all or part of a plat. The Committee shall make written findings of fact that set forth the reasons for the approval or disapproval of the petition. The findings of fact shall be signed by the Chairman of the Committee. A copy of the findings of fact shall be retained as a part of the permanent record of the determination.

(Ord. 1223, § 5.2, passed 5-11-2010; Am. Ord. 1252, passed 12-28-2011)

C. § 151.112 NOTICE OF PLAT COMMITTEE ACTION.

Within 5 days after the Committee's action on the vacation request, the Secretary of the Committee shall provide all interested parties with a copy of the findings of fact and decision of the Committee, and notify them in writing of their right to appeal the Committee's decision to the Commission. Appeals shall be in writing, shall indicate the desire to have the subdivision replat reviewed by the Commission, shall state the reason for the appeal and shall be filed within 5 days of the date of the notice by the Secretary.

(Ord. 1223, § 5.3, passed 5-11-2010; Am. Ord. 1252, passed 12-28-2011)

D. § 151.113 APPEALS.

The approval, disapproval, or imposition of a condition on the approval of the vacation of all or part of a plat is a final decision of the Commission. The petitioner or an aggrieved party may seek review of the decision of the Commission as provided by I.C. 36-7-4-1016.

(Ord. 1223, § 5.4, passed 5-11-2010; Am. Ord. 1252, passed 12-28-2011)

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Section 11.08 DEFINITIONS

A. § 151.125 INTERPRETATION OF TERMS OR WORDS.

The language of this chapter shall be interpreted in accordance with the following regulations:

(A) The word “person” includes a firm, association, organization, partnership, trust, limited liability company, corporation or other legal entity, as well as an individual.

(B) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular, in each case, if the context so requires.

(C) The word “shall” is mandatory, the word “may” is permissive.

(D) The words “used” or “occupied” include the words “intended,” “designed,” “constructed,” “altered,” or “arranged” to be used or occupied.

(E) Where a regulation involves 2 or more items, conditions, provisions or events connected by the conjunction “and,” “or,” or “either ... or,” the conjunction shall be interpreted as follows:

(1) “And” indicates that all the connected items, conditions, provisions, or events shall apply.

(2) “Or” indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.

(3) “Either ... or” indicates that all the connected items, conditions, provisions, or events shall apply singly but not in combination.

(Ord. 1223, Art. 6, passed 5-11-2010)

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B. § 151.126 DEFINITIONS.

The following terms or words used in the text of this chapter shall have the following meanings, unless a contrary meaning is required by the context of a particular sentence or phrase, or specifically prescribed in a particular sentence or phrase.

ACCESS. The way in which vehicles ingress and egress a lot or subdivision from a street fronting along the lot or subdivision.

ACCESS DRIVE. The area within the right-of-way between the pavement edge or curb and the right-of-way line to provide ingress and egress to and from a lot or subdivision.

ALLEY, PRIVATE. A private right-of-way for public use as a secondary means of public access to a lot otherwise abutting upon a public street or private street and not intended for traffic other than public services and circulation to and from the lot.

ALLEY, PUBLIC. Any public right-of-way which has been dedicated or deeded to and accepted by the public for public use as a secondary means of public access, to a lot otherwise abutting upon a public street and not intended for traffic other than public services and circulation to and from the lot.

APPROPRIATE AGENCIES. Those agencies designated by ordinance or the staff to review subdivisions and may include, but not limited to the following: County Surveyor, Town Engineer, State and County Health Departments, State Department of Natural Resources, State Office of Aviation, Indiana Department of Environmental Management (IDEM), Indiana Department of Transportation (INDOT), and Army Corps of Engineers.

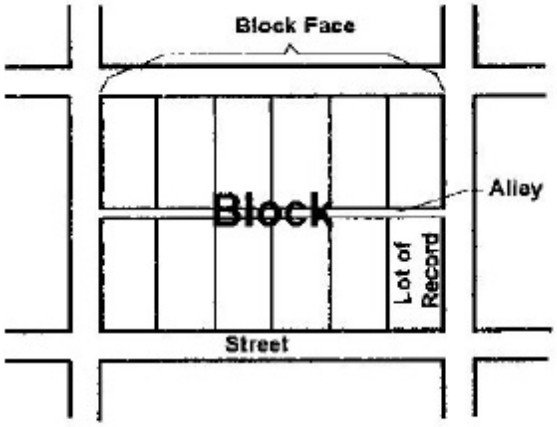
AREA BOARD OF ZONING APPEALS. The Board of Zoning Appeals having jurisdiction over all real property with the town.

AREA PLAN COMMISSION. The St. Joseph County Area Plan Commission.

ASSESSOR'S OFFICE. The St. Joseph County Assessor's office.

BLOCK. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines, or municipal boundary lines.

BLOCK FACE. The frontage of a block, which may contain 1 or more lots, along 1 side of a public street or private street between intersections.



Block & Block Face

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BUILDING LINE. A line parallel to any front lot line, side lot line, or rear lot line which passes through the nearest point of any building or structure.

BUILDING LINE, FRONT. A line parallel to any front lot line which passes through the nearest point of any building or structure and terminates at the point of contact with any side lot line.

BUILDING LINE, SIDE. A line parallel to any side lot line which passes through the nearest point of any building or structure and terminates at the point of contact with any front lot line or rear lot line.

BUILDING LINE, REAR. A line parallel to any rear lot line which passes through the nearest point of any building or structure and terminates at the point of contact with any side lot line.

CERTIFICATE OF APPROVAL. The certificate block signed by the President of the Area Plan Commission or the Chairperson of the Plat Committee and attested to by the Secretary of the Area Plan Commission or Plat Committee, as appropriate.

