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**The Town of  
Cromwell  
Zoning Ordinance**

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**Cromwell, Indiana Zoning Ordinance  
Table of Contents**

Section 1. General Provisions and Enforcement..... 2

Section 2. Definitions.....

Section 3. Districts.....

Section 4. Authorized Uses.....

Section 5. Use Requirements and Restrictions.....

Section 6. Planned Developments.....

Section 7. Design Review Committee.....

Section 8. Board of Zoning Appeals.....

Section 9. Improvement Location Permits.....

Appendix Rules of Procedure.....

Appendix Required Forms and Certificates.....

**THE ZONING ORDINANCE OF  
THE TOWN OF CROMWELL, INDIANA**  
Ord. No. 942

**AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR THE TOWN OF CROMWELL, INDIANA AND ITS JURISDICTIONAL AREA AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF INDIANA CODE 36-7, AS AMENDED, AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH.**

**WHEREAS**, Indiana Code 36-7, as amended, empowers the Town of Cromwell to enact a zoning ordinance and to provide for its administration, enforcement, and amendment, and

**WHEREAS**, the Cromwell Advisory Plan Commission, and the Town Council of the Town of Cromwell, Indiana, deem it necessary for the purpose of promoting the health, safety, convenience, and general welfare of the community to enact such an ordinance, and

**WHEREAS**, pursuant to the provisions of Indiana Code 36-7-4-900 et seq., as amended, a Board of Zoning Appeals has been created to recommend and to carry out its powers and duties as described under, Indiana Code 36-7-4-900 et seq., as amended, and

**WHEREAS**, the Cromwell Advisory Plan Commission has divided all areas of the Town of Cromwell and its jurisdictional area into districts and has prepared regulations pertaining to such districts in accordance with an adopted comprehensive plan designed to lessen congestion in public streets; to secure safety from fire, flood, and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements, and

**WHEREAS**, the Cromwell Advisory Plan Commission has given reasonable consideration, among other things, to the present character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and lands and encouraging the most appropriate use of land throughout the Town of Cromwell and its jurisdictional area, and

**WHEREAS**, the Cromwell Advisory Plan Commission has studied and held public hearings thereon, pursuant to law, and submitted its final report to the Town of Cromwell, and

**WHEREAS**, the Cromwell Advisory Plan Commission has given due public notices of hearings relating to zoning districts, regulations, and restrictions, and has held such public hearings, and

**WHEREAS**, all requirements of Indiana Code 36-7-4-900 et seq., as amended, with regard to the preparation of the report of the Cromwell Advisory Plan Commission and the subsequent action necessary to enact this ordinance by the town have been met;

**NOW, THEREFORE, BE IT ENACTED BY THE TOWN COUNCIL OF THE TOWN OF CROMWELL, NOBLE COUNTY, STATE OF INDIANA AS FOLLOWS:**

*Town of Cromwell Zoning Ordinance*

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*Section One - Enactment and General Provisions*

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**Section 1  
Enactment and General Provisions**

**1.1 Title**

These regulations shall hereafter be known and cited as the Zoning Ordinance of Cromwell, Indiana.

**1.2 Interpretation, Conflict and Separability**

- A. In their interpretation and application the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.
- B. Conflict with Public and Private Provisions
  - i. **Public Provisions.** The regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, those provisions which are more restrictive or impose higher standards shall control.
  - ii. **Private Provisions.** These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, or the determinations of the Commission in enforcing these regulations, and such private provisions are not inconsistent with these regulations or determinations thereunder, then such private provisions shall be operative and supplemental to these regulations and determinations made thereunder. Private provisions can only be enforced privately unless a public agency such as the Town of Cromwell Town Council or Cromwell Advisory Plan Commission has been made a party to such agreements.
  - iii. **Separability.** If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The Town of Cromwell hereby declares that it would have enacted the remainder of these regulations even without any such part, provision or application.

*Section One - Enactment and General Provisions*

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**1.3 Saving Provision**

This ordinance shall not be construed as abating any action now pending under, or by virtue of, prior existing zoning ordinances, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the Town of Cromwell under any section or provision existing at the time of the effective date of this ordinance, or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the Town of Cromwell except as shall be expressly provided for in this ordinance.

**1.4 Exclusion**

Nothing in this Ordinance or in any rules, regulations or orders issued pursuant to this Ordinance 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 state agency, or the use of property owned or occupied by the State of Indiana or any state agency. As used in this section, the term "state agency" shall mean and include all state agencies, boards, commissions, departments, and institutions, including state universities of the State of Indiana.

**1.5 Effective Date**

This ordinance takes effect 8-1-97.

**1.6 Repealer**

Upon the adoption of this ordinance according to law all previous zoning ordinances and regulations and amendments thereto and all prior zoning maps are hereby repealed.

**1.7 Amendments**

For the purpose of providing for the public health, safety, and general welfare, the Town, on recommendation of the Commission, may from time to time amend the text of this ordinance and/or the zoning map(s) incorporated by reference in this ordinance. Public hearings on all proposed amendments shall be held by the Commission and/or the Town in the manner prescribed by law.

**1.8 Enforcement, Violation, and Penalties**

A. It shall be the duty of the Administrator to enforce these regulations and to bring any violations or lack of compliance to the attention of the Town Attorney who may file a complaint against

Section One - Enactment and General Provisions

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- the person and prosecute the alleged violation.
- B. Any person may, by suit in a circuit or superior court of the county, enjoin the violation of this Ordinance.
- C. The Advisory Board of Zoning Appeals may, by mandatory injunction in the circuit court of the county against the owner or possessor of the real estate, require the removal of a structure erected in violation of this Ordinance, or the removal of any use or condition in violation of this Ordinance.
- D. A use that violates this Ordinance shall be treated as if it were a common nuisance, and the owner or possessor of the structure, land, or premises upon which the use is maintained shall be liable for such nuisance.
- E. Any person whether owner or possessor, who shall violate, or who permits or allows a violation, of any of the provisions of this Ordinance, or who fails to comply therewith or with any requirements thereunder, or who shall build, reconstruct, or structurally alter any building in violation of any detailed statement or plan submitted upon which an approval or grant is given under this Ordinance, shall, upon complaint filed in any court of the county and upon judgment finding such violation, be fined not less than One Hundred dollars (\$100.00) and not more than Two-Thousand and Five Hundred dollars (\$2,500.00), and each day that such violation or noncompliance shall be permitted to exist, shall constitute a separate violation.
- F. No Improvement Location Permit or Building Permit required under the Uniform Building Code or this ordinance shall be issued on any property subject to this ordinance in violation of the provisions of this ordinance.
- G. Attorney's Fees. Notwithstanding anything contained in this Ordinance to the contrary or appearing to be to contrary, and in addition and supplementary to other provisions of this Ordinance, if the Board of Zoning Appeals or the Town of Cromwell is required to utilize the services of the Town of Cromwell attorney or any other attorney in investigating a possible violation of this ordinance or enforcing the provisions of this Ordinance pursuant to Section 1.8A, 1.8C, 1.8D or 1.8E, or any other Section, before any board or court (including appeals), and such investigation results in a determination that a violation has occurred or if the Board of Zoning Appeals or Town of Cromwell is successful in its enforcement of the Ordinance by way of suit, appeal or other appropriate proceeding, the respondent, defendant or party investigated for a violation shall pay the Town's reasonable attorney fees and all costs related to the investigation of the violation and/or the enforcement of this Ordinance, unless such attorney fees or costs are specifically waived by the Town Council of the Town of Cromwell.
- H. Costs on Appeal. As to any appeal from a decision of the Board of Zoning Appeals, costs may not be allowed against the Board of Zoning Appeals unless it appears to the court that the Board acted with gross negligence or in bad faith in making the decision brought up for review.

*Section One - Enactment and General Provisions*

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- I. The Administrator or any person or persons assisting the Administrator in the application and enforcement of this Ordinance is hereby authorized to go onto private property for the purpose of conducting inspections required by the Ordinance or any order of the Plan Commission, Board of Zoning Appeals or the Town Council of the Town of Cromwell, or required to determine if this Ordinance is being violated, or required to enforce this Ordinance. Such inspection or inspections shall occur at reasonable times and shall be conducted in a manner not to disturb the peace.

**1.9 Designation Of The Administrator**

The Town of Cromwell acting by its Town Council shall annually appoint the Administrator for the purposes of implementing this ordinance and has the principal responsibility for enforcing this ordinance. The Administrator shall serve at the pleasure of the Cromwell Town Council.

**Section 2  
Definitions**

**Preface**

The purpose of this section is to explain the meaning of terms used in the text of this zoning ordinance as well as additional terms which planning commissions and zoning administrators often have to deal with. By making these meanings explicit, the risk of arbitrary administrative decisions through lack of understanding is reduced and fair administration of the ordinance is enhanced. Those preparing applications will have their tasks made easier if the purposes, processes, and requirements of the ordinance are more clearly comprehended. Common understanding of the ordinance will facilitate adherence to it and the accomplishment of the stated public purposes for all parties affected by the ordinance in regard to adherence to its provisions and to the means of amending its text and maps.

Definitions that are illustrated in **BOLD CAPITAL LETTERS** are those which are explicitly used by this ordinance.

Definitions that are illustrated in **bold letters** are those which may be used by developers, planners, or other similar planning documents.

For definitions included in this ordinance and for additional definitions not specifically defined in this ordinance refer to: (1.) "The New Illustrated Book Of Development Definitions", by Harvey S. Moskowitz and Carl G. Lindbloom, Center For Urban Policy Research, Rutgers University, 1995 edition; (2.) "Black's Law Dictionary", sixth edition, West Publishing Company, 1990; (3.) "Model Zoning Ordinance" & "Model County Subdivision Regulations", HERPICC, Purdue University, 1988; and (4.) "Replacement Zoning Ordinance" and "Replacement Subdivision Control Ordinance", Noble County, Indiana, 1987. (5.) "Indiana Code, 1993 Edition," West Publishing Company, 1993. (6.) "The Job of the Practicing Planner:", Albert Solnit, American Planning Association, 1988.



*Section Two - Definitions*

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2.1 Definitions

**A**

**Abandonment.** The relinquishing of property, or a cessation of the use of the property, by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property.

**ABUT.** To physically touch or border upon; or to share a common property line but not overlap.

**ACCESS.** A way or means of approach to provide vehicular or pedestrian traffic physical entrance to a property.

**Access Point.** The location of the intersection of a highway or street or driveway with the highway.

**ACCESS ROAD.** (See Street, Local.)

**ACCESSORY APARTMENT.** A dwelling unit that has been added onto, or created within, a single-family house which is also occupied full-time by its owner.

**ACCESSORY BUILDING.** A subordinate structure, the use of which is incidental to that of the dominant use of the primary building or land. Refers to a building or use which (a) is subordinate to and serves a principal building or principal use; (b) is subordinate in area, extent, or purpose to the principal building or principal use served; (c) contributes to the comfort, convenience, or necessity of occupants in the principal building or principal use served; (d) is located on the same zoning lot as the principal building or principal use served with the exception of accessory off-street parking facilities located elsewhere than on the same zoning lot with the principal building or principal use served.

**ACCESSORY USE.** A subordinate use which is incidental to that of the primary use and is a use other than human occupancy.

**ACRE.** A unit of land measurement equal to 43, 560 square feet (4,047 square meters).

**Acreage.** Any tract or parcel of land that has not been subdivided and platted.

**ACTUAL CONSTRUCTION.** (See 4.3(c)).

**Adaptive Reuse.** The development of a new use for an older building or for a building originally designed for a special or specific purpose.

*Section Two - Definitions*

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**Addition.** A structure added onto the original structure sometime after the completion of the original; or an extension or increase in floor area or height of a building or structure.

**Adjoining Land.** See Abut.

**Adjoining Lot.** See Abut.

**ADMINISTRATOR.** The officer appointed by and/or delegated the responsibility for the administration of these regulations by the Cromwell Town Council.

**ADVISORY PLAN COMMISSION.** A plan commission serving a single local government jurisdiction established as defined under the IC 36-7-1-2 as amended. The Cromwell Plan Commission is an Advisory Plan Commission.

**AESTHETIC.** The perception of artistic elements or elements in the natural or created environment that are pleasing to the eye.

**AGRICULTURE.** The primary use of a tract of land for growing or production of field crops, livestock, and livestock products, including the harvesting, storage and primary processing of agricultural products produced.

**AGRICULTURAL BUILDING.** Any building or structure used for agricultural purposes. (See Farm Structure.)

**Agricultural Pollution.** The liquid, gaseous, and solid wastes from all types of farming, including runoff from pesticides, fertilizers, and feedlots, erosion and dust from plowing, animal manure and carcasses, and crop residue and debris.

**Air Contaminant.** Dust, fumes, gas, mist, smoke, vapors, odors or other air impurities or any combination of them.

**Air Contaminant Source.** Any source of emission of air contaminants, whether derived from privately or publicly owned or operated sources.

**AIR POLLUTION.** The presence in the outdoor atmosphere of one (1) or more air contaminants in sufficient quantities and of such characteristics and duration to be injurious to human, plant or animal life or property; or that unreasonably interferes with the comfortable enjoyment of life and property.

**Aircraft.** Any contrivance or vehicle designed for flight within or outside of the earth's atmosphere.

*Section Two - Definitions*

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**AIRPORT.** Any area that is used or is intended to be used for the taking off or landing of aircraft and any appurtenant areas that are used or intended to be used for accessory buildings or uses, including open spaces, taxiways and tie-down areas.

**AISLE.** The traveled way by which cars enter and depart parking spaces.

**ALLEY.** A public way primarily designed to serve as a secondary access to the side or rear of those properties whose principal frontage is on some other street and which is not intended for general traffic circulation.

**Amenity.** A natural or created feature that enhances the aesthetic quality, visual appeal, or makes more attractive or satisfying a particular property, place, or area.

**Americans With Disabilities Act (ADA).** A 1990 federal law designed to bring disabled Americans into the economic mainstream by providing them equal access to jobs, transportation, public facilities, and services.

**AMUSEMENT AND RECREATION SERVICES.** Establishments engaged in providing entertainment for a fee and including such activities as dance halls; studios; theatrical productions; bands, orchestras, and other musical entertainment; bowling alleys and billiard and pool establishments; commercial facilities, such as arenas, rings, rinks and racetracks; public golf courses; coin operated devices; amusement parks; membership sports and health clubs; amusement and bathing beaches; swimming pools; riding academies; carnival operations; expositions; game parlors; and horse shows.

**Animal Hospital.** See Veterinary Hospital.

**ANIMAL KENNEL.** Any structure or premises in which animals are housed, boarded, groomed, bred, trained, or sold, for commercial gain. (Also see Kennel.)

**Annexation.** The incorporation of a land area into an existing community with a resulting change in the boundaries of the community.

**Antenna.** A device used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based structures.

**APARTMENT BUILDING.** A structure containing three or more dwelling units. (See Dwelling, Multifamily).

**Apartment Complex.** Two or more apartment buildings clustered together.

**Apartment House.** A structure containing three or more dwelling units. (See Dwelling, Multifamily.)

*Section Two - Definitions*

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**APARTMENT UNIT.** One or more rooms with private bath and kitchen facilities comprising an independent, self-contained dwelling unit in a building containing three or more dwelling units. (See Apartment House and Dwelling, Multifamily.)

**APPLICANT.** The fee simple owner of land who makes application to the Cromwell Plan Commission for action by said commission thereby affecting that land.

**Approved Plan.** A plan that has been granted final approval by the appropriate approving authority.

**ARCHITECTURAL FEATURE.** A prominent or significant part or element of a building, structure, or site.

**ARTIFICIAL LAKE.** A manmade body of water which has a surface area of six acres or larger.

**ARTIFICIAL POND.** A manmade body of water which has a surface area of less than six acres.

**ARTERIAL (STREET OR ROAD).** Either a primary arterial or secondary arterial as defined in this section.

**AUCTION HOUSE.** A building or structure where art, furniture, and other goods are offered for sale to persons who bid on the object in competition with each other.

**AUTOMATIC CAR WASH.** A building, or a portion of a building, where automobiles are washed by mechanical devices either automatically or semiautomatically.

**AUTOMOTIVE REPAIR, MAJOR.** A building, structure or facility where automobiles, trucks, tractors, trailers, recreational vehicles or buses are repaired and where such repair includes but is not limited to engine rebuilding, reconditioning or replacement; collision repair including body, frame or fender straightening, repair or replacement; and overall painting of vehicles.

**AUTOMOTIVE REPAIR, MINOR.** A building, structure or facility used for incidental automotive repair, replacement of parts and motor service to motor vehicles, but not including any operation specifically included under AUTOMOTIVE REPAIR, MAJOR.

**Automotive Service Station.** A facility where gasoline or automotive fuel (stored only in underground tanks), kerosene, lubricating oil or grease (for operation of automotive vehicles) are offered for sale to the public on the premises, along with minor accessories and service for automotive vehicles (but not including major automotive repairs), and the washing of vehicles where no chair conveyor, blower or steam cleaning device is employed.

*Section Two - Definitions*

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**Automotive Wrecking Yard.** Any place where two (2) or more non-operable motor vehicles or where vehicular parts are stored in the open and are not being restored to operation; any land, structure or building used for storing, cutting up, compressing, or otherwise disposing of motor vehicles or parts including the commercial salvaging of any other goods, articles or merchandise. (See Junk Yard.)

**Average Density Procedures.** Procedures for calculating overall density of development prescribed in the Zoning Ordinance as a flexible tool for maintaining overall densities while allowing individual lot sizes to vary from the minimum size allowed in a given zone.

**Awning.** A temporary roof like cover that projects from the wall of a building and overhangs the public way.

## **B**

**BAR.** Premises used primarily for the sale or dispensing of liquor by the drink for on-site consumption and where food may be available for consumption on the premises as accessory to the principal use.

**Base map.** A map having sufficient points of reference, such as a state, county, or municipal boundary lines, streets, easements, and other selected physical features, to allow the plotting of other data.

**Basement.** A space wholly or partly underground and having more than one-half (½) of its height, measuring from its floor to its ceiling, below the average adjoining finished grade. If the finished floor level directly above a basement is more than six (6) feet above finished grade at any point, the space is a story.

**BED AND BREAKFASTS: HOMESTAY.** A small establishment, having one to three bedrooms for rent to transients as an activity which is subordinate and incidental to the main residential use of the building. These are generally treated as tourist homes.

**BED AND BREAKFAST INNS.** Establishments ranging from four to twenty guest rooms and may include restaurants that cater to the general public as well as to overnight guests. These are treated as commercial enterprises.

**Bedroom.** A private room planned and intended for sleeping, separated from other rooms, by a door, and accessible to a bathroom without crossing another bedroom.

**BILLBOARD.** (See Off-Premise Sign, Outdoor Advertising.)

*Section Two - Definitions*

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**Blighted Area.** (IC 36-7-1-3) Means an area in which normal development and occupancy are undesirable or impossible because of:

- (1) lack of development;
- (2) cessation of growth;
- (3) deterioration of improvements;
- (4) character of occupancy;
- (5) age;
- (6) obsolescence;
- (7) substandard buildings; or
- (8) other factors that impair values or prevent a normal use or development of property.

**BLOCK.** A tract of land bounded by streets, or by a combination of streets, public lands, public parks, cemeteries, railroad rights-of-way, shorelines of waterways, boundary lines of municipalities or any other barrier to the continuity of development.

**BLOCK FACE.** One side of a street between intersections.

**BOARD.** The Advisory Board of Zoning Appeals of the Town of Cromwell.

**BOARDING HOUSE.** A building, (other than a hotel or restaurant) not available to transients, in which meals are regularly provided for compensation for at least four inhabitants, but not more than twelve (12) persons, who are not members of the keeper's family, in addition to the owner occupant.

**BOARDING KENNEL.** See Animal Kennel.

**BOND.** Any form of security including cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the Plan Commission. All bonds shall be approved by the Commission wherever a bond is required.

**BUFFERING.** Open space, landscaping, fences, walls, berms, or any combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisances.

**BUFFER LANDSCAPING.** Any trees, shrubs, walls, fences, berms, or related landscaping features required under this ordinance or the Noble County Subdivision Regulations to be placed on private property and privately maintained or in public rights-of-way for the purpose of buffering lots from adjacent properties, for esthetic purposes, and/or for creating sound barriers and/or visual privacy.

*Section Two - Definitions*

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**BUILDING.** Any roofed structure supported by columns or walls built for the support, shelter, enclosure, or protection of persons, animals, chattels or moveable property of any kind (each part of such a structure that is separated from the rest by unbroken party walls is considered to be a separate building for the purposes of this ordinance). Any structure with interior areas **NOT** normally accessible for human use such as gas holders, oil tanks, grain elevators, coal bunkers, and other similar structures are **NOT** buildings.

**BUILDING, ACCESSORY.** A subordinate structure on the same lot as the principal or main building or use.

**BUILDING AREA.** The horizontal projected area of the buildings on a lot, excluding open areas or terraces, unenclosed porches not more than one story high, and architectural features that project no more than two feet.

**BUILDING CODE.** That ordinance, statute or group of ordinances or statutes establishing and controlling the standards for constructing buildings, utilities, mechanical equipment and all forms of structures and permanent installations.

**Building Front Line.** The total length of all walls nearest to and parallel with the front line.

**BUILDING HEIGHT.** The vertical distance measured from the average elevation of the finished lot grade at the front of the building.

**BUILDING INSPECTOR.** The individual designated to enforce the provisions of the building code. The construction official.

**BUILDING LINE.** The line that establishes the minimum permitted distance on a lot between the front line of a building and the street right-of-way line.

**BUILDING, NON-CONFORMING.** A legally existing building that fails to comply with the regulations set forth in this ordinance applicable to the district in which that building is located.

**BUILDING PERMIT.** See Improvement Location Permit.

**BUILDING, PRINCIPAL.** A building in which is conducted the principal use of the lot on which it is located, including a building that is attached to the building in a substantial way, such as by a roof.

**BUILDING SETBACK LINE.** A line parallel to the street line at a distance regulated by the front yard requirements in this ordinance.

*Section Two - Definitions*

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**Bulk.** The size and mutual relationships of buildings and other structures, as to the size, height, coverage, shape, and location of exterior walls in relation to lot lines, to the center line of streets, to other walls of the same building, and to other buildings or structures, and to all open spaces relating to the building or structure.

**Bulk Regulations.** Standards and controls that establish the maximum size of buildings and structures on a lot and the buildable area within which the building can be located, including coverage, setbacks, height, floor area ratio, and yard requirements.

**Bulk Storage.** The storage of chemicals, petroleum products, grains, and other materials in structures for subsequent resale to distributors or retail dealers or outlets and not directly to the consuming public.

**BUSINESS.** The purchase, sale, or exchange of goods or services, or the maintenance for profit of offices or recreational or amusement enterprises.

**BUSINESS DISTRICT.** Refers to the General Business (GB) and Central Business (CB) districts.

**C**

**CAMPGROUND.** Any site, lot, field, or tract of land under single ownership, or ownership of two or more people, or publicly owned, designed with facilities for short term or temporary occupancy by recreational vehicles and other camping equipment for recreation, education, or vacation purposes but not including mobile homes.

**Capital Improvements Program.** A proposed schedule of all future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual local government's operating expenses, for the purchase, construction, or replacement of the more durable, longer lived physical assets for the community are included.

**Carport.** A roofed structure providing space for the parking of motor vehicles and enclosed on not more than three sides.

**CEMETERY.** Property used for the interring of the dead. Includes any columbarium, crematory, mausoleum, or mortuary operated in conjunction with and on the same tract as the cemetery.

**Census.** An official periodic enumeration of a designated geographic areas; population, housing, and other characteristics.



## *Section Two - Definitions*

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**Census Tract.** Small areas into which large cities and adjacent areas have been divided for statistical purposes.

**CENTRAL BUSINESS DISTRICT (CB).** That part of a city or town, usually centrally located, where most of its commercial activities are concentrated, such as financial, service, retail, government, entertainment, and office. For the purpose of this ordinance, Central Business district has been established to include the town's core business area.

**Central Sewage System.** A community sewer system including collection and treatment facilities established by the developer to serve a new subdivision or an existing public sewer system. (See Public Sewer.)

**Central Water System.** A community water supply system including existing and new wells and/or surface water sources and intakes, treatment facilities, and distribution lines and includes such of the above facilities established by the developer to serve a new subdivision.

**Certificate.** The signed and attested document which indicates that a subdivision has been granted secondary approval subsequent to proper public notice.

**Charitable Institution.** A non-profit organization, with federal and state tax exempt status, supported mainly by public and private donations, which are held in trust to be used for the objects and purposes expressed in the institutions articles, constitution, by-laws, or charter for the promotion of the welfare of others.

**Checkpoint Agency.** A public agency or organization called upon to provide expert counsel with regard to a specific aspect of community development or required by law to give its assent before subdivision may take place.

**CHILDREN'S HOME.** A children's home, orphanage, institution, or other place maintained or conducted for receiving and caring for dependent, neglected, handicapped children or children in danger of becoming delinquent or for boarding of children who are unattended by parents or guardian, or person in loco parentis. (See Group Home.)

**Child-Care Center.** An establishment providing for the care, supervision, and protection of children.

**Chimney.** A structure containing one or more flues for drawing off emissions from stationary sources of combustion.

**CHURCH.** A building or structure, or groups of building or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

## *Section Two - Definitions*

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**CLINIC.** An establishment in which patients are admitted for medical or dental study or treatment and in which the services of at least two physicians or dentists are provided.

**Cluster.** A development design technique that concentrates buildings on a part of the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

**CLUSTER HOUSING.** Developments in which dwelling units are clustered close to their access streets or drives in order to permit aggregation of yard space into larger common recreational spaces.

**Collector Street.** A street intended to move traffic from local streets to secondary Arterials as designated by and shown on the Thoroughfare Plan. (A collector street serves a neighborhood or large subdivision and shall if at all possible be designed so that no residential properties face onto it and no driveway access to it is permitted except if the property is to be in multi-family use for three (3) or more dwelling units.)

**COMMISSION.** The Cromwell Advisory Plan Commission.

**COMMISSION ATTORNEY.** The licensed attorney designated by the Cromwell Advisory Plan Commission to furnish legal assistance for the administration of this ordinance or as provided by statute.

**Commercial Use.** Activity involving the sale of goods or services carried out for profit.

**Community Character.** The image of a community or area as defined by such factors as its built environment, natural features and open space elements, type of housing, architectural style, infrastructure, and the type and quality of public facilities and services.

