TOWN OF NEW WHITELAND, INDIANA

CODE OF ORDINANCES

2025 S-5 Supplement contains:
Local legislation current through Ord. 2024-05, passed 10-2-2024; and
Res. 2023-03, passed 10-4-2023
State legislation current through Indiana Legislative Service, 2024 Acts, Pamphlet No. 3

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TOWN OF NEW WHITELAND, INDIANA
ORDINANCE 2018-15

AN ORDINANCE TO ADOPT A NEW CODE OF ORDINANCES (TOWN CODE)

WHEREAS, pursuant to Indiana Code Section 36-1-5-3, the legislative body of an Indiana town shall "codify, revise, rearrange, or compile its town's ordinances into a complete, simplified code;"

WHEREAS, the New Whiteland Town Council (the "Council") is the legislative body of New Whiteland and responsible for compiling the Town's ordinances into a complete, simplified Town Code;

WHEREAS, though New Whiteland has maintained a Town Code, many of the Town's more recent ordinances have not been included and codified and some of its repealed ordinances remain in the Town Code;

ACCORDINGLY, the Council contracted with American Legal Publishing Corporation to have the New Whiteland Town Code updated and rearranged in order to provide a more comprehensive and current compilation of New Whiteland local ordinances;

WHEREAS, American Legal Publishing presented to the Council its final draft of the Town of New Whiteland, Indiana Code of Ordinances, Copyright 2018 (the "2018 Town Code") in early June 2018 and the Council began the adoption process by approving and adopting Ordinance 2018-12, on first reading, at its June 5, 2018 regular meeting;

WHEREAS, prior to adopting Ordinance 2018-12, on second and final reading, the Council discovered that a few additional revisions to the 2018 Town Code were needed and returned it to American Legal Publishing so those revisions could me included;

WHEREAS, American Legal Publishing has presented to the Council its revised, final draft of the Town of New Whiteland, Indiana Code of Ordinances, Copyright 2018 (with final revisions dated August 20, 2018), and the Council has reviewed and approved it.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of New Whiteland, Indiana, that:

1. The 2018 Town Code, as presented by American Legal Publishing (with final revisions dated August 20, 2018), is hereby approved and adopted as the New Whiteland Town Code.

2. All prior Town Codes and ordinances of the Town of New Whiteland, and sections thereof, which are, expressly or by reference, included in the 2018 Town Code, to the extent that they remain unchanged, are hereby restated and reenacted, effective as of the date of final adoption of the 2018 Town Code.

3. All prior Town Codes and ordinances of the Town of New Whiteland, and sections thereof, which are, expressly or by reference, included in the 2018 Town Code, to the extent that they conflict with provisions included in the 2018 Town Code, are hereby repealed, effective as of the date of final adoption of the 2018 Town Code.

4. New Whiteland ordinances, and parts thereof, not included in the 2018 Town Code, expressly or by reference, shall remain unchanged and in effect.

5. Ordinance 2018-12 is hereby rescinded and replaced with this Ordinance 2018-15.

INTRODUCED and **ADOPTED**, on first reading, by the New Whiteland Town Council, on this 21st day of August, 2018.

ADOPTED, on second and final reading, by the New Whiteland Town Council, on this 4th day of September, 2018.

\s\ John Perrin
John Perrin, President of the Town Council

Attest: \s\ Maribeth Alspach
Maribeth Alspach, Clerk Treasurer

TOWN OF NEW WHITELAND, INDIANA
ORDINANCE 2019-11

AN ORDINANCE ENACTING AND ADOPTING THE 2019 SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE TOWN OF NEW WHITELAND, INDIANA

WHEREAS, American Legal Publishing Corporation has completed the 2019 Supplement to the Code of Ordinances for the Town of New Whiteland, which supplement contains ordinances enacted since the adoption of the Town's current Code of Ordinances; and

WHEREAS, the New Whiteland Town Council members have considered and approve of the 2019 Supplement.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF NEW WHITELAND, INDIANA, that the 2019 Supplement to the Code of Ordinances of the Town of New Whiteland, as submitted by American Legal Publishing, as attached hereto, is hereby approved and adopted, effective as of the date of final adoption of this ordinance or, if any provisions of the 2019 Supplement must be published, then as of the date of their publication.

Introduced and passed, on first reading, by the New Whiteland Town Council, on this 17th day of September, 2019.

Read and passed, on second and final reading, by the New Whiteland Town Council, on this 1st day of October, 2019.

\s\ John Perrin
John Perrin, President of the Town Council

Attest: \s\ Maribeth Alspach
Maribeth Alspach, Clerk Treasurer

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§ 10.01 TITLE OF CODE.

All ordinances of a permanent and general nature of the town, as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections, shall be known and designated as the "New Whiteland Town Code", for which designation "code of ordinances", "codified ordinances" or "code" may be substituted. Code title, chapter and section headings do not constitute any part of the law as contained in the code.

§ 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition and application shall govern the interpretation of this code as those governing the interpretation of Indiana state law.

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

§ 10.04 CONSTRUCTION OF CODE.

(A) (1) This code is a codification of previously existing laws, amendments thereto and newly enacted laws.

(2) Any previously existing law or amendment thereto reenacted by this code shall continue in operation and effect, as if it had not been repealed by this code.

(3) All rules and regulations adopted under laws reenacted in this code shall remain in full force and effect unless repealed or amended subsequent to the enactment of this code.

(B) Any appropriation repealed and reenacted by this code is continued only for the period designated in the original enactment of that appropriation.

(C) The numerical order and position of sections in this code does not resolve a conflict between two or more sections.

(D) Any irreconcilable conflict between sections shall be resolved by reference to the dates that the sections were originally enacted. The section most recently enacted supersedes any conflicting section or division.

(E) All references within a section of this code to any section of previously existing laws refer to the numbers in the original enactment.

(F) (1) The numerical designations and descriptive headings assigned to the various titles, chapters, subchapters or sections of this code, as originally enacted or as added by amendment, are not law, and may be altered by the compilers of this or any subsequent codification, in any official publication, to more clearly indicate its content. These descriptive headings are for organizational purposes only and do not affect the meaning, application or construction of the law they precede.

(2) Each note following a section of this code is for reference purposes only and is not a part of the section.

(G) All references to any section of this code refer to all subsequent amendments to that section, unless otherwise provided.
(I.C. 1-1-1-5)

§ 10.05 RULES OF INTERPRETATION; DEFINITIONS.

(A) *Rules of interpretation*. This code shall be construed by the following rules unless the construction is plainly repugnant to the legislative intent or context of the provision.

(1) Words and phrases shall be taken in their plain, ordinary and usual sense. Technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(2) Words imputing joint authority to three or more persons shall be construed as imputing authority to a majority of the persons, unless otherwise declared in the section giving the authority.

(3) Where a section requires an act to be done which, by law, an agent or deputy may perform in addition to the principal, the performance of the act by an authorized deputy or agent is valid.

(4) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(B) *Definitions*. For the purpose of this code of ordinances, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CLERK-TREASURER. The Clerk-Treasurer of the town is both the Town Clerk and the Town Fiscal Officer.

COUNCIL. The Town Council of New Whiteland, Indiana.

COUNTY. Johnson County, Indiana.

HIGHWAY. Includes bridges, roads and streets, unless otherwise expressly provided.

MONTH. One calendar month.

PERSON. Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee, receiver and bodies politic. Whenever used in any clause prescribing and imposing a penalty, the terms ***PERSON*** or ***WHOEVER***, as applied to any unincorporated entity, shall mean the partners or members thereof and, as applied to corporations, the officers or agents thereof.

PRECEDING and ***FOLLOWING.*** When referring to sections or divisions in this code, refer to the sections or divisions next following or next preceding that in which the words occur, unless some other section is designated.

TOWN. The Town of New Whiteland, Indiana.

TOWN COUNCIL. The town legislative body.

TOWN EXECUTIVE. The Town Council President is the Town Executive.

TOWN MARSHAL. The Chief Police Officer of the town.

WRITTEN and ***IN WRITING.*** Include printing, lithographing or other modes of representing words and letters. Where the written signature of a person is required, the terms mean the proper handwriting of the person or the person's mark.

YEAR. One calendar year, unless otherwise expressly provided.
(I.C. 1-1-4-5)

§ 10.06 SEVERABILITY.

(A) If any section of this code now enacted or subsequently amended or its application to any person or circumstances is held invalid, the invalidity does not affect other sections that can be given effect without the invalid section or application.

(B) (1) Except in the case of a section or amendment to this code containing a non-severability provision, each division or part of every section is severable.

(2) If any portion or application of a section is held invalid, the invalidity does not affect the remainder of the section unless:

(a) The remainder is so essentially and inseparably connected with and so dependent upon the invalid provision or application that it cannot be presumed that the remainder would have been enacted without the invalid provision or application; or

(b) The remainder is incomplete and incapable of being executed in accordance with the legislative intent without the invalid provision or application.

(C) This section applies to every section of this code regardless of whether a section was enacted before or after the passage of this code.

(D) The repeal of a section or amendment stating that the provisions of a chapter, subchapter or section are severable as provided in division (B) above does not affect the operation of division (B) above with respect to that chapter, subchapter or section.
(I.C. 1-1-1-8)

§ 10.07 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

§ 10.08 REFERENCE TO OFFICES; NAME DESIGNATIONS.

(A) *Reference to offices*. Reference to a public office or officer shall be deemed to apply to any office, officer or employee of the town exercising the powers, duties or functions contemplated in the provision, irrespective of any transfer of functions or change in official title.

(B) *Name designations*. Whenever any ordinance or resolution of the town refers to any board, commission, department, officer, agency, authority or instrumentality of the town, and that name designation is incorrectly stated on the effective date of that ordinance or following the effective date, the rights, powers, duties or liabilities placed with that entity are or were transferred to a different entity then the named board, commission, department, officer, agency, authority or instrumentality of the town, whether correctly named in the ordinance at its effective date or not, means that correctly named entity, or the entity to which the duties, liabilities, powers and rights were transferred.
(I.C. 1-1-6-1)

§ 10.09 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

§ 10.10 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, ***REASONABLE TIME OR NOTICE*** shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) Unless otherwise provided, the time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be a Saturday, Sunday or a state holiday, it shall be excluded.

§ 10.11 REPEAL OR MODIFICATION OF CODE SECTION.

When a section of this code is repealed which repealed a former section or law adopted prior to the enactment of this code, the former section or law is not revived unless it so expressly provides. The repeal of any section shall not extinguish or release any penalty, forfeiture or liability incurred under the section, unless the repealing section so expressly provides. The section shall be treated as still remaining in force for the purposes of sustaining any proper action or prosecution for the enforcement of the penalty, forfeiture or liability.
(I.C. 1-1-5-1)

§ 10.12 LIMITATION PERIODS.

The running of any period of limitations or any requirement of notice contained in any law, whether applicable to civil causes or proceedings, or to the prosecution of offenses, or for the recovery of penalties and forfeitures, contained in a law repealed and reenacted by this code, shall not be affected by the repeal and reenactment; but all suits, proceedings and prosecutions for causes arising or acts committed prior to the effective date of this code may be commenced and prosecuted with the same effect as if this code had not been enacted.
Statutory reference:
Periods of limitation, see I.C. 1-1-1-7

§ 10.13 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

§ 10.14 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-1960; Ord. 15, passed 1-1-1970; Ord. 20, passed 1-1-1980; Ord. 25, passed 1-1-1985)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example: (I.C. 36-5-2-2)

(2) If a statutory cite is set forth as a "statutory reference" following the text of the section, this indicates that the reader should refer to that statute for further information. Example:

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.
Statutory reference:
Inspection of public records, see I.C. 5-14-3-1 et seq.

(C) If a section of this code is derived from the previous code of ordinances of the town published in 2004 and subsequently amended, the previous code section number shall be indicated in the history by "(2004 Code, § ___)".

§ 10.15 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS AND LIABILITIES.

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred or proceedings begun prior to the effective date of this code. The liabilities, proceedings and rights are continued; punishments, penalties or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

§ 10.99 GENERAL PENALTY.

(A) *General penalty.*

(1) Any person, firm or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to the following:

(a) A fine not exceeding $2,500 for the first violation; and

(b) A fine not exceeding $7,500 for second and subsequent violations, except for violations of ordinances regulating traffic and parking.

(2) A separate violation shall be deemed committed upon each day during which a violation occurs or continues.

(B) *Civil penalty*.

Code Section	*Provisions*	*Civil Penalty*
91.25(A)	Advertising	$30 first time, $55 second time, $105 each subsequent
152.01	Altering streets	$250
132.02	Cats running at large prohibited	$105
91.26(B)	Dangerous objects	$30 first time, $55 second time, $105 each subsequent
91.26(A)	Dangerous sports	$30 first time, $55 second time, $105 each subsequent
130.02	Disorderly assemblies	$55
130.01	Disorderly behavior	$55
132.02	Dogs running at large prohibited	$105
91.19(C)	Dogs unleashed	$30 first time, $55 second time, $105 each subsequent
110.01 through 110.05	Door-to-door solicitation	$55
132.11	Exotic animal prohibited	$105
70.02(E)	Handicapped parking	$30
91.15	Injury to property	$30 first time, $55 second time, $105 each subsequent
91.24	Intoxication	$30 first time, $55 second time, $105 each subsequent
70.02	Maximum parking time	$15
91.19(A)	Molesting animals	$30 first time, $55 second time, $105 each subsequent
132.03	Nuisance animal prohibited	$105
130.20 through 130.24	Open burning prohibited	$105
70.03	Overnight parking prohibited	$30
130.01	Parades permit	$205
Ch. 72 Schd. IV	Park speed limit	$105
70.02(A)	Parking prohibited	$30

Code Section	*Provisions*	*Civil Penalty*
91.22	Picnics in unauthorized area	$30 first time, $55 second time, $105 each subsequent
91.27	Playground rules	$30 first time, $55 second time, $105 each subsequent
91.15	Removal of plants	$30 first time, $55 second time, $105 each subsequent
91.15	Removing property	$30 first time, $55 second time, $105 each subsequent
91.25(B)	Sales	$30 first time, $55 second time, $105 each subsequent
Ch. 72 Schd. IV	School zone speed limit	$105
Ch. 72 Schd. II	Signs	$30 first time, $55 subsequent
91.23	Sleeping in park	$30 first time, $55 second time, $105 each subsequent
Ch. 72 Schd. III	Snow and winter emergency	$30
Ch. 72 Schd. IV	Speed limit	$105
Ch. 72 Schd. I	Stop signs	$105
91.21	Stopping, standing or parking in town parks when closed	$30
70.02(B)	Street parking (passenger side adjacent to curb)	$30
70.02(F)	Streets for vehicular traffic only	$30
130.04	Structures of things detrimental to health	$205
Ch. 72 Schd. IV	Temporary speed limit	$105
91.19(B)	Trespassing animals	$30 first time, $55 second time, $105 each subsequent
70.01	Truck traffic prohibited	$105
91.21	Vehicles in unauthorized area	$30 first time, $55 second time, $105 each subsequent
132.04	Vicious/dangerous dog or cat prohibited	$105
91.20	Waterway misuse	$30 first time, $55 second time, $105 each subsequent
Ch. 72 Schd. II	Yield signs	$105

(Ord. 2092, passed 12-16-2008)

Statutory reference:

Authority, see I.C. 36-1-3-8(a)(10)

TITLE III: ADMINISTRATION

Chapter

30. TOWN COUNCIL

31. OFFICERS AND EMPLOYEES

32. ORGANIZATIONS

33. FINANCE AND REVENUE; FUNDS

34. GENERAL POLICIES

CHAPTER 30: TOWN COUNCIL

Section

30.01 Length of term
30.02 Dates of election; procedure
30.03 Council districts

§ 30.01 LENGTH OF TERM.

Council members of the town shall be elected for a term of four years.
(2004 Code, § 2-101)

§ 30.02 DATES OF ELECTION; PROCEDURE.

(A) On the first Tuesday after the first Monday in November 2018 and every four years thereafter, the members of the Town Council from Council Districts 2 and 5 shall be elected, to take office the following January 1.
(2004 Code, § 2-102)

(B) On the first Tuesday after the first Monday in November 2019, and every four years thereafter, the members of Town Council from Council Districts 1, 3 and 4 shall be elected, to take office the following January 1.

(C) All offices of the town shall be nominated at the primary election and elected at the general election by the vote of all voters eligible to vote in the general election under the laws and Constitution of the state.
(2004 Code, § 2-103) (Ord. 2023-01, passed 2023)

§ 30.03 COUNCIL DISTRICTS.

(A) The town, for the purpose of electing its Town Council members, shall be divided into five legislative body districts, defined and described as follows.

(1) *District 1.* The First District shall be comprised of all of the annexed territory of the town within the following described boundary: beginning at the intersection of Center Line Road and Hollybrook Drive, then east along Hollybrook Drive to the intersection of Hollybrook Drive and

Delbrook Drive, then south/southeast along Delbrook Drive to the intersection of Delbrook Drive and Parkview Drive, then north and east along Parkview Drive to its intersection with Sweet Briar Avenue, then north along Sweet Briar Avenue to its intersection, again, with the easternmost section of Parkview Drive, then along Parkview Drive to its intersection with U.S. Highway 31 and the east boundary of the town, then south along U.S. Highway 31 to the north boundary of the town, then east along the north boundary of the town to Tracy Drive and the east boundary of the town, then south along Tracy Drive to the south boundary of the town, then west along the south boundary of the town to U.S. Highway 31, then south along U.S. Highway 31 to its intersection with Whiteland Road, then west along Whiteland Road, across U.S. Highway 31, to Grassy Creek, then north along Grassy Creek to the southwest corner of the Break O Day Subdivision, then east along the southern most boundary of the Break O Day Subdivision to Center Line Road, then south along Center Line Road to its intersection with Hollybrook Drive and the beginning point of this description.

(2) *District 2.* The Second District shall be comprised of all of the annexed territory of the town within the following described boundary: beginning at the intersection of Center Line Road and Hollybrook Drive, then north along Center Line Road to the southern most boundary of the Break O Day Subdivision, then west along the southern most boundary of the Break O Day Subdivision to Grassy Creek, then south along Grassy Creek to Whiteland Road, then west along Whiteland Road to its intersection with County Road 75 W, then north along County Road 75 W to its intersection with County Road 600 N, then east along County Road 600 N to its intersection with County Road 25 W, then north along County Road 25 W to the northern most boundary of the Hilltop Commons Subdivision, then east along the northern most boundary of the Hilltop Commons Subdivision to the eastern most boundary of the Hilltop Commons Subdivision, then south along the eastern most boundary of the Hilltop Commons Subdivision to County Road 600 N, then east along County Road 600 N to its intersection with Princeton Drive, then south along Princeton Drive to its intersection with Mooreland Drive, then west/southwest along Mooreland Drive to its intersection with Hollybrook Drive, then west/southwest along Hollybrook Drive to its intersection with Center Line Road and the beginning point of this description.

(3) *District 3.* The Third District shall be comprised of all of the annexed territory of the town within the following described boundary: beginning at the intersection of County Road 600 N and Princeton Drive, then north along Princeton Drive to its intersection with Tracy Ridge Boulevard, then east and then north along Tracy Ridge Boulevard to its intersection with Berwyn Road, then east along Berwyn Road to its intersection with Ashland Avenue, then south along Ashland Avenue to its intersection with County Road 600 N, then east along County Road 600 N to its intersection with U.S. Highway 31, then south along U.S. Highway 31 to its intersection with Parkview Drive, then west along Parkview Drive to its intersection with Sweet Briar Avenue, then south along Sweet Briar Avenue to its intersection with Parkview Drive, then west along Parkview Drive to its intersection with Delbrook Drive, then north/northwest along Delbrook Drive to its intersection with Hollybrook Drive, then west along Hollybrook Drive to its intersection with Mooreland Drive, then north/northeast along Mooreland Drive to its intersection with Princeton Drive, then north along Princeton Drive to its intersection with County Road 600 N and the beginning point of this description.

(4) *District 4.* The Fourth District shall be comprised of all of the annexed territory of the town within the following described boundary: beginning at the intersection of County Road 600 N and Ashland Avenue, then north along Ashland Avenue to its intersection with Brentwood Lane; then east

along Brentwood Lane to its intersection with Warwick Road, then north along Warwick Road as it turns west and becomes Bittersweet Drive to its intersection with an unnamed stub street located between 278 and 294 Bittersweet Drive, then north along that stub street to the northern most boundary of the town, then east along the northern most boundary of the town to the eastern most boundary of the town at the Conrail Railroad, then south along the east boundary line of the town, also along the Conrail Railroad, to County Road 600 N, then west along County Road 600 N, across U.S. Highway 31 and continuing west, to the intersection of County Road 600 N and Ashland Avenue and the beginning point of this description.

(5) *District 5*. The Fifth District shall be comprised of all of the annexed territory of the town within the following described boundary: Beginning at the intersection of County Road 600 N and Princeton Drive, then north along Princeton Drive to its intersection with Tracy Ridge Blvd., then east and then north along Tracy Ridge Blvd. to its intersection with Berwyn Road, then east along Berwyn Road to its intersection with Ashland Avenue, then north along Ashland Avenue to its intersection with Brentwood Drive; then east along Brentwood Drive to its intersection with Warwick Road, then north along Warwick Road as it turns west and becomes Bittersweet Drive to its intersection with an unnamed stub street located between 278 and 294 Bittersweet Drive, then north along that stub street to the northern most boundary of the town, then west along the northern most boundary of the town to County Road 25 W and the western most boundary of the town, then south along County Road 25 W to the northern most boundary of the Hilltop Commons Subdivision, then east along the northern most boundary of the Hilltop Commons Subdivision to the eastern most boundary of the Hilltop Commons Subdivision, then south along the eastern most boundary of the Hilltop Commons Subdivision to County Road 600 N, then east along County Road 600 N to its intersection with Princeton Drive and the beginning of this description.

(B) Streets, town boundary lines, subdivision boundary lines, and all other boundary lines and markers referred to in the Town Council district boundaries described above shall be deemed to extend along straight lines in distance and direction as may be necessary to form the intersections described and create continuous and unbroken boundaries.

(C) The town's five Town Council districts are drawn and identified on the attached "Map of New Whiteland Town Council Districts, Redefined in 2012". The map attached to the ordinance codified herein is illustrative. The narrative description of the Town Council districts, set forth in division (A) above, shall be controlling.
(Ord. 2160, passed 12-4-2012; Ord. 2023-02, passed 2-1-2023)

CHAPTER 31: OFFICERS AND EMPLOYEES

Section

31.01 Personnel policy and procedures

§ 31.01 PERSONNEL POLICY AND PROCEDURES.

The town's employment policy manual is hereby adopted by reference and incorporated herein as if set out in full.
(2004 Code, § 2-301) (Res. 2016-04, passed 9-6-2016; Res. 2017-3, passed 6-20-2017; Res. 2018-05, passed 9-18-2018; Res. 2019-1, passed 1-15-2019; Res. 2019-7, passed 10-15-2019)

CHAPTER 32: ORGANIZATIONS

Section

Police Department

32.01 Town Marshal; salary, term, bond
32.02 Deputy Marshals; salary, term, bond
32.03 Enforcement
32.04 Performance of drug testing services
32.05 Copying fees

POLICE DEPARTMENT

§ 32.01 TOWN MARSHAL; SALARY, TERM, BOND.

(A) *Salary*. The Town Marshal shall be paid a yearly salary to be fixed from time to time by the Town Council.
(2004 Code, § 9-101)

(B) *Term*. The Town Marshal shall serve, upon his or her appointment, at the pleasure of the Town Council.
(2004 Code, § 9-102)

(C) *Bond*. The Town Marshal shall give bond payable to the state, with surety to be approved and the cost of the bond paid by the Town Council, in the sum of $5,000.
(2004 Code, § 9-103)

§ 32.02 DEPUTY MARSHALS; SALARY, TERM, BOND.

(A) Pursuant to I.C. 36-5-7-6(a), the number of Town Deputy Marshals who shall be employees of the town and have all duties, powers, and liabilities of the Town Marshal, in executing the orders of the Town Council or enforcing laws, as set forth in and pursuant to I.C. 36-5-7-4 and 36-5-7-6(a), is hereby increased to eight.

(B) Pursuant to I.C. 36-8-3-20(e), the number of Town Police Reserve Officers, who shall not be employees of the town or members of the town's regular Police Department, is hereby set at four.

(C) Pursuant to I.C. 36-8-3-20(e), Town Police Reserve Officers shall have all the same police powers as regular members of the town's Police Department, except as may be limited by Department rules.

(D) A Town Police Reserve Officer may not be appointed until the officer has completed the training and probationary period specified by rules of the Town Police Department.

(E) A Town Police Reserve Officer may not:

(1) Make an arrest:

(2) Conduct a search or a seizure of a person or property; or

(3) Carry a firearm;

unless the Police Reserve Officer successfully completes a pre-basic course under I.C. 5-2-1-9(f).

(F) To the extent the Town Council appropriates money and authorizes the expenditures, Town Police Reserve Officers may receive any of the following:

(1) A uniform allowance.

(2) Compensation for time lost from other employment because of court appearances.

(3) Insurance for life, accident, and sickness coverage.

(G) All other applicable provisions of I.C. 36-5-7 and I.C. 36-8-3-20 are hereby incorporated into this section by reference.
(Ord. 2015-7, passed 7-7-2015; Ord. 2017-03, passed 4-4-2017)

§ 32.03 ENFORCEMENT.

The Town Marshal Department and the members of his or her Department are charged with the duty of enforcing the ordinances of the town.
(2004 Code, § 9-108)

§ 32.04 PERFORMANCE OF DRUG TESTING SERVICES.

(A) The Police Department, under the direction and supervision of the Town Marshal, is hereby authorized and permitted to perform drug tests to assist in the enforcement and prosecution of drug-related criminal offenses. The town’s Police Department is authorized to purchase and maintain

equipment, supplies and facilities, from time to time, as is necessary to perform the drug testing contemplated by this action. Further, the town's Police Department, in the discretion of the Town Marshal, may provide drug testing services for other public agencies for a fee.

(B) There is hereby created a special non-reverting and restricted fund to be known as the "Police Drug Testing Fund". Such Fund shall hold fees, gifts, grants and other similar funds (and earnings on such funds) received by the town for or in support of drug testing and related services or to assist with the purchase of related supplies or equipment. Such Fund shall not be commingled with any other fund or funds received from taxation or hold funds that are from or that normally flow into the town's General Fund or any other police fund or account and shall be used exclusively to fund and support drug testing by the town's Police Department and/or on drug prevention or enforcement training and education.

(C) Drug testing services to be provided by the town's Police Department to other public agencies shall be secondary and incidental to the other duties and functions of the Police Department.

(D) The fee to be charged to other public agencies for drug testing services provided by the town's Police Department shall be $50 for each test.
(Ord. 2101, passed 5-19-2009)

§ 32.05 COPYING FEES.

The following fees will be charged by the town's Police Department for the copying of the following documents:

Certified copy	$1
Digital photographs on a CD-ROM or DVD	$1 per photograph
	$1 per CD-ROM or DVD
Digital photographs printed	$1 per photograph
Documents put onto a CD-ROM or DVD	$0.25 per page
	$1.00 per CD-ROM or DVD
Individual limited criminal history	$5
Non-government fingerprints	$5
Police/accident reports	$5
Vehicle identification number check or verification	$5

(Ord. 2062, passed 9-18-2007; Ord. 2020-19, passed 10-6-2020)

CHAPTER 33: FINANCE AND REVENUE; FUNDS

Section

General Provisions

33.01 Investment policy
33.02 Public record fees
33.03 Preapproved claims
33.04 Electronic fund transfers

Funds

33.20 Cumulative Capital Improvement Fund
33.21 Rainy Day Fund
33.22 Cumulative Capital Development Fund
33.23 Cash Change Fund

Internal Controls

33.35 Internal control standards
33.36 Material losses; monitoring and reporting

GENERAL PROVISIONS

§ 33.01 INVESTMENT POLICY.

(A) Public funds of the town may be invested, by the town's Investing Officer, in accordance with I.C. 5-13-9, in investments with a stated final maturity date of more than two years, and not more than five years, after the date of purchase or entry into a repurchase agreement.

(B) The Investing Officer for the town shall be the town's Clerk-Treasurer.

(C) The total of outstanding investments authorized by this section and I.C. 5-13-9-5.7 shall not exceed 25% of the total portfolio of public funds invested by the town, including balances in transaction account.

(D) The investment policy adopted herein shall be effective as of September 5, 2016 and shall expire on September 4, 2020.

(E) The town's Investing Officer is authorized to contract with a federally regulated investment advisor or other institutional money manager to make investments under this section.
(Ord. 2016-17, passed 10-18-2016)

§ 33.02 PUBLIC RECORD FEES.

(A) Except as provided below, the fee for certification of documents by the town shall be $5 per document and the fee for copying documents shall be $0.10 per page for copies that are not color copies and $0.25 per page for color copies.

(B) *Accident reports.*

(1) The fee for copies of accident reports provided by the Police Department shall be $5.

(2) All fees collected by the Police Department, for copies of accident reports, shall be deposited in the town's Local Law Enforcement Education Fund, as established by I.C. 5-2-8-2.
(Res. 2012-03, passed 6-5-2012; Ord. 2020-19, passed 10-6-2020)

§ 33.03 PREAPPROVED CLAIMS.

(A) Pursuant to and as authorized by I.C. 36-5-4-12, the Clerk Treasurer is hereby authorized, prior to formal approval and allowance by the Council, to pay the following preapproved claims:

(1) Property or services purchased or leased from:

(a) The United States government; or

(b) An agency or a political subdivision of the United States government.

(2) License fees or permit fees.

(3) Insurance premiums.

(4) Utility payments or utility connection charges.

(5) Federal grant programs if:

(a) Advance funding is not prohibited; and

(b) The contracting party provides sufficient security for the amount advanced.

(6) Grants of state funds authorized by statute.

(7) Maintenance agreements or service agreements.

(8) Lease agreements or rental agreements.

(9) Principal and interest payments on bonds.

(10) Payroll.

(11) State, federal, or county taxes.

(12) Expenses that must be paid because of emergency circumstances.

(13) Claims that, if not paid prior to the next meeting of the town council, will subject the town to a late payment finance charge or penalty.

(B) Payment of any claim, prior to formal approval and allowance by the Council, must be supported by a fully itemized invoice or bill and certification by the Clerk Treasurer.

(C) The Council, at its next regular or special meeting after payment of a preapproved claim, upon a review and finding that the prepaid claim is supported by a fully itemized invoice, as certified by the Clerk Treasurer, shall approve it.

(D) Except for the preapproved claims as described in and as expressly permitted by this section, the provisions of I.C. 36-5-4-4, as may be amended, shall strictly apply to all other expenses of the town.
(Ord. 2021-04, passed 7-7-2021)

§ 33.04 ELECTRONIC FUND TRANSFERS.

(A) The Clerk Treasurer, in his or her discretion, is hereby authorized to make automated clearing house (ACH) payments, electronically, for and on behalf of the town and to receive ACH payments directed to the town or its various departments or utilities. All ACH payments properly made or received by or at the direction of the Clerk Treasurer, prior to September 7, 2022, are hereby ratified and approved.

(B) The Clerk Treasurer, in his or her discretion, is hereby authorized to make online (electronic) transfers of town funds to the extent those funds may otherwise be transferred under and pursuant to all applicable rules and regulations. All online transfers of town funds properly made by or at the direction of the Clerk Treasurer, prior to September 7, 2022, are hereby ratified and approved.
(Res. 2022-04, passed 9-7-2022)

FUNDS

§ 33.20 CUMULATIVE CAPITAL IMPROVEMENT FUND.

(A) *Creation of CCI Fund.*

(1) The town's Cumulative Capital Development Fund and maximum rate of $0.05 per $100 of assessed valuation is hereby reestablished for the town.

(2) The town's Cumulative Capital Development Fund shall be funded, each year, by levying a tax, in compliance with I.C. 6-1.1-41, on the taxable property in the town at the maximum property tax rate of $0.05 per $100 of assessed valuation as authorized by and pursuant to I.C. 36-9-15.5-6(b) beginning with taxes assessed in 2021, payable in 2022.
(2004 Code, § 2-501)

(B) *Use of CCI Fund.* All of the moneys deposited into the Cumulative Capital Improvement Fund shall be appropriated and used solely for capital improvements, as defined in division (C) below, and none of said moneys shall revert to the General Fund.
(2004 Code, § 2-502)

(C) *Capital improvements*. The term ***CAPITAL IMPROVEMENTS*** means the construction or improvement of any property owned by the town, including, but not limited to, streets, thoroughfares and sewers, and the retirement of general obligation bonds of the town and the proceeds used for the purpose of constructing capital improvements. The term ***CAPITAL IMPROVEMENTS*** shall not include salaries of any public officials or employees, except those which are directly chargeable to a capital improvement.
(2004 Code, § 2-503)
(Ord. 2016-04, passed 4-19-2016; Ord. 2018-09, passed 4-17-2018; Ord. 2019-02, passed 3-19-2019; Ord. 2020-03, passed 5-19-2020; Ord. 2021-01, passed 3-16-2021)

§ 33.21 RAINY DAY FUND.

(A) *Creation*. There is hereby established a Rainy Day Fund to receive transfers of unused and unencumbered moneys, and to receive funds from other sources specified within this section, to be used for the purposes specified within this section.
(2004 Code, § 2-601)

(B) *Purposes*. The funds on deposit in the Rainy Day Fund, in the Town Council's discretion, may be used for all purposes permitted by applicable state statutes including, without limitation, to pay or purchase the following: salaries and wages; costs of services, supplies, equipment; capital improvements; repairs; promotional expenses for the town; awards and gifts; plaques, medals, citations, certificates,

and other commemorative items in recognition or appreciation of town employees, elected and appointed officials and volunteers; costs of special events in support of the community; town employees, elected and appointed officials, and volunteers, including, by way of example, but not limited to, holiday and ceremonial gatherings, meals, banquets and receptions.
(2004 Code, § 2-602)

(C) *Sources of funding*. The source of the funds of the Rainy Day Fund may be any one or more of the following:

(1) A transfer of unused and unencumbered funds of dormant fund balances pursuant to I.C. 36-1-8-5;

(2) A transfer to the Rainy Day Fund from a budgeted appropriation of any fund of the town, except for any fund dedicated to the payment of a capital lease or debt service;

(3) A transfer to the Rainy Day Fund from a duly approved additional appropriation of any fund of the town, except for any fund dedicated to the payment of a capital lease or debt service;

(4) A transfer to the Rainy Day Fund of funds received from the county's adjusted gross income tax (CAGIT), pursuant to I.C. 6-3.5-1.1-21.1, or the county's option income tax (COIT);

(5) Earnings resulting from the investment of town funds pursuant to I.C. 5-13; and

(6) Funds gifted to the town and specified by the donor to be credited to the Rainy Day Fund or for the purposes of the Rainy Day Fund, or gifted funds unrestricted by the donor and then specified by the town's fiscal body to be credited to the Rainy Day Fund.
(2004 Code, § 2-603)

(D) *Transfers*.

(1) During the period January 1 through February 28 of each year, the Town Council shall determine the amount, if any, of funds to be transferred to the Rainy Day Fund and take action to transfer such funds.

(2) In any fiscal year, the town may transfer to the Rainy Day Fund not more than 10% of the town's annual budget for that fiscal year, as adopted under I.C. 6-1.1-17.
(2004 Code, § 2-604)

(E) *Appropriations*. The Town Council may authorize the expenditure of funds from the Rainy Day Fund by appropriations made in the same manner as other funds are appropriated that receive tax

moneys, upon making a finding that the proposed use of the rainy day funds is consistent with the intent of the Rainy Day Fund.
(2004 Code, § 2-605)
(Ord. 2015-14, passed 12-1-2015)
Editor's note:
I.C. 6-3.5-1.1-21.1 was repealed by P.L.243-2015, sec. 1

§ 33.22 CUMULATIVE CAPITAL DEVELOPMENT FUND.

(A) The town's Cumulative Capital Development Fund and maximum tax rate of $0.05 per $100 of assessed valuation is hereby reestablished for the town.

(B) The Cumulative Capital Development Fund shall be funded, each year, by levying a tax, in compliance with I.C. 6-1.1-41, on the taxable property in the town at the maximum property tax rate of $0.05 per $100 of assessed valuation, as authorized by and pursuant to I.C. 36-9-15.5-6(b), beginning with taxes assessed in 2023, payable in 2024.
(Ord. —, passed 6-18-2013; Ord. 2022-02, passed 4-6-2022; Ord. 2023-03, passed 3-1-2023)

§ 33.23 CASH CHANGE FUND.

(A) *Fund authorized and permitted.*

(1) Any town officer or employee having a duty to collect cash revenues, with the approval and consent of the Town's Clerk Treasurer, is hereby authorized and instructed to establish a Cash Change Fund.

(2) To establish a Cash Change Fund a town officer or employee, having a duty to collect cash revenues shall convert, to cash, a warrant drawn against a fund or funds designated and in amounts approved by the Town Council.

(3) The officer or employee shall then use that cash to make change when collecting cash and shall account for it in the same manner as is required for other funds of the town.

(4) If a Cash Change Fund is to be used for general town business it shall be funded from the Town's General Fund. If a Cash Change Fund is to be used for utility business it shall be funded from the operating fund of the applicable utility.

(5) Each Cash Change Fund shall be maintained and accounted for by the officer or employee in whose favor it is established, who shall be held individually responsible for the custody and safekeeping of the cash.

(6) All cash in a Cash Change Fund, when that fund is no longer needed or upon termination of the officer's or employee's tenure or employment with the town, shall be returned to the fund from which it was originally drawn.

(B) *Authorized Change Fund amounts*.

Name of Account	*Amount*	*Fund Type*	*Custodian*	*Usage*
Town Utility Office	$200	Cash Change	Utilities Clerk	Year round
Town Police Department	$50	Cash Change	Administrative Assistant	Year round

(Ord. 2018-03, passed 2-6-2018)

INTERNAL CONTROLS

§ 33.35 INTERNAL CONTROL STANDARDS.

The internal control standards developed by the state's Board of Accounts and published as the *Uniform Internal Control Standards for Indiana Political Subdivisions* are hereby adopted as the minimum level of internal control standards for the town, effective as of 6-30-2016.
(Ord. 2016-08, passed 6-21-2016)

§ 33.36 MATERIAL LOSSES; MONITORING AND REPORTING.

(A) *Definitions*. For the purpose of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

IRREGULAR VARIANCE. A reduction in a cash or fund balance or actual cash on hand that cannot be accounted for or explained in the normal course of business.

MATERIAL.

(a) A variance, loss or shortage of cash exceeding $100;

(b) Two or more variances, losses or shortages of cash, from the same fund or account, or related to the same person or department, occurring within a 60-day period, and exceeding, in the aggregate, $100;

(c) A loss of town property valued in excess of $100; and/or

(d) The theft or suspected theft, by town personnel, of cash or any other town property, irrespective of the value or amount.

PUBLIC OFFICER. As it is defined in I.C. 5-13-4-21, as any person elected or appointed to any office of the state or any political subdivision and includes an officer of all boards, commissions, departments, institutions and other bodies established by law to function as a part of the government of the state or political subdivision that are supported wholly or partly by appropriations of money made from the treasury of the state or political subdivision or that are supported wholly or partly by taxes or fees.

THEFT. The same as it is defined under I.C. 35-43-4-2.

TOWN PERSONNEL. All elected and appointed officials and all employees of the town.

(B) *Duty to report*.

(1) The town, in addition to all other reporting requirements that it or town personnel may have pursuant to relevant provisions of I.C. 5-11-1-27, or otherwise, shall immediately report to the state's Board of Accounts all irregular variances, losses or shortages, deemed to be material, as defined herein, and all incidents of theft.

(2) Additionally, I.C. 5-11-1-27(I) requires public officers who have actual knowledge of or reasonable cause to believe that there has been a misappropriation of public funds or assets of the public office, including: information obtained as a result of a police report; an internal audit finding; or another source indicating that a misappropriation has occurred; to immediately send written notice of the misappropriation to the state's Board of Accounts and the prosecuting attorney serving in the area governed by the political subdivision.

(C) *Applicability and responsibility*.

(1) The Town Council and department heads shall implement and oversee the policies and procedures as set forth in this section.

(2) This section and its separate rules, policies and duties, as imposed, shall apply to and be enforced by and against all town personnel in strict compliance with its terms.
(Ord. 2016-09, passed 6-21-2016)

CHAPTER 34: GENERAL POLICIES

Section

Small Purchases

34.01 Small purchase policies

Capital Improvement Plan

34.10 Adopted

SMALL PURCHASES

§ 34.01 SMALL PURCHASE POLICIES.

(A) *Definitions*. For the purpose of this subchapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

PURCHASING AGENT. The Clerk Treasurer, the Town Marshal, the Fire Chief, the Utility Superintendent, the Public Works Superintendent, and other town employees who may be designated by the Town Council, from time to time, in writing.

SMALL PURCHASE. A purchase of supplies and/or services in an amount less than $50,000.

SUPPLIES. Any property, including equipment, goods, and materials.

(B) *Purchases*. For all small purchases of supplies:

(1) (a) A purchasing agent shall solicit and compare prices from as many responsible suppliers as is practical. ***RESPONSIBLE SUPPLIER*** shall mean a supplier who has the apparent ability to timely and responsibly deliver the described supplies and/or services and who submits a bid or quote conforming in all material respects to the requisite description or specifications. In the event there are three or more available suppliers who are believed to be responsible, a purchasing agent shall solicit and attempt to secure no less than three proposals. A purchasing agent shall purchase from the responsible supplier who submits the lowest responsive bid unless there is a compelling reason to purchase from another, taking into consideration any applicable preferences, past experience, timeliness of delivery, reputation and standing in the industry or profession.

(b) Comparison pricing can be obtained via telephone, letter, email, fax, or website.

(2) (a) For purchases of supplies, the following purchasing preferences may be applied to responsible providers who offer a responsive quote:

1. Under I.C. 5-22-15-16, a price preference of 10% is available to suppliers offering supplies that contain recycled materials or post-consumer materials.

2. For purchases resulting in a contract, a price preference of 5% is available to suppliers that qualify as a "local Indiana business", as defined in I.C. 5-22-15-20.9.

3. A price preference of 15% is available to suppliers that qualify as an "Indiana small business", pursuant to I.C. 5-22-15-23.

(b) In assessing whether a bid or quote is responsive, the purchasing agent and/or purchasing agency may evaluate whether the supplies and delivery schedule offered conform in all material respects to the specifications and whether the supplier has complied with all applicable statutes, ordinances, resolutions, or rules pertaining to the award of a public contract.

(c) A supplier who wants to claim a preference provided by this policy must indicate in the quote which preference is claimed and the supplier must certify that it qualifies for the stated preference. In order to be considered for the Indiana small business preference, suppliers must provide the purchasing agent with information regarding the number of employees employed by the supplier and the average sales and receipts for the prior year.

(d) The purchasing agent will use the "U.S. Small Business Administration Table of Small Business Size Standards…" in assessing whether a particular supplier qualifies as a small business.

(e) Suppliers are only eligible to claim one type of preference. The purchasing agent shall follow the procedures outlined in I.C. 5-22-15-10 in assessing purchasing preferences.

(3) As required by I.C. 5-22-15-21, supplies manufactured in the United States shall be specified and purchased by the town unless the purchasing agent determines that any of the following apply:

(a) The supplies are not manufactured in the United States in reasonably available quantities.

(b) The price of the supplies manufactured in the United States exceeds by an unreasonable amount the price of available and comparable supplies manufactured outside the United States. For purposes of this section, ***UNREASONABLE AMOUNT*** shall mean 15%. Accordingly, if the price of supplies manufactured in the United States exceeds, by 15% or more, the price of available and comparable supplies manufactured outside the United States, the difference in price shall be deemed to be unreasonable and the purchasing agent may specify and/or purchase the supplies manufactured outside the United States.

(c) The quality of the supplies is substantially less than the quality of comparably priced available supplies manufactured outside the United States.

(d) The purchase of supplies manufactured in the United States is not in the public interest.

(4) (a) Purchases will not be artificially divided so as to constitute a "small purchase."

(b) Nothing in this policy shall be interpreted as precluding the purchasing agent from making a special purchase under I.C. 5-22-10.

(C) *Purchasing agents's separate authority*.

(1) Except as otherwise provided herein, for all purchases up to $5,000, a purchasing agent, after complying with all applicable policies, may commit to make the purchase. For all purchases in excess of $5,000, a purchasing agent shall comply with these policies, but shall have no authority to accept a quote or proposal or otherwise commit the town to the purchase. Formal action by the Council is required for all purchases over $5,000.

(2) The Utility Superintendent or the Public Works Superintendent, after complying with all applicable policies, and with the approval of their Council representative or the Town Council President, may commit to make purchases of up to $7,500. Except as set forth herein, with regard to emergency purchases, formal action by the Council is required for all purchases of supplies over $7,500.

(D) *Emergency purchases*. The Utility Superintendent or the Public Works Superintendent, in the event of an emergency, defined as an event or condition that interrupts the provision of essential services or poses an immediate threat to public health or safety, after complying with all applicable policies, and with the approval of their Council representative or the Town Council President, may commit to make purchases of up to $25,000. All Town Council member and the town's Clerk Treasurer shall be notified, as soon as is practicable, of all emergency purchases.

(E) *Documentation.* All purchases must be documented by a purchase order, invoice, or receipt in a form and manner acceptable to the town's Clerk Treasurer.
(Ord. 2018-02, passed 2-6-2018; Ord. 2022-05, passed 5-4-2022)

CAPITAL IMPROVEMENT PLAN

§ 34.10 ADOPTED.

The Capital Improvement Plan of the town, as attached to Ord. 2023-05, is hereby adopted by reference and is in full force and effect as if fully laid out herein.
(Ord. 2023-05, passed 6-7-2023)

TITLE V: PUBLIC WORKS

Chapter

50. SOLID WASTE

51. SEWAGE WORKS

CHAPTER 50: SOLID WASTE

Section

50.01 Schedule of rates and charges
50.02 Owners, users subject to rules and regulations

§ 50.01 SCHEDULE OF RATES AND CHARGES.

(A) For the purpose of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

DWELLING. A residential living unit located within the annexed boundaries of the town.

YEAR. A calendar year beginning on January 1, through the following December 31.

(B) For the period beginning on January 1, 2024 through December 31, 2027, Best Way Disposal, pursuant to its contract with the town, shall have the exclusive right to collect from dwellings solid waste.

(C) Effective as of January 1, 2024, the following rates and charges for the collection, transportation and disposal of solid waste, to be provided by the town, through its contract with Best Way Disposal, are hereby approved and adopted.

Description	***Fees for Year 2024***
Collection charges	$15.29/dwelling/month
Town's administrative charges	$0.50/dwelling/month
Total	$15.79/dwelling/month
	Fees for Year 2025
Collection charges	$15.71/dwelling/month
Town's administrative charges	$0.50/dwelling/month
Total	$16.21/dwelling/month

Description	*Fees for Year 2026*
Collection charges	$16.14/dwelling/month
Town's administrative charges	$0.50/dwelling/month
Total	$16.64/dwelling/month
	Fees for Year 2027
Collection charges	$16.58/dwelling/month
Town's administrative charges	$0.50/dwelling/month
Total	$17.08/dwelling/month

(D) Beginning on and after January 1, 2024, the rates and charges, as approved and adopted herein, shall be payable, each month, by the occupants and owners of each dwelling.
(2004 Code, § 5-801) (Ord. 2015-11, passed 11-17-2015; Ord. 2019-13, passed 11-19-2019; Ord. 2023-14, passed 12-6-2023)

§ 50.02 OWNERS, USERS SUBJECT TO RULES AND REGULATIONS.