COMMISSION'S SEAL. The official seal of the Area Plan Commission.

CONCEPT PLAN. An informal site plan of a proposed subdivision, project, Planned Unit Development or other development intended to convey the scope, content, and nature of a proposed development, but lacking sufficient detail to determine compliance with chapter requirements.

CONCEPT PLAN REVIEW. A cursory review of a concept plan or sketch plan for a proposed subdivision, project, Planned Unit Development, or other development in which staff provides initial review comments to a prospective petitioner on the design and layout of a proposed subdivision, project, Planned Unit Development, or other development.

CONDOMINIUM. Any project regulated by I.C. 32-25.

CORRECTIVE PLAT. A plat for the purpose of correcting minor errors in a recorded subdivision.

COUNCIL. The Town Council of the Town of New Carlisle, St. Joseph County.

COUNTY. St. Joseph County, Indiana.

COUNTY ENGINEER. The St. Joseph County Engineer.

COUNTY HEALTH OFFICER. The Health Officer of St. Joseph County or his or her designee.

COUNTY HIGHWAY DEPARTMENT. The St. Joseph County Highway Department.

COUNTY SURVEYOR. The St. Joseph County Surveyor.

CUL-DE-SAC. See STREET, CUL-DE-SAC.

DEPARTMENT OF NATURAL RESOURCES. The State Department of Natural Resources.

DISTRICT. Any zoning district applicable to a section of the territory within the jurisdiction of this chapter.

DISTRICT, ZONING. A section of the territory within the jurisdiction of this chapter for which uniform regulations over the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land (including but not limited to: permitted uses; height; area; size; and intensity of use of buildings, structures, land, and open spaces about buildings or structures), are established by this chapter.

DRAINAGE BOARD. The Drainage Board for the Town of New Carlisle.

DRAINAGE POND. An artificially created body of water which is required in connection with a storm water management system.

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DRIVE, INTERIOR ACCESS. A way for internal vehicular movement in and around an individual lot or integrated center.

DRIVEWAY. Access for vehicular egress/ingress between the right-of-way of a public street or private street and the minimum required setback line on a lot.

DRIVEWAY, INTERIOR ACCESS. A way for vehicular egress/ingress between the minimum required setback lines of separate lots or between lots within the boundaries of an integrated center.



Drives & Related Areas

DWELLING, MULTIFAMILY. A building consisting of 3 or more dwelling units, including condominiums, with varying arrangements of entrances and party walls.

DWELLING, SINGLE FAMILY. A building containing 1 dwelling unit.

DWELLING, 2 FAMILY. A building consisting of 2 dwelling units which may be either attached side by side or 1 above the other, and each dwelling unit having a separate or combined entrance.

DWELLING UNIT. One or more rooms arranged as a single housekeeping unit with separate living, sleeping, sanitary, and cooking facilities physically separated from any other dwelling unit in the same structure.

EASEMENT. A grant by a property owner to the general public and/or public utility or utilities, or other individual or individuals for the use of land for a specifically stated purpose or purposes.

FEASIBILITY STUDY. A written report prepared by a registered engineer or registered land surveyor pertaining to the suitability of the site for various types of water and sewer systems; for storm drainage retention/detention or disbursal; and the sub-soil conditions for various methods of street construction.

FEDERAL EMERGENCY MANAGEMENT AGENCY. The administrative office of the National Flood Insurance Program.

FLOOD. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

FLOODPLAIN. 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 the floodway fringe districts.

FLOOD PROTECTION GRADE. The elevation of the regulatory flood plus 2 feet at any given location in the special flood hazard area.

FLOOD, REGULATORY. The flood having a 1% probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission and the Federal Emergency Management Agency. The REGULATORY FLOOD elevation at any location is as defined in the floodplain regulations section of the St. Joseph County Zoning Ordinance. The REGULATORY FLOOD is also known by the term BASE FLOOD.

FLOODWAY. The channel of a river or stream and those portions of the floodplain 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.

FLOODWAY FRINGE. Those portions of the floodplain lying outside the floodway.

FRONTAGE. The line of contact of an abutting property with the street right-of-way along a front lot line which allows unobstructed, direct access to the lot.

FRONTAGE STREET or FRONTAGE ROAD. See STREET, FRONTAGE.

I.A.C. Indiana Administrative Code.

I.C. Indiana Code.

IMPROVED PUBLIC RIGHT-OF-WAY. Those streets classified by the Town Engineer as bituminous concrete, cement concrete, or brick, and which have been dedicated and accepted into the town, county, or state (as applicable) street system.

IMPROVEMENT. Any man-made, immovable item which becomes part of, placed upon, or is affixed to real estate.

INTEGRATED CENTER. An area of development (commercial/town center, industrial, or any combination of commercial/town center, industrial and residential uses) of 1 or more lots or out lots, comprised of:

(1) Two or more individual, non-related and separately operated uses in 1 building sharing common site facilities;

(2) One or more buildings containing non-related and separately operated uses occupying a common site, which utilizes 1 or a combination of common site facilities, such as driveways, parking areas, loading areas, interior access drives, maintenance and similar common services; or

(3) One or more buildings containing non-related and separately operated uses occupying individual sites, which are interrelated by the utilization of 1 or a combination of common facilities, such as driveways, internal public street, or private street network, developed in accordance with an approved master plan or preliminary plan of a subdivision, parking areas, loading areas, maintenance or other services.

INDUSTRIAL PARK. An integrated center zoned for and primarily used by industrial businesses. See INTEGRATED CENTER.

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INTERESTED PARTIES.