**COMPOSTING.** A controlled process of degrading organic matter by microorganisms.

**COMPREHENSIVE PLAN.** A document which is intended to guide and direct the pattern of physical and social development.

Under Indiana State law a Comprehensive plan must contain at least the following elements:

- 1) A statement of objectives for the future development of the jurisdiction.
- 2) A statement of policy for the land use development of the jurisdiction.
- 3) A statement of policy for the development of public ways, public places, public lands, public structures, and public utilities. (IC 36-7-4-501)

**Community Planning.** The decision-making process in which goals and objectives are established, existing resources and conditions analyzed, strategies developed, and legislation and policies enacted and adopted to achieve the goals and objectives as they relate to communities.

*Section Two - Definitions*

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**Cul-de-sac.** A local street with only one (1) combined inlet and outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement including public safety vehicles. The turnaround at the end of a dead-end street.

**CUSTOMARY HOME OCCUPATION.** Job or business that is carried out by an occupant from inside the occupant's place of residence, which is subordinate and incidental to the primary residential use of the property. Note: In Cromwell customary home occupations are permitted as long as they are contained within the existing residential structures, and do not pose a nuisance to adjacent properties. (See Home Occupation.)

**D**

**DAY CARE CENTER.** Any place operated by a person, society, agency, corporation or institution, or any other group which receives and cares for pay three (3) or more children under 18 years of age for group care, without transfer of custody, for less than 24 hours per day.

**DAY CARE HOME.** (See Customary Home Occupation).

**Dead-end Street.** A street or a portion of a street with only one (1) vehicular traffic outlet, and no turnaround at the terminal end.

**Deed.** A legal document conveying ownership of real property.

**Deed Restriction.** (See Restrictive Covenant.)

**Density.** The number of families, individuals, dwelling units, households, or housing structures per unit of land.

**DESIGN REVIEW COMMITTEE.** A panel established by the Town to provide technical services, and recommendations, to the Plan Commission in the administration of this ordinance.

**DESIGN STANDARDS.** A set of guidelines defining parameters to be followed in site and/or building design and development.

**Designated Officials.** Those officials designated as required signatories for the execution of secondary approval.

**DETACHED BUILDING.** A building that has no structural connection with another building.

*Section Two - Definitions*

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**Developer.** The legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase or other persons having enforceable proprietary interests in such land.

**Development.** The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance; and any use or extension of the use of the land.

**Development, Conventional.** Development other than planned development or cluster development.

**Development, Major.** Any development not a minor development.

**Development, Minor.** Any development involving three or fewer lots and/or involving a land area of less than five acres and not requiring the extension of any new streets or other municipal or governmental services.

**DEVELOPMENT PLAN.** (IC 36-7-1-6) “Means specific plans for the residential, commercial, or industrial development of property setting forth certain information and data required by the plan commission. This information and data may include:

- (1) the proposed name of the development;
- (2) the name and address of developers;
- (3) the location by public way, township, and section;
- (4) the legal description;
- (5) a map including date, scale, and point north, location, size, capacity, and use of all buildings and structures existing or to be placed in the development;
- (6) the nature and intensity of the operations involved in or conducted in connection with the development;
- (7) the site layout of the development including the location, size, arrangement and capacity of area to be used for vehicular access, parking, loading, and unloading.
- (8) the name of public ways giving access to the development and location, width, and names of platted public ways, railroads, parks, utility easements, and other public open spaces;
- (9) the layout of proposed public ways, their names and widths, and the widths of alleys, walkways, paths, lanes and easements;
- (10) a description of the use of adjacent property and identification of the property;
- (11) the location, size, and arrangement of areas to be devoted to planting lawns, trees, and other site-screening activities;
- (12) the proposals for sewer, water, gas, electricity, and storm drainage;
- (13) the contours with spot elevations of the finished grade and the directions of storm runoff;
- (14) the layout of proposed lots with their numbers and dimensions; and
- (15) the land use density factors.”

*Section Two - Definitions*

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**DISTRICT.** A part, zone, or geographic area within the Town of Cromwell or its jurisdictional area within which certain zoning or development regulations apply.

**DOUBLE-WIDE.** Two manufactured housing components, attached side by side, to make one complete housing unit, that does not qualify as a Manufactured Home.

**DRIVE-IN.** An establishment selling foods, frozen desserts, or beverages to consumers, the establishment being designed, intended or used for the consumption of such items on the premises, but outside of the building in which they were prepared.

**Drives, Private.** Vehicular streets and driveways, paved or unpaved, which are wholly within private property except where they intersect with public streets within public rights-of-way.

**DUPLEX.** A building containing two single-family dwelling units totally separate from each other by an unpierced wall extending from ground to roof.

**DWELLING.** A building or part of a building that is used exclusively for human habitation.

**Dwelling, Efficiency Unit.** A dwelling unit consisting of not more than one habitable room together with kitchenette and sanitary facilities.

**Dwelling, Farm.** A single family dwelling, located upon a farm.

**DWELLING, FLAT.** An upper story apartment which is incidental to the structures primary use.

**Dwelling, Garden Apartment.** One or more two or three story, multifamily structures, generally built at a gross density of ten to fifteen dwelling units per acre, with each structure containing eight to twenty dwelling units and including related off-street parking, open space, and recreation. (See Dwelling, Multifamily)

**DWELLING, MULTIFAMILY.** A building containing three or more dwelling units, including units that are located one over the other.

**Dwelling, Quadruplex.** Four attached dwellings in one building in which each unit has two open space exposures and shares one or two walls with adjoining unit or units. (See Dwelling, Multifamily.)

**DWELLING, SINGLE-FAMILY DETACHED.** A building containing one dwelling unit and that is not attached to any other dwelling by any means and is surrounded by open space and yards.

*Section Two - Definitions*

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**Dwelling, Single-family, Semidetached.** A one family dwelling attached to one other one-family dwelling by a common vertical wall, with each dwelling located on a separate lot. Single Family, Semidetached are permitted in R3 and R4 districts. See Duplex for building requirements.

**Dwelling, Townhouse.** A one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls. (See Dwelling, Multifamily.)

**Dwelling, Triplex.** A building containing three dwelling units, each of which has direct access to the outside or to a common hall. (See Dwelling, Multifamily.)

**Dwelling, Two-Family.** A building on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units. (See Duplex.)

**DWELLING UNIT.** A dwelling or part of a dwelling used by one family as a place of abode.

**Dwelling Unit, Efficiency.** A dwelling unit consisting of not more than one habitable room together with kitchen or kitchenette and sanitary facilities.

## **E**

**EASEMENT.** An authorization grant made by a property owner for use by another of any designated part of his property for a clearly specified purpose which is officially recorded.

**Efficiency Apartment.** See Dwelling Unit, Efficiency.

**Emergency Shelter.** A facility providing temporary housing for one or more persons who are otherwise temporarily or permanently homeless.

**Emission.** A discharge of pollutants into the air.

**Engineer.** See Registered Professional Engineer.

**Environment.** All external conditions and influences affecting the life, development, and ultimately, the survival of an organism.

*Section Two - Definitions*

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**Escrow.** A deposit of cash in lieu of an amount required and still in force on a performance or maintenance bond. Such escrow funds shall be held by either the Noble County Auditor or the Cromwell Clerk-Treasurer.

**Essential Services.** Services and utilities needed for the health, safety, and general welfare of the community, such as underground, surface, or overhead electrical, gas, telephone, water, sewerage, and other utilities and equipment and appurtenances necessary for such systems to furnish an adequate level of service for the area in which it is located.

**Exempt Divisions.** See definition of Subdivision.

**EXCEPTION.** Permission to depart from the design standards. The design standards are those outside the zoning ordinance, i.e., length of cul-de-sacs, landscaping requirements, etc.

**Exclusionary Zoning.** Development regulations that result in the exclusion of low and moderate - income and minority families from a community.

**EXISTING USE.** The use of a lot or structure at the time of the enactment of a zoning ordinance. The pre-existing nonconforming use, legal at the time of the passage of the zoning ordinance but made nonconforming as a result of the ordinance, which has a legal right to continue.

**EXTENDED CARE FACILITY.** A long-term facility or a distinct part of a facility licensed or approved as a nursing home, infirmary unit of a home for the aged, or a governmental medical institution.

## **F**

**Facade.** The exterior walls of a building exposed to the public view or that wall viewed by persons not within the building.

**FACTORY.** A building in which raw material and semifinished or finished materials are converted to a different form or state or where goods are manufactured, assembled, treated, or processed. Use considered Industrial.

**FAMILY.** One or more persons sharing meals and living as a single housekeeping unit.

**FARM, CONFINEMENT FEEDING.** means any operation involving the production of livestock or fowl or related operations, indoors and outdoors, within buildings or structures, or in paved or unpaved feed lots.

*Section Two - Definitions*

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**FARM, GENERAL.** An area used for agricultural operations, including truck gardening, forestry, the operating of a tree or plant nursery, or the production of livestock and poultry. Note: the production of livestock and poultry is considered confinement feeding and is permitted only in areas specifically designated for agricultural use in section 3 of this ordinance.

**FARM, EQUIPMENT SALES OR SERVICE.** Land whose primary purpose is for the sale or repair of farm machinery.

**FARM STRUCTURE.** Any building or structure used for agricultural purposes. (See Agricultural Buildings)

**Fast-Food Restaurant.** An establishment whose principal business is the sale of preprepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, in cars on the premises, or off the premises.

**Feedlot.** A confined area or structure, pen, or corral, used to fatten livestock prior to final shipment.

**FENCE.** An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

**FINAL PLAT.** The map, drawing, or plan described in this ordinance of a subdivision and any accompanying material submitted for secondary approval, and which if approved and signed by the designated officials, may be submitted to the County Recorder for recording.

**Flat.** See Dwelling, Flat.

**FLEA MARKET.** An occasional or periodic market held in an open area or structure where groups or individual sellers offer goods for sale to the public.

**FLOOD HAZARD AREAS.** Those flood plains which have not been adequately protected from flooding caused by the regulatory flood, and are shown on the zoning map and/or on the Flood Hazard or Floodway-Flood Boundary Maps of the Federal Insurance Administration or maps provided to the Commission from the Indiana Natural Resources Commission.

**FLOOD PLAIN.** The area adjoining the river or stream which has been or may hereafter be covered by flood water from the Regulatory Flood.

**FLOOD PROTECTION GRADE.** The elevation of the lowest floor of a building, including the basement, which shall be two feet above the elevation of the regulatory flood.

**FLOODWAY.** See Regulatory Floodway.



**FLOODWAY FRINGE.** That portion of the flood plain lying outside the floodway, which is inundated by the regulatory flood.

**FOUNDATION.** The supporting member of a wall or structure.

**Frontage.** That side of a lot abutting on a street or way and ordinarily regarded as the front of the lot. Lots shall not be considered to front on stub ends of streets and in the case of corner lots will be considered to front on both intersecting streets or ways. (No access for any one lot is permitted to more than one street and that street generally will be the one calculated to have lower traffic volumes.)

**Frontage Street.** Any street to be constructed by the developer or any existing street in which development shall take place on both sides.

**FRONT LINE.** With respect to a building, means the foundation line that is nearest the front lot line. (See Building Front Line.)

**FRONT LOT LINE.**

1. For an interior or through lot, means the line marking the boundary between the lot and the abutting street or a lake or watercourse; and
2. For a corner lot, means the line marking the boundary between the lot and the shorter of the two abutting street segments.  
except as deed restrictions specify otherwise.

**FRONT YARD.** The horizontal space between the nearest foundation of a building to the right-of-way line and that right-of-way line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the right-of-way line. The front yard of a corner lot shall be that yard abutting the street upon which the lot has its least frontage, except as deed restrictions specify otherwise.

**Funeral Home.** A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation. (See Mortuary.)

## **G**

**GARAGE, PRIVATE RESIDENTIAL.** A structure that is accessory to a residential building and that is used for the parking and storage of vehicles owned and operated by the residents thereof and that is not a separate commercial enterprise available to the general public. (See Accessory Structure.)

*Section Two - Definitions*

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**Garage, Public.** Any building or structure other than a private garage which is used for the storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

**Garden Apartment.** See Dwelling, Garden Apartment.

**GARAGE OR YARD SALE.** (See Section 4.4).

**GENERAL INDUSTRIAL USE.** Manufacturing, processing, extraction, heavy repairing, dismantling, storage, or disposal of equipment, raw materials, manufactured products or wastes, in which some operations, other than transportation, are performed in an open area.

**Grade.** (1) The average elevation of the land around a building. (2) The percent of rise or descent of a sloping surface.

**GROUP HOME.** A single self-contained children's home established and operated by the county department of welfare, licensed private child placement agency or licensed incorporated group established for the purpose of receiving and caring for up to eight children who are attended by house "parents." (See Children's Home.)

**Ground Cover.** Grasses or other plants and landscaping grown to keep soil from being blown or washed away.

**Ground Floor.** The first floor of a building other than a cellar or basement.

**GROUND FLOOR AREA.** The area of a building in square feet, as measured in a horizontal plane at the ground level within its largest outside dimensions, exclusive of open porches, breezeways, terraces, garages, and exterior stairways.

**Growth Management.** Techniques used by the government to control the rate, amount, location, timing, and type of development.

## **H**

**HARDSHIP.** A perceived difficulty with regard to one's ability to improve land stemming from the application of the development standards of this Ordinance, which may or may not be subject to relief by means of variance. In and of themselves, self-imposed situations and claims based on a perceived reduction of or restriction on economic gain shall not be considered hardships. Self-imposed situations include: the purchase of land with actual or constructive knowledge that, for reasons other than physical characteristics of the property, the development standards herein will

## *Section Two - Definitions*

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inhibit the desired improvement; any improvement initiated in violation of the standards of this Ordinance; any result of land division requiring variance from the development standards of this Ordinance in order to render that site buildable.

**HEALTH CARE FACILITY.** A facility or institution, whether public or private, principally engaged in providing services for health maintenance and the treatment of mental or physical conditions.

**Health Officer.** The agency and person designated to administer and enforce the health regulations.

**HEIGHT.** With respect to a building, the vertical distance from the lot ground level to the highest point, for a flat roof; to the deck line, for a mansard roof; and to the mean height between eaves and ridges, for a gable, hip, or gambrel roof.

**High Density.** Those residential zoning districts in which the density is equal to or greater than one dwelling unit per 10,000 square feet.

**Historic Area.** A district or zone designated by a local authority or state or federal government with in which the buildings, structures, appurtenances, and places are of basic and vital importance because of their association with history; or because of their unique architectural style and scale, including color, proportion, form, and architectural detail; or because of their being a part of or related to a square, park, or area the design or general arrangement of which should be preserved and/or developed according to a fixed plan based on cultural, historical, or architectural motives or purposes.

**Historic Preservation.** The protection, rehabilitation, and restoration of districts, sites, buildings, structures, and artifacts significant in history, architecture, archaeology, or culture. (See Adaptive Reuse.)

**Home Occupation.** Any activity carried out for gain by a resident and conducted as a customary, incidental, and accessory use in the resident's dwelling. (See Customary Home Occupation.)

**Home Professional Office.** A home occupation consisting of the office of a practitioner of a recognized profession.

**HOME SERVICE.** The use of a home for a business or professional service which does not involve treating or attending a person or animal, except consultation or treatment by members of the medical and dental professions, beauticians, seamstresses and day care homes, which is established entirely within a dwelling unit and is conducted only by members of the family residing in the same dwelling unit. (See Customary Home Occupation.)

**HOSPITAL.** An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal

*Section Two - Definitions*

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physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medical offices and staff residences.

**HOTEL.** A facility offering transient lodging accommodations to the general public and providing additional services such as restaurants, meeting rooms, entertainment, and recreational facilities.

**Housing Code.** Such ordinances controlling the continuing safety and healthfulness of buildings for human occupation.

**Housing Unit.** A room or group of rooms used by one or more individuals living separately from others in the structure, with direct access to the outside or to a public hall and containing separate bathroom and kitchen facilities. (See Dwelling Unit.)

**I**

**Illuminated Sign.** (See Sign, Illuminated)

**IMPROVEMENT LOCATION PERMIT.** A document issued under Section Nine of this Ordinance permitting a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure within its jurisdiction, or cause the same to be done or to change the use or condition of the land.

**Incentive Zoning.** The granting by the approving authority of additional development capacity in exchange for the developer's provision of a public benefit or amenity.

**Inclusionary Zoning.** Regulations that increase housing choice by establishing requirements and providing incentives to construct housing to meet the needs of low and moderate income households.

**INDIANA CODE.** The laws of the State of Indiana as published by the Indiana Legislative Council or The Burns Indiana Statutes Code Edition, which codifies all Indiana statutes for reference purposes. The latest edition with any amending supplements must be referred to for the laws "now" in force and applicable. (Usually abbreviated as I.C. herein.)

**Individual Sewage Disposal System.** A system for the treatment and disposal of sanitary sewage in the ground on the lot upon which the primary use is located.

**INDUSTRIAL, GENERAL.** Industrial uses that meet the performance standards, bulk controls, and other requirements established in section 5 of this ordinance.

**INDUSTRIAL, LIGHT.** Industrial uses that meet the performance standards, bulk controls, and other requirements established in section 5 of this ordinance. In general light industry is industry which produces a minimal impact upon the environment, such as warehousing, wholesale, or light manufacturing.

**INDUSTRIAL PARK.** A tract of land that is planned, developed, and operated as an integrated facility for a number of individual industrial uses, with consideration to transportation facilities (rail and highway), circulation, parking, utility needs, aesthetics, environmental regulations, and compatibility.

**Infrastructure.** Facilities and services needed to sustain industry, residential, commercial, and all other land use activities.

**Inn.** A commercial facility for the housing and feeding of transients.

**INTERIOR LOT.** A lot other than a corner lot or a through lot.

**INTERESTED PARTIES.** Those parties who are owners of properties adjoin, abut, or adjacent to the property for which a zoning change is being sought. Includes owners of properties that are within fifty (50) feet of the property for which a zoning change is being sought.

**INTERMEDIATE CARE FACILITY.** A facility that provides, on a regular basis, personal care, including dressing and eating and health-related care and services, to individuals who require such assistance but who do not require the degree of care and treatment that a hospital or skilled nursing facility provides.

## **J**

**Joint Ownership.** The estate interest of two or more persons. Joint ownership among persons shall be construed as the same owner; "constructive ownership".

**JUNK YARD.** A place, usually outdoors, where waste or discarded used property other than organic matter, including but not limited to automobiles, farm implements and trucks, is accumulated and is or may be salvaged for reuse or resale; this shall not include any industrial scrap metal yard.

## **K**

**KENNEL.** A commercial establishment in which dogs or domesticated animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation. (Also see Animal Kennel.)

## **L**

**Land Divider.** The owner of a parcel of land to be further divided through making an exempt division.

**Landfill.** A disposal site in which refuse and earth, or other suitable cover material, are deposited and compacted in alternative layers of specified depth in accordance with an approved plan. (See Sanitary Land Fill.)

**Land Use.** A term used to indicate the utilization of any piece of land. The way in which land is being used is the land use. A study of the existing use of land usually provides the basis for the formulation of a land use plan in a community and the establishment of district boundaries in a zoning ordinance.

**Land Use Plan.** The proposed or projected utilization of land. It is usually presented in a map form, indicating areas best suited for residential, commercial, industrial, agricultural, and other types of uses. The map is supported by a written text explaining the underlying policy and the principles upon which it is based. It is one of the major components of a community's comprehensive plan.

**Large Lot Zoning.** Low density residential development that requires a large parcel of land (one acre or more) for each dwelling.

**LAUNDROMAT.** An establishment providing washing, drying, or dry-cleaning machines on the premises for rental use to the general public.

**Light Industrial Use.** Manufacturing, processing, extraction, heavy repairing, dismantling, storage, or disposal of equipment, raw materials, manufactured products or wastes, in which all operations, other than transportation, are performed entirely within enclosed buildings and for which all loading and unloading facilities are enclosed. And which meet the performance standards, bulk controls, and other standards established in this ordinance. (See Industrial, Light)

**Loading Space.** An off-street space or berth used for the loading or unloading of cargo, products, or materials from vehicles.

*Section Two - Definitions*

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**LOCAL STREET.** A street intended to provide access to other streets from individual properties and to provide right-of-way beneath it for sewer, water, and storm drainage pipes.

**Location Improvement Permit.** (See Improvement Location Permit)

**Lodging House.** A building, not available to transients, in which lodgings are regularly provided for compensation for at least three persons in addition to the owner occupant.

**LOT.** A tract, plot, or portion of a subdivision or other parcel of land intended to be used as a unit for the purpose, whether immediate or future, of transferring ownership or for building development.

**LOT, AREA.** The horizontal projected area of a lot measured from the front lot line, to the rear lot line, to both side lot lines. Does not include public right of ways.

**LOT, CORNER.** A lot situated at the intersection of two (2) streets, two (2) alleys, or a combination of streets and alleys, the interior angle of such intersection not exceeding 135 degrees. A lot with streets abutting more than two (2) sides shall also be a corner lot.

**LOT COVERAGE.** The percentage of the lot area that is represented by the building area.

**LOT GROUND LEVEL.**

1. For a building having walls abutting (that is, generally parallel to and not more than five feet from) one street only, the elevation of the sidewalk at the center of the wall abutting the street;
2. For a building having walls abutting more than one street, the average of the elevations of the sidewalk at the centers of all walls that face streets; and
3. For a building having no wall abutting a street, the average level of the ground adjacent to the exterior walls of the building.

**Lot Improvement.** Any building, structure, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment. Certain lot improvements shall be properly bonded.

**LOT WIDTH.** The distance between the side lot lines as measured on the front building line.

# M

**MAJOR SUBDIVISION.** Any subdivision not classified as a minor subdivision. Such a subdivision of land is regulated under the Noble County Replacement Subdivision Ordinance, 1987 section 3.1, as amended.

**Mall.** A shopping center where stores front both sides of a pedestrian way, which may be open or closed.

**MANEUVERING AISLE.** A maneuvering space which serves two or more parking spaces, such as the area between two rows of parking spaces and/or the driveway leading to those spaces.

**MANEUVERING SPACE.** An open space in a parking area which: 1) is immediately adjacent to a parking space; 2) is used for and/or is necessary for turning, backing or driving forward a motor vehicle into such parking space, but 3) is not used for the parking or storage of motor vehicles.

**MANUFACTURED HOME.** A structure, fabricated in an off-site manufacturing facility, which is transportable in one or more sections and is designed for use as a dwelling with or without a permanent foundation when connected to the required utilities. Such a structure may or may not be built on an integral chassis. The term "manufactured home" shall not include a "recreational vehicle."

**MANUFACTURED HOME PARK.** A parcel of land designed for the use by one or more Type II or Type III manufactured homes which provides the infrastructure and utilities necessary for single family occupancy of those homes.

**MANUFACTURED HOME, TYPE I.** A single-family dwelling unit designed and built in a factory, installed as a permanent residence, which bears a seal certifying that it was built in compliance with the Federal Manufactured Housing Construction and Safety Standards Law (1974) 42 USC 5401 et seq., and which also complies with the following specifications:

1. shall have been constructed after January 1, 1981 and must exceed nine hundred fifty (950) square feet of occupied space per I.C. 36-7-4-1106;
2. is attached to a permanent underfloor foundation of masonry construction, which is not pierced, except for required ventilation and access; and has a permanent perimeter enclosure constructed in accordance with the One and Two Family Dwelling Code;
3. has wheels, axles and towing chassis removed;
4. has a pitched roof with a minimum rise of 2/12; and,



*Section Two - Definitions*

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5. consists of two (2) or more sections which, when joined, have a minimum dimension of 20' x 47.5' in length or width enclosing occupied space.
6. have siding and roofing material of a type customarily used on dwellings constructed on-site;

**MANUFACTURED HOME, TYPE II.** A structure, fabricated in an off-site manufacturing facility for installation and assembly at a building site, bearing a seal certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards Act (42 USC Section 5401, et. seq.) or Indiana Code 22-15-4-1 (as opposed to a Type I manufactured home which is built in the conformance with the Indiana One and Two Family Dwelling Code). To be considered a Type II manufactured home, the structure must:

1. contain at least nine hundred fifty (950) square feet of occupied space per dwelling unit;
2. be a double or multiple section unit;
3. be placed on a permanent under-floor foundation installed in conformance with the Indiana One and Two Family Dwelling Code and according to the manufacture's installation specifications;
4. be placed onto a permanent perimeter enclosure in conformance with the Indiana One and Two Family Dwelling Code;
5. have the wheels, axles, and hitch mechanisms removed;
6. have siding and roofing material of a type customarily used on dwellings constructed on-site;
7. be connected to all the utilities necessary for the occupancy of the unit in conformance with the Indiana One and Two Family Dwelling Code; and
8. have been constructed after January 1, 1981.

**MANUFACTURED HOME, TYPE III.** A structure, fabricated in an off-site manufacturing facility, which is transportable in one or more sections and is designed for use as a single family dwelling. A mobile home would meet this definition. To be considered a Type III manufactured home, the structure must:

1. Be properly connected to all utilities necessary for the occupancy of the unit; and
2. Be set on piers and properly skirted, with wheels and axles removed, in a manufactured home park.

**MANUFACTURED HOME SUBDIVISION.** A parcel of land platted for subdivision and designed or intended for lots to be conveyed by deed to individual owners for residential occupancy by manufactured homes.

**MAXIMUM LOT COVERAGE.** The greatest amount, by percentage, of structure coverage permitted on a lot.

**MEDIUM DENSITY.** Those residential zoning districts in which the density is between 10,000 and 40,000 square feet per dwelling unit.

**Mile.** A linear measure equal to 5,280 feet, 1,760 yards, or 1.6 kilometers.

**MINERAL EXTRACTION.** (1) Mining or quarrying; and (2) removal of earth materials.

**MINI-MALL.** A shopping center of 80,000 to 150,000 square feet on a site of eight to fifteen acres where tenants are located on both sides of a covered walkway with direct pedestrian access to all establishments from the walkway.

**Mini-Warehouse.** See Self Service Storage Facility.

**MINOR SUBDIVISION.** The division of any previously divided parcel into not more than three (3) parcels or lots and requiring no new streets or easements of access, and which division is not in conflict with any other provisions, provided however, there shall be no more than one minor plat resulting from one root parcel.

**MINIMUM LOT AREA.** The least amount of square footage required for a lot to be approved for a particular use.

**Mixed-Use Development.** The development of a tract of land, building, or structure with a variety of complementary and integrated uses, such as, but not limited to, residential, office, manufacturing, retail, public, or entertainment, in a compact urban form.

**Mixed-Use Zoning.** Regulations that permit a combination of different uses within a single development.

**Mobile Home.** Any vehicle without motor power designed by the manufacturer or maker with a hitch and undercarriage to permit attachment of axles and wheels for conveyance upon public streets and highways, constructed or reconstructed as will permit the vehicle to be used as a single-family dwelling. (See Manufactured Home, Type III.)