The property owners and users shall be subject to the rules and specifications provided in the contract between the town and the provider of the recycling and solid waste management services, as may be amended from time to time.
(2004 Code, § 5-802)

CHAPTER 51: SEWAGE WORKS

Section

Sewage Works Generally

51.01 Definitions
51.02 Use of public sewers required
51.03 Private sewage disposal
51.04 Building sewers and connections
51.05 Authority of Inspectors

Rates and Billings

51.20 Rates and charges
51.21 Delinquent users; notice and hearing
51.22 Delinquent users; water shut-off
51.23 Sprinkling, sod and pool credits
51.24 Insufficient funds
51.25 Bill adjustments

51.99 Penalty

SEWAGE WORKS GENERALLY

§ 51.01 DEFINITIONS.

For the purpose of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

BIOCHEMICAL OXYGEN DEMAND ("BOD"). The quantity of oxygen expressed in mg/l utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20°C.
(2004 Code, § 5-101)

BUILDING DRAIN. The part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of a building and conveys it to the building sewer beginning three feet outside the building wall.
(2004 Code, § 5-102)

BUILDING DRAIN, SANITARY. A building drain which conveys sanitary or industrial sewage only.
(2004 Code, § 5-103)

BUILDING DRAIN, STORM. A building drain which conveys storm water or other clear water drainage, but no wastewater.
(2004 Code, § 5-104)

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal. (Also called ***HOUSE CONNECTION***.)
(2004 Code, § 5-105)

BUILDING SEWER, SANITARY. A building sewer which conveys sanitary or industrial sewage only.
(2004 Code, § 5-106)

BUILDING SEWER, STORM. A building sewer which conveys storm water or other clear water drainage, but no sanitary or industrial sewage.
(2004 Code, § 5-107)

COMPATIBLE POLLUTANT.

(1) Biochemical oxygen demand, suspended solids, ammonia nitrogen, pH and fecal coliform bacteria, plus additional pollutants identified in the ("NPDES") National Pollutant Discharge Elimination System permit if the treatment works was designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree. The term "substantial degree" is not subject to precise definition, but generally contemplates removal in the order of 80% or greater. Minor incidental removals in the order of 10% to 30% are not considered substantial.

(2) Examples of the additional pollutants which may be considered ***COMPATIBLE*** include:

(a) Chemical oxygen demand;

(b) Total organic carbon;

(c) Phosphorus and phosphorus compounds;

(d) Nitrogen and nitrogen compounds; and

(e) Fats, oils and greases of animal or vegetable origin (except as prohibited where these materials would interfere with the operation of the treatment works).
(2004 Code, § 5-108)

EASEMENT. An acquired legal right for the specific use of land owned by others.
(2004 Code, § 5-109)

FECAL COLIFORM. Any of the number of organisms common to the intestinal tract of humans and animals, whose presence in sanitary sewage is an indicator of pollution.
(2004 Code, § 5-110)

FLOATABLE OIL. Oil, fat or grease in a physical state, such that will separate by gravity from wastewater by treatment in a pretreatment facility approved by the town.
(2004 Code, § 5-111)

GARBAGE. Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.
(2004 Code, § 5-112)

INCOMPATIBLE POLLUTANT. Any pollutant that is not defined as a compatible pollutant, including non-biodegradable dissolved solids.
(2004 Code, § 5-113)

INDUSTRIAL WASTES. The liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.
(2004 Code, § 5-114)

INFILTRATION. The water entering a sewer system, including building drains and sewers, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. (***INFILTRATION*** does not include and is distinguished from inflow.)
(2004 Code, § 5-115)

INFILTRATION/INFLOW. The total quantity of water from both infiltration and inflow without distinguishing the source.
(2004 Code, § 5-116)

INFLOW. The waste discharge into a sewer system, including building drains and sewers, from such sources as, but not limited to, roof leaders, cellar, yard and area drains, foundation drains, unpolluted cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers, and combined sewers, catch basins, storm waters, surface run-off, street wash waters or drainage. (***INFLOW*** does not include, and is distinguished from, infiltration.)
(2004 Code, § 5-117)

INSPECTOR. The person or persons duly authorized by the town to inspect and approve the installation of building sewers and their connection to the public sewer system.
(2004 Code, § 5-118)

MAJOR CONTRIBUTING INDUSTRY. An industry that:

(1) Has a flow of 50,000 gallons or more per average work day;

(2) Has a flow greater than 5% of the flow carried by municipal system receiving the waste;

(3) Has in its waste a toxic pollutant in toxic amounts as defined in standards issued under § 307(a) of Pub. Law No. 92-500 (33 U.S.C. § 1317(a)); or

(4) Has a significant impact, either singly or in combination with other contributing industries, on a treatment works or on the quality of effluent from that treatment works.
(2004 Code, § 5-119)

MAY. The act referred to is permissive.
(2004 Code, § 5-133)

NPDES PERMIT. A permit issued under the National Pollutant Discharge Elimination System for discharge of wastewaters to the navigable waters of the United States pursuant to § 402 of Pub. Law No. 92-500 (33 U.S.C. § 1342).
(2004 Code, § 5-120)

NATURAL OUTLET. Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or ground water.
(2004 Code, § 5-121)

NH3N. The same as ***AMMONIA NITROGEN*** measured as ***NITROGEN***. The laboratory determinations shall be made in accordance with procedures set forth in *Standard Methods*, as defined above.
(2004 Code, § 5-145)

NORMAL DOMESTIC SEWAGE. The same meaning as defined in the Sewage Rate Ordinance.
(2004 Code, § 5-122)

pH. The reciprocal of the logarithm of the hydrogen ion concentration. The concentration is the weight of hydrogen ions in grams per liter of solution.
(2004 Code, § 5-123)

PERSON. Any individual, firm, company, association, society, corporation or group discharging any wastewater to the treatment works.
(2004 Code, § 5-124)

PRETREATMENT. The treatment of industrial sewage from privately owned industrial sources prior to introduction into a public treatment works.
(2004 Code, § 5-125)

PRIVATE SEWER. A sewer which is not owned by a public authority.
(2004 Code, § 5-126)

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
(2004 Code, § 5-127)

PUBLIC SEWER. Any sanitary and/or combined sewer which is owned and controlled by the public authority and which consists of the following increments.

(1) ***COLLECTOR SEWER.*** A sewer whose primary purpose is to collect wastewaters from individual point source discharges.

(2) ***FORCE MAIN.*** A pipe in which wastewater is carried under pressure.

(3) ***INTERCEPTOR SEWER.*** A sewer whose primary purpose is to transport wastewater from collection sewers to a treatment facility.

(4) ***PUMPING STATION.*** A station positioned in the public sewer system at which wastewater is pumped to a higher level.
(2004 Code, § 5-128)

SANITARY SEWER. A sewer which carried sanitary and industrial wastes, and to which storm, surface and ground water are not intentionally admitted.
(2004 Code, § 5-129)

SEWAGE. The combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions (including polluted cooling water). The three most common types of ***SEWAGE*** are as follows.

(1) ***COMBINED SEWAGE.*** Wastes including sanitary sewage, industrial sewage, storm water, infiltration and inflow carried to the wastewater treatment facilities by a combined sewer.

(2) ***INDUSTRIAL SEWAGE.*** A combination of liquid and water-carried wastes, discharged from any industrial establishment and resulting from any trade or process carried on in that establishment (this shall include the wastes from pretreatment facilities and polluted cooling water).

(3) ***SANITARY SEWAGE.*** The combination of liquid and water-carried wastes discharged from toilet and other sanitary plumbing facilities.
(2004 Code, § 5-130)

SEWAGE WORKS. The structures, equipment and processes to collect, transport and treat domestic and industrial wastes and dispose of the effluent and accumulated residual solids.
(2004 Code, § 5-131)

SEWER. A pipe or conduit for carrying sewage.
(2004 Code, § 5-132)

SHALL. The act referred to is mandatory.
(2004 Code, § 5-133)

SLUG. Any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than ten minutes more than three times the average 24-hour concentration of flows during normal operation and shall adversely affect the collection system.
(2004 Code, § 5-134)

STANDARD METHODS. The laboratory procedures set forth in the latest edition, at the time of analysis, of *Standard Methods for the Examination of Water and Wastewater*, prepared and published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.
(2004 Code, § 5-135)

STORM SEWER. A sewer for conveying water, ground water or unpolluted water from any source and to which sanitary and/or industrial wastes are not intentionally admitted.
(2004 Code, § 5-136)

SUPERINTENDENT. The Superintendent of the Sewage Works of the town or his or her authorized agent or representative.
(2004 Code, § 5-137)

SUSPENDED SOLIDS. Solids that either float on the surface of, or are in suspension in, water, sewage or other liquids and which are removable by laboratory filtering under standard laboratory procedure.
(2004 Code, § 5-138)

TOTAL SOLIDS. The sum of suspended and dissolved solids.
(2004 Code, § 5-139)

TOWN. The Town of New Whiteland, Indiana.
(2004 Code, § 5-140)

TOXIC AMOUNT. Concentration of any pollutant or combination of pollutants, which upon exposure to or assimilation into any organism will cause adverse effects, such as cancer, genetic mutations and physiological manifestations, as defined in standards issued pursuant to § 307(a) of Pub. Law No. 92-500 (33 U.S.C. § 1317(a)).
(2004 Code, § 5-141)

UNPOLLUTED WATER. Water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.
(2004 Code, § 5-142)

VOLATILE ORGANIC MATTER. The material in the sewage solids transformed to gases or vapors when heated at 55°C for 15 to 20 minutes.
(2004 Code, § 5-143)

WATERCOURSE. A natural or artificial channel for the passage of water either continuously or intermittently.
(2004 Code, § 5-144)

§ 51.02 USE OF PUBLIC SEWERS REQUIRED.

(A) (1) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the town or in any area under the jurisdiction of the town any human or animal excrement, garbage or other objectionable waste.
(2004 Code, § 5-201)

(2) No person shall discharge or cause to be discharged to any sanitary sewer, either directly or indirectly, storm waters, surface water, ground water, roof run-off, subsurface drainage, cooling water, unpolluted water or unpolluted industrial process water. The town shall require the removal of unpolluted waters from any wastewater collection or treatment facility if such removal is cost-effective and is in the best interest of all users of those facilities.
(2004 Code, § 5-202)

(3) Storm water, surface water, ground water, roof run-off, subsurface drainage, cooling water, unpolluted water or unpolluted industrial process water may be admitted to storm sewers which have adequate capacity for their accommodation. No person shall use such sewers, however, without the specific permission of the town. No new connection shall be made to any sanitary, combined or storm sewer unless there is capacity available in all downstream sewers, lift stations, force mains and the sewage treatment plant including capacity for BOD, suspended solids and ammonia nitrogen.
(2004 Code, § 5-203)

(4) No person shall place, deposit or permit to be deposited in any unsanitary manner on public or private property within the jurisdiction of the town any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter and the NPDES permit.
(2004 Code, § 5-204)

(5) No person shall discharge or cause to be discharged to any natural outlet any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter and the NPDES permit.
(2004 Code, § 5-205)

(6) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy vault, septic tank cesspool or other facility intended or used for the disposal of sewage.
(2004 Code, § 5-206)

(7) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the town and abutting on any street, alley or right-of-way in which there is now located a public sanitary sewer of the town is hereby required at his or her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within 60 days after date of official notice to do so; provided that, said public sewer is within 300 feet of the property line.
(2004 Code, § 5-207)

(B) (1) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(a) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;

(b) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant;

(c) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works or interfere with any treatment process;

(d) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, paper, dishes, cups, milk containers and the like, either whole or ground by garbage grinders;

(e) Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies of jurisdiction of such discharge to the receiving waters;

(f) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations;

(g) Any waters or wastes having pH in excess of 9.5;

(h) Materials which exert or cause:

1. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);

2. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);

3. Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works; and

4. Unusual volume of low or concentration of wastes constituting “slugs”, as defined herein.

(i) Waters or wastes containing substances and anything identified or prohibited in § 307(a) of the Clean Water Act, 33 U.S.C. § 1317(a), which are not amendable to treatment or reduction by the sewage treatment processes employed, or are amendable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies, having jurisdiction over discharge to the receiving waters.
(2004 Code, § 5-501)

(2) (a) If any waters or wastes are discharged, or are proposed to be discharged, to the public sewers, which waters contain the substances or possess the characteristics enumerated in division (B)(5) below and which, in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Require new industries or industries with significant increases in discharges to submit information on wastewater characteristic and obtain prior approval for discharges;

2. Reject the wastes in whole or in part for any reason deemed appropriate by the town;

3. Require pretreatment of such wastes to within the limits of normal sewage as defined;

4. Require control or flow equalization of such wastes so as to avoid any "slug" loads or excessive loads that may be harmful to the treatment works; or

5. Require payment of a surcharge on any excessive flows or loadings discharged to the treatment works to cover the additional costs of having capacity for and treating such wastes.

(b) If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plant and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances and laws.
(2004 Code, § 5-502)

(3) Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.
(2004 Code, § 5-503)

(4) When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his or her expense and shall be maintained by him or her so as to be safe and accessible at all times. Agents of the town, the state's Department of Environmental Management and the U.S. Environmental Protection Agency shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing.
(2004 Code, § 5-504)

(5) All measurements, test and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole, except for applications for NPDES permits and report thereof which shall be conducted in accordance with rules and regulations adopted by the USEPA published in the Federal Register October 16, 1973 (38 C.F.R. part 20758), and any subsequent revisions subject to approval by the town. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analysis involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD

suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pHs are determined from periodic grab samples.)
(2004 Code, § 5-505)

(6) No statement contained in this division (B) shall be construed as preventing any special agreement or arrangement between the town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the town for treatment, subject to payment therefor, by the industrial concern, at such rates as are compatible with § 51.20 of this chapter.
(2004 Code, § 5-506)
Penalty, see § 51.99

§ 51.03 PRIVATE SEWAGE DISPOSAL.

(A) Where a public sanitary is not available under the provisions of § 51.02(A)(7) of this chapter, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.
(2004 Code, § 5-301)

(B) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Superintendent. A connection, permit and inspection fee of $50 shall be paid to the town at the time the application is filed.
(2004 Code, § 5-302)

(C) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He or she shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by Superintendent.
(2004 Code, § 5-303)

(D) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the state's Board of Health. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 20,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
(2004 Code, § 5-304)

(E) At such time as a public sewer becomes available to a property served by a private sewage disposal system as provided in this section, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.
(2004 Code, § 5-305)

(F) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the town.
(2004 Code, § 5-306)

(G) When a public sewer becomes available, the building sewer shall be connected to said sewer within 60 days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.
(2004 Code, § 5-307)

(H) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.
(2004 Code, § 5-308)
(Ord. 2003, passed 4-5-2005) Penalty, see § 51.99

§ 51.04 BUILDING SEWERS AND CONNECTIONS.

(A) No unauthorized person shall uncover, make any connections with or opening into, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the town.
(2004 Code, § 5-401)

(B) (1) There shall be three classes of building sewer permits based on the size of the water meter installed or to be installed for the premises, as follows:

(a) Five-eighths-inch to three-fourths-inch meter;

(b) One-inch meter; and

(c) All meter sizes greater than one inch.

(2) In all cases, the owner or his or her agent shall make application for connection to the public sewer system on a special form furnished by the town. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Superintendent.

(3) A connection, permit and inspection fee shall be paid to the town at the time the application is filed based on the size of the water meter installed or to be installed for the premises, as set out in § 51.20 of this chapter.

(4) For residential properties not having water meter service, the fees applicable to said properties shall be those fees as set forth for five-eighths-inch to three-fourths-inch meters. For non-residential properties not having water meter service, the fees applicable to said properties shall be

determined in such manner and with such method as the town may deem practicable and equitable in light of the conditions and attending circumstances of the case, particularly as relates to the anticipated volume and strength of inflow.

(5) Some new connections may also be subject to 15-year law fees authorized pursuant to I.C. 36-9-22-1 et seq., which allows and authorizes municipalities to contract with owners of real property for the construction of sewage works within the municipality or within four miles outside its corporate boundaries in order to provide service for the area in which the real property of those owners is located and to provide, for a period not to exceed 15 years, for the payment to those owners who participate in or contribute toward the costs of the construction of those sewage works, and their assigns, by any owner of real property who did not contribute to the original costs of those sewage works and subsequently taps into, uses or deposits sewage in the sewage works or in lateral sewers connected thereto (subsequent user) of a pro rata share of the costs of construction of those sewage works.

(6) Before commencement of work to replace an existing building sewer, sewer lateral, by which a home or other structure is connected to the town's public sanitary sewer, the owner of the property shall apply for a permit for the new lateral and shall pay a connection, permit and inspection fee in the amount of $25 at the time the application is filed. If it is discovered that a new sewer lateral has been installed without a permit being issued and an inspection being conducted, the owner of the real estate on which the new sewer lateral exists shall be required to pay the initial permit and inspection fee of $25, shall be required to uncover the work to expose the new sewer lateral for inspection and pay an additional inspection fee of $25 at the time that inspection is performed.
(2004 Code, § 5-402)

(C) All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
(2004 Code, § 5-403)

(D) A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
(2004 Code, § 5-404)

(E) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Inspector, to meet all requirements of this chapter.
(2004 Code, § 5-405)

(F) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the

town. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.
(2004 Code, § 5-406)

(G) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
(2004 Code, § 5-407)

(H) No person shall make connection of roof downspouts, exterior foundation drainings, areaway drainings or other sources of surface run-off or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
(2004 Code, § 5-408)

(I) (1) The connection of the building sewer into the public sewer shall conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the town or the procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9.

(2) All such connections shall be made gas-tight and water-tight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.
(2004 Code, § 5-409)

(J) (1) The applicant for the building sewer permit shall notify the Inspector when the building sewer is ready for inspection and connection to the public sewer.

(2) The connection shall be made under the supervision of the Inspector or his or her representative.
(2004 Code, § 5-410)

(K) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the said town.
(2004 Code, § 5-411)
(Ord. 2003, passed 4-5-2005) Penalty, see § 51.99

§ 51.05 AUTHORITY OF INSPECTORS.

The Superintendent and other duly authorized employees of the town bearing property credentials and identification shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this chapter.
(2004 Code, § 5-601)

RATES AND BILLINGS

§ 51.20 RATES AND CHARGES.

(A) The following rates and charges shall become effective and billed in January each year and will be based on water consumption during the preceding month of December.

(1) Per 100 cubic feet per month treatment charge: $5.93;

(2) Base charge per user, per month:

Size of Meter	*Base Charge*
5/8-inch meter	$7.17
3/4-inch meter	$7.17
1-inch meter	$16.42
1-1/4-inch meter	$25.65
1-1/2-inch meter	$36.13
2-inch meter	$62.62
3-inch meter	$142.67
4-inch meter	$247.37
6-inch meter	$561.48
8-inch meter	$1,011.09

(3) Base charge per user, per month:

Unmetered non-industrial	$58.36
Unmetered industrial	All industrial users are required to install a water meter

(4) Non-recurring rates and charges:

(a) Availability fee/sanitary - for each new connection (per EDU): $1,100. (EDU, for purposes of this division (A) shall mean 310 gpd/unit for single-family homes. For other uses, EDU shall be derived from 327 Ind. Admin. Code 3-6-11 for the use which is most similar to the use proposed. The FCF (Flow Calculation Factor) applicable to the proposed use shall be divided by 310 and then that difference multiplied by the amount of the connection fee;

(b) Availability fee/storm water - for each new connection (per EDU): $300;

(c) Sewer permit; permit and connection fee for sewer connection: $25;

(d) New sanitary sewer connection inspection fee (per inspection): $75;

(e) Sewer deposit; all new accounts: $75;

(f) Delinquent account deposit: $75;

(g) Late payment penalty: 10% of balance;

(h) Disconnection/reconnection charge: $25. In addition to the $25 disconnection fee, the town will charge and collect an additional $65 on behalf of Indiana American Water as its fee for disconnecting water service because of nonpayment of sewer fees;

(i) Bad check charge: $20;

(j) Additional charge for declined ACH transfer: $15;

(k) Hook-up and connection fees:

5/8- and 3/4-inch connection	$1,850
1-inch connection	$4,650
All meter sizes greater than 1 inch	$18,500

(B) The Sewer Utility shall charge the following rates and charges for storm water management. The rates and charges shall take effect beginning with the first full billing cycle after December 7, 2022.

For all properties, that rate for one ERU shall be	$8.00
Residential fee: Monthly, based on 1 ERU	$8.00
Non-residential fee: Monthly, based on number of ERUs assigned to each property x $8.00	

(C) *Payment of rates and charges by town.* All prior and existing policies of the town, no matter when or how adopted, pursuant to which the town was to pay its Sewage Works rates and charges, including storm water rates and charges, are repealed and rescinded, retroactively, as of the date any of

those policies may have been adopted. All rates and charges that the town would have paid to its Sewage Work, pursuant to any adopted policy of the Council, are hereby waived, forgiven, and forever written off, the same as if those policies had never been included in any prior ordinance.
(Ord. 2177, passed 12-2-2013; Ord. 2018-20, passed 11-20-2018; Ord. 2019-08, passed 7-16-2019; Ord. 2020-11, passed 6-16-2020; Ord. 2020-14, passed 9-15-2020; Ord. 2022-14, passed 12-7-2022)

§ 51.21 DELINQUENT USERS; NOTICE AND HEARING.

(A) Customers of the town's sewage works whose sewer rates and charges, or any part thereof, remain unpaid for 30 days or longer shall be considered "delinquent sewage works customers", and be subject to discontinuation of their water service.

(B) Prior to discontinuation of a delinquent sewage works customer's water service for non-payment of sewer rates and charges, that delinquent customer shall be given notice, appearing on that delinquent customer's sewer bill, in the following form:

> You may contest the disconnection of your water service for non-payment of your sewer bill by appearing, in person, by attorney, or other representative, at a hearing scheduled at 6:00 p.m. on the 21st day of this month at the Town Hall, 401 Mooreland, New Whiteland, IN. If the 21st day of this month falls on a weekend or holiday, the hearing will be held at 6:00 p.m. on the first business day following the 21st day of this month.

(C) The Town Council will hold a hearing at 6:00 p.m. on the twenty-first day of each month at the Town Hall, 401 Mooreland, New Whiteland, IN, at which customers of the town's sewage works may, before the Town Council or a duly appointed and authorized hearing officer of the Town Council, contest the disconnection of water service for non-payment of that customer's sewer bill. If the twenty-first day of any month falls on a weekend or holiday, the hearing for that month will be held at 6:00 p.m. on the first business day following the twenty-first day of that month.

(D) The Town Council, or its duly appointed and authorized hearing officer, will consider challenges by delinquent sewage work's customers, of the disconnection of their water service for non-payment of sewer rates and charges, by applying criteria adopted by the Town Council, from time to time, to the unique facts and circumstances presented by each customer and shall be authorized to cancel or postpone orders to disconnect water service.
(Res. 2013-06, passed 8-20-2013)

§ 51.22 DELINQUENT USERS; WATER SHUT-OFF.

(A) Indiana American Water, as the water utility providing water to users of the town's sewage works, will discontinue water service to delinquent users of the town's sewage works until payment of all overdue user fees, together with any applicable penalties, are received by the town.

(B) If a fee established by the town and charged to users of the town's sewage works is not paid within one monthly billing cycle after it is due, the Town Council or its designee shall send notice to the delinquent user stating:

(1) The delinquent amount due, together with any penalty;

(2) Water service may be disconnected if the user continues not to pay the delinquency and any penalty; and

(3) The procedure for resolving disputed bills.

(C) If the user fails to pay the delinquent amount or otherwise resolve the charges as specified, the Town Council or its designee shall give written notice to Indiana American to discontinue water service to the premises designated in the notice until notified otherwise. The notice must identify the delinquent user in enough detail to enable Indiana American to identify the water service connection that is to be discontinued.

(D) Upon receipt of the notice, the Indiana American will disconnect water service to the user.

(E) Water service may not be shut off under this section if a local board of health has found and certified to the town that the termination of water service will endanger the health of the user and others in the town.

(F) Indiana American does not incur any liability for discontinuing water service in accordance with a notice from the town, except to the extent of its own negligence or improper conduct.

(G) If Indiana American does not discontinue service within 30 days after receiving notice from the town, it is liable for any user fees incurred 30 days after receipt of notice to discontinue water service and that are not collected from the user.

(H) A delinquent user of the town's sewage works may dispute a bill by submitting to the town's Clerk-Treasurer a written objection or in an informal meeting, during regular business hours, with the town's Clerk-Treasurer or designated representative who will be authorized and empowered to correct incorrect charges or at any regular meeting of the Town Council.

(I) Payment of a disputed bill and penalties by a user does not constitute a waiver of rights to subsequently claim and recover from the town sums improperly charged to that user.
(Res. 2154, passed 6-5-2012)

§ 51.23 SPRINKLING, SOD AND POOL CREDITS.

(A) More specifically, the "Sprinkling Credit," "Sod Credit," and "Pool Credit," as adopted and affirmed previously by the Council remain unchanged and are restated here as follows:

(B) Water used to irrigate or, "sprinkle" yards, or fill swimming pools is not discharged into the town's sewage works. Accordingly, the town will make available to customers of its sewage works, who sprinkle their yards or fill their own pools, with water purchased directly from their water utility, a credit against their sewer bills as follows:

(1) The current owner or occupant of real estate served by the town's sewage works may apply for a sprinkling credit prior to May 1 of the calendar year for which the credit is sought. If application for the sprinkling credit is not made prior to May 1, the credit will not apply until the following calendar year. Applications for subsequent years will not be required unless ownership or possession of the property changes.

(2) For those customers who timely apply for a sprinkling credit (eligible customers), the monthly water usage recorded for their property for the prior months of October through April will be averaged (the winter average). For eligible customers who have not owned or occupied their property beginning with the prior October 1, the winter average shall be deemed to be 6,000 gallons for the following year.

(3) Then, for the months of May through September (bills for which are printed and mailed in June through October), eligible customers will be billed for water usage equal to their winter average plus 2,000 gallons.

(4) New or existing sewage works customers may apply for a "sod credit" against their monthly sewer charge. The sod credit shall be for a maximum of 60 days, or two billing cycles. To be eligible for the sod credit, customers must apply in writing and represent to the town that they are installing sod, for a new home, or are replacing their entire existing yard with new sod. The customer will then be eligible for and receive a credit against that customer's sewer bill for water usage in excess of 9,000 gallons during that 60 period, or two billing cycles, unless that customer's normal usage during the same period, in the prior year, exceeded 9,000 gallons, in which event, no credit shall be given.

(5) Customers may apply, annually, for a one time per year “pool credit.” That application shall include the dimensions of the pool to be filled and the month in which the pool will be filled. The customer's average usage will be checked to verify that the pool was actually filled and the calculated amount of water was used. If confirmed a pool credit against that customer's sewer bill for the volume of water used to fill that customer's pool will be applied. If volume of water used to fill that customer's pool cannot be confirmed, the credit will be denied.
(Ord. 2018-20, passed 11-20-2018)

§ 51.24 INSUFFICIENT FUNDS.

Any customer of the Town's Sewage Works who submits or initiates a payment in the form of a check or ACH transfer, for which there are not, in the drawn account, sufficient funds, shall be charged $20, in addition to all other late payment penalties and disconnection charges that may be imposed, and shall be ineligible, for a period of one year, to make payment to the Town's Sewage Works by way of a check or ACH. No less than one year after a failed payment, a customer may submit to the Council, in writing, a request to have reinstated their privilege to pay their Sewage Works bills by check and/or ACH. The Council may, but shall not be obligated to reinstate those payment privileges and may impose conditions of reinstatement.
(Res. 2018-04, passed 8-21-2018)

§ 51.25 BILL ADJUSTMENTS.

(A) *Excessive water usage/leak adjustment criteria.* Adjustments to sewer/wastewater bills, for excessive water usage, may be granted by the Superintendent, or his or her designee, upon a customer’s request if all of the following conditions are met:

(1) Excessive water volume results from a leak or malfunctioning appliance, fixture, or device, which has been repaired.

(2) The customer requesting the adjustment submits proof of repair, in a form satisfactory to the Superintendent.

(3) The request for adjustment is submitted within 180 days of the date of the bill which includes excessive usage.

(B) *Amount of adjustment*.

(1) If the Superintendent, or his or her designee, determines that the adjustment criteria are satisfied, and the excessive volume was not discharged into the town's sewage works, the water usage will be reduced to the average usage for the prior 12 billing cycles (or all prior billing cycles, whichever is less) and the bill adjusted accordingly.

(2) If the Superintendent, or his or her designee, determines that all of the adjustment criteria are satisfied, and the excessive volume was discharged into the town's sewage works, the water usage will be reduced by one half of the difference between the usage reported on the current bill and the average usage for the prior 12 billing cycles (or all prior billing cycles, whichever is less) and the bill adjusted accordingly.

(3) Any customer who disagrees with the Superintendent's determination related to a sewer bill adjustment may, within ten days, file with the New Whiteland Utility Superintendent, 540 Tracy Road, New Whiteland, IN 46184, a request for a review and determination by the Town Council. The Town Council, then at regular meeting, will consider that customer's request for adjustment applying the same adjustment criteria as set forth above.

(C) *One time annual hardship extension*. Each customer of the town's sewage works may, once each year, request an extension of up to 30 days to pay their most current sewer bill because of an inability to pay. The extension must be requested, in writing, before the bill for which it is requested becomes past due. The Superintendent or his or her designee may, but shall not be required to, grant the extension. Sewer bills which are delinquent are subject to a 10% penalty. (I.C. 36-9-23-32.) The granting of an extension to pay a sewer bill will not relieve the customer of those penalties which are imposed, by law, on delinquent bills.

(D) *Other remedies*. The sewer bill adjustment policies and procedures as set forth above are in addition to and in no way limit any customer's right to request that the Town Council adjust their sewer bill as permitted and pursuant to other adopted town policies.
(Res. 2021-05, passed 9-1-2021; Res. 2023-03, passed 10-4-2023)

§ 51.99 PENALTY.

(A) *Notice*. Any person found to be violating any provision of this chapter shall be served by the town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notices, permanently cease all violations.
(2004 Code, § 5-701)

(B) *Fines*. Any person who shall continue any violation beyond the time limit provided for in division (A) above shall be fined a sum not exceeding $10 for each violation. Each day in which any violation shall continue shall be deemed a separate offense.
(2004 Code, § 5-702)

(C) *Liability for damages*. Any person violating any of the provisions of this chapter shall be liable to the town for any expense, loss or damage occasioned the town by reason of such violation.
(2004 Code, § 5-703)

TITLE VII: TRAFFIC CODE

Chapter

70. TRAFFIC AND PARKING

71. RECREATIONAL VEHICLES

72. TRAFFIC SCHEDULES

73. PARKING SCHEDULES

CHAPTER 70: TRAFFIC AND PARKING

Section

70.01 Truck traffic
70.02 Parking prohibitions
70.03 Overnight parking

70.99 Penalty

§ 70.01 TRUCK TRAFFIC.

It shall be unlawful for any person to drive a motor vehicle bearing a license's weight in excess of 11,000 pounds on any street in the town, except Tracy Road, Sawmill Road or Whiteland Road; provided, however, that, such vehicles may drive on any street for the purpose of local deliveries or the rendering of services to residents of the town.
(2004 Code, § 7-201) Penalty, see § 70.99

§ 70.02 PARKING PROHIBITIONS.

(A) *Parking prohibited.* It shall be unlawful for any person to stop, stand or park any motor vehicle at any place where official signs prohibit such activity. It shall further be unlawful to park on or to block a sidewalk.
(2004 Code, § 7-301)

(B) *Erection of signs.* The Town Council may place signs prohibiting or restricting the stopping, standing or parking of vehicles on any street where, in its opinion as evidenced by resolution or order entered in its minutes, said stopping, standing or parking is dangerous to those using the streets or where stopping, standing or parking would unduly interfere with the free movement of traffic.
(2004 Code, § 7-302)

(C) *Handicapped parking.* It shall be unlawful for any vehicle to park in an area marked "Handicapped Parking" unless a designated handicapped sticker or plate is displayed.
(2004 Code, § 7-304)

(D) *Streets for vehicular traffic only.* All streets are for vehicular traffic only. No sports equipment, children's toys or construction materials may be in the street. Playing sports or other games in the street is unlawful.
(2004 Code, § 7-306)
Penalty, see § 70.99

§ 70.03 OVERNIGHT PARKING.

(A) Except for motor vehicles for which a special parking permit has been issued by the town, as provided herein, it shall be unlawful for any person to park a motor vehicle on any town street between the hours of 2:00 a.m. and 5:00 a.m., except vehicles being used in an emergency situation. It is the vehicle owner's responsibility to prove that an emergency existed at the time of the violation.

(B) (1) For the limited purpose of improving or repairing a driveway, the owner of the property on which the driveway is being improved or repaired, upon obtaining all requisite building permits and approvals from the town, may apply for and the town shall issue a special parking permit for up to four specified motor vehicles to remain parked on a town street in front of that property, between the hours of 2:00 a.m. and 5:00 a.m., for 14 consecutive days. The town shall charge and collect a permit fee for each special parking permit in the amount of $10.

(2) Only one special parking permit shall be issued with respect to a particular property during any 12-month period.

(C) The town may issue special parking permits for specified cars to be parked on a town street between the hours of 2:00 a.m. and 5:00 a.m., as it deems necessary, to accommodate improvements, maintenance or repairs to town property.
(Ord. 2085, passed 11-18-2008) Penalty, see § 70.99

§ 70.99 PENALTY.

(A) Any person violating any provision of this traffic code for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person violating any provision of § 70.01 of this chapter shall be fined $105, plus court costs per occurrence.
(2004 Code, § 7-202)

(C) Any person violating any provision of § 70.02 of this chapter shall be fined $25 for the first offense and $50 for each subsequent offense.
(2004 Code, § 7-305)
(Ord. 2063, passed 11-20-2007)

CHAPTER 71: RECREATIONAL VEHICLES

Section

Bicycles

71.01 Parents of users authorizing or permitting violations
71.02 Regulations generally
71.03 Seats
71.04 Attaching to motorized vehicles
71.05 Riding two abreast
71.06 Carrying articles
71.07 Light and brake requirements
71.08 Movement in traffic

Golf Carts; Off Road Vehicles

71.20 Operational prohibitions

71.99 Penalty

BICYCLES

§ 71.01 PARENTS OF USERS AUTHORIZING OR PERMITTING VIOLATIONS.

The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate this traffic code. These regulations applicable to bicycles shall apply whenever a bicycle is operated upon a highway or upon any path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.
(2004 Code, § 7-801) Penalty, see § 71.99

§ 71.02 REGULATIONS GENERALLY.

Every person riding a bicycle upon a roadway shall have all of the rights and all of the duties under the provisions of this traffic code applicable to the driver of a vehicle, except as to special regulations of this subchapter and except as to those provisions of this traffic code, which, by their nature, can have no application.
(2004 Code, § 7-802)

§ 71.03 SEATS.

A person propelling a bicycle shall not ride other than upon the permanent and regular seat attached thereto, nor carry any other person upon such bicycle otherwise than upon a firmly attached and regular seat thereon, nor shall any person ride upon a bicycle otherwise than as above stated. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.
(2004 Code, § 7-803) Penalty, see § 71.99

§ 71.04 ATTACHING TO MOTORIZED VEHICLES.

Any person upon any bicycle, coaster, roller skates or toy vehicle shall not attach the same or himself or herself to any vehicle upon a roadway.
(2004 Code, § 7-804) Penalty, see § 71.99

§ 71.05 RIDING TWO ABREAST.

Any persons riding bicycles upon a roadway shall not ride more than two abreast, except on paths or parts of roadways set aside for exclusive use of bicycles.
(2004 Code, § 7-805) Penalty, see § 71.99

§ 71.06 CARRYING ARTICLES.

No person riding a bicycle shall carry any package, bundle or article which prevents the rider from keeping both hands upon the handlebars.
(2004 Code, § 7-806) Penalty, see § 71.99

§ 71.07 LIGHT AND BRAKE REQUIREMENTS.

(A) Every bicycle operated on a public highway from one-half hour after sunset until one-half hour before sunrise shall be equipped with a lamp on the front exhibiting a white light visible from a distance of at least 100 feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of 100 feet to the rear; except that, a red reflector meeting the requirements of this section may be used in lieu of a rear light.

(B) Every bicycle shall be equipped with a brake which shall enable the operator to make the braked wheels skid on dry, level, clean pavement.
(2004 Code, § 7-807) Penalty, see § 71.99

§ 71.08 MOVEMENT IN TRAFFIC.

The operator of any bicycle upon any public highway shall observe each and all of the regulations and requirements of this traffic code as they apply to the usage of the right lane of the highway in travel, the stoppage and proceeding in accord with traffic signals and the utilization of prescribed manual signs for the guidance of traffic.
(2004 Code, § 7-809) Penalty, see § 71.99

GOLF CARTS; OFF ROAD VEHICLES

§ 71.20 OPERATIONAL PROHIBITIONS.

(A) *General prohibition.* Except as specifically permitted herein or by applicable Indiana state statute, golf carts (as defined under I.C. 9-13-2-69.7) and off road vehicles (as defined under I.C. 14-8-2-185) may not be operated on public streets and highways, sidewalks, or public ways within the town.

(B) *Exceptions.*

(1) Agents, representatives, and employees of the town or the Clark Pleasant Community School Corporation ("CPCSC") may operate golf carts and off road vehicles on public streets and highways within the town in strict compliance with the following:

(a) Golf carts and off road vehicles may be operated only in the ordinary course of business of the town or CPCSC or for town- or CPCSC-sponsored events.

(b) Golf carts and off road vehicles may be operated only by licensed drivers.

(c) Golf carts and off road vehicles may be operated only during daylight hours, unless equipped with working headlights and taillights.

(d) The number of passengers, in addition to the driver, of a golf cart or off road vehicle shall be limited by and to the original factory seating available. All passengers and drivers must be seated at all times. No passenger shall ride on the lap of any other passenger. And, in no event shall the number of passengers, plus the driver, of a golf cart or off road vehicle, at any time, exceed a total of four.

(e) Drivers of golf carts and off road vehicles shall operate them, at all times, in strict compliance with all other local traffic rules and regulations that apply to all other motor vehicles operated on the streets of the town.

(2) For purposes of this subchapter, ***AGENTS AND REPRESENTATIVES OF THE TOWN OR CPCSC*** shall include authorized third parties, their agents and employees, with whom the town or CPCSC has a contract or relationship to promote or advance the interests of the town, CPCSC, and/or their separate or common stakeholders.
(Ord. 2022-07, passed 7-6-2022)

§ 71.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person violating any provision of §§ 71.01 through 71.08 of this chapter shall be fined a sum not exceeding $25, plus court costs.
(2004 Code, § 7-811)

(C) Any person violating § 71.20 shall be subject to a fine for each separate violation in the amount of $300.
(Ord. 2016-21, passed 11-15-2016; Ord. 2018-06, passed 2-20-2018; Ord. 2022-07, passed 7-6-2022)

[Text continues on page 11.]

CHAPTER 72: TRAFFIC SCHEDULES

Schedule

I. Stop signs
II. Yield signs
III. Emergency snow removal route
IV. Speed limits

SCHEDULE I. STOP SIGNS.

(A) The following are stop intersections:

Street	*Locations/Intersections*	*2004 Code*
Ashland Avenue	Traffic traveling along Ashland Avenue shall stop at the intersections of Ashland Avenue and Bittersweet Drive, Ashland Avenue and Brentwood Lane and Ashland Avenue and Tracy Road	7-401
Ball Park Drive	Traffic traveling along Ball Park Drive shall stop at the intersections of Ball Park Drive and Sweetbriar Avenue and Ball Park Drive and Parkview Drive	7-402
Bel Aire Drive	Traffic traveling along Bel Aire Drive shall stop at the intersections of Bel Aire Drive and Sawmill Road and Bel Aire Drive and Mooreland Drive	7-403
Bergen Boulevard	Vehicles traveling along Bergen Boulevard shall stop at the intersections of Bergen Boulevard and CR 75 W	
Bittersweet Court	Vehicles traveling along Bittersweet Court shall stop at the intersection of Bittersweet Court and Bittersweet Drive	
Bittersweet Drive	Traffic traveling along Bittersweet Drive shall stop at the intersection of Bittersweet Drive and Ashland Avenue	7-404
Bluestem Circle	Vehicles traveling along Bluestem Circle shall stop at the intersection of Bluestem Circle and Bergen Boulevard	
Bluestem Lane	Vehicles traveling along Bluestem Lane shall stop at the intersection of Bluestem Lane and Bergen Boulevard	
Bradford Place	Traffic traveling along Bradford Place shall stop at the intersections of Bradford Place and Mooreland Drive and Bradford Place and Bel Aire Drive	7-405
Brentwood Lane	Traffic traveling along Brentwood Lane shall stop at the intersections of Brentwood Lane and Ashland Avenue and Brentwood Lane and Warwick Road	7-406

Street	*Locations/Intersections*	*2004 Code*
Brookside Drive	Traffic traveling along Brookside Drive shall stop at the intersection of Brookside Drive and Parkview Drive and Brookside Drive and Mooreland Drive	7-407
Carroll Street	Vehicles traveling along Carroll Street shall stop at the intersections of Carroll Street and Sterling Place, Carroll Street and Bergen Boulevard	
Circle Court	Traffic traveling along Circle Court shall stop at both intersections of Circle Court and Delbrook Drive	7-408
Crestwood Drive	Traffic traveling along Crestwood Drive shall stop at the intersections of Crestwood Drive and Lynwood Drive, Crestwood Drive and Bel Aire Drive and Crestwood Drive and Bradford Place	7-409
Deville Place	Traffic traveling along Deville Place shall stop at the intersection of Deville Place and Delbrook Drive and Deville Place and Willark Drive	7-411
Eastlawn Drive	Traffic traveling along Eastlawn Drive shall stop at both intersections of Eastlawn Drive and Warwick Road	7-412
Edgewood Drive	Traffic traveling along Edgewood Drive shall stop at the intersections of Brentwood Lane, Edgewood Drive and Windemere Road	7-413
Edgewood Drive	Vehicles traveling along Edgewood Drive shall stop at the intersection of Edgewood Drive and Bittersweet Drive	
Elmhurst Place	Traffic traveling along Elmhurst Place shall stop at the intersection of Elmhurst Place and Hollybrook Drive	7-414
Fernleaf Drive	Vehicles traveling along Fernleaf Drive shall stop at the intersection of Fernleaf Drive and Bluestem Lane	
Granada Place	Traffic traveling along Granada Place shall stop at the intersection of Granada Place and Hollybrook Drive and Granada Place and Delbrook Drive	7-415
Greenbriar Court	Vehicles traveling along Greenbriar Court shall stop at the intersection of Greenbriar Court and Ashland Avenue	
Hanover Drive	Traffic traveling along Hanover Drive shall stop at the intersections of Hanover Drive and Sawmill Road, Hanover Drive and Melrose Drive and Hanover Drive and Mooreland Drive	7-416
Highland Drive	Traffic traveling along Highland Drive shall stop at the intersections of Highland Drive and Princeton Drive and Highland Drive and Southlane Drive	7-417
Hollybrook Drive	Traffic traveling along Hollybrook Drive shall stop at the intersections of Hollybrook Drive and Sawmill Road, Hollybrook Drive and Mooreland Drive, Hollybrook Drive and Delbrook Drive and Hollybrook Drive and Sweetbriar Avenue	7-418
Locust Court	Vehicles traveling along Locust Court shall stop at the intersection of Locust Court and Eastlawn Drive	

Street	*Locations/Intersections*	*2004 Code*
Lynwood Drive	Traffic traveling along Lynwood Drive shall stop at the intersection of Lynwood Drive and Whiteland Road, Lynwood Drive and Mooreland Drive and Lynwood Drive and Westbrook Drive	7-419
Melrose Drive	Traffic traveling along Melrose Drive shall stop at the intersections of Melrose Drive and Princeton Drive, Melrose Drive and Hanover Drive, Melrose Drive and Hollybrook Drive and Melrose Drive and Parkview Drive	7-420
Middle Drive	Traffic traveling along Middle Drive shall stop at the intersections of Middle Drive and Northlane Drive and Middle Drive and Southlane Drive	7-421
Mooreland Drive	Traffic traveling along Mooreland Drive shall stop at the intersections of Mooreland Drive and Hollybrook Drive, Mooreland Drive and Parkview Drive, Mooreland Drive and Westbrook Drive, Mooreland Drive and Lynwood Drive and Mooreland Drive and Whiteland Road	7-422
Northlane Drive	Traffic traveling along Northlane Drive shall stop at the intersections of Northlane Drive and Princeton Drive, Northlane Drive and Delbrook Drive and Northlane Drive and Sweetbriar Drive	7-423
Oakden Road	Traffic traveling along Oakden Road shall stop at the intersections of Oakden Road and Warwick Road and Oakden Road and Oakden Court	7-443
Oakland Way	Vehicles traveling along Oakland Way shall stop at the intersection of Oakland Way and Rympa Row	
Parkview Drive	Traffic traveling along Parkview Drive shall stop at the intersection of Parkview Drive and Sawmill Road, Parkview Drive and Mooreland Drive, Parkview Drive and Delbrook Drive and Parkview Drive and Sweetbriar Avenue	7-424
Peachtree Lane	Vehicles traveling along Peachtree Lane shall stop at the intersection of Peachtree Lane and Warwick Road	
Pleasant Drive	Traffic traveling along Pleasant Drive shall stop at the intersections of Pleasant Drive and Delbrook Drive and Pleasant Drive and Sweetbriar Avenue	7-425
Princeton Drive	Traffic traveling along Princeton Drive shall stop at the intersections of Princeton Drive and Tracy Road, Princeton Drive and Southlane Drive and Princeton Drive and Mooreland Drive	7-426
Rypma Row	Traffic traveling along Rypma Row shall stop at the intersection of Rypma Row and Sawmill Road	7-427
Sawmill Road	Traffic traveling along Sawmill Road shall stop at the intersections of Sawmill Road and Tracy Road and Sawmill Road and Whiteland Road	7-428
Sentinel Place	Vehicles traveling along Sentinel Place shall stop at the intersections of Sentinel Place and CR 75 W. and Sentinel Place and Bluestem Lane	
Shelton Place	Traffic traveling along Shelton Place shall stop at the intersection of Shelton Place and Parkview Drive	7-429
Sierra Circle	Traffic traveling along Sierra Circle shall stop at the intersection of Sierra Circle and Parkview Drive	7-430

Street	*Locations/Intersections*	*2004 Code*
Sonora Circle	Traffic traveling along Sonora Circle shall stop at the intersection of Sonora Circle and Parkview Drive	7-431
Southlane Drive	Traffic traveling along Southland Drive shall stop at the intersections of Southlane Drive and Sawmill Road, Southlane Drive and Princeton Drive, Southlane Drive and Delbrook Drive and Southlane Drive and Sweetbriar Avenue	7-432
Sterling Place	Vehicles traveling along Sterling Place shall stop at the intersection of Sterling Place and Bluestem Lane	
Sweetbriar Avenue	Traffic traveling along Sweetbriar Avenue shall stop at the intersection of Sweetbriar Avenue and Tracy Road	7-433
Switchgrass Lane	Vehicles traveling along Switchgrass Lane shall stop at the intersections of Switchgrass Lane and Bluestem Lane, Switchgrass Lane and Fernleaf Drive	
Tilmor Drive	Vehicles traveling along Tilmor Drive shall stop at the intersection of Tilmor Drive and Eastlawn Drive	
Tracy Road	Traffic traveling along Tracy Road and Sawmill Road shall stop at the intersections of Tracy Road and Sawmill Road and Tracy Road and Delbrook Drive	7-434
Warwick Road	Traffic traveling along Warwick Road shall stop at the intersections of Warwick Road and Ashland Avenue, Warwick Road and Brentwood Lane	7-435
Westbrook Drive	Traffic traveling along Westbrook Drive shall stop at the intersection of Westbrook Drive and Mooreland Drive	7-436
Westview Drive	Traffic traveling along Westview Drive shall stop at the intersections of Westview Drive and Northlane Drive and Westview Drive and Southlane Drive	7-437
Whiteland Road	Traffic traveling westbound along Whiteland Road shall stop at the intersection of Whiteland Road and Mooreland Drive (This provision is contingent upon the town erecting a stop sign for eastbound traffic at this intersection.)	7-438
Willark Drive	Traffic traveling along Willark Drive shall stop at the intersections of Willark Drive and Northlane Drive and Willark Drive and Southlane Drive	7-439
Windemere Road	Traffic traveling along Windemere Road shall stop at the intersections of Windemere Road and Bittersweet Drive and Windemere Road and Ashland Avenue	7-440
Winthrop Road	Traffic traveling along Winthrop Road shall stop at the intersections of Winthrop Road and Windemere Road and Winthrop Road and Ashland Avenue	7-441

Street	*Locations/Intersections*	*2004 Code*
Woodland Drive	Traffic traveling along Woodland Drive shall stop at the intersections of Woodland Drive and Mooreland Drive and Woodland Drive and Lynwood Drive	7-442
Woodridge Court	Vehicles traveling along Woodridge Court shall stop at the intersection of Woodridge Court and Brentwood Lane	

(B) Any person disregarding any stop sign shall be fined a sum not exceeding $100, plus court costs.
(2004 Code, § 7-444)
(Ord. 2050, passed 5-15-2007; Ord. 2063, passed 11-20-2007; Ord. 2024-02, passed 4-3-2024)

SCHEDULE II. YIELD SIGNS.