(1) For major subdivisions:

(a) The owners of property located within 300 feet of the proposed major subdivision;

(b) The staff of the Area Plan Commission; and

(c) The subdivider.

(2) For minor subdivisions and subdivision replats:

(a) The staff of the Area Plan Commission; and

(b) The subdivider.

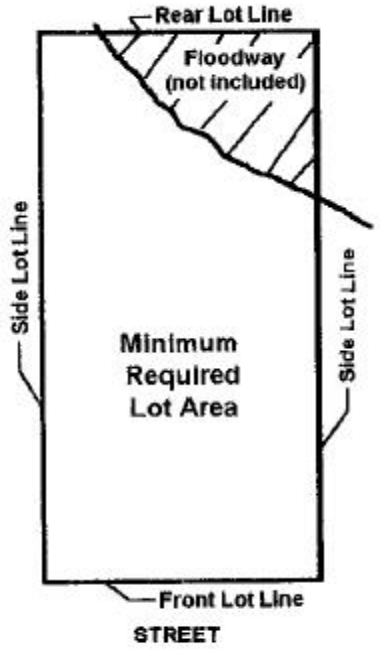
(3) For corrective plats:

(a) The staff of the Area Plan Commission; and

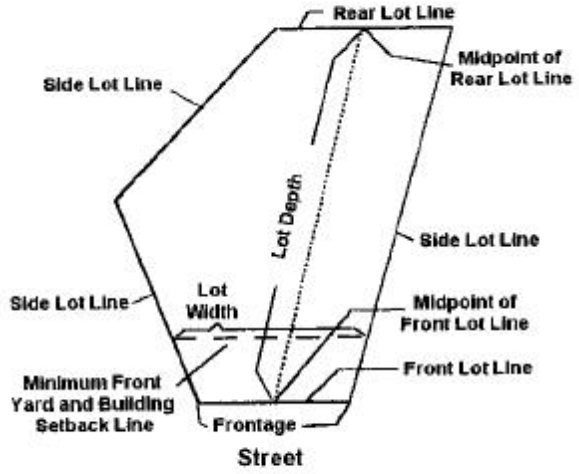
(b) The owners of all included lots for Type II and III corrective plats.

LOT. The portion of a subdivision which is proposed to be recorded in the office of the St. Joseph County Recorder as a LOT OF RECORD.

LOT AREA. The total area of a lot bounded on all sides by any front lot line, rear lot line, and side lot line; provided, however, LOT AREA shall not include: any area lying within the right-of-way of any public street or private street or easement for surface access into the subject lot or adjoining lots; or land reserved for drainage pond, wetland, or lands subject to periodic flooding. No part of the minimum LOT AREA required under the applicable district, commitment or variance grant may be satisfied by land that is under water.



Lot Area



Lot Depth & Lot Width

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LOT, CORNER. A lot abutting 2 or more streets at their intersections, or upon 2 parts of the same street forming an interior angle of less than 135 degrees.

LOT DEPTH. The distance from the midpoint of the front lot line to the midpoint of the rear lot line.

LOT, DOUBLE FRONTAGE.

(1) A lot abutting 2 parallel streets, or abutting 2 streets which do not intersect at the boundaries of the lot.

(2) A lot, other than a corner lot, which fronts on 2 streets.

LOT, INTERIOR. A lot which is not a corner lot or a double frontage lot.

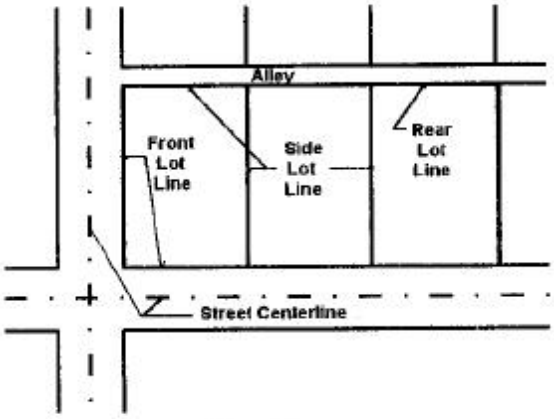
LOT LINE. The line of separation of a lot from any abutting street or adjoining lot.

LOT LINE, FRONT. The lot line separating a lot from any abutting street or limited access highway.

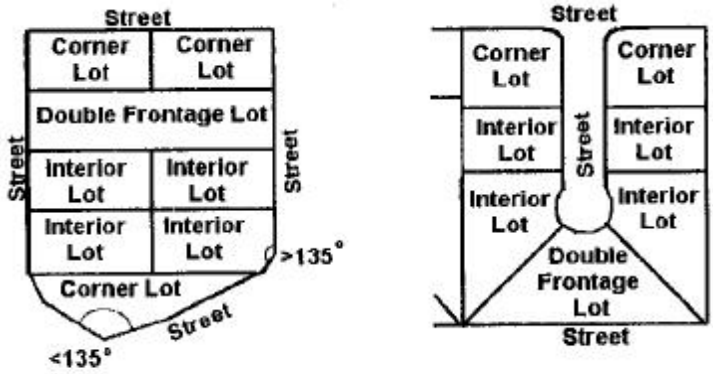
LOT LINE, REAR. A lot line which is opposite and most distant from the front lot line, or in the case of a triangularly shaped lot, a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line. However, in the case of a corner lot, any lot line which intersects with a front lot line shall not be considered a REAR LOT LINE. In the case of a double frontage lot or a triple frontage lot, lot lines along a non-access easement shall be treated as a side or REAR LOT LINE, as applicable.

LOT LINE, SIDE. Any lot line not designated as a front lot line or rear lot line. In the case of a double frontage lot or a triple frontage lot, lot lines along a non-access easement shall be treated as a side or rear lot line, as applicable.