*Section Two - Definitions*

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**Mobile Home Park.** A subdivision containing spaces with the required improvements and utilities for the long term placement of mobile homes. (See Manufactured Home Park.)

**Mobile Home Space.** A plat of land for placement of a single mobile home within a mobile home park.

**Modular Housing.** See Manufactured Housing.

**MORTUARY.** A place where dead bodies are kept before burial or cremation.  
(See Funeral Home.)

**MOTEL.** An establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

## N

**National Ambient Air Quality Standards.** Standards promulgated by the federal Environmental Protection Agency for specified air pollutants, including suspended particulates, sulfur dioxide, ozone, hydrocarbons, and lead.

**Neighborhood.** An area of a community with characteristics that distinguish it from other areas and that may include distinct ethnic or economic characteristics, housing types, schools, or boundaries defined by physical barriers, such as major highways and railroads or natural features, such as rivers.

**NONCONFORMING USE.** A building, structure or use of land existing at the time of enactment of this ordinance which does not conform to the regulations of the district in which it is situated.

**NONRESIDENTIAL USE.** Any use other than residential.

**Nonresidential Subdivision.** A subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivision shall comply with all applicable provisions.

# O

**OCCUPIED SPACE.** The total area of earth horizontally covered by the structure, excluding garages, patios and porches and other accessory structures.

**OFFICE BUILDING.** A building used primarily for conducting the affairs of a business, profession, service, industry, or government, or like activity, and may include ancillary services for office workers such as a restaurant, coffee shop, newspaper or candy stand, and child-care facilities.

**Off-Site.** Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.

**OFF-PREMISE SIGN.** Billboard or display used for advertising. (See Sign.)

**OFF-SITE PARKING.** Parking which is provided in a separate location from the business or use which it is intended to serve.

**OFF-STREET PARKING SPACE.** A temporary storage area for a motor vehicle that is directly accessible to an access aisle and that is not located on a dedicated street right-of-way.

**ON-PREMISE SIGN.** (See Sign, On Premise)

**On-Site.** Located on the lot that is the subject of an application for development.

**ON-SITE PARKING.** Parking which is located adjacent to the use which it serves.

**On-Street Parking Space.** A temporary storage area for a motor vehicle that is located on a dedicated street right-of-way.

**ONE AND TWO FAMILY DWELLING CODE, INDIANA.** The nationally recognized model building code adopted by the Indiana Department of Fire Prevention and Building Safety as mandated by Indiana Code, and, which includes those supplements and amendments promulgated by this agency.

**OPEN USE.** The use of a lot without a building, or a use for which a building with a floor area no larger than five percent of the lot area is only incidental.

**Open Space.** Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring such open space.

*Section Two - Definitions*

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**ORDINANCE.** Any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal of any ordinance.

**Outdoor Advertising.** Billboard or display used for advertising. (See Sign.)

**Owner.** Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or having sufficient proprietary interest in the land.

**P**

**Parcel.** A part or portion of land having a legal description formally set forth in a conveyance together with the boundaries thereof, in order to make possible its easy identification.

**PARK.** A tract of land, designated and used by the public for active and passive recreation.

**PARKING AREA.** A group of parking spaces, exclusive of any part of a street or alley, designed or used for the temporary parking of motor vehicles.

**PARKING GARAGE.** A garage, where parking but not repairs are available to the public.

**PARKING SPACE.** An open space exclusive of maneuvering aisle and driveway for the parking of a motor vehicle.

**PERMANENT FOUNDATION.** A structural system for transposing loads from a structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil.

**PERMANENT PERIMETER ENCLOSURE.** A permanent perimeter structural system completely enclosing the space between the floor joists of the home and the ground, except for necessary openings, constructed in accordance with the One and Two Family Dwelling Code.

**Permit.** Written governmental permission issued by an authorized official, empowering the holder thereof to do some act not forbidden by law but not allowed without such authorization.

**PERSON.** A corporation, firm, partnership, association, organization, unit of government, or any other group that acts as a unit, as well as a natural person.

**PETROLEUM BULK STORAGE & DISTRIBUTION FACILITY.** A facility designed as an above ground storage facility for petroleum or petroleum products.

**PLAN COMMISSION.** A group of citizens appointed as authorized by law to research, survey, analyze, and make recommendations on current and long-range land development policies, resource management, ordinances and administrative decisions such as subdivisions plats, shoreline permits, and rezoning requests, The plan commission functions as a fact-finding and advisory board to the elected officials, but its main function is to recommend a comprehensive plan and implement measures to be adopted by the Cromwell Town Council.

IC 36-7-4-207 (b) & IC 36-7-4-214 (a) state that the membership of an Advisory Plan Commission, such as the one in the town of Cromwell shall consist of seven (7) members, as follows:

IC 36-7-4-207 (b)

- 1) The municipal legislative body shall appoint three (3) persons, who must be elected or appointed municipal officials or employees in the municipal government, as members.
- 2) The municipal executive shall appoint four (4) citizen members, of whom no more than two (2) may be from the same political party.

IC 36-7-4-214 (a)

When a municipal plan commission exercises jurisdiction outside the incorporated area of the municipality as provided for in section 205 of the advisory planning law, the executive of the county in which the unincorporated area is located shall appoint two (2) additional citizen members to the municipal plan commission. The citizen members must:

- (1) reside in the unincorporated area; and
- (2) not be of the same political party.

**PLANNED DEVELOPMENT.** A unified development meeting the requirements for zoning approval under the provisions of Section Six of this ordinance.

**PLANNING.** The process of setting development goals and policy, gathering information, evaluating information, and developing alternatives for future action based on previous analysis is commonly referred to as planning.

In a community, planning is a joint effort of the citizens, elected officials, the plan commission, and the plan commission staff. It consists of identifying the physical, social, and economic factors that affect an area or part of the community; defining the community's goals and objectives; and after careful evaluation of the information and possible alternatives for the future, selecting a course of action most likely to bring the community closer to its desired goals.

**Planner.** A professional who assists in the planning and development process and who provides technical assistance to the communities for whom he or she works.

**PLAT.** A map indicating the subdivision or resubdivision of land filed or intended to be filed for record with the County Recorder.

**PRELIMINARY PLAT.** The preliminary drawing or drawings indicating the proposed manner or layout of the subdivision to be submitted for approval.

**PRIMARY APPROVAL.** An approval (or an approval with conditions imposed) granted to a subdivision after having determined in a public hearing that the subdivision complies with the standards prescribed.

**PRIMARY ARTERIAL.** A street intended to move through-traffic to and from such major attractions as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, and similar traffic generators within the Town or County; and/or as a route for traffic between communities; a major intra or intercity thoroughfare as designated by and shown on the Thoroughfare Plan.

**PRINCIPAL BUILDING.** A building in which the principal use of the lot or parcel on which it is located is conducted. Standards recognized by the Indiana Department of Fire Prevention and Building Safety shall be used to determine whether a given structure constitutes one or more buildings in cases where ambiguities exist.

**PRIVATE GARAGE.** A garage whose principal use is to house motor vehicles for the accommodation of related dwelling units or related business establishments.

**PRIVATE SCHOOL.** A school other than a public school.

**PRIVATE CAMP.** An area of land used or designed to be used to accommodate groups or organized camping parties, including cabins, tents, food service and recreational facilities.

**PROFESSIONAL OFFICE.** An office used by members of a recognized profession including but not limited to architects, artists, dentists, engineers, lawyers, musicians, physicians, surgeons or pharmacists, and Realtors or insurance agents and brokers.

**PUBLIC BUILDING.** Any building, structure, facility, or complex used by the general public, whether constructed by any state, county, or municipal government agency or instrumentality or any private individual, partnership, association, or corporation, including, but not limited to, assembly buildings, such as auditoriums, libraries, public eating places, schools, and theaters; business buildings, such as offices; and factories and industrial buildings.

**Public Domain.** All lands owned by the government.

*Section Two - Definitions*

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**PUBLIC IMPROVEMENT.** Any drainage ditch, street, highway, parkway, sidewalk, pedestrian-way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

**Public Notice.** The advertisement of a public hearing in a paper of general circulation, and through other media sources, indicating the time, place, and nature of the public hearing and where the application and pertinent documents may be inspected.

**PUBLIC SEWER.** Any system, other than an individual septic tank, tile field, or individual well, that is operated by a municipality, governmental agency, or a public utility for the collection, treatment, and disposal of wastes and the furnishing of potable water.

**PUBLIC UTILITY.** A closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety, and welfare.

## Q

**Quadruplex.** See Dwelling, Quadruplex.

**Quarry.** A place where rock, ore, stone, and similar materials are excavated for sale or for off tract use.

## R

**REAR LOT LINE.** For an interior or corner lot, this means the lot line that is opposite the front lot line and farthest from it, except that for a triangular or other irregularly-shaped lot, it means the line at least ten feet long, parallel to the front lot line, and wholly within the lot, that is farthest from the front lot line.

**REAR YARD.** A yard as defined herein, encompassing the horizontal space between the nearest foundation of a building to a rear lot line and that rear lot line, extending to the side lines of the lot, and measured as the shortest distance from the foundation to the rear lot line. The rear yard of a corner lot shall be that yard at the opposite end of the lot from the front yard.

**RECREATIONAL VEHICLE.** A portable vehicular structure designed as a temporary dwelling for travel and vacation uses which:

1. is identified on the unit by the manufacturer as a travel trailer or a motor home; and



*Section Two - Definitions*

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2. of a size that is street legal;

or:

1. is a structure mounted on an automobile or truck; and

2. is designed to be used for sleeping and human habitation.

**Recycling.** The process by which waste products are reduced to raw materials and transformed into new and often different products.

**RECYCLING CENTER.** A lot or parcel of land, with or without buildings, upon which used materials are separated and processed for shipment for eventual reuse in new products.

**REDEVELOPMENT.** (IC 36-7-1-18) Includes the following activities:

(1) Acquiring real property in blighted areas.

(2) Replatting and determining the proper use of real property acquired.

(3) Opening, closing, relocating, widening, and improving public ways.

(4) Relocating, constructing, and improving sewers, utility services, off street parking facilities, and levees.

(5) Laying out and constructing necessary public improvements, including parks, playgrounds, and other recreational facilities.

(6) Restricting the use of real property acquired according to law.

(7) Repairing and maintaining buildings acquired, if demolition of those buildings is not considered necessary to carry out the redevelopment plan.

(8) Rehabilitating real or personal property, whether or not acquired, to carry out the redevelopment or urban renewal plan.

(9) Disposing of property acquired on the terms and conditions and for the uses and purposes that best serve the interests of units served by the redevelopment commission.

(10) Making payments required or authorized by IC 8-23-17.

(11) Performing all acts incident to the statutory powers and duties and duties of a redevelopment commission. (See Adaptive Reuse.)

**Refurbished.** To renovate or to make fresh.

**Registered Land Surveyor.** A land surveyor properly licensed and registered in the state of Indiana or permitted to practice in the State of Indiana.

**Registered Professional Engineer.** An engineer properly licensed and registered in the State of Indiana or permitted to practice in Indiana through reciprocity.

**REGULATORY FLOOD.** That flood having a peak discharge which can be equaled or exceeded on the average of once in a one hundred (100) year period, as calculated by a method and

## *Section Two - Definitions*

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procedure which is acceptable to and approved by the Indiana Natural Resources Commission; this flood is equivalent to a flood having a probability of occurrence of one percent (1%) in any given year.

**Regulatory Flood Elevation.** The maximum elevation, as established by the Indiana Department of Natural Resources, reached by the Regulatory Flood at the locations in question relevant to approval of a given subdivision under consideration.

**REGULATORY FLOODWAY.** The channel of a river or stream and those portions of the flood plains adjoining the channel which are reasonably required to efficiently carry and discharge peak flow of the regulatory flood of any river or stream, and is that area covered by flood waters in significant downstream motion or covered by significant volumes of stored water during the occurrence of the regulatory flood.

**Renovate.** To restore or make like new. (See Adaptive Reuse, Historic Preservation.)

**RESIDENTIAL DISTRICT.** Those districts whose primary use is for housing. They are classified as R-1, R-2, R-3, R-4 and R-5 as described under Section 3.1, Districts.

**RESTAURANT.** An establishment where food and drink are prepared, served and consumed primarily within the principal building, but may also provide take-out service and where ordering may also take place from an automobile.

**RESTRICTIVE COVENANTS.** Limitations of various kinds on the usage of lots or parcels of land within a subdivision which are proposed by the subdivider, and in the case of public health, safety, and welfare by the jurisdiction, that are recorded with the plat and run with the land.

**Resubdivision.** A change in a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use, or any lot line, or set back; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

**Retail Sales.** Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

**Retail Sales, Outdoor.** The display and sale of products and services primarily outside of a building or structure, including vehicles, garden supplies, gas, tires and motor oil, food and beverages, boats and aircraft, farm equipment, motor homes, burial monuments, building and landscape materials, and lumber yards.

**Retail Services.** Establishments providing services or entertainment, as opposed to products, to the general public for personal or household use, including eating and drinking places, hotels and

## *Section Two - Definitions*

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motels, finance, real estate, and insurance, personal service, motion pictures, amusement and recreation services, health, educational, and social services, museums and galleries.

**Rezoning.** Rezoning is a change in the designation or boundaries of the zoning ordinance. Rezoning is a legislative act and can be legal only if enacted by the governing body. Rezoning can take two forms: (1) a comprehensive revision or modification of the zoning text (which might further or lessen the restrictions on a particular district) and map; and (2) a change in the map, such as the zoning designation of a particular parcel or parcels.

**RIGHT-OF-WAY.** A strip of land occupied or intended to be occupied by a street, pedestrian way, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, special landscaping, or for another special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included in the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, screening or special landscaping, or any other use involving maintenance by a public agency shall be dedicated to public use by the subdivider on whose plat such right-of-way is established.

**ROAD(S).** See Street(s).

**Rural Area.** A sparsely developed area, with a population density of less than one hundred persons per square mile and where the land is undeveloped or primarily used for agricultural purposes.

## **S**

**Sale or Lease.** Any immediate or future transfer of ownership, or possessory interest in land, including contract of sale, lease, devise, intestate succession, or other transfer of an interest in real estate, subdivision or part thereof, whether by metes and bounds, deed, contract, plat, map, lease, devise, intestate succession, or other written instrument.

**SANITARY LANDFILL.** A disposal site in which refuse and earth, or other suitable cover material, are deposited and compacted in alternative layers of specified depth in accordance with an approved plan. (See Land Fill.)

**SANITARY LAND FILLING.** A planned method of solid waste disposal in which the solid waste is spread in thin layers, compacted to reduce its volume, and covered with earth at the end of each working day.

**SANITARY SEWERS.** Pipes that carry domestic or commercial sanitary sewage and into which storm, surface, and ground waters are not intentionally admitted. (See Public Sewer.)

**Same Ownership.** Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association; or ownership by different corporations, firms, partnerships, entities, or unincorporated associations, in which a stockholder, partner, or associate, or a member of his family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.

**Scale.** The relationship between distances on a map and actual ground distances; the proportioned relationship of the size of parts to one another.

**SCRAP METAL YARD.** A general industrial use established independent or ancillary to and connected with another general industrial use, which is concerned exclusively in new and salvaged metal pipes, wire, beams, angles, rods, machinery, parts, filings, clippings, and all other metal items of every type, and which acquires such items incidental to its connection with the other general industrial use or by purchase, consignment or bailment which stores, grades, processes, melts, cuts, dismantles, compresses, cleans, or in any way prepares said items for reuse by the connected other general industrial use or for sale and shipment and use in other industries or businesses including open hearth, electric furnaces and foundry operations; such an establishment shall not include junk yards, dumps, or automobile graveyards. The storage, dealing in or the permitting of the accumulation of significant quantities of combustible, organic or nonmetal scrap materials such as wood, paper, rags, garbage, bones and shattered glass on the premises of such an establishment will disqualify it from being classified as a scrap metal yard, and the same will be classified as either a junk yard, a sanitary fill or refuse dump depending on the content of the accumulated matter.

**SCREENING.** A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation. Screening is often used to improve the aesthetic appearance of parking or industry.

**SECONDARY APPROVAL.** The stage of application for formal approval of a final plat of a subdivision the construction of which has been completed or substantially completed, which if approved and signed by the designated officials may be submitted to the County Recorder for filing.

**SECONDARY ARTERIAL.** A street intended to collect and distribute traffic in a manner similar to primary arterials, except that these streets service minor traffic generating areas such as community-commercial areas, primary and secondary educational plants, hospitals, major recreational areas, churches, and offices, and/or designed to carry traffic from collector streets to the system of primary arterial's as designated by and shown on the Thoroughfare Plan.

**SECTION.** A unit of a manufactured home at least ten (10) feet in width and thirty (30) feet in length.

**SELF-SERVICE STORAGE FACILITY.** A structure containing separate, individual and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

*Section Two - Definitions*

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**SEPTIC SYSTEM.** An approved underground system with a septic tank used for the decomposition of domestic wastes.

**SETBACK.** A line parallel to and equidistant from the relevant lot line (front, back, side) between which no buildings may be erected as prescribed in this ordinance.

**SEWAGE.** The total of organic waste and wastewater generated by residential, industrial, and commercial establishments.

**SEWER.** Any pipe or conduit used to collect and carry away sewage or storm water run off from the generating source to treatment plants or receiving streams. Note: A sewer that conveys household, commercial, and industrial waste is called a sanitary sewer; if it transports run off from rain or snow it is a storm sewer. If storm water run off and sewage are transported in the same system, then it is a combined sewer.

**SEWAGE SYSTEM.** Devices for the collection, treatment, and disposal of sewage. (See Sewer.)

**SHOPPING CENTER.** A group of commercial establishments planned, constructed and managed as a total entity, with customer and employee parking provided on site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements, and landscaping and signage in accordance with an approved plan.

**SIDE LOT LINE.** Any lines separating two lots other than front or rear lot lines.

**SIDE YARD.** The horizontal space between the nearest foundation of a building to the side lot line and that side lot line, unoccupied other than by architectural appurtenances projecting not more than twenty-four (24) inches into that space; steps or terraces not higher than the level of the first floor of the building; and open lattice-enclosed fire escape, fireproof outside stairways and balconies projecting not over twenty-four (24) inches into that space.

**SIGN.** A visual device or structure used for advertising, display or publicity purposes.

**SIGN, ILLUMINATED.** A sign lighted by or exposed to artificial lighting either by lights on or in the sign or directed toward the sign.

**SIGN, NET AREA.** The area shall be measured by the smallest square, rectangle, triangle, circle or combination thereof which will encompass the entire sign face.

**SIGN, ON -PREMISE.** Refers to a sign which contains the name and other advertisement material for activities which are conducted on the property upon which it is located.

**SIGN, OUTDOOR ADVERTISING.** A structural poster panel or painted sign, either freestanding or attached to a building, for the purpose of conveying information, knowledge, or ideas to the public about a subject unrelated to the activities on the premises upon which it is located.

**SIGN, PORTABLE.** A free-standing, on-premise advertising device which is designed to be moved from one location to another and is not permanently affixed to the ground or to a structure, or is only affixed by means of tie down straps or stakes;

**SINGLE FAMILY DETACHED.** See Dwelling Single Family Detached.

**Single Family, Semi-Detached.** See Dwelling Single Family, Semi-Detached.

**SITE PLAN.** The development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, flood plains, wetlands, waterways, landscaping, open spaces, walkways, means of ingress and egress, circulation, utility services, structures and buildings, signs and lighting, berms, buffers, screening devices, surrounding development, and any other information that reasonably may be required in order that an informed decision can be made by the approving authority.

**Sketch Plan.** The initially submitted graphic representation of a proposed major subdivision, drawn to approximate scale, either superimposed upon a print of a topographic survey, or presented in any other suitable graphic medium or form acceptable; and in the case of a minor subdivision, the drawing or drawings indicating the proposed manner of layout of the subdivision meeting the conditions of the subdivision ordinance to be submitted for primary approval.

**SPECIAL USE.** The authorization of a use that is designated as such by this ordinance as being permitted in the district concerned if it meets special conditions, and upon application, is specifically authorized by the Advisory Board of Zoning Appeals.

**Story.** That portion of a building included between the surface of any floor and the surface of the next floor above, or if there is no floor above it, then the space between any floor and the ceiling next above it; also any portion of a building used for human occupancy between the topmost floor and the roof. A basement shall not be counted as a story unless the height of the surface of the first floor above the average elevation of the finished lot grade at the front of the building exceeds four feet.

**Story, Half.** A story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story.

**STREET(S).** A right-of-way that is acquired by a governmental unit or is established by a recorded plat and publicly maintained to provide the principal means of access to abutting property.

**STREET, DEAD-END.** A street or portion of a street with only one (1) vehicular-traffic outlet.

**STREET RIGHT-OF-WAY WIDTH.** The distance between property lines measured at right angles to the center line of the street.

**STRUCTURAL CHANGE.** A substantial change in a supporting member of a building, such as a bearing wall or partition, column, beam, or girder, or in an exterior wall or the roof.

**STRUCTURE.** Anything constructed or erected that requires location on or in the ground or attachments to something having a location on or in the ground.

**Studio Apartment.** See Dwelling Efficiency Unit.

**SUBDIVISION.** The division of a parcel of land into two (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. See Minor Subdivision, Major Subdivision.

## **T**

**TAVERN.** An establishment used primarily for the serving of liquor by the drink to the general public, primarily for on site consumption, and where food or packaged liquors may be served or sold only as an accessory to the primary use. (See Bar.)

**Territorial Jurisdiction.** The town of Cromwell and the contiguous unincorporated areas outside of the town extending approximately two miles from the corporate limits.

**THROUGH LOT.** A lot fronting on two parallel or approximately parallel streets and includes lots fronting on both a street and a watercourse or lake.

**TOURIST HOME.** See Bed and Breakfast: Homestay.

**Thoroughfare, Major.** Refers to Indiana 5 and U.S. 33.

**THOROUGHFARE PLAN.** Refers to the major state thoroughfares as illustrated in figure 16 of the Noble County Comprehensive Plan.

**TRADE OR BUSINESS SCHOOL.** A secondary or higher education facility teaching usable skills that prepare students for jobs in a trade, business or vocation.

**Tract.** An area, parcel, site, piece of land, or property that is the subject of a development application.

**Trailer Park.** See Mobile home park.

**Transitional Care Home.** A facility in which individuals live for a short period while receiving physical, social, or psychological therapy and counseling to assist them in overcoming physical or emotional problems.

**Triplex.** See Dwelling, Triplex.

**TRUCK TERMINAL.** An area and building where trucks load and unload cargo and freight and where the cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation.

**Townhouse.** See Dwelling, Townhouse.

## U

**Uniformity.** The requirement that all properties in a zoning district be treated alike.

**USE.** The employment or occupation of a building, structure or land for a person's service, benefit or enjoyment.

**USE VARIANCE.** The approval of a parcel use other than that prescribed by the use tables in this zoning ordinance.

**UTILITY EASEMENT.** The right-of-way acquired by a utility or governmental agency to locate utilities, including all types of pipelines, telephone and electric cables, and towers.

## V

**Vacancy.** Any unoccupied land, structure, or part thereof that is available and suitable for occupancy.



**VARIANCE.** A specific approval granted by the Advisory Board of Zoning Appeals in the manner prescribed by this Ordinance, to deviate from the development standards (such as height, bulk, area, and use) that the Ordinance otherwise prescribes.

**VETERINARY HOSPITAL.** A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.

## **W**

**WAREHOUSE.** A building used primarily for the storage of goods and materials.

**WHOLESALE PRODUCE TERMINAL.** Warehouse facility used for the storage of fresh fruits, vegetables, and other food items.

**Wetlands.** Land areas where excess water is the dominant factor determining the nature of soil development and the types of plant and animal communities living at the soil surface. Wetland soils retain sufficient moisture to support aquatic or semiaquatic plant life.

## **X**

## **Y**

**YARD.** A space on the same lot with a principal building that is open and unobstructed except as otherwise authorized by this ordinance. (See Front Yard, Rear Yard, and Side Yard.)

## **Z**

**Zero Lot Line.** The location of a building on a lot in such a manner that one or more of the building's sides rest directly on a lot line.

**ZONING.** The delineation of districts and the establishment of regulations governing the use, placement, spacing, and size of land and buildings.

**ZONING ORDINANCE.** That ordinance which delineates districts and establishes regulations governing the use, placement, spacing and size of land and buildings. The Town of Cromwell Zoning Ordinance.

**Section 3  
Districts**

**3.1 Kinds Of Districts: Establishment**

The Town of Cromwell and its jurisdictional area is divided into the following districts:

- A. **Agriculture Districts**, designated "A," are established to include substantial areas where little or no urbanization has occurred or is likely to occur in the near future.
- B. **Conservancy Districts**, designated "CD," are established to protect environmentally sensitive areas. No principal structures should be permitted for any use in a conservancy district. These areas may be used for agriculture, conservation, or may be included in computation of residential lots, yards, or other open spaces.
- C. **Residence Districts**, designated "R1," are established to include areas for low density single-family residences with a density of 2 dwelling units or less per gross acre.
- D. **Residence Districts**, designated "R2," are established to include areas for medium density single-family residences with a density of 4 dwelling units or less per gross acre, if connected to public sewer.
- E. **Residence Districts**, designated "R3," are established to include areas for relatively high density single-family, and two-family residential development with a density of 8 dwelling units or less per gross acre, if connected to public sewer.
- F. **Multi Family Districts**, designated "R4," are established to include areas for high density, multi-family residential development. All structures which contain three or more residential dwelling units are restricted to an R4 subdivision. The total density of an R4 development should never exceed a density of 8 dwelling units per acre, all R4 development must be connected to public sewer.
- G. **Manufactured Home Parks and Subdivisions**, designated "R5," are for manufactured home park subdivisions, for the placement of Type II and Type III manufactured homes, as herein defined with exclusive occupancy as residences. Residential units that are classified as either a manufactured home Type II or Type III, are restricted to an R5 subdivision.
- H. **General Business Districts**, designated "GB," are established to include areas that are appropriate to all kinds of business, services and light industrial uses.
- I. **Central Business District**, designated "CB," is established to include the town's core business area.

### *Section Three - Districts*

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- J. **Industrial Districts**, designated "I," are established to include most of the existing industrial facilities and areas best suited for future industrial use because of location, accessibility and other conditions.

**Note:** All structures that are not connected to public sewer may not exceed a density of one unit per acre, and must have a minimum lot size of one acre.