(A) The following are yield intersections:

Street	*Locations/Intersections*	*2004 Code*
Bittersweet Court	At the intersection of Bittersweet Court and Bittersweet Drive, traffic traveling along Bittersweet Court shall yield the right-of-way to traffic traveling along Bittersweet Drive	7-501
Edgewood Drive	At the intersection of Edgewood Drive and Bittersweet Drive, traffic traveling along Edgewood Drive shall yield the right-of-way to traffic traveling along Bittersweet Drive	7-502
Greenbriar Court	At the intersection of Greenbriar Court and Ashland Avenue, traffic traveling along Greenbriar Court shall yield the right-of-way to traffic traveling along Ashland Avenue	7-503
Locust Court	At the intersection of Locust Court and Eastlawn Drive, traffic traveling along Locust Court shall yield the right-of-way to traffic traveling along Eastlawn Drive	7-504
Oakland Way	At the intersection of Oakland Way and Rypma Row, traffic traveling along Oakland Way shall yield the right-of-way to traffic traveling along Rypma Row	7-505
Peachtree Lane	At the intersection of Peachtree Lane and Warwick Road, traffic traveling along Peachtree Lane shall yield the right-of-way to traffic traveling along Warwick Road	7-506
Tilmor Drive	At the intersection of Tilmor Drive and Eastlawn Drive, traffic traveling along Tilmor Drive shall yield the right-of-way to traffic traveling along Eastlawn Drive	7-507
Woodridge Court	At the intersection of Woodridge Court and Brentwood Lane, traffic traveling along Woodridge Court shall yield the right-of-way to traffic traveling along Brentwood Lane	7-508

(B) Any person disregarding any yield sign shall be fined a sum not exceeding $100, plus court costs.

(2004 Code, § 7-509) (Ord. 2063, passed 11-20-2007)

SCHEDULE III. EMERGENCY SNOW REMOVAL ROUTE.

(A) The following roads are declared to constitute the emergency snow removal route:

(1) Sawmill Road;

(2) Mooreland Drive;

(3) Princeton Drive;

(4) Delbrook Drive;

(5) Sweetbriar Avenue;

(6) Parkview Drive;

(7) Hollybrook Drive;

(8) Southlane Drive;

(9) Tracy Road;

(10) Warwick Road;

(11) Bittersweet Drive;

(12) Brentwood Lane to Ashland Avenue; and

(13) Ashland Avenue from Brentwood Lane to Tracy Road.
(2004 Code, § 7-601)

(B) When a snow emergency has been declared by the Town Marshal, it shall be unlawful to park a motor vehicle on any of the streets which constitute emergency snow removal route.
(2004 Code, § 7-602)

(C) Any motor vehicle parked in violation of division (B) above shall be towed off the street at the owner's expense and owner shall be fined a sum not exceeding $10, plus court cost.
(2004 Code, § 7-603)

SCHEDULE IV. SPEED LIMITS.

(A) It shall be unlawful for any person to operate a motor vehicle, including motorcycles, upon any street within the town at a speed in excess of 30 mph, unless otherwise specified within this chapter. This speed shall not apply to U.S. 31.

(B) It shall be unlawful for any person to operate a motor vehicle, including motorcycles, within any designated school zone within the town, during the times specified, at a speed in excess of 20 mph. (2004 Code, § 7-705)
(Ord. 520, passed 8-5-1997; Ord. 1057, passed 5-21-2002; Ord. 2063, passed 11-20-2007; Ord. 2024-05, passed 10-2-2024)

CHAPTER 73: PARKING SCHEDULES

Schedule

I. Prohibited parking

SCHEDULE I. PROHIBITED PARKING.

Street	*Locations/Areas*	*Prohibition*
Sawmill Road	On both sides and for the entire distance	Parking prohibited at all times
Tracy Road	On both sides and for the entire distance	Parking prohibited at all times

(Ord. 2063, passed 11-20-2007; Ord. 2119, passed 1-5-2010) Penalty, see § 70.99

TITLE IX: GENERAL REGULATIONS

Chapter

90. FALSE ALARMS

91. PARKS AND RECREATION

CHAPTER 90: FALSE ALARMS

Section

90.01 Definitions
90.02 Repeated false alarms prohibited

90.99 Penalty

§ 90.01 DEFINITIONS.

For the purpose of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

FALSE ALARM. An alarm eliciting a police and/or fire response when the situation does not require police or fire services. For the purposes of this chapter, the definition of ***FALSE ALARM*** does not include alarms caused by severe weather or a false alarm occurring within 30 days after an alarm system is installed.

PERSON IN CONTROL OF A PROPERTY. Any occupant of the property who is 18 years of age or older or, if the property is unoccupied or owner occupied, any owner or joint owner of the property. (Ord. 2172, passed 7-2-2013)

§ 90.02 REPEATED FALSE ALARMS PROHIBITED.

It shall be unlawful for a person in control of a property in the town to issue, cause to be issued or permit the issuance of more than one false alarm in a 365-day period.
(Ord. 2172, passed 7-2-2013) Penalty, see § 90.99

§ 90.99 PENALTY.

A person in control of a property in the town for which more than one false alarm is issued during a 365-day period shall be subject to the following procedures and penalties.

(A) For the second false alarm, the town's Police Department shall issue a written warning.

(B) For the third false alarm, if occurring within 365 days of the first false alarm, the person in control of a property shall be issued a violation notice and be subject to a $25 penalty. For the fourth and each subsequent false alarm occurring within 365 days of the prior false alarm, the person in control of property shall be issued a violation notice and be subject to a $75 penalty.

(C) If no false alarms are issued for a property for a continuous period longer than 365 days, this procedure will reset and the property and person in control of the property will be treated as if no prior false alarms have occurred.
(Ord. 2172, passed 7-2-2013)

CHAPTER 91: PARKS AND RECREATION

Section

General Provisions

91.01 Regulating the use of parks

Park Regulations

91.15 Injury to and removal of property and plants
91.16 Discharging firearms
91.17 Unlawful conduct
91.18 Fires
91.19 Animals and dogs; molesting and trespassing
91.20 Waterways
91.21 Vehicles
91.22 Picnics
91.23 Sleeping
91.24 Intoxication
91.25 Advertising and sales
91.26 Dangerous sports and objects
91.27 Playground rules

91.99 Penalty

GENERAL PROVISIONS

§ 91.01 REGULATING THE USE OF PARKS.

The Town Council is authorized to provide for, regulate, set aside and allocate the use by persons, vehicles and animals of all the public parks, playgrounds and other public places under its control, but

without being limited to such classifications, for and into the following general classes of uses and purposes, to-wit:

(A) *Playground areas*. Including baseball diamonds, football fields, golf courses, foot-race courses, tennis and squash courts, handball alleys, softball diamonds, basketball courts, bowling greens, horseshoe courts, boating and skating watercourses, bathing beaches, swimming and wading pools, and other kinds of athletic fields and recreation areas with all buildings, structures and equipment appurtenant thereto;

(B) *Picnic areas*. Including roadside and park tables and outdoor ovens for eating and drinking;

(C) *Public meeting areas*. In these areas, public meetings and forums may be permitted for any lawful purpose after obtaining permission therefor from the Council to be issued free;

(D) *Concert and theater areas*.

(1) The Council is hereby authorized and empowered to restrict or set aside areas of the town parks, including entire parks, upon specific and reasonable limited occasions for any of the above designated purposes (divisions (A) through (C) above) or for special purposes including concerts and theatrical performances, and may prohibit the use of such by others.

(2) In public meetings and forums, the Council shall provide regulations to restrict the use of loud speakers and other devices so that the sound therefrom shall cover only the area where the meeting is held and shall not annoy or unduly interfere with the use of said park for other purposes.

(E) *Park closing*. The Council is hereby authorized and empowered to set times of closing of the town parks, including entire parks or specific areas or sections thereof, and shall post these areas accordingly.
(2004 Code, § 8-322)

PARK REGULATIONS

§ 91.15 INJURY TO AND REMOVAL OF PROPERTY AND PLANTS.

(A) It shall be unlawful for any person to write on, cut, mutilate, deface, damage, remove or destroy in any manner any property, real or personal, owned and operated by the town and located upon or in any park or playground.
(2004 Code, § 8-301)

(B) It shall be unlawful for any person who is not an employee of the town, or who is not authorized to do so by the Town Council, to pull, pluck, break, tumble, climb into, remove, injure, mutilate or

destroy any plant, tree or vegetation owned or maintained by the town or located on any property owned or controlled by the town.
(2004 Code, § 8-302)

(C) It shall be unlawful for any person not an employee of the town, or authorized by the Town Council, to plant, remove, damage or prune and plant a tree or vegetation within the limits of any park; provided, however, that, any dead or broken limbs of trees, endangering or obstructing public use of the park, may be removed by any person.
(2004 Code, § 8-314)

(D) It shall be unlawful for any person to remove or relocate any property within the limits of any park without the permission of the Town Council.
(2004 Code, § 8-316)
Penalty, see § 91.99

§ 91.16 DISCHARGING FIREARMS.

It shall be unlawful for any person, unless so authorized by state or local law, to discharge any firearm or other explosive device on any property owned, operated or controlled by the town, including without limitation.
(2004 Code, § 8-303) (Ord. 2018-05, passed 2-6-2018) Penalty, see § 91.99

§ 91.17 UNLAWFUL CONDUCT.

It shall be unlawful for any person to use profane, obscene, lewd, threatening or abusive language or to litter, dump or deposit any garbage or other offensive substance in any park or on any other property owned, operated or controlled by the town.
(2004 Code, § 8-304) Penalty, see § 91.99

§ 91.18 FIRES.

It shall be unlawful for any person not an employee of the town to kindle, build or burn any fire in any part or on any property owned, operated or controlled by the town, except in specified areas as the town may establish.
(2004 Code, § 8-305) Penalty, see § 91.99

§ 91.19 ANIMALS AND DOGS; MOLESTING AND TRESPASSING.

(A) It shall be unlawful for any person not an employee of the town or authorized so to do by the town to chase, catch, trap, injure, molest or annoy any animal, bird or fish located in any park or any other property owned, operated or controlled by the town.
(2004 Code, § 8-306)

(B) It shall be unlawful for any person to allow or permit any animals or fowls owned or controlled by him or her to stray into or run at large and unattended in any park or on any other property owned, operated or controlled by the town.
(2004 Code, § 8-308)

(C) It shall be unlawful for any person harboring or controlling a dog to permit or suffer such dog, when not attended and under control and held by a leash, to be in any park or any other property owned, operated or controlled by the town.
(2004 Code, § 8-309)
Penalty, see § 91.99

§ 91.20 WATERWAYS.

It shall be unlawful for any person to fish, bathe, wash, operate boats or enter any water, or to cause any substance to be thrown into any waters, in any park owned, operated or controlled by the town; provided, however, that, the Town Council may set aside certain places and designate rules for swimming, boating or fishing in any such places.
(2004 Code, § 8-307) Penalty, see § 91.99

§ 91.21 VEHICLES.

Vehicles may be restricted, prohibited or regulated in any manner deemed necessary for the public safety and welfare in the use of the parks by signs posted under the authority of the Town Council.
(2004 Code, § 8-310) Penalty, see § 91.99

§ 91.22 PICNICS.

(A) Picnics may be held in any public park, but only in those areas that have been designated for such.

(B) The Town Council shall adopt such general rules as necessary for compelling persons holding picnics to clean up the grounds after such picnics.
(2004 Code, § 8-311) Penalty, see § 91.99

§ 91.23 SLEEPING.

It shall be unlawful for any person to sleep in any park or on any property owned, operated or controlled by the town, except in such places and at such times as may be especially designated therefor.
(2004 Code, § 8-312) Penalty, see § 91.99

§ 91.24 INTOXICATION.

It shall be unlawful for any person to possess any intoxicating beverages or to be intoxicated in any park or on any other property owned, operated or controlled by the town.
(2004 Code, § 8-313) Penalty, see § 91.99

§ 91.25 ADVERTISING AND SALES.

(A) It shall be unlawful for any person to paint, post or otherwise affix any bill, notice or advertising sign upon any property within the limits of any park without first having obtained written permission therefor from the Town Council.
(2004 Code, § 8-315)

(B) It shall be unlawful for any person to sell, offer to sell or barter any goods or merchandise within the limits of any public park without first having obtained the written permission of the Town Council.
(2004 Code, § 8-317)
Penalty, see § 91.99

§ 91.26 DANGEROUS SPORTS AND OBJECTS.

(A) It shall be unlawful for any person to drive golf balls, fly motor planes, throw objects, practice archery or shooting or to participate in other activities which are hazardous to others in any park or on any other property owned, operated or controlled by the town; provided, however, that, the Town Council may set aside and designate places and specify the times and regulations for engaging in such activities.
(2004 Code, § 8-318)

(B) It shall be unlawful for any person to throw, drop, place or deposit on sands or ground, or other surface adjoining bathing beaches or swimming or wading pools, or into the water or the bottom thereof, any glass, bottles, broken glass, nails, tacks, wire, crockery, cans or other sharp or cutting substances, or chemicals or things dangerous to bathers or other persons.
(2004 Code, § 8-320)
Penalty, see § 91.99

§ 91.27 PLAYGROUND RULES.

The Town Council may establish, control, maintain and regulate playgrounds and recreation areas and provide and maintain all necessary equipment, supplies, buildings and structures therefor. The Council shall supervise and provide employees for the operation of all such activities and may adopt and enforce all reasonable rules and regulations to control all thereof and all other property owned, operated or controlled by it.
(2004 Code, § 8-319)

§ 91.99 PENALTY.

Any person violating any provision of this chapter for which no penalty is provided shall be fined a sum not exceeding $500, plus court costs.
(2004 Code, § 8-323)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. SOLICITATION

111. VEHICULAR SALES

112. MOBILE FOOD VENDORS

CHAPTER 110: SOLICITATION

Section

Door-to-Door Vendors

110.01 Definitions
110.02 License required; application
110.03 Restrictions on license and door-to-door solicitation
110.04 Suspension and revocation of license; notice
110.05 Effect and scope; endorsement

110.99 Penalty

DOOR-TO-DOOR VENDORS

§ 110.01 DEFINITIONS.

For the purpose of this subchapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

DOOR-TO-DOOR. All methods and means of soliciting funds from and/or selling commercial products, services or property to residents and other persons on private property within the corporate limits of the town by way of uninvited in-person solicitation.

EXEMPT PERSON. Includes the following:

(1) An individual while and to the extent he or she is engaged in protected political speech or protected religious speech;

(2) An individual engaged in the solicitation of funds and/or the sale of cookies, candies, paper products or similar sundries for and on behalf of a non-for-profit or non-profit organization or association that is exempt from the state's gross retail tax; and

(3) An individual who, due to the preemption of applicable federal or state law, is exempt from local licensing requirements.

VENDOR. A person, partnership, corporation, company, organization or entity who is not an exempt person and who is engaged in the selling, peddling, merchandising or brokering of products, services or property to the general public for a commercial purpose and/or who is engaged in the solicitation of funds.
(Ord. 2015, passed 12-20-2005)

§ 110.02 LICENSE REQUIRED; APPLICATION.

(A) The Town Police Department shall provide to any person, upon request, a door-to-door vendor application form (application) to be completed by a vendor and processed by the Town Police Department. The application shall seek general information about the vendor, vendor's business and the nature of the vendor's proposed door-to-door solicitation. The application shall also require a vendor to list the name of every employee and agent who will be involved in door-to-door solicitation pursuant to a license issued to the vendor under this section, and to obtain from the Indiana State Police Department, and attach to the application, a copy of the limited criminal histories of the vendor and of each employee and agent of that vendor who will be involved in door-to-door solicitation. All completed applications shall be submitted to the town's Police Department for review.

(B) A license and a non-transferable identification card shall be issued to a vendor upon completion of an application, confirmation that such vendor has no felony or misdemeanor conviction within 15 years of the application date for a crime of dishonesty, fraud, theft and/or moral turpitude, and such vendor has paid a license fee of $15 for a ten-day license or $90 for a 120-day license. Upon receipt of a license, a vendor must also purchase from the town's Police Department, at the cost of $1 each, non-transferable identification cards for each employee and agent of vendor listed on vendor's application and for whom the town's Police Department has confirmed has no felony or misdemeanor conviction within 15 years of the vendor's application date for a crime of dishonesty, fraud, theft and/or moral turpitude.

(C) The decision as to whether an application is approved or denied shall be made by the town's Police Department within 20 days from the date the application is submitted.

(D) The vendor, and each of the vendor's employees and agents, shall openly display upon his or her person an identification card issued by the town's Police Department whenever engaging in door-to-door solicitation.
(Ord. 2015, passed 12-20-2005)

§ 110.03 RESTRICTIONS ON LICENSE AND DOOR-TO-DOOR SOLICITATION.

(A) Door-to-door solicitation may be conducted between the hours of 10:00 a.m. and 7:00 p.m. local time only.

(B) Subject to earlier revocation pursuant to this section, a license, as well as any identification card(s) issued therewith, shall be valid for exactly ten days or exactly 120 days, as applicable, from the date the license or identification card was issued, and shall thereafter immediately expire and become null and void.

(C) The vendor, and the vendor's employees and agents, shall comply with all applicable federal, state and local laws and regulations while engaging in door-to-door solicitation. The issuance of a license and identification card does not empower a vendor or any of vendor's employees and agents to ignore "no-solicitation" signs or other lawful requests to not trespass on private property.
(Ord. 2015, passed 12-20-2005) Penalty, see § 110.99

§ 110.04 SUSPENSION AND REVOCATION OF LICENSE; NOTICE.

(A) If the Town Police Department determines that one or more of the following apply to a vendor and/or to any employee or agent of a vendor who applies for a license or who is involved in door-to-door solicitation, then the Town Police Department shall deny the application and/or revoke an issued license and/or the identification card(s) relating thereto, whichever action is applicable under the circumstances:

(1) Vendor submitted an application that contains materially false or misleading information;

(2) Vendor or any of vendor's employees or agents was, within 15 years prior to the date of vendor's application, convicted of a felony or misdemeanor crime of dishonesty, fraud, theft and/or moral turpitude;

(3) The vendor, or any of the vendor's employees or agents, has violated this subchapter or has been charged with or convicted of a felony or misdemeanor crime of dishonesty, fraud, theft and/or moral turpitude after the issuance of, but prior to, the expiration date of such person's license and/or identification card;

(4) The vendor, or any of the vendor's employees or agents, has failed to properly display his or her identification card while engaged in door-to-door solicitation; and/or

(5) Two or more written and sworn complaints have been delivered to the town's Police Department regarding allegedly untruthful or illegal conduct concerning the vendor, or the vendor's employees or agents, during his or her door-to-door solicitation.

(B) All license and/or identification card denials/revocations shall be in writing, shall state thereon the effective date of the denial/revocation and the reason for same and shall be served by U.S. certified mail or by personal service on the vendor at the vendor's address as contained in the application.

(C) (1) Any vendor, within 20 days from the date of notice on which it receives notice of denial or revocation of a license, may, by written request delivered upon the town's Police Department, within such time period, appeal the denial revocation to the Town Council. If a timely appeal is not made, the denial or revocation becomes final.

(2) If a timely appeal is made, the Council shall hear the appeal at a public hearing which shall begin no more than 20 days from the date of the receipt of the appeal request by the Town Marshal. The Council shall issue its written decision on the appeal no more than ten days from the ending date of the hearing thereon, which Council decision shall be final.

(D) No application, license or identification card fees shall be returned or refunded upon the revocation of a license and/or identification card issued pursuant to this section, all such moneys being deemed forfeited.
(Ord. 2015, passed 12-20-2005)

§ 110.05 EFFECT AND SCOPE; ENDORSEMENT.

The adoption of this subchapter by the town, and the licensing of any vendor hereunder, shall not constitute an endorsement or approval of the cause, goods, property and/or services represented or provided by, nor the conduct of, any person while engaged in door-to-door solicitation.
(Ord. 2015, passed 12-20-2005)

§ 110.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any vendor and/or any employee or agent of a vendor who engages in door-to-door solicitation in violation of §§ 110.01 through 110.05 of this chapter shall be subject to a fine of $50 for each day (or portion thereof) during which the violation exists.
(Ord. 2015, passed 12-20-2005)

CHAPTER 111: VEHICULAR SALES

Section

111.01 License required
111.02 License application
111.03 Issuance of license
111.04 Posting license
111.05 Vehicle must be parked
111.06 Time limit for sales
111.07 Bells, music and the like
111.08 Cleanliness of vehicles
111.09 Revocation of license

111.99 Penalty

§ 111.01 LICENSE REQUIRED.

It shall be unlawful for any person to use any vehicle in direct connection with the sale of any goods including foods and beverages in the town without first having a license therefor as provided in this chapter.
(2004 Code, § 10-201) Penalty, see § 111.99

§ 111.02 LICENSE APPLICATION.

(A) Any person desiring to use a vehicle in direct connection with the sale of goods shall make written application to the Clerk-Treasurer for a vehicular sales license.

(B) The application shall include:

(1) The name of the owner of the vehicle;

(2) The names and addresses of all operators of the vehicles;

(3) The ages of the operators of the vehicle;

(4) A description of the vehicle; and

(5) A description of the goods to be sold.
(2004 Code, § 10-202)

§ 111.03 ISSUANCE OF LICENSE.

Upon the filing and approval of a license application and the payment of the license fee of $5, the Clerk-Treasurer shall issue a vehicular sales license to the applicant which license shall expire at the end of one year.
(2004 Code, § 10-203)

§ 111.04 POSTING LICENSE.

The vehicular sales license shall be prominently displayed on the left side of each vehicle licensed.
(2004 Code, § 10-204)

§ 111.05 VEHICLE MUST BE PARKED.

(A) It shall be unlawful for any person to sell or offer to sell any goods from a vehicle unless the vehicle is parked flush with the curb.

(B) Sales shall take place only from the side of the vehicle which is not facing the street.
(2004 Code, § 10-205) Penalty, see § 111.99

§ 111.06 TIME LIMIT FOR SALES.

It shall be unlawful for any person to sell or offer to sell any goods from a vehicle in any block of a public street for a period longer than 20 minutes.
(2004 Code, § 10-206) Penalty, see § 111.99

§ 111.07 BELLS, MUSIC AND THE LIKE.

It shall be unlawful for any person to offer to sell any goods from a vehicle by outcry, ringing bells, playing music or making any other noise.
(2004 Code, § 10-207) Penalty, see § 111.99

§ 111.08 CLEANLINESS OF VEHICLES.

All vehicles used for the sale of foodstuffs or beverages shall be thoroughly cleaned each day. It shall be unlawful for any person to allow stale food, decaying matter or any other waste material to accumulate in any such vehicle.
(2004 Code, § 10-208) Penalty, see § 111.99

§ 111.09 REVOCATION OF LICENSE.

Any vehicle sales license may be revoked by the Council without notice because of any violation of this chapter.
(2004 Code, § 10-210)

§ 111.99 PENALTY.

Any person violating any provision of this chapter shall be fined a sum not exceeding $200. Each day during which a violation occurs shall be deemed to be a separate offense.
(2004 Code, § 10-209)

CHAPTER 112: MOBILE FOOD VENDORS

Section

112.01 Applicability
112.02 Permit required
112.03 General regulations
112.04 “Ice cream man vendor” exception

112.99 Enforcement; penalties

§ 112.01 APPLICABILITY.

(A) The provisions of this section apply to mobile food vehicles used in town to store, prepare, display and/or serve food or beverages, whether operated on public or private property. Mobile food vehicles, for purposes of this chapter shall refer to food service vehicles that are generally self-contained, readily movable, and which may be towed or self-propelled. In town, for purposes of this chapter shall mean and refer to the annexed territory of the Town of New Whiteland.

(B) The requirements of this section shall not apply to the following:

(1) Any person selling, at a lawfully established local market, produce, fruits, vegetables. flowers, herbs, honey, or other similar items grown or cultivated by that person.

(2) Any person delivering fresh or prepared food or groceries to an established home or business in town.
(Ord. 2024-03, passed 6-12-2024)

§ 112.02 PERMIT REQUIRED.

(A) Any vendor wishing to operate a mobile food vehicle must first apply for a mobile food permit on a form prescribed by the Council and pay a permit fee in an amount set by the Council, from time to time, which shall be paid at the time the application is submitted.

(B) Vendors, as a condition of obtaining a permit, shall provide copies of all required State and County permits and the then current Mobile Food Unit Requirements adopted by the Johnson County Health Department, and proof of general liability insurance in amounts of not less than $250,000 per occurrence, and $1,000,000 in the aggregate.

(C) Separate applications and permits shall be required for each mobile food vehicle.

(D) Each application shall be submitted to and reviewed by the town's Code Enforcement Officer, who, upon confirming that the applicant has met all applicable requirements, and paid the requisite fee, shall issue a permit.

(E) A permit shall be valid for the specified term as set by the Council, from time to time.

(F) Failure to comply with any provision of this chapter, or any applicable County or State statute, ordinance, rule, regulation, or requirement may result in permanent permit revocation or temporary permit suspension.
(Ord. 2024-03, passed 6-12-2024)

§ 112.03 GENERAL REGULATIONS.

(A) It shall be unlawful for any person, including any religious, charitable, or non-profit organization to operate a mobile food vehicle within the town without a permit.

(B) A mobile food vehicle must strictly comply with all requisite State and County statutes, ordinances, rules, and regulations, including, without limitation, the requirements of 410 IAC 7-24, and all applicable regulations and requirements of the Johnson County, Indiana Department of Health, all of which are, by reference, made a part of this chapter.

(C) A vendor shall obtain a property owner's written consent prior to and as a condition of operating a mobile food vehicle on private property. A vendor shall present the property owner’s consent upon request of the town's Code Enforcement Officer or a town police officer.

(D) No mobile food vehicle shall be operated on any property owned or managed by the town unless written approval has been given by the Council or its authorized representative. This rule shall not apply to "Ice Cream Man" vendors who may operate on town streets pursuant to § 112.04.

(E) No mobile food vehicle shall be operated within 100 feet of the closest property boundary of any law fully operating restaurants, or other food service businesses, unless with the consent of all those businesses. This distance restriction shall apply from one hour before the regularly advertised opening time until one hour after the regularly advertised closing time of the restaurants or other food service businesses to which it applies.

(F) No mobile food vehicle unit shall be operated within 500 feet from the nearest point of the property boundary on which any lawfully permitted special event or festival is being conducted unless prior approval has been granted by either the organizer/operator of the special event or the Council.

(G) A mobile food vehicle shall always be operated in strict compliance with all applicable motor vehicle laws of the State of Indiana and town traffic and parking ordinances. No mobile food vehicle shall be parked or operated within 15 feet of a fire hydrant.

(H) Mobile food vehicles shall not interfere with or obstruct the free passage of pedestrians or vehicles along any street, sidewalk, road or parking lot drive aisle or be operated in a way that would endanger public safety or public.

(I) The volume of music or other sounds broadcast from a mobile food vehicle shall be adjusted to be heard only by those in the immediate vicinity of the mobile food vehicle. "Ice Cream Man" vendors, as defined in § 112.04, may broadcast traditional calliope, "ice cream man" style music while touring neighborhoods in town.

(J) Except as provided herein, all signs must be permanently affixed to or painted on mobile food vehicles and shall not extend more than six inches from the vehicle. No sign shall flash, cause interference with radio, telephone, television, or other transmissions; produce or reflect motion pictures; emit visible smoke, vapor, particles, or odor; be animated or produce any rotation, motion, or movement. Each mobile food vehicle shall be permitted to display one sandwich board sign that does not exceed four feet in height, two feet in width or eight square feet in total area. Each sandwich board sign shall be located within ten feet of the location of the mobile food vehicle and shall not be attached to any immovable fixture or object. Vendors shall not advertise products they are not authorized to sell.

(K) Liquid waste, including grease and oil, shall be collected in a grease trap or interceptor which shall not be discharged, emptied, or drained anywhere within the town. All mobile food vehicle vendors shall provide, at all times, a waste container for public use, the contents of which, along with all other trash and garbage originating from the operation of the mobile food vehicle or otherwise deposited in the provided container, shall be collected and hauled away, each day, by the vendor. Spills of food or food by-products shall be thoroughly cleaned, and no gray water, grease, or other waste or by-products shall be discharged or diverted into a storm water or sanitary sewer, gutter, ditch, yard, sidewalk, or street.

(L) Power sources required for a mobile food vehicle shall be self-contained and in good working order. A mobile food vehicle shall not use utilities drawn from a public right-of-way without the town's advanced written consent. A vendor may be charged for public utility services. Mobile food vehicles on private property may use electrical power from the property being occupied or an adjacent property, but only with the property owner's written consent. A vendor shall present the property owner's consent upon request of the town's Code Enforcement Officer or a town police officer. No power cable, cord, pipe, line, or equipment shall be extended across, at ground level, underground, or above ground, any town property, right-of-way, sidewalk, or street, without the town's advance written consent. Sound emitted by generators powering mobile food vehicles shall not exceed 70 A weighted decibels (dba).

(M) No mobile food vehicle shall be parked on a public street or public parking lot overnight.

(N) Mobile food vehicles may be open to the public only between the hours of 6:00 A.M. and 10:00 P.M. local time.

(Ord. 2024-03, passed 6-12-2024) Penalty, see § 112.99

§ 112.04 "ICE CREAM MAN VENDOR" EXCEPTION.

(A) Vendors who offer for sale, exclusively, cold or frozen, prepackaged and separately sealed food items, such as ice cream and frozen flavored ice, such as popsicles, which require no preparation and are offered for sale from a self-contained and self-propelled vehicle shall be referred to herein as "Ice Cream Man Vendors," a definition which is meant to be descriptive and is not meant to have any gender preference or significance, but is included herein as a term because of its traditional familiarity.

(B) Vendors who meet the "Ice Cream Man Vendor" exception, after applying for and obtaining a permit from the town, may tour neighborhoods in town and offer their items for sale. "Ice Cream Man Vendors" shall not offer any item for sale on any public street or public right-of-way in town prior to noon or later than dusk on any day. "Ice Cream Man Vendors" shall not remain stationary, in one location on a public street in town, for longer than 15 minutes at one time.
(Ord. 2024-03, passed 6-12-2024)

§ 112.99 ENFORCEMENT; PENALTIES.

(A) The town's code enforcement officer and police officers shall be vested with enforcement authority to revoke or suspend mobile food vehicle permits for violations of this chapter and may enforce against owners and/or operators of mobile food vehicles, or Ice Cream Man Vendors, the town's nuisance ordinances and motor state and local motor vehicle statutes and ordinances, as they may apply, including the imposition of fines.

(B) A vendor or other person who violates this chapter shall be subject to a $100 fine for each violation, in addition to all other applicable fines and penalties.
(Ord. 2024-03, passed 6-12-2024)

TITLE XIII: GENERAL OFFENSES

Chapter

130. HEALTH AND SANITATION; NUISANCES

131. EMERGENCY CURFEW

132. ANIMALS

133. FIREWORKS AND FIRE PREVENTION

CHAPTER 130: HEALTH AND SANITATION; NUISANCES

Section

Nuisances

130.01 Enforcement and administration
130.02 Public nuisance prohibition
130.03 Public nuisances enumerated
130.04 Maintenance of property
130.05 Corrective actions; warning and notice
130.06 Procedure for entering and abating violation
130.07 Issuing bills

Open Burning

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Weeds and Rank Vegetation

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130.39 Procedure for entering and abating
130.40 Issuing bills
130.41 Appeal
130.99 Penalty

Cross-reference:

Animals, see Ch. 132

NUISANCES

§ 130.01 ENFORCEMENT AND ADMINISTRATION.

The Town Marshal and Deputy Marshals shall be authorized and responsible for the enforcement and administration of this subchapter. The Town Council, also, may appoint a code enforcement officer to enforce and administer this subchapter along with the Town Marshal and Deputy Marshals.
(Ord. 2020-01, passed 2-4-2020)

§ 130.02 PUBLIC NUISANCE PROHIBITION.

(A) A ***PUBLIC NUISANCE***, for purposes of this subchapter, shall be defined as:

(1) An unreasonable interference with a right common to the general public.

(2) Circumstances that may sustain a holding that an interference with a public right is unreasonable, including the following:

(a) Whether the conduct involves a significant interference with the public health, the public safety, the public peace, the public comfort or the public convenience; or

(b) Whether the conduct is proscribed by statute, ordinance or administrative regulation; or

(c) Whether the conduct is of a continuing nature or has produced a permanent or long-lasting effect, and, as the actor knows or has reason to know, has a significant effect upon the public right.

(B) Any person who:

(1) Maintains or permits a condition that unreasonably annoys, injures, or endangers the safety, health, or comfort of the public;

(2) Interferes with, obstructs, or renders dangerous for passage or use, any public right-of-way or easement, sidewalk, ditch, or other public facility or publicly regulated resource; or

(3) Commits any other act or permits conditions declared by law, other applicable town ordinances, or this subchapter to be a public nuisance,

will be in violation of this subchapter and subject to the enforcement and abatement actions and penalties as set forth herein and as provided for in I.C. 36-1-6-2, incorporated herein by reference.
(Ord. 2020-01, passed 2-4-2020) Penalty, see § 130.99

§ 130.03 PUBLIC NUISANCES ENUMERATED.

(A) The following conditions and activities, except as may be expressly permitted by other applicable town ordinances, are declared to be public nuisances:

(1) Water, snow or ice, rain, wastewater, or other liquids, or any other substance or material, cast upon, discharged, or permitted to flow on to public property including, without limitation, a public right-of-way, street or sidewalk;

(2) Trees, shrubs, hedges, weeds, grass and other vegetation, signs, fences, and all other impediments or obstructions that block or interfere the view or "line of sight" related to public roads;

(3) Trees (and limbs or roots thereof), shrubs, hedges, weeds, grass and other vegetation that cause damage to public roads or sidewalks (e.g., damage caused by roots) or interfere with the safe and convenient use, by pedestrian and vehicles, as the case may be, of public passage ways, streets, sidewalks, or trails;

(4) Except for the period that begins at 7:00 a.m. the day before the scheduled day for trash or recyclables collection by the town's trash collection contractor and ends on noon the day after the scheduled day for trash or recyclables collection by the town's trash collection contractor, all trash and/or recyclable containers kept on private property, in:

(a) A location which is more than five feet in front of a front building line; or

(b) A location, which is not more than five feet in front of a front building line, but which is within five feet of any other boundary line of a residential property;

(5) Obstructions and excavations causing damage to or otherwise interfering with the ordinary and intended public use of streets, alleys, sidewalks, public grounds, natural waterways, ditches, gutters, drains, and curbs, or wells, holes, or similar excavations, either on public or private property, left uncovered or in such other condition, as to constitute a hazard to any person, except as may be expressly permitted by other applicable town ordinances;

(6) A party or other gathering that unreasonably disturbs the peace, quiet, or repose of the public or of another person's use and enjoyment of their property;

(7) Barbed wire, razor wire, or any sharp iron points used in any manner or application anywhere in the town;

(8) Machinery, equipment, or tools, not being used as part of an ongoing and active building or repair project permitted under other applicable town ordinances, household appliances, furniture, recreational apparatuses (e.g., swing sets, trampolines, basketball goals, exercise equipment, bicycles, tricycles, and other similar devices), toys, or other materials or similar items placed or left on a public right-of-way, including, without limitation, sidewalks, trails, streets, and curbs;

(9) Machinery, equipment, or tools, not being used as part of an ongoing and active building or repair project permitted under other applicable town ordinances, household appliances, discarded or broken recreational apparatuses (e.g., swing sets, trampolines, basketball goals, exercise equipment, bicycles, tricycles, and other similar devices), discarded and unused toys, automobile bodies and/or parts, or other materials or similar items kept in open view on private property;

(10) Litter garbage, trash, debris, leaves, grass clippings, compost or limbs, or other discarded items placed or left on a public right-of-way, including, without limitation, sidewalks, trails, streets, and curbs, or on adjacent private property, except as expressly permitted by other applicable ordinances of the town, for example, to allow for planned and scheduled collection by the town or its agents and contractors;

(11) Litter, garbage, trash, debris, leaves, grass clippings, compost or limbs, or other discarded items placed or left anywhere on private property, except as expressly permitted by other applicable ordinances of the town, for example, in approved containers for trash and recyclables to allow for planned and scheduled collection (***APPROVED CONTAINERS***, for purposes of this section, shall mean and be limited to containers provided by the contractor with whom the town has a trash and recyclables collection and disposal contract);

(12) The discharging of the exhaust or permitting the discharge of the exhaust of any internal combustion engine, motor vehicle, motorcycle, or all-terrain vehicle (ATV), except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations;

(13) The use or operation, or permitting the use or operation, of any musical instrument, musical device, sound producing or amplifying device, paging system, machine, or other device that produces noises or sound in a distinct and loud manner that disturbs the peace, quiet, or comfort of any other person or the general public;

(14) The presence of one or more abandoned vehicle(s). ***ABANDONED VEHICLE***, for purposes of this subchapter shall be defined as:

(a) A vehicle located on public property illegally.

(b) A vehicle left on public property without being moved for 24 hours.

(c) A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicular traffic on a public right-of-way.

(d) A vehicle that has remained on private property without the consent of the owner or person in control of that property for more than 48 hours.

(e) A vehicle from which the engine, transmission, or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property.

(f) A vehicle which is mechanically inoperable, and remains on private property, in open view, continuously, for more than 20 days. For purposes of this division (A)(14), a vehicle covered by a tarpaulin or other plastic, vinyl, rubber, cloth, or textile covering is considered to be visible.

(15) (a) More than one unregistered vehicle, as defined herein, kept on private property, in open view, continuously, for more than 20 days. For purposes of this division (A)(15), a vehicle covered by a tarpaulin or other plastic, vinyl, rubber, cloth, or textile covering is considered to be visible.

(b) For purposes of this subchapter, a vehicle, which is required to be registered, pursuant to I.C. 9-18.1-2, shall be deemed to be an unregistered vehicle unless a valid license plate, issued uniquely for that vehicle, is securely fastened to it in the manner prescribed by I.C. 9-18.1-4-4 which, for passenger vehicles, pick-up trucks, and motorcycles, shall be upon the rear of the vehicle, as follows:

1. A license plate shall be:

A. Securely fastened, in a horizontal and upright position that displays the registration expiration year in the upper right corner, to the vehicle for which the plate is issued:

(I) To prevent the license plate from swinging;

(ii) At a height of at least 12 inches from the ground, measuring from the bottom of the license plate; and

(iii) In a place and position that are clearly visible;

B. Maintained free from foreign materials and in a condition to be clearly legible; and

C. Not obstructed or obscured by tires, bumpers, accessories, or other opaque objects.

2. An interim license plate issued or used by a dealer licensed under I.C. 9-32 or used by a manufacturer must be displayed:

A. In the manner required under division (A)(15)(b)1. for the type of vehicle on which the interim license plate is displayed; or

B. In a location on the left side of window that is:

(I) Facing the rear of the motor vehicle;

(ii) Clearly visible and unobstructed. A plat displayed under this division (A)(15)(b)2.B. must be affixed to the window of the motor vehicle.

3. Upon the renewal of a registration under this subchapter, a license plate other than a temporary license plate must display a renewal sticker:

A. That is securely affixed in the upper right corner of the license plate; and

B. That covers the previous registration expiration year;

(16) Any vehicle, equipment, tool, tank, can, bottle or other container, from which any liquid or other material which may be hazardous or deemed to be a pollutant has leaked or is leaking on to the ground, including any paved surface;

(17) All other uses and conditions of property that are defined as public nuisances in other town ordinances.

(B) For the purpose of this subchapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

FRONT BUILDING LINE. A line extending the entire width of a lot across that part or face of the building nearest the front line of the lot and parallel to the front lot line. Corner lots, which are bounded on two sides by a public street, will be deemed to have two front building lines oriented to both streets. Exposed steps, patios, decks, and porches shall not be considered a part of the building for purposes of defining a ***FRONT BUILDING LINE***.

LITTER. Includes, but is not limited to, garbage, trash, debris, lawn or garden waste, newspapers, magazines, glass, metal, plastic or paper containers; construction materials (except for those being used as part of an ongoing and active building or repair project permitted under other applicable town ordinances) and construction debris; scrap metal; discarded clothing; household appliances; furniture (except for customary outdoor patio furniture in good and usable condition); discarded or unused recreational equipment and toys; motor vehicle, trailer, and boat parts; or other nauseous or offensive matter, of any kind, that is not kept in a designated container which: 1) is designed to prevent its escape and 2) picked up (emptied) on a routinely scheduled basis. ***LITTER*** kept in or on a trailer or truck bed shall not be deemed to be kept in a designated container.

OPEN VIEW. Visible from private property and/or public property including, without limitation, public roads and rights-of-way.

VEHICLE. A device in, upon, or by which a person or property is, or may be, transported or drawn upon a highway.

(a) The term includes the following:

1. Off-road vehicles;

2. Manufactured homes or mobile homes that are:

A. Personal property not held for resale; and

B. Not attached to real estate by a permanent foundation.

3. Watercraft.

(b) The term does not include the following:

1. A device moved by human power.

2. A device that runs only on rails or tracks.

3. A wheelchair.

4. An electric foot scooter.

(Ord. 2020-01, passed 2-4-2020)

§ 130.04 MAINTENANCE OF PROPERTY.

Owners and occupants of real property within the town shall maintain and use their property in a manner that does not constitute a public nuisance and, otherwise, complies with this subchapter. All other persons shall comply with this subchapter to the extent it may be applicable. If the condition of private property is the basis of a violation notice issued under this subchapter, then all owners and occupants of that property will be deemed to be violating persons and subject to enforcement actions and remedies of the town.

(Ord. 2020-01, passed 2-4-2020)

§ 130.05 CORRECTIVE ACTIONS; WARNING AND NOTICE.

(A) If conditions on a property constitute a public nuisance, as described in § 130.03, above, an officer of the Town Police Department or designated code enforcement officer will, customarily, issue a written warning to the property owner and/or occupants, either by personal delivery or by leaving the notice on an exterior door. The issuance of a written warning, prior to the issuance of a violation, is discretionary and not a prerequisite to the issuance of a violation or of abatement action by the town; particularly for second and subsequent violations on the same property. A warning, if issued, will:

(1) Describe, with reasonable particularity, the conditions that constitute a public nuisance;

(2) Direct the property owner and/or occupants to abate the violation within a prescribed time, not less than two and not more than seven days; and

(3) Advise the property owner and/or occupants that if the public nuisance is not abated within the prescribed time, a violation will be issued .

(B) If a public nuisance is not abated, within the time prescribed in a written warning, an officer of the Town Police Department or designated code enforcement officer shall issue a violation to the property owner and/or occupants, either by personal delivery or by way of registered or certified mail or other means by which a written acknowledgment of receipt may be requested and obtained. The violation notice shall:

(1) Inform the property owner and/or occupants of a violation of this subchapter and describe, with reasonable particularity, the conditions that constitute a public nuisance;

(2) Direct the property owner and/or occupants to abate the violation within a prescribed time;

(3) Inform the property owner and/or occupants that if the violation is not abated the town may elect to abate the violation and bill the violating person or persons for the costs incurred by the town, including administrative costs and attorney's fees; and

(4) Advise the property owner and/or occupants that the violation may be appealed by submitting, within ten days from the date of receipt of the violation notice, a written notice of appeal.
(Ord. 2020-01, passed 2-4-2020) Penalty, see § 130.99

§ 130.06 PROCEDURE FOR ENTERING AND ABATING VIOLATION.

If a violation of this subchapter is not abated within the time prescribed in a violation notice, the town, as permitted by and pursuant to I.C. 36-1-6-2, may enter on to the property and abate the violation or contract with a private contractor to abate the violation. The town may abate an ongoing violation in the same manner and as often as the conditions on the property require.
(Ord. 2020-01, passed 2-4-2020)

§ 130.07 ISSUING BILLS.

If the town abates a violation, it will issue a bill to the property owner for the costs it incurs in bringing the property into compliance with this subchapter, including administrative costs, removal costs, and attorney's fees. A bill issued to the property owner, under this section, will be delinquent if not paid within 30 days after the date of the issuance of the bill.
(Ord. 2020-01, passed 2-4-2020)

OPEN BURNING

§ 130.20 STATE LAW INCORPORATED.

626 I.A.C. 4-1-3 and I.C. 13-17-9, and the separate definitions, prohibitions, rules and exceptions, are hereby incorporated in and made a part of this subchapter and the town code.
(Ord. 2016-03, passed 5-17-2016)

§ 130.21 PROHIBITIONS AND EXCEPTIONS.

(A) Except as expressly permitted by divisions (B) and (C) below, all open burning everywhere in the town is prohibited.

(B) For maintenance purposes only and without first obtaining a permit or other authorization, a person may openly burn vegetation from:

(1) A farm;

(2) An orchard;

(3) A nursery;

(4) A tree farm;

(5) A cemetery; or

(6) A drainage ditch.