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Lot Lines



Types of Lots

LOT OF RECORD. A lot which is part of a final plat recorded in the office of the Recorder of St. Joseph County, Indiana, or for which a deed has been so recorded prior to May 6, 1958.

LOT WIDTH. The frill width of a lot measured along the minimum front yard and minimum building setback line required by this chapter.

LOWEST FLOOR. The lowest of the following:

(1) The top of the basement floor;

(2) The top of the garage floor, if the garage is the lowest level of the building;

(3) The top of the first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings; or

(4) The top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless:

(a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of 2 openings, in addition to doorways and windows, having a total area of 1 square foot for every 2 square feet of area subject to flooding. The bottom of all such openings shall be no higher than 1 foot above grade; and

(b) Such enclosed space shall be usable for the parking of vehicles and building access.

MUNICIPAL ELECTRIC. An electric distribution system which is operated or owned by a governmental unit, or under the jurisdiction of the Indiana Utility Regulatory Commission.

NON-ACCESS EASEMENT. A public easement along a public right-of-way across which access to the property is not permitted.

OFF-STREET. An area, typically set aside for parking or loading, which is located on private property and does not occur in the right-of-way of any public street or private street.

ON-STREET. An area, typically set aside for parking or loading, which is located within the right-of-way of any public street or private street.

OPEN SPACE. A lot, a portion of a lot or common area set aside as a playground, plaza, park, parkway, greenbelt, residential bufferyard, or other landscape area and maintained free from buildings or structures, except for those structures which are directly related to and essential to the use of the open space for recreational purposes, including but not limited to swimming pools, play equipment for youngsters, game courts, and picnic tables. In the case of individual residential lots, OPEN SPACE shall be an area landscaped with grass, trees, shrubbery, or other suitable vegetative ground cover and maintained free from buildings or structures.

OUT LOT. A nonbuildable lot.

OWNER. Any individual, firm, association, syndicate, co-partnership or corporation having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this chapter.

PERFORMANCE BOND/PERFORMANCE GUARANTEE. Any bond or other guarantee which may be accepted in lieu of a requirement that certain improvements be made before the Plat Committee gives secondary approval to the subdivision, including by way of illustration, but not limited to: tax performance bonds, escrow agreements, deposit agreements, and other similar collateral or surety agreements approved as valid and enforceable by the town.

PLAT COMMITTEE. A committee appointed by the Area Plan Commission to hold hearings on and approve subdivisions on behalf of the Area Plan Commission in conformance with I.C. 36-7-4-701 et seq.

PUBLIC SEWER. A sewage disposal system which is operated or owned by a governmental unit (but not including a storm sewer installed for the purpose of carrying surface water runoff or subsoil drainage), or under the jurisdiction of the Indiana Utility Regulatory Commission.

PUBLIC UTILITY. A firm, corporation, municipal department, or board duly authorized to furnish, or furnishing under regulation to the public, electricity, gas, steam, communication (including cable television systems), transportation, drainage, sewer, or water.

PUBLIC WATER. A water supply system which is operated or owned by a governmental unit, or under the jurisdiction of the Indiana Utility Regulatory Commission.

PUBLIC WORKS DIRECTOR. The Public Works Director for the Town of New Carlisle.

RECORDER'S OFFICE. The Recorder's office of St. Joseph County.

REGISTERED ENGINEER. An engineer who is registered by the State of Indiana as a professional engineer.

REGISTERED LAND SURVEYOR. A surveyor who is registered by the State of Indiana as a professional land surveyor.

REPLAT. The process of allowing for an adjustment of a lot line or lines, and easements, as shown on a recorded subdivision which:

(1) Does not affect any street layout, whether existing or proposed;

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(2) Does not increase the total number of lots within the area proposed to be replatted;

(3) Does not change or modify the approved drainage system or plan;

(4) Does not change or modify the approved water supply system or plan; and

(5) Does not change or modify the approved sewage disposal system or plan.

RESERVE STRIP. An area of land adjacent to a public right-of-way which is retained in ownership by an individual for the purpose of denying access to the adjacent land.

REVERSE FRONTAGE. An arrangement of lots where a lot has frontage on 2 streets which are generally parallel, with access denied to the major arterial street or major collector street.

RIGHT-OF-WAY. A strip of land dedicated to public use and over which an alley, street, highway, pedestrian walkway, or other public way may be built as set forth in a written grant, declaration or conveyance that is recorded in the office of the County Recorder.

RIGHT-OF-WAY, EXISTING. The total right-of-way width of a street as created or expanded by the most recent grant, declaration or conveyance that is recorded in the office of the County Recorder.

RIGHT-OF-WAY, PRIVATE. Specific and particularly described strip of privately-held land devoted to and subject to use for general transportation purposes or conveyance of utilities, whether or not in actual fact improved or actually used for those purposes, as set forth in a written grant, declaration or conveyance that is recorded in the office of the County Recorder.

RIGHT-OF-WAY, PROPOSED. The recommended right-of-way width for a street based upon that street's classification in the officially adopted thoroughfare plan for the town as shown in the Comprehensive Plan.

RIGHT-OF-WAY, PUBLIC. Specific and particularly described strip of land, property, or interest therein dedicated to and accepted by the municipality, county, or state to be devoted to and subject to use by the general public for general transportation purposes or conveyance of utilities, whether or not in actual fact improved or actually used for those purposes, as set forth in a written grant, declaration or conveyance that is recorded in the office of the County Recorder.

ROAD. See STREET.