#### **3.2 Boundaries: In General**

- A. The boundaries of the districts established by Section 3.1 are as shown on the zone map which is a part of this Ordinance, and hereafter known as the Official Zoning Map for the Town of Cromwell. Said Official Zoning Map shall hereafter be kept in the custody of the Administrator. Except as provided by Section 3.3, such boundaries and the Official Zoning Map shall be changed only by amendment to the Official Zoning Map. Upon such amendment the Town of Cromwell shall within (5) days of passage of such amendment, certify a copy of such amendment to the Administrator, who shall immediately change the Official Zoning Map in accordance with such amendment. The Administrator shall cause the Official Zoning Map to show the ordinance number and date of adoption of all such amending ordinances.
- B. When the exact boundaries of a district are uncertain, they shall be determined by use of the scale of the zoning map.
- C. When the maps are caused to be changed by amendment the change shall be to the center of any and all abutting rights-of-way.
- D. If the boundary line of a district divides a lot having frontage on a street so that the front part of the lot lies in one district and the rest of the lot lies in another, use requirements and restrictions that apply to the front part of the lot apply to the entire lot.

#### **3.3 Boundaries: Flood Plains**

Development in areas that lie within the regulatory flood plain boundary must acquire prior approval from the Indiana Department of Natural Resources (DNR). Regulatory flood boundaries have been determined by the Indiana Department of Natural Resources and the U.S. Department of Housing and Urban Development and are illustrated by the Flood Boundary and Floodway Map, Noble County, Panel numbers 180183 0025 A and 180183 0075 A.

Flood Plains may be changed if the Indiana Natural Resources Commission, after investigating the land involved, determines (1) that the requested change would not endanger the public welfare, and (2) that the elevation of such land is at or above the elevation of the regulatory flood. Such determination shall be made in writing upon the request of the applicant who shall provide the Indiana Department of Natural Resources with a scale drawing identifying the location, dimensions and elevations related to the USGS datum of the land.

### *Section Three - Districts*

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All building of structures permitted on lands within one hundred (100) feet of the Flood Plain shall be required to comply with the flood protection grade as established by the Indiana Department of Natural Resources.

#### **3.4 Subdivisions, Cluster Developments, Planned Developments, Condominiums and Zero Lot Line Developments**

The subdivision of land shall be pursuant to the requirements of the Noble County Subdivision Ordinance, as amended, and shall be permitted in the following districts: A, R1, R2, R3, R4, R5, CB, GB, and I. The intended principal use of each of the proposed lots within a proposed subdivision shall govern the specific district or districts appropriate to the land to be subdivided, as per Section 4 (Authorized Uses) of this ordinance.

However, the following classifications of subdivisions shall only be permitted in R1, R2, R3, R4 or R5 districts: major subdivisions intended entirely for residential use, and any portions of major subdivisions intended for residential use;

Planned Developments shall be permitted as per section 6.2 of this ordinance. In order to provide greater design flexibility, and to encourage innovative land development techniques and a more efficient use of land, the design and development of uses within these districts may be permitted to deviate from the standards prescribed by sections 5.1 through 5.14 of this ordinance when a comprehensive development plan has been formally approved by Cromwell Plan Commission and all checkpoint offices, boards and commissions for the affected area.

Subdivision regulations are governed by Noble County. Deviation from these standards must be formally approved by both Noble County and the Town of Cromwell Advisory Plan Commission and the Town Council of the Town of Cromwell.

Condominiums, as defined and regulated in IC 32-1-6 (the Horizontal Property Law), cluster developments, zero lot line developments and all developments of the minimum sizes specified in Section 6.2 of this ordinance and larger shall be considered for zoning purposes to be Planned Developments, and consequently shall be permitted only as approved by the Cromwell Plan Commission as per Section 6.2 of this ordinance.

*Section Four - Authorized Uses*

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**Section 4  
Authorized Uses**

**4.1 Primary Uses**

Primary uses are authorized in the districts established by or under section 3.1 as shown by an "X" in the table at the end of this section. Where the use is designated for the district with an "S" the use is permitted in that district only if a special use has been approved under section 8.3.

**4.2 Accessory Uses**

Accessory uses such as the following are authorized in all districts subject to the provisions of any and all recorded restrictive covenants running with the land:

- Bird Baths and bird houses
- Accessory buildings
- Curbs
- Driveways
- Fences and Hedges\*
- Lamp posts
- Mail boxes
- Name plates
- Parking spaces
- Private swimming pools enclosed by a 6-foot high fence or, 6-foot vertical enclosure integral with an above ground pool
- Public utility installations for local service (such as poles, lines, hydrants, and telephone booths)
- Retaining walls
- Trees, shrubs, plants and flowers
- Walks

\* Provided that, in any residence district, ornamental fences and hedges shall not exceed six feet in height in the side yards or as provided in section 5.7. Hedges shall not exceed three feet in the required front yard. Fences or walls are not permitted in any front yard.

**4.3 Nonconforming Uses and Structures**

**A. Intent.**

Within the districts established by this ordinance or by amendments that may later be adopted, there may exist:

- i. Nonconforming lots;

- ii. Nonconforming structures;
- iii. Nonconforming uses of land;
- iv. Nonconforming uses of land and structures in combination; and
- v. Nonconforming characteristics of use.

These nonconforming uses were lawful before this ordinance was passed or amended, but they are prohibited, regulated or restricted under the terms of this ordinance or may be under future amendments hereto. It is the intent of this ordinance to permit these nonconforming uses to continue until they are removed but not to encourage their survival. It is further the intent of this ordinance that nonconforming uses shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses which are prohibited elsewhere in the same district. [Note: Illegal uses existing at the time this ordinance is enacted shall not be validated by virtue of its enactment.]

**B. Incompatibility of Nonconforming Uses.**

Nonconforming uses are declared by this ordinance to be incompatible with permitted uses in the districts in which such use is located. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this ordinance, which shall include the attachment on a building or premises of additional signs intended to be seen from off the premises or the addition of other uses of a nature which would be generally prohibited in the district in which such use is located.

**C. Avoidance of Undue Hardship.**

To avoid undue hardship, nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any building or development on which actual construction was lawfully begun prior to the effective date of the adoption or amendment of this ordinance and upon which actual building construction has been carried on diligently. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that the work shall be carried on diligently. Actual construction is hereby defined as work done which is beyond the preparation stage and into that stage where the changes or additions are made permanent.

**D. Single Nonconforming Lots of Record.**

Note: This section shall apply only to single-family residences.

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record after the effective date

*Section Four - Authorized Uses*

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of adoption or amendment of this ordinance notwithstanding limitations imposed by other provisions of this ordinance. Such lots must be in separate ownership or included in a subdivision of record in the office of the Noble County Recorder at the time of passage of this ordinance. This provision shall apply even though such lots fail to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lots shall conform to the regulations for the district in which such lots are located. (Also see Section 5.3(c)). Variances of requirements listed in Section 5 of this ordinance, other than lot area or lot width shall be obtained only through action of the Board of Zoning Appeals as provided in Sections 8.4.

**E. Nonconforming Lots of Record in Combination.**

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

**F. Nonconforming Uses of Land.**

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

- i. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied on the effective date of adoption or amendment of this ordinance.
- ii. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use on the effective date of adoption or amendment of this ordinance.
- iii. If any such nonconforming use of land is discontinued or abandoned for one year or more (except when government action impedes access to the premises), any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.
- iv. No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such nonconforming use of land.

**G. Nonconforming Structures.**

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

- i. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
- ii. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to the extent of more than 50 percent of the fair market value of the building immediately prior to the damage, it shall not be reconstructed except in conformity with the provisions of this ordinance.
- iii. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

**H. Nonconforming Uses of Structures or of Structures and Land in Combination.**

If a lawful use involving individual structures, or if a structure and land in combination, exists at the effective date of adoption or amendment of this ordinance that would not now be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- i. No existing structure devoted to a use not permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
- ii. A nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance, but no such use shall be extended to occupy any land outside such building.
- iii. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.
- iv. When a nonconforming use of a structure, or structure and land in combination is discontinued or abandoned for more than one year (except when government action



*Section Four - Authorized Uses*

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impedes access to the premises), the structure or structure and land in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.

- v. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction of the structure shall be defined as destruction by any means to the extent of more than fifty percent (50%) of the fair market value of the building immediately prior to the damage.

I. **Repairs and Maintenance.**

On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of twelve consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent of the current replacement cost of the nonconforming structure and market value of real estate, or nonconforming portion of the structure, whichever the case may be, provided that the cubic content existing when it became nonconforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired or rebuilt except in conformity with the regulations of the district in which it is located.

4.4 **Garage or Yard Sale**

- A. As used herein "garage or yard sale" is defined as a public or private sale conducted by the owner or occupier of a premise, and conducted within a residence, garage, other accessory buildings or outside thereof, which sale is of six or more items of personal property owned or in the possession of the owner or occupier of the premises, which personal property was not acquired by the owner or occupier for the purpose of resale.
- B. A garage or yard sale may be conducted one time in any one calendar year on any premises located in any R1, R2, R3, R4 or R5 zone, but no such sale shall be conducted for more than three (3) consecutive days.
- C. All items of personal property sold at such garage or yard sale shall be owned by the owner or occupier of the premises, unless permission for sale of items not owned is given at the time of issuance of the permit provided for herein by the person issuing the permit.
- D. Such garage or yard sale shall only be conducted during the hours from sunrise to sunset.

*Section Four - Authorized Uses*

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- E. All personal property exhibited for sale outside any structure during such garage or yard sale shall be removed from the outside and placed within a structure immediately following sunset each day of such sale. All signs erected for such garage or yard sale shall be removed immediately at the conclusion of the sale.
  
- F. No such garage or yard sale shall be held without the owner or occupier of the premises having first obtained a permit. Such permit shall be obtained by applying for it from the Administrator who shall issue such permit upon payment of a fee of One Dollar (\$1.00). Such permit shall specify the address and date(s) of such sale. The permit shall be posted in plain view on the property.
  
- G. The Cromwell Town Council may from time to time designate a day or days for a community wide garage or yard sale and thereby waive, for such designated day or days, compliance with section 4.4 or designated portions thereof.

*Section Four - Authorized Uses*

Section IV District Usage

*Districts in which Permitted*

x=Primary Use  
s=Special Use

Primary Use	R1	R2	R3	R4	R5	GB	CB	I	A
<b>RESIDENTIAL USES</b>									
<b>Dwelling, single-family</b>									
Single family, detached (1)	X	X	X						X
Manufactured home Type I (1)	X	X	X						X
Manufactured home, Type II (1)(2)					X				
Manufactured home, Type III (1)(2)					X				
Manufactured home park or subdivision					S				
<b>Dwelling, two-family</b>									
Accessory Apartment			X						
Duplex			X	X					
Flat (2nd story residential, over commercial)							S		
<b>Dwelling, multi-family</b>									
Apartment building (3 or more units in building)				X					
Garden apartment				X					
Triplex				X					
Quadruplex				X					

*Section Four - Authorized Uses*

Primary Use	R1	R2	R3	R4	R5	GB	CB	I	A
Town house				X					
<b>Extended care facilities</b>									
Children's home	S	S	S	S					S
Group home	S	S	S	S					S
Hospital						S			
Intermediate care facility				X		X			
Nursing home						X			
<b>Lodging establishments</b>									
Bed and breakfast: home stay			S						
Bed and breakfast: Inn						X	X		
Hotel, motel, inns						X	X		
<b>AGRICULTURAL USES</b>									
Agriculture building									X
Artificial lake of 3 or more acres									X
Commercial greenhouse									X
Farm, confinement feeding									X
Farm equipment, sales and service						X			S
Farm, general									X

*Section Four - Authorized Uses*

Primary Use	R1	R2	R3	R4	R5	GB	CB	I	A
Hay, grain and feed stores						X			S
Sales barn for livestock resale									X
<b>INDUSTRIAL USES</b>									
Bottled gas storage & distribution								S	S
Communication relay tower									X
Industry, general								X	
Industry, light								X	
Industrial park								S	
Feed mill, grain elevators, flour mill								S	
Junk yard									S
Recycling center								X	
Liquid Fertilizer storage & distribution								S	
Manufacturing, storage or use of explosives								S	
Mineral extraction, borrow pit, topsoil removal & storage areas									S
Petroleum bulk storage & distribution facility									S
Scrap metal yard								X	S
Slaughter house								X	

*Section Four - Authorized Uses*

Primary Use	R1	R2	R3	R4	R5	GB	CB	I	A
Truck terminal								X	
Warehouse (storage)								X	
Wholesale business								X	
Other uses not specified								S	
<b>PUBLIC FACILITIES</b>									
Airport									X
Church or temple	X	X	X	X	X		X		X
Governmental offices						X	X		
Day care center						X	S		
Day care (home service)	S	S	S	S	S				S
Penal or correctional institution									S
Police station or fire station	X	X	X	X	X	X	X	X	X
Public library or museum						X	X		
Public park	X	X	X	X	X	X	X		X
Public or private swimming pool	S	S	S	S	S	S	S		S
Commercial sanitary fill, commercial compost facility, refuse dump, garbage disposal plant, trash transfer station									S
Commercial sewage disposal plant									S
Parking lot or parking garage						S	S		

*Section Four - Authorized Uses*

Primary Use	R1	R2	R3	R4	R5	GB	CB	I	A
School: public, parochial, private	X	X	X	X	X	X			X
Telephone exchange or public utility substation	X	X	X	X	X	X	X	X	X
Trade or business school						X	X		
Post Office						X	X		
<b>BUSINESS USES: APPLIANCES</b>									
Electric appliance service and sales						X	X		
Radio, TV & music service and sales						X	X		
Satellite dish sales and service						X	X		
Other similar uses						S	S		
<b>BUSINESS USES: AUTOMOBILE SERV.</b>									
Automatic car wash									
Car wash						X	X		
Automobile sales and service						X	X		
RV and camper sales and service						X	X		
Automotive repair, minor						X	X		
Automotive repair, major						X	X		

*Section Four - Authorized Uses*

Primary Use	R1	R2	R3	R4	R5	GB	CB	I	A
Gasoline station, with repair						X	X		
Gasoline station without repair						X	X		
Other similar uses						S	S		
<b>BUSINESS USES: CLOTHING SERVICES</b>									
Dressmaking shop						X	X		
Dry cleaning, laundry establishment, Laundromat						X	X		
Millinery shop						X	X		
Self-service laundry						X	X		
Shoe repair shop						X	X		
Tailor and pressing shop						X	X		
Other similar uses						X	X		
<b>BUSINESS USES: FOOD SALES &amp; SERVICE</b>									
Baker - Retail						X	X		
Dairy - Retail						X	X		
Delicatessen						X	X		
Drive-in						X	S		
Fast-Food restaurant						X	S		



*Section Four - Authorized Uses*

Primary Use	R1	R2	R3	R4	R5	GB	CB	I	A
Grocery, including convenience store						X	X		
Meat market						X	X		
Restaurant, w/o alcoholic beverage						X	X		
Restaurant, with alcoholic beverage						X	X		
Roadside food sales stand								X	S
Wholesale produce terminal									X
Other similar uses						S	S		
<b>BUSINESS USES: PERSONAL SERVICES</b>									
Barber shop						X	X		
Beauty shop						X	X		
Health spa or fitness center						X	X		
Professional Offices						X	X		
Other similar uses						X	X		
<b>BUSINESS USES: RECREATION</b>									
Bait sales						X	X		
Bar, Tavern						S	X		
Billiard room						X	X		

*Section Four - Authorized Uses*

Primary Use	R1	R2	R3	R4	R5	GB	CB	I	A
Bowling alley						X	X		
Country club and golf course	S	S							X
Dancing, aerobic, gymnastic studio						X	X		
Lodge or private club						X	X		
Night club						X	X		
Outdoor commercial recreational enterprise						S			S
Private recreational development						S			S
Private camp									S
Riding stable and trails									X
Theater, indoor						X	X		
Theater, outdoor						S			
Campground						S			S
Other similar uses						S	S		
<b>BUSINESS USES: RETAIL SALES</b>									
Apparel shop						X	X		
Department store						X	X		
Drugstore						X	X		
Flower shop						X	X		

*Section Four - Authorized Uses*

Primary Use	R1	R2	R3	R4	R5	GB	CB	I	A
Gift shop						X	X		
Hardware store						X	X		
Jewelry store						X	X		
Liquor store						X	X		
Newsdealer						X	X		
Record shop						X	X		
Antique shop						X	X		
Stationery and book store						X	X		
Sporting goods						X	X		
Furniture store						X	X		
Other similar uses						X	X		
<b>BUSINESS USES: MISCELLANEOUS</b>									
Auction House						X			
Boat sales, service and storage						X	X		
Building trades contractors								S	
Bus station						X	X		
Cemetery or crematory									X
Clinic						X	X		

*Section Four - Authorized Uses*

Primary Use	R1	R2	R3	R4	R5	GB	CB	I	A
Commercial facility for breeding & raising nonfarm fowl & animals									X
Customary Home Occupation	X	X	X	X	X				X
Farm equipment, sales & service						X			S
Flea Market						S			
Kennel, boarding									X
Mortuary						X	X		
Office building (3)						X	X	S	
Photographic studio						X	X		
Sales barn for livestock sale									X
Shopping center						S	S		
Self-Service Storage Facility						S			
Veterinary hospital, including boarding									S
Other retail / business uses not specified						S	S		

**FOOTNOTES:**

1. That special use for this usage shall, in addition to any other conditions imposed by the Board of Zoning Appeals, include the following conditions:

(1) Condition of Repairs. It will be stipulated that Manufactured Homes shall be considered a "building or structure" and subject to any unsafe Building Code, either heretofore adopted by the Town of Cromwell, or henceforth adopted, together with any amendments thereto.

(2) When permanent foundations are not provided, said structure shall contain skirting which is in new or presentable condition and which conceals all plumbing, anchors, and stands underneath the home.

*Section Five - Use Requirements and Restrictions*

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**Section 5  
Use Requirements and Restrictions**

**5.1 Height of Structures**

- A. Except as otherwise provided by this section, no structure may be erected or changed so as to make its height greater than twenty-five (25) feet if it is in an R1, R2, or R5 District, or thirty-five (35) feet if it is in an A, R3, R4, CB, or GB District, or fifty (50) feet if it is in a I District.
- B. Spires, church steeples, chimneys, cooling towers, elevator bulkheads, fire towers, penthouses for mechanical equipment, stacks, tanks, water towers, transmission towers for electric lines, and necessary mechanical appurtenances may be erected or changed to any height that is not otherwise prohibited elsewhere in this ordinance.

**5.2 Maximum Lot Coverage: Residential Uses**

The residential buildings on any lot may not exceed in coverage the following percentages of total lot area:

**Maximum Lot Coverage**

District	R1	R2	R3	R4	R5	CB*	A
Percentage of Coverage	25%	30%	40%	40%	40%	60%	25%

\*There is no maximum lot coverage if the entire first story contains non-residential uses.

**5.3 Minimum Lot Size: Residential Uses**

- A. Except as provided for in 5.3 C, a lot on which a dwelling is erected or changed may not be smaller in area, in square feet per dwelling unit, than that prescribed for it in the following table. ("Changed" shall mean "increased in number of dwelling units contained therein," but shall not be construed to mean only refurbished, rehabilitated or expanded in size.)

**Section Five - Use Requirements and Restrictions**

**Minimum Lot Size In Square Feet And District, Per Unit**

- if connected to public sewer.

Dwelling Type	R1	R2	R3	R4	R5	CB	A
Single-family	20,000	10,000	6,000	6,000	5,000	6,000	30,000
Two-family	--	--	3,000	3,000	--	3,000	--
Multi-family	--	--	--	2,000*	--	800	--

\* This figure applies for each of the first three dwelling units - add 1,000 square feet for each additional unit.

**Minimum Lot Size In Square Feet And District, Per Unit**

- without public sewer

Dwelling Type	R1	R2	R3	R4	R5	CB	A
Single-family	43,560	43,560	43,560	43,560	43,560	--	43,560
Two-family	--	--	43,560	43,560	--	--	--
Multi-family	--	--	--	43,560	--	--	--

- B. Except as provided for in 5.3 C, a lot on which a dwelling is erected or changed may not be smaller in width, in linear feet, than that prescribed for it by the following table. ("Changed" shall mean "increased in number of dwelling units contained therein," but shall not be construed to mean only refurbished, rehabilitated or expanded in size.)

**Minimum Lot Width In Feet and District**

Kind of Dwelling	R1	R2	R3	R4	R5	CB	A
Single-family	100'	75'	60'	60'	50'	60'	150'
Two-family	--	--	60'	60'	--	60'	--
Multi-family	--	--	--	70'	--	70'	--

- C. A single-family dwelling may be located on any lot in any district in which single-family dwellings are permitted if the lot was in separate ownership or included in a subdivision of record in the office of the Noble County Recorder at the time of the passage of this ordinance, even though the lot does not have the minimum lot width or the minimum lot area, or both, specified for the district by this ordinance.

*Section Five - Use Requirements and Restrictions*

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5.4 Minimum Lot Size: Other Uses

A lot on which one of the following uses is located may not be smaller in area than the area prescribed for that use opposite it in the following table:

**Minimum Lot Sizes By Use**

Use	Minimum Lot Area
Airport	80 acres
Cemetery or crematory*	20 acres
Clinic	15,000 sq. ft.
Commercial facilities for raising and breeding nonfarm fowl and animals	2 acres
Junk yard	10 acres
Kindergarten or day care center	110 sq. ft. per child
Penal or correctional institution**	320 acres
Private camp or campground	5 acres
Public or commercial garbage disposal plant	5 acres
Public or commercial sanitary fill, refuse dump or trash transfer station	20 acres
Riding stable	20,000 sq. ft. plus 5,000 sq. ft. for every horse over four

\*Does not apply to old or existing cemeteries.

\*\*Does not apply to a town, city, or county jail.



*Section Five - Use Requirements and Restrictions*

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5.5 Standard Setbacks

- A. In any district except the CB district, where there is no such requirement, minimum depth of front yard for a lot abutting a street shall be as follows:

Street Type	Minimum Front Yard							
	R1	R2	R3	R4	R5	GB	I	A
Local Streets	30'	20'	15'	20'	15'	15'	30'	40'
Arterial Highway (State Roads 5 & 33)	40'	30'	25'	30'	30'	25'	40'	50'

Arterials are designated by the Adopted Thoroughfare Plan; collectors are designated by resolution of the plan commission.

However, along a local street in a residence district or business district other than CB, where fifty percent of lots in that block face are occupied by principal use buildings, minimum depth of front yard for that block face shall be the average depth of front yard for those buildings, provided that such front yard shall be no less than 10 feet. But buildings to be removed to make way for a new building shall not be included when calculating average depth of front yard to be applied to the new building.

A through lot has a front yard on each abutting street.

For any corner lot, these front yard setback standards shall also apply to the side yard(s) abutting a arterial highway or local street.

Where a lot does not abut a street, minimum depth of front yard shall be 25 feet, measured from a designated front lot line.

For any accessory building, minimum depth of front yard shall be the same as for the principal use building.

Any manufactured home, placed on any lot, shall be placed so that the front elevation (long dimension) is parallel to the front line of the property. Manufactured homes shall have a front setback ten (10) feet greater than the district requirements to allow for the addition of porches or front decks.

*Section Five - Use Requirements and Restrictions*

B. Minimum depth of rear yard, in feet, for primary and accessory building shall be as follows:

Zoning District	Residential Use		Nonresidential Use	
	Primary	Accessory	Primary	Accessory
R1, R2, R3, R4, R5, A	20'	5'	20'	5'
GB	20'	20'	20/40*	20/40*
CB	5'	5'	5'	5'
I	--	--	20/40*	20/40*

\* Where rear lot line abuts a residential district.

C. Minimum depth of side yard, in feet, for primary or accessory buildings shall be as follows:

Zoning District	Residential Use	Nonresidential Use
R1, R2, R3, R4, R5, A	5'	5'
GB	5	5/10*
CB	5	0
I	--	5/30*

\* Where side lot line abuts a residential district.

5.6 Setbacks: Accessory Buildings in Residential Districts

- A. In a residential district, an accessory building may be located no closer to a side lot line than six (6) feet and no closer to the front lot line than the minimum front yard for a principal building.
- B. If an interior lot abuts a corner lot or an alley separating them and the front yards of the two lots are perpendicular to each other, an accessory building on the rear lot line of the corner lot may be located no closer to the street abutting the interior lot than the principal building on the interior lot.

*Section Five - Use Requirements and Restrictions*

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5.7 Setbacks: Vision Clearance at Intersections

At the street intersection of each corner lot, the triangular space determined by the two lot lines at that corner and by a diagonal line connecting the two points on those lot lines that are twenty-five (25) feet respectively from the corner shall be kept free of any obstruction to vision between the heights of two and one-half (2 ½) and twelve (12) feet above the established grade.

5.8 Setbacks: Uses Allowed As Special Uses

When permitted by grant of special use per Section 8.3, the following uses are subject to the special setbacks prescribed, in feet, by the following table. If no figure appears for a setback, the standard setback prescribed by Subsection 5.6 applies.