(C) Subject to and in strict compliance with the conditions of § 130.22 of this chapter and other applicable conditions as set forth in this division (C) and 626 I.A.C. 4-1-3, the following types of fires are permitted in the town:

(1) Recreational or ceremonial fires, such as fires for scouting activities, and fires used for cooking purposes, such as camp fires, subject to the following conditions.

(a) Only the following may be burned:

1. Clean wood products;

2. Paper;

3. Charcoal; and

4. Clean petroleum products.

(b) Any person conducting recreational or ceremonial fires, the size of which may exceed 125 cubic feet, shall notify the local Fire Department and Health Department at least 24 hours prior to any burning and include the date, time and location of the burning.

(c) Fires shall:

1. Not be ignited more than two hours before the recreational activity is to take place; and

2. Be extinguished upon conclusion of the activity.

(d) The pile to be burned shall be less than or equal to 500 cubic feet and only one pile may be burned at a time.

(e) The fires shall not be used for disposal purposes.

(f) Fires shall not be located within 500 feet of any fuel storage area or pipeline.

(2) Burning, for disposal purposes, of clean wood products and paper only, no leaves, yard waste, cardboard, building materials, food products or trash, burned on private residential properties developed as single- or two-family residences, but only in non-combustible containers that are sufficiently vented to induce adequate primary combustion and have enclosed sides and a bottom;

(3) Burning, for the purpose of heating and not disposal, using clean wood products, paper, charcoal or clean petroleum products, no leaves, yard waste, cardboard, building materials, food products or trash in non-combustible containers that are sufficiently vented to induce adequate primary combustion or defined fire pits or outdoor fireplaces;

(4) Burning for cooking in grills, smokers, other non-combustible containers, that are sufficiently vented to induce adequate primary combustion, defined fire pits or outdoor fireplaces of only clean wood products, paper, charcoal or clean petroleum products, no leaves, yard waste, cardboard, building materials, food products or trash.

(D) For the purpose of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

CLEAN WOOD PRODUCTS. Wood products that are not pressure treated or coated with stain, paint, glue or other coating material.

CLEAN PETROLEUM PRODUCTS. Natural gas, propane gas, butane gas and charcoal lighter fluid.

(Ord. 2016-03, passed 5-17-2016) Penalty, see § 130.99

§ 130.22 CONDITIONS FOR OPEN BURNING.

Unless specifically excepted, the following conditions, in addition to the conditions as set forth in § 130.21(C) of this chapter and the applicable provisions of 320 I.A.C. 4-1-3, shall apply to all permitted fires and open burning in the town.

(A) Fires must be attended at all times and until completely extinguished.

(B) A fire shall be extinguished if at any time it creates a:

(1) Pollution problem;

(2) Threat to public health;

(3) Nuisance; or

(4) Fire hazard.

(C) No burning shall be conducted during unfavorable meteorological conditions such as any of the following:

(1) High winds;

(2) Temperature inversions;

(3) Air stagnation; and

(4) When a pollution alert or air quality action day has been declared.

(D) All burning shall comply with other federal, state and local laws, rules and ordinances.

(E) Adequate firefighting equipment shall be on-site for extinguishing purposes during burning times.

(F) Open burning shall be conducted during daylight hours only, and all fires, except for recreational or ceremonial fires, such as campfires, shall be extinguished before sunset.
(Ord. 2016-03, passed 5-17-2016) Penalty, see § 130.99

§ 130.23 COOKING.

(A) Fires for cooking purposes only, contained in non-combustible containers (grills) in which only clean wood products, paper, charcoal and clean petroleum products may be burned, are expressly permitted in town parks, exclusively in designated areas.

(B) All other open burning on town property is strictly prohibited.
(Ord. 2016-03, passed 5-17-2016) Penalty, see § 130.99

§ 130.24 BURNING TRASH.

(A) *Stripping by burning*. It shall be unlawful in any district of the town to burn for the purpose of cleaning or stripping, or preparing for sale, any junk, refuse or scrap metal.
(2004 Code, § 9-901)

(B) *Proper containers required*. It shall be unlawful for any person or corporation to set fire to any waste material, paper, trash or accumulated waste and trash material unless it is confined in a device that will arrest the sparks and burning debris therefrom.
(2004 Code, § 9-902)

(C) *Burning at night prohibited*. It shall be unlawful in any district of the town for any person to burn waste, trash or rubbish at any other time than one hour after sunrise in the morning to and including one hour before sunset in the evening.
(2004 Code, § 9-903)

(D) *Enforcement*. The Town Marshal, his or her agents or employees, shall have full power and authority to enter onto and upon any street, alley, lot or ground for the purpose of determining if any burning constituting a nuisance or violation of this subchapter has taken place.
(2004 Code, § 9-904)
Penalty, see § 130.99

WEEDS AND RANK VEGETATION

§ 130.35 ENFORCEMENT AND ADMINISTRATION .

The Town Marshal and deputy marshals will enforce this subchapter. The Town Council, also, may appoint a code enforcement officer to enforce and administer this subchapter along with the Town Marshal and deputy marshals.
(Ord. 2017-14, passed 11-21-2017)

§ 130.36 DEFINITIONS.

For the purpose of this subchapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

WEEDS AND OTHER RANK VEGETATION.

(A) (1) With respect to real estate improved as a residence, whether vacant or occupied, and all real estate, improved and unimproved, located within 15 feet of the edge of a public street or within public street right of way (landscaped islands), grass of all types, weeds, and vegetation, (excluding non-volunteer trees, bushes, shrubs, cultivated flowers, and landscaping plants) exceeding eight inches in height.

(2) With respect to all other unimproved real estate, including, without limitation, unimproved residential and commercial lots, grass of all types, weeds, and vegetation, (excluding non-volunteer trees, bushes, shrubs, landscaping flowers, and landscaping plants) exceeding 12 inches in height.

(3) With respect to real estate located within dedicated or platted drainage easements, except for platted drainage easements running along and parallel to side yard property lines between residential lots, grass of all types, weeds, landscaping flowers, and landscaping plants) exceeding 30 inches in height; and

(4) Every kind of grass, weeds, vegetation, trees, or brush that interfere with the public safety or lawful use of governmental property, right-of-way, or easement;

(B) ***WEEDS AND RANK VEGETATION*** shall not include agricultural crops such as hay and pasture, unless they pose a threat to public safety.
(Ord. 2017-14, passed 11-21-2017)

§ 130.37 PROHIBITED.

It shall be a violation of this subchapter for any person to allow weeds and other rank vegetation to exist on their property.
(Ord. 2017-14, passed 11-21-2017)

§ 130.38 CORRECTIVE ACTION; WARNING AND NOTICE.

(A) If weeds and other rank vegetation exist on property in town, an officer of the Town Police Department, or designated code enforcement officer, shall issue a written warning ("warning") to the property owner and/or occupants, either by personal delivery or by leaving the notice on an exterior door. The warning will:

(1) Describe, with reasonable particularity, the conditions that constitute a violation of this subchapter;

(2) Direct the property owner and/or occupants to abate the violation within a prescribed time, not more than five days; and

(3) Advise the property owner and/or occupants that if the violation is not abated within the prescribed time, a violation notice will be issued.

(B) (1) If a violation of this subchapter is not abated, within the time prescribed in a written warning, an officer of the town Police Department, or designated code enforcement officer, shall issue, by first class mail, registered or certified mail, as prescribed by I.C. 7-1-1-7, a written notice of violation ("violation notice") to the property owner, and all persons with a substantial property interest in the property, at the last address of each, as indicated in the records of the Johnson County Auditor on the date of the notice. The violation notice shall:

(a) Inform the property owner, and all persons with a substantial property interest in the property, of a violation of this subchapter and describe, with reasonable particularity, the conditions that constitute the violation;

(b) Direct the property owner, and all persons with a substantial property interest in the property, to abate the violation within ten days;

(c) Inform the property owner, and all persons with a substantial property interest in the property, that if the violation is not abated the town may elect to abate the violation and bill the property owner for the costs incurred by the town, including administrative costs and attorney's fees; and

(d) Advise the property owner, and all persons with a substantial property interest in the property, that the violation may be appealed by submitting, within ten days from the date of receipt of the violation notice, a written notice of appeal.

(2) If an initial violation notice is provided by certified mail or registered mail, a continuous abatement notice may be posted at the property, at the time of abatement, instead of by certified mail or equivalent service as required by I.C. 36-7-10.1-3. A continuous abatement notice serves as notice to the property owner, and all persons with a substantial property interest in the property, that each subsequent violation during the same year for which the initial notice of the violation was provided may be abated by the town or its contractors.

(C) The issuance of a written warning, prior to the issuance of a violation notice is the adopted policy of the town, but is discretionary and not a prerequisite to the issuance of a violation notice or abatement action by the town; particularly for second and subsequent violations on the same property.
(Ord. 2017-14, passed 11-21-2017)

§ 130.39 PROCEDURE FOR ENTERING AND ABATING.

In the event a violation or of §§ 130.35 to 130.41 is not abated within the time prescribed in the violation notice, the town may enter on to the property and abate the violation or contract with a private contractor to abate the violation. The town may abate an ongoing violation in the same manner and as often as the conditions on the property require.
(Ord. 2017-14, passed 11-21-2017)

§ 130.40 ISSUING BILLS.

The Town Clerk-Treasurer's Office shall prepare and mail to the property owner(s), at the tax billing address, via certified mail, return receipt requested, a bill for abating the violation. The bill shall state that payment is due to the Clerk-Treasurer's office within 30 days and that if such payment is not timely made the Clerk-Treasurer will certify to the county auditor the amount of the bill, plus any additional administrative costs incurred in the certification. The amount of the total bill, plus accrued interest, will be placed on the property tax bill for the property affected, to be collected as delinquent property taxes are collected.
(Ord. 2017-14, passed 11-21-2017)

§ 130.41 APPEAL.

A property owner may appeal a notice of violation or a bill issued under this chapter. In order to appeal, a property owner must, within seven days of receipt of the violation notice or bill, as the case may be, submit to the Town Clerk-Treasurer's office at 540 Tracy Road, Suite A, New Whiteland, IN, 46184, a written notice of appeal stating the basis of the appeal and requesting a hearing at the next regular meeting of the Town Council. Upon receiving a timely appeal, the Clerk-Treasurer shall include the appeal on the agenda of the next regular Town Council meeting. At the hearing on the appeal, the property owner will be provided the opportunity to present to the Town Council evidence. Upon the conclusion of the hearing the Town Council shall make a final decision concerning the appeal, take the matter under advisement, or take such other action as the Town Council deems advisable in its discretion. During the pendency of the appeal, the town shall not: 1) abate the conditions that constitute the violation, or 2) certify the amount of the bill; as the case may be.
(Ord. 2017-14, passed 11-21-2017)

§ 130.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person violating §§ 130.20 through 130.23 of this chapter may be fined, by the town, up to $150 per occurrence.

(C) Any person, firm or corporation violating any provision of § 130.24 of this chapter shall be fined a sum not to exceed $100, and each day's violation shall be deemed a separate offense.
(2004 Code, § 9-905)

(D) (1) The property owner and/or the occupants of property which is the subject of a violation of §§ 130.01 to 130.07 shall be fined $50 for the first violation; $150 for a second violation, dated one year or less from the date of the most recent prior violation; and $300 for each subsequent violation, dated one year or less from the from the date of the most recent prior violation.

(2) For purposes of division (D)(1), a violation will be deemed to be a subsequent violation only if it is based on the same conditions, as described in § 130.03(A)(1) to (15), as a prior violation.

(E) The property owner and/or the occupants of property that is the subject of a violation of §§ 130.35 to 130.41 shall be fined $50 for the first violation; $150 for a second violation, dated one year or less from the date of the most recent prior violation; and $300 for each subsequent violation, dated one year or less from the from the date of the most recent prior violation.
(Ord. 2016-03, passed 5-17-2016; Ord. 2017-14, passed 11-21, 2017; Ord. 2020-01, passed 2-4-2020)

CHAPTER 131: EMERGENCY CURFEW

Section

131.01 Authority

131.99 Penalty

§ 131.01 AUTHORITY.

If a state of emergency exists, the Town Marshal shall establish such curfew as he or she deems appropriate.
(2004 Code, § 9-701)

§ 131.99 PENALTY.

Any person violating any provisions of this chapter shall be fined a sum not exceeding $250, plus all costs.
(2004 Code, § 9-702)

CHAPTER 132: ANIMALS

Section

132.01 Definitions
132.02 Restraint of animals
132.03 Public nuisance animals
132.04 Vicious animals
132.05 Animal bites and quarantine
132.06 Disposition of dead animals
132.07 Owners; duty and responsibility
132.08 Injured animals; action required
132.09 Animal waste
132.10 Animals in vehicles
132.11 Domestic animals, livestock and exotic animals
132.12 Enforcement procedures
132.13 Impounded animals
132.14 Authority to destroy vicious animals

132.99 Penalty

§ 132.01 DEFINITIONS.

For the purpose of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

ANIMAL. Every living dumb creature, both domestic and wild.

ANIMAL CONTROL OFFICER. Any person who is authorized to implement and enforce the town's animal care and control ordinances and as defined in state statutes.

AUTHORIZED VETERINARIAN CLINIC. Any person licensed or permitted to practice veterinary medicine under the laws of the state and such person shall have no previous incidents where money collected from the sale of rabies or license tags has been used or handled inappropriately or illegally.

DIRECT CONTROL. Immediate and continuous physical control of an animal (excluding herding dogs; dogs in the process of hunting; police dogs; dogs participating in a registered field trial, obedience trial and confirmation show and/or match), at all times, such as by means of a fence, leash, cord or chain

of sufficient strength to restrain the animal. When an animal is effectively trained to immediately respond to oral or visual commands, the term ***DIRECT CONTROL*** includes oral or visual control if the controlling person is at all times within 100 feet of and can be clearly and fully seen and heard by the animal.

DOG OR CAT RUNNING AT LARGE. Any dog or cat that is not under direct control or confined within the property limits of its owner. Hunting dogs are under the control of the owner when hunting with the landowner's permission.

DOMESTIC ANIMAL. A dog, cat or any other animal such as a rabbit, guinea pig, lizard, iguana, hamster, ferret, mouse, snake (non-venomous), spider, bird or gerbil, or other animal that is customarily kept as a pet. "Livestock", as that term is defined herein, are not considered ***DOMESTIC ANIMALS***.

EXOTIC ANIMAL. Any animal that is not a domestic animal, as that term is defined herein, including, specifically, livestock.

IMPOUNDMENT. The act of taking physical possession and control of an animal by an Animal Control Officer or other officer empowered to act by law and transporting it to an animal control facility or humane society.

LIVESTOCK. Includes horses, cows, goats, chickens, ducks, other poultry, pigs (of all types and breeds), sheep and other typical farm animals, excluding dogs and cats, kept for pleasure or profit.

OWNER. Any person who owns, harbors, keeps, feeds, maintains, has lawful possession of or knowingly causes or knowingly permits an animal to be harbored or kept or has an animal in his or her care or who permits an animal to remain on or about his or her premises; provided, however, this shall not include a person hired or acting as custodian of the animal for its ***OWNER***.

POLICE OFFICER. Any law enforcement officer empowered to make arrests or cause to be issued summonses in the incorporated areas of the town.

TOWN. The incorporated area of the Town of New Whiteland, Indiana.

VICIOUS ANIMAL and ***DANGEROUS ANIMAL.*** Any animal that attacks, bites or injures human beings, pets, companion animals or livestock or which, because of temperament, conditioning or training, has a known propensity to attack, bite or injure human beings, pets, companion animals or livestock. No dog may be declared dangerous if a threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner of the dog or was teasing, tormenting, abusing or assaulting the dog or has, in the past, been observed or reported to have teased, tormented, abused or assaulted the dog or was committing or attempting to commit a crime. The definition shall not be construed to include dogs that are part of a governmental organization or a trained guard dog in performance of its duties.

WILD ANIMAL. One that lives in the wild or is not domesticated. This chapter is not intended to regulate wild and/or exotic animals. Regulation of ***WILD AND/OR EXOTIC ANIMALS*** is governed through the state (312 I.A.C. Art. 9, Fish and Wildlife).
(Ord. 2016-12, passed 9-6-2016)

§ 132.02 RESTRAINT OF ANIMALS.

(A) An owner shall not allow any animal owned or regularly kept by that owner at to run at large within the town. Any dogs found running at large shall be subject to impoundment by an Animal Control Officer.

(B) Owners of animals running at large may be issued a violation notice and be subject to monetary penalties as provided for herein, in addition to having their animals impounded.

(C) It shall be the duly of every owner to exercise reasonable care and take all necessary steps to protect other people, property and animals from injuries or damage which might result from his or her animal's behavior.

(D) It shall be the duty of every owner of a dog to ensure that the dog is restrained to the owner's property and remains:

(1) Securely and humanely enclosed within a house, building, fence, pen or other enclosure out of which it cannot climb, dig, jump or otherwise escape; and that such enclosure is securely locked at any time the dog is left unattended;

(2) Securely and humanely restrained by chain, cable or trolley, or other tether of sufficient strength to prevent escape; and

(3) On a leash and under the control of a competent person; or off a leash and obedient to that person's command and that person is present with the animal any time it is not restrained as provided for in divisions (D)(1) or (D)(2) above while on its owner's property.

(E) The following additional precautions shall be taken by owners of vicious or dangerous dogs.

(1) In addition to the requirements in division (D)(1) above, the owner of a dangerous or vicious dog who maintains the dog out-of-doors shall enclose the entire area where the dog is kept with a perimeter fence. Within this perimeter fence, the vicious or dangerous animal must be humanely confined inside a pen or kennel of adequate size. The pen or kennel may not share common fencing with the perimeter fence. The kennel or pen must have secure sides and a secure top attached to all sides. The sides must either be buried two feet into the ground, sunken into a concrete pad or securely attached to a wire bottom. The gate to the kennel shall be of the inward-opening type and shall be kept locked, except when tending to the animal's needs such as cleaning the kennel or providing food and water.

(2) Whenever the dog is outside of its enclosure as provided for in this division (E), but on the owner's property, it must be attended by the owner and restrained by a secure collar and leash of sufficient strength to prevent escape. The leash shall be no longer than ten feet, and the animal must be kept at least 15 feet within the perimeter boundaries of the property unless the perimeter boundary is securely fenced.

(3) No vicious or dangerous dog shall be chained, tethered or otherwise tied to any inanimate object such as a tree, post or building, outside of its own enclosure as provided for in this division (E).

(F) The owner of any guard dog or watchdog must confine such dog within a perimeter fence and meet the following conditions.

(1) The fence shall be sufficient to prevent the dog's escape, with all points of ingress and egress securely locked at all times.

(2) A beware of dog sign shall be conspicuously displayed on each exterior side of the enclosure for each 50 feet of enclosure, with a minimum of two, as well as a sign on each ingress or egress point to the enclosure. Signs shall be a minimum of 140 square inches.

(G) The chaining of dogs is discouraged, but permitted in strict compliance with the following.

(1) The dog must be able to reach fresh food and water 24 hours a day.

(2) The chain must be at least 12 feet in length.

(3) The weight of the chain must not cause undue stress or injury to the dog's neck or body.

(4) The chain must be attached in a manner so that it cannot wrap around vertical items such as a barrel, pole or tree, and must move freely in all directions.

(5) The dog must have easy and convenient access to adequate shelter 24 hours a day.

(6) The shelter or doghouse must be kept clean and sanitary and in good repair so the dog does not injure itself on nails, wood pieces, metal pieces and the like. A shelter from weather must be provided during all seasons of the year.
(Ord. 2016-12, passed 9-6-2016) Penalty, see § 132.99

§ 132.03 PUBLIC NUISANCE ANIMALS.

(A) A ***PUBLIC NUISANCE ANIMAL*** shall mean and include any animal that:

(1) Is repeatedly found at large;

(2) Damages the property of anyone other than its owners;

(3) Is vicious;

(4) Attacks without provocation;

(5) Excessively makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining or other utterances causing unreasonable disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept;

(6) Creates unsanitary conditions or offensive and objectionable odors in enclosures or surroundings and thereby creates unreasonable disturbance or discomfort to neighbors or others in close proximity to the premises where the animal is kept; and

(7) Is kept in violation of any other town ordinance.

(B) Any public nuisance animal may be impounded and its owner cited for a violation of this chapter.
(Ord. 2016-12, passed 9-6-2016) Penalty, see § 132.99

§ 132.04 VICIOUS ANIMALS.

(A) (1) It shall be unlawful for any person to cause, permit, accompany or be responsible for the presence of any vicious dog, cat or other animal on the streets or public places of the town or allow the animal to run on the premises of another at any time, unless, in addition to the other requirements of this chapter, such dog, cat or other animal shall be securely muzzled to effectively prevent it from biting any person or other animal.

(2) Upon impounding a vicious animal for any reason, the Animal Control Officer may, for reasons of public safety, retain the animal until disposition by the appropriate court.

(B) This section shall not apply to law enforcement dogs.
(Ord. 2016-12, passed 9-6-2016) Penalty, see § 132.99

§ 132.05 ANIMAL BITES AND QUARANTINE.

(A) (1) All animal bites shall be reported to the Police Department by the person bitten and by the owner of the animal which has bitten someone.

(2) The owner of any animal reported to have bitten any person shall keep that animal confined for not less than ten days.

(3) A report of the animal's condition shall be made to the assigned Animal Control Officer on the third, seventh and tenth days, and any animal showing signs of illness must be taken to a veterinarian or animal shelter, as may be directed by the Animal Control Officer, for safe-keeping and observation.

(B) Upon receiving information that any person in the town has been bitten by an animal, the Police Department shall immediately make a report of the incident to the county's Health Officer and shall, thereafter, take such further action as the Health Officer may direct.

(C) It is the duty of the person bitten or the person's parent or guardian to make the report in conformance with 410 I.A.C. 1-2.3-52, as amended.
(Ord. 2016-12, passed 9-6-2016)

§ 132.06 DISPOSITION OF DEAD ANIMALS.

A person finding a dead domestic animal or large undomesticated animal, or the surviving young of either, within the town shall call the Animal Control Officer or Police Department.
(Ord. 2016-12, passed 9-6-2016)

§ 132.07 OWNERS; DUTY AND RESPONSIBILITY.

Every owner of every animal kept in the town shall ensure that each of his or her animal:

(A) Is kept, at all times, under clean and sanitary conditions that promote good health and comfort;

(B) Has proper and adequate food, fresh potable drinking water, at all times, and continuously accessible shelter of sufficient size to permit the animal to move about freely and protect it from the elements;

(C) Is not tethered by use of a choke collar or chain, rope or cord directly attached to the animal's neck, or by a leash, rope, cord, cable or chain that is less than 12 feet in length or of such unreasonable weight as to prevent the animal from moving about freely;

(D) Is not subjected to abuse, cruelty, neglect, torment or any other mistreatment;

(E) Receives necessary and customary veterinary care, including specifically, but without limitation, the required rabies, distemper and parvo virus vaccinations; and

(F) Is kept and maintained in strict compliance with all applicable federal, state, county and local laws, regulations and ordinances.
(Ord. 2016-12, passed 9-6-2016) Penalty, see § 132.99

§ 132.08 INJURED ANIMALS; ACTION REQUIRED.

Any person who, by any means, either accidentally or intentionally, causes injury to an animal not owned by that person shall immediately report to the Police Department the injury with sufficient detail to allow the animal to be identified and located.
(Ord. 2016-12, passed 9-6-2016) Penalty, see § 132.99

§ 132.09 ANIMAL WASTE.

Owners of animals and persons in control of animals not owned by them shall collect and remove from all public property, and the private property of others, the waste, excrement and feces of their respective animals. Owners of service dogs, who are not capable of complying with this provision, are exempt.
(Ord. 2016-12, passed 9-6-2016) Penalty, see § 132.99

§ 132.10 ANIMALS IN VEHICLES.

No animal shall be left unattended in a vehicle when the conditions in that vehicle would constitute a health risk.
(Ord. 2016-12, passed 9-6-2016) Penalty, see § 132.99

§ 132.11 DOMESTIC ANIMALS, LIVESTOCK AND EXOTIC ANIMALS.

(A) No person shall:

(1) Permit a domestic animal to destroy or deface shrubbery, lawns, flowers, gardens or other property;

(2) Permit any animal to chase or harass vehicles or pedestrians on public streets and sidewalks; and/or

(3) Keep any livestock or exotic animal, except as may be expressly permitted by other sections of this code of ordinances and all applicable federal, state and county, laws and regulations.

(B) No person will keep or permit on residential property more than a total of five adult dogs and adult cats and no more than four adult dogs or adult cats. ***ADULT DOG***, for purposes of this section, means over the age of 16 weeks. ***ADULT CAT***, for purposes of this section, means over the age of 16 weeks.
(Ord. 2128, passed 10-5-2010; Ord. 2016-12, passed 9-6-2016) Penalty, see § 132.99

§ 132.12 ENFORCEMENT PROCEDURES.

To secure the proper enforcement of the provisions of this chapter, the appropriate authorities of the town may pursue any or a combination of the following remedies as they deem appropriate:

(A) Taking into custody and impounding any animal found to be kept in violation of any provision applicable under this chapter;

(B) If the violation is a violation only of this chapter and is not concurrently a violation of a state statute, citing the owner of the animal for a town ordinance violation;

(C) If the violation constitutes an infraction or crime under state statute, citing or arresting the owner of the animal accordingly; and

(D) Seeking an injunction in a court of competent jurisdiction pursuant to I.C. 36-1-6-4.
(Ord. 2016-12, passed 9-6-2016)

§ 132.13 IMPOUNDED ANIMALS.

(A) The town may retain or cause to be retained an impounded animal, either in town facilities or the facilities of a cooperating state or county agency, for a period of time deemed necessary and appropriate under the circumstances. If the animal is a wild animal, of a species indigenous to the state, that no person has a lawful right to possess, is deemed to pose no unusual threat to humans or livestock, and is sufficiently mature to care for itself in the wild, the town may, as permitted by applicable federal, state and county laws and regulations, release the animal back into the wild.

(B) Upon the expiration of applicable time periods, the town or a cooperating agency may humanely destroy or otherwise lawfully dispose an impounded animal. An impounded domestic animal shall be kept for at least five days. If the owner of an impounded domestic animal is known, the town shall, as soon as is practicable, notify that owner of the animal's impoundment.

(C) Unless a court, or a state or county officer having proper authority orders the continued detention of an animal, the owner of an impounded domestic animal, other than an animal impounded for violation of I.C. 35-46-3, may reclaim the animal, prior to its destruction or other disposition as set forth herein, by paying to the town the following fees:

(1) A charge of $25 for initial capture of the animal; and

(2) A charge of $10 per day for boarding and feeding the animal.

(D) If the town delivers the animal to a cooperating agency, the above charges shall nevertheless apply for the time that the animal is in the town's custody, and an additional fee of $25 for transporting the animal shall apply. These charges and fees are in addition to any penalties or costs assessed under

this chapter. Any cooperating agency into whose custody an animal is delivered may charge and collect its own usual and standard fees from the person reclaiming the animal for the period of time the animal was in its custody. An animal was impounded by reason of a suspected violation of I.C. 35-46-3 shall be deemed in protective custody and may not be released to its owner, except as permitted by and in compliance with the provisions of I.C. 35-46-3.
(Ord. 2016-12, passed 9-6-2016)

§ 132.14 AUTHORITY TO DESTROY VICIOUS ANIMALS.

Notwithstanding any other provision of this chapter, the town, acting by and through its Town Marshal and Police Department, may immediately destroy any vicious animal that cannot be safely captured or kept in custody by usual and customary means or which is observed attacking a person or other animal.
(Ord. 2016-12, passed 9-6-2016)

§ 132.99 PENALTY.

Any person violating this chapter may be fined, by the town, up to $300 per occurrence, in addition to penalties imposed by state statute.
(Ord. 2016-12, passed 9-6-2016)

CHAPTER 133: FIREWORKS AND FIRE PREVENTION

Section

Consumer Fireworks

133.01 Definitions
133.02 Prohibition

Fire Prevention

133.15 Obedience by general public
133.16 Fire lines and limits
133.17 Prohibited acts
133.18 Smoking or carrying fire-producing devices
133.19 Smoking in bed
133.20 Throwing hot or burning substances
133.21 Combustible matter
133.22 Smoking on public conveyances
133.23 Smoking in theaters

133.99 Penalty

CONSUMER FIREWORKS

§ 133.01 DEFINITIONS.

The definitions of I.C. 22-11-14-1 are hereby incorporated by reference into and made a part of this subchapter.
(Ord. 2015-08, passed 8-18-2015)

§ 133.02 PROHIBITION.

Consumer fireworks, as defined by I.C. 22-11-14-1, are strictly prohibited and may not be used, ignited or discharged anywhere within the corporate limits of the town, except:

(A) Between the hours of 5:00 p.m. and two hours after sunset on June 29, June 30, July 1, July 2, July 3, July 5, July 6, July 7, July 8 and July 9;

(B) Between the hours of 10:00 a.m. and 12:00 midnight on July 4; and

(C) Between the hours of 10:00 a.m. on December 31 and 1:00 a.m. on January 1.
(Ord. 2015-08, passed 8-18-2015) Penalty, see § 133.99

FIRE PREVENTION

§ 133.15 OBEDIENCE BY GENERAL PUBLIC.

The control and prevention of fires and the regulations pertaining thereto, as set out in this subchapter, shall be deemed ordained for the public safety and shall be obeyed by the general public. Similar powers and regulations shall apply to any other public disaster, or emergency, from any cause.
(2004 Code, § 6-101)

§ 133.16 FIRE LINES AND LIMITS.

The Chief of the Fire Department, or the highest officer in charge in any fire area, or the police, may rope and guard such area and the streets therein from the general public and shall be empowered to create an area where only firefighters, police officers and those having an interest in any property being threatened or ravaged by fire, or other occurrences, may be admitted. It shall be a violation of this section for anyone to cross said fire lines or limits unless permitted to do so by the Fire or Police Department.
(2004 Code, § 6-102) Penalty, see § 133.99

§ 133.17 PROHIBITED ACTS.

No person shall do, or permit to be done, any of the acts herein after set out in this section, to-wit:

(A) *False alarm.* Give or cause to be given any false alarm of fire, with knowledge of such falsity, by means of any telegraph box connected with the fire alarm system, or police call boxes, of the town, or by telephone, or by any other means;

(B) *Keys to alarm boxes.* Make or cause or permit to be made, or have in his or her possession, any key or keys for any fire alarm box connected with the fire alarm system of the town, or for any house or building used by the fire force of the town, except upon written order of the Chief of the fire force or the Town Council;

(C) *Surrender of keys.* Fail, or refuse to surrender possession of any keys of any fire alarm box connected with the fire alarm system of the town, upon demand of the Chief of the fire force or the Town Council;

(D) *Injuring fire alarm system.* Cut, damage, destroy, remove or in any manner interfere with, damage or disturb, any part of the fire alarm system, apparatus or equipment in use in the town;

(E) *Obstructing fire force.* Hinder, or obstruct, or so attempt, any part of the fire force apparatus, while the same is being taken to or from any fire, or in use at a fire, or in any way obstruct or interfere with the use of any public cistern, well or other water supply, fire plug or apparatus used by the fire force, or hinder or prevent any firefighter from performing his or her work relating to or at any fire;

(F) *Injuring hose.* Drive any vehicles, street car, or railroad locomotive or car, over and so as to damage any hose laid in any street in the vicinity of any fires or while in use for any other purposes, or in any other way to interfere with the use of such hose;

(G) *Approach to fires.* Following fire apparatus, or approaching closer to a fire upon which the fire force is working or to which it may be called, than the limits established by any orders of police, or fire forces;

(H) *False fire alarm.* Cry out a false alarm of "fire" in any church, public hall, theater, school, moving picture showroom, or in any other building, either in separate rooms or grouped in a public assemblage, or so as to alarm or endanger such persons;

(I) *Uncovered lights in shops.* Take any uncovered light, or lighted cigar, cigarette or pipe into any stable, carpenter or cabinet shop; or any other shop building, or structure where inflammable material of any nature is known to be kept;

(J) *Opening hydrant during fire.* Open any public hydrant or fire plug, or use any yard hose box, or turn on any public or private stop cock by which water is drawn from fire pressure shall be on the public water system; provided that, no penalties shall attach for doing the acts herein prohibited by this division (J), if done under the direction of the Chief or members of the fire force, or if done without notice or knowledge of such fire pressure; and

(K) *Permitting bonfire.* Cause or permit any bonfire, other than for burning leaves, paper and trash, to be lighted or burned on premises owned by him or her, or in his or her possession or control, or on any public place, at any time without safe control.
(2004 Code, § 6-103) Penalty, see § 133.99

§ 133.18 SMOKING OR CARRYING FIRE-PRODUCING DEVICES.

It shall be unlawful for any person to smoke, or carry a lighted cigar, cigarette, pipe or match, or use any spark, flames or fire-producing device which has not been authorized for use by the Director of the Bureau of Fire Prevention, in the hereinafter described places, except in restrooms, smoking rooms and any other places designated by the owners or operators of any such premises and approved by the Director of the Bureau of Fire Prevention, to-wit:

(A) Retail selling establishments, accommodating more than 200 customers and employing 25 or more employees; and

(B) Any buildings containing explosive or highly inflammable substances thereby exposed to ignition.

(2004 Code, § 6-104) Penalty, see § 133.99

§ 133.19 SMOKING IN BED.

It shall be unlawful for any person to smoke in bed in the following designated places, to-wit:

(A) Hospitals;

(B) Hotels;

(C) Dormitories;

(D) Nursing homes;

(E) Rooming and lodging houses; or

(F) Other places of danger, designated at any time by the Bureau of Fire Prevention.

(2004 Code, § 6-105) Penalty, see § 133.99

§ 133.20 THROWING HOT OR BURNING SUBSTANCES.

It shall be unlawful for any person to throw hot or burning substances, or objects such as cigars, cigarettes, papers, matches and ashes, from windows and doors of any building, or public place, or from any moving vehicle.

(2004 Code, § 6-106) Penalty, see § 133.99

§ 133.21 COMBUSTIBLE MATTER.

It shall be unlawful for any person to place or throw a lighted cigar, cigarette, match or other article, or the contents of a lighted pipe, in, upon or in close proximity to any public or private premises, object or structure, or in any public street or place, where there is any material or condition which is combustible, or liable to damage by heat, fire or explosion.
(2004 Code, § 6-107) Penalty, see § 133.99

§ 133.22 SMOKING ON PUBLIC CONVEYANCES.

Smoking of any kind or character whatever in any street car, bus, trackless trolley or other public conveyance, except taxicabs and jitneys, operating in the town, is hereby prohibited and declared to be unlawful and shall be subject to a fine.
(2004 Code, § 6-108) Penalty, see § 133.99

§ 133.23 SMOKING IN THEATERS.

It shall be unlawful for any person to smoke or light a match while attending any performance in any theater, or motion picture house, or in any other auditorium used therefor in the town, or for any person maintaining or operating any theater or motion picture show in the town to permit any person to smoke while attending a performance in any such building.
(2004 Code, § 6-109) Penalty, see § 133.99

§ 133.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person violating §§ 133.01 and 133.02 of this chapter shall be fined as follows:

(1) For the first offense: $50;

(2) For the second offense: $100; and

(3) For the third and all subsequent offenses: $500.

(C) (1) Any person violating any provision of any section of §§ 133.15 through 133.23 of this chapter for which no specific penalty is provided shall be fined sum not exceeding $100.
(2004 Code, § 6-110)

(2) Smoking of any kind or character whatever in violation of § 133.22 of this chapter shall be subject to a fine not exceeding $25.
(2004 Code, § 6-108)
(Ord. 2015-08, passed 8-18-2015)

TITLE XV: LAND USAGE

Chapter

150. BUILDING REGULATIONS

151. CONSTRUCTION

152. STREETS AND SIDEWALKS

153. STORM WATER MANAGEMENT

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CHAPTER 150: BUILDING REGULATIONS

Section

Unsafe Buildings

150.01 Statutes adopted
150.02 Definitions
150.03 Enforcement authority
150.04 Hearing authority
150.05 Definition of "unsafe building"
150.06 Reconstruction, alteration, repair or demolition
150.07 Compliance required
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Building Rules and Regulations

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UNSAFE BUILDINGS

§ 150.01 STATUTES ADOPTED.

I.C. 36-7-9-1 through 36-7-9-28, as amended, are hereby adopted by reference as the town's Unsafe Buildings and Premises Law. All proceedings within the town for the inspection, repair and removal of unsafe buildings and/or premises shall be governed by said law and the provisions of this subchapter. In the event that provisions of this subchapter and provisions of I.C. 36-7-9-1 through 36-7-9-28 conflict, then the provisions of the state statute shall control.
(2004 Code, Title 12, § 1)

§ 150.02 DEFINITIONS.

In addition to the definitions provided for in the state statutes, the following definitions shall apply to this subchapter.

ENFORCEMENT AUTHORITY. The Zoning Administrator for the town.

HEARING AUTHORITY. The Town Unsafe Building Commission.

SUBSTANTIAL PROPERTY INTEREST. The definition set forth in I.C. 36-7-9-2 is hereby incorporated by reference, as if copied in full.
(2004 Code, Title 12, § 2) (Ord. 2016-06, passed 6-7-2016)

§ 150.03 ENFORCEMENT AUTHORITY.

The Enforcement Authority is hereby authorized to administer and proceed under the provisions of this subchapter in the inspection of buildings and/or premises, and in ordering the repair and/or removal of any buildings or premises found to be unsafe as specified in I.C. 36-7-9-4, as amended, or as specified hereinafter.
(2004 Code, Title 12, § 3) (Ord. 2016-06, passed 6-7-2016)

§ 150.04 HEARING AUTHORITY.

The Hearing Authority is hereby authorized to conduct hearings in accordance with I.C. 36-7-9-7.
(2004 Code, Title 12, § 4) (Ord. 2016-06, passed 6-7-2016)

§ 150.05 DEFINITION OF "UNSAFE BUILDING".

The definition of unsafe buildings and unsafe premises contained in I.C. 36-7-9-4 is supplemented as follows, to provide minimum standards for building conditions and/or maintenance within the jurisdiction of the town's Plan Commission:

(A) Any building, structure and/or premises that has any or all of the unsafe conditions or defects described hereinafter shall be deemed an unsafe building and/or unsafe premises; provided that, such condition(s) or defect(s) exist to the extent that life, health, property or safety of the public or its occupants are endangered;

(B) Whenever any door, aisle, passageway or other means of exit is not of sufficient width or size or is not arranged as required so as to be in compliance with the applicable State Building Code then in force;

(C) Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed for new buildings of similar structure, purpose or location as established by the applicable State Building Code then in force;

(D) Whenever any portion of a building, structure and/or premises has been damaged by fire, earthquake, wind, flood or any other cause to such extent that the structural strength or stability thereof is materially less than it was prior to catastrophe and less than the minimum requirements for new building codes of similar structure, purpose or location, as established by the applicable State Building Code then in force;

(E) Whenever any portion, member or appurtenance of any building or structure is likely to fail, to become detached or dislodged or to collapse and thereby injure persons or damage property;

(F) Whenever any portion of a building or structure or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability or is not anchored, attached or fashioned in place so as to be capable of resisting a wind pressure of one-half of that specified for new buildings or similar structure, purpose or location, without exceeding the working stresses permitted for such buildings as established by the applicable State Building Code then in force;

(G) Whenever any portion of a building or structure has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to wind or earthquakes than is required in the case of similar new construction;

(H) Whenever any building or structure or any portion thereof because of: dilapidation, deterioration or decay; faulty construction; the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; the deterioration, decay or inadequacy of its foundation; or any other cause likely to partially or completely collapse;

(I) Whenever, for any reason, the building, structure or premises or any portion thereof is manifestly unsafe for the purpose for which it is being used;

(J) Whenever the exterior walls or vertical structural members lift, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall beside the middle one-third of the base;

(K) Whenever the building or structure, exclusive of the foundation, shows 33% or more damage or deterioration of its supporting member or members or 50% damage or deterioration of its supporting members enclosing outside walls or coverings;

(L) Whenever the building or structure has been so damaged by fire, wind, earthquake or flood or has become so dilapidated or deteriorated as to become an attractive nuisance to children, or freely accessible to persons without a substantial property interest;

(M) Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to any building or structure provided by building regulations of the town or any law or ordinances or the state or county relating to the condition, location or structure of buildings;

(N) Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has any non-supporting part, member or portion less than 50% or in any supporting part, member or portion less than 66% of the: strength; fire-resisting qualities or characteristics; or weather-resisting qualities or characteristics required by law in the case of a newly constructed building of the like, area, height and occupancy in the same location;

(O) Whenever a building or structure used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, default, faulty construction or arrangements, inadequate light, air or sanitation facilities, or otherwise is determined by the Enforcement Authority to be unsanitary, unfit for human habitation, or in such a condition that it is likely to cause sickness or disease;

(P) Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure; or

(Q) Whenever any building or structure is abandoned for a period in excess of six months, so as to constitute such building or portion thereof an attractive nuisance or a hazard to the public.
(2004 Code, Title 12, § 5)

§ 150.06 RECONSTRUCTION, ALTERATION, REPAIR OR DEMOLITION.

All work for the reconstruction, alteration, repair or demolition of any building, structure and/or premises shall be performed in a good, workmanlike manner, according to acceptable standards and practices in the trade. The provisions of the rules, regulations and statutes pertaining to construction, plumbing, electrical, mechanical and one- and two-family dwellings obligated by the Fire Prevention and Building Safety Commission shall be accepted standard and acceptable practice for all matters covered by this subchapter or orders issued pursuant to this subchapter by the Enforcement Authority.
(2004 Code, Title 12, § 6) Penalty, see § 10.99

§ 150.07 COMPLIANCE REQUIRED.

No person, firm or corporation, whether it is owner, lessee, sublessee or occupant shall erect, construct enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy or maintain any building, structure or premises, or cause or permit the same to be done contrary to, or in violation of, any of the provisions of this subchapter or any order issued pursuant to this subchapter by the Enforcement Authority.
(2004 Code, Title 12, § 7) Penalty, see § 10.99

§ 150.08 UNSAFE BUILDING FUND.

(A) The Enforcement Authority shall establish in its operating budget a fund designated as the Unsafe Building Fund (hereinafter referred to as the “Fund”).

(B) The Fund may receive appropriations from the Town Council or any other governmental unit, as well as any funds received from settlements or obligations, judgments, proceeds of bond money received from civil penalties, or other sources permitted under I.C. 36-7-9-14.

(C) The Fund shall be used for any and all costs incurred by the Enforcement Authority and/or the Hearing Authority, its agents or assigns, including, but not limited to, costs incurred under I.C. 36-7-9-14(c).

(D) The Enforcement Authority shall prepare an annual report to be filed with the Town Council reporting the source and use of all moneys within the Fund.
(2004 Code, Title 12, § 8)

§ 150.09 BIDS AND CONTRACTS.

It shall be the responsibility of the enforcement authority to administer any bids for demolition contracts awarded pursuant to this subchapter.
(2004 Code, Title 12, § 9) (Ord. 2016-06, passed 6-7-2016)

BUILDING RULES AND REGULATIONS

§ 150.20 STATE BUILDING RULES AND REGULATIONS ADOPTED.

The Town Code is amended to include, as a part thereof:

(A) The code of building laws and fire safety laws that is adopted in the rules of the Fire Prevention and Safety Commission under I.C. Ch. 22-13;

(B) Orders issued under I.C. 22-13-2-11 that grant a variance to the code of building laws and fire safety laws described in division (A);

(C) Orders issued under I.C. 22-12-7 that apply the code of buildings laws described in division (A);

(D) I.C. 22-15-3-7;

(E) All written interpretations of building laws and fire safety laws which may be binding on the town under I.C. 22-13-5-3 or I.C. 22-13-5-4;

all of which are hereby adopted and shall be complied with to the full extent that may be applicable to property and improvements over which the town has jurisdiction.
(Ord. 2020-02, passed 1-21-2020)

CHAPTER 151: CONSTRUCTION

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DOMESTIC WATER SYSTEMS

§ 151.001 GENERAL DESCRIPTION; QUALITY ASSURANCE.

(A) *Description*. This section describes the installation and testing requirements for domestic water systems including water mains, hydrants, service meters and connections and other appurtenances associated with the distribution of potable water.

(B) *Quality assurance*.

(1) All similar components shall be manufactured and supplied by one manufacturer unless specifically approved otherwise by the town.

(2) All material shall be new and unused of the minimum standards specified herein.

(C) *Codes and standards*. The following codes and standards are referenced in this section:

(1) American Waterworks Association (AWWA);

(2) American National Standards Institute (ANSI);

(3) American Society of Testing and Materials (ASTM); and

(4) National Sanitation Foundation (NSF).

(2004 Code, Art. III, § A, part 1)

§ 151.002 PRODUCTS AND EQUIPMENT.

(A) *Water main piping.*

(1) *Polyvinyl chloride (PVC) pipe.*

(a) All PVC water main piping shall conform to the requirements of AWWA C900, DR14 (Class 200) or ASTM D2241, SDR-21 (200 psi). PVC pipe shall have a cell classification of 12454B or 12454C.

(b) All pipe shall be marked as to indicate appropriate ASTM or AWWA designation and pressure class.

(c) All PVC pipe joints shall be bell and spigot type with elastomeric gaskets conforming to the requirements of ASTM D3139.

(2) *Ductile iron pipe.*

(a) All ductile iron pipe shall be manufactured in accordance with ANSI/AWWA C151/A21.51 for pipe barrel construction; ANSI/AWWA C151/A21.51 for determining pipe wall thickness; ANSI/AWWA C151/A21.51 for installing cement mortar lining; and ANSI/AWWA C151/A21.51 for construction of pipe fittings.

(b) All ductile iron pipe and pipe fittings shall be mortar lined with bituminous seal coat in accordance with ANSI 21.4.

(c) Unless otherwise shown on the drawings, the thickness class for ductile iron pipe shall be Pressure Class 350 for pipes 12 inches or smaller and Pressure Class 250 for pipes 14 inches or larger.

(d) Ductile iron pipe joints shall conform to the following requirements.

1. *Push-on and mechanical.* Push-on and mechanical joints including accessories shall conform to ANSI/AWWA C151/A21.51. Bolts shall be high strength cast iron with tee head with hex nuts.

2. *Flanged*. Flanged joints shall not be used for underground installations, except within structures. Flanged joints shall meet the requirements of ANSI/AWWA C151/A21.51 or ANSI B.16. All flanged joints shall be rated for 250 psi pressure and have ASA 125-pound bolt patterns. All flanged joints shall be furnished with one-eighth-inch thick full face red rubber gaskets.

3. *Bell and spigot*. Bell and spigot joints shall conform to ANSI/AWWA C151/A21.51.

(B) *Fittings*. Fittings for all types of pipe shall be ductile iron mechanical joint type manufactured in accordance with ANSI/AWWA C110/A21.10 and having a minimum pressure rating of 250 psi.

(C) *Gate valves*. Gate valves shall be cast iron body, double disc, non-rising stem type manufactured in accordance with ANSI/AWWA C500. Valves shall have bronze seat and disc rings, o-ring seals and be rated for a maximum working pressure of 200 psi for valves 12 inches and smaller and 150 psi for valves 14 inches and larger. Valves shall be as manufactured by Mueller Company, Kennedy Valve Company or equal.