ROAD, TEMPORARY ACCESS. A road which is normally not built to town standards, but shall be constructed of material capable of supporting heavy emergency vehicles under any weather conditions.

SIGHT TRIANGLE. The triangular-shaped portion of land established at the intersection of rights-of-way extended (or the intersection of a right-of-way and a private drive), in which no structure or landscaping material may be erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection. Area comprising the SIGHT TRIANGLE shall be dedicated as public right-of-way.

SOIL INVESTIGATOR. An individual acceptable to both the Indiana State Department of Health and the County Health Department as a person qualified to analyze soils as to their suitability for the installation of basements.

STAFF. Includes the Executive Director of the Area Plan Commission; the Building Commissioner for the town; the Zoning Administrator for the town; any employee of the Area Plan Commission; any attorney, agent, or designee of the Executive Director of the Area Plan Commission; any attorney, agent, or designee of the Building Commissioner for the town; any attorney, agent, or designee of the Zoning Administrator; or any other employee of the town related to the review, recommendation, or approval process for development.

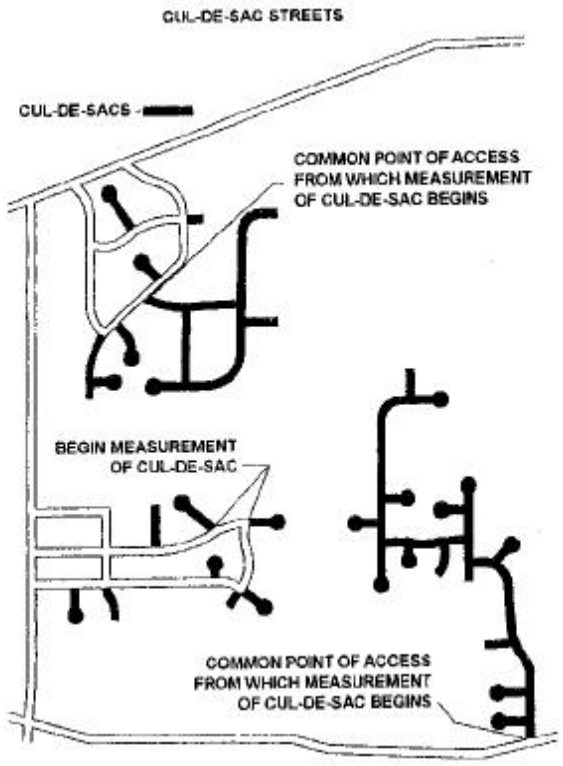
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STANDARDS. A specific and detailed listing of materials and construction methods for subdivision improvements and standards of construction and design, as adopted by the town.

STREET. Any public right-of-way or private right-of-way, with the exception of alleys, essentially open to the sky and open and dedicated to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, lane, road, drive, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for those purposes. A STREET may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking spaces, and similar features.

STREET, COLLECTOR. Any street which provides for through traffic movements from local streets to thoroughfares and between areas within the town.

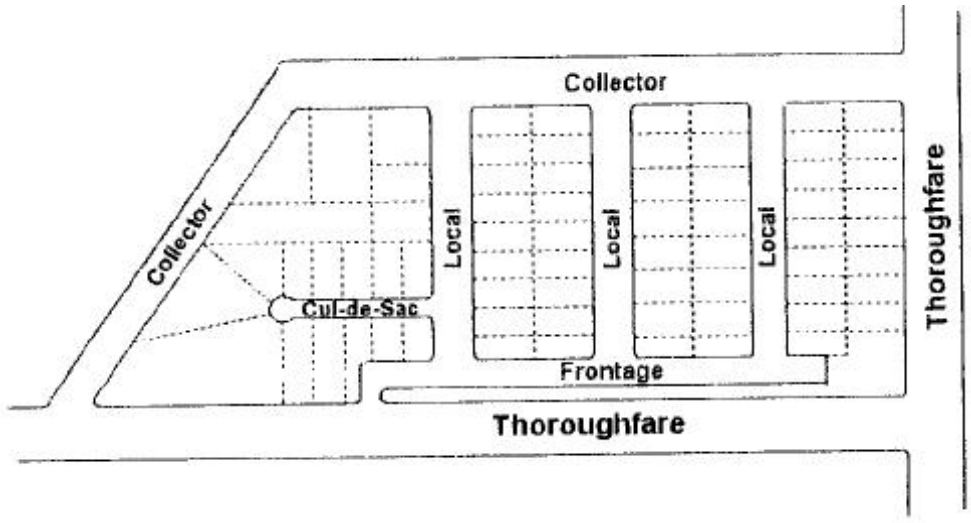
STREET, CUL-DE-SAC. Any local street, typically a local street, with a single point of ingress and egress and with a turn-around at the end. For the purposes of this chapter, a cul-de-sac also means any number of interconnected local streets that share only 1 common point of access to a dedicated public street and such dedicated public street provides 2 directions of ingress and egress.



STREET, FRONTAGE. A local or collector street which is generally parallel to and separated from a thoroughfare street by a non-access easement, and which has limited access points to the thoroughfare street in order to provide safe and convenient access to abutting properties without each property having direct access to the thoroughfare street.

STREET, LOCAL. Any street primarily designed and intended to carry low volumes of vehicular traffic movement at low speeds, provide direct access to residential, commercial, industrial, or other abutting real estate, and may include the principal entrance street of a development or which provides interior circulation within a subdivision and provides direct access to abutting real estate.

STREET, LOOP. A local street that has its only ingress and egress at 2 points on the same street.



STREET, PRIVATE. A privately held right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, easement, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for those purposes. A PRIVATE STREET may be comprised of pavement, shoulders, curbs, sidewalks, parking spaces, and similar features.