**Setbacks In Feet By Use**

Use	Front	Side	Rear
Bottled gas storage & distribution	300'	300'	300'
Cemetery or crematory	50'	50'	--
Clinic	--	10'	30'
Commercial facilities for raising & breeding nonfarm fowl & animals	100'	100'	100'
Junk Yard	300'	300'	300'
Kindergarten or day care center	20'	15'	--
Liquid fertilizer storage & distribution	300'	300'	300'
Mineral extraction, borrow pit or top soil removal and their storage areas	150'	150'	150'
Outdoor theater	100'	40'	40'
Outdoor commercial recreational enterprise	40'	40'	--
Penal or correctional institution	100'	100'	100'
Petroleum tank farm	300'	300'	300'
Private recreational development	40'	40'	--
Private camp or campground	100'	40'	40'

*Section Five - Use Requirements and Restrictions*

Use	Front	Side	Rear
Public or commercial sanitary fill, refuse dump, garbage disposal plant or trash transfer center	300'	300'	300'
Public or commercial sewage disposal plant	300'	300'	300'
Riding stable	100'	100'	100'
Sales barn for livestock sale	300'	300'	300'

5.9 Buffering: Minimum Distances from Residential District

- A. A mineral extraction area, borrow pit, or topsoil removal area (including storage area), penal or correctional institution, public or commercial sewage disposal plant, sales barn for livestock sale, truck terminal, or wholesale produce terminal may not be located closer to an R1, R2, R3, R4, or R5 district than one thousand (1000) feet. A junk yard may not be located closer to such a district than thirteen hundred twenty (1320) feet.
- B. A parking area or loading berth for any of the following uses may not be located closer to a residential district than the distance, in feet, listed opposite it in the following table:

**Minimum Distance in Feet From a Residential District**

Use	Parking Area	Loading Berth
Airport	25'	100'
Commercial facilities for raising and breeding nonfarm fowl & animals	25'	100'
Commercial greenhouse	--	50'
Junk yard	1320'	1320'
Mineral extraction, borrow pit, or topsoil removal, and their storage areas	--	300'
Outdoor commercial recreational enterprise	25'	50'
Penal or correctional institution	300'	300'
Private recreational development	25'	--
Sales barn for livestock sale	50'	100'

*Section Five - Use Requirements and Restrictions*

Use	Parking Area	Loading Berth
Truck terminal	100'	100'
Wholesale produce terminal	100'	100'

5.10 Buffering: Fences and Walls

The following uses shall be fenced or walled as respectively prescribed by the following table:

Use Category	Enclosure
Airport or heliport (where located at ground level)	6'0" chain link fence
Artificial lake of three or more acres, if accessible to public	6'0" chain link fence
Drive-in	6'0" wire mesh fence
Kindergarten or day care center (play area only)	4'0" wire mesh fence
Junk yard, scrap metal yard, sanitary fill, or refuse dump	Solid wall or solid painted fence sufficient to hide from view
Manufactured Home Subdivision	4'0" wire mesh fence
Mineral extraction, borrow pit, topsoil removal, and their storage areas	6'0" chain link fence
Outdoor commercial recreational enterprise	6'0" chain link fence
Outdoor theater	8'0" solid opaque fence
Private swimming pool	6'0" chain link fence or solid opaque fence
Commercial sewage disposal plant	Solid wall or solid painted fence sufficient to hide from view
Self service storage facility	6'0" wire mesh fence
Wholesale produce terminal	6'0" wire mesh fence

*Section Five - Use Requirements and Restrictions*

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5.11 Buffering: Screen Planting Abutting Residential Use

Tight screen planting, effective at all times to block the view from abutting residential uses, shall be provided for the following uses in accordance with the following table, the dimensions of the screen to be the minimum five years after the use is established. Such screens should consist of both seasonal and evergreen plantings. Hardy plants that require low levels of maintenance are recommended.

**Screening Of Uses**

Use	Screen
Artificial lake of three acres or more	6'0" high; 3'0" wide
Commercial facilities for raising and breeding nonfarm fowl and animals	6'0" high; 3'0" wide
Manufactured Home Subdivision	6'0" high; 6'0" wide
Mineral extraction, borrow pit, topsoil removal, and their storage areas	8'0" high; 3'0" wide
Private recreational development	6'0" high; 3'0" wide
Private swimming pool	6'0" high; 3'0" wide
Private camp or campground	6'0" high; 3'0" wide
Public or commercial sanitary fill, refuse dump, garbage disposal plant or trash transfer station	8'0" high; 6'0" wide
Riding stable	6'0" high; 3'0" wide
Truck terminal	6'0" high; 6'0" wide
Self service storage facility	6'0" high; 3'0" wide
Wholesale produce terminal	6'0" high; 6'0" wide

*Section Five - Use Requirements and Restrictions*

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5.12 Entrances

- A. This subsection limits the number of entrances to an arterial street or a state or federal highway. However, it does not apply to entrances for emergency use only.
- B. Each of the following uses is limited to one entrance:

**Use List**

- Artificial lake of three or more acres
- Clinic
- Commercial facility for raising and breeding nonfarm fowl and animals
- Country club or golf course
- Junk yard, sanitary fill, refuse dump, sewage disposal plant, or trash transfer station.
- Mineral extraction, borrow pit, topsoil removal, and their storage areas
- Outdoor theater
- Penal or correctional institution
- Private recreational development
- Private camp or Campground
- Public or commercial sanitary fill, refuse dump, garbage disposal plant or trash transfer station
- Public or commercial sewage disposal plant
- Railroad right-of-way and uses essential to railroad operation
- Riding stable
- Sales barn for livestock sale
- Telephone exchange or public utility substation
- Tourist home or bed and breakfast
- Truck terminal
- Wholesale produce terminal

- C. Each of the following uses, for which special uses are prescribed by section 4.1, is limited to two entrances:

**Use List**

- Airport
- Cemetery
- Outdoor commercial recreational enterprise

5.13 Minimum Off-street Parking and Loading Requirements

- A. **Purpose.**

In order to reduce traffic problems and hazards by eliminating unnecessary on-street parking, every use of land must include on-premises parking sufficient for the needs normally generated by the use, as provided for in this subsection. Parking spaces or bays contiguous to the street,

*Section Five - Use Requirements and Restrictions*

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required by subdivision or other town ordinances, are in addition to and not in place of the spaces so required.

**B. Applicability.**

No new building or structure shall be constructed or used in whole or in part, and no building or part thereof shall be altered, enlarged, reconstructed or used, and no land shall be used unless off-street parking is provided in accordance with the following conditions:

- i. No existing off-street parking spaces shall be eliminated by the replacement or enlargement of an existing building or structure unless they are replaced by spaces provided in accordance with this subsection.
- ii. Enlargements or alterations which result in an increase in the ground coverage or the usable floor area of a building or structure shall require additional off-street parking spaces in accordance with the provisions of this subsection, but only to the extent that such increase exceeds 5% of the ground coverage or 15% of the floor area existing at the time this subsection becomes effective.
- iii. Changes in the use of existing buildings, structures, or of land shall require additional off-street parking spaces in accordance with the provisions of this subsection, but only to the extent of such change.
- iv. Restoration of an existing building or structure that has been damaged or destroyed by fire or other disaster shall be permitted without conforming to the requirements of this subsection if said restoration or rebuilding complies with the following requirements:
  - The restoration of the building does not increase the ground coverage that was occupied by the structure being replaced by more than 5%,
  - The restoration does not increase the usable floor space by more than 15% over that which was in the building being replaced, and
  - The restoration does not reduce the number of parking spaces that were available to the subject structure and were in existence prior to the restoration.
- v. Buildings, structures, or land uses in existence, or structures or uses for which improvement location permits have been issued at the time this ordinance becomes effective shall not be subject to the requirements of this subsection except as provided above.



*Section Five - Use Requirements and Restrictions*

- vi. In order to encourage the renovation and adaptive reuse of existing commercial structures, and to maintain a tight and cohesive downtown, additional parking spaces are not required for the reuse of existing structures in the central business district, labeled CB.

**C. Required Parking Spaces.**

- i. Parking spaces shall be provided as follows

**Parking Requirements by Use**

Uses	Required Parking Spaces
Airport or heliport	1 per 2 employees plus 1 per based or daily transient aircraft
Artificial lake of 3 acres or more	1 per 2 users
Automobile, RV and camper sales	1 per 400 sq. ft. of gross floor area
Motor vehicle repair	1 per 200 sq. ft. of gross floor area
Banks, business offices, professional offices, similar business uses, post office and similar service uses	1 per 200 sq. ft. of gross floor area
Boarding or lodging house	1 per occupant plus 2 for the resident owner
Bowling alley	3 per lane
Cemetery or crematory	1 per 2 employees plus 1 per 4 seats in chapel, if provided
Church or temple	1 per 2 seats in main auditorium
Clinic	1 per employee plus 3 per doctor for patients
Communication relay tower	1 plus 1 per 3 employees
Country club or golf course	1 per 2 employees plus 3 per golf hole
Dancing, aerobics or gymnastics	1 per 200 sq. ft., of gross studio floor area

*Section Five - Use Requirements and Restrictions*

Uses	Required Parking Spaces
Department store, antique shop, apparel shop, flower shop, drugstore, hardware store, stationery and book store, newsdealer, record shop, photo studio, barber shop, beauty shop, health spa or fitness center, bakery, restaurant, delicatessen, liquor store, meat market, grocery (including convenience stores), roadside food sales stand, electrical appliance shop, radio-TV shop, dress-maker, millinery, tailor and pressing shop, self-service laundry, dry-cleaning and laundry establishment, billiard room, night club, furniture and large appliance sales	1 per 200 sq. ft. gross floor area
Greenhouse (commercial), facilities for raising or breeding nonfarm fowl or animals (commercial)	1 per 2 employees plus 1 per 125 sq. ft. of sales area
Hospital	1 per 4 beds plus 1 per doctor plus 1 per 3 employees plus 1 per hospital vehicle
Hotel or motel	1 per 3 employees plus 1 per sleeping room
Industrial uses generally	1 per employee on largest shift
Junk Yard or recycling center	1 per employee
Kindergarten or day care center	1 per 2 employees plus 1 per 5 children
Mortuary	1 per 3 seats in main auditorium
Nursing home	1 per 7 persons plus 1 per employee on largest shift
Outdoor commercial recreational use	1 per employee plus 1 per 500 sq. ft. of use area
Penal or correctional institution	1 per 3 employees plus 1 per 10 inmates (capacity)
Police station or fire station	1 per employee on largest shift
Private club or lodge	1 per 6 active members

*Section Five - Use Requirements and Restrictions*

Uses	Required Parking Spaces
Private recreational development	1 per 2 customers or members
Private camp or campground	1 per camp site plus 1 per cabin plus 1 per employee
Public library or museum	2 per 1,000 sq. ft. gross floor area
Public or commercial sewage disposal plant	1 per employee on largest shift
Bus station	1 per 10 seats in waiting room plus 1 per 2 employees of connected retail use
Residential use, including apartments	2 per dwelling unit
Riding Stable	1 per 5,000 sq. ft.
School	1 per staff member plus 1 per 5,000 sq. ft. plus 2 per 5 students enrolled if a high school
Shopping centers	5 per 1,000 sq. ft. gross leasable area
Commercial swimming pools	1 per 100 sq.ft. of pool area
Telephone exchange or public utility substation	1 per employee
Theater (indoor)	1 per 2 seats
Theater (outdoor)	1 per 2 employees
Tourist home or bed and breakfast	1 per employee plus 1 per guest bedroom
Trade or business school	1 per 3 students and staff
Truck terminal	1 per 2 employees plus 4 for customers
Veterinary hospital or clinic or boarding kennel	1 per 3 animal spaces (cages or pens)
Wholesale produce terminal	1 per 2 employees

- ii. Drive-up services, including but not limited to bank teller, photo pick-up, car washes, fast food order and pick-up, shall provide waiting space for queuing of vehicles awaiting use of drive-up windows. The requirements are: two (2) twenty (20) foot car-length waiting spaces for each drive-up lane (including the space where the transaction takes place), plus one additional space per drive-up lane where such

*Section Five - Use Requirements and Restrictions*

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waiting space can be in a common lane for multiple drive-up windows. Drive-up waiting space requirements are in addition to any off-street parking requirement.

**D. General Regulations.**

- i. Parking spaces may not be located in the required front yard except in business and industrial districts.
- ii. Parking areas must conform to the location requirements prescribed in this ordinance.
- iii. Two or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall be not less than the sum of the requirements for the several individual uses computed separately. This provision shall apply to a building having space occupied by two or more uses.
- iv. When determination of the number of off-street parking spaces required by subsection 5.13 C results in a requirement of a fractional space, any fraction of one-half or less may be disregarded while a fraction in excess of one-half shall be counted as one parking space.
- v. Every company car, truck, tractor and trailer normally stored at a business site shall be provided with off-street parking space. Such space shall be in addition to the parking requirements of subsection 5.13 C.

**E. Off-Site Parking Facilities.**

Required parking for a non-residential development may be located off-site under certain circumstances. Requests for variances allowing the substitution of off-site for on-site parking must meet the following requirements:

- i. The off-site parking shall be located so that it will adequately serve the use for which it is intended. In making this determination the following factors, among other things, shall be considered:
  - a. Proximity of the off-site parking facilities;
  - b. Ease of pedestrian access to the off-site parking facilities;
  - c. The type of use the off-site parking facilities are intended to serve, i.e. off-site parking may not be appropriate for high turnover uses such as retail.
- ii. A written agreement shall be drawn to the satisfaction of the Town Attorney and executed by all parties concerned assuring the continued availability of off-site parking facilities for the use they are intended to serve.

*Section Five - Use Requirements and Restrictions*

**F. Development Standards.**

Each parking area shall comply with the standards as hereinafter set forth:

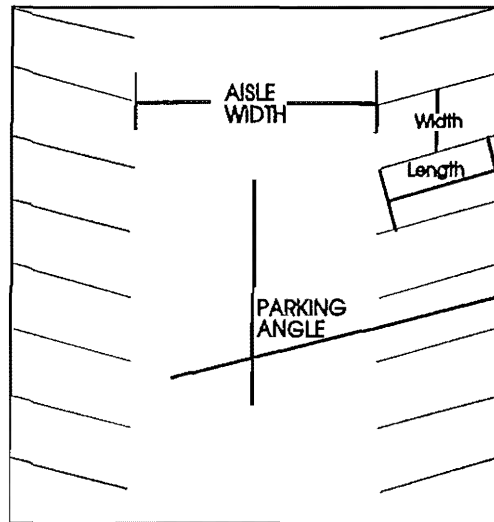
**i. Design.**

- a. Parking spaces and maneuvering aisles shall have the minimum dimensions set forth in the following table:

**Minimum Parking Space and Aisle Dimensions for Parking Areas (in feet)**

Angle of Parking	Width of Parking Space	Length of Parking Space	Maneuvering Aisle (1-way)	Maneuvering Aisle (2-way)
76-90	9'	22'	22'	22'
61-75	9'	22'	20'	22'
46-60	9'	22'	18'	22'
0-45	9'	22'	16'	22'

Measurement of parking space width and length, aisle width and parking angle shall be made as per the following diagram:



**Figure 5.1: Parking Space Measurements**

Section Five - Use Requirements and Restrictions

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- b. Driveways shall be arranged for the free flow of vehicles at all times, and all maneuvering spaces and aisles shall be so designed that all vehicles may exit from and enter into a public street by being driven in a forward direction, except that residential and employee parking spaces may back-in from alleys.
  - c. Each required off-street parking space shall be designed so that any motor vehicle may proceed to and from said space without requiring the moving of any other vehicle or by passing other vehicle or by passing over any other parking space, except where the parking area is limited to employees.
  - d. On any parking area in any district, all paved portions of all parking spaces and maneuvering aisles shall be set back five (5) feet from any wall of a building, and five (5) feet from any private or public way, or any lot line of any land in residential districts or used for residential purposes.
- ii. **Construction.**
- a. All required parking spaces, maneuvering aisles, and driveways except in "A" districts shall have a durable, dustless, all-weather surface, such as bituminous concrete or cement concrete, and shall provide for a satisfactory disposal of surface water by grading and drainage in such a manner that no surface water shall drain onto any lot in other ownership and such surfaces shall be well maintained.
  - b. Parking areas in all districts shall be provided with curbing, wheel stops, or other devices to prevent motor vehicles from being parked or driven within required setback areas or onto the required landscaped open space.
  - c. In any parking area the surface shall be painted, marked or otherwise delineated so that each parking space is apparent.
- iii. **Landscaping.**
- a. For an outdoor parking area containing twenty (20) or more parking spaces, at least one (1) tree shall be planted for every ten (10) parking spaces on any side of the perimeter of such parking area that abuts the side line of a private or public way, or abuts the lot line of land in residential districts or land used for residential purposes.
  - b. In any outdoor parking area, a landscaped open space having an area of not less than 10% of the outdoor parking area of the lot shall be provided. A minimum of one half of the required landscaped open space shall be located in the interior of the parking area and contain ornamental or shade trees and/or shrubs and/or other appropriate plant materials to provide shade and

*Section Five - Use Requirements and Restrictions*

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color easily visible when the lot is full of cars.

- c. Trees required by the provisions of this subsection shall be at least two (2) inches in diameter at a height of five (5) feet at the time of planting and shall be of a species characterized by rapid growth and by suitability and hardiness for location in a parking lot. To the extent practicable, existing trees shall be retained and used to satisfy the provisions of this subsection.

iv. **Screening.**

Any parking area which abuts residential districts or uses shall be screened from such residential districts or uses and any parking area shall be screened from a public or private way in accordance with the following requirements:

a. **Materials.**

Plant materials characterized by dense growth which will form an effective year-round screen shall be planted, or a fence or a wall shall be constructed, to form the screen except as prohibited in Section 4.2 and 5.7. Where a grill or openwork fence or wall is used it shall be suitable in appearance and materials. Screening may consist of both natural and man-made materials. To the extent practicable, existing trees shall be retained and used to satisfy the provisions of this subsection. Plant material shall also be of a type whose roots will not interfere with utilities.

b. **Height.**

Screening shall be at least three (3) feet in height. Plant materials when planted, may be not less than 2 ½ feet in height if of a species or variety which shall attain the required height and width within two (2) years of planting. Height shall be measured from the finished grade.

c. **Width.**

Screening shall be in a strip of landscaped open space at least five (5) feet wide, and so located as not to impair visibility of or from approaching traffic or create potential hazards for pedestrians.

d. **Maintenance.**

All required plant materials shall be maintained in a healthy condition and whenever necessary replaced with new plant materials to insure continued compliance with screening requirements. All required fences and walls shall

*Section Five - Use Requirements and Restrictions*

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be permanently maintained in good repair and presentable appearance and whenever necessary they shall be repaired or replaced.

e. **Lighting.**

All artificial lighting used to illuminate a parking area, maneuvering space or driveway shall be arranged and shielded so as to prevent direct glare from the light sources into any public street or private way or onto adjacent property.

f. Where appropriate and recommended by the Design Review Committee, landscaped earth berms may be used to help in screening or separating uses or for other useful purposes.

G. **Off-Street Loading.**

There shall be provided off-street loading berths not less than the minimum requirements specified in this subsection in connection with any building or structure which is to be erected or substantially altered, and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles.

i. **Location.**

All required off-street loading berths shall be located on the same lot as the use to be served, and no portion of the vehicle shall project into a street or alley. No permitted or required loading berth shall be located within twenty-five (25) feet of the nearest point of intersection of any two streets, nor shall it be located in a required front yard, or side yard adjoining a street. Some uses are also subject to Section 5.8 and/or 5.9.

ii. **Size.**

Off-street loading berths for over-the-road tractor-trailers shall be at least fourteen (14) feet in width by at least eighty (80) feet in length with a eighty (80) foot maneuvering apron, and shall have a vertical clearance of at least fifteen (15) feet.

For local pick-up and delivery trucks, off-street loading berths shall be at least twelve (12) feet in width by at least thirty (30) feet in length with a thirty (30) foot maneuvering apron, and shall have a vertical clearance of at least twelve (12) feet.

iii. **Access.**

Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movements.



*Section Five - Use Requirements and Restrictions*

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iv. **Surfacing.**

All open off-street loading berths shall be improved with a compacted base not less than six (6) inches thick, or equal, surfaced with not less than two (2) inches of asphaltic concrete or some comparable all-weather, dustless material.

v. **Space Allowed.**

Space allowed to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements of any off-street parking areas or portions thereof.

vi. **Off-street Loading Space Requirements.**

One off-street loading berth shall be provided for every 10,000 square feet of gross floor area but no more than a total of two spaces up to 40,000 square feet of gross floor area, one space for each additional 40,000 square feet up to 160,000 square feet, and one space for every 80,000 additional square feet.

5.14 **Manufactured Home Parks and Manufactured Home Subdivisions (R5)**

Manufactured Home Parks and Manufactured Home Subdivisions are allowed as a special use in R5 residential districts. A proposed Manufactured Home Park / Subdivision must submit a development plan for approval which must satisfy all of the requirements of this Ordinance, meet all requirements of Noble County's Subdivision Ordinance, and be approved by the Cromwell Plan Commission. If these requirements differ from the State standards set forth in IC 13-1-7 or 410 IAC 6-6-1, the stricter requirement governs.

A. **Definitions**

**Manufactured Home.** A structure, fabricated in an off-site manufacturing facility, which is transportable in one or more sections and is designed for uses as a dwelling with or without a permanent foundation when connected to the required utilities. Such a structure may or may not be built on an integral chassis. The term "manufactured home" shall not include a "recreational vehicle."

**Manufactured Home, Type I.** A single-family dwelling unit designed and built in a factory, installed as a permanent residence, which bears a seal certifying that it was built in compliance with the federal Manufactured Housing Construction and Safety Standards Law (1974 (U.S.C. 5401 et seq.), and which also complies with the following specifications:

1. shall have been constructed after January 1, 1981 and must exceed nine hundred fifty (950) square feet of occupied space per IC 36-7-4-1106(d);

Section Five - Use Requirements and Restrictions

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2. is attached to a permanent underfloor foundation of masonry construction, which is not pierced, except for required ventilation and access; and has a permanent perimeter enclosure constructed in accordance with the One and Two Family Dwelling Code;
3. has wheels, axles and towing chassis removed;
4. has a pitched roof with a minimum rise of 2/12; and,
5. consists of two (2) or more sections which, when joined, have a minimum dimension of 20' x 47.5' in length or width enclosing occupied space.
6. have siding and roofing material of a type customarily used on dwellings constructed on-site;

**Manufactured Home, Type II.** A structure, fabricated in an off-site manufacturing facility for installation of assembly at a building site, bearing a seal certifying that it is built in compliance with the Federal Manufactured Home Construction and Safety Standards Act (42 USC Section 5401, et. Seq.) Or Indiana Code 22-15-4-1 (as opposed to a Type I manufactured home which is built in the conformance with the Indiana One and Two Family Dwelling Code). To be considered a Type II manufactured home, the structure must:

1. contain at least nine hundred fifty (950) square feet of occupied space per dwelling unit;
2. be a double or multiple section unit;
3. be placed on a permanent under-floor foundation installed in conformance with the Indiana One and Two Family Dwelling Code and according to the manufacture's installation specifications;
4. be placed onto a permanent perimeter enclosure in conformance with the Indiana One and Two Family Dwelling Code;
5. have the wheels, axles, and hitch mechanisms removed;
6. have siding and roofing material of a type customarily used on dwellings constructed on-site;
7. be connected to all the utilities necessary for the occupancy of the unit in conformance with the Indiana One and Two Family Dwelling Code; and
8. have been constructed after January 1, 1981.

*Section Five - Use Requirements and Restrictions*

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**Manufactured Home, Type III.** A structure, fabricated in an off-site manufacturing facility, which is transportable in one or more sections and is designed for used as a single family dwelling. A mobile home would meet this definition. To be considered a Type III manufactured home, the structure must:

1. Be properly connected to all utilities necessary for the occupancy of the unit; and
2. Be set on piers and properly skirted, with wheels and axles removed, in a manufactured home subdivision.

**B. Minimum Lot Area**

- i. Manufactured Home Park / Subdivision, five (5) acres
- ii. Manufactured home lot, five thousand (5,000) square feet

**C. Ground Floor Area**

A manufactured home may not be established, erected or changed so that its ground floor area is less than five hundred (500) square feet or covers more than forty percent (40%) of the total lot area, as stated in section 5.2 of this ordinance.

**D. Building Height**

A main building or structure may not be erected or changed so as to have a height greater than twenty five (25) feet, or as stated in section 5.1 of this ordinance.

**E. Yards and distances between structures**

- i. The minimum distance between manufactured home stands on opposite sides of the street must be at least sixty (60) feet, and front yards must be at least fifteen (15) feet, as stated in section 5.5 of this ordinance.
- ii. The minimum distance between a manufactured home stand and a street pavement, a common parking area, a common walk or other common area must be at least ten (10) feet, or as restricted in section 5.5 of this ordinance.
- iii. The minimum distance between a manufactured home stand and the park / subdivision boundary when adjoining another use must be thirty (30) feet.

**F. Laundry Facilities**

- i. Laundry facilities must be provided either individually in each manufactured home and

Section Five - Use Requirements and Restrictions

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its space, in a centralized common facility, in a decentralized common facility, or in a combination of these to suit local preferences.

- ii. Where centralized provisions of washers, dryers, or common drying yards are required they must be located convenient to the manufactured home spaces.

G. Recreation Facilities

- i. Recreation areas and facilities, such as playgrounds, swimming pools, and community buildings must be provided to meet the anticipated needs that the clientele of the park / subdivision is designed to serve. Provisions for separate adult and children's recreation areas is encouraged.
- ii. At least one half (½) acre per twenty five (25) units must be devoted to designed and developed recreational facilities, generally provided in a centralized location or in larger park / subdivisions, the locations may be decentralized . The minimum dimension of a recreation area is one hundred (100) square feet. "Recreation area" includes space for community buildings, adult recreation, child play areas, and swimming pools.

H. Screen Planting and Fences

- i. A tight screen planting six (6) feet in width and height, effective during all seasons of the year, must be placed adjacent to the boundary of a manufactured home park / subdivision.
- ii. A wire mesh fence four (4) feet high must be placed at the boundary line of a manufactured home park / subdivision.
- iii. Fences or free standing walls must be installed where necessary for screening purposes, such as around laundry yards, refuse collection points, and play grounds.
- iv. All fences and walls must be located at least eighteen (18) feet from interior street center lines and at least eighteen (18) inches from the pavement edge of streets, driveways, parking spaces, and walks.
- v. Fences and walls must be appropriately designed for the function intended and shall be substantially constructed to withstand conditions or soil, weather and use.

I. Community Facilities

Essential community facilities and services for the type of manufactured home park / subdivision under construction, such as schools, recreation areas, police and fire protection must be made reasonably accessible to the park, or provisions must be made

*Section Five - Use Requirements and Restrictions*

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assuring these facilities and services.

**J. Sanitary Facilities**

- i. The manufactured home park / subdivision must be provided with a complete sanitary sewer system that connects with an existing approved sanitary sewer outlet with a separate treatment plat, to be provided by the developer in accordance with the minimum requirements of the State Board of Health and the Stream Pollution Control Board.
- ii. The plans for the installation of a sanitary sewer system must be provided by the developer of a manufactured home park / subdivision and approved by the Indiana State Board of Health. Upon the completion of the sanitary sewer installation, the plans for the system as built must be filed with the Commission.

**5.15 Signs**

**A. Purpose.**

The purpose of this subsection is (1) to permit such signs that will not, by their reason, size, location, construction, or manner of display, endanger the public safety of individuals, confuse, mislead, or obstruct the vision necessary for traffic safety, or otherwise endanger public health, and morals, and (2) to permit and regulate signs in such a way as to support and complement land-use objectives set forth in the zoning ordinance.