(D) *Inserting valves*. Where inserting valves are required on existing water mains, they shall be ductile iron double disc as specified above. Inserting valves shall be Mueller Type H-800 or equal.

(E) *Tapping valves and sleeves*.

(1) Tapping sleeves shall be iron body with mechanical joint ends and flanged valve end. Sleeves shall be rated for a working pressure of 200 psi through 12-inch sizes and 150 psi when 14 inches and larger. Sleeves shall be suitable for the existing water main material. Tapping sleeves shall be Mueller Type H-615 or H-616, or equal.

(2) Tapping valves shall be iron body, double disc, non-rising, stem gate valves as specified above. Tapping valves shall have mechanical joint by flanged ends as required to connect with the tapping sleeve. Tapping valves shall be Mueller Type 667 or equal.

(F) *Valve boxes*.

(1) Valve boxes for buried valves shall be cast iron, either two piece or three piece type. Boxes shall be extension type with slide or screw type adjustment. Each base and bottom section shall be sized for the valve served. Valve box covers shall be stamped “water” for identification.

(2) Valve boxes for curb stops shall be cast iron, extension type with foot piece, curb box and lid.

(G) *Fire hydrants*.

(1) Fire hydrants shall be of the post dry type barrel design conforming to ANSI/AWWA C502. Hydrants shall be rated for a 200 psi working pressure.

(2) The main valve closure shall be of the compression type, opening against system pressure and closing with the pressure.

(3) The main valve opening shall be five and one-half inches and shall be designed so as to allow removal of the seat and drain valve mechanism without disturbing the ground line. The hydrant shall have two hose nozzles and one pumper nozzle.

(4) Hydrants shall be of the dry type design with o-ring sealed reservoir.

(5) Fire hydrants shall be Mueller Super Centurion 200.

(H) *Meter setters.*

(1) Meter setters shall be prefabricated copper yoke type sized as required for the service meter.

(2) Units shall include a lock wing type ball meter valve on the inlet and dual check valve on the outlet.

(3) The fittings and arrangement shall be as required for the application.

(4) Meter setters shall be as manufactured by McDonald Brass, Mueller or equal.

(I) *Meter boxes.*

(1) Meter boxes shall be made of rigid PVC sized as required for the application.

(2) Boxes shall be installed complete with foam insulating pad for protection against freezing.

(3) Meter boxes shall be EZ-Setter as manufactured by Sono-Loc, Mueller or equal.

(J) *Meter box covers.*

(1) Meter box covers shall be cast iron of standard weight construction. Covers shall be sized as required to fit the applicable meter box; provided, the minimum diameter is 15 inches.

(2) Covers shall be of the flat lid, no lock type having an integral reader lid as required for touch read meters. Covers shall be stamped with the words “water meter”.

(3) Where required for concrete or asphalt installation, the meter box covers shall include a four-inch cast iron frame.

(4) Meter box covers shall be Ford Meter Box, A3-T or A3-TT (double service), or equal.

(K) *Tapping saddles*. Where plastic mains are tapped, furnish and install service clamp or saddle with threaded tap for three-fourths-inch or one-inch service as manufactured by Mueller, Ford Meter Box or equal.

(L) *Curb stop*.

(1) For one and one-half-inch services, provide a Ford or Mueller curb stop at the main. Stops to be bronze and ball with Buna-N rubber "O" rings. Connections to be for pack joints.

(2) Furnish cast iron curb stop box and one curb stop wrench.

(M) *Service tubing*. All single service tubing shall be three-fourths-inch type L copper tubing and double service connections shall be one-inch size.
(2004 Code, Art. III, § A, part 2)

§ 151.003 EXECUTION AND TESTING.

(A) *Installation*.

(1) *Pipe depth*. Water mains shall be installed with a minimum cover of 42 inches.

(2) *Relation to sanitary sewers*.

(a) Unless specifically allowed otherwise by the town, water mains shall be installed a minimum of ten feet horizontally from any existing or proposed sanitary sewer. Where such a requirement is not possible, the sanitary sewer material shall meet the material requirements for water mains as specified herein for the entire length where the minimum separation cannot be met.

(b) Where water mains cross sanitary sewer lines, a minimum vertical clearance of 18 inches shall be provided, whether the main is above or below the sewer. Conformance with this requirement shall not waive the minimum cover requirements.

(3) *Plastic pipe locating tape*.

(a) Locating tape shall be installed over all PVC water lines. This tape shall be of a type which can be used with electronic pipe locating devices.

(b) Locating tape shall be continuous and in a three-inch width. Tape shall be a sandwich type of a metallic strip between polyethylene film. Tape shall be printed "Caution, Water Line Buried Below".

(c) Tape shall be spliced together for continuity and shall be brought into mainline valve boxes for connection to a locating device.

(d) Tape shall be laid in the trench along the pipe centerline two inches below finish grade.

(4) *Valves*.

(a) Butterfly and gate valves shall be set vertically and bedded solidly on trench bottom. Flanged valves shall be securely bolted utilizing red rubber or asbestos gaskets and high strength cast iron bolts and nuts.

(b) Valve boxes shall be set squarely over tee wrench nut and vertical. Leave valve box flush with finish grade and readjust as necessary to reconform with surface until final settlement or paving is complete.

(c) All valves shall be buried and have road boxes unless otherwise specified.

(5) *Fire hydrants*.

(a) Fire hydrants shall be rigidly blocked and braced against thrust. Contractor shall back up hydrant base with concrete and support base all as detailed on the plans.

(b) An envelope of washed, coarse gravel shall be provided around the drain ports of the hydrants to assure barrel drainage of the hydrants. Gravel shall be a minimum two feet diameter and to six inches above ports.

(c) Ground line marks on hydrants shall be set two inches above finish grade. All hydrants shall have one prime coat and two field coats of a suitable exterior machinery enamel or color used in this system. Prime coat shall be touched-up prior to application of finish coat.

(6) *Tapping valves*. Tapping valves shall be installed and the tap made in accordance with the manufacturer's recommended procedures and good practice. Valves shall be securely supported in vertical position during tapping operations. Tamp fill thoroughly around and under valve after installation. Installation shall be checked for leaks before backfilling.

(7) *Service connections*. At locations shown on the plans or where designated by the town, the contractor shall furnish all materials and labor to connect water services to mains. Any piping or fittings required to make the connection and provide service shall be furnished by the contractor. Meter pits and settings shall be installed plumb and true according to good construction practices.

(B) *Hydrostatic testing*.

(1) The contractor shall perform a combination pressure and leakage test on the new mains after they have been filled with water as previously specified. This work shall be done after all of the main is backfilled.

(2) The test procedure shall be as herein specified and in accordance with applicable provisions of AWWA Standard C-600.

(3) The mains shall be subjected to a minimum test pressure of 150% of the maximum system operating pressure of the main being tested; provided that, the maximum pressure does not exceed the ratings of the valves, restraints and other materials. The duration of each test shall be at least two hours. Each valved section of pipe shall be so tested.

(4) The test pressure shall be accomplished by means of a pump connected to the pipe. Such pump, including all meters, connections, fittings, gauges and the like shall be supplied by the contractor. Leakage shall be defined as the quantity of water required to refill the main in order to maintain pressure within five psi of the specified test pressure after the pipe has been filled with water and expelled of air. Leakage shall not be measured by a drop in pressure over a period of time. No pipe installation shall be accepted if the leakage is greater than that determined by the following formula:

$$L = \frac{SD\ (P)^{1/2}}{133{,}200}$$

where: L = allowable leakage, in gallons per hour
S = length of pipe tested, in fee
D = nominal pipe diameter, in inches; and
P = average test pressure, in pounds per square inch (gauge)

(C) *Disinfection of mains.*

(1) *General.* The contractor shall be required to disinfect all new water mains, services, leads and appurtenances in accordance with AIWA C-651 “Standards for Disinfecting Water Mains”. The work shall consist of filling the mains, disinfection, testing and flashing as specified herein.

(2) *Filling the mains.*

(a) The new piping system shall be slowly filled with water from the utility distribution system. Where pressure is insufficient to raise water into mains at higher elevations, the contractor shall furnish booster pumping equipment to complete the filling and flushing.

(b) All air shall be expelled from the mains as they are filled. Air valves and hydrants at high points in the main shall be utilized for this purpose. Where permanent vents are not provided, the contractor shall install corporation cocks at high points to assure removal of air. Such cocks shall be left in place and location noted by dimension ties on the field record set of drawings.

(3) *Disinfection.*

(a) Before being placed in service, all new mains and repaired portions of, or extensions to, existing mains shall be chlorinated with a chlorine solution so that a chlorine residual of not less than 25 PPM remains in the water after 24 hours standing in the pipe.

(b) A chlorine gas-water or hypochlorite mixture shall be applied by means of a solution-feed chlorinating device. Chlorinating devices for feeding solutions of chlorine gas must provide means for preventing the backflow of water into the chlorine cylinder.

(c) The preferred point of application of chlorinating agent is ahead of the beginning of the pipeline extension or any valve section of it and through a corporation stop inserted by the contractor, in the top of the pipe. The water injector for delivering the chlorine-bearing water into the pipe should be supplied from a tap on the pressure side of the gate valve controlling the flow into the pipeline extension.

(d) Water from the existing distribution system or other source of supply shall be controlled so as to flow slowly into the newly laid pipeline during the application of chlorine. The rate of chlorine mixture flow shall be in such proportion to the rate of water entering the pipe that the chlorine dose applied to the water entering the newly laid pipe shall produce at least a 25 P.M. residual after 24 hours.

(e) If the circumstances are such that a shorter retention period must be used, the chlorine concentration shall be increased accordingly.

(f) In the process of chlorinating newly laid pipe, all valves or other appurtenances shall be operated while the pipeline is filled with the chlorinating agent.

(4) *Testing and flushing.*

(a) Following chlorination, all treated water shall be thoroughly flushed from the newly laid pipeline at its extremities until the replacement water throughout its length shall, upon testing, be proven comparable in quality to the water served the public from the existing water supply system and approved by the state's Board of Health. This satisfactory quality of water delivered by the new main should continue for a period of at least two full days as demonstrated by laboratory examination of samples taken from a tap located and installed in such a way as to prevent outside contamination.

(b) Before the system is placed into use, the contractor shall obtain from the new mains two successive water samples 48 hours apart, and have them tested for bacteria content by the state's Board of Health. Samples shall be drawn in accordance with the Board's procedure.

(c) If samples do not prove satisfactory, the system shall be rechlorinated and resampled until safe water is approved.
(2004 Code, Art. III, § A, part 3)

STORM SEWER SYSTEMS

§ 151.015 GENERAL DESCRIPTION; IDENTIFICATION.

(A) *Description.*

(1) This section describes the materials and installation required for storm sewer piping systems.

(2) This section is to be used only when non-water-tight joints will be allowed. Hydrostatic or air testing will not be required for storm sewers unless excessive leakage is suspected.

(3) This specification covers the following types of materials for storm sewers:

(a) Reinforced concrete pipe and fittings;

(b) Polyvinyl chloride pipe (PVC);

(c) Corrugated metal pipe; and

(d) Perforated under drain pipe.

(B) *Pipe identification.* Each length of pipe shall bear the name of the manufacturer, location of the plant, and the date of manufacture. Each length shall likewise be marked to designate the class or strength of the pipe. The marking shall be made on the exterior or interior of the pipe barrel near the end and shall be plainly visible.
(2004 Code, Art. IV, § A, part 1)

§ 151.016 PRODUCTS AND EQUIPMENT.

(A) *Reinforced concrete pipe and fittings.*

(1) All concrete pipe shall conform to ASTM C76, "Reinforced Concrete Culvert Storm Drain and Sewer Pipe".

(2) All concrete pipe shall be Class III, wall B unless otherwise approved by the town.

(3) All reinforced concrete pipe joints shall be spigot groove type joint with O-ring gasket conforming the ASTM C443 "Joints for Circular Concrete Sewer and Culvert Pipe, Using Rubber Gaskets".

(4) Precast reinforced concrete end sections shall be in accordance with the cited specifications to the extent which they comply. End sections shall be sized to match the pipe.

(B) *Polyvinyl chloride pipe (PVC).*

(1) *PVC pipe four-inch through 15-inch in diameter.*

(a) All PVC pipe four-inch through 15-inch in diameter shall conform to ASTM D1784, "Rigid Poly (Vinyl Chloride) and Chlorinated Poly (Vinyl Chloride) Compounds" and either:

1. ASTM F794, "Poly (Vinyl Chloride) (PVC) Ribbed Gravity Sewer Pipe and Fittings Based on Controlled Inside Diameter";

2. ASTM F949, "Poly (Vinyl Chloride) (PVC) Corrugated Sewer Pipe with a Smooth Interior and Fittings"; or

3. ASTM D3034, "Type PZM Poly (Vinyl Chloride) (PVC) Sewer Pipe and Fittings".

(b) PVC sewer pipe shall be SAR 35 with cell classification of 12454-B or 12354-C.

(c) Pipe joints shall be push-on type conforming with ASTM D3212 "Joints for Drain and Sewer Plastic Pipes using Flexible Blastomeric Seals".

(2) *PVC pipe 18-inch through 48-inch in diameter.*

(a) All PVC pipe 18-inch through 48-inch in diameter shall conform to ASTM D1784, "Rigid Poly (Vinyl Chloride) and Chlorinated Poly (Vinyl Chloride) Compounds" and either:

1. ASTM F794, "Poly (Vinyl Chloride) (PVC) Ribbed Gravity Sewer Pipe and Fittings based on Controlled inside Diameter";

2. ASTM F949. "Poly (Vinyl Chloride) (PVC) Corrugated Sewer Pipe with a Smooth Interior and Fittings"; or

3. ASTM F679, "Poly (Vinyl Chloride) (PVC) Large-Diameter Plastic".

(b) Pipe shall be made from PVC compounds with a minimum cell classification of 12364A.

(c) Pipe joints shall be push-on type conforming with ASTM D-3212.

(3) *Gaskets*. Gaskets shall be factory installed and chemically bonded to the bell end of the pipe.

(C) *Corrugated metal pipe (CAMP).*

(1) Corrugated metal pipe shall be aluminum-zinc-coated steel manufactured in accordance with ASTM A806 "Aluminum-Zinc-Coated Steel Sheet (by Hot-Dip Process) for Storm Sewer/Drainage Pipe".

(2) When required by the drawings, bituminous coating for corrugated steel pipe shall meet the requirements of ASTM A849 "Post-Coated (Bituminous) Corrugated Steel Sewer and Drainage Pipe".

(3) End sections for CAMP sewers or culverts shall be of the same material as the pipe. End sections and coupling bands shall be suitable for the pipe size specified. Band couplers shall have corrugations that mesh with the corrugations of the pipe.

(4) Fittings such as stub-tee connections or saddles shall be shop fabricated.

(D) *Perforated under drain pipe.*

(1) Perforated under drain pipe shall be corrugated polyethylene tubing manufactured in accordance with ASTM F405 or ASTM Y667 (ten-inch to 15-inch only).

(2) Under drain piping shall be bedded with gravel or selected bedding material as shown and required by the details included herein.
(2004 Code, Art. IV, § A, part 2)

§ 151.017 EXECUTION AND REQUIREMENTS.

(A) Before installing piping, the contractor shall carefully verify location depth type of joint needed and size of pipe to which connection is proposed. The contractor shall assure that the lines can be run as contemplated without interfering with footings, walls, other piping, fixtures and the like.

(B) All lengths of pipe shall be dimensioned accurately to measurements established at the site and shall be worked into place without springing or forcing. Cut sections of pipe shall be reamed to remove all burrs.

(C) Utmost care shall be exercised in transporting and handling all pipe, fittings, valves and the like, in order to avoid shock and damage to pipe and coatings. Lifting shall be by joist or skids when hand lifting is not feasible. Dropping of the pipe will not be permitted. Pipe handled on sideways must not be skidded or rolled against pipe already on the ground. Damaged or defective pipe and appurtenances shall be replaced.

(D) The pipe shall be thoroughly cleaned before being laid and kept clean during construction.

(E) The contractor shall cut all pipe and drill all holes that may be necessary.

(F) Pipe trenching and backfill shall be performed in accordance with §§ 151.075 through 151.077 of this chapter.
(2004 Code, Art. IV, § A, part 3)

INLETS AND CATCH BASINS

§ 151.030 GENERAL DESCRIPTION; DELIVERY, STORAGE AND HANDLING.

(A) *Description.* The work of this subchapter shall include the manufacturing and installation of precast concrete storm sewer inlets and catch basins as detailed and specified herein.

(B) *Delivery, storage and handling.* Precast concrete structures shall be delivered to the site complete and in structurally sound condition. The contractor shall take proper care in moving the structures to prevent cracking, breaking or otherwise damaging the structure.
(2004 Code, Art. IV, § B, part 1)

§ 151.031 PRODUCTS AND EQUIPMENT.

(A) *General.* All precast concrete structures to be used on the project shall be structurally sound and free of defects. Any spelled concrete or voids shall be properly repaired using equivalent strength grout and properly cured before placement. Structures showing excessive cracking of damage should be rejected and shall be replaced at the discretion of the town.

(B) *Concrete strength.* All concrete used in the production of precast inlets and catch basins shall have a minimum compressive strength of 4,000 psi at 28 days.

(C) *Inlets and catch basins.*

(1) All precast inlets and catch basins shall be manufactured in accordance with ASTM C478 and the state's Department of Transportation (IDOT) "*Standard Specifications*".

(2) Reinforced concrete pipe used as inlets or catch basins shall meet the requirements for concrete storm sewer pipe specified in division (B) above.

(3) Where practical, inlets and catch basins shall be of standard size and dimensions as identified by the IDOT standards.

(D) *Castings*.

(1) Castings for inlets and catch basin shall be made of either gray or ductile iron. Metal used in the manufacture of castings shall conform to ASTM A48 Class 35B for gray iron or ASTM A536 Grade 65-45-12 for ductile iron.

(2) Castings shall be of uniform quality, free from blowholes, shrinkage, distortion or other defects.

(3) Castings placed in roadways, drives or other locations subject to vehicular traffic shall be heavy duty type, suitable for the applicable loadings.

(4) Castings shall be as manufactured by Neenah Foundry Company, East Jordan Iron Works or equal.
(2004 Code, Art. IV, § B, part 2)

§ 151.032 EXECUTION AND INSTALLATION.

(A) Storm sewer inlets and catch basins shall be of the size and type shown on the plans and as detailed herein. Structures shall be installed level and true to grade.

(B) Excavation and backfill for inlets and catch basins shall be in accordance with this subchapter. All structures shall be placed on a leveling surface consisting of a minimum of four inches of stone or "B" borrow.

(C) Where structures are placed in pavement areas or areas which may be paved in the future, the height of the casting shall be determined by the depth of pavement.

(D) Inlet and outlet pipes shall extend through the structure walls a sufficient distance to allow for connections to the storm sewer system. Pipes shall be flush with the interior wall face and mortared into place so as to prevent leakage around their outlet surfaces.
(2004 Code, Art. IV, § B, part 3)

CAST-IN-PLACE CONCRETE

§ 151.045 GENERAL DESCRIPTION; CODES AND STANDARDS.

(A) *Description*. This subchapter includes the materials, equipment and labor required for placing, finishing and curing all cast-in-place concrete including roadways, driveways, curbs, sidewalks, thrustblocking and the like.

(B) *Codes and standards*. Work shall be in compliance with the following codes and standards unless more stringent requirements are specified:

(1) ACI 301 - Specifications for Structural Concrete for Buildings;

(2) ACI 305 - Hot Weather Concreting;

(3) ACI 306 - Cold Weather Concreting;

(4) ASTM C31 - Making and Curing Concrete Test Specimens in the Field;

(5) ASTM C33 - Concrete Aggregates;

(6) ASTM C39 - Test for Compressive Strength of Cylindrical Concrete Specimens;

(7) ASTM C94 - Ready Mixed Concrete;

(8) ASTM C143 - Test for Slump of Portland Cement Concrete;

(9) ASTM C150 - Portland Cement;

(10) ASTM C172 - Sampling Fresh Concrete;

(11) ASTM C173 - Test for Air Content of Freshly Mixed Concrete by the Volumetric Method;

(12) ASTM C231 - Test for Air Content of Freshly Mixed Concrete by the Pressure Method;

(13) ASTM C260 - Air-Entraining Admixtures for Concrete;

(14) ASTM C494 - Chemical Admixtures for Concrete;

(15) ASTM C618 - Flyash and Raw or Calcified Natural Pozzolans, for Use in Portland Cement Concrete; and

(16) The state's Department of Transportation *Standard Specifications*, latest edition.
(2004 Code, Art. VI, § B, part 1)

§ 151.046 PRODUCTS AND EQUIPMENT.

(A) *Classes of concrete*. Concrete used in the work shall be designated Class "A" or Class "B" on the basis of the minimum 28-day compressive strength developed when tested in accordance with ASTM C39. Class "A" concrete shall develop a minimum compressive strength of 4,000 pounds per square inch

in 28 days. Class "B" concrete shall develop a minimum compressive strength of 3,000 pounds per square inch in 28 days. Class "A" concrete shall be used for all load bearing or structural concrete such as roads, drives, curbing and utility structures. Class "B" concrete shall be used on non-structural items such as sidewalks, thrustblocking and the like.

(B) *Portland cement.*

(1) Different kinds of brands of cement, or cement of the same brand from different mills, shall not be mixed on the same job.

(2) All cement used in concrete for structures which will contain or carry liquids after completion, such as tanks and pipes, shall be air-entraining portland cement, conforming with ASTM C150, Type IA or IIIA. Air entraining admixtures shall conform to ASTM C260.

(3) All other cement shall be portland cement, conforming to either ASTM C150, Type I or Type III.

(C) *Aggregate.* Concrete aggregate shall conform to Section 904 of the state's Department of Transportation *Standard Specifications*, latest edition. All aggregate shall be stored in an approved manner, which will keep the aggregate clean and free from foreign substances.

(1) *Fine aggregate.* Shall be natural sand of clean, hard, durable particles and shall conform to the state's Department of Transportation *Standard Specifications*, Size No. 23.

(2) *Coarse aggregate.* Shall be crushed stone or gravel of clean, sound, durable particles and shall conform to the state's Department of Transportation *Standard Specifications*, Class A, Size No. 5 or No. 8.

(D) *Water.* Water used in mixing that is known to be potable quality need not be tested. Any other water used shall be clean, free of oil, salt, acid, alkali, sugar, vegetable or any other substance harmful to the finished product. Water will be tested in accordance to the requirements of AASHTO T26.

(E) *Admixtures may be used in concrete as follows.*

(1) *Air-entraining admixture.* Shall conform to the requirements of ASTM C260 and shall be added to the mix in the amount necessary to produce the specified air content. Air-entraining admixtures shall be Micro-Air by Master Builders, Darex or Airalon by W.R. Grace, or equal.

(2) *Water-reducing admixture.* Shall conform to ASTM C494, Type A or Type D (water reducing and retarding). Water reducing admixture shall be mixed separately from air-entraining admixtures in accordance with the manufacturer's printed instructions. Water-reducing admixtures shall be Pozzolith 122-N or LL-960 by master Builders, WRD A with Hycol by W.R. Grace, or equal.

(3) *Pozzalanic admixtures*. Shall be flyash or raw or calcined material pozzolans meeting the requirement of ASTM C618 with the exception that the maximum loss of ignition should be less than 6%. Pozzalanic admixtures may be used as a cement substitute with a maximum 20% substitution rate on a pound for pound basis.

(F) *Proportioning concrete mixes*. All concrete shall be proportioned by the water-cement ratio, unless specifically approved otherwise by the Engineer. The water-cement ratio shall be interpreted as the ration of the total quantity of water, including surface water contained in the aggregate, in pounds, per pound of cement. Weight of water based on 62.4 pounds per cubic foot at 60°F.

(1) Concrete shall be proportioned to give the required workability without exceeding the maximum quantities of mixing water, as follows:

Lbs. of Cement		***28-Day***	
Class of Water-Cement		***Per Cu. Yd. Concrete Compressive***	
Concrete	***Ratio (Max.)***	***Minimum***	***Strength (psi)***
"A"	0.45	564	4,000
"B"	0.55	423	3,000

(2) All concrete placed in the work shall have a slump between three inches and five inches when tested in accordance with ASTM C143; except that, a maximum slump of six inches may be permitted by the Engineer for sections less than six inches thick.

(3) All concrete shall include entrained air of not less than 5%, nor greater than 1%. Air entraining admixtures shall be required unless air entrained concrete meeting the above requirements is used.

(4) Adjustment shall be made to the mix to appropriate the amount of over design as required by ACI 318 § 4.3.

(G) *Related concrete materials*.

(1) *Curing compound*. Shall be non-staining acrylic type curing compound conforming to ASTM C309, Type I, clear. Curing compound shall in no way be detrimental to the application of sealers, finishes or flooring materials as may be specified.

(2) *Curing and sealing compound*. Shall be non-staining acrylic type curing compound. Conform to ASTM C309, Type I, clear; Kure-N-Seal as manufactured by Sonneborn or equal as approved by Engineer.

(3) *Joint filler*. Filler for expansion joints shall be ASTM D1752, Type III, preformed, self-expanding, non-extruding strips formed from clean granulated cork particles securely bound together by a non-bitumen synthetic resin of an insoluble nature. Filler material shall be acid resistant and waterproof. Filler shall be W.R. Grace Code 4324 or equal.

(4) *Joint sealant*. Pourable two part polysulfide conforming to USAS A1 116.1 and Thiokol Building Trade Performance Specification Class A (self-leveling) Type II (35-45 Shore A). Sealant shall be W.R. Grace No-Trak or equal.
(2004 Code, Art. VI, § B, part 2)

§ 151.047 EXECUTION; CONDITIONS.

(A) *Concrete placement*.

(1) *Site conditions*. Before placing concrete, the contractor shall:

(a) Erect and clean all formwork and reinforcement;

(b) Prevent groupings of conduits, pipes and sleeves in concrete that would significantly impair the strength of the concrete;

(c) Install all items to be embedded in concrete. Position accurately and secure against displacement. Do not embed aluminum items in concrete;

(d) Remove all wood scraps, ice, snow, frost, standing water and debris from areas in which concrete will be placed;

(e) Before fresh concrete is placed against hardened concrete, the contractor shall retighten the forms and clean and moisten the surface of the hardened concrete for bond to the fresh concrete; and

(f) Thoroughly moisten subgrade on which concrete is to be placed. Do not place concrete on frozen subgrade.

(2) *Mixing*.

(a) All concrete incorporated in the work shall be trans-mixed in accordance with ASTM C94 for ready mix concrete. Small batches of concrete may be job mixed by the contractor when approved by the Engineer.

(b) Addition of water to the concrete during transport or at the site is strictly prohibited.

(c) When placed, the concrete's temperature shall be between 60°F and 90°F.

(3) *Placement*.

(a) Convey concrete by methods and equipment capable of supplying concrete from mixer to place of final deposit without segregation and such that detectable setting of concrete does not occur before adjacent concrete is placed.

(b) Use pumping equipment with sufficient deign and pumping capacity to ensure a practically continuous flow of concrete at the point of discharge without segregation. Water shall not be added in order to facilitate pumping.

(c) Limit vertical drop of concrete to four feet unless appropriate equipment is used to prevent segregation.

(d) Do not bear concrete conveying equipment on fresh concrete or reinforcement.

(e) After concrete placing has started, the operation shall be carried on continuously until placement of the section is complete. Do not place a greater section of concrete at one time than can be properly finished.

(f) Deposit concrete as nearly as practicable to its final position to avoid segregation due to rehandling or flowing.

(g) Place concrete at a rate such that the concrete is at all times plastic and flows readily between reinforcement and into corners of forms without segregation.

(h) Do not place concrete that has partially hardened, been retempered or contaminated by foreign materials.

(4) *Adverse conditions*.

(a) *Inclement weather*. Do not place concrete during rain, sleet or snow unless adequate protection is provided.

(b) *Cold weather*.

1. When the air temperature is below 45°F, the contractor shall use special means in mixing and placing concrete to prevent its freezing. If the air temperature is 35°F or less at the time of placing concrete, the water and aggregate shall be heated to a temperature of between 70°F and 150°F by means of steam or heat prior to being placed in the mixes provided uniform results are obtained. When either aggregates or water are heated above 100°F, they shall be combined in the mixes prior to adding cement.

2. Heated enclosures or insulation shall be provided as required to maintain the concrete surface temperature between 55°F and 75°F for a minimum of three days or until the concrete reaches its specified compressive strength.

3. Provide insulation or temporary backfill to protect all earth supported concrete from damage due to frost heaving.

4. Salt, antifreeze solutions or other chemicals shall not be used.

(5) *Hot weather.*

(a) During hot weather, concrete shall not have a temperature which will cause difficulty from loss of slump, flash set or cold joints. The maximum temperature of concrete during placing shall be 90°F.

(b) Before placing concrete, spray the subgrade, forms and reinforcement with water to keep them cool and to prevent absorption of water from the concrete.

(c) Transport, place and finish concrete as quickly as practicable. Plan concrete delivery, placing techniques and consolidation methods to avoid cold joints.

(d) Start curing the concrete immediately after finishing operations have been completed.

(6) *Consolidation.*

(a) Thoroughly consolidate all concrete with high frequency vibrators, working the concrete thoroughly around reinforcement and embedded items and into corners of forms.

(b) Use a sufficient number of vibrators, of appropriate size and type, to provide complete vibration throughout the concrete at the same rate it is placed. Provide at least one spare vibrator at the site for use in case of breakdown.

(c) Provide properly spaced vibration of sufficient duration to produce complete consolidation, but not long enough to cause segregation. Continue vibration until mortar begins to puddle at the surface. Remove any excess free water that collects on the surface.

(d) Supplement internal vibration with manual consolidation methods and external form vibration as required to produce concrete free of voids, honeycomb and rough surfaces. Vibrate forms in such a way as to avoid form displacement.

(B) *Joints*.

(1) *Construction joints*.

(a) The contractor shall determine, in advance, the location of construction joints and arrange for the quantity of concrete to be poured to locate the joint at the position required by the Engineer. Joints shall be shear keyed as required by the Engineer, and shall be provided with dowel bars, lapping 24 diameters on each side of the joint, corresponding to the reinforcement perpendicular to the joint.

(b) The joint surface of the new concrete previously hardened shall be kept wet for a period of not less than 30 minutes before the placing of new concrete.

(c) Joints shall be perpendicular to the finished concrete surface.

(d) In order to allow for shrinkage, concrete shall not be placed against the second side of the construction joint, including those for columns and walls, for at least 12 hours after placement of the first side.

(2) *Expansion joints*.

(a) Joints shall be straight and true and cleared of all forming materials and debris. Expansion joint material shall be firmly held in place during placing and finishing of the concrete;

(b) Reinforcement shall not be continued across expansion joints; and

(c) Provide joint filler and sealant materials as specified herein.

(3) *Contraction (control) joints*.

(a) Construct contraction joints in slabs-on-grade to form panels or patterns indicated on the drawings. Unless otherwise shown, the joint location shall not exceed 30 feet in any direction.

(b) Contraction joints shall be made by saw cutting the concrete. Saw cuts shall be one-eighths-inch wide by one-fourth of the slab depth unless otherwise shown. Cutting shall be sufficient to support the weight of the saw and shall be completed before shrinkage stresses becomes sufficient to produce cracking.

(C) *Finishing and curing*.

(1) *Finishing*.

(a) Any defective work discovered after the forms have been removed shall be corrected immediately. All surfaces shall be reasonably free from "honeycombs", bulging, aggregate pockets and excessive depressions or projections. If any defects cannot be repaired satisfactorily in the opinion of the Engineer, the entire defective section shall be removed and replaced by the contractor at his or her expense.

(b) Immediately after the forms have been removed, all minor depressions resulting from the removal of metal ties, or from other causes, shall be carefully pointed with mortar consisting of one part cement and three parts sand. The surface film of all such filled areas shall be carefully removed before setting occurs.

(c) Sidewalks shall be given a broom finish.

(2) *Curing*. All exposed surfaces of concrete shall be satisfactorily cured by keeping constantly moist for at least the first five days after placing. If applicable, alternate methods of curing such as a uniform membrane coating, burlap and straw, water-proof blankets or other may be used. New concrete shall not be exposed to the sun or permitted to freeze. Concrete, when poured, shall be protected from rain for at least the six hours following the initial set.

(D) *Testing*.

(1) *Reports*. The following information regarding concrete testing shall be provided by written report to the town within three days of completion of the seven-day and 28-day test:

(a) Project identification and portion of structure represented;

(b) Concrete mix class and specified compressive strength requirements;

(c) Weather conditions and air temperature;

(d) Concrete temperature, slump and air content test results;

(e) Dates of placing and testing;

(f) Method of curing (field or laboratory); and

(g) Strength test results.

(2) *Strength tests*.

(a) During the progress of the work, concrete samples shall be taken for the purpose of taking strength tests in accordance with ASTM C172.

(b) A minimum of four cylinders shall be taken and cured in accordance with ASTM C311 as follows:

1. Each 50 cubic yards of concrete;

2. Each 3,000 square feet of surface area for slabs and walls; and

3. Each class of concrete placed in a day's work.

(c) Test each group of four cylinders for compressive strength in accordance with ASTM C39 as follows:

1. One field cured cylinder to be tested at seven days;

2. Two laboratory cured cylinders to be tested at 28 days; and

3. One spare.

(d) The compressive strength shall be defined as the average of the strengths of two cylinders made from the same sample of concrete and tested at 28 days.

(e) The compressive strength requirements of an individual class of concrete will be considered satisfactory if both of the following requirements are met:

1. The average of all sets of three consecutive strength tests equal or exceed the specified compressive strength; and

2. No individual strength test (average of two cylinders) falls below the specified compressive strength by more than 500 psi.

(f) If the strength level of an individual class of concrete is found to be unsatisfactory, conduct core testing in accordance with ASTM C42, impactometer testing or load testing on the area of concrete in question as required by the Engineer. If such additional testing does not produce acceptable results, corrective measures will be required to ensure structural adequacy. Make appropriate adjustments to the concrete mix designs as required.

(3) *Slump test*. A field slump test shall be taken in accordance with ASTM C143 for each group of cylinders required. Concrete batches which do not meet the specified slump ranges shall not be accepted for placement unless otherwise approved by the Engineer.

(4) *Air content tests*. One air content test shall be taken in accordance with ASTM C173 or ASTM C231 for each group of concrete cylinders which include air entrainment requirements.

(5) *Non-conforming concrete*. After all testing has been complete, any concrete failing to meet the specified requirements will be rejected and removed and replaced unless otherwise accepted by the town.
(2004 Code, Art. VI, § B, part 3)

EARTHWORK STANDARDS

§ 151.060 DESCRIPTION.

(A) *Description*. This subchapter describes the work involved with excavating, filling and embankment for the various structures such as utility manholes, lift stations, drainage structures and the like, as shown on the plans. The work shall include all excavation and trenching; handling, storage, transportation and disposal of excavated material; all necessary sheeting, shoring and protection of work; subgrade preparations; pumping and dewatering as necessary or required; protection of adjacent property; backfilling; construction of fills and embankments; and other appurtenant work as required for the construction.

(B) *Quality assurance*. Testing and inspection services as required by this section shall be provided by the contractor. Tests will include hand auger probing, field density tests for verifying the degree of compaction and excavation inspections to determine the limits of unsuitable material to be removed.

(C) *References*.

(1) American Society of Testing Materials (ASTM) Publications:

(a) ASTM D-424, “Plastic Limit and Plasticity Index of Soils”;

(b) ASTM D-698 Moisture, “Density Relations of Soils Using 5.5-lb. Rammer and 12-inch Drop”;

(c) ASTM D-1556, “Density of Soil in Place by the Sand Cone Method”;

(d) ASTM D-2922, “Density of Soil and Soil-Aggregate in Place by Nuclear Methods (Shallow Depth)”; and

(e) ASTM D-3017, “Moisture Content of Soil and Soil-Aggregate in Place by Nuclear Methods (Shallow Depth)”.

(2) State Department of Transportation (INDOT) Publication, latest edition of the *Standard Specifications*; and

(3) Occupational Safety and Health Administration (OSHA) Standards, 29 C.F.R. part 1926, including subparts A, B, C, D and P.
(2004 Code, Art. I, § A, part 1)

§ 151.061 PRODUCTS AND MATERIALS.

(A) *Fill materials*.

(1) Granular backfill material shall be as defined in § 211.02 ("B" Borrow) of the state's Department of Highways *Standard Specifications*, latest edition. Maximum stone size shall not exceed one inch or the maximum size recommended by the pipe manufacturer, whichever is smaller.

(2) Coarse aggregate shall be No. 1 or No. 2 size coarse aggregate as specified by § 904.82 of the state's Department of Highways *Standard Specifications*, latest edition.

(B) *General fill*. General fill material shall consist of natural soils such as clays, sands, and silts found in place, subject to the approval of the Engineer. Natural materials containing organics, gravels and large rocks shall not be used for general fill unless specifically approved by the Engineer.

(C) *Structural backfill*. Structural backfill material shall be the same as granular backfill as specified above.

(D) *Porous backfill*. Porous backfill material shall consist of gravel, or crushed stone meeting the requirements of ASTM 448, No. 4 size coarse aggregate.
(2004 Code, Art. I, § A, part 2)

§ 151.062 EXECUTION AND TESTING.

(A) *Excavation*.

(1) *General*.

(a) Excavation shall be performed to the lines and grades shown on the plans. The work shall be performed in a safe and proper manner with suitable precautions being taken against all hazards. Excavations shall provide adequate working space and clearances for the work to be performed including the installation and removal of concrete forms. In no case shall excavation faces be undercut for extended footings.

(b) Subgrade surfaces shall be clean and free of loose material of any kind when concrete is placed thereon.

(c) All suitable excavated material meeting the requirements of general fill shall be used as backfill, in the formation of embankments or engineered fill, or for other purposes shown on the plans. All unsuitable material shall be removed from the site unless otherwise allowed by the town. Satisfactory excavated materials shall be stockpiled until required for fill or embankment. Stockpiles shall be graded and shaped for proper drainage.

(d) Excavation work shall be performed in accordance with all applicable provisions of the OSHA standards for excavation safety.

(2) *Underground utilities*. Utilities shall be located in areas of work prior to commencement of work. If utilities are to remain in place, adequate means of support and protection during earthwork operations shall be provided. Should unknown or unidentified piping or other utilities be encountered during excavation, the contractor shall consult applicable utilities immediately for directions. The contractor shall cooperate with the town and the utility companies in keeping respective services and facilities in operation. The contractor shall repair damaged utilities to the satisfaction of the utility owner.

(3) *Sheeting and shoring*. Except where banks are cut back on a stable slope, excavation for structures and trenches shall be properly and substantially sheeted, braced and shored, as necessary, to prevent caving or sliding, to provide protection for workers and the work. Sheeting, bracing and shoring shall be designed and built to withstand all loads that might be caused by earth movement or pressure, and shall be rigid, maintaining shape and position under all circumstances. Sheeting and shoring shall comply with all applicable requirements of the OSHA standards for excavation.

(4) *Unsuitable bearing material*. Materials encountered at design elevations which are considered inadequate for suitable bearing shall be removed and replaced. Removal shall be to a depth as required to reach suitable bearing material. Fill material shall consist of either structural backfill or concrete.

(5) *Subgrade stabilization*.

(a) Subgrades for concrete structures shall be firm, dense and thoroughly compacted and consolidated; shall be free from mud; and shall be sufficiently stable to remain firm and intact under the feet of the workers.

(b) Subgrades for concrete structures which are otherwise solid, but which become mucky on top due to construction operations, shall be reinforced with crushed stone or gravel. The finished elevation of stabilized subgrades shall not be above subgrade elevations shown on the plans.

(6) *Dewatering*.

(a) The contractor shall provide and maintain adequate dewatering equipment to remove and dispose of all surface and ground water entering excavations, trenches or other parts of the work. Each excavation shall be kept dry during subgrade preparation and continually thereafter until the structure to be built, or pipe to be installed therein is completed to the extent that no damage from hydrostatic pressure, flotation or other cause will result.

(b) All excavations which extend down to or below static ground water elevations shall be dewatered by lowering and maintaining the ground water surface beneath such excavations a distance of not less than 12 inches throughout the time the excavation remains open.

(c) Surface water shall be diverted or otherwise prevented from entering excavated areas or trenches to the greatest extent practicable without causing damage to adjacent property.

(d) The contractor will be held responsible for the condition of any pipe or conduit which he or she may use for drainage purposes, and all such pipes or conduits shall be left clean and free of sediment.

(e) Water shall be disposed of in such a manner as will not cause injury to public or private property, nor be a nuisance or a menace to the public. The contractor shall be responsible for any and all permits and approvals thereof necessary for disposal of the water.

(B) *Backfill and embankment*.

(1) *Materials*. All material placed in fills and embankments shall meet the requirements of general fill as previously defined. No rocks or stones shall be placed in the upper 18 inches of any fill or embankment. Rocks or stones within the allowable size limit may be incorporated in the remainder of fills and embankments; provided, they are distributed so that they do not interfere with proper compaction; except that, no rocks or stones shall be placed in fill area under structures.

(2) *Placement*.

(a) The backfill and fill materials shall be evenly placed adjacent to structures, piping or conduit to the required elevations. Care shall be taken to prevent wedging action of backfill against structures or displacement of piping or conduit by carrying the material uniformly around the structure, piping or conduit to approximately the same elevation in each lift.

(b) Where fill is required on both sides of a foundation or wall, the fill shall be placed simultaneously on each side. Fill against building walls shall not be placed until the first floor slab has been poured and set.

(c) Fill against other work shall be in a manner and at such time as not to endanger the stability or damage the work. No fill shall be placed against water bearing walls until they have been tested for water tightness. No fill shall be placed over snow or frozen material.

(d) Materials such as brush, hedge, roots, stumps, grass and other organic matter shall not be incorporated or buried in the engineered fill.

(3) *Compaction.*

(a) Compaction of backfill and embankment material shall be accomplished by mechanical means such as vibratory plates or rollers. Compaction by jetting methods will not be performed unless specifically allowed by the town. No backfill shall be deposited or compacted in water.

(b) Backfill shall be placed in eight-inch loose layers and each layer compacted to not less than 95% of maximum dry density; the moisture content shall be within two percentage points of optimum as determined by ASTM D-698.

(c) Embankment fill shall be placed in eight-inch loose layers and each layer compacted to not less than 98% of maximum dry density. The moisture shall be within two percentage points of optimum as determined by ASTM D-698.

(d) Granular fill under slabs shall be placed after the subgrades have been leveled and cleared of all debris and immediately prior to pouring of the slab. Granular material shall be placed in eight-inch loose layers and each layer compacted to not less than 98% of maximum dry density; the moisture content shall be with two percentage points above optimum as determined by ASTM D-698.

(C) *Compaction testing.*

(1) Sampling and testing shall be the responsibility of the contractor. Tests shall be performed by an approved commercial testing laboratory or may be tested with approved facilities furnished by the contractor. All test results shall be submitted to the town.

(2) Laboratory tests for moisture-density relations shall be determined in accordance with ASTM D-698. A minimum of one test shall be performed on each different type of material used for backfill.

(3) Field in-place density tests:

(a) The contractor shall perform a sufficient number of compaction density tests to demonstrate that the required compaction requirements are being met. In general, a minimum of one satisfactory compaction test shall be performed for each cumulative lift length of 400 feet. Upon failure of a test, the lift shall be recompacted and retested. Additional tests will be required if the first tests consistently fail, if material changes, or if the contractor's method of compaction changes.

(b) Density tests shall be determined in accordance with ASTM D-1556, ASTM D-2167 or ASTM D-2922. When ASTM D-2922 is used, the calibration curves shall be checked and adjusted using only the sand cone method as per ASTM D-1556. ASTM D-2922 results in a wet unit weight of soil and when using this method, ASTM D-3017 shall be used to determine the moisture content of the soil. The calibration curves furnished with the moisture gages shall be checked along with density calibration checks as described in ASTM-D3017. The calibration checks of both the density and moisture gages shall be made at the beginning of a job and on each different type of material encountered.

(c) Copies of calibration curves and results of calibration tests shall be furnished to the town.
(2004 Code, Art. I, § A, part 3)

UTILITIES; TRENCHING AND BACKFILLING

§ 151.075 GENERAL DESCRIPTION; QUALITY ASSURANCE.

(A) *Description*. This work includes excavation and backfilling for all sewer lines, water lines, underground electric lines, gas lines and other utilities.

(B) *Quality assurance*. Testing and inspection services as required by this section shall be provided by the contractor. Tests will include hand auger probing, field density tests for verifying the degree of compaction and excavation inspections to determine the limits of unsuitable material to be removed.

(C) *References*.

(1) American Society of Testing Materials (ASTM) Publications:

(a) ASTM D-424, “Plastic Limit and Plasticity Index of Soils”;

(b) ASTM D-698 Moisture, “Density Relations of Soils Using 5.5-lb. Rammer and 12-inch Drop”;

(c) ASTM D-1556, “Density of Soil in Place by the Sand Cone Method”;

(d) ASTM D-2922, “Density of Soil and Soil-Aggregate in Place by Nuclear Methods (Shallow Depth)”; and

(e) ASTM D-3017, “Moisture Content of Soil and Soil-Aggregate in Place by Nuclear Methods (Shallow Depth)”.

(2) State Department of Transportation (INDOT) Publication: latest edition of *Standard Specifications*; and

(3) Occupational Safety and Health Administration (OSHA) Standards, 29 C.F.R. part 1926, including Subparts A, B, C, D and P.

(D) *Care of existing structures and property*.

(1) All poles, fences, sewer, gas, water, drainage or other pipes, wires, conduits, manholes, buildings, structures and property in the proximity of any excavation shall be supported and protected from damage by the contractor during construction.

(2) Wherever sewer, gas, water, drainage or other pipes or conduits cross the excavation, the contractor shall support said pipes and conduits without damage to them and without interrupting their use during the progress of the work.

(3) All property shall be thoroughly cleaned of all surplus materials, earth and rubbish placed thereon by the contractor.

(4) Any damage to poles, fences, sewer, gas, water, drainage or other pipes, wires, conduits, manholes, buildings, structures and property resulting from the contractor's work shall be promptly repaired by the contractor. The quality of all such repair work shall be to the satisfaction of the town and the owner of said utility or structure.

(E) *Existing underground structures and utilities*. The contractor shall notify the appropriate utility companies at least 72 hours prior to the start of construction.

(1) The utility companies will locate any existing underground utilities and structures within the site limits.

(2) The contractor, prior to the start of construction, shall verify the location of any existing underground utilities and structures within the site limits. It is the contractor's responsibility to make any and all exploratory investigation which may be necessary to verify or locate the utility pipes, wires, structures and appurtenances of others.
(2004 Code, Art. I, § B, part 1)

§ 151.076 MATERIALS.

(A) *Backfill materials*.

(1) Granular material, where required, shall comply with Art. 211.02 of the INDOT *Standard Specifications*. Maximum stone size shall not exceed one inch or the maximum size recommended by the pipe manufacturer, whichever is smaller.