STREET, PUBLIC. A publicly dedicated, accepted, and maintained right-of-way, with the exception of alleys, which has been improved to town standards and is essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, lane, road, drive, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a public right-of-way for those purposes. A PUBLIC STREET may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking spaces, and similar features.

STREET, STUB. A street which terminates at the subdivision boundary and which is intended to be continued into the adjoining property when that property is subdivided.

STREET, THOROUGHFARE. Any U.S. highway, state highway, or county highway which passes through the corporate limits of the town.

SUBDIVIDER. The owner or the authorized agent for the owner of a subdivision.

SUBDIVISION. The division of a parcel of land into 2 or more lots, parcels, sites, units, plats, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any and all other plans, terms, and conditions, including resubdivision. SUBDIVISION includes the division or development of land opened for residential and nonresidential uses, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument. The following kinds of division of existing parcels of land are exempt:

(1) A division of land for the sale or exchange of tracts by adjoining landowners to correct errors in an existing legal description, provided that no additional building sites other than for accessory building s are created by the division;

(2) A division of land for the acquisition of street or utility right-of-way or easement;

(3) A division of land for the sale or exchange of tracts between adjoining land owners, provided that no additional development sites other than for accessory buildings are created by the division;

(4) A division of land into cemetery plots for the purpose of burial; and

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(5) A division of a lot of record, which is or may be legally developed with a 2 family dwelling or a multifamily dwelling, into sub-lots for the purpose of transfer of ownership of the individual dwelling units and their associated portion of the lot of record, provided that no additional development sites are created by the division and that no sub-lots are created which do not contain a dwelling unit.

SUBDIVISION, MAJOR. Any of the following:

(1) A subdivision of a tract of land into 4 or more parcels or lots, including any remainder of the original tract, for single family or 2 family dwelling purposes;

(2) Any subdivision which involves the creation of new streets, extension of water lines or sewer lines, or the creation of public improvements.

SUBDIVISION, MINOR. A subdivision of a tract of land into less than 4 parcels or lots, including any remainder of the original tract, which does not involve the creation of new streets, extension of water lines or sewer lines, or the creation of public improvements.

SUB-LOTS. Portions of a lot of record created in connection with the transfer of ownership of individual dwelling units in a 2 family or multifamily dwelling.

THOROUGHFARE PLAN. The portion of the Town of New Carlisle Comprehensive Plan, or other officially adopted plan of the Town of New Carlisle, which sets forth recommendations for major street alignments and street classifications.

TOWN. The Town of New Carlisle, Indiana.

TOWN ENGINEER. The Engineer for the town as appointed by the Town Council.

URBAN DRAIN. A drain which when constructed or reconstructed has or will have the hydraulic capacity to provide adequate drainage for land within a watershed which is being converted from rural land to urban land, as specified in I.C 36-9-27-67 through 36-9-27-69.

WAIVER/WAIVED. Permission granted in connection with the approval of a primary plat for a subdivision to allow a deviation from the standards or requirements of this chapter.

WALKWAY. A defined pedestrian way, typically improved with concrete or asphalt, which provides for pedestrian movement on private property. A WALKWAY may or may not be located in a pedestrian easement.

WELLHEAD PROTECTION AREA. The surface and subsurface area surrounding a public water supply which has been designated a WELLFIELD PROTECTION AREA by the Indiana Department of Environmental Management or the County Health Officer.

ZONING ORDINANCE. The zoning ordinance of the Town of New Carlisle, Indiana, codified in Chapter 152 of this code of ordinances.

(Ord. 1223, Art. 6, passed 5-11-2010)

Section 11.09 Forms & Applications

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Article 12 APPENDIX A: FORMS

Section 12.01 A-1 Area Plan Commission Commitments

Section 12.02 A-2 Area Plan Commission Modification of Commitments

Section 12.03 A-3 Board of Zoning Appeals Commitments

Section 12.04 A-4 Board of Zoning Appeals Modification of Commitments

Section 12.05 A-5 Consent Form

Section 12.06 A-6 Consent Form

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APPENDIX A-1: AREA PLAN COMMISSION COMMITMENTS

NOTE: The Town of New Carlisle Zoning Ordinance requires the use of this form in recording commitments made with respect to Zone Map Changes or Planned Unit Developments in accordance with state law.

COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL

ESTATE MADE IN CONNECTION WITH A ZONE MAP CHANGE OR PLANNED

UNIT DEVELOPMENT REQUIRED BY THE TOWN OF NEW CARLISLE

ZONING ORDINANCE

In accordance with state law, the Owner of the real estate located in the Town of New Carlisle, Indiana which is described below, makes the following COMMITMENTS concerning the use and development of the following described parcel of real estate:

LEGAL DESCRIPTION:

STATEMENT OF COMMITMENTS:

1.

2.

3.

These COMMITMENTS shall run with the land, be binding on the Owner of the above-described real estate, subsequent owners of the above-described real estate and other persons acquiring an interest therein. These COMMITMENTS may be modified or terminated by a decision of the Area Plan Commission of St. Joseph County made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the approval of petition #_____ pursuant to the Town of New Carlisle Zoning Ordinance, and shall continue in effect until: (i) the real estate is rezoned; or (ii) modified or terminated by the Area Plan Commission of St. Joseph County.

These COMMITMENTS may be enforced jointly or severally by:

1.The Area Plan Commission of St. Joseph County;

2.The Town of New Carlisle, Indiana;

3.Owners of all parcels of ground adjoining the real estate within 300 feet of the subject parcel and all owners of real estate within the area included in the petition who were not petitioners for approval; and

4._____

_____

The undersigned hereby authorizes the Executive Director of the Area Plan Commission of St. Joseph County to record this Commitment in the office of the Recorder of St. Joseph County, Indiana, upon final approval of petition #_____.