**B. Exempt signs.**

The following types of signs shall be exempted from the requirements of this subsection:

- i. Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, and names of occupants of the premises.
- ii. Flags and insignia of any government, college, university, or veterans organization, except for the height of the structure.
- iii. Signs erected by or by order of governmental bodies.
- iv. Integral decorative or architectural features of buildings, except letters, trademarks, logos, moving parts, moving or flashing lights.
- v. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

*Section Five - Use Requirements and Restrictions*

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**C. On-Premise Signs.**

- i. In any district, except as noted, the provisions of this subsection shall be applied to effect the safety of motorists and facilitate traffic movement.
  - a. No sign shall be erected or maintained at any location where, by reason of its position, wording, illumination, size, shape, or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with any authorized traffic control sign, signal, or device.
  - b. No sign shall contain or make use of any phrase, symbol, shape, form, or character in such a manner as to interfere with, mislead, or confuse moving traffic.
  - c. No exterior sign shall be permitted to display flashing, intermittent, revolving, rotating or animated lighting or illumination, nor any illumination which simulates or displays motion.
  - d. Except as permitted in subsection vii., Portable Signs are prohibited.
  - e. All signs not expressly exempted or permitted by this ordinance are prohibited.
- ii. In all districts, the provisions of this subsection shall apply.
  - a. No part of any sign which is attached to the exterior wall of a building shall be erected to a height above the roof or parapet line of such building.
  - b. No illuminated sign shall be permitted in or within fifty feet of property in any residence district.
  - c. No sign shall extend beyond or overhang any exterior wall of the building upon which they are secured.
  - d. The minimum setback of free-standing signs from street rights-of-way shall not be less than those given below. Setback shall be measured to the nearest point of the sign to the edge of the right-of-way.

**Minimum Sign Setbacks**

Area of Sign per Face	Minimum Setback
5 square feet or less	2 feet

*Section Five - Use Requirements and Restrictions*

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Area of Sign per Face	Minimum Setback
5 to 14.9 square feet	10 feet
15 to 49.9 square feet	20 feet
50 to 99.9 square feet	50 feet
100 or more square feet	80 feet

- e. The area of a sign shall be determined by the smallest circle, triangle, or rectangle that can be used to enclose the sign, exclusive of supporting members that bear no message.
  - f. No free-standing sign shall be erected or maintained on or within any easement or right-of-way, public or private.
  - g. Signs on Vehicles and Trailers are permitted provided that the sign is painted on or attached directly to the body of the original vehicle and does not project or extend beyond the original manufactured body. Furthermore any vehicle or trailer which displays advertisement material but is not registered by the bureau of motor vehicles is hereby classified as a portable sign and is prohibited from the view of the public by sections 5.15 C. vii b. and 5.15 C. i d. of this ordinance.
- iii. In any residence district, the provisions of this subsection shall apply.
- a. Multi-family developments may display identification signs indicating nothing other than name and/or address of the premises and/or the name of the management. Such sign shall not exceed nine (9) square feet in area.
  - b. Nonresidential uses are permitted one bulletin board or identification sign, indicating nothing other than name and/or address of the premises, and schedule of services or other information relevant to the operation of the premises. Such sign shall not be erected to a height greater than four (4) feet high and shall not exceed twelve (12) square feet in area unless erected along an abutting street or road having a speed limit in excess of forty five (45) miles per hour; then the area of such sign shall not exceed thirty (30) square feet.
  - c. For each use listed in paragraphs a. and b. eligible to display a sign, only one sign per street frontage shall be permitted, except that uses occupying extended frontages shall be permitted one such sign per five hundred (500) feet of frontage.

*Section Five - Use Requirements and Restrictions*

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- vii. The signs permitted by this subsection shall be allowed in any district.
- a. One "For Sale" or "For Rent" sign not more than nine (9) square feet in area for each dwelling unit, garage, or other quarters where appropriate.
  - b. One sign, not more than nine (9) square feet in area, for construction and development, giving the name of the contractors, engineers, or architects, shall be permitted, but only during the time that construction or development is actively underway.

Also, one (1) portable sign on premise, not in excess of the number or size provisions of subsection iv.b. may be permitted by the Administrator up to, but not to exceed, thirty (30) days, if the portable sign is being used in lieu of a permanent sign, or during the period while commercial construction or remodeling is actively underway, to be removed when the permanent sign is erected in the first case, or when construction is completed under that Improvement Location Permit in the second case. In no case shall a portable sign be permitted beyond thirty (30) days.

- c. For an event of public interest sponsored by a church, governmental agency, school, political organization, or charitable organization, one (1) portable sign not over fifty (50) square feet in area, on the premises on which the event will take place, shall be permitted; such sign shall not be erected more than thirty (30) days before the event in question and shall be removed immediately after such event. Also, directional signs, may be permitted not more than three (3) square feet in area, showing only a directional arrow and the name of the event of public interest; such signs shall not be erected more than fourteen (14) days before the event in question and shall be removed immediately after such event.
- d. For each real estate subdivision that has been recorded in accordance with the subdivision regulations, one sign, not over fifty (50) square feet in area, advertising the sale of property in such subdivision shall be permitted, but only when located in some portion of the subdivision being advertised for sale. Such sign shall not encroach upon any required yard, easement or right of way. Such sign may not be illuminated, flashing, or animated. Such sign shall be maintained only during such time as some portion of the land advertised for sale remains unsold. Permits for such sign shall be issued for one-year periods and may be renewed for additional one-year periods to allow time for reasonable display.
- e. Political advertisement signs, on private property, may be erected no more than thirty (30) days prior to the election and are to be removed within five (5) days after said election.



Section Five - Use Requirements and Restrictions

- iv. In any business district, except as herein provided, the provisions of this subsection shall apply.
  - a. Multi-family developments shall be subject to the provisions of subsection iii.
  - b. Signs shall be permitted as accessory uses for nonresidential uses according to the number and net area of signs set forth below:

**Business Use Signs and Sign Area**

District	Number of Signs	Net Sign Area (each sign)
GB & CB	3	40 sq. ft.

- v. In any industrial district, each business or industrial use shall be permitted identification signs on the lot only as incidental uses, not to exceed two such signs or a total net area of three (300) hundred square feet.
- vi. In any agriculture district, the provisions of this subsection shall apply:
  - a. Agricultural uses shall be permitted one (1) sign not to exceed thirty (30) square feet.
  - b. Industrial uses shall be permitted a maximum of two (2) signs not to exceed a combined area of one hundred (100) square feet.
  - c. Business uses shall be permitted two (2) signs not to exceed thirty (30) square feet each.
  - d. Other nonresidential uses shall be permitted one bulletin board or identification sign, indicating nothing other than name and/or address of the premises, and schedule of services or other information relevant to the operation of the premises. Such sign shall not exceed twelve (12) square feet in area unless erected along an abutting street or road having a speed limit in excess of forty five (45) miles per hour, then the area of such sign shall not exceed 30 square feet. Only one sign per street frontage shall be permitted, except that uses occupying extended frontages shall be permitted one such sign per five hundred (500) feet of frontage.
  - e. Residential uses are subject to the provisions of subsection iii.

*Section Five - Use Requirements and Restrictions*

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- f. For each major entrance to a real estate subdivision one (1) sign containing the name of the subdivision only shall be permitted. Such sign shall not exceed twenty (20) square feet and shall have a maximum height of six (6) feet. In addition, such sign shall comply fully with subsection 5.7 **Setbacks: Vision Clearance at Intersections**, such sign shall not be erected to a height greater than four (4) feet, shall not be placed within an easement or right of way, and must meet the setback requirements in subsection 5.14 C. ii.d.

**D. Off-Premise Signs.**

- i. Off-Premise signs shall be allowed in GB and I Districts only.
- ii. Off-Premise signs shall be separated by one thousand (1,000) feet in all directions from each other. No off-premise sign may be located adjacent to or within five hundred (500) feet of an interchange, at-grade intersection. Said five hundred (500) feet shall be measured from the right-of-way line.
- iii. No off-premise sign shall be permitted if it is located within a three hundred (300) feet radius of land that has been platted for residential use or is zoned R1, R2, R3, R4, or R5.
- iv. No off-premise sign shall be permitted within the boundaries of the easement or right of way of the city, county, or any public utility.
- v. No off-premise sign structure shall contain more than two facings and no facing shall display more than two (2) signs.
- vi. The maximum area for any one sign shall be three hundred (300) square feet and the maximum width twelve (12) feet and the maximum length twenty five (25) feet, exclusive of any border, trim, ornamental base, apron, supports, embellishments, and other structural members, if the exclusions do not exceed 20 percent of the sign area. The area shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof which will encompass the area affected.

**5.16 Restrictions Along Streams**

- A. No building or structure may be erected within a regulatory floodway unless a permit has been issued to construct in a floodway by the Indiana Department of Natural Resources.
- B. Water well, water lines and sewage facilities located within a flood plain shall be constructed to eliminate contamination of or by floodwater.

*Section Five - Use Requirements and Restrictions*

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5.17 Water Pollution

No authorization of a use under this Ordinance includes the authority to discharge liquid or solid wastes into public waters except as permitted under the Stream Pollution Control Law. Plans and specifications for proposed sewage and other waste treatment and disposal facilities must be approved by the Indiana Department of Environmental Management and/or the State Board of Health, and any other Indiana department or agency authorized to review and approve such facilities.

5.18 Noise, Odors, Radioactivity, Electrical Disturbances, and Vibration

No activity that may produce undesirable noise, odors, vibration, or other form of disturbance or pollution is permitted in or industrial district, greater than that which is allowed for by Noble County, the State of Indiana, and the Federal Government. Note: when two separate standards have been created the stricter of the two shall apply. (Noble County's Performance Standards can be found in section 3-5 of the Noble County Zoning Ordinance.)

## *Section Six - Planned Developments*

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### **Section 6 Planned Developments**

#### Preface

The purpose of this section is to deal with development in a more flexible manner as provided for in IC 36-7-4-713. Planned Development procedures should be used with proposals which because of their complexity and mixed-use nature would be difficult, if not impossible, to be carried out under the "as of right" requirements of conventional zoning, but which are beneficial to the Town as a whole. (See Section 6.1 for further explanation.) In order to qualify as a planned development the developer is required to meet the criteria provided in this section exactly in accordance with the details of the plan which he has negotiated with government officials and for which he has received approval. Accordingly, the community is assured that the development will be built exactly as indicated in the plans which were negotiated and approved.

#### 6.1 Statement of Purpose and Intent

The purposes of these regulations are to provide greater design flexibility in the development of land when consistent with the Comprehensive Plan and intent of the Zoning Ordinance. The use of Planned Development shall be encouraged when the use of such regulations:

- A. promotes a harmonious variety of uses
- B. provides for an economy of shared services and facilities
- C. are compatible with surrounding areas
- D. foster the creation of attractive, healthful, efficient and stable environments for living, shopping or working.
- E. provides development which is uniquely sensitive to the surrounding natural environment.

The Planned Development regulations and procedures may apply to the redevelopment of presently developed lands, or the development of open or vacant lands, and may apply to parcels of relatively small size as well as large-scale developments and their relationship with other surrounding uses and the overall characteristics of the area in which located.

Planned Development regulations are intended to encourage innovations in land development techniques so that the growing demands of the community may be met with greater flexibility and variety in type, design and layout of sites and buildings and by the conservation and more efficient use of open spaces and other amenities generally enhancing the quality of life. Said planned developments should be permitted only if they adhere to the basic principles of the Comprehensive Plan and are to the benefit of the Community as a whole.

## *Section Six - Planned Developments*

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Planned Development projects should also encourage a more efficient use of land which reflects the changes in the technology of land development so that resulting economies may accrue to the benefit of the community at large.

In furtherance of the purpose and intent of a Planned Development, the provisions of Sections 5.1 through 5.14 inclusive of this Ordinance shall not be applied or be applicable to or in a Planned Development, except that such planned development shall take into consideration existing and future zoning classifications of surrounding areas.

### 6.2 Classifications of Planned Development

Upon preliminary review of a Planned Development proposal by the Administrator as provided by this Ordinance, such proposal shall be identified by the general character of the dominant use of the development. Such proposals shall be classified by the following designations:

#### A. Residential

Any development consisting of not less than three (3) acres in which more than 80 percent of the interior floor area of all buildings to be included in the development are used for residential purposes or those accessory purposes customarily related to residential use. Residential Planned Developments may be permitted in R1, R2, R3, R4, and R5 districts.

#### B. Commercial

Any development consisting of not less than four (4) acres in which more than 80 percent of the interior floor area of all buildings to be included in the development is to be used for commercial purposes. Commercial Planned Development may be permitted in CB & GB districts.

#### C. Industrial

Any development consisting of not less than five (5) acres in which more than 80 percent of the interior floor area of all buildings to be included in the development are used for industrial or manufacturing purposes or such accessory uses customarily relating to industrial uses with the balance of such interior floor area, if any, being intended for such commercial uses as reasonably relate to the support or convenience of the intended industrial uses or their occupants. Industrial planned developments are only permitted in Industrial districts.

#### D. Recreation

Any development consisting of not less than five (5) acres in which the principal activity, whether conducted within or outside of a building or other structures, relates to recreation,

## *Section Six - Planned Developments*

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amusement, the exhibition of sports events, the conduct of games and athletics, or the provision of open space for any passive or active endeavor. In these districts, such commercial structures or uses as reasonably relate to the principal activity of the development shall also be permitted. Recreational planned development may be permitted in any district which is approved as compatible by the Cromwell Plan Commission.

### 6.3 Organization of Proposals

Any person, corporation, partnership or association having an ownership interest in a proposed development, or any group of owners united in interest, acting jointly, and in pursuance to an agreement to carry out the proposal in separate ownership, may propose a Planned Development in accordance with the procedures hereinafter established, where such individual owner or group of owners in making such proposal intends to act as developer or sponsor of the development if the zoning change is adopted and such developer or sponsor indicates the requisite capabilities to carry out such proposal. A parcel or site proposed for Planned Development need not be under single ownership where the proposed development consists of a group of structures or improvements capable of being developed separately but in accordance with a single, unitary plan, and in which the separate owners have given their expressed intentions to enter into such private agreements between or among themselves as will facilitate their mutual enterprise and assure its completion as planned to the satisfaction of the Plan Commission.

### 6.4 Filing Procedure

- A. The authorization of a Planned Development shall be subject to the procedures expressed herein.
- B. A petition shall be submitted, including all other documents required for rezoning for the appropriate classification, which petition shall be signed by the owner or owners of all real estate involved in the petition for the Planned Development or which petition shall have attached thereto the notarized consent of all such owners to the filing of such Petition and to the change to another classification of their real estate included.
- C. The petition, which shall include a preliminary plan and plat for any area proposed for development as a Planned Development shall be filed with the Administrator. The preliminary plan and plat shall include:
  - i. Proposed layout of streets, open space and other basic elements of the plan.
  - ii. Identification of location and types of structures and their use categories within the area, including proposed densities of said uses.
  - iii. Proposals for handling traffic, parking, water supply, sewage disposal, storm drainage,

*Section Six - Planned Developments*

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- tree preservation and removal, landscaping, lighting, signage and other pertinent development features.
- iv. A separate location map to scale shall show the boundary lines of adjacent land and the existing zoning of the area proposed to be developed as well as the adjacent land.
  - v. The condominium declaration (if applicable), a document creating an owners' association and any covenants to be made a part of the Planned Development as well as the order and estimated time of development.
  - vi. A statement of the proposed order of development of the major elements of the project, including whether the development will be accomplished in phases, and, if so, the order and content of each phase.
  - vii. Any other material requested by the Plan Commission to help explain the intent of the development, such as character sketches, photographs, examples of similar developments, etc..
- D. The preliminary plan shall be presented in triplicate. The preliminary plan may include any additional graphics which will explain the features of the development. It shall also be provided to the following checkpoint agencies for their review and comment:
- Design Review Board
  - Town Engineer
  - Police Department
  - Fire Department
  - Park Board
  - Noble County Health Department
  - School Corporation
  - County Soil and Water Conservation District
  - If the Planned Development requires the subdivision of land it must also be approved by the Noble County Planning Commission.
- E. Within twenty-five (25) days after filing, the Administrator shall meet with the petitioner regarding the preliminary plan and checkpoint agency comments. Checkpoint agency personnel may attend this meeting to provide comments. After such consultation the petitioner may make modifications to the petition.
- F. After the meeting described in (E) above and after making any modifications to the proposed preliminary plans the Petitioner shall file in triplicate a "Final Proposed Preliminary Plan" which shall:
- i. Include all documents required in the preliminary plan after making any modifications

## Section Six - Planned Developments

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detailed plans by resolution duly adopted, upon an affirmative finding that the final detailed plan is consistent with the Approved Preliminary Planned Development as adopted and passed by the Cromwell Town Council upon rezoning. Having so once approved the final detailed plan, the Plan Commission shall have no further authority to review or act thereon, except as to enforcement, consideration of amendatory ordinances, and or provided for herein.

- B. The Approved Preliminary Plan may provide for development of the property involved in phases. If such phasing is included as a part of the approval of the preliminary plan, the petitioner may submit partial final detailed plans which correspond to the phases involved. Such partial final detailed plans, when approved, shall be treated in the same manner as approved final detailed plans for an entire Planned Development.
- C. The approved final detailed plan or phase thereof shall be stamped "Approved Final Detailed Planned Development" and be signed by the President and Secretary of the Commission with one copy permanently retained in the office of the Plan Commission following recordation as specified in section 6.8.
- D. Unless extended by the Plan Commission pursuant to section 6.11 (A), approval of the first phase of the final detailed plan shall be obtained within two (2) years and approval of the balance of the final detailed plan shall be obtained within five (5) years after adoption of the Planned Development District by the Cromwell Town Council.
- E. In the event that approval of a final detailed plan is not timely obtained, the Plan Commission may initiate an amendment to the zoning map relating to said land.
- F. In the exercise of continuing jurisdiction, the Administrator may from time to time approve only minor modifications of the approved Final Detailed Planned Development in a manner consistent with the approved Preliminary Planned Development. Such modifications shall not include any increase in density, any lessening of aesthetic treatments, any alteration of frontage or building location, any change in type of use, or any change in access points.
- G. Approval of a final detailed plan shall expire after a period of five (5) years from the approved phasing of the preliminary plan unless the development is Fifty percent (50%) completed in terms of public improvements including streets, parks, walkways, utility installations and sanitary sewers. Determination of the amount of completion shall be made by the Plan Commission upon a recommendation of the Administrator. Following expiration of the final detailed plan, the Town of Cromwell shall declare the bond to be in default and may use such bond to cause all public improvements to be installed according to the final detailed plans.

### 6.7 Covenants and Maintenance

- A. All covenants shall be set forth in detail and shall provide a provision for the release of such



*Section Six - Planned Developments*

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restriction by execution of a document so stating and suitable for recording, signed by the Plan Commission President and Secretary upon authorization by the Plan Commission and all of the owners of property in the area involved in the petition for whose benefit the covenant was created. Such covenants shall provide that their benefits run to the Plan Commission and shall be specifically enforceable by the Plan Commission in addition to the property owners.

- B. The Plan Commission may require the recording of covenants for any reasonable public or semi-public purpose, including, but not limited to, the allocation of land by the petitioner for public thoroughfares, parks, schools, recreational facilities, and other public and semi-public purposes. Such covenants shall provide that if a governmental unit or agency thereof does not proceed with acquisition of the allocated land within a specified period of time, the covenants shall automatically terminate. If such termination occurs, the petitioners shall then submit for approval by the Plan Commission a modified final detailed plan for such land, otherwise consistent with the approved Preliminary Planned Development.
- C. The Commission may require the recording of covenants for any other reasonable purpose, including, but not limited to, imposing standards for development of property in a Planned Development. Such development standards may include, but are not limited to, requirements as to the following:
- i. Lot area.
  - ii. Floor area.
  - iii. Ratios of floor space to land space.
  - iv. Area in which structures may be built. ("Buildable area")
  - v. Open space.
  - vi. Setback lines and minimum yards.
  - vii. Building separations.
  - viii. Height of structures.
  - ix. Signs.
  - x. Off-street parking and loading space.
  - xi. Design standards (including landscaping requirements).
  - xii. Phasing of development.

*Section Six - Planned Developments*

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- D. Adequate provision shall be made for a private organization with direct responsibility to, and control by, the property owners involved to provide for the operation and maintenance of all common facilities including private streets jointly shared by such property owners if such facilities are a part of the Planned Development, and, in such instance legal assurances shall be provided and recorded which show that the private organization is self-perpetuating.
- E. Common facilities and property which are not dedicated to the public shall be maintained to standards assuring continuous and adequate maintenance. Common facilities and property not dedicated to the public shall be operated and maintained at no expense to any governmental unit.
- F. All private streets shall be maintained by the aforementioned private organization in such a manner that adequate access is provided at all times to vehicular traffic so that fire, police, health, sanitation, and public utility vehicles can serve the properties contiguous or adjacent thereto, and so that said vehicles will have adequate turning area. All streets and roadways not dedicated to the public shall be operated and maintained at no expense to any governmental unit.

6.8 Recording

All approved Final Detailed Planned Development Plans and Plats and modifications thereof shall be recorded in the Office of the Noble County Recorder within two (2) years after approval, but before any development takes place. Proof of such recording shall be provided to the Plan Commission within 30 days thereof.

Failure to so record shall automatically void the approval of the Final Detailed Planned Development.

Upon completion of all development the exact measurements, as to the location of buildings or structures erected during the development are deemed desirable to be made a part of the public record by the recording thereof, the developer may submit a copy of the approved Final Detailed Planned Development to the Administrator as an amended approved Final Detailed Planned Development with the exact measurements thereon shown, and upon being satisfied that the measurements are substantially the same as indicated on the original approved Final Detailed Planned Development, shall reapprove, date and sign said amended approved Final Detailed Planned Development, which the developer shall then record in the office of the Noble County Recorder.

6.9 Permit

An improvement location permit shall be issued for a Planned Development upon full compliance with the approved Final Detailed Planned Development.

## *Section Six - Planned Developments*

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### 6.10 Construction

- A. No construction or installation work shall be done on any public improvements until the petitioner has, at least forty-eight (48) hours in advance, notified the appropriate governmental inspector(s) of his intention to begin such work, in order that inspections may be made as the work progresses.
- B. All development shall be in conformity with the approved and recorded Final Detailed Plan and any deviations from the approved and recorded Final Detailed Plan shall be subject to appropriate enforcement action as provided for in this ordinance.

### 6.11 Extensions, Abandonment, and Expiration

- A. Extensions of the time for accomplishing any matters set forth herein may be granted by the Plan Commission at a public hearing for good cause shown.
- B. Upon the abandonment of a development authorized under this section (abandonment shall be deemed to have occurred when no improvements have been made pursuant to the approved Final Detailed Planned Development for twenty-four (24) consecutive months), or upon the expiration of five (5) years from the approval of a Final Detailed Planned Development for a development which has not been completed, an amendment may be initiated as provided by law to the zoning map so that the land will be zoned into a category or categories which most nearly approximate its then existing use or such other zoning category or categories which the Cromwell Town Council deems appropriate.

### 6.12 Rules of Procedure

All proceedings brought under this section shall be subject to the Rules of Procedure of the Plan Commission, where not inconsistent with the procedure otherwise stated herein.

### 6.13 Limitation of Rezoning

The Plan Commission shall not initiate any amendments to the zoning map concerning the property involved in a Planned Development before completion of the development as long as the development is in conformity with the approved Final Detailed Planned Development and is proceeding in accordance with the time requirements imposed herein.

*Section Seven - Design Review Committee*

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**Section 7**

**Design Review Committee**

**7.1 Purpose, Membership and Jurisdiction**

- A. **Purpose.** The purpose of the Review Committee is to provide professional and technical advice to the Administrator and the Plan Commission in the administration of this Ordinance as specified elsewhere in this Ordinance.
- B. **Membership.** The Design Review Committee (hereinafter referred to as the "Review Committee") shall consist of one or more members appointed by the Plan Commission.
- C. **Territorial Jurisdiction.** The Review Committee shall have a jurisdiction which is coterminous with that of the other sections of this Ordinance.
- D. **Subject Matter Jurisdiction.** The Review Committee shall have advisory authority only, and shall under this ordinance make recommendations 1) to the Administrator and the Plan Commission as a checkpoint agency for the review of planned developments, and 2) to the Administrator regarding parking and landscaping plans filed with applications for improvement location permits, except those for single family homes.
- E. **Coordination with the Zoning Ordinance/ Noble County Subdivision Regulations.** This Review Committee is established under the Zoning Ordinance to serve the differing needs of these two ordinances.

*Section Eight - Board of Zoning Appeals, Variances, Special Uses, and Appeals*

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**Section 8**

**Board of Zoning Appeals, Variances,  
Special Uses and Appeals**

**8.1 Boards of Zoning Appeals: Membership and Jurisdiction**

**The Board.** There is hereby reestablished the Advisory Board of Zoning Appeals to be known as the ADVISORY BOARD OF ZONING APPEALS OF THE TOWN OF CROMWELL, INDIANA. The Advisory Board of Zoning Appeals shall be a continuation of the present Board of Zoning Appeals of The Town of Cromwell heretofore established under the advisory plan law, IC 36-7-4-900 et seq., as amended.

**A. Membership (IC 36-7-4-902).** The Advisory Board of Zoning Appeals shall consist of and continue as a five (5) member board appointed as follows:

Three (3) citizen members appointed by the Cromwell Town Council, of whom one (1) must be a member of the Advisory Plan Commission and two (2) must not be members of the Advisory Plan Commission.

One (1) citizen member appointed by the fiscal body of the Town of Cromwell, who must not be a member of the plan commission.

One (1) citizen member appointed by the Advisory Plan Commission who must be a member of the Advisory Plan Commission other than the member appointed by the Cromwell Town Council.

**Representation of Two Mile Jurisdictional Area (IC 36-7-4-903).** When a municipal plan commission exercises jurisdiction outside the incorporated area of the municipality as provided for in section 205 or 1208 of the advisory planning law (2) the municipal plan commission shall designate, as its appointment to the municipal board of zoning appeals under section 902(a)(3) of this chapter, one (1) of the two (2) citizen members who were appointed to the plan commission to represent the unincorporated area. The member must reside in the unincorporated area. Said member shall be appointed for a term of four (4) years, by the plan commission, and is entitled to participate and vote in all deliberations of the municipal board of zoning appeals.

**B. Terms of Office.** Following adoption of this Ordinance, each of the above members shall be reappointed for the balance of the term being served on the present Advisory Board of Zoning Appeals of the Town of Cromwell. Thereafter each member, except those appointed from the Advisory Plan Commission, shall be for a term of four (4) years. The members appointed from the Advisory Plan Commission shall be for a term of one year. Each term shall expire on the first Monday of the year of termination, or until their successor is appointed which ever occurs later.

*Section Eight - Board of Zoning Appeals, Variances, Special Uses, and Appeals*

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- C. **Territorial Jurisdiction.** The Advisory Board of Zoning Appeals shall have jurisdiction over all the land subject to the zoning ordinance.
- D. **Subject Matter Jurisdiction.** The Advisory Board of Zoning Appeals shall have exclusive jurisdiction for:
  - (1) variances under the statute and this ordinance;
  - (2) special uses;
  - (3) appeals as provided by statute, including requirements for procurement of improvement location or occupancy permits or any ordinance adopted under IC 36-7-4 or any prior zoning statute, and any other appeals authorized by statute.