(2) Backfill and bedding for trenches shall consist of the various materials classified below as specified herein:

(a) Class I: angular, one-fourth- to one-half-inch graded stone such as crushed stone or #9 coarse aggregate as defined by Art. 904.02 of the INDOT *Standard Specifications*;

(b) Class II: coarse sands and gravel with maximum particle size of one and one-half inches, including various grades of seeds and gravel containing small percentages of fines, generally granular and non-cohesive, either wet or dry. Soil types GW, GP, SW and SP are included in this classification;

(c) Class III: fine sand and clay gravel including fine sands, sand-clay mixtures and gravel-clay mixtures. Soil types GM, GC, SM and SC are included in this class; and

(d) Class IV: silt, silty clays and clays, including inorganic clays and wilts of medium to high plasticity and liquid limits. Soil types MH, ML, CH and CL are included in this class.

(3) Crushed stone material shall be No. 53 complying with Art. 904,02 of the INDOT *Standard Specifications*.

(B) *Pipe materials*. For the purpose of these specification and as shown on the plans, ***RIGID PIPES AND CONDUITS*** shall include those made of steel, ductile iron, cast iron, concrete and vitrified clay. Flexible and semi-rigid conduits and pipes shall include those made of PVC, FRP, polyethlyne and other materials as determined by the Engineer.
(2004 Code, Art. I, § B, part 2)

§ 151.077 EXECUTION AND EQUIPMENT.

(A) *General*. All work shall conform to the requirements of all local, state and federal agencies having jurisdiction and the requirements of these specifications.

(B) *General trenching*.

(1) Not more than 300 feet of trench shall be opened at any time with not more than 100 feet opened in advance of the completed pipe laying operation.

(2) Surface encumbrances, located so as to create a hazard to employees involved in excavation work or in the vicinity thereof at any time during operations, shall be removed or made safe before excavating is begun.

(3) During excavation, material satisfactory for backfilling shall be stockpiled in an orderly manner at a distance from the banks of the trench sufficient to avoid overloading and to prevent slides and cave-ins. Adequate drainage shall be provided for the stockpiles and surrounding areas by means

of ditches, dikes or other suitable methods. The stockpiles shall also be protected from contamination with unsatisfactory excavated material or other material that may destroy the quality and fitness of the suitable stockpiled material.

(4) Grading shall be done as may be necessary to prevent surface water from flowing into the excavation, and any water accumulating therein shall be removed so that the stability of the bottom and sides of the excavation is maintained. In wet trenches, dewatering equipment shall be operated ahead of pipe laying and the water level kept below the pipe invert.

(5) Excavation work shall be performed in accordance with all applicable provisions of the OSHA standards for trench and excavation safety and as recommended by the pipe manufacturer.

(6) Excavation for manholes or similar structures shall be sufficient to leave at least 12 inches clear between the outer structure surfaces and the face of the excavation or support members and be of sufficient size to permit the placement and removal of forms for the full length and width of structure footings and foundations. When concrete is to be placed in an excavated area, special care shall be taken not to disturb the bottom of the excavation. Excavation to the final grade level shall not be made until just before the concrete is to be placed.

(7) Dust conditions shall be kept to a minimum by the use of water. The use of salt or calcium chloride will not be permitted.

(C) *Removal of excavated material.* As trenches are backfilled, the contractor shall remove all surplus material, regrade and leave clear, free and in good order all roadways and sidewalks affected by the construction. During the progress of and until the expiration of the guarantee period, he or she shall maintain in good and safe conditions the surface or any street over the trenches and promptly fill all depressions over and adjacent to trenches caused by settlement of backfilling.

(D) *Pavement removal.* Where necessary, the contractor shall remove existing street pavements, driveways, curbs and sidewalks to the minimum width necessary to accommodate the sewer construction work. Asphalt and concrete surfaces shall be cut and removed to straight lines parallel to the trench.

(E) *Protection and care of existing facilities.* All poles and overhead utility wires, fences, sidewalks, curbs, signal lights, mail boxes, road or street signs, culverts, building and other surface structures shall be protected and preserved by the contractor and shall be repaired, replaced or otherwise restored to a condition equal to or better than they were before the work was started. All water and gas mains and services: sewers and sewer services; drains, petroleum pipes, buried electric, telephone, television, telegraph and signal cables and conduits; manholes, storm water inlets, foundations and other subsurface structures shall be properly supported and protected during construction and left in a condition equal to or better than they were before the work started. Fire hydrants shall remain accessible to Fire Department personnel at all times.

(F) *Structures encountered.*

(1) The contractor shall contact the owners of the various utilities or facilities in the project area prior to the start of construction for the location of the various utilities or facilities. The contractor shall take the necessary steps and actions to determine the exact location of underground utilities and facilities, and shall exercise sufficient care during construction to prevent damage to said utilities and facilities.

(2) If, during the course of construction, it becomes necessary to relocate any water main, gas main, telephone cable or conduit, cable television or electric line, it shall be the responsibility of the utility company involved to make the necessary relocation. However, the contractor shall assume all risk and liability for any inconvenience, delay or damage sustained by him or her due to any interference from the said underground utility or the operations of moving them.

(3) Where existing sanitary and storm sewers exist which are in conflict with the construction of the proposed pipe, the contractor shall relocate, or temporarily remove and reconnect said conflicting sewers. The contractor shall be responsible for properly handling any flow in said sanitary or storm sewers during his or her work. In either case, sewer shall be returned to a condition equal to or better than the condition at the start of construction.

(4) All culverts, which are in conflict with the construction, shall be relocated or temporarily removed and relocated. The contractor shall be responsible for properly handling any flow through said culverts during his or her construction.

(G) *Covering ends*. Before leaving the work for the night, during a storm, or for any other reason, care must be taken that the unfinished end of any pipe is securely closed with a tightly-fitting cover or plug. Any earth or other material that may find entrance into the pipe, through any such open end of an unplugged pipe shall be removed at the contractor's expense.

(H) *Stabilization.* If portions of the bottom of trenches or excavations consist of material unstable to such a degree that it cannot adequately support the pipe or structure, the bottom shall be over excavated and stabilized with granular material in compliance with Art. 211.02 and 211.04 of the INDOT *Standard Specifications*.

(I) *Sheeting and bracing*.

(1) Sheeting and bracing shall be placed in the trench, as may be necessary for the safety of the work and public, for the protection of the workers, adjacent properties, and for the proper installation of the work in accordance with all applicable provisions of the OSHA standards.

(2) Sheeting and/or bracing shall be progressively removed as the backfill is placed in such a manner as to prevent the caving in of the sides of the trench or excavation and to prevent damage to the work.

(3) Sheeting which is placed for the protection of the public, adjacent properties or structures shall not be removed until the backfill has been placed and thoroughly compacted. While being removed, all vacancies left by this sheeting shall be carefully filled with sand free from silt, rammed into place, puddled or otherwise firmly compacted.

(J) *Pipe bedding.*

(1) *Rigid pipe and conduit.* All rigid conduit and pipe shall be laid to the lines and grades shown on the plans, unless otherwise directed by the Engineer. All rigid conduit and pipe shall be bedded in compacted Class I or II material, placed on a flat trench bottom. The bedding shall have a minimum thickness of four inches or one-fourth the outside pipe diameter below the pipe and shall extend halfway up the pipe barrel at the sides. All material shall be placed in the trench in approximately six-inch layers. Each layer, shall be leveled and evenly distributed on both sides of the pipe so as not to disturb, displace or damage the pipe and shall be thoroughly compacted. When Class I or II materials are used, compaction may be accomplished by hand or mechanical tamping or by "walking" the material in. Bedding from the halfway point on the pipe to a point six inches above the top of the pipe shall be a Class I, II, III or IV material placed in six-inch layers and thoroughly compacted to prevent settlement. Class III and IV material shall not be used when the trench is located in an area subject to vehicular traffic.

(2) *Flexible and semirigid conduit.* All flexible and semirigid pipe shall be laid to the lines and grades shown on the plans, unless otherwise directed by the Engineer. All flexible and semirigid conduit shall be bedded in compacted Class I or Class II material, placed on a flat trench bottom. The bedding shall have a minimum four-inch thickness or one-fourth the outside pipe diameter below the pipe and shall extend to six inches above the top of the pipe level the full width of the trench. All material shall be placed in the trench in a maximum of six-inch layers (before compaction). Each layer shall be leveled and evenly distributed on both sides of the pipe so as not to disturb, displace or damage the pipe and shall be adequately compacted. When Class I materials are used, compaction may be accomplished by hand or mechanical tamping or by "walking" the material in. When Class II materials are used, compaction shall be accomplished only by hand or mechanical tamping to a minimum 85% Standard Proctor Density.

(K) *Backfilling.*

(1) *Areas not subject to vehicle traffic.*

(a) For purposes of this specification, trenches shall be considered subject to vehicular traffic if any portion of the excavation is located within four feet of a roadway or alley.

(b) The trench between a level six inches above the top of the pipe and the ground surface shall be backfilled with Class I, II, III or IV materials. The contractor shall consolidate the backfill by the back and forth travel of a suitable roller, wheeled device or other similar heavy equipment until no further settlement is obtained. Heavy equipment shall not be used until there is a cover of not less than three feet over the pipes. To assist in promoting maximum settlement, the surface of the trench shall be

left in a slightly rounded condition. Periodical dressing of the backfill in the trench to promote the drainage and safety conditions shall be made during the course of the contract as required or ordered by the Engineer.

(2) *Areas subject to vehicle traffic.*

(a) The trench between a level of six inches above the top of the pipe and the surface, which are located in areas subject to vehicular traffic, shall be backfilled with granular backfill materials, deposited in maximum lifts of 12 inches. Each layer shall be thoroughly compacted by mechanical tamping to not less than 95% density as determined by the Proctor Test (ASTM D-698).

(b) Granular backfill materials shall terminate at a point below finished grade sufficient to allow placement of the permanent surface materials. Where the permanent surface is asphalt or concrete, the aggregate base thickness shall be the specified thickness of the pavement material plus six inches.

(c) For portions of the trench surface not subject to traffic, the backfill material shall end six inches below the finished grade. This six-inch depth shall be filled with good top soil and seeded in accordance with these specifications.

(3) *Placement.*

(a) No fill shall be placed against any manhole or other structure until placed concrete has been allowed to cure for at least three days. Backfill shall be placed in such a manner that the structure will not be damaged by shock from falling earth.

(b) The backfill material shall be deposited and compacted as specified for final backfill, and shall be placed in such a manner as to prevent eccentric loading and excessive stress on the structure.

(L) *Compaction testing.*

(1) Sampling and testing shall be the responsibility of the contractor. Tests shall be performed by an approved commercial testing laboratory or may be tested with approved facilities furnished by the contractor.

(2) Laboratory tests for moisture-density relations shall be determined in accordance with ASTM D-698. A minimum of one test shall be performed on each different type of material used for backfill.

(3) Field in-place density tests:

(a) Shall be performed in sufficient numbers to ensure that the specified compaction is being obtained. A minimum of one test per lift of backfill for every 500 feet of installation shall be performed; and

(b) Shall be determined in accordance with ASTM D-1556, ASTM D-2167 or ASTM D-2922. When ASTM D-2922 is used, the calibration curves shall be checked and adjusted using only the sand cone method as per ASTM D-1556. ASTM D-2922 results in a wet unit weight of soil and when using this method, ASTM D-3017 shall be used to determine the moisture content of the soil. The calibration curves furnished with the moisture gauges shall be checked along with density calibration checks as described in ASTM-D3017. The calibration checks of both the density and moisture gauges shall be made at the beginning of a job and on each different type of material encountered.

(4) All test results shall be submitted to the town.

(5) Trenches improperly compacted shall be reopened and then refilled and compacted to the density specified. Field in-place density tests shall also be repeated for improperly compacted trenches that are reopened, refilled and recompacted.
(2004 Code, Art. I, § B, part 3)

GRAVITY SANITARY SEWERS

§ 151.090 GENERAL DESCRIPTION.

Work under this subchapter includes the installation and testing of gravity sanitary sewer pipe, fittings and connections.
(2004 Code, Art. II, § A, part 1)

§ 151.091 PRODUCTS AND MATERIALS.

(A) *Polyvinyl chloride pipe (PVC).*

(1) All PVC pipe 15 inches or less in diameter shall meet the requirements of ASTM D-3034, SDR-35. All PVC pipe greater than 15 inches in diameter shall meet or exceed the requirements of ASTM F-679. For diameters 15 inches or less, the pipe shall have a minimum cell classification of 12454-B and for diameters greater than 15 inches, the pipe shall have a minimum cell classification of 12454-C with all pipe having a minimum tensile strength of 7000 psi as defined in ASTM D-1784.

(2) All PVC pipe shall be tested in accordance with Standard Method of Test for “External Loading Properties of Plastic Pipe by Parallel Plate Loading”, ASTM 2412. Minimum pipe stiffness shall be 46 psi.

(3) Pipe joints shall be “push-on” type bell and spigot meeting the requirements of ASTM D3212 “Joints for Drain and Sewer Plastic Pipes Using Flexible Elastomeric Seals”. Elastomeric seals (gaskets) shall meet the requirements of ASTM F477.

(4) Pipe fittings and accessories shall have push-on joints and be of the same material as pipe as specified herein. The fittings and accessories shall be manufactured by the pipe supplier.

(B) *Ductile iron pipe.*

(1) Ductile iron pipe shall be centrifugally cast in metal or sand lined molds and shall conform to the latest revisions of ANSI/AWWA C150/A21.50 and ANSI/AWWA C151/A21.51. Ductile iron pipe shall be Pressure Class 250 minimum. The interior surface of the ductile iron pipe and fittings shall be cement lined in accordance with ANSI/AWWA C104/A21.4.

(2) Pipe joints and accessories shall be of the type shown and shall conform to the following requirements and standards:

(a) Push-on joints: ANSI/AWWA C110/A21.10 and C111/A21.11;

(b) Mechanical joints: ANSI/AWWA C110/A21.10 and C111/A21.11; and

(c) Flanged joints: ANSI/AWWA C111 /A21.10,250 psi working pressure rating and drilled to ASA 125 lbs standards.

(3) Pipe fittings shall be short body pattern designed in accordance with ANSI/AWWA C110/A21.10. Fittings for pipe up to 12 inches in diameter shall be pressure Class 250 and pipes 14 inches and larger shall be pressure Class 150.

(4) Blind flanges, companion flanges and flange fillers shall conform to ANSI B16.1, Class 125.
(2004 Code, Art. II, § A, part 2)

§ 151.092 EXECUTION AND REQUIREMENTS.

(A) *General construction requirements.*

(1) Before installing piping, the contractor shall carefully verify location, depth, type of joint needed and size of pipe to which connection is proposed. The contractor shall assure that the lines can be run as contemplated without interfering with footings, walls, other piping, fixtures and the like.

(2) All lengths of pipe shall be dimensioned accurately to measurements established at the site and shall be worked into place without springing or forcing. Cut sections of pipe shall be reamed to remove all burrs.

(3) Utmost care shall be exercised in transporting and handling all pipe, fittings, valves and the like, in order to avoid shock and damage to pipe and coatings. Lifting shall be by hoist or skids when hand lifting is not feasible. Droppings will not be permitted. Pipe handled on skidways must not be

skidded or rolled against pipe already on the ground. Damaged or defective pipe and appurtenances shall be replaced.

(4) The pipe shall be thoroughly cleaned before being laid and kept clean during construction.

(5) The contractor shall cut all pipe and drill all holes that may be necessary.

(B) *Pipe laying.*

(1) The laying of pipe on the prepared bedding material shall commence from the lowest point, with the spigot ends pointing in the direction of flow. All pipes shall be laid true to line and grade. They shall be carefully centered so that when laid, they form a sewer with uniform invert.

(2) A pipe plug or bulkhead shall be used whenever pipe laying operations are not in progress as required to protect the pipe ends from foreign material.

(3) Before making pipe joints, all surfaces of the joints shall be clean and dry. Lubricants, primers and adhesives shall be used in accordance with the manufacturer's recommendations. The pipe shall then be placed, fitted and adjoined so as to obtain a water-tight joint. In the event that previously laid pipe is disturbed, it shall be removed and relaid.

(4) The contractor shall assure proper alignment and grade by the proper use of lasers, batter boards, surveying instruments or other suitable means.

(C) *Leakage tests.*

(1) *General.* Prior to acceptance, all gravity sewers, including service laterals, shall be tested and pass a test for leakage. The contractor shall furnish all labor, materials and equipment required for making the tests and ground water level determinations with no extra compensation over and above the specified contract prices for the sewers. Testing shall not be performed until backfilling and compaction are completed. All gravity sewers shall pass a leakage test as further specified below.

(2) *Low pressure air test.*

(a) A "Low Pressure Air Test" conforming to the requirements of the latest revision of ASTM C828 and ASTM C924 shall be performed on all new sanitary sewer pipe, except as revised below. Low pressure air testing is used to determine the existence of pipe leaks; however, it does not indicate water leakage limits.

(b) Prior to the low pressure air testing, all wyes, tees or end of side sewer stubs shall be plugged with flexible-joint caps, or acceptable alternate, securely fastened to withstand the internal test pressures. Such plugs or caps shall be readily removable, and their removal shall provide a socket suitable for making a flexible-jointed lateral connection or extension.

(c) All plugs shall be securely braced to prevent possible blowout due to internal air pressure. One plug shall have an inlet tap, or other provision for connecting a hose to a portable air supply source. Air hose shall be connected to the inlet tap and a portable air supply source.

(d) Air equipment shall consist of all necessary valves and pressure gages to control rate of air flow into the test section and to enable monitoring of air pressure within the test section. Testing apparatus shall also be equipped with pressure relief device to prevent the possibility of loading test section with full capacity of compressor.

(e) Air shall be slowly added to test section until pressure inside pipe is raised to 4.0 psig. After a pressure of 4.0 psig is obtained, air supply shall be regulated such that pressure is maintained between 3.5 and 4.0 psig for a period of two minutes, to allow air temperature to stabilize in equilibrium with temperature of pipe walls. Pressure will normally drop slightly until equilibrium is obtained. During this period, all plugs shall be checked with soap solution to detect any plug leak.

(f) After this two-minute air stabilization period, air supply shall be disconnected and test pressure allowed to decrease. Time required for test pressure to drop from 3.5 psig to 2.5 psig is determined by means of stop watch, and this time interval is then compared with required time to determine if rate of air loss is within the allowable limit. Required time to arrive at the allowable air loss is calculated by means of following formula:

$$T = \frac{0.0850\ DK}{Q}$$

Where: T = time in seconds
K = .000419 DL, but not less than 1.0
Q = rate of loss (= 0.003 cfm/sq. ft. of internal surface)
D = diameter of pipe in inches
L = length of pipe tested in feet

(g) Upon completion of test, the bleeder valve shall be opened and all air allowed to escape. Plugs shall not be removed until all air pressure in test section has been released.

(h) If measured time interval for the pressure to drop from 3.5 psig to 2.5 psig is less than the required time as calculated, sewer section shall be deemed to have failed test. The contractor shall then proceed to repair pipe at his or her cost as necessary until the sewer section passes the test. All testing shall be conducted in presence of town or its representative.

(3) *Infiltration test.*

(a) An infiltration test shall be used only when approved by the town or when the starting pressure for the low pressure air test would be greater than 9.0 psig. For an infiltration test to be performed, the ground water elevation must be at least two feet above the crown of the upstream pipe.

The test shall require cleaning of the line and then plugging the upstream pipe opening with a water-tight plug with length equal to or greater than the pipe diameter.

(b) A 90-degree V-Notch weir shall be placed in the downstairs manhole of the section of pipe being tested. When performing an infiltration test with a weir, sufficient time shall be allowed for the infiltration to crest the weir and stabilize. This time shall be determined by the town based on the allowable infiltration, the size of the sewer line, the slope of the line and other pertinent information. In no case shall the time be less than one hour. The contractor shall measure the head (H) of water flowing over the weir. The measurement must be accurate and taken a minimum distance of 18 inches or four times the height of H upstream of the weir, whichever is greater. The measured infiltration over the weir can be calculated as:

$$Q = 3240\ H^{2.5}$$

where: H is in inches and Q is in gallons per day

(c) In order for the section to pass the allowable leakage limits, the measured infiltration shall not exceed 200 gallons per day per inch of pipe diameter per mile (200 gpd/in./mile).

(D) *Deflection testing*.

(1) (a) Deflection testing shall be performed by the contractor in the presence of the town or his or her representative on all plastic pipes with nominal inside diameters of six inches or greater.

(b) Deflection testing shall be accomplished using one of the following devices: calibrated television or photography; or a properly sized “go, no go” mandrel or sewer ball.

(c) Deflections of no more than 5% based on the base inside diameters shown below will be allowed:

Table 1: Allowable Deflection

Nominal Size (in.)	*Base Inside Diameter (in.)*	*5% Deflection Mandrel (in.)*
6	5.915	5.62
8	7.920	7.52
10	9.900	9.41
12	11.780	11.19
15	14.426	13.70
18	17.629	16.75

(2) The deflection test shall be performed no sooner than 30 days following installation of the pipe (including backfill). Prior to testing, the pipeline shall be thoroughly cleaned.

(3) Prior to acceptance, pipes having deflections greater than 5% shall be excavated, re-bedded and/or replaced and retested (successfully).

(4) (a) The contractor shall submit deflection test reports to the town within 30 days after performance of each said test.

(b) A separate report shall be submitted for each manhole to manhole sewer section.

(c) This report shall provide all pertinent data regarding the test including, but not limited to, the date of the test, details of the testing device used, diameter of the pipe, the date installation of the line was completed including backfill and whether the line passed or failed the test.
(2004 Code, Art. II, § A, part 3)

SANITARY SEWER FORCE MAINS

§ 151.105 GENERAL DESCRIPTION; QUALITY ASSURANCE.

(A) *Description.* The work of this subchapter includes the supply of all materials, labor and equipment required for the installation and testing of sanitary sewer force mains. Force main piping inside of structures such as lift stations and valve pits is specified under §§ 151.135 and 151.136 of this chapter.

(B) *Quality assurance.*

(1) All materials shall be new and unused, supplied by a single manufacturer where possible.

(2) All pipe and fittings shall be of similar materials as allowed by these specifications.
(2004 Code, Art. II, § B, part 1)

§ 151.106 PRODUCTS AND MATERIALS.

(A) *PVC pipe.*

(1) Polyvinyl chloride (PVC) plastic pipe shall conform to either AWWA C900, DR 14 (Class 200) or ASTM Specification D 2241, SDR 21 (200 psi). The material used shall conform to ASTM Specification D 1784, Standard Specification for Rigid Polyvinyl Chloride and Chlorinated Polyvinyl Chloride compounds, Class 12454-B (PVC 1120) Pipe O.D. shall conform with that of steel pipe (IPS).

(2) *Pipe joints.*

(a) Joints for PVC and fittings shall be bell end push-on type meeting the requirements of ASTM D3139 "Joint for Plastic Pressure Pipe Using Flexible Elastomeric Seals". The joint shall be designed so as to provide for the thermal expansion and contraction experienced with a total temperature change of 75°F in each joint of pipe. Details of the joint design and assembly shall be in accordance with joint manufacturers standard practice.

(b) Gaskets shall meet all applicable requirements of ASA Standard A21.11. Gasket dimensions shall be in accordance with the manufacturer's standard design dimensions and tolerances. The gasket shall be made of such size and shape as to provide an adequate compressive force against the spigot and socket after assembly to effect a positive seal under all combinations of joint and gasket tolerances.

(c) Gaskets shall be vulcanized natural or vulcanized synthetic rubber. They shall be free of porous areas, foreign material and visible defects.

(3) *Pipe fittings.* Fittings for PVC pipe may be of the same material and class as the pipe, with joints and gaskets to properly fit the PVC pipe. All fittings of 22-1/2 degree bends and greater including tees shall be properly anchored by concrete thrust blocks of sufficient size not to exceed a soil pressure of two tons per square foot. This blocking shall be installed prior to backfilling and testing.

(B) *Ductile iron pipe.*

(1) *Pipe.* All ductile iron pipe shall be manufactured in accordance with ANSI/AWWA C150/A21.50 and ANSI/AWWA C151/A21.51. Pipe shall be Pressure Class 350 for pipes 12 inches and smaller and Pressure Class 250 for pipes 14 inches and larger. All ductile iron pipe and fittings shall be cement mortar lined and seal coated in accordance with ANSI/AWWA C104/A21.4.

(2) *Fittings.* All ductile iron pipe fittings shall be manufactured in accordance with ANSI/AWWA C110/A21.10 having a minimum pressure rating of 250 psi.

(3) *Pipe joints.* Pipe joints shall be either push-on or mechanical joint as shown on the drawings, manufactured in accordance with the following standards:

(a) Push-on joints: ANSI/AWWA C110/A21.10 and ANSI/AWWA C111/A21.11;

(b) Mechanical joints: ANSI/AWWA C110/A21.10 and ANSI/AWWA C111/A21.11;

(c) Bolts and nuts, tee-head bolts and hexagonal nuts: ANSI/AWWA C111/A21.11; and

(d) Gaskets: ANSI/AWWA C111/A21.11

(2004 Code, Art. II, § B, part 2)

§ 151.107 EXECUTION AND HANDLING.

(A) *Handling*.

(1) Pipe and accessories shall be handled with care to avoid damage. Material shall not be dropped or bumped against pipe or accessories already on the ground or against any other object. Damaged pipe which cannot be repaired to the town's satisfaction shall be replaced at the contractor's expense.

(2) The interior of all pipe and accessories shall be kept free from dirt and other foreign matter.

(B) *Dimensions*. The pipe shall be furnished in the longest manufactured lengths unless otherwise shown or specified. Shorter or cut lengths shall be used only where necessary to make closure. Branches, bends or other specials, where so shown or required, shall be made to standard dimensions unless otherwise shown. All pipes shall be straight, true in form, or full diameter throughout, and shall have deep and wide socket joints.

(C) *Pipe laying*.

(1) Deflection from a straight line or grade, as required by horizontal or vertical alignments or offsets shall be in accordance with the manufacturer's specifications.

(2) If the alignment requires deflections in excess of the allowable deflection per joint, special bends or a sufficient number of shorter lengths of pipe shall be furnished to provide angular deflections within the limit set forth.

(3) All pipe shall be laid and maintained to the required lines and grades as indicated on the plans. Fittings shall be installed at the locations shown on the plans.

(4) At times when work is not in progress, open ends of pipe and fittings shall be securely closed so that no trench water, earth or other substance will enter the pipe or fittings.

(5) No pipe shall be laid in water or when the trench or weather conditions are unsuitable for proper installation.

(6) When the proposed elevation of the force main conflicts with the elevation of an existing gravity sewer, water main, gas main or other structure, the force main shall be deepened as to avoid said conflict.

(7) Pipe shall be laid with bell ends facing in the direction of laying. Pipe ends shall be clear of dirt and debris before the connection is made.

(8) The cutting of pipe for installing valves or fittings shall be done in a neat, workmanlike manner without damage to the pipe or lining. Flame cutting of pipe shall not be allowed.

(D) *Thrust restraint*.

(1) Thrust blocking or restraints shall be provided at all line deflection greater than 22 degrees and as otherwise required to protect the pipe joints from separation.

(2) Thrust blocks shall be sized and dimensioned as shown in these standards.

(E) *Hydrostatic testing*. The testing method described in this division (E) is for water pressure testing. The test, which must be successfully performed on all new force mains, shall be performed in accordance with the following provisions.

(1) (a) Said test shall include all force main from the point of beginning or the wastewater lift station to the point of termination.

(b) The contractor shall make arrangements with the town for scheduling the test after the piping has been accepted as being ready for testing.

(c) Any concrete thrust blocks shall have been in place for a period of at least ten days prior to test.

(d) The test shall be performed in the presence of the town.

(2) Water for testing must be furnished by the contractor. The contractor shall furnish all necessary equipment, piping, pumps, fittings, gauges and operating personnel to properly conduct the test.

(3) The system shall be subjected to a hydrostatic test pressure at 100 psi.

(4) The test procedure shall be as follows.

(a) The system shall be slowly filled with water. Air shall be expelled from the pipe through air relief valves. If additional air vents are needed to assure that all air is expelled, the contractor shall temporarily install corporation cocks at the appropriate points. All air shall be expelled from the force main prior to applying the test pressure.

(b) After the test pressure is first applied, a visual inspection of the force main shall be made for leaks. All visible leaks shall be stopped by repairing or replacing defective or damaged pipe, fittings or valves prior to starting the official pressure test.

(c) After all visible leaks are stopped, the official test shall be conducted for a period of at least two hours. During the test, the specified test pressure shall not vary more than five psi.

(d) Pumps shall be equipped with a receiving water receptacle, and the water entering the pipeline to make up leakage shall be carefully measured and recorded. Pumping equipment shall include suitably calibrated pressure gauges. ***LEAKAGE*** is defined as the volume of water which must be added to the pipeline to maintain a pressure within five psi of the specified test pressure.

1. If the amount of makeup water entering the pipeline (during the two-hour test while the pressure is maintained within five psi of the specified test pressure) is less than or equal to the allowable leakage as calculated by the following formula, the pipeline shall be accepted as having passed the leakage test satisfactorily:

$$L = \frac{SD\,(P)^{1/2}}{133{,}200}$$

* Formula from AWWA Standard C600

where: L = allowable leakage, gallons per hour
S = length of pipeline tested, feet
D = nominal diameter of pipe, inches
P = average test pressure during test, pounds per square inch gauge

2. All visible leaks, however, shall be stopped by appropriate repairs or replacement of defective or damaged materials regardless of the outcome of the test.

(5) Should the line fail this official test, the pressure shall be maintained while a thorough search is made of all possible locations of leakage or other cause of pressure drop. When all such conditions are corrected, the pipe line shall be given another official test and this procedure repeated until satisfactory results are obtained.

(6) All leaks developing after the line has been tested and made evident by a showing of water on the ground surface shall be repaired to the satisfaction of the town regardless of the results of the official test.

(F) *Identification/location tape.*

(1) Furnish and install identification/location tape over the centerline of all PVC force mains.

(2) Identification tape shall be manufactured of polyethylene with a minimum thickness of four mils and shall have a one mil thick metallic foil core. The tape shall be highly resistant to alkalis, acid and other destructive agents found in soil. Tape width shall be a minimum of three inches and a maximum of six inches and shall have background color specified below, imprinted with black letters. Imprints shall be as specified below and shall repeat itself a minimum of once every two feet for entire length of tape.

(3) Tape background colors and imprints shall be as follows:

Background Imprint	*Color*
"Caution - Force Main Buried Below"	Green

(4) Identification tape shall be "Terra Tape" as manufactured by Reef Industries, Inc., Houston, TX or equal.

(a) Identification tape shall be installed over all buried force mains in accordance with the manufacturer's installation instructions and as specified herein.

(b) Identification tape shall be installed two feet below final grade over centerline of pipe.

(c) In all PVC pipe installation, the identification/location tape shall be looped into the manholes for connection to a locating device.

(d) The tape shall be spliced together to provide a continuous strip from manhole to manhole.
(2004 Code, Art. II, § B, part 3)

PRECAST CONCRETE STRUCTURES

§ 151.120 GENERAL DESCRIPTION; DELIVERY, STORAGE AND HANDLING.

(A) *Description*. The work of this subchapter includes the manufacturing and installation of precast concrete structures including manholes, lift station structures, valve vaults, utility vaults and other miscellaneous structures as detailed and specified herein.

(B) *Delivery, storage and handling*. Precast concrete structures shall be delivered to the site complete and in structurally sound condition. The contractor shall take proper care in moving the structures to prevent cracking, breaking or otherwise damaging the structures.
(2004 Code, Art. II, § C, part 1)

§ 151.121 PRODUCTS AND MATERIALS.

(A) *General*. All precast structures to be used in the project shall be structurally sound and free of defects. Any spalled concrete or voids shall be properly patched or repaired using equivalent strength grout and properly cured before placement. Structures showing excessive cracking or damage should be rejected and replaced at the discretion of the town.

(B) *Concrete strength.* All concrete used in the manufacturing of precast structures shall have a minimum compressive strength of 4,500 psi at 28 days and meet all applicable requirements of Class "A" concrete.

(C) *Sewer manholes.*

(1) All manholes for sanitary or storm sewers shall be made water-tight and of size and dimensions as shown on the plans.

(2) The base, riser sections, eccentric cone and adjustment rings shall conform to ASTM C478. The joints between the base, riser sections and the bottom joint of the eccentric cone shall be tongue and groove type with a continuous rubber ring gasket conforming to ASTM C443 or a preformed flexible plastic gasket type joint sealant such as RUB'R-NEK as manufactured by K.T. Synder Company or equal. In addition to the gasket, the joint shall be sealed with an approved mastic.

(3) The top of the eccentric cone shall be joined to the adjustment rings (if necessary) using a preformed flexible plastic gasket type joint sealant to obtain a water-tight fit.

(4) The manhole frame and cover shall be sealed to the adjustment rings or cone section using a preformed flexible plastic gasket type joint sealant.

(5) A water-tight flexible connection shall be made between the manhole and the sewer pipes using elastomeric gaskets conforming to ASTM C923. Gaskets shall be Kor-N-Seal as manufactured by National Pollution Control Systems, Inc. of Miford, New Hampshire, or equal and be installed in strict conformance with the manufacturer's instructions.

(D) *Lift station structures and valve vaults.*

(1) Lift station structures and valve vaults shall be made water-tight of size and dimensions shown on the plans.

(2) Precast structures shall meet all requirements of division (B) above, except that flat top slabs shall be used in place of eccentric cones.

(3) Where required by the plans, access hatch frames as specified herein shall be integrally cast into the top slab.

(4) All concrete surfaces subject to sewer gases shall be protected by application of coal tar epoxy suitable for the intended use. These surfaces include all areas in lift station wet wells above the specified low water level. Epoxy shall be 46H-413 Tneme-Tar as manufactured by Tnemec, or equal. Apply one coat at dry mil thickness of 16 to 20 mils unless otherwise recommended by the manufacturer.

(E) *Utility vaults.*

(1) Utility vaults for underground electrical conduit runs shall consist of two piece square or rectangular precast sections meeting the requirements of ASTM C857.

(2) The vaults shall be made water-tight by including a continuous rubber gasket conforming to ASTM C443 along the section joint.

(3) Conduit knockouts shall be located as required for the actual installation. Only those knockouts specifically used shall be removed.

(F) *Frames and covers.*

(1) Frames and covers shall be included for all manholes, utility vaults and where otherwise shown on the plans.

(2) Ferrous castings shall be as manufactured by Neenah Foundry Company, East Jordan Foundry, or equal, and shall conform to ASTM A48 Class 30. The covers and frames shall be of a design, type and weight specified on the plans.

(3) Castings shall be of uniform quality, free from blowholes, porosity, hard spots, shrinkage defects, cracks or other injurious defects. They shall be smooth and well cleaned by shot blasting or other approved methods. They shall be coated with high grade bituminous asphalt paint.

(G) *Manhole steps.*

(1) Steps shall be supplied for all manholes, valve vaults and utility vaults and where specifically detailed on the plans. Steps shall be cast in the precast sections.

(2) Steps shall be made of copolymer polypropylene plastic and reinforced with Y Grade 60 steel. Steps shall be able to resist a 1,500-pound pullout force.

(3) Steps must comply with all applicable provisions of OSHA regulations.

(4) Manhole steps shall be Model PSI-PF as manufactured by M.A. Industries, Inc. of Peachtree, Georgia or equal.

(H) *Access hatch.*

(1) (a) Where shown and required by the details, access hatches shall be provided for precast structures. Hatches shall be either single or double door with a frame assembly fabricated of aluminum and capable of withstanding a live load of 300 pounds/square feet. The doors shall be equipped with heavy forged brass hinges, stainless steel pins, spring operators and an automatic hold open bar with release handle which holds the door open at 90 degrees.

(b) Each door shall be provided with a lifting handle.

(2) The access frames shall be sized as shown on the drawings. Where noted, sizing may be contingent upon recommendations by equipment suppliers as required to provide equipment removal.

(3) Access frames shall be accurately placed as an integral part of the precast top slab section.

(4) Access frames shall be protected from direct contact with the concrete by means of a protective coating.

(5) Access frames shall be type "J" or "JD" as manufactured by the Bilco Company, New Haven Connecticut, or equal.
(2004 Code, Art. II, § C, part 2)

§ 151.122 EXECUTION.

(A) Precast concrete structures shall be located as shown on the drawings.

(B) Excavation and backfill for precast structures shall be in accordance with §§ 151.060 through 151.062 of this chapter.

(C) Unless otherwise shown, the top of manholes and other structures shall be set at ground level or top of pavement.
(2004 Code, Art. II, § C, part 3)

LIFT STATION EQUIPMENT

§ 151.135 GENERAL DESCRIPTION AND REQUIREMENTS.

(A) *Description.*

(1) Furnish and install all equipment for the lift station(s) including all structures, pumps, piping and controls as shown on the drawings and as described herein.

(2) The contractor shall be required to supply the pumps and control panel from a single manufacturer.

(B) *Performance requirements.*

(1) Lift station pumps shall be capable of passing a three-inch solid sphere.

(2) Pumps shall meet the design conditions and motor conditions specified on the plans.

(C) *Submittals*. The contractor shall be required to submit two copies each of the manufacturer's operation and maintenance manuals and dimensional and technical shop drawing data to the town for all equipment supplied under this section.
(2004 Code, Art. II, § D, part 1)

§ 151.136 PRODUCTS AND MATERIALS.

(A) *Acceptable manufacturers*. Pumps shall be as manufactured by Hydromatic Pumps, Inc. of Ashland, Ohio; Barnes Pumps, Inc of Piqua, Ohio, or equal.

(B) *Materials*.

(1) *Submersible non-clog pumps*.

(a) The pumps shall be four inches or six inches vertical, non-clog type of heavy cast iron construction, designed for the use of mechanical seals. The pump casing and volute shall be made of ASTM A48 Class 30 cast iron. The volute shall have smooth fluid passages capable of passing a three-inch minimum solid sphere. The pump casing shall include large clean out openings for access to the volute and impeller. The casing shall be arranged so that the impeller can be removed without disturbing the suction and discharge piping. The casing suction and discharge heads shall be connected to the piping with standard 125-pound ANSI flanges.

(b) The pump casing shall include three-fourths-inch taps for discharge pressure gauge connection and pump volute drain.

(c) The pump shall be mounted on a pump pad and cast iron frame as required to meet the arrangement shown on the drawings. The motor shall be attached to the pump volute by a one-piece cast iron adapter and backhead. The pump shall be arranged so that the rotating element can easily be removed from the volute without disconnecting the seal system or electrical wiring. The pump shall be arranged so that any foreign object may be removed from the pump or suction elbow without disassembling the motor, impeller or backhead.

(d) The pump impeller shall be of the single-suction, enclosed, two vane type made of ASTM A48 cast iron and shall be properly balanced. The impeller shall be keyed with a stainless steel key and secured to the motor shaft by a stainless steel cap screw equipped with a self-locking device. The impeller shall be keyed and bolted to the pump shaft and shall be readily removable without the use of special tools. To prevent the buildup of stringy materials, grit and other foreign particles around the pump shaft, all impellers less than full diameter shall be trimmed inside the impeller shroud. The shroud shall remain full diameter so that close minimum clearance from shroud to volute is maintained.

(e) The shaft shall be solid steel through the mechanical seal to eliminate corrosion and abrasive rust particles. The shaft shall be accurately machined and tapered at the impeller end. Renewable stainless steel shaft sleeves shall be provided to prevent leakage and shall extend the full length of the seal housing and under the gland.

(f) The pump shaft shall be sealed against leakage by a double mechanical seal installed in a bronze seal housing constructed in two sections. The housing shall be recessed into the pump backhead and securely fastened thereto.

(g) The seal shall be pressurized and lubricated by water from an outside potable water source. The water shall pass through a filter to the seal housing and be introduced between the upper and lower sealing surfaces. The seal system shall contain a brass valve connected near the top of the seal housing to permit the relief of any air trapped in the seal unit.

(h) The pump bearing frame shall be one-piece cast iron construction consisting of a cast iron bearing housing at the outboard end and a cast iron end cover at the inboard end. The radial inboard bearing shall be single row, roller type suitable for all loads encountered in the service condition. Axial thrust outboard bearings shall be angular contact, double row ball type suitable for thrust loads in two directions. Bearings shall be grease lubricated and designed for a minimum L10 life of 100,000 hours per AFBMA.

(2) *Lift station control panel.*

(a) *General.*

1. The pump manufacturer shall furnish an automatic pump station controller for operation on a three-phase, 60 hertz power source.

2. The pump station controller shall be suitable for operation and automatic alternation of a duplex pump system and shall be complete with motor control, solid state alternator, convenience power supply, miscellaneous controls and the like. All components shall be UL listed.

3. Controls for each of the two pumps shall be rated for the actual horsepower from the manufacturer's information.

4. The control and power wiring for the pumps and level sensors shall be arranged to extend through two separate conduits to the wetwell. Conduits shall be properly sealed to protect the panel against explosive type gases which may exist in the wetwell.

(b) *Panel enclosure.*

1. The enclosure shall be NEMA 4X with drip shield, 14-gauge stainless steel (minimum), welded construction. The enclosure shall have an outer weather door, a hinged inner "operator's door" and mounting hardware.

2. All equipment, controls and the like shall be located inside the enclosure. Selector switches, pilot lights and the like shall be located on a deadfront swingout panel (operator's door) located behind an outside weather door. All other equipment, exposed wiring and the like shall be located behind the swingout panel.

(c) *Controller features; operating sequence.*

1. a. When a pump is called for by the water level in the wet well, the control unit shall send a start signal to the appropriate pump and verify operation with the starter auxiliary contact. Appropriate verification time delays shall be included.

b. When the wet well level continues to rise, the second pump shall start.

c. When the wet well level reaches low level, the pump(s) shall stop and pump alternation shall occur.

d. When the pump run verification signal is not received with the appropriate time period, the alternator shall deselect the failed pump, select the next pump, remove the failed pump from the sequence, illuminate a pump fail light. The failed pump shall remain out of service and the pump fail light shall remain illuminated until manually reset.

2. Terminal blocks for incoming power, pump power conductors, level sensors, leak detectors, motor thermal sensors and control wiring.

3. Circuit breakers with over-current protection for each of two pumps and the convenience power transformer. Circuit breakers shall be magnetic-hydraulic or thermal magnetic, ambient temperature compensated type, calibrated and factory sealed with the proper trip setting. The devices shall have a minimum interrupting rating of 10,000 RMS symmetrical.

4. Magnetic full voltage starters for each of two pumps. The starter overload relays (one per phase) shall be ambient compensated, quick-trip type. Overload elements shall be matched to the pump motor characteristics.

5. Convenience and control power transformer with 460-volt primary and 120/240 volt secondary rated at 2KW (where required due to three phase service).

6. Convenience power distribution panel (30A, 120/240V, 1PH-3W) with main breaker and 20A, 1P branches. Circuit breaker operators shall be accessible without opening the deadfront "operator's door". Branch breakers shall be supplied as follows: one for control; one for GFI receptacle; and one for condensate heater.

7. GFI type duplex convenience receptacle (120V, 20A) mounted on the dead front operator's door.

8. A low volt power supply and interface system suitable for operation of the float switches in an intrinsically (explosion proof) safe mode.

9. An adjustable thermostatically controlled heater to provide condensate protection inside the enclosure.

10. Two pump automatic electronic alternator which will alternate the pumps with each pump down cycle.

11. The pump controller shall provide relay outputs to interface with the motor control devices as required.

12. Running time meters for each pump. The meter shall indicate the number of hours of pump operation. The meter shall be enclosed in a dust and moisture proof molded plastic case. The flush mounted dial shall register in hours and tenths of hours up to 999.9 hours before repeating.

13. a. The control panel shall provide the following status/alarm indications for each pump:

i. Pump running light (green);

ii. Pump failed light (red);

iii. Seal failure; and

iv. High wet well level.

b. In addition, the panel shall have a Hand-Off-Auto selector switch for each pump to control mode of pump operation and timing modules as required for the pump failed feature.

14. The local alarm system shall consist of an alarm light and shall signal any of the above alarm conditions.

15. The alarm light shall be a weatherproof high intensity strobe fixture with a red lexan globe and a metal globe guard mounted on top of the enclosure.

(d) *Level sensors.*

1. The level sensors shall consist of weighted floats with mercury contacts rated for low volt operation at milliwatt levels. Each level sensor shall be furnished complete with sufficient cable length to run to the terminal box below the pump station controller and leave slack for future level adjustment.

2. Floats shall meet the requirements for Class 1, Division 1, Group C and D and be intrinsically safe for installation in an explosion hazard environment.

3. Floats shall operate at a maximum of 24 volts.

4. Furnish a stainless steel bracket mounted in the hatch opening for hanging the sensor cables.

(C) *Lift station piping*.

(1) Interior lift station and valve pit piping shall be flanged ductile iron, centrifugally cast conforming to the latest revisions of ANSI/AWWA C150/A21.50 and ANSI/AWWA C151/A21.51. The interior surface of the pipe shall be cement lined and seal coated in accordance with ANSI/AWWA C104/A21.4. Pipe shall be Pressure Class 250 minimum.

(2) Flanges shall be of 250 psi working pressured, drilled to ASA 125 pounds standards and meeting the requirements of ANSI/AWWA C111/21.10.

(D) *Valves*.

(1) *General*.

(a) All valves shall be furnished with an exterior finish coating the same as the adjacent piping system to which they are connected or as approved by the town.

(b) All valves of the same type shall be by the same manufacturer.

(c) Where required for satisfactory operation of valves, provide extension stems, stem guides, cast iron valve and curb boxes, floor boxes and other valve appurtenances. Extension stems shall be complete with guide bearings, wrench nut and tee handle wrench. All valve stems and machinery stuffing boxes shall be packed with material as selected for the intended service. All valves shall be designed for repacking.

(d) Tee wrench operators shall be provided as required for proper operation.

(2) *Plug valves*.

(a) Plug valves shall be of the non-lubricated, resilient seated, eccentric type.

(b) All plug valves shall be of the size indicated on the drawings. All plug valves shall be of the drip-tight-closing, resilient-faced plug type and shall be of the eccentric seating construction such that the opening movement of the closing member (plug) results in the closing member rising off the body seat contact. Port areas shall be equal to at least 80% of the nominal size pipe area.

(c) Valve bodies, bonnets and plugs shall be constructed of cast iron meeting the requirements of ASTM A126 Class B.

(d) Valves shall be rated for 175 psi up to 12 inches and 150 psi for valves 14 inches and larger. An adjustable close position stop shall be provided for field adjustment. The seat end and standard flow direction shall be cast on the valve body.

(e) All shaft seals shall be replaceable without disassembling the valve and while the valve is under system operating pressure.

(f) The plug shall be of a one piece design with a precision molded resilient facing. The resilient seating surface shall not be in the flow way pattern when the valve is in the open position. The body seating surface shall be welded nickel overlay containing a minimum of 90% nickel.

(g) Radial journal bearings shall be stainless steel, of the permanently lubricated type. Two thrust bearings shall be provided in the upper journal area, one of stainless steel and one of Teflon. The lower journal shall have one stainless steel thrust bearing of the non-adjustable type. Grit seals shall be furnished in the upper and lower journals to prevent abrasive media from entering the bearing and seal areas.

(h) Unless otherwise noted or shown, all valve and connections shall be ANSI Class 125 flanges.

(i) Valve shall be series 5000 as manufactured by Val-Matic Valve and Mfg. Corp., Series 100, as manufactured by Dezurik, or equal.