IN WITNESS WHEREOF, Owner has executed this instrument this ____ day of _____ , _____.

(Individual Owner)

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Signature _____ (Seal) Signature _____ (Seal)

Printed _____ Printed _____

(Organization Owner)

_____

By _____

Printed _____

Title _____

(Individual Acknowledgment)

STATE OF_____)

) SS:

COUNTY OF_____)

Before me, a Notary Public in and for said County and State, personally appeared _____, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this _____ day of_____, _____.

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

(Organization Acknowledgment)

STATE OF_____)

) SS:

COUNTY OF_____)

Before me, a Notary Public in and for said County and State, personally appeared _____, the_____ of _____, a(n)_____, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument in such capaTown and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this _____ day of _____, _____.

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

This instrument was prepared by _____.

DRAFT

(Ord. 1221, Exh. A, passed 1-26-2010)

APPENDIX A-2: AREA PLAN COMMISSION MODIFICATION OF COMMITMENTS

NOTE: The Town of New Carlisle Zoning Ordinance requires the use of this form in recording commitment modification(s) or termination(s) with respect to a Zone Map Change or Planned Unit Development in accordance with state law.

COMMITMENTS MODIFYING OR TERMINATING EXISTING COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH A ZONE MAP CHANGE OR PLANNED

UNIT DEVELOPMENT

In accordance with state law, the Owner of the real estate located in the Town of New Carlisle, Indiana, which is described below, makes the following modification(s) or termination(s) of commitment(s) concerning the use and development of the following described parcel of real estate:

LEGAL DESCRIPTION:

STATEMENT OF MODIFICATION OR TERMINATION OF COMMITMENTS:

1.

2.

3.

These MODIFICATION OR TERMINATION OF COMMITMENTS shall run with the land, be binding on the Owner of the above-referenced real estate, subsequent owners of the above-referenced real estate and other persons acquiring an interest therein. These COMMITMENTS may be modified or terminated by a decision of the Area Plan Commission of St. Joseph County made at a public hearing after proper notice has been given.

MODIFICATION OR TERMINATION OF COMMITMENTS contained in this instrument shall be effective upon adoption of modification or termination approved by the Area Plan Commission of St. Joseph County in petition #_____: (i) the real estate is rezoned; or (ii) modified or terminated by the Area Plan Commission of St. Joseph County.

These COMMITMENTS may be enforced jointly or severally by:

1.The Area Plan Commission of St. Joseph County;

2.The Town of New Carlisle, Indiana;

3.Owners of all parcels of ground adjoining the real estate within 300 feet of the subject parcel and all owners of real estate within the area included in the petition who were not petitioners for approval; and

4._____

_____

The undersigned hereby authorizes the Executive Director of the Area Plan Commission of St. Joseph County to record this MODIFICATION OR TERMINATION OF COMMITMENTS in the office of the Recorder of St. Joseph County, Indiana, upon final approval petition #_____ by the Area Plan Commission of St. Joseph County.

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IN WITNESS WHEREOF, Owner has executed this instrument this _____ day of _____, _____.

(Individual Owner)

Signature _____ (Seal)Signature _____ (Seal)

Printed _____Printed _____

(Organization Owner)

_____

By _____

Printed _____

Title _____

(Individual Acknowledgment)

STATE OF_____)

) SS:

COUNTY OF_____)

Before me, a Notary Public in and for said County and State, personally appeared _____, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this _____ day of_____, _____.

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

(Organization Acknowledgment)

STATE OF_____)

) SS:

COUNTY OF_____)

Before me, a Notary Public in and for said County and State, personally appeared _____, the_____ of _____, a(n)_____, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument in such capaTown and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this _____ day of _____, _____.

Signature _____

Printed _____

County of Residence _____

DRAFT

My Commission expires: _____

This instrument was prepared by _____.

(Ord. 1221, Exh. B, passed 1-26-2010)

DRAFT

APPENDIX A-3: BOARD OF ZONING APPEALS COMMITMENTS

COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH A SPECIAL EXCEPTION OR A

VARIANCE GRANT FROM THE TERMS OF THE ZONING ORDINANCE

In accordance with state law, the Owner of the real estate located in the Town of New Carlisle, St. Joseph County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of the following described parcel of real estate:

LEGAL DESCRIPTION:

STATEMENT OF COMMITMENTS:

1.

2.

3.

4.

These COMMITMENTS shall be binding on the Owner, subsequent owners of the above-described real estate, and other persons acquiring an interest in the above-described real estate.

These COMMITMENTS may be modified or terminated by a decision of the Town of New Carlisle Board of Zoning Appeals made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the grant of petition #_____ by the Town Council/Board of Zoning Appeals.

These COMMITMENTS may be enforced jointly or severally by:

1.The Town of New Carlisle, Indiana;

2.Owners of all parcels of ground adjoining the real estate within 300 feet from the subject property, and all owners of real estate within the area included in the petition who were not

petitioners. Owners of real estate entirely located outside the Town of New Carlisle are not included, however; and

3._____

_____

The undersigned hereby authorizes the Clerk of the Town Council / Secretary of the Board of Zoning Appeals to record this Commitment in the office of the Recorder of St. Joseph County, Indiana, upon final approval of petition #_____.

IN WITNESS WHEREOF, Owner has executed this instrument this _____ day of _____, _____.