8.2 Board of Zoning Appeals: Rules and Procedures

- A. **Rules and By-Laws.** The Advisory Board of Zoning Appeals shall have sole authority to adopt any and all rules under IC 36-7-4-916 and any and all by-laws concerning organization, selection of officers, forms for applications, filing requirements, other than as to place of filing as herein provided for, procedures, and notices for and conduct of meetings. Upon adoption of such rules and by-laws they shall be applicable to the Advisory Board of Zoning Appeals.
- B. **Facilities and Funding.** The Town of Cromwell shall provide suitable facilities for the holding of Advisory Board of Zoning Appeals hearings and the storage of its recorded documents and accounts, and in its annual budget to provide sufficient funds for the functioning of said Board and its staff.
- C. **Filing.** All applications for variances, special uses, and requests for appeal shall be filed by the applicant with the Cromwell Clerk-Treasurer who will promptly bring such filing to the attention of the Advisory Board of Zoning Appeals.
- D. **Hearings.** All hearings required for variances, special uses, and appeals shall be by the Advisory Board of Zoning Appeals. As per section 8.2 (a), procedures for public notice setting forth time and place for all hearings by the Advisory Board of Zoning Appeals shall be established by the Advisory Board of Zoning Appeals, consistent with IC 5-3-1 or any other applicable provision of the Indiana Code.

8.3 Special Uses

- A. There shall be no classes of cases or application therefor, nor any particular situation in which this Ordinance authorizes either special exceptions, contingent uses or conditional uses.

*Section Eight - Board of Zoning Appeals, Variances, Special Uses, and Appeals*

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- B. The Advisory Board may approve a special use in a district if, after a hearing under section 8.2 (d), it makes findings of fact in writing, that:
  - i. section 4.1 authorizes the special use in that district; and
  - ii. the requirements and development standards for the requested special use as prescribed by this Ordinance will be met; and
  - iii. granting the special use will not subvert the general purposes served by this Ordinance and will not, because of traffic generation, placement of outdoor lighting, noise production or hours of operation, materially and permanently injure other property or uses in the same zoning district and vicinity.
- C. The Advisory Board may impose such reasonable conditions upon its approval as it deems necessary to find that (B) (iii) above will be served.
- D. The Advisory Board may permit or require the owner of the parcel of property to make a written commitment concerning the use or development of the parcel as specified under IC 36-7-4-921.
- E. The approval of a special use under subsection (B) is unnecessary for a use authorized by section 4.1 if that use existed on the date this Ordinance, or pertinent amendments to it, were passed. However, this subsection shall not authorize the expansion of such a use if it involves the enlargement of a building, structure, or land area.
- F. A special use approved by the Advisory Board may not be expanded, extended, or enlarged unless reapproved by the Advisory Board under the procedures set forth in this Ordinance for approving a special use.
- G. A special use, approved under subsection (B) or authorized by subsection (E) ceases to be authorized and is void if that use is not established within a twelve-month period of the date the special use was approved, or if that special use is discontinued at that site for a twelve-month period during which time it is not succeeded by the same specifically approved special use.
- H. A special use may be terminated by the Advisory Board of Zoning Appeals, upon filing of an application therefore by an interested person or the Administrator, and upon a finding at a public hearing, with notice to the property owner, that the terms of this Ordinance, or conditions of approval or commitments have not been complied with.
- I. For a special use to be eligible for a public hearing by the Advisory Board under this section, an applicant must first receive a determination from the Administrator that a special use is required for the intended use or for the expansion, extension, or enlargement of a use under (F) above. The Administrator shall file a report of determination (in a form prescribed by the

Section Eight - Board of Zoning Appeals, Variances, Special Uses, and Appeals

Advisory Board) with the Plan Commission which body shall determine how the granting of the special use would affect the purposes served by this Ordinance in furtherance of the Comprehensive Plan. Within thirty (30) days of the date on which it received the application, the Commission shall report its determination to the Advisory Board, for action by it as authorized by subsection (B). If the Advisory Board grants the special use, it shall direct the applicant to apply for an improvement location permit under section 9.1. If such application complies with this ordinance and all other applicable codes and ordinances, the Administrator shall issue the improvement location permit for the approved special use.

8.4 Use Variances

- A. The Advisory Board may grant a variance from the use table if, after a public hearing, it makes findings of fact in writing, that all of the following are true:
- i. the approval will not be injurious to the public health, safety, morals, and general welfare of the community; *denied*
  - ii. the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
  - iii. the need for the variance arises from some condition peculiar to the property involved;
  - iv. the strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and
  - v. the approval does not interfere substantially with the Cromwell Comprehensive Plan or detract from the character of the community.
- B. Upon granting of a use variance the Board of Zoning Appeals and the Town Council shall make a written commitment with the owner of the property which states the reasons for the variance and the conditions under which it is being granted. Such written commitment shall include such items as covenants concerning the use or development of the property, expiration dates, increased development requirements, compensation fees, etc.
- C. A use variance granted by the Advisory Board does not run with the land and shall end at such time as: (1) the property conforms with the Ordinance as written, (2) the written commitment between the town and the owner expires, (3) the current owner sells, ceases to occupy the property, or otherwise changes the conditions upon which the use variance was granted.
- D. Where an owner has failed to comply with a condition and/or commitment required by the grant of a variance, the Advisory Board may authorize such action as it may deem appropriate to obtain compliance by the owner with the condition or commitment of the grant, or with the terms of this Ordinance in the same manner as if the variance had not been granted.

*"their needs to present these at meeting"*



*Section Eight - Board of Zoning Appeals, Variances, Special Uses, and Appeals*

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8.5 Variances From Development Standards

- A. The Advisory Board may grant a variance from the development standards (such as height, bulk, area) of the zoning ordinance if, after a public hearing, it makes findings of fact in writing, that:
  - i. the Advisory Plan Commission has determined that the variance application is not for a use variance, i.e. a variance from a use district or classification per Section 8.1(D); and
  - ii. the approval will not be injurious to the public health, safety, morals, and general welfare of the community; and
  - iii. 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
  - iv. the strict application of the terms of this Ordinance (a) is being applied to some condition peculiar to the property involved that is not common to other properties in the same zoning district; and (b) will result in an unusual and unnecessary hardship. This situation shall not be solely self-imposed, nor be based on a perceived reduction of or restriction on economic gain.
- B. The Advisory Board may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel or may impose conditions upon the grant of a variance.
- C. A variance granted by The Advisory Board shall run with the land until such time as: (1) the use of the variance ends, or (2) the property conforms with the Ordinance as written.
- D. Where an owner has failed to comply with any condition and/or commitment permitted or required by the grant of a variance, the Advisory Board may authorize such action as it may deem appropriate to obtain compliance by the owner with the condition or commitment of the grant, or with the terms of this Ordinance in the same manner as if the variance had not been granted.

8.6 Appeals

- A. A decision of the Administrator enforcing this Ordinance may be appealed to the Advisory Board of Zoning Appeals by any person who is adversely affected by the decision.
- B. On an appeal under subsection (A), the Advisory Board of Zoning Appeals may make any decision that the Administrator might have made.

*Section Eight - Board of Zoning Appeals, Variances, Special Uses, and Appeals*

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- C. All appeals from a decision of the Advisory Board of Zoning Appeals shall be made pursuant to IC 36-7-4-1001 through IC 36-7-4-1020. The person aggrieved by a decision of the Board of Zoning Appeals shall present a petition as provided for in IC 36-7-4-1003 to the Court within thirty (30) days after the entry of the decision of the Board of Zoning Appeals.

Section 9 - Improvement Location Permits

**Section 9  
Improvement Location Permits**

**9.1 Applicability**

A. No special use may be approved under section 8.3 and no other change in the use of land that involves a change in any structure on or in any land, or in the condition of the land, may be made unless the Administrator on application, issues an improvement location permit authorizing the change.

B. The filing fees for improvement location permits shall be as follows:

i. New construction for one, two, or multi-family dwelling units, as well as for placement of manufactured homes types I, II, & III: 5 cents per square foot of floor area including basements, floor space above the ground or principal level, attached garages, carports and utility buildings.

ii. Remodeling or alteration, one, or two, dwelling units, all manufactured homes, and multi-family dwelling units: 5 cents per square foot of the area to be altered or remodeled.

iii. New construction for commercial or industrial: 5 cents per square foot of floor area.

iv. Remodeling or alteration of commercial or industrial: 5 cents per square foot of the area being altered or remodeled.

v. Maximum for any improvement location permit shall be as follows:

Residential	\$ 600.00
Commercial and/or Industrial	1500.00

vi. Additional Fees:

a. Electrical Services .....	\$30.00
b. Plumbing .....	\$30.00
c. Commercial/Industrial Foundation .....	\$100.00
d. Above ground and in-ground swimming pools required pumps and filter systems .....	\$50.00
e. Garage, carport, utility building, pole barn, silo, or other similar structures .....	\$00.03 /sq ft of floor area

Section 9 - Improvement Location Permits

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f.	Residential Foundations .....	\$30.00
g.	Minimum inspection fee .....	\$30.00

9.2 Certificate of Occupancy

- A. No application for an improvement location permit under section 9.1 may be considered unless the applicant has also applied for a certificate of occupancy.
- B. No land or structure with respect to which a permit has been issued under section 9.1 may be used for the purpose contemplated by the permit unless the Administrator, after the change is completed, issues a certificate of occupancy stating that the change complies with this ordinance and with the permit.
- C. Within ten days after the completion of the change authorized by the improvement location permit, the Administrator or his designee (e.g. the Cromwell Building Inspector) shall inspect the premises and, if the change conforms to this ordinance and the improvement location permit, and a certificate of compliance, if required by section 9.4, has been obtained, he shall issue a certificate of occupancy.

9.3 Site Plan and Construction Drawings

- A. In addition to all other required applications, information and permits from other governmental agencies, a person who applies for an improvement location permit under section 9.1 must furnish the Administrator with plans drawn to scale showing:
  - i. the location and legal description of the land concerned;
  - ii. the location and size of all buildings and structures already on the land and those to be erected, including parking, signage, landscaping, and screening;
  - iii. the size of all entrances to and exits from the land, including all adjacent streets and highways;
  - iv. detailed drawings showing all construction and materials; and
  - v. elevations of all buildings to be constructed.

Plans so furnished shall be kept by the Administrator as permanent records.

- B. As a condition of issuing a permit, the Administrator may require changes to the landscape plan upon recommendation of the Design Review Committee, the relocation of any structures

## *Section 9 - Improvement Location Permits*

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or buildings, or of any entrance or exit, or the inclusion of entrances or exits not shown on the plan, or the deletion of any entrance or exit, if the requirement is necessary in the interest of the public welfare or to an appropriate balancing of the interests of persons in the district and vicinity concerned.

### 9.4 Industrial Uses: Certificate of Compliance

If an application for an improvement location permit relates to an industrial use, it must be accompanied by a certificate of compliance, certified by a registered professional engineer of the state, stating that the use will meet the performance standards of the district concerned. After ten working days have elapsed during which the Administrator has not required additional information or objects in writing to the certification of compliance, he shall issue the permit.

### 9.5 Manufactured Homes, Type III, as a temporary use in R1, R2, R3 Districts

- A. Manufactured Homes, Type III, shall be permitted as a temporary use only in R1, R2, and R3 districts as subject to the requirements in section 5 of this ordinance as well as those in this section.
- B. In the event that a single family home has been destroyed by fire, explosion, act of God, or public enemy, and an improvement location permit has been issued for its replacement reconstruction, the property owner may make application for an improvement location permit for a Type III manufactured home to be placed on the same property for a period not to exceed one (1) year. No extensions of time shall be permitted by the Administrator.
- C. Application procedures and requirements shall be the same as for any other improvement location permit.
- D. Placement of the Type III manufactured home shall be subject to all use requirements and restrictions applicable to a single family home.
- E. In addition to all other requirements, the property owner shall post a \$1,000.00 cash bond in favor of the Town of Cromwell to be held by the Town Clerk-Treasurer. Said cash bond shall be returned without interest upon removal of the Type III manufactured home and the issuance of a certificate of occupancy for the constructed reconstructed single family home. Said cash bond may be drawn on by the Cromwell Town Council, at the Council's discretion and upon the advice of the Administrator, that the property owner has failed to remove the Type III manufactured home either at the end of one (1) year within one (1) week of the issuance of the certificate of occupancy for the constructed reconstructed single family home, whichever occurs first. Said cash bond may be used to defray expenses incurred by the Town for the removal of the type III manufactured home and legal costs directly associated with the

## *Section 9 - Improvement Location Permits*

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enforcement of this ordinance.

- F. Section 9.5E is not intended nor should it be construed to limit the damages, legal and equitable, that the Town of Cromwell may seek in the enforcement of this ordinance, nor should section 9.5 be construed as authorizing any violation of this ordinance and/or the subdivision ordinance and the designated uses of respective parcels of real estate.

### 9.6 Other Temporary Facilities

- A. No trailer, mobile unit, mobile prefabricated structure, or any other temporary facility shall be used for school, church, business, office, or any other nonresidential use except as may be specially provided for by the Cromwell Plan Commission as a temporary use.
- B. Such a structure may not be used for a period longer than one year. No temporary use shall be permitted where permanent use for the purpose is not permitted or authorized.
- C. When a temporary nonresidential facility is used in connection with a construction project such use may exist in any district where the use of the completed structure would be permitted for as long as the construction is proceeding with reasonable diligence.
- D. Application procedures and requirements shall be the same as for any other improvement location permit.
- E. In addition to all other requirements, the property owner shall post a \$1,000.00 cash bond in favor of the Town of Cromwell to be held by the Town Clerk-Treasurer. Said cash bond shall be returned without interest upon removal of the temporary structure. Said cash bond may be drawn on by the Cromwell Town Council, at the Council's discretion and upon the advice of the Administrator, that the property owner has failed to remove the temporary unit either at the end of one (1) year or within one (1) week of completion of the a permanent structure. Said cash bond may be used to defray expenses incurred by the Town for the removal of the temporary structure and legal costs directly associated with the enforcement of this ordinance.
- F. Section 9.6 E is not intended nor should it be construed to limit the damages, legal and equitable, that the Town of Cromwell may seek in the enforcement of this ordinance, nor should section 9.6 be construed as authorizing any violation of this ordinance and/or the subdivision ordinance and the designated uses of respective parcels of real estate.

### 9.7 Records

A record of each improvement location permit and each certificate of occupancy shall be kept by the Administrator.

*Section 9 - Improvement Location Permits*

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9.8 Issuance -Denial

The Administrator shall accept only a complete application and shall either issue the improvement location permit or deny the application together with a statement of reasons for the denial within a period of eight (8) working days following its submittal, except for the longer period of time required for industrial uses as provided in section 9.4.

9.9 Appeals

A decision of the Administrator under section 9.8 may be appealed to the Advisory Board of Zoning Appeals subject to the provisions of section 8.5.

9.10 Expiration

An improvement location permit shall be valid for a period of one (1) year at which time it shall expire unless work authorized by the improvement location permit is proceeding at a reasonable rate and inspections have been made by the Building Inspector, in which case it shall remain in full force and effect for a period not to exceed an additional six (6) months unless extended by the Advisory Board of Zoning Appeals.

**Appendix  
Rules and Procedure**



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48 has motion*

**Advisory Plan Commission  
Rules of Procedure**

**Article I. Authority and Duties**

Section 1. The Cromwell Plan Commission (hereinafter called "Commission") exists as an advisory plan commission under the authority of IC 36-7-4-202 and Section \_\_\_\_\_ of the Code of the town of Cromwell, Indiana, and any amendments thereto. These rules are adopted in accordance with the requirements of IC 36-7-4-401.

Section 2. The duties of the Commission shall be those set forth in IC 36-7-4-400 et seq., and such other responsibilities as may be required by state statute or town ordinance.

**Article II. Officers, Members and Employees**

Section 1. The Commission shall consist of \_\_\_\_\_ voting members, appointed in accordance with IC 36-7-4-207 and IC 36-7-4-207. In addition, there shall be one (1) advisory member appointed by the Cromwell Plan Commission. Said advisory member shall have all rights of participation in the deliberations of the Commission except the right to vote.

Section 2. At its first regularly scheduled meeting in each calendar year, the Commission shall elect from its voting membership a president and a vice president. Each shall serve during the period of their membership on the Commission for the balance of the calendar year.

Section 3. The vice president shall have authority to act as president of the Commission during the absence or disability of the president.

Section 4. Upon resignation or replacement of the president or vice president as a member of the Commission, the Commission shall elect a successor at its next regular scheduled meeting.

Section 5. The Commission shall appoint and fix the duties of a secretary, who is not required to be a member of the Commission. The secretary shall be charged with such duties as required under state statutes, town ordinances, and these rules.

Section 6. One member of the Commission shall be designated as the Commission's representative to the Cromwell Advisory Board of Zoning Appeals.

Section 7. If a vacancy occurs among the members of the Commission, the appointing authority shall appoint a member for the unexpired term of the vacating member. The appointing authority shall be notified in writing by the secretary when a member has been absent for three (3) consecutive meetings of the Commission. Such absences may constitute cause for removal from the Commission by the appointing authority under IC 36-7-4-218(f).

Appendix - Rules and Procedure

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Section 8. The Commission may appoint such employees as are necessary to the discharge of the duties of the Commission. Within its budget allotment, the Commission may fix the compensation of such employees in conformity with the salaries and compensation fixed up to that time by the Cromwell Town Council.

Section 9. Within its budget allotment, the Commission may contract for special or temporary services and for legal counsel.

Article III. Seal

The Commission adopts a seal with the caption "The Seal of the Town of Cromwell Plan Commission." The Secretary shall employ the seal to certify to all official acts of the Commission.

Article IV. Meetings

Section 1. The regular meetings of the Commission shall be the \_\_\_\_\_ day of each (or every other) month at \_\_\_\_ a.m. (or p.m.). The location of the meeting shall be in \_\_\_\_\_. If the date of a regular meeting falls on a legal holiday, or if it is impossible to conduct the meeting at that time or place, the President may set an alternate date, time or place for the regular meeting, or may cancel the meeting with the majority consent of the members of the Commission, provided that the notice requirements of IC 5-14-1.5 are complied with.

Section 2. Special meetings may be called by the President or two (2) members of the Commission upon written request to the Secretary. The Secretary shall send to all members, at least three (3) days before the special meeting, a written notice fixing the time and place of the meeting. Written notice for a member is not required if:

- (a) the date, time and place of the special meeting are fixed in a regular meeting;
- (b) the member was present at that regular meeting; and
- (c) the secretary complies with the notice requirements of IC 5-14-1.5.

Section 3. The order of business at regular meetings shall be:

- (a) Call to order
- (b) Roll Call
- (c) Determination of Quorum
- (d) Consideration of Minutes of Previous Meeting
- (e) Communications, Bills, and Expenditures
- (f) Report of Officers and Committees (and staff, if applicable)
- (g) Old Business
- (h) New Business
- (l) Adjournment

Section 4. The President of the Commission shall preside over meetings, decide questions of order, subject to appeal by Commission members, and preserve decorum in the meeting room. The President shall

Appendix - Rules and Procedure

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pronounce the decisions of the Commission for purposes of recording in the minutes.

Section 5. No one who is not a member of the Commission shall be permitted to address the Commission except by request and consent of the President.

Article V. Official Action

Section 1. A majority of the members of the Commission who are qualified to vote shall constitute a quorum. Action of the Commission shall not be official unless it is authorized at a regular or properly-called special meeting by a majority of the entire voting membership of the Commission.

Section 2. Decisions of the Commission shall be by roll call vote of the members. All members present shall vote on every question unless they are permitted to abstain by the presiding officer, or, in the case of a zoning matter, have disqualified themselves because of a conflict of interest as defined under Section 3 of this Article.

Section 3. No member of the Commission shall participate in a hearing, discussion or decision of the Commission upon any zoning matter in which the member has a direct or indirect financial interest. A "zoning matter" does not include the preparation or adoption of a comprehensive plan. A member shall declare his or her known conflict of interest. The Commission shall enter into its records the fact that the member has such a disqualification.

Section 4. In the event a majority vote of the Commission cannot be achieved due to absences, permitted abstentions, or disqualifications, the matter shall be rescheduled for the next regular meeting at the request of any Commission member, a petitioner or a remonstrator.

Section 5. Any member of the Commission who voted with the majority may call for a reconsideration of any vote at the same meeting of the Commission at which it passed, and, if sustained by a majority of the votes, the reconsideration shall be ordered.

Article VI. Minutes and Records

Section 1. The Secretary of the Commission shall prepare and maintain minutes of its meetings. The minutes shall include the vote of each member on each question presented or indicate that the member is absent, abstaining with permission, or not voting because of a disqualification.

Section 2. The minutes of Commission meetings and all records shall be filed in the office of the Commission and are public records as defined by IC 5-14-3.

Section 3. The minutes shall be presented to the Commission for approval at the next succeeding regular meeting. When approved, the minutes shall be signed by the President and attested by the Secretary.

Article VII. Public Hearings

Section 1. The Commission shall hold such public hearings as are required by state statute and Town ordinances. The Commission may hold additional hearings at such times and places upon such notice as it considers necessary.

Section 2. A petitioner who seeks to vacate a plat, amend the zoning ordinance, comprehensive plan or other matter under the jurisdiction of the Commission shall file a petition with the Commission. \_\_\_\_\_ copies of the petition, application, or plats must be filed with the Commission at least \_\_\_\_\_ days prior to the next regularly scheduled Commission meeting.

Section 3. All petitions not initiated by the Commission itself shall be accompanied by a non-refundable filing fee in an amount established by the following schedule:

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

Section 4. The Commission may require additional information, data, statistics or plats beyond those established by statute or ordinance which are deemed necessary for intelligent determination for an issue by the Commission.

Section 5. If the Commission finds that the petition is in good order with sufficient information, it shall set a time for a public hearing on the matter and shall provide public notice in accordance with IC 5-3-1.

Section 6. The petitioner shall prepare the legal advertisement of the public hearing for the approval of the Commission and shall bear the expense of the advertising costs. In addition, the Commission shall have discretion to require the petitioner to notify by certified letter all persons deemed by state statute and the Commission to be interested parties at least ten (10) days before the date of the public hearing, pursuant to Article VII. At the public hearing, the petitioner shall provide proof that he or she has complied with this requirement.

Article VIII. Notice Requirements

Section 1. A notice of a public hearing required by state statute or town ordinance shall contain as a minimum the following information:

- (a) Docket number and the substance of the matter to be heard
- (b) General location by address or other identifiable geographic characteristic of the property

Appendix - Rules and Procedure

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- (c) Name of the person, agency or entity initiating the matter to be heard
- (d) Time and place of the hearing
- (e) Statement that the petition may be examined at the Commission office
- (f) Statement that any person may offer verbal comments at the hearing or may file written comments prior to or at the hearing
- (g) Any other information which may be required by law to be contained in such notice

Section 2. For the purposes of an initial or replacement zoning ordinance or a subdivision control ordinance, all citizens of the Town are interested parties. The commission is required to provide for the publication of notice pursuant to IC 36-7-4-604 at least ten (10) days prior to the public hearing by posting copies of the notice in at least \_\_\_\_\_ (\_\_\_\_\_) public places in the town.

Section 3. For the purposes of an amendment to the text of the zoning ordinance, interested parties are determined to be \_\_\_\_\_ and shall be provided notice by means of \_\_\_\_\_.

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Section 4. For the purposes of an amendment to the zoning map, interested parties are determined to be all persons with legal interest in the property and [e.g., (all persons with real property abutting the property), and/or (all owners of real property within a distance of \_\_\_\_\_ (\_\_\_\_\_) feet)]. Such parties are to receive written notice by (certified) mail.

Section 5. For the purposes of approving or vacating a plat, all owners of land in the plat and [e.g., all persons with real property abutting the property to be platted). and/or (all owners of real property within a distance of \_\_\_\_\_ (\_\_\_\_\_) feet of the property to be platted)] are interested parties and shall receive written notice by (certified) mail.

Section 6. If the subject of the proposal abuts or includes a county line, or a county line street or road, or a county line body of water, all owners of real property to a depth of two (2) ownerships or one-eighth (1/8) of a mile into the adjacent county, whichever is less, are interested parties pursuant to IC 36-7-4-604(c) and must receive notice.

Section 7. The names of property owners to be notified are to be ascertained from the real estate tax assessment lists as they appear in the offices of the various township assessors of Noble County.

Section 8. Certified mail receipts or signatures of all interested parties on a form provided by the Commission shall be considered evidence that notice has been given. Personal appearance at the hearing also shall constitute evidence of notice.

Article IX. Conduct of Public Hearings

Section 1. At a public hearing before the Commission, the petitioner, property owner, or agent for the petitioner or property owner shall first present the facts and arguments in support of the case. Comments and questions from the Commission members may be interjected during the presentation for clarification of the subject matter. Each of those persons who wishes to comment on the petition must address the president and be recognized before speaking. Each person must state his or her name and address. The president may limit a speaker's time to assure an opportunity for all speakers to comment.

Section 2. The president shall close the public hearing after the Commission has adequately heard from all interested persons. The president shall then read all written comments on the petition received by the Commission.

Section 3. The petitioner may summarize arguments and the Commission may question further. The Commission shall then consider the petition.

Section 4. In the presentation of a case, the burden shall be upon the petitioner to supply all information, including charts, diagrams and other exhibits necessary for a clear understanding of the problem. The Commission may continue the hearing when in its judgment the petitioner has not provided sufficient evidence on which to make a determination.

Section 5. Every person appearing before the Commission shall abide by the order and directions of the president. Discourteous, disorderly or contemptuous conduct shall be regarded as a breach of the privileges of the Commission and shall be dealt with as the Commission directs.

Section 6. The Commission, at its discretion, may continue or postpone the hearings of any case on an affirmative vote of a majority of the Commission.

Article X. Final Disposition of Cases

Section 1. The final disposition of any case shall be in the form of a recommendation setting forth the findings and determinations of the Commission, together with any modification, specification or limitation which it makes.

Section 2. The Commission may dismiss a case for lack of prosecution or lack of jurisdiction. When a petition has failed to appear at \_\_\_\_\_ consecutive meetings, the case may be dismissed for lack of prosecution.

\*Section 3. Following the publication of notice for any public hearing, until the conclusion of the hearing, a petitioner may not withdraw the matter to come before the public hearing without the approval of the Commission.

Section 4. A case which has been withdrawn by the petitioner shall not be again placed on the docket for consideration until twelve (12) months after the date of decision previously rendered.

Appendix - Rules and Procedure

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Section 5. A case which has been decided adversely to the petitioner shall not again placed on the docket for consideration until twelve (12) months after the date of decision previously rendered.