(3) *Rubber flapper swing check valves.*

(a) Swing check valves shall have a cast iron body and cover meeting the requirements of ASTM A126, Class B. The valve body shall have full flow equal to the nominal pipe diameter at any point through the valve. Valve shall be designed for a 175-psi minimum working pressure.

(b) The valve seating surface shall be on a 45-degree angle to minimize disc travel. The disc shall be of one piece construction, precision molded with an integral O-ring type sealing surface. The disc shall be made of Buna-N and have a non-slam closing characteristic by means of a 35-degree disc stroke and disc return action.

(c) The top access port shall be full size, allowing removal of the disc without removing the valve from the pipeline.

(d) The check valve shall have backflow capabilities by means of a screw type backflow actuator.

(e) The interior of the valve shall be coated with an epoxy suitable for potable water.

(f) Unless otherwise shown or noted, the check valves end sections shall be ANSI Class 125 flanges.

(g) Rubber flapper swing check valves shall be as manufactured by Val-Matic Valve and Manufacturing Corp., or equal.

(4) *Mud valves*. Valves shall be of spigot end, non-rising steam design having a cast iron body. The stem, stem nut, seat ring and disc ring shall be made of bronze. All bolts and nuts shall be of corrosion resistant steel. Valves shall be furnished complete with extension steam having a two-inch square not as required for the application. Each valve to be furnished with a tee handle wrench of length as required by the drawings. Mud valves shall be Model F-3080 as manufactured by Clow, or equal. (2004 Code, Art. II, § D, part 2)

CHAPTER 152: STREETS AND SIDEWALKS

Section

Street Protection

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152.02 Street alteration permit
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Street and Road Construction

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Cross-reference:

Construction, see Ch. 151
Health and Sanitation; Nuisances, see Ch. 130
Subdivisions, see Ch. 155
Zoning, see Ch. 156

STREET PROTECTION

§ 152.01 ALTERING STREETS.

It shall be unlawful for any person to cut, change, alter or in any way disturb any street, curb or sidewalk in the town, without first obtaining a permit to do so, as hereinafter provided.
(2004 Code, § 7-101) (Ord. 2159, passed 9-18-2012) Penalty, see § 152.99

§ 152.02 STREET ALTERATION PERMIT.

Any person desiring to cut, change, alter or in any way disturb any street, curb or sidewalk shall file with the Public Works Superintendent an application for a permit that includes the following information:

(A) The purpose for the proposed alteration;

(B) The exact specifications of the proposed alteration including locations, size, description and the time at which the alteration is proposed to be:

(C) A showing that the applicant is the owner of real estate adjoining the street, curb or sidewalk on which the alteration is proposed to be made; and

(D) The exact specifications to repair or replace such alteration as he or she may be permitted to make with materials of the same type and character as the said street, curb or sidewalk.
(2004 Code, § 7-102) (Ord. 2159, passed 9-18-2012)

§ 152.03 PERMIT APPROVAL.

Upon the filing of the application and the payment of a $5 filing fee, the public works superintendent shall inspect the street, curb or sidewalk, and if he or she is satisfied that the reason given by the applicant is a good, sufficient and valid reason for the development, enjoyment or use of the applicant's

adjoining property, and that the applicant is financially responsible, the Public Works Superintendent shall issue a permit allowing the alteration.
(2004 Code, § 7-103) (Ord. 2159, passed 9-18-2012)

§ 152.04 TIME LIMIT.

(A) Work contemplated by a alteration permit shall be commenced within ten days of the issuance of the permit and completed, pursuant to the town's specifications attached hereto and as may be amended from time to time, within 30 days of the issuance of the permit.

(B) Otherwise, the permit shall be null and void.
(2004 Code, § 7-104) (Ord. 2159, passed 9-18-2012)

§ 152.05 FINAL INSPECTION.

The Public Works Superintendent shall inspect the work at its completion and issue a certificate of completion if he or she is satisfied that the street, curb or sidewalk has been repaired or replaced in as good a condition as it was prior to the work, in conformance with the town's specifications.
(2004 Code, § 7-105) (Ord. 2159, passed 9-18-2012)

STREET AND ROAD CONSTRUCTION

§ 152.20 GENERAL DESCRIPTION; QUALITY ASSURANCE.

(A) *Description.* The work of this section includes the supply of all materials, labor and equipment required to construct all streets and roads.

(B) *Quality assurance.* All materials used shall be new, of minimum quality as specified herein. Material testing and certification documents shall be made available to the town or its agents upon request. This information shall include, but not be limited to, materials testing reports, gradation analysis and manufacturers' certifications.
(2004 Code, Art. V, § A, part 1)

§ 152.21 PRODUCTS.

All materials used in construction of streets and roads shall meet the requirements of the latest revision of the state's Department of Transportation (INDOT) *Standard Specifications*.
(2004 Code, Art. V, § A, part 2)

§ 152.22 EXECUTION.

(A) Streets and roads shall be installed in accordance with all applicable construction standards and practices of the INDOT *Standard Specifications*, and as detailed herein.

(B) In addition to these standards, construction shall be performed as outlined in Chapter V "Local Roads and Streets" of the Association of State Highway and Transportation Officials (AASHTO) geometric design policies. Where conflict exists between these standards and AASHTO design policies, these standards shall take precedence.
(2004 Code, Art. V, § A, part 3)

STREET LIGHTING

§ 152.35 GENERAL DESCRIPTION.

This subchapter includes the material and labor required for installing electric street lighting for commercial and residential subdivisions as specified herein. Street lighting shall be exterior grade luminaries and post with suitable ornamental style and finish to enhance developments and provide for security.
(2004 Code, Art. VI, § A, part 1)

§ 152.36 PRODUCTS AND EQUIPMENT.

(A) *Lighting fixtures.*

(1) Lighting fixtures shall be pole-mounted luminaries made of cast aluminum. All components including fixtures, ballasts and lamps shall be UL or ETL listed for outdoor use and operated on 120-volt power.

(2) Lamps shall be long lasting, high efficiency high pressure sodium type, 150-watt minimum output.

(3) Fixtures shall include ballasts rated for -30°F operating temperature, photo electric cell and glass or acrylic refractors.

(B) *Poles.*

(1) Light poles shall be made of cast aluminum, 12-foot high minimum, and mounted to a concrete base. Poles shall be 0.188-inch minimum thickness and have a colored, factory-applied finish.

(2) Poles shall be of circular construction with tapered or straight-fluted shaft. Base size shall be suitable for the height and application as recommended by the manufacturer.

(3) Poles shall be supplied with proper mounting hardware for attaching the light fixture as specified above.
(2004 Code, Art. VI, § A, part 2)

§ 152.37 EXECUTION.

(A) Street lighting shall be required of all commercial and residential subdivisions as required for security and safety of the public. Lighting shall be adequately spaced in parking lots and along streets as recommended by the owner. As a minimum, lights shall be place at all street intersections and no more than 300 feet apart.

(B) Lighting shall be connected to common circuits with utility costs paid by the subdivision homeowners association or commercial property owner.

(C) Contractor shall provide concrete bases and anchor bolts for support of light poles. Bases may either be flush mounted (in residential areas) or above grade (in parking lots) as recommended for the application and required for safety.
(2004 Code, Art. VI, § A, part 3)

SIDEWALKS

§ 152.50 OWNER REQUIREMENTS.

Owners of property in the town are required to construct or repair the sidewalks that abut their property or to pay the costs of construction of and repairs to those sidewalks performed by or at the direction of the town.
(Res. 2013-09, passed 10-1-2013; Res. 2017-1, passed 2-21-2017)

§ 152.51 NOTICE OF ORDERS.

(A) The Town Council, as the Works Board, acting on its own or by its authorized agent, will issue and give notice of orders concerning the construction or repair of sidewalks to the abutting property owners in person or by mail.

(B) Mailing of orders to property owners as their names of the owners appear on the County Assessor's books complies with this requirement.
(Res. 2013-09, passed 10-1-2013; Res. 2017-1, passed 2-21-2017)

§ 152.52 COMPLIANCE WITH ORDERS.

(A) A property owner will have 30 days from the date of the order to construct the sidewalk or make the repairs as required by the order.

(B) If a property owner fails to comply with an order, the Council, as the Works Board, acting on its own or by its authorized agent, may have the sidewalk constructed or repaired by an independent contractor or by the town's personnel.
(Res. 2013-09, passed 10-1-2013; Res. 2017-1, passed 2-21-2017)

§ 152.53 COSTS.

(A) The entire cost of sidewalk improvements or repairs that the Council undertakes by one resolution shall be assessed and apportioned against each lot or parcel of property abutting on the improvement in the proportion the improved lineal front footage of each lot or parcel of property bears to the entire length of the improvement.

(B) Assessments for the construction or repair of sidewalks shall be levied and collected according to I.C. 36-9-36.
(Res. 2013-09, passed 10-1-2013; Res. 2017-1, passed 2-21-2017)

RIGHTS-OF-WAY

§ 152.65 UNDERGROUND AND BURIED UTILITIES DISTRICT.

(A) The recitals set out in the resolution codified herein are fully incorporated herein by this reference.

(B) The town hereby establishes, effective as of 4-29-2017, a Underground and Buried Utilities District (UBU) District covering the following described areas of town:

(1) All areas of the town where no above ground facilities currently exist;

(2) All areas of the town where planned road projects, redevelopment areas and/or economic development areas provide for and require underground buried utilities and utility facilities, including but not limited to electric, communication or similar and associated services; and

(3) All other right-of-way (ROW) or proposed ROW throughout the town, whether or not above ground utilities or utility facilities currently exist.

(C) Unless otherwise expressly authorized by the Council, from and after the effective date of this section, no person, corporation, or utility shall erect or install within the town's UBU District, any above ground facilities.

(D) Unless otherwise expressly authorized by the Council, from and after the effective date of this section all utilities and utility devices, equipment, lines, conduits, and related facilities located within the town's ROW shall be placed underground.

(E) All above ground facilities located, as of the effective date of this section in town's ROW or another location within the UDU District, may remain but may not be replaced or relocated without prior written authorization of the Council.
(Res. 2017-2, passed 4-28-2017)

§ 152.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code of ordinances.

(B) Any person who cuts, changes, alters or in any way disturbs any street, curb or sidewalk, without first obtaining a permit under §§ 152.01 through 152.05 of this chapter, or who, having secured a permit under §§ 152.01 through 152.05 of this chapter, fails or reuses to complete the work to the satisfaction of the Public Works Superintendent shall be fined a sum of $250, plus any court costs, attorney fees and cost of repairs to the street, curb or sidewalk.
(2004 Code, § 7-106) (Ord. 2063, passed 11-20-2007; Ord. 2159, passed 9-18-2012)

CHAPTER 153: STORM WATER MANAGEMENT

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GENERAL PROVISIONS

§ 153.01 PURPOSE AND INTENT.

(A) The purpose of this subchapter is to provide for the health, safety and general welfare of the citizens of the town through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law.

(B) This subchapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

(C) The objectives of this subchapter are:

(1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by storm water discharges (NPDES) permit process;

(2) To prohibit illicit connections and discharges to the municipal separate storm sewer system; and

(3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this subchapter.
(Ord. 2023-11, passed 11-1-2023)

§ 153.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

AUTHORIZED ENFORCEMENT AGENT. Employees or designees of the town designated to enforce this subchapter.

BEST MANAGEMENT PRACTICES (BMPs). Schedules of activities, prohibitions of practices, general house keeping practices, pollution prevention and educational practices, maintenance procedures and other management practices to prevent or reduce the discharge pollutants directly or indirectly to storm water, receiving waters or storm water conveyance systems. ***BMPs*** also include treatment practices, operating procedures and practices to control site run-off, spillage or leaks, sludge or water disposal or drainage from raw materials storage.

CLEAN WATER ACT. The Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY. Activities subject to NPDES construction permits. Construction projects resulting in land disturbance of one acre or more. Such activities, include but are not limited to, clearing and grubbing, grading, excavating and demolition.

HAZARDOUS MATERIALS. All material, including any substance, waste or combination thereof, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to, a substantial presence or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

ILLEGAL DISCHARGE. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in § 153.15 of this chapter.

ILLICIT CONNECTIONS. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the drain system including, but not limited to, any which allow any non-storm water discharge including sewage, process wastewater and wash water to the storm drain system and any connections to the drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by the town or, any drain or conveyance connected from a commercial or industrial land use to the storm drain which has not been documented in plans, maps, equivalent records and approved by the town.

INDUSTRIAL ACTIVITY. Activities subject to NPDES industrial permits as defined in 40 C.F.R. § 122.26(b)(14).

INFILTRATION. Passage or movement of water into the soil. This includes piped systems that discharge to the soil. Infiltrated water may stay in subsurface layers or recharge groundwater resources.

LOW IMPACT DEVELOPMENT (LID). An approach to land planning and engineering design which manages rainfall at the source to reduce storm water runoff and manage runoff timing, emphasizes conservation and natural features, and protects water quality by controlling pollutants.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT. A permit issued by EPA or by a state under authority delegated pursuant to 33 U.S.C. § 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

NON-STORM WATER DISCHARGE. Any discharge to the storm drain system that is not composed entirely of storm water.

PERSON. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

POLLUTANT. Anything which causes or contributes to pollution. ***POLLUTANTS*** may include, but are not limited to: paints, varnishes and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PREMISES. Any building, lot, parcel of land or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

STORM DRAINAGE SYSTEM. Publicly-owned facilities by which storm water is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs and other drainage structures.

STORM WATER. Any surface flow, run-off and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

STORM WATER POLLUTION PREVENTION PLAN. A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems and/or receiving waters to the maximum extent practicable.

WASTEWATER. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

WATERCOURSE. Any river, stream, creek, brook, branch, natural or human-made drainageway in or into which storm water run-off or flood waters flow either continuously or intermittently.
(Ord. 2023-11, passed 11-1-2023)

§ 153.03 APPLICABILITY.

This subchapter shall apply to all water entering the storm drainage system unless explicitly exempted by the town.
(Ord. 2023-11, passed 11-1-2023)

§ 153.04 RESPONSIBILITY FOR ADMINISTRATION.

The Town Council shall administer, implement and enforce the provisions of this subchapter. The Town Council may designate, in writing, an authorized enforcement agent to administer and enforce this chapter.
(Ord. 2023-11, passed 11-1-2023)

§ 153.05 SEPARABILITY.

(A) The provisions of this subchapter are hereby declared to be separable.

(B) If any provision, clause, sentence or paragraph of this subchapter or the application thereof to any person shall be held invalid, such invalidity shall not affect the other provisions or application of this subchapter.
(Ord. 2023-11, passed 11-1-2023)

ILLICIT DISCHARGES

§ 153.15 DISCHARGE PROHIBITIONS.

(A) *Prohibitions of illegal discharges*. No person shall discharge or cause to be discharged into the storm drainage system or watercourses any pollutants, except to the extent that pollutants may be present in any of the following exempt discharges:

(1) Water line flushing or other potable water sources, landscape irrigation or lawn watering, excess storm sewer cleaning water not collected by a vacuum truck, diverted streams, uncontaminated pumped ground water, foundation or footing drains (not including active ground water de-watering systems), crawl space, pumps, uncontaminated condensate from air conditioning units, coolers, compressors, and outdoor storage of refrigerated gasses or liquids, springs, non-commercial residential or community organization washing of vehicles, natural riparian habitat or wetland flows, non-detergent pavement wash water provided spills or leaks of toxic or hazardous materials have not occurred swimming pools (if de-chlorinated - typically less than one ppm chlorine), firefighting activities and any other water source not containing pollutants;

(2) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety;

(3) Dye testing is an allowable discharge, but requires a verbal notification to the town prior to the time of the test; and

(4) Any non-storm water permitted under an NPDES permit, waiver or waste discharge order issued to a discharger and administered under the authority of the Federal Environmental Protection Agency (EPA); provided that, the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable approval has been granted for any discharge to the storm drain system.

(B) *Prohibition of illegal connections*.

(1) The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this subchapter if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.
(Ord. 2023-11, passed 11-1-2023)

§ 153.16 SUSPENSION OF MS4 ACCESS.

(A) *Suspension due to illicit discharges in emergency situations*. The town, without prior notice, may suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or potential discharge which poses or may pose a threat to the environment, or to the health or welfare of persons, or to the MS4, or waters of the United States. The authorized enforcement agent and/or the Town Council may take all steps deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize the risk to any person.

(B) *Non-emergency suspension due to the detection of illicit discharge*. Any person discharging to the MS4 in violation of this subchapter may have MS4 access terminated if such termination would eliminate or minimize an illicit discharge. The authorized enforcement agent will notify a violator of the proposed termination of MS4 access. The violator may petition the Town Council for a reconsideration and hearing. A person commits an offense if the person accesses the MS4 after access has been terminated pursuant to this section, without the prior approval of the authorized enforcement agent.
(Ord. 2023-11, passed 11-1-2023)

§ 153.17 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of that permit. Proof of compliance with the permit may be required in a form acceptable to the town prior to and as a condition of discharges to the MS4.
(Ord. 2023-11, passed 11-1-2023)

§ 153.18 MONITORING OF DISCHARGES.

(A) *Applicability*. This section applies to all premises that discharge storm water associated with an industrial activity or a construction activity.

(B) *Access to premises*.

(1) The authorized enforcement agent shall be permitted to enter and inspect premises subject to regulation under this subchapter as often as may be necessary to determine compliance with this subchapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the authorized enforcement agent.

(2) Premises operators shall allow the authorized enforcement agent to all parts of the premises for the purpose of inspection, sampling, examination and copying of records that must be kept pursuant to the requirements of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the authorized enforcement agent and shall not be replaced. The costs of clearing such access shall be borne by the operator.

(3) The authorized enforcement agent shall have the right to set up on any premises such devices as are necessary, in the opinion of the authorized enforcement agent, to conduct monitoring and/or sampling of the premises' storm water discharge.

(4) The authorized enforcement agent has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

(5) Unreasonable delays in allowing the town's authorized agent access to a permitted facility is a violation of a storm water discharge permit and of this subchapter. A person who is the operator of premises with a NPDES storm water discharge permit associated with industrial activity commits an offense if the person denies the town's authorized agent reasonable access to the permitted premises for the purpose of conducting any activity authorized or required by this subchapter.

(6) If the authorized enforcement agent has been refused access to any part of the premises from which storm water is discharged, and he or she is able to demonstrate probable cause to believe that there may be a violation of this subchapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this subchapter or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the town may seek issuance of a search warrant from any court of competent jurisdiction.
(Ord. 2023-11, passed 11-1-2023)

§ 153.19 BEST MANAGEMENT PRACTICES.

The town will adopt requirements identifying best management practices (BMPs) for activities, operations and premises that may cause or contribute to pollution or contamination of storm water, the storm drain system or the waters of the United States. The owner or operator of commercial or industrial premises shall provide, at his or her own expense, reasonable protection from accidental discharge of

prohibited materials or other wastes into the storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the storm drain system. Compliance with terms and conditions, a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. These BMPs shall be part of a storm water pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.
(Ord. 2023-11, passed 11-1-2023)

§ 153.20 WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately-owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function or physical integrity of the watercourse. It shall be the property owners' responsibility to maintain the watercourses on their lots and to take preventative measures against any and all erosion and/or deterioration of natural or manmade features on their lots. Owner/lessee maintenance responsibilities shall include the following:

(A) Maintaining the watercourse free of trash, debris, excessive vegetation, and obstacles that impede flow;

(B) Not removing healthy bank vegetation beyond that actually necessary for maintenance;

(C) Not removing vegetation in such a manner that makes the banks vulnerable to erosion; and

(D) Maintaining and stabilizing the watercourse in order to protect against erosion and degradation.
(Ord. 2023-11, passed 11-1-2023)

§ 153.21 NOTIFICATION OF SPILLS.

(A) Notwithstanding other requirements of law, as soon as any person responsible for premises, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system or water of the United States, said person shall take all necessary steps to ensure the discovery, containment and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall

notify the town in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the town within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

(B) A written report concerning the discharge shall be filed with the town and IDEM, by the person responsible for the discharge, within five days. The written report shall specify:

(1) The composition of the discharge and the cause;

(2) The date, time, and estimated volume of the discharge;

(3) All measures taken to clean up the accidental discharge and all measured proposed to be taken to prevent any recurrence; and

(4) The name and telephone number of the person making the report, and the name and telephone number of a person who may be contacted for additional information on the matter.

(C) A properly reported accidental discharge shall be an affirmative defense to a civil infraction proceeding brought under this chapter against a discharger for such discharge. It shall not however, be a defense to a legal action brought to obtain and injunction, to obtain recovery of costs or to obtain other relief because of or arising out of the discharge. A discharge shall be considered properly reported only if the discharger complies with all the requirements of this section. This requirement does not relive discharge from notifying other entities as required by state or federal regulations.
(Ord. 2023-11, passed 11-1-2023)

§ 153.22 INSPECTIONS AND MONITORING.

(A) The town has the authority to periodically inspect the storm drainage system, whether publicly or privately owned, to detect and eliminate illicit connections and discharges into the system. The inspection may include a screening of discharges from outfalls connected to the system to determine if prohibited flows are being conveyed into the storm drainage system. It could also include spot testing of waters contained in the storm drainage system itself to detect the introduction of pollutants into the system by means other than a defined outfall, such as dumping or contaminated sheet runoff.

(B) If, as a result of the storm drainage system inspection, a discharger is suspected of an illicit discharge, the town may inspect and/or obtain storm water samples from storm water runoff facilities of the subject discharger, to determine compliance with the requirements of this chapter. Upon request, the discharger shall allow a properly identified town representative to enter upon the premises of the discharger at all hours necessary for the purposes of such inspection or sampling. The town or its properly identified representative may place on the discharger's property the equipment or devices used for such sampling or inspection, as-built drawings and the rec[text missing].

(C) Following the final completion of construction, the town has the authority to inspect new development and re-development sites to verify that all on-site storm water conveyances and connections to the storm drainage system are in compliance with this chapter.
(Ord. 2023-11, passed 11-1-2023)

§ 153.23 ENFORCEMENT; NOTICE OF VIOLATION.

(A) Whenever the town finds that a person has violated a prohibition or failed to meet a requirement of this subchapter, the town may order compliance by written notice of violation to the responsible person. Such notice may require, without limitation:

(1) The performance of monitoring, analyses and reporting;

(2) The elimination of illicit connections and illegal discharges;

(3) The violating discharge practices and operations shall cease and desist;

(4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;

(5) Payment of a fine to cover administrative and remediation costs; and

(6) The implementation of source control or treatment BMPs.

(B) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.
(Ord. 2023-11, passed 11-1-2023)

§ 153.24 APPEALS; ENFORCEMENT MEASURES.

The owner or lessee of the premises receiving a notice of violation has the right to file a notice of appeal with the town. The notice of appeal must be received within 15 days from the date of the notice of violation. A hearing on the appeal before the Town Council or its designee shall take place within 21 days from the date of receipt of the notice of appeal. The decision of the Town Council or its designee shall be final.
(Ord. 2023-11, passed 11-1-2023)

§ 153.25 COST OF VIOLATION ABATEMENT.

(A) If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within 15 days of the decision of the Town Council upholding the decision, then representatives of the town shall enter upon the subject premises and take any and all measures necessary to abate the violation and/or restore the premises. It shall be unlawful for any person, to refuse to allow the town or its designated contractor to enter upon premises for the purposes set forth above.

(B) Within 15 days after abatement of the violation, the owner of the premises will be notified of the cost of abatement, including administrative costs. The owner may file a written protest objecting to the amount of the assessment within 15 days. If the amount due is not paid within a timely manner as determined by the decision of the town or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the premises and shall constitute a lien on the property for the amount of the assessment.
(Ord. 2023-11, passed 11-1-2023) Penalty, see § 153.99

§ 153.26 INJUNCTIVE RELIEF.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this subchapter. If a person has violated or continues to violate the provisions of this subchapter, the town may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.
(Ord. 2023-11, passed 11-1-2023) Penalty, see § 153.99

§ 153.27 COMPENSATORY ACTION.

In lieu of enforcement proceedings, penalties and remedies authorized by this subchapter, the town may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup and the like.
(Ord. 2023-11, passed 11-1-2023)

§ 153.28 VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this subchapter, that is or may become a threat to public health, safety and welfare, and is declared and deemed a nuisance, may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken.
(Ord. 2023-11, passed 11-1-2023)

§ 153.29 REMEDIES NOT EXCLUSIVE.

The remedies listed in this subchapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the town to seek cumulative remedies.
(Ord. 2023-11, passed 11-1-2023)

STORM WATER MANAGEMENT PERMITTING

§ 153.40 APPLICABILITY.

(A) The provisions of this subchapter relating to storm water quality and quantity management for storm water run-off shall apply to land disturbing activities within the town, that disturb one or more acre of land or disturbances of less than one acre of land that are a part of a larger plan or development or sale as defined in the Construction Storm Water General Permit (CSGP) if the larger common plan will ultimately disturb one or more acres of land.

(B) Fueling areas include an existing or proposed land use with fuel tanks or fueling activities. Regulated activities include any fueling area, publicly or privately owned (regardless of the size of land disturbance), that installs or replaces fuel tanks. Refer to this subchapter for storm water quality treatment requirements specific to fueling areas. A fueling area may be a part of other land disturbing activities or may be individually permitted.
(Ord. 2023-11, passed 11-1-2023)

§ 153.41 STORM WATER PERMIT APPLICATION.

(A) No person shall be granted a site development permit for land-disturbing activity that would require the uncovering of one acre or more without the approval of a Storm Water Pollution Prevention Plan (SWPPP) and construction plan by the town.

(B) No permit is required for the following activities:

(1) Any emergency activity that is immediately necessary for the protection of life, property or natural resources;

(2) Existing nursery and agricultural operations conducted as a permitted main or accessory use;

(3) Landfills that have been issued a certification of closure under 329 IAC 10;

(4) Coal mining activities permitted under I.C. 14-34; and

(5) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by IDEM under 329 IAC 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

(C) Each application shall include the following:

(1) The name(s) and address(es) of the owner or developer of the site;

(2) Any consulting firm retained by the applicant and principal contact at such firm;

(3) All required components (sections A, Band C) listed in the town's Construction/Stormwater Pollution Prevention Plan Technical Review and Comment Form (available from the town);

(4) All required submittals listed on the town's Storm Water Permit Checklist (available from the town);

(5) Application filing fee of $250 administrative review fee at the time of submittal. If approved a site development permit shall be obtained at the Town Hall. The cost of the permit will be $100 plus plan review and inspection fees; and

(6) Submittal shall be in both electronic and hard copy formats.

(D) Each application shall include a statement that any land clearing, construction or development involving the movement of earth shall be in accordance with the SWPPP and that a responsible person designated by the applicant shall visit the site each day when construction or grading activity takes place to assure the plan is being strictly followed.

(E) Submittal of a Notice of Intent (NOI) to IDEM shall be completed by the owner following approval of the SWPPP by the town. The initiation of construction activity prior to approval and NOI submittal is a violation and subject to enforcement action. Upon submittal of the NOI, the applicant shall submit the IDEM Notice of Sufficiency (NOS) to the town and notify the town of the start date for construction at least 48 hours in advance of construction.

(F) Upon a permit holder's failure to comply strictly with the SWPPP, the town may require the permit holder to post a performance bond, letter of credit or other improvement security, in the amount of 125% of the value of the improvements to cover all costs of improvements, landscaping, maintenance and repair of improvements, engineering and inspection costs, for the period as specified by the town. (Ord. 2023-11, passed 11-1-2023)

§ 153.42 REVIEW AND APPROVAL.

(A) The town will review each application for a site development permit to determine its conformance with the provisions of this regulation.

(B) After the town receives an application, a preliminary determination will be made whether the application is substantially complete within ten days (for projects at least one acre but less than five acres) or within 14 days (for projects greater than or equal to five acres). If the application is deemed insufficient, additional information will be requested by the town. Once the application is deemed sufficient, the following actions will take place for review of the permit application.

(1) Review will be conducted by the town and/or its plan review consultant(s). Comments and deficiencies will be provided to the applicant. Once all comments have been addressed and review completed, the town will either accept the project or request modifications. Once all modifications have been made, if required, the town will issue approval.

(2) The applicant may not submit the NOI to IDEM or commence land-disturbing activities until the SWPPP is approved. The initiation of construction activity prior to approval is a violation and subject to enforcement action. Upon submittal of the NOI, the applicant shall submit the IDEM Notice of Sufficiency (NOS) to the town and notify the town of the start date for construction at least 48 hours in advance of construction.
(Ord. 2023-11, passed 11-1-2023)

§ 153.43 ADOPTED, INCORPORATED BY REFERENCE.

The plan, procedures and post-construction requirements of the CSGP, as may be amended from time to time, are hereby incorporated as a part of this subchapter.
(Ord. 2023-11, passed 11-1-2023)

§ 153.44 PROMOTING IMPROVED WATER QUALITY.

The town's procedures for promoting improved water quality include the following:

(A) Buffer strip and riparian zone preservation;

(B) Filter strip creation;

(C) Minimization of land disturbance and surface imperviousness;

(D) Minimization of directly connected impervious areas;

(E) Maximization of open space; and

(F) Directing the community's physical growth away from sensitive areas and toward areas that can support it without compromising water quality.
(Ord. 2023-11, passed 11-1-2023)

§ 153.45 STORM WATER QUALITY MANAGEMENT.

(A) *Introduction*. The town may require any combination of storage, infiltration, filtering or vegetative practices to reduce the impact of pollutants in storm water run-off on receiving waters, where appropriate, and, additionally, shall require the following:

(1) Run-off from the project site must be managed to minimize pollutants that are expected to be associated with the final land use. To achieve pollutant minimization goals, measures shall be selected and meet the requirements as established by ordinance or other regulatory mechanism.

(2) The post-construction measures shall at a minimum be selected based on correct sizing to address the Water Quality Volume (WQv) or water quality flow rate as specified below.

(3) One or more post-construction measures working in tandem or series shall be utilized to treat storm water run-off and increase the overall efficiency of individual and specialized measures.

(4) In combination with proper post-construction measure selection, design and development strategies may be selected and incorporated into the plan to minimize the discharge of pollutants. These strategies may include, but are not limited to:

(a) Low Impact Development (LID) and green infrastructure.

(b) Infiltration measures, when selected must take into consideration the pollutants associated with run-off and the potential to contaminate ground water resources. When there is a potential for contamination, choose alternative measures or measures that pre-treat run-off to eliminate or reduce the pollutants of concern.

(B) *Policy on Stormwater Quality Management*.

(1) BMPs must be implemented for the management of total suspended solids (TSS) including floatables. BMP systems or treatment trains shall have at least one component of the system providing floatable control. Position BMPs outside right-of-way and not more than 14 feet from a concrete or paved area for vac-truck and maintenance vehicle access.

(2) For ease of maintenance and to reduce the frequency of pond dredging, all detention/retention facilities (including underground detention) shall have an upstream BMP installed for each inlet pipe, to collect sediments, debris, floatables, and other material prior to entering the detention/retention facility.

(3) Fueling areas must install appropriate practices to reduce lead, copper, zinc, and polyaromatic hydrocarbons in stormwater runoff. These requirements will apply to all new facilities and existing facilities that replace their fuel tanks.

(4) Infiltration practices will not be allowed in wellhead protection areas. Discharges will not be allowed directly into sinkholes or fractured bedrock, without treatment that results in the discharge meeting Indiana groundwater quality standards as referenced in 327 IAC 2-11.

(5) Any stormwater practice that is a Class V injection well must ensure that the discharge from such practices meets Indiana groundwater quality standards as referenced in 327 IAC 2-11.

(C) *Calculations and design standards and specifications.*

(1) All developed drainage area is to be treated by a water quality BMP.

(2) The target TSS removal rate is 80%. For the purposes of this requirement, TSS is defined as particles smaller than 125 microns in diameter.

(3) There are two methods for calculating the required size of a BMP. The first method calculates the water quality volume to be treated, which applies to detention-based BMPs. The second method calculates the water quality peak flow rate to be treated, which applies to filtration processes and mechanical-type BMPs such as hydrodynamic devices.

(4) The appropriate stormwater quality volume (WQv) and/or stormwater quality flow rate (Qwq) generated from a qualifying site shall be adequately treated before discharge. Traditional structural BMPs are presumed to comply with the 80% TSS removal rate if BMPs are:

(a) Sized to capture the prescribed water quality volume or flow rate, as applicable;

(b) Designed according to the specific performance criteria outlined in Indiana Stormwater Quality Manual or other reference document;

(c) Constructed properly; and

(d) Maintained regularly.

(5) Mechanical-type BMPs must be approved by the town and meet ASTM standard methods for verifying performance and must be certified by a professional engineer. The BMP must meet the 80% TSS removal rate and floatable control without resuspension of particles at the design water quality flow rate resulting from a one-inch rainfall depth. Testing of the TSS removal rate must be conducted by an independent testing facility rather than by the manufacturer.

(6) *Water Quality Volume (WQ_v).* The WQ_v is the storage needed to capture and treat the runoff from the first one-inch of rainfall. A 24- to 40-hour emptying time must be used for the release of the WQ_v, with no more than 50% of the water quality volume being released in the first 12 hours. The WQ_v is equivalent to one inch of rainfall multiplied by the volumetric runoff coefficient (R_v) and the site area. The volume of runoff is directly related to the amount of impervious cover at the site and is calculated using the following equation.

$$WQ_v = \frac{P\,R_v\,A}{12}$$

where:

WQ_v = water quality volume (acre-feet, ac-ft)
P = rainfall depth (inches, in) = 1 inch
R_v = volumetric runoff coefficient – see the following equation
A = site area (acres)

$$R_v = 0.05 + 0.009\,I$$

where:

R_v = volumetric runoff coefficient
I = percentage of impervious cover (%)

(7) *Water Quality Flow Rate (Q_{wy}).* The Q_{wy} is needed to size BMP devices designed to treat runoff at a peak design flow rate through the system. The rational method in conjunction with a rainfall intensity will be used to calculate the Q_{wy} (in cubic feet per second -cfs). This method relies on an intensity that is ½ the two-year storm intensity from the intensity-duration-frequency curve along with the percent of impervious cover to identify the appropriate runoff coefficient for the proposed land use.

Step 1 - Using the percent of impervious cover, calculate the corresponding runoff coefficient for land use using the following equation:

$$C = 0.858\, i_c^{\,3} - 0.78\, i_c^{\,2} + 0.774\, i_c + 0.04$$

where:

C = Runoff Coefficient for Land Use
i_c = Percent of Impervious Cover (% / 100)

Step 2 - Calculate the site time of concentration in minutes (T_c) and area in acres (A).

Step 3 - Using the time of concentration (T_c), define the peak intensity (in inches/hour) of the two-year storm event utilizing the intensity-duration-frequency curve (shown in table form) from NOAA Point Precipitation Frequency Estimates which can be found at https://hdsc.nws.noaa.gov/pfds/pfds)map)cont.html?bkmrk=in. Interpolation may be necessary for times of concentration between given values.

Step 4 - To meet the design specification, divide the intensity determined in Step 3 by two to identify ½ the two-year storm intensity.

Step 5 - Use the Rational Method equation shown utilizing the previously calculated values to calculate Q_{wq}.

$$Q_{wq} = C \times p \times A$$

where:

Q_{wq} = Water Quality Flow Rate (cfs)
C = Runoff Coefficient for Land Use
p = ½ the 2-year storm intensity (inches/hour)
A = Area (acres)

(D) *Easement requirements*. All stormwater quality management systems, including detention or retention basins, filter strips, pocket wetlands, in-line filters, infiltration systems, conveyance systems, structures and appurtenances are to be located outside of the right-of-way and shall be incorporated into permanent easements as listed in § 153.46(J).
(Ord. 2023-11, passed 11-1-2023)

§ 153.46 STORM WATER QUANTITY MANAGEMENT.

(A) *Watercourse requirements*.

(1) Legal drains within the town are under the jurisdiction of the Johnson County Drainage Board. Any storm water discharge or work to be completed within a legal drain easement must obtain approval from the county.

(2) Waterways within the town may be under the jurisdiction of the IDEM or the United States Army Corps of Engineers (ACOE).

(3) Work within a floodway is under the jurisdiction of the Indiana Department of Natural Resources (DNR).

(4) Alterations shall be designed to accommodate all on- and off-site upstream drainage areas. Design capacities shall be determined as described in this chapter.

(5) Entities owning property through which a watercourse passes shall keep and maintain that part of the watercourse in accordance with this chapter and all applicable state and federal statutes and regulations. In addition, the occupant shall maintain existing privately owned structures within or adjacent to the watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse and shall not restrict flow of the watercourse.

(B) *Determination of storm water runoff rates*.

(1) Storm water runoff rates shall be calculated in accordance with the Indiana LTAP Storm Water Drainage Manual. Composite runoff coefficients shall be calculated and account for connected impervious surfaces such as downspouts connected to storm water conveyance system; typical composite runoff coefficients shall not be used.

(2) Storm water drainage systems shall be designed to accommodate the following:

(a) All upstream off-site drainage;

(b) Existing drain tiles from upstream;

(c) Diffused water flow from upstream properties;

(d) Storm sewers from upstream; and

(e) The drainage collection system from within the project or property.

(C) *Detention/retention and pond requirements.*

(1) *General requirements.*

(a) *Storage volume.*

1. Storage volumes shall be computed using a computer model that can generate hydrographs based on time of concentration and curve number calculation.

2. Storm durations shall be used that maximize the peak flow for the pre-developed condition and maximize detention storage volume for the post-developed condition.

3. When determining curve numbers for post-developed conditions, the initially determined hydrologic soil group for disturbed areas should be changed to the next less infiltrating capacity category (i.e. A to B, B to C and C to D).

(b) *Detention release rates.*

1. Detention control devices shall limit the discharge to a rate such that the post developed release rate from the site is no greater than 0.2 cfs per acre of development for the 0-10 year return interval storms and 0.4 cfs per acre of developed area for the 11-100 year return interval storms. Verify that the two year post-developed peak flow does not exceed the two-year pre-developed peak flow.

2. If the downstream receiving channel or pipe is inadequate to accommodate the post-developed flow, then the release rate must be further reduced.

3. The minimum allowable orifice size is four inches.

4. For sites where the pre-developed area has more than one outlet, the release rate should be computed based on pre-developed discharge to each outlet point. The computed release rate for each outlet point shall not be exceeded at the respective outlet point even if the post developed condition would involve a different arrangement of outlets.

(c) Runoff from upstream tributary areas (off-site areas) may be bypassed around the facility without attenuation. If it is to be routed through the facility, a separate outlet system or channel must accommodate those flows. Unless the pond is being designed as a regional detention facility, the primary outlet structure shall be sized and the invert elevation of the emergency overflow weir determined according to the onsite runoff only. Once the size and location of the primary outlet structure and the invert elevation of the emergency overflow weir are determined by considering on-site runoff, the 100-year pond elevation is determined by routing the entire inflow, on-site and off-site, through the pond.

(d) The detention facility shall be designed in such a manner that a minimum of 90% of the maximum volume of water stored and subsequently released at the design release rate shall not result in a storage duration in excess of 48 hours from the start of the storm unless additional storms occur within the period. In other words, the design shall ensure that a minimum 90% of the original detention capacity is restored within 48 hours from the start of the design 100-year storm.

(e) An emergency overflow/spillway shall be designed for the release of exceptional storm runoff or in emergency conditions should the normal discharge devices become totally or partially inoperative. The overflow facility shall be of such design that its operation is automatic and does not require manual attention. At a minimum, emergency spillways shall be capable of handling 125% of the peak inflow into the pond resulting from the 100-year storm event from the entire contributing watershed in the post-developed condition.

(f) All detention/retention/infiltration facilities (including underground detention) shall have an upstream BMP designed in accordance with § 153.43 and installed for each inlet pipe, to collect sediments, debris, floatables, and other material prior to entering the detention/retention facility. Position BMPs outside right-of-way and not more than 14 feet from a concrete or paved area for vac-truck and maintenance vehicle access.

(g) Underground detention facilities shall have sufficient observation wells or inspection ports, at least 12 inches in diameter, to allow access for inspection, maintenance, and regular cleaning operations.

(h) Designers and developers are encouraged to consider methods of runoff reduction such as reducing impervious surface area, disconnecting impervious areas, promoting infiltration, storm water capture and reuse, and other low-impact development methods in order to reduce requirements for on-site storm water detention.

(i) The outlet location must be approved by the town. The outlet control structure and piping shall be designed to operate simply and effectively with minimal maintenance. The outlet structure shall be positioned in an accessible location for maintenance.

(j) A safety ramp and ingress/egress easement from a nearby road must be provided for all wet ponds. The safety ramp shall be minimum 20 feet wide and have a maximum exit slope of 6H:1V.

(k) Detention ponds located within a floodplain must be protected from the base flood elevation and shall not be designed to hold flood waters. Detention ponds may not be used for compensatory flood storage.

(D) *Storm sewer design standards.*

(1) *Storm sewer requirements.*

(a) Storm sewers, inlets, and manholes, shall accommodate the ten-year (10-yr.) (10% chance/year) peak runoff and maintain the hydraulic grade line (HGL) below the crown of the pipe. Flood routing shall be provided in accordance with division (I) below. If an overflow route is not available, then the storm sewer system shall be designed for the 100-year (100-yr.) (1% chance/year) peak runoff HGL below the ground surface and less than six inches of ponding at inlets.

(b) Minimum pipe size shall be 12 inches.

(c) Minimum full-flow velocity of 2.5 feet per second is desirable to prevent sedimentation in the pipe. Maximum full-flow velocity of ten (10.0) feet per second is recommended. The minimum Manning's n roughness value shall be twelve thousandths (0.012), regardless of material.

(d) Storm sewer pipes shall have a minimum of 24 inches of cover, measured from the crown of pipe to the ground surface. Shallower depth of cover may be considered by the town under conditions where engineering design will alleviate concern for surface loadings and frost heave.

(2) *Storm structure requirements.*

(a) Storm sewers shall be straight between storm structures (inlets and manholes).

(b) Manholes shall be provided at the following locations:

1. Where two or more storm sewers converge;

2. Where the pipe size changes;

3. Where a change in horizontal alignment occurs;

4. Where a change in pipe grade occurs; and

5. At intervals not to exceed 400 feet for pipes less than 48 inches in diameter and not to exceed 500 feet for pipes 48 inches in diameter and larger.

(c) A minimum drop of one tenth (0.1) foot shall be provided in storm structures.

(d) When changing pipe sizes in a storm structure, the crowns of pipe shall be matched unless HGL modeling shows that another arrangement would be as effective.

(e) All storm grate castings shall be pre-cast with a pollution prevention message such as "no dumping, drains to stream."

(f) Exposed end-sections greater than 18 inches in diameter shall be equipped with an animal guard or trash rack. Trash racks are typically installed at the inflow end of pipes and animal guards at the outflow end.

(3) *Inlet sizing and spacing*.

(a) Inlets shall not be located in the path where a pedestrian or bicycle is likely to travel.

(b) Inlets in sags shall be designed to pass the ten-year (10-yr.) (10% chance/year) peak flow with 50% of the inlet area clogged with a maximum six inches of ponding depth.

(c) Inlets shall be designed and spaced to maintain a ten-foot travel lane on local roads and two ten-foot lanes on collector streets. Bypass flow from upstream inlets shall be incorporated into inlet calculations. Manufacturer's literature should provide the inlet casting's flow-intercept-efficiency coefficient. The United States Department of Transportation Hydraulic Engineering Circular- 12 (HEC-12) methods may be used.

(d) Flood routing shall be provided in accordance with division (I) below.

(4) *Connections to the storm sewer system.*

(a) Sump pumps which receive and discharge groundwater and other storm water shall be connected to the storm sewer system where possible, preferably at an inlet or manhole structure. Sump pumps may also be connected to subsurface drains in accordance with § 151.21(F).

(b) Footing, perimeter, and other subsurface drains shall be connected to the storm sewer system where possible, preferably at an inlet or manhole structure. Footing and perimeter drains may also be connected to subsurface drains in accordance with § 151.21(F). Footing, perimeter, and other subsurface drain connections to the sanitary sewer are prohibited.

(c) Floor drains and swimming pool drains shall not be directly connected to the storm sewer system. Floor drains and swimming pool drains shall be connected to an approved outlet and comply with the requirements of other town ordinances established for control of illicit discharges and connections.

(5) *Culvert requirements*.

(a) Culverts shall be sized in accordance with the Federal Highway Administration's HDS-5 Hydraulic Design of Highway Culverts.

(b) Minimum culvert pipe size shall be 12 inches. Minimum full-flow velocity of three (3.0) feet per second is desirable to prevent sedimentation in the pipe. Maximum full-flow velocity of ten (10.0) feet per second is recommended. The minimum Manning's n roughness value shall be twelve thousandths (0.012), regardless of material.

(c) Culvert pipes shall have a minimum of 24 inches of cover, measured from the crown of pipe to the ground surface. Shallower depth of cover may be considered by the town under conditions where engineering design will alleviate concern for surface loadings and frost heave.

(d) Outlet protection and energy dissipaters shall be used wherever the velocity of flows leaving a culvert exceed the erosive velocity of the downstream channel.

(E) *Open channel design standards*.

(1) *Open channel requirements*.

(a) Open channels, roadside ditches, swales, and culverts shall accommodate the twenty-five-year (25-yr.) (4% chance/year) peak runoff without overflowing the banks and shall accommodate the one hundred-year (100-yr.) (1% chance/year) peak runoff within the drainage easement, provided however:

(b) Flood routing shall be provided in accordance with division (I).

(c) Any alteration of an existing open outlet channel traversing a property shall be sized as described above or for the capacity of the existing channel, whichever is greater, with provisions made for the one-hundred- year (100- yr.) (1% chance/year) frequency storm so that flooding of adjacent structures, buildings, or properties will not occur.

(d) The channel lining material shall be selected such that the design shear stress is less than the maximum permissible shear stress for the lining material.

(e) For grass-lined channels, the side slope shall be no steeper than three horizontal to one vertical.

(f) For armored channels (turf reinforcement mat, riprap, etc.), the side slope shall be no steeper than one and one half (1-1/2) horizontal to one vertical.

(g) Subsurface drains shall be required if the channel slope is less than one percent (1.0%). The minimum channel slope shall be three tenths of a percent (0.3%). A minimum channel velocity of two feet per second is desired to prevent deposition within the channel. All rear yard swales shall have subsurface drains.

(F) *Subsurface drains design standards.*

(1) Subsurface drains are required along all streets constructed in the town to lower the seasonally high water table in Brookston, Crosby, and Miami soil types.

(2) Subsurface drains shall be a minimum of six inches diameter for areas receiving subsurface flow only. Subsurface drains which may receive surface (roof drains, yard drains, etc.) and subsurface flows shall be a minimum of 12 inches diameter. Underdrain capacity calculations shall be provided to ensure underdrains are properly sized for the subsurface and surface flows.

(G) *Low impact development design standards.*

(1) Low Impact Development (LID) is an approach to land planning and engineering design which manages rainfall at the source to reduce storm water runoff and manage runoff timing, emphasizes conservation and natural features, and protects water quality by controlling pollutants.

(2) Designers and developers are encouraged to consider methods of runoff reduction such as reducing impervious surface area, disconnecting impervious areas, promoting infiltration, storm water capture and reuse, and other LID methods in order to reduce requirements for on-site storm water detention.

(3) LID features shall conform to current industry guidelines and will be reviewed on a case-by-case basis. Green infrastructure and storm water BMPs shall be designed in accordance with the Indiana Storm Water Quality Manual or other accepted design standard. All design calculations and justification shall be submitted for review.