(Individual Owner)

Signature _____ (Seal) Signature _____ (Seal)

Printed _____Printed _____

(Organization Owner)

DRAFT

_____

By _____

Printed _____

Title _____

(Individual Acknowledgment)

STATE OF_____)

) SS:

COUNTY OF_____)

Before me, a Notary Public in and for said County and State, personally appeared _____, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this _____ day of_____, _____.

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

(Organization Acknowledgment)

STATE OF_____)

) SS:

COUNTY OF_____)

Before me, a Notary Public in and for said County and State, personally appeared _____, the _____ of _____, a(n)_____, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument in such capaTown and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this _____ day of _____, _____.

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

This instrument was prepared by _____.

(Ord. 1221, Exh. C, passed 1-26-2010)

APPENDIX A-4: BOARD OF ZONING APPEALS MODIFICATION OF COMMITMENTS

DRAFT

COMMITMENTS MODIFYING OR TERMINATING EXISTING COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE

MADE IN CONNECTION WITH A SPECIAL EXCEPTION OR A

VARIANCE FROM THE TERMS OF THE ZONING ORDINANCE

In accordance with state law, the Owner of the real estate located in the Town of New Carlisle, St. Joseph County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of the following described parcel of real estate:

LEGAL DESCRIPTION:

STATEMENT OF MODIFICATION OR TERMINATION OF COMMITMENTS existing in Instrument Number _____ as recorded in the office of the Recorder of St. Joseph County, Indiana, as made in connection with petition #_____:

1.

2.

3.

4.

These modified COMMITMENTS shall be binding on the Owner of the above-described real estate, subsequent owners of the above-described real estate, and other persons acquiring an interest in the above-described real estate.

These modified COMMITMENTS may be further modified or terminated by a decision of the Board of Zoning Appeals made at a public hearing after proper notice has been given.

Modified COMMITMENTS contained in this instrument shall be effective upon the adoption of modification or termination approved by the Board of Zoning Appeals in petition #_____.

These COMMITMENTS may be enforced jointly or severally by:

1.The Town of New Carlisle, Indiana;

2.Owners of all parcels of ground adjoining the real estate to a depth of 300 feet from the subject property, and all owners of real estate within the area included in the petition who were not petitioners. Owners of real estate entirely located outside of the Town of New Carlisle are not included, however; and

3._____

_____

The undersigned hereby authorizes the Secretary of the Board of Zoning Appeals to record this Commitment in the office of the Recorder of St. Joseph County, Indiana, upon final approval of modification and/or termination of commitment(s) by the Board of Zoning Appeals in petition #_____.

IN WITNESS WHEREOF, Owner has executed this instrument this _____ day of _____,_____.

(Individual Owner)

Signature _____ (Seal) Signature _____ (Seal)

Printed_____ Printed_____

DRAFT

(Organization Owner)

_____

By _____

Printed _____

Title _____

(Individual Acknowledgment)

STATE OF_____)

) SS:

COUNTY OF_____)

Before me, a Notary Public in and for said County and State, personally appeared _____, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this _____ day of_____, _____.

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

(Organization Acknowledgment)

STATE OF_____)

) SS:

COUNTY OF_____)

Before me, a Notary Public in and for said County and State, personally appeared _____, the_____ of _____, a(n)_____, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument in such capaTown and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this _____ day of _____, _____.

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

This instrument was prepared by _____.

(Ord. 1221, Exh. D, passed 1-26-2010)

DRAFT

APPENDIX A-5: CONSENT FORM

TOWN COUNCIL/AREA PLAN COMMISSION/BOARD OF ZONING APPEALS

FOR THE

TOWN OF NEW CARLISLE, ST. JOSEPH COUNTY, INDIANA

CONSENT FORM

The undersigned, _____, being the owner of the property commonly known as _____, hereby authorizes _____ to file land development petitions necessary for the aforementioned address.

This consent shall (check one):

remain in effect until revoked by a written statement filed with the Town Council / Area Plan Commission / Board Of Zoning Appeals.

remain in effect until _____.

remain in effect until these land development petitions are resolved.

By: _____

Printed:_____

Title:_____

Date:_____

STATE OF INDIANA,

COUNTY OF ST. JOSEPH, SS:

Subscribed and sworn to before me this

_____ day of _____, 20_____

_____

Notary Public

_____

Printed Name of Notary Public

My Commission expires: _____

My County of residence: _____

(Ord. 1221, Exh. E, passed 1-26-2010)

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APPENDIX A-6: CONSENT FORM

TOWN COUNCIL/AREA PLAN COMMISSION/BOARD OF ZONING APPEALS

FOR THE

TOWN OF NEW CARLISLE, ST. JOSEPH COUNTY, INDIANA

CONSENT FORM

The undersigned, _____, being the owner of the property commonly known as _____, hereby authorizes _____ to file land development petitions necessary for the aforementioned address.

This consent shall (check one):

remain in effect until revoked by a written statement filed with the Town Council/ Area Plan Commission/Board Of Zoning Appeals.

remain in effect until _____ .

remain in effect until these land development petitions are resolved.

_____ _____

_____ _____

Signature(s) of Owner(s) Signature(s) of Owner(s)

STATE OF INDIANA, STATE OF INDIANA,

COUNTY OF ST. JOSEPH, SS: COUNTY OF ST. JOSEPH, SS:

Subscribed and sworn to before me this Subscribed and sworn to before me this

_____ day of _____, 20_____ _____ day of _____, 20_____

_____ _____

Notary Public Notary Public

_____ _____

Printed Name of Notary Public Printed Name of Notary Public

My Commission expires: _____ My Commission expires: _____

My County of residence: _____ My County of residence: _____

(Ord. 1221, Exh. F, passed 1-26-2010)

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