Section 6. Because the Commission's recommendation is only advisory, the petitioner may request that the adverse recommendation be brought before the Town council for their consideration. The Commission's recommendation, either favorable or adverse, may be overturned by the Town Council under IC 36-7-4-609.

Article XI. Reconsideration

The Commission may not further consider for (\_\_\_\_\_ weeks, \_\_\_\_\_ months, one (1) year) a petition to amend the zoning map which has been rejected by the Town Council or upon which the Town Council have failed to act.

Article XII. Secondary Plat Approval

Pursuant to IC 36-7-4-709, the (Commission Director/Building Commissioner) shall determine if all improvements and installations have been constructed and completed as required by the Subdivision Control Ordinance and shall report that determination to the Commission before it grants secondary approval to any plat.

Article XIII. Committees

Section 1. The president, with the approval of the Commission, may establish such committees as deemed to be necessary and desirable. The purpose and terms of such committees shall be specified at the time of their establishment.

Section 2. Members of committees shall be appointed by the president.

Article XIV. Amendments

Amendments to these rules of procedure may be made by the Commission at any regular or special meeting upon the affirmative vote of a majority of the members of the Commission. The suspension of any rule may be ordered at any meeting by a two-thirds (2/3rds) vote of the quorum.

Article XV. Repeal

All previous rules and regulations heretofore adopted by the Cromwell Plan commission are hereby expressly repealed, as of the effective date of these rules.

Rules of Procedure of the Cromwell Plan Commission of Noble county, Indiana, approved by the affirmative vote of \_\_\_\_\_ members of said Commission at the regular meeting of the Commission held on the \_\_\_\_\_ day of \_\_\_\_\_, 1996.

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*Town of Cromwell Zoning Ordinance*

*Appendix - Rules and Procedure*

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\_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Secretary



## ADVISORY BOARD OF ZONING APPEALS

### Rules of Procedure

#### Article I. Authority and Duties

Section 1. The Cromwell Board of Zoning Appeals (hereinafter called "Board") exists as an advisory board of zoning appeals under the authority of IC 36-7-4-901 and Section \_\_\_\_\_ of the Code of Cromwell Town Indiana, and any amendments thereto. These rules are adopted in accordance with the requirements of IC 36-7-4-916.

Section 2. The duties of the Board shall be those set forth in IC 36-7-7-900 et al., and such other responsibilities as may be required by state statute or town ordinance.

#### Article II. Officers, Members and Employees

Section 1. The Board shall consist of five (5) voting members, appointed in accordance with IC 36-7-4-902 [and IC 36-7-4-903 (for those municipal plan commissions which exercise jurisdiction outside their corporate boundaries)].

Section 2. At its first regularly scheduled meeting in each calendar year, the Board shall select from its membership a chairman and vice-chairman. Each shall serve during the period of their membership on the board for the balance of the calendar year.

Section 3. The vice-chairman shall have the authority to act as chairman of the Board during the absence or disability of the chairman.

Section 4. Upon resignation or replacement of the chairman or vice-chairman as a member of the Board, the Board shall elect a successor at its next regularly scheduled meeting.

Section 5. The Board shall appoint and fix the duties of a secretary, who is not required to be a member of the Board. The secretary shall be charged with such duties as required under state statutes, town ordinances, and these rules.

Section 6. If a vacancy occurs among the members of the board, the appointing authority shall appoint a member for the unexpired term of the vacating member. The appointing authority shall be notified in writing by the secretary when a member has been absent for three (3) consecutive meetings of the Board. Such absences may constitute cause for removal from the Board by the appointing authority under IC 36-7-4-906(f).\*

Section 7. The Board may appoint such employees as are necessary for the discharge of its duties.

#### Article III. Meetings

Appendix - Rules and Procedure

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Section 1. The regular meetings of the Board shall be the \_\_\_\_\_ day of each (or every other) month at \_\_\_\_\_ a.m. (or p.m.). The location of the meeting shall be in \_\_\_\_\_. If the date of a regular meeting falls on a legal holiday, or if it is impossible to conduct the meeting at that time or place, the chairman may set an alternate date, time or place for the regular meeting or may cancel the meeting with the unanimous consent of the members of the Board, provided the notice requirements of IC 5-14-1.5 are complied with.

Section 2. Special meetings may be called by the chairman or two (2) members of the Board upon the written request to the secretary. The secretary shall send to all members, at least three (3) days before the special meeting, a written notice fixing the time and place of the meeting. Written notice is not required if:

- (a) the date, time and place of the special meeting are fixed in a regular meeting;
- (b) all members of the Board are present at that regular meeting; and
- (c) the secretary complies with the notice requirements of IC 5-14-1.5.

Section 3. The agenda shall list all items to be considered by the board at the regular or special meeting. The items shall be listed on the agenda in the order in which the petition or other document was filed with the Secretary. No item shall be considered by the Board unless it appears on the agenda. Any petitioner may withdraw any petition prior to the meeting at which it was to be considered.

The agenda shall be sent by first-class mail to all members of the Board and shall be available for public inspection at the Plan Commission office no later than \_\_\_\_\_ (\_\_\_\_\_) days before any regular meeting.

Section 4. The chairman of the board shall preside over meetings and hearings, decide questions of order, subject to appeal by Board members, and preserve decorum in the meeting room. The chairman may warn any person present that particular conduct is a breach of courtesy and may order a person expelled from the meeting for disruptive conduct.

Section 5. The secretary shall keep minutes of its proceedings and record the vote on all actions taken. The Board shall also make written findings of fact in all cases heard by it.

Article IV. Official Action

Section 1. A majority of the members of the Board who are qualified to vote shall constitute a quorum. Action of the Board shall not be official unless it is authorized at a regular or properly-called special meeting by a majority of the entire membership of the Board.

Section 2. Voting by the Board shall be by roll call vote of the members. All members present shall vote on every question unless they are permitted to abstain by the presiding officer.

Section 3. No member of the commission shall participate in a hearing or decision of the Board upon any zoning matter in which the member has a direct or indirect financial interest. A member shall declare his or her known conflict of interest. The Board shall enter into its records the fact that the member

*Appendix - Rules and Procedure*

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has such a disqualification, and the name of the alternative member, if any, who participates in the hearing or decision in place of the regular member.

Section 4. In the event a majority vote of the Board cannot be achieved due to absences, permitted abstentions, or disqualifications, the matter shall be rescheduled for the next regular meeting at the request of any board member, a petitioner or a remonstrator.

Section 5. Any member of the board who voted with the majority may call for a reconsideration of any vote at the same meeting of the board at which it passed, and, if sustained by a majority of the votes, the reconsideration shall be ordered.

Article V. Minutes and Records

Section 1. The secretary of the Board shall prepare and maintain minutes of its meetings. The minutes shall include the vote of each member on each question presented or indicated that the member is absent, abstaining with permission, or not voting because of a disqualification.

Section 2. The minutes of Board meetings and all records shall be filed in the office of the Plan Commission and are public records, as defined by IC 5-14-3.

Section 3. The minutes shall be presented to the Board for approval at the next succeeding regular meeting. When approved, the minutes shall be signed by the president and attested by the secretary.

Article VI. Public Hearings

Section 1. The Board shall hold such public hearings as are required by state statute and town ordinances. The Board may hold additional hearings at such times and places upon such notice as it considers necessary.

Article VII. Appearances

Section 1. The petitioner or the petitioner's agent must appear in person or by counsel to present a petition or remonstrance to the board and for the Board to consider the case. If no person appears on behalf of a petition, the petition may be tabled until the following meeting or dismissed under Section 2 of the Article.

Section 2. The Board's secretary or staff must be informed prior to the meeting if the petitioner requests a time extension. The Chairman will determine whether the petitioner's reasons warrant an extension. If the petitioner or the petitioner's agent fail to appear at the meeting for which the extension was given without sufficient reason, the petition may be dismissed.

Article VIII. Order of Business

*Appendix - Rules and Procedure*

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Section 1. The order of business at a regular meeting shall be:

- (1) Call to Order;
- (2) Roll Call and determination of quorum;
- (3) Consideration of minutes of previous meeting;
- (4) Old Business (tabled or continued items);
- (5) New Business;
- (6) Report of Officers and Committees;
- (7) Communications, Bills and Expenditures;
- (8) Adjournment.

Section 2. The order of business for special meetings shall be:

- (1) Call to Order;
- (2) Roll Call and determination of quorum;
- (3) The business for which the special meeting was called;
- (4) Adjournment.

Section 3. The Board shall act on petition in the following order:

- (1) A person wishing to speak for or against an application must register that person's name and address with the Secretary.
- (2) The Secretary or the Director shall read the application and describe the location of affected area.
- (3) The Director shall present the staff report, if any.
- (4) The petitioner shall present facts relating to case, with up to \_\_\_\_\_ (\_\_\_\_\_) minutes being available for the presentation.
- (5) The Chairman shall recognize those who have registered against the proposal to present objections, with up to a total of \_\_\_\_\_ (\_\_\_\_\_) minutes being available for the presentation of objections.
- (6) The chairman shall then recognize the proponents for the purpose of rebuttal for \_\_\_\_\_ (\_\_\_\_\_) minutes and the opponents for counter-rebuttal for \_\_\_\_\_ (\_\_\_\_\_) minutes.
- (7) Board members may direct questions to any petitioner, proponent or opponent following any presentation.
- (8) Upon conclusion of questioning and discussion the Chairman shall entertain a motion to conclude the public hearing or conclude debate on the motion.

Appendix - Rules and Procedure

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Section 4. The Board may continue any item that has not been dismissed from one meeting to another without further public notice provided that an announcement of the date, time and place of the reconvened meeting is made at the original meeting and recorded in the minutes.

Article IX. Appeal Procedures

Section 1. Every petitioner for an appeal, variance, use or exception shall complete an application form supplied by the Board. The Board may require the petitioner to submit any additional information it deems relevant for consideration.

Section 2.

- (a) Every petition for an appeal, use, exception or variance shall be filed with the Secretary no later than \_\_\_\_\_ (\_\_\_\_\_) days prior to its consideration by the Board.
- (b) Any appeal of an administrative decision shall be filed with the Board within \_\_\_\_\_ (\_\_\_\_\_) days following such decision.

Article X. Notice Requirements

Section 1. For the purpose of IC 36-7-4-920(b), any person with a legal interest in property subject to a petition before the Board or the owner of any abutting property is an interested party.

Section 2. Adequate notice is given under these rules if:

- (1) The petitioner obtains the signatures of all interested parties on a form supplied by the board. The signature of any person on the form is not to be construed as a waiver or consent to the petition, but merely evidence that the person has received notice of the hearing.
  - (A) The form shall state the date, time and place of the hearing, the name of the petitioner, and briefly describe the variance or special exception requested.
  - (B) If the petitioner cannot obtain the signature of an interested party because the party is not a resident of Cromwell Town is unable for some other reason to sign the form, or refuses to sign the form, the petitioner must notify the Secretary of the failure to obtain the signature at least \_\_\_\_\_ (\_\_\_\_\_) days before the hearing and execute a statement under penalty of perjury stating the reasons for the failure to obtain the signature.
  - (C) The Secretary shall, at least \_\_\_\_\_ (\_\_\_\_\_) days before the hearing, send a copy of the notice by first-class mail to any interested party whose signature the petitioner has not been able to obtain.

Appendix - Rules and Procedure

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- (D) The completed form must be filed with the Board of Zoning Appeals before it may act on the petition.
- (2) The Board shall give legal notice of the public hearing in accordance with IC 5-3-1, with this notice stating the date, time and place of the hearing, the name of the petitioner, and a brief description of the property subject to the petition.

Section 3. The person appealing a decision or applying for an exception, use, or variance is required to assume the costs of public notice and due notice to interested parties.

Article XI. Commitments

- (a) The Board may require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel.
- (b) For the purposes of IC 36-7-4-92(b), the staff, if any, or any person claiming to be adversely affected by any commitment is entitled to enforce the commitment.
- (c) A commitment shall be created by the owner of the property by affixing his or her signature to a written statement of the terms of the commitment.
- (d) A commitment may be modified or terminated only by a decision of the Board made at a public hearing after notice is given in accordance with the requirements set forth in Article XI of these Rules.
- (e) If any person fails to abide by a commitment, that person commits a violation of the zoning ordinance. The commitment shall be enforced in accordance with the provisions of the zoning ordinance.

Article XII. Amendments

Amendments to these rules of procedure may be made by the Commission at any regular or special meeting upon the affirmative vote of a majority of the members of the Commission. The suspension of any rule may be ordered at any meeting by a two-thirds (2/3rds) vote of the quorum.

Article XIII. Repeal

All previous rules and regulations heretofore adopted by the Cromwell Board of Zoning Appeals are hereby expressly repealed, as of the effective date of these rules.

Rules of Procedure of the Cromwell Board of Zoning Appeals of Cromwell; Indiana, approved by the affirmative vote of \_\_\_\_ members of said Board at the regular meeting of the Board held on the \_\_\_\_ day of \_\_\_\_\_, 1996.

*Town of Cromwell Zoning Ordinance*

*Appendix - Rules and Procedure*

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\_\_\_\_\_  
Chairman

Attest:

\_\_\_\_\_  
Secretary

Appendix  
Required Forms and Certificates



Appendix: Required Forms and Certificates

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*Notice of Public Hearing on Proposed  
Initial or Replacement Zoning Ordinance*

*NOTE: The plan commission must publish a notice of the public hearing in a newspaper of general circulation within the municipality*

NOTICE IS HEREBY GIVEN THAT THE plan commission of Cromwell, Indiana, on the \_\_\_\_ day of \_\_\_\_\_, 19 \_\_, at \_\_\_\_ p.m. at the Council in the Town Hall in Cromwell, Indiana, will hold a public hearing on a proposed zoning ordinance for the Town of Cromwell.

The geographic areas to which the proposed ordinance applies are: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

The following is a summary of the subject matter contained in the proposed ordinance:  
\_\_\_\_\_  
\_\_\_\_\_.

Written objections or comments to the provisions of the ordinance may be filed with the Plan Commission before such hearing, will be heard at the specified time and place and will be considered. Oral comments concerning the proposal will also be heard. Said hearing may be continued from time to time as may be necessary.

A copy of the proposed ordinance is available for public inspection in the Office of the Town Clerk in the Town Hall.

Cromwell Plan Commission of  
Cromwell, Indiana

By: \_\_\_\_\_  
Secretary

Appendix: Required Forms and Certificates

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*Notice of Public Hearing on Zoning Ordinance Text Amendment*

*Public notice is to be published at least ten days prior to the date set for the hearing in a newspaper of general circulation in the county.*

**NOTICE OF PUBLIC HEARING**

Notice is hereby given that the Cromwell Plan Commission of Cromwell, Indiana will hold a hearing on a proposed amendment to the text of Ordinance No. \_\_\_\_\_, the Cromwell Ordinance of Cromwell, Indiana. The hearing will be held on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ p.m. in the \_\_\_\_\_, Cromwell, Indiana. Interested parties may voice an opinion upon hearing date and/or file written comments concerning the amendment.

The proposed amendment was initiated by the Cromwell Plan Commission. The amendment would do the following:

This amendment would apply to the following geographic area:

The proposed amendment may be examined in the office of the Plan Commission located in the Cromwell Town Hall in Cromwell, Indiana.

Cromwell Plan Commission of  
Cromwell, Indiana

By: \_\_\_\_\_  
Secretary

*Appendix: Required Forms and Certificates*

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*Transmittal of Text Amendment to Legislative Body*

**RESOLUTION**

Resolution No: \_\_\_\_\_

Passed: \_\_\_\_\_

**A RESOLUTION RECOMMENDING THAT THE Cromwell TOWN COUNCIL OF THE TOWN OF Cromwell, INDIANA, APPROVE A PROPOSAL INITIATED BY THE COMMISSION TO AMEND THE TEXT OF THE ZONING ORDINANCE TO**

WHEREAS, The Plan Commission of the Town of Cromwell did on \_\_\_\_\_ hold a legally advertised public hearing on an amendment to the text of Chapter \_\_\_\_\_ of the Code of Laws of the Town of Cromwell, Indiana, which is the zoning ordinance of said town until all objections and remonstrances were heard; and

WHEREAS, This amendment was initiated by the Plan Commission; and

WHEREAS, said request did propose that said ordinance be amended to

NOW, THEREFORE, BE IT RESOLVED, That the Plan Commission of Cromwell, Indiana, certifies that said commission makes a favorable recommendation to the Town Council of Cromwell, Indiana, that the attached ordinance amending the text of the zoning ordinance be adopted.

\_\_\_\_\_  
President, Plan Commission

\_\_\_\_\_  
Secretary, Plan Commission



Appendix: Required Forms and Certificates

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*Checklist for Zoning Map Change Application*

*The checklist below is used to assist in making decisions concerning the granting of rezoning applications.*

	Yes	No
1. Will the rezoning fulfill a public need for that type of land use?	_____	_____
2. If "yes" to #1 above, should the rezoning be done in the area requested, or would the public interest be better served by rezoning another area of the community?	_____	_____
3. Does the rezoning conform to the future land use map in the comprehensive plan?	_____	_____
4. Will the new land use complement the present and future traffic flows or would the rezoning cause an adverse impact?	_____	_____
5. Can adequate off-street parking be provided if the rezoning request is granted?	_____	_____
6. Have the adjacent landowners been fully informed of the rezoning request?	_____	_____
7. Have the potential inconveniences and nuisances (such as noise, neon lights, odors, etc.) of the rezoning request on adjacent landowners been adequately considered?	_____	_____
8. Are there adequate public utilities and services available to the land if rezoned?	_____	_____
9. If not, will the local government have to pay the cost of installation?	_____	_____
10. Can it be assured that this is not spot zoning, a violation of precedents, or arbitrary and capricious?	_____	_____
11. Is it really needed, or is it merely for the convenience of the applicant?	_____	_____

Appendix: Required Forms and Certificates

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*Notice of Public Hearing on Amendment to Zoning Map*

NOTICE IS HEREBY GIVEN THAT THE \_\_\_\_\_ Plan Commission, of Cromwell, Indiana, on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_ p.m. at the Council in the Town Hall in Cromwell, Indiana, will hold a public hearing on a proposed amendment to the Zoning Ordinance of Cromwell, Indiana.

The proposed amendment involves consideration of a change of the zoning classification from the \_\_\_\_\_ District to the \_\_\_\_\_ District for the following described property:

Written suggestions or objections to the provisions of said amendment may be filed with the Secretary of the Commission, or before such meeting and will be heard by the Plan Commission at the time and place specified. Said hearing may be continued from time to time as may be necessary.

Interested persons desiring to present their views upon the proposed amendment, either in writing or verbally, will be given the opportunity to be heard at the above mentioned time and place. Copies of the petition may be examined at the Cromwell Town Hall, Cromwell, Indiana.

Cromwell Plan Commission of  
Cromwell, Indiana

By: \_\_\_\_\_  
Secretary

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*Town of Cromwell Zoning Ordinance*

*Appendix Required Forms and Certificates*

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*Ordinance to Amend the Zoning Map*

ORDINANCE TO AMEND THE ZONING MAP OF THE TOWN OF Cromwell, INDIANA, FROM \_\_\_\_\_  
ZONE TO \_\_\_\_\_ ZONE ON PREMISES COMMONLY KNOWN AS \_\_\_\_\_.

SECTION 1. Be it ordained by the Town Council of the Town of Cromwell, Indiana, that the Zoning Ordinance adopted on the \_\_\_\_ day of \_\_\_\_\_ of the year \_\_\_\_\_, be amended so as to include in the \_\_\_\_\_ the following described real estate located in the Town of Cromwell, Indiana, to-wit:

SECTION 2. All buildings or uses permitted and placed upon said describe real estate shall fully conform with all the provisions of the Town of Cromwell's Zoning Ordinance and shall have obtained the proper permits.

SECTION 3. This ordinance shall be in full force and effect from and after its passage by the Town Council of the Town of Cromwell, thereto.

Action by Council: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
President

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*Town of Cromwell Zoning Ordinance*

Appendix: Required Forms and Certificates

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*Application for Appeal - Cromwell Zoning Board of Appeals*

1. Applicant: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

2. Owner of the property involved: \_\_\_\_\_

Owner's address: \_\_\_\_\_

3. Premises affected:

Lot no. \_\_\_\_\_ Street no. \_\_\_\_\_

Legal description (from deed or abstract)

4. Date lot of record: \_\_\_\_\_ present zoning classification \_\_\_\_\_

5. Type of appeal: (check the appropriate response)

\_\_\_\_\_ (a) Request for an appeal from the decision of the zoning officer.

(Attach a copy of said decision of ruling.)

\_\_\_\_\_ (b) Request for a special use

\_\_\_\_\_ (c) Request for a variance of development standards

6. State explanation of requested appeal: (state what you want to do and cite the article and section of the zoning ordinance which applies and/or creates the need for this appeal.)

7. State reasons supporting the appeal:

8. Present use of the property:

9. Describe the proposed use of the property:

10. Are there any restrictions, laws, covenants governing the property which would prohibit its use for the purpose specified in this application? If answer is "yes", attach a copy.

11. Has there been any previous appeal filed in connection with this property? If answer is "yes", give the date and the decision of the appeal.

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*Town of Cromwell Zoning Ordinance*





Appendix: Required Forms and Certificates

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*Petition for Use Variance*

*This form is used when a person requests a variance from the use tables. The forms usually are supplied to the petitioner by the Plan Commission office which keeps various forms on file for public distribution. The form is completed by the petitioner(s) and filed with the Clerk-Treasurer, who in turn submits the petition to the Board of Zoning Appeals for review at a public hearing and recommendation to the appropriate legislative body.*

Cromwell Board of Zoning Appeals

Date Submitted:

Docket/Case No.:

1. Owner:

Address:

Phone:

2. Record of Ownership: Deed Book

Page

Purchase Date

3. Legal Description:

4. Common Address of Property Involved:

5. Proposal description, attach any construction drawings and list of provisions which are being requested:

6. State How the Proposed Change will affect the Surrounding Properties.

7. Has the owner contacted adjoining property owners?

*Appendix: Required Forms and Certificates*

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*Checklist for Use Variance Application*

*The checklist below is used to assist in making decisions concerning the granting of a use variance applications.*

	Yes	No
1. Will the variance fulfill a public need for that parcel or zoning district?	_____	_____
2. Does the variance interfere substantially with the town's comprehensive plan, or detract from the character of the community?	_____	_____
3. Will the new use be injurious to the public health, safety, morals, and general welfare of the community?	_____	_____
4. Will the new land use compliment the present and future traffic flows or would the variance cause an adverse impact?	_____	_____
5. Can adequate off-street parking be provided if the variance request is granted?	_____	_____
6. Have the adjacent landowners been fully informed of the variance request?	_____	_____
7. Have the potential inconveniences and nuisances (such as noise, neon lights, odors, etc.) of the new use on adjacent landowners been adequately considered?	_____	_____
8. Will the use and value of the area adjacent to the property included in the variance be affected in an adverse manner?	_____	_____
9. Are there adequate public utilities and services available to the land in order to serve the new use?	_____	_____
10. If not, will the local government have to pay the cost of installation?	_____	_____
11. Is this variance really needed, or is it merely for the convenience of the applicant?	_____	_____
12. Has a contract agreement been drawn between the Town and the applicant which states the reasons for the variance, the conditions under which it is being granted, expiration provisions and rescinding provisions? (Contracts shall include such items as commitments concerning the use or development parcel, expiration dates, increased development requirements, compensation fees, etc.)	_____	_____
13. Does the variance have an expiration point or date? Note: If the use variance does not expire or contain other requirements which are unique to a variance agreement, then the Board should direct the applicant to the plan commission in order to apply for a zoning map change.	_____	_____
14. Has action been taken to assure that when the use variance expires the parcel will be returned to a conforming use?	_____	_____

*Appendix: Required Forms and Certificates*

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*Notice of Public Hearing on use variance petition*

NOTICE IS HEREBY GIVEN THAT THE \_\_\_\_\_ Board of Zoning Appeals, of Cromwell, Indiana, on the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_, at \_\_\_\_\_ p.m. at the Council in the Town Hall in Cromwell, Indiana, will hold a public hearing on a proposed use variance from the Zoning Ordinance of Cromwell, Indiana.

The proposal involves consideration of a variance from the zoning classification, permitting a \_\_\_\_\_ use in a \_\_\_\_\_ District for the following described property:

Written suggestions or objections to the provisions of said variance may be filed with the Clerk-Treasurer, or before such meeting and will be heard by the Board of Zoning Appeals at the time and place specified. Said hearing may be continued from time to time as may be necessary.

Interested persons desiring to present their views upon the proposed amendment, either in writing or verbally, will be given the opportunity to be heard at the above mentioned time and place. Copies of the petition may be examined at the Cromwell Town Hall, Cromwell, Indiana.

Cromwell Plan Commission of  
Cromwell, Indiana

By: \_\_\_\_\_  
Secretary

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*Town of Cromwell Zoning Ordinance*

Appendix: Required Forms and Certificates

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*Application for Improvement Location Permit*

Cromwell, Indiana

Application No.: \_\_\_\_\_ Date Filed: \_\_\_\_\_

Applicant: \_\_\_\_\_

Address of Applicant: \_\_\_\_\_

Owner (if other than applicant): \_\_\_\_\_

Address of Owner: \_\_\_\_\_

Location of Property: Lot No.: \_\_\_\_\_ In \_\_\_\_\_ Subdivision

Street Number (if available): \_\_\_\_\_

Other Description: \_\_\_\_\_ Date Lot of

Record: \_\_\_\_\_ Zoning Classification: \_\_\_\_\_

To Permit Construction of: \_\_\_\_\_

As Drawn in the Attached Site Plan and Construction Drawings.

(Fee of \$ \_\_\_\_\_ to accompany this application)

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Agent

**NOTICE**

**Post this permit in a conspicuous location on the premises until  
a certificate of occupancy is issued.**

**If any changes or deviations are made from the original application,  
a new permit is required.**

Appendix: Required Forms and Certificates

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*Certificate of Occupancy*

Improvement Location Permit Number: \_\_\_\_\_

CERTIFICATE OF OCCUPANCY Number: \_\_\_\_\_

Issued: \_\_\_\_\_, 19 \_\_\_\_\_

Issued To: \_\_\_\_\_

This certifies that the action or work for which an Improvement Location Permit was issued for the premises identified as Lot Number \_\_\_\_\_ in \_\_\_\_\_ Subdivision, address \_\_\_\_\_  
\_\_\_\_\_, or other description as follows:  
\_\_\_\_\_, has been inspected and found to be in compliance with the applicable laws of the State of Indiana, and ordinances of \_\_\_\_\_.

\_\_\_\_\_  
Title: \_\_\_\_\_