(H) *Standards for adequate outlet.*

(1) Storm water and drainage from the site must be discharged into an adequate outlet or outlets so as not to adversely affect other landowners. The criteria for outletting is as follows:

(a) All storm sewers, subsurface drains and open channels shall outlet into an open channel, storm pipe, detention/retention facility or waterway.

(b) Detention/retention ponds shall outlet into an open channel, storm pipe or waterway.

(c) Infiltration areas may filter into the ground, but bypass or overflow routing must flow to a channel, pipe or waterway.

(d) Flood routing discharge shall outlet to a storm conveyance including open channel, storm pipe, detention/retention facility, waterway or street curb and gutter.

(e) All outlets must have adequate capacity for proposed flows, must not be deteriorated, and can be maintained.

(2) Analysis is required when connecting the outlet to existing storm water pipe. Include calculations showing that the receiving pipe has adequate capacity for the total flow, including any additional flow from the development.

(I) *Flood routing.*

(1) Storm water ponding and overflow path routing shall be evaluated for the peak one hundred-year (100-yr.) (1% chance/year) storm event.

(2) Peak runoff flows shall be calculated for all contributing drainage areas, on-site and off-site, in their proposed or reasonably anticipated land use.

(3) The storm water collection system (storm sewers, open channels, etc.) shall be assumed full (at capacity) from a previous storm event at the beginning of the flood routing analysis.

(4) The overflow path/ponding resulting from the flood routing event shall be clearly shown as a hatched area on the plans. Plans shall include cross sections along the flood route path. Cross sections shall include the existing surface, proposed grading, and the maximum water elevation for the peak one hundred- year (100-yr.) (1% chance/year) storm event. The flood routing path and ponding areas shall be placed in a right-of-way or drainage easement in accordance with § 151.210).

(J) *Drainage easements.*

(1) Drainage easements must be provided for maintenance of the storm water management system of publicly-owned systems and privately-owned ponds, detention/retention basins, water quality BMPs, and LID practices. Easements are not required for other private systems.

Area or Situation	***Easement Width***
Storm sewer (smaller than 24-in.)	20 feet, centered over sewer
Storm sewer (24-in. and larger)	25 feet, centered over sewer
Grassed waterways (including equivalent sized-lined channels)	Width of channel plus 15 feet, centered over waterway
Subsurface drain	20 feet, centered over drain
Open outlet channel (including equivalent sized-lined channels)	20 feet from top of each bank

Area or Situation	*Easement Width*
Retention pond, detention basin, and/or permanent sediment basin	Elevation of the emergency spillway design flow, plus 20 feet (horizontally)
Underground detention facility	Detention facility footprint plus 15 feet in every direction (horizontally)
Storm water BMP (above or below grade)	BMP footprint plus 15 feet in every direction (horizontally)
Flood routing path/ponding area	Width of flood path/ponding area

(2) Access easements must be provided from a public roadway to the drainage easement, for access to storm water management facilities.

(3) Structures, fences or landscaping may not be placed in an easement in a way that will impede the free flow of storm water.

(4) Drainage easements shall be maintained by the property owner.

(K) *Grading and building pad elevation policy*.

(1) No construction of buildings within the town shall be permitted within 25 feet of a storm water conveyance or within 25 feet of the side slopes of open channels without plans prepared by registered engineers, land surveyors or architects, certifying that there is adequate room for maintenance of the drainage facility.

(2) No building or structure shall be separated by the one hundred-year (100-yr.) (1% chance/year) elevation of storm water detention facilities by less than 25 feet.

(3) The Lowest Adjacent Grade (including walkout basement floor elevation) of all residential, commercial, or industrial buildings must be located a minimum of two feet above the one-hundred-year (100-yr) (1% chance/year) flood elevation, the one hundred-year (100-yr.) (1% chance/year) pond elevation, or the emergency overflow weir elevation, whichever is higher. The Lowest Adjacent Grade for all residential, commercial, and industrial buildings shall be set a minimum of one foot above the noted overflow path/ponding elevation resulting from flood routing as described in § 151.21(I) and included on the Final Plat.

(4) Positive drainage shall be provided over the entire lot. Protective slopes shall slope away from building foundations and water supply wells for a minimum of six inches of fall per ten feet horizontal, except where restricted by property lines. Maximum gradient of protective slopes shall be two and one half (2-1/2) inches per foot or 21% for a minimum of four feet away from all building walls, except where restricted by property lines.

(L) *Adjoining property impacts and upstream flow considerations*.

(1) Land disturbance, and alterations to the site shall provide for the discharge of all storm water runoff from upstream off-site areas as well as the storm water runoff from the areas being developed or altered to one or more acceptable outlets having capacity to receive upstream on-site and off-site drainage.

(2) No activities conducted as part of the land disturbance shall be allowed to obstruct the free flow of flood waters from an upstream property. Any existing field tile or other storm water facility encountered during the construction shall be incorporated into the proposed storm water collection system or otherwise tied to an acceptable outlet. Design calculations shall be provided to demonstrate that the downstream system has sufficient capacity to accommodate flows from existing facility. Calculations shall by certified by a Professional Engineer or Land Surveyor licensed in the State of Indiana.

(3) Where an adequate outlet is not located on the site or the outfall from a site's storm water system flows onto or through property not owned by the developer prior to reaching a regulated drain or natural waterway, off-site drainage improvements may be required and the flow path must be contained with a right-of-way or easement. Off-site improvements may include, but are not limited to, extending or replacing storm sewers; clearing, dredging, and removing obstructions to open channels or natural waterways; and replacement of undersized culvert pipes.
(Ord. 2023-11, passed 11-1-2023)

CHAPTER 154: FLOOD DAMAGE PREVENTION

Section

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GENERAL PROVISIONS

§ 154.01 STATUTORY AUTHORIZATION.

The Indiana Legislature has in I.C. 36-1-4-11 granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council does hereby adopt the following floodplain management regulations.
(Ord. 2023-08, passed 9-6-2023)

§ 154.02 FINDINGS OF FACT.

The flood hazard areas of the town are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.
(Ord. 2023-08, passed 9-6-2023)

§ 154.03 PURPOSE.

It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(A) Protect human life and health;

(B) Minimize expenditure of public money for costly flood control projects;

(C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) Minimize prolonged business interruptions;

(E) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains;

(F) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight area;

(G) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;

(H) Minimize the impact of development on adjacent properties within and near flood prone areas;

(I) Ensure that the flood storage and conveyance functions of the floodplain are maintained;

(J) Minimize the impact of development on the natural, beneficial values of the floodplain;

(K) Prevent floodplain uses that are either hazardous or environmentally incompatible; and

(L) Meet community participation requirements of the National Flood Insurance Program.
(Ord. 2023-08, passed 9-6-2023)

§ 154.04 METHODS OF REDUCING FLOOD LOSS.

In order to accomplish its purposes, these regulations include methods and provisions for:

(A) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;

(B) Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;

(C) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(D) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and

(E) Preventing or regulating the construction of flood barriers, which will unnaturally divert flood, waters or which may increase flood hazards in other areas.
(Ord. 2023-08, passed 9-6-2023)

§ 154.05 DEFINITIONS.

Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations the most reasonable application.

ACCESSORY STRUCTURE. A structure with a floor area of 400 square feet or less that is on the same parcel of property as a principal structure and the use of which is incidental to the use of the principal structure; an accessory structure specifically excludes structures used for human habitation.

(1) Accessory structures are considered walled and roofed where the structure includes at least two outside rigid walls and a fully secured roof.

(2) Examples of accessory structures include but are not necessarily limited to two-car detached garages (or smaller), carports, storage and tool sheds, and small boathouses.

(3) The following may have uses that are incidental or accessory to the principal structure on a parcel but are generally not considered to be accessory structures by the NFIP:

(a) Structures in which any portion is used for human habitation, whether as a permanent residence or as temporary or seasonal living quarters, such as a detached garage or carriage house that includes an apartment or guest quarters, or a detached guest house on the same parcel as a principal residence;

(b) Structures used by the public, such as a place of employment or entertainment; and

(c) Development that does not meet the NFIP definition of a structure for floodplain management purposes. Examples include, but are not necessarily limited to, a gazebo, pavilion, picnic shelter, or carport that is open on all sides (roofed but not walled).

ADDITION (TO AN EXISTING STRUCTURE). Any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

ALTERATION OF A WATERCOURSE. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other modification which may alter, impede, retard or change the direction and/or velocity of the flow of water during conditions of the base flood.

APPEAL. A request for a review of the floodplain administrator's interpretation of any provision of this chapter, a request for a variance, or a challenge of a board decision.

AREA OF SPECIAL FLOOD HAZARD. The land within a community subject to a 1% or greater chance of being flooded in any given year.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% annual chance flood or 100-year flood.

BASE FLOOD ELEVATION (BFE). The water surface elevation of the base flood in relation to a specified datum, usually the North American Vertical Datum of 1988.

BASEMENT. That portion of a structure having its floor sub-grade (below ground level) on all sides.

BEST AVAILABLE FLOOD LAYER (BAFL). Floodplain studies and any corresponding floodplain maps prepared and/or approved by the Indiana Department of Natural Resources which provide base flood elevation information, floodplain limits, and/or floodway delineations for flood hazards identified by approximate studies on the currently effective FIRM (Zone A) and/or for waterways where the flood hazard is not identified on available floodplain mapping.

BUILDING. See "Structure."

COMMUNITY. A political entity that has the authority to adopt and enforce floodplain ordinances for the areas within its jurisdiction.

CRITICAL FACILITY. A facility for which even a slight chance of flooding might be too great. ***CRITICAL FACILITIES*** include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

DEVELOPMENT.

(1) For floodplain management purposes, any man-made change to improved or unimproved real estate including but not limited to:

(a) Construction, reconstruction, or placement of a structure or any addition to a structure;

(b) Installing a manufactured home on a site, preparing a site for a manufactured home, or installing a recreational vehicle on a site for more than 180 days;

(c) Installing utilities, erection of walls and fences, construction of roads, or similar projects;

(d) Construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;

(e) Mining, dredging, filling, grading, excavation, or drilling operations;

(f) Construction and/or reconstruction of boat lifts, docks, piers, and seawalls;

(g) Construction and/or reconstruction of bridges or culverts;

(h) Storage of materials; or

(i) Any other activity that might change the direction, height, or velocity of flood or surface waters.

(2) ***DEVELOPMENT*** does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

ELEVATION CERTIFICATE. A FEMA form that is routinely reviewed and approved by the White House Office of Management and Budget under the Paperwork Reduction Act, that is encouraged to be used to collect certified elevation information.

ENCLOSED AREA (ENCLOSURE). An area of a structure enclosed by walls on all sides.

ENCLOSURE BELOW THE LOWEST FLOOR. See ***LOWEST FLOOR*** and ***ENCLOSED AREA.***

EXISTING MANUFACTURED HOME PARK or ***SUBDIVISION.*** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community's first floodplain ordinance.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK or ***SUBDIVISION.*** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA. The Federal Emergency Management Agency.

FILL. For floodplain management purposes, means any material deposited or placed which has the effect of raising the level of the ground surface above the natural grade elevation. Fill material includes but is not limited to consolidated material such as concrete and brick and unconsolidated material such as soil, sand, gravel, and stone.

FLOOD or FLOODING.

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(c) Mudslides (i.e., mudflows) which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(2) ***FLOOD or FLOODING*** also includes the collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or current of water exceeding anticipated cyclical levels that result in a flood as defined above.

FLOOD HAZARD AREA. Areas subject to the 1% annual chance flood. (See ***SPECIAL FLOOD HAZARD AREA.***)

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

FLOOD INSURANCE STUDY (FIS). The official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM and the water surface elevation of the base flood.

FLOOD PRONE AREA. Any land area acknowledged by a community as being susceptible to inundation by water from any source. (See ***FLOODPLAIN.***)

FLOOD PROTECTION GRADE (FPG). The BFE plus two feet at any given location in the SFHA. (See ***FREEBOARD.***)

FLOODPLAIN or FLOOD PRONE AREA. Any land area susceptible to being inundated by water from any source. (See ***FLOOD.***)

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

FLOODPLAIN MANAGEMENT REGULATIONS. Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power which control development in flood-prone areas. The term describes such state or local regulations in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOODPROOFING (DRY FLOODPROOFING). A method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

FLOODPROOFING CERTIFICATE. A form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG.

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulative increasing the water surface elevation more than a designated height.

FREEBOARD. A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

FRINGE or FLOOD FRINGE. The portion of the floodplain lying outside the floodway.

FUNCTIONAL DEPENDENT USE. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HARDSHIP. (As related to variances of this chapter.) The exceptional hardship that would result from a failure to grant the requested variance. The Town of New Whiteland Board of Zoning Appeals requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

HISTORIC STRUCTURE. Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by:

(a) An approved state program as determined by the Secretary of Interior; or

(b) Directly by the Secretary of Interior in states without approved programs.

HYDROLOGIC AND HYDRAULIC ENGINEERING ANALYSIS. Analyses performed by a professional engineer licensed by the State of Indiana, in accordance with standard engineering practices that are accepted by the Indiana Department of Natural Resources and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, and flood profiles.

INTERNATIONAL CODE COUNCIL-EVALUATION SERVICE (ICC-ES) REPORT. A document that presents the findings, conclusions, and recommendations from a particular evaluation. ICC-ES reports provide information about what code requirements or acceptance criteria were used to evaluate a product, and how the product should be identified, installed.

LETTER OF FINAL DETERMINATION (LFD). A letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

LETTER OF MAP CHANGE (LOMC). A general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They are broken down into the following categories:

(1) ***CONDITIONAL LETTER OF MAP REVISION (CLOMR).*** FEMA's comment on a proposed project that would, upon construction, result in modification of the SFHA through the placement of fill outside the existing regulatory floodway.

(2) ***CONDITIONAL LETTER OF MAP REVISION BASED ON FILL (CLOMR-F).*** A letter from FEMA stating that a proposed structure that will be elevated by fill would not be inundated by the base flood.

(3) ***LETTER OF MAP AMENDMENT (LOMA).*** An amendment by letter to the currently effective FEMA map that establishes that a building or of land is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.

(4) ***LETTER OF MAP AMENDMENT OUT AS SHOWN (LOMA-OAS).*** An official determination by FEMA that states the property or building is correctly shown outside the SFHA as shown on an effective NFIP map. Therefore, the mandatory flood insurance requirement does not apply. An out-as-shown determination does not require elevations.

(5) ***LETTER OF MAP REVISION (LOMR).*** An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

(6) ***LETTER OF MAP REVISION BASED ON FILL (LOMR-F).*** FEMA's modification of the SFHA shown on the FIRM based on the placement of fill outside the existing regulatory floodway.

LOWEST ADJACENT GRADE. The lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

LOWEST FLOOR. For floodplain management purposes, the lowest elevation described among the following:

(1) The lowest floor of a building;

(2) The basement floor;

(3) The garage floor if the garage is connected to the building;

(4) The first floor of a structure elevated on pilings or pillars;

(5) The floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of floodwaters. Designs for meeting the flood opening requirement must either be certified by a registered professional engineer or architect or meet or exceed the following criteria:

(a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters; and

(b) At least two openings are designed and maintained for the entry and exit of floodwater; and these openings provide a total net area of at least one square inch for every one square foot of enclosed area. The bottom of all such openings shall be no higher than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher. Doorways and windows do not qualify as openings; and

(6) The first floor of a building elevated on pilings or columns in a coastal high hazard area (as that term is defined in 44 CFR 59.1), as long as it meets the requirements of 44 CFR 60.3.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term ***MANUFACTURED HOME*** does not include a ***RECREATIONAL VEHICLE.***

MANUFACTURED HOME PARK or SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MITIGATION. Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.

NATURAL GRADE. For floodplain management purposes means the elevation of the undisturbed natural surface of the ground. Fill placed prior to the date of the initial identification of the flood hazard on a FEMA map is also considered natural grade.

NEW CONSTRUCTION. For floodplain management purposes, means any structure for which the "start of construction" commenced on or after the effective date of a floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK or SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88). As adopted in 1993, is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

OBSTRUCTION. Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

ONE-PERCENT ANNUAL CHANCE FLOOD. The flood that has a 1% chance of being equaled or exceeded in any given year. See ***REGULATORY FLOOD.***

PHYSICAL MAP REVISION (PMR). An official republication of a community's FEMA map to effect changes to base (1% annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

PREFABRICATED BUILDING. A building that is manufactured and constructed using prefabrication. It consists of factory-made components or units that are transported and assembled on-site to form the complete building.

PRINCIPALLY ABOVE GROUND. Means that at least 51% of the actual cash value of the structure, less land value, is above ground.

RECREATIONAL VEHICLE. A vehicle which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projections;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

REGULATORY FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in § 154.03(B). The ***REGULATORY FLOOD*** is also known by the term ***BASE FLOOD, ONE-PERCENT ANNUAL CHANCE FLOOD,*** and ***100-YEAR FLOOD.***

REPETITIVE LOSS. Flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

SOLID WASTE DISPOSAL FACILITY. Any facility involved in the storage or disposal of non-liquid, non-soluble materials ranging from municipal garbage to industrial wastes that contain complex and sometimes hazardous substances. Solid waste also includes sewage sludge, agricultural refuse, demolition wastes, mining wastes, and liquids and gases stored in containers.

SPECIAL FLOOD HAZARD AREA (SFHA). Synonymous with ***AREAS OF SPECIAL FLOOD HAZARD*** and floodplain, means those lands within the jurisdiction of the Town of New Whiteland subject to a 1% or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps and Flood Insurance Studies as Zones A, AE, AH AO, A1-30, A99. The SFHA includes areas that are flood prone and designated from other federal, state or local sources of data including but not limited to best available flood layer maps provided by or approved by the Indiana Department of Natural Resources, historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

START OF CONSTRUCTION. Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE. A walled and roofed building, including a gas or liquid storage tank, which is principally above ground. The term includes a manufactured home, as well as a prefabricated building. It also includes recreational vehicles installed on a site for more than 180 consecutive days.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the ***START OF CONSTRUCTION*** of the improvement. This term includes structures that have incurred ***REPETITIVE LOSS*** or ***SUBSTANTIAL DAMAGE*** regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements.

VARIANCE. A grant of relief from the requirements of this chapter consistent with the variance conditions herein.

VIOLATION. The failure of a structure or other development to be fully compliant with this chapter.

WALLED AND ROOFED. A building that has two or more exterior rigid walls and a fully secured roof and is affixed to a permanent site.

WATERCOURSE. A lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.
(Ord. 2023-08, passed 9-6-2023)

§ 154.06 GENERAL PROVISIONS.

(A) *Lands to which this chapter applies.* This chapter shall apply to all areas of special flood hazard (SFHAs) within the jurisdiction of the town as identified in division (B) below, including any additional areas of special flood hazard annexed by the town.

(B) *Basis for establishing the areas of special flood hazard.*

(1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the Town of New Whiteland, delineated as an "AE Zone" on the Johnson County, Indiana and Incorporated Areas Flood Insurance Rate Map dated August 2, 2007 shall be determined from the 1% annual chance flood profiles in the Flood Insurance Study of Johnson County, Indiana and Incorporated Areas and the corresponding Flood Insurance Rate Maps (FIRM) dated August 2, 2007 as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. Should the floodway limits not be delineated on the Flood Insurance Rate Map for a studied SFHA designated as an "AE Zone," the limits of the floodway will be according to the best available flood layer as provided by the Indiana Department of Natural Resources.

(2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the Town of New Whiteland, delineated as an "A Zone" on the Johnson County, Indiana and Incorporated Areas Flood Insurance Rate Map, dated August 2, 2007, as well as any subsequent updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best available flood layer provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available flood layer data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.

(3) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best available flood layer as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile.

(4) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

(C) *Establishment of floodplain development permit.* A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities in areas of special flood hazard.

(D) *Compliance.*

(1) No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this chapter and other applicable regulations.

(2) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this chapter applicable to the most restrictive flood zone and the most conservative (highest) base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development.

(3) No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this chapter and other applicable regulations.

(E) *Abrogation and greater restrictions.* This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(F) *Discrepancy between mapped floodplain and actual ground elevations*.

(1) In cases where there is a discrepancy between the mapped floodplain (SFHA) with base flood elevations provided (riverine or lacustrine Zone AE) on the FIRM and the actual ground elevations, the elevation provided on the profiles or table of still water elevations shall govern.

(2) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.

(3) If the natural grade elevation of the site in question is at or above the base flood elevation and a LOMA or LOMR-FW is obtained, the floodplain regulations will not be applied provided the LOMA or LOMR-FW is not subsequently superseded or invalidated.

(G) *Interpretation*. In the interpretation and application of this chapter all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(H) *Warning and disclaimer of liability*. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this chapter does not create any liability on the part of the town, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this chapter or any administrative decision made lawfully thereunder.

(I) *Penalties for violation*. Failure to obtain a floodplain development permit in the SFHA or failure to comply with the requirements of a floodplain development permit or conditions of a variance shall be deemed to be a violation of this chapter. All violations shall be considered a common nuisance and be treated as a violation of the town's zoning ordinance and subject the violator to monetary penalties as set forth in the town's zoning chapter.

(1) A separate offense shall be deemed to occur for each day the violation continues to exist.

(2) The town Plan Commission shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

(3) Nothing herein shall prevent the town from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible. (Ord. 2023-08, passed 9-6-2023)

ADMINISTRATION

§ 154.15 DESIGNATION OF ADMINISTRATOR.

The Town Council hereby appoints the Zoning Administrator to administer and implement the provisions of this chapter and is herein referred to as the Floodplain Administrator.
(Ord. 2023-08, passed 9-6-2023)

§ 154.16 FLOODPLAIN DEVELOPMENT PERMIT AND CERTIFICATION REQUIREMENTS.

An application for a floodplain development permit shall be made to the Floodplain Administrator for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Such applications shall include, but not be limited to plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(A) *Application stage.*

(1) A description of the proposed development;

(2) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams;

(3) A legal description of the property site;

(4) For the reconstruction, rehabilitation, or improvement of an existing structure, or an addition to an existing building, a detailed quote and description of the total work to be completed including but not limited to interior work, exterior work, and labor as well as a certified valuation of the existing (pre-improved or pre-damaged) structure;

(5) A site development plan showing existing and proposed development locations and existing and proposed land grades;

(6) A letter from a licensed professional surveyor or engineering noting that an elevation reference benchmark has been established or confirmed for those projects requiring elevations to be met;

(7) Verification that connection to either a public sewer system or to an approved on-site septic system is available and approved by the respective regulatory agency for proposed structures to be equipped with a restroom, kitchen or other facilities requiring disposal of wastewater;

(8) Plans showing elevation of the top of the planned lowest floor (including basement) of all proposed structures in Zones A, AE. Elevation should be in NAVD 88;

(9) Plans showing elevation (in NAVD 88) to which any non-residential structure will be floodproofed;

(10) Plans showing location and specifications for flood openings for any proposed structure with enclosed areas below the flood protection grade;

(11) Plans showing materials to be used below the flood protection grade for any proposed structure are flood resistant;

(12) Plans showing how any proposed structure will be anchored to resist flotation or collapse;

(13) Plans showing how any electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities are designed and/or located. Elevation should be in NAVD 88;

(14) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering analysis is required, and any watercourse changes submitted to DNR for approval. Once DNR approval is obtained, a FEMA Conditional Letter of Map Revision must be obtained prior to construction. (See § 154.17(B)(8) and § 154.19 for additional information.); and

(15) Any additional information, as requested by the Floodplain Administrator, which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this chapter.

(B) *Construction stage.* Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the applicant to submit to the Floodplain Administrator an elevation certificate for the building under construction. The Floodplain Administrator shall review the elevation certificate. Any deficiencies detected during the review shall be corrected by the applicant before work is allowed to continue. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project. (Optional.)

(C) *Finished construction.*

(1) Upon completion of construction of any structure requiring certification of elevation, an elevation certificate which depicts the “as-built” lowest floor elevation and other applicable elevation data is required to be submitted by the applicant to the Floodplain Administrator. The elevation certificate shall be prepared by or under the direct supervision of a registered land surveyor and certified by the same.

(2) Upon completion of construction of an elevated structure constructed on fill, a fill report is required to be submitted to the Floodplain Administrator to verify the required standards were met, including compaction.

(3) Upon completion of construction of a floodproofing measure, a floodproofing certificate is required to be submitted by the applicant to the Floodplain Administrator. The floodproofing certificate shall be prepared by or under the direct supervision of a registered professional engineer or architect and certified by same.
(Ord. 2023-08, passed 9-6-2023)

§ 154.17 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

(A) The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this chapter. The Administrator is further authorized to render interpretations of this chapter, which are consistent with its spirit and purpose.

(B) Duties and responsibilities of the Floodplain Administrator shall include, but are not limited to:

(1) Enforce the provisions of this chapter.

(2) Evaluate application for permits to develop in special flood hazard areas to assure that the permit requirements of this chapter have been satisfied.

(3) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.

(4) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met or refuse to issue the same in the event of noncompliance.

(5) Advise permittee that additional Federal, State and/or local permits may be required. If specific Federal, State and/or local permits are known, require that copies of such permits be provided and maintained on file with the floodplain development permit.

(6) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.

(7) For applications to improve structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator shall:

(a) Verify and document the market value of the pre-damaged or pre-improved structure;

(b) Compare the cost to perform the improvement; or the cost to repair a damaged building to its pre-damaged condition; or, the combined costs of improvements and repair, if applicable, to the market value of the pre-damaged or pre-improved structure. The cost of all work must be included in the project costs, including work that might otherwise be considered routine maintenance. Items/activities that must be included in the cost shall be in keeping with guidance published by FEMA to ensure compliance with the NFIP and to avoid any conflict with future flood insurance claims of policyholders within the community;

(c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of ***SUBSTANTIAL IMPROVEMENT*** for proposed work to repair damage caused by flood, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of substantial damage; and

(d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the applicable general and specific standards in §§ 154.30 through 154.34 are required.

(8) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse and submit copies of such notifications to FEMA.

(9) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to § 154.30(A)(1), (A)(3)(a) and (A)(4). Maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).

(10) Verify the upstream drainage area of any proposed development site near any watercourse not identified on a FEMA map to determine if division (B)(9) of this section is applicable.

(11) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood- carrying capacity is not diminished.

(12) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 154.16.

(13) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with § 154.16.

(14) Make on-site inspections of projects in accordance with § 154.18.

(15) Coordinate with insurance adjusters prior to permitting any proposed work to bring any flood-damaged structure covered by a standard flood insurance policy into compliance (either a substantially damaged structure or a repetitive loss structure) to ensure eligibility for ICC funds.

(16) Ensure that an approved connection to a public sewer system or an approved on-site septic system is planned for any structures (residential or non-residential) to be equipped with a restroom, kitchen or other facilities requiring disposal of wastewater.

(17) Provide information, testimony, or other evidence as needed during variance hearings.

(18) Serve notices of violations, issue stop-work orders, revoke permits and take corrective actions in accordance with § 154.18.

(19) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this ordinance in accordance with § 154.18.

(20) Coordinate map maintenance activities and associated FEMA follow-up in accordance with § 154.19.

(21) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.

(22) Request any additional information which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this chapter.
(Ord. 2023-08, passed 9-6-2023)

§ 154.18 ADMINISTRATIVE PROCEDURES.

(A) *Inspections of work in progress.* As the work pursuant to a permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and terms of the permit. In exercising this power, the Administrator has a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

(B) *Stop work orders.*

(1) Upon notice from the Floodplain Administrator, work on any building, structure or premises that is being done contrary to the provisions of this chapter shall immediately cease.

(2) Such notice shall be in writing and shall be given to the owner of the property, or to his or her agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(C) *Revocation of permits.*

(1) The Floodplain Administrator may revoke a permit or approval, issued under the provisions of the chapter, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the perm it or approval was based.

(2) The Floodplain Administrator may revoke a permit upon determination by the Floodplain Administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this chapter.

(D) *Floodplain management records.*

(1) Regardless of any limitation on the period required for retention of public records, records of actions associated with the administration of this chapter shall be kept on file and maintained under the direction of the Floodplain Administrator in perpetuity. These records include permit applications, plans, certifications, Flood Insurance Rate Maps; Letter of Map Change; records of issuance of permits and denial of permits: determinations of whether proposed work constitutes substantial improvement or repair of substantial damage: required design certifications and documentation of elevations required by this chapter; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained: documentation related to appeals and variances, including justification for issuance or denial: and records of enforcement actions taken pursuant to this chapter.

(2) These records shall be available for public inspection at the New Whiteland Town Hall, located at 540 Tracy Road, Suite A, New Whiteland, IN 46184.

(E) *Periodic inspection.* Once a project is completed, periodic inspections may be conducted by the Floodplain Administrator to ensure compliance. The Floodplain Administrator shall have a right, upon presentation of proper credential, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
(Ord. 2023-08, passed 9-6-2023)

§ 154.19 MAP MAINTENANCE ACTIVITIES.

To meet NFIP minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the Town of New Whiteland flood maps, studies and other data identified in § 154.03(B) accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

(A) *Requirement to submit new technical data.*

(1) For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:

(a) Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries:

(b) Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area; and

(c) Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts: and

(d) Subdivision or large-scale development proposals requiring the establishment of base flood elevations.

(2) It is the responsibility of the applicant to have required technical data for a Conditional Letter of Map Revision or Letter of Map Revision and submitted to FEMA. The Indiana Department of Natural Resources will review the submittals as part of a partnership with FEMA. The submittal should be mailed to the Indiana Department of Natural Resources at the address provided on the FEMA form (MT-2) or submitted through the online Letter of Map Change website. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

(3) The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for proposed floodway encroachments that increase the base flood elevation.

(4) Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to this section.

(B) *Right to submit new technical data.* The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the Town Council President of the Town of New Whiteland and may be submitted to FEMA at any time.

(C) *Annexation/detachment.* Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the Town of New Whiteland have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the Johnson County, Indiana and

Incorporated Areas Flood Insurance Rate Map accurately represent the Town of New Whiteland boundaries, include within such notification a copy of a map of the Town of New Whiteland suitable for reproduction, clearly showing the new corporate limits or the new area for which the Town of New Whiteland has assumed or relinquished floodplain management regulatory authority.
(Ord. 2023-08, passed 9-6-2023)

§ 154.20 VARIANCE PROCEDURES.

(A) The Board of Zoning Appeals (the Board) as established by the Town Council of the Town of New Whiteland shall hear and decide appeals and requests for variances from requirements of this chapter.

(B) The Board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this chapter. Any person aggrieved by the decision of the Board may appeal such decision to the Circuit Court of Johnson County.

(C) In considering such applications, the Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

(1) The danger to life and property due to flooding or erosion damage;

(2) The danger that materials may be swept onto other lands to the injury of others;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location, where applicable;

(6) The compatibility of the proposed use with existing and anticipated development;

(7) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected height, velocity, duration, rate of rise, and sediment transport of the floodwaters at the site; and

(10) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(D) A written report addressing each of the above factors shall be submitted with the application for a variance.

(E) Variances from the provisions of this chapter shall only be granted when the Board can make positive findings of fact based on evidence submitted at the hearing for the following:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship as defined in § 154.02; and

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

(F) No variance for a residential use within a floodway subject to § 154.30(A), (C)(1) or (D) may be granted.

(G) Any variance granted in a floodway subject to § 154.30(A), (C)(1) or (D) will require a permit from the Indiana Department of Natural Resources. Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(H) Variances to the Provisions for Flood Hazard Reduction of §§ 154.30 through 154.34 may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

(I) Variances may be issued for the repair or rehabilitation of “historic structures” upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an “historic structure”· and the variance is the minimum to preserve the historic character and design of the structure.

(J) Variances may be issued for new construction, substantial improvements, and other development necessary for the conduct of a functionally dependent use.

(K) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(L) Upon consideration of the factors listed above and the purposes of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(M) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(N) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request.
(Ord. 2023-08, passed 9-6-2023)

PROVISIONS FOR FLOOD HAZARD REDUCTION

§ 154.30 FLOODPLAIN STATUS STANDARDS.

(A) *Floodways (Riverine)*. Located within SFHAs, established in § 154.03(B), are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. Under the provisions of the Flood Control Act (I.C. 14-28-1) a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing, and paving undertaken before the actual start of construction of the structure. General licenses and exemptions to the requirements of the Flood Control Act (I.C. 14-28-1 and 312 IAC 10) may apply to qualified additions/improvements to existing lawful residential structures, rural bridges, logjam removals, wetland restoration, utility line crossings, outfall projects, creek rock removal, and prospecting.

(1) If the site is in a regulatory floodway as established in § 154.03(B), the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for approval for construction in a floodway, provided the activity does not qualify for a general license or exemption (I.C. 14-28-1 or 312 IAC 10).

(2) No action shall be taken by the Floodplain Administrator until approval has been granted by the Indiana Department of Natural Resources for construction in the floodway, or evidence provided by an applicant that the development meets specified criteria to qualify for a general license or exemption to the requirement of the Flood Control Act. The floodplain development permit shall meet the provisions contained in this chapter.

(3) The floodplain development permit cannot be less restrictive than an approval issued for construction in a floodway issued by the Indiana Department of Natural Resources, or the specified criteria used to qualify for a general license or exemption to the Flood Control Act for a specific site/project. However, a community's more restrictive regulations (if any) shall take precedence.

(4) In floodway areas identified on the FIRM, development shall cause no increase in flood levels during the occurrence of the base flood discharge without first obtaining a Conditional Letter of Map Revision and meeting requirements of § 154.19(E)(1). A Conditional Letter of Map Revision cannot be issued for development that would cause an increase in flood levels affecting a structure and such development should not be permitted.

(5) In floodway areas identified by the Indiana Department of Natural Resources through detailed or approximate studies but not yet identified on the effective FIRM as floodway areas, the total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

(6) For all projects involving channel modifications or fill (including levees) the Town of New Whiteland shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR 65.12.

(B) *Fringe (Riverine).* If the site is in the fringe (either identified on the FIRM or identified by the Indiana Department of Natural Resources through detailed or approximate studies and not identified on a FIRM), the Floodplain Administrator may issue the local floodplain development permit provided the provisions contained in this chapter have been met.

(C) *SFHAs without Established Base Flood Elevation and/or Floodways/Fringes (Riverine).*

(1) Drainage area upstream of the site is greater than one square mile:

(a) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

(b) No action shall be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the 1% annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

(c) Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a floodplain development permit may be issued, provided the conditions of the floodplain development permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this section have been met.

(2) Drainage area upstream of the site is less than one square mile:

(a) If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and 1% annual chance flood elevation for the site.

(b) Upon receipt, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in this chapter have been met.

(D) *SFHAs not identified on a map*.

(1) If a proposed development site is near a waterway with no SFHA identified on a map, the Floodplain Administrator shall verify the drainage area upstream of the site. If the drainage area upstream of the site is verified as being greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

(2) No action shall be taken by the Floodplain Administrator until written approval from the Indiana Department of Natural Resources (approval for construction in a floodway, letter of authorization, or evidence of general license qualification) or a floodplain analysis/regulatory assessment citing the 1% annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

(3) Once the Floodplain Administrator has received the proper written approval, evidence of general license qualification, or floodplain analysis/regulatory assessment approving the proposed development from the Indiana Department of Natural Resources, a floodplain development permit may be issued, provided the conditions of the floodplain development permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in this chapter have been met.
(Ord. 2023-08, passed 9-6-2023)

§ 154.31 GENERAL STANDARDS.

In all areas of special flood hazard, the following provisions are required:

(A) All new construction, and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(B) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG;

(C) New construction and substantial improvements must incorporate methods and practices that minimize flood damage;

(D) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at/above the FPG for residential structures. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG for non-residential structures. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG;

(E) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

(G) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(H) Any alteration, repair, reconstruction, or improvements to a structure that is in compliance with the provisions of this chapter shall meet the requirements of "new construction" as contained in this chapter;

(I) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of 50 lots or five acres:

(J) Where an existing or proposed structure or other development is affected by multiple flood zones, by multiple base flood elevations, or both, the development activity must comply with the provisions of this chapter applicable to the most restrictive flood zone and the highest base flood elevation affecting any part of the existing or proposed structure; or for other developments, affecting any part of the area of the development;

(K) Fill projects that do not involve a structure must be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than three feet horizontal to one foot vertical;

(L) Non-conversion agreements shall be required for all new or substantially improved elevated structures with an enclosure beneath the elevated floor, accessory structures, and open-sided shelters (optional); and

(M) Construction of new solid waste disposal facilities, hazard waste management facilities, salvage yards, and chemical storage facilities shall not be permitted in areas of special flood hazard; and (optional).
(Ord. 2023-08, passed 9-6-2023)

§ 154.32 SPECIFIC STANDARDS.

In all areas of special flood hazard where base flood elevation data or flood depths have been provided, as set forth in § 154.03(B), the following provisions are required:

(A) *Building protection requirement*. In addition to the general standards described in § 154.31, structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

(1) Construction or placement of a residential structure;

(2) Construction or placement of a non-residential structure;

(3) Addition or improvement made to an existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land). An addition and/or improvement project that is continuous in scope or time is considered as one project for permitting purposes;

(4) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred (the costs of any proposed additions or improvements beyond restoring the damaged structure to its before damaged condition must be included in the cost);

(5) Installing a manufactured home on a new site or a new manufactured home on an existing site; or

(6) Installing a travel trailer or recreational vehicle on a site for more than 180 days.

(B) *Residential construction*.

(1) New construction or substantial improvement of any residential structures shall meet provisions described in § 154.30 and applicable general standards described in § 154.31.

(2) In Zone A and Zone AE, new construction or substantial improvement of any residential structure shall have the lowest floor; including basement, at or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, Section C (2) (c). Should fill be used to elevate a structure, the standards of Article 5, Section C (2) (d) must be met.

(3) Fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:

(a) Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:

1. Provide a minimum of two openings on different sides of an enclosure. If there are multiple enclosed areas, each is required to meet the requirements for enclosures, including the requirement for flood openings in exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area);

2. The bottom of all openings shall be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening;

3. Doors and windows do not qualify as openings;

4. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions; and

5. Openings are to be not less than three inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.

(b) The floor of such enclosed area must be at or above grade on at least one side.

(4) A residential structure may be constructed on fill in accordance with the following:

(a) Fill shall be placed in layers no greater than one foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file;

(b) Fill shall extend ten feet beyond the foundation of the structure before sloping below the BFE;

(c) Fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than three feet horizontal to one foot vertical;

(d) Fill shall not adversely affect the flow of surface drainage from or onto neighboring properties; and

(e) Fill shall be composed of clean granular or earthen material.

(f) A residential structure may be constructed using a stem wall foundation (also called chain wall, raised-slab-on-grade, and slab-on-stern-wall-with-fill). Any backfilled stem wall foundation (also called chain wall, raised- slab-on-grade, and slab-on-stem-wall-with-fill) must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

(C) *Non-residential construction.*

(1) New construction or substantial improvement of any non-residential structures (excludes accessory structures) shall meet provisions described in § 154.05 and applicable general standards described in § 154.31.

(2) In Zone A and Zone AE, new construction, or substantial improvement of any commercial, industrial, or non- residential structure (excludes accessory structures) shall either have the lowest floor, including basement and, elevated to or above the FPG or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of § 154.32(C)(3). Should fill be used to elevate a structure, the standards of § 154.32(C)(4) must be met.

(3) Fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall meet the following requirement:

(a) Designed to preclude finished living space and designed to allow for the automatic entry and exit of floodwaters to equalize hydrostatic flood forces on exterior walls. Flood openings must be designed and installed in compliance with criteria set out in FEMA Technical Bulletin 1. Engineered flood openings must be designed and certified by a registered design professional (requires supporting engineering certification or make/model specific ICC-ES Report), or meet the following criteria for non-engineered flood openings:

1. Provide a minimum of two openings on different sides of an enclosure. If more than one enclosed area is present, each must have openings on exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area);

2. The bottom of all openings shall be no more than one foot above the higher of the final interior grade (or floor) and the finished exterior grade immediately under each opening;

3. Doors and windows do not qualify as openings;

4. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they perm it the automatic flow of floodwaters in both directions; and

5. Openings are to be not less than three inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.

(b) The floor of such enclosed area must be at or above grade on at least one side.

(4) A nonresidential structure may be constructed on fill in accordance with the following:

(a) Shall be placed in layers no greater than one foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file;

(b) Shall extend ten feet beyond the foundation of the structure before sloping below the BFE;

(c) Shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulk heading. If vegetative cover is used, the slopes shall be no steeper than three feet horizontal to one foot vertical;

(d) Shall not adversely affect the flow of surface drainage from or onto neighboring properties; and

(e) Shall be composed of clean granular or earthen material.

(5) A nonresidential structure may be floodproofed in accordance with the following:

(a) A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the Floodplain Administrator.

(b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(6) A nonresidential structure may be constructed using a stem wall foundation (also called chain wall, raised- slab-on-grade, and slab-on-stem-wall-with-fill). Any backfilled stem wall foundation must be backfilled with compacted structural fill, concrete, or gravel that supports the floor slab. No flood openings are required for this type of construction.

(D) *Manufactured homes and recreational vehicles*.

(1) These requirements apply to all manufactured homes to be placed on a site in the SFHA:

(a) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(b) Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in division (B)(3) of this section.

(c) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

(2) Recreational vehicles placed on a site in the SFHA shall either:

(a) Be on site for less than 180 days and be fully licensed and ready for use on a public highway (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

(b) Meet the requirements for "manufactured homes" as stated earlier in this section.

(E) *Accessory structures*. Within SFHAs, new construction or placement of an accessory structure must meet the following standards:

(1) Shall have a floor area of 400 square feet or less;

(2) Use shall be limited to parking of vehicles and limited storage;

(3) Shall not be used for human habitation;

(4) Shall be constructed of flood resistant materials;

(5) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;

(6) Shall be firmly anchored to prevent flotation;

(7) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG;

(8) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in division (C)(3) of this section; and

(9) Shall not have subsequent additions or improvements that would preclude the structure from its continued designation as an accessory structure.

(F) *Free-standing pavilions, gazebos, decks, carports, and similar development*. Within SFHAs, new construction or placement of free-standing pavilions, gazebos, decks, carports, and similar development must meet the following standards:

(1) Shall have open sides (having not more than one rigid wall);

(2) Shall be anchored to prevent flotation or lateral movement;

(3) Shall be constructed of flood resistant materials below the FPG;

(4) Any electrical, heating, plumbing and other service facilities shall be located at/above the FPG; and

(5) Shall not have subsequent additions or improvements that would preclude the development from its continued designation as a free-standing pavilion, gazebo, carport, or similar open-sided development.

(G) *Above ground gas or liquid storage tanks*. Within SFHAs, all newly placed aboveground gas or liquid storage tanks shall meet the requirements for a non- residential structure as required in division (C) of this section.
(Ord. 2023-08, passed 9-6-2023)

§ 154.33 STANDARDS FOR SUBDIVISION AND OTHER NEW DEVELOPMENTS.

(A) All subdivision proposals and all other proposed new development shall be consistent with the need to minimize flood damage.

(B) All subdivision proposals and all other proposed new development shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(C) All subdivision proposals and all other proposed new development shall have adequate drainage provided to reduce exposure to flood hazards.

(D) In all areas of special flood hazard where base flood elevation data area not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and all other proposed new development (including manufactured home parks and subdivisions), which is greater than the lesser of 50 lots or five acres, whichever is less.

(E) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA. (Optional.)

(F) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders). (Optional.)

(G) Streets, blocks lots, parks and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible the floodplains shall be included within parks or other public grounds. (Optional.)
(Ord. 2023-08, passed 9-6-2023)

§ 154.34 STANDARDS FOR CRITICAL FACILITIES.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.
(Ord. 2023-08, passed 9-6-2023)

CHAPTER 155: SUBDIVISIONS

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GENERAL PROVISIONS

§ 155.001 TITLE.

These regulations shall hereafter be known and cited as the “Subdivision Regulations of the Town of New Whiteland, Indiana”.
(2004 Code, § 4-101)

§ 155.002 POLICY.

(A) It is hereby declared to be the policy of the town in addition to the requirements established herein, all subdivision plats shall comply with all applicable federal, state and local statutes, ordinances, codes, rules and regulations including, but not limited to:

(1) The town's Zoning Ordinance, Building and Housing Codes and all other applicable laws of the town;

(2) The Comprehensive Plan and Official Map, including all streets, drainage systems and parks shown on the Official Map or Comprehensive Plan as adopted;

(3) The special requirements of these regulations and any rules of the State or County Health Departments and/or other appropriate state agencies;

(4) The rules and regulations of the state's Department of Transportation if the subdivision or any lot contained therein abut a state highway or connecting street; and

(5) The rules and regulations of the state's Department of Environmental Management and the state's Department of Natural Resources.

(B) Plat approval may be withheld if a subdivision is not in conformity with the above guides and requirements or with the policies and purposes of these regulations established in § 155.003 of this chapter.
(2004 Code, § 4-102)

§ 155.003 PURPOSES.

The purposes of this chapter are:

(A) To protect and provide for the public health, safety and general welfare of the town;

(B) To guide the future development and renewal of the town according to the Comprehensive Plan and related policies;

(C) To provide for the safety, comfort and soundness of the developed environment and related open spaces;

(D) To enhance and preserve the compatibility, character, economic stability and orderliness of development through reasonable design standards;

(E) To guide public and private policy and action to provide adequate and efficient public and private facilities; and

(F) To promote the most esthetically pleasing and beneficial interrelationship between land uses and to conserve natural resources such as natural habitats, woodlands, open spaces and energy and natural growth sources both during and after development.
(2004 Code, § 4-103)

§ 155.004 AUTHORITY AND JURISDICTION.

(A) This chapter has been enacted pursuant to Indiana Home Rule and relevant enabling legislation (I.C. 36-1-3-4 and I.C. 36-7-4-700, as amended) and authorizes the town's Plan Commission to review and approve or disapprove plats for subdivisions throughout the town. This authority extends to the development or resubdivision of undeveloped portions of already recorded plats.

(B) No improvement location permit or certificate of occupancy shall be issued for any parcel or plat of land that was created by subdivision after the effective date of, but not in conformity with, the provisions of these subdivision regulations. No excavation of land or construction of any public or private improvements shall take place or be commenced, except in conformity with the regulations contained herein and in conformity with the construction standards adopted by the town.
(2004 Code, § 4-104)

§ 155.005 INTERPRETATION, CONFLICT AND SEVERABILITY.

(A) These regulations shall be considered, interpreted and applied as the minimum requirements for the promotion of the public health, safety and general welfare.

(B) These regulations are not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. If any provision of these regulations is in conflict with any other provision of these regulations or any other applicable statute, ordinance, rule or regulation, the provision, statute, ordinance, rule or regulation which is most restrictive or imposes a higher standard shall control.

(C) These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction. However, where the provisions of these regulations are more restrictive or impose higher standards than any such easement, covenant or private agreement or restriction, such provision shall control.

(D) If any part or all of any provision of these regulations or the application thereof to any person or circumstance 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 and shall not affect or impair the validity of the remainder of that provision or these regulations or the application thereof. The town hereby declares that it would have enacted the remainder of these regulations even without any such part, provision or application.
(2004 Code, § 4-105)

§ 155.006 SAVING PROVISION.

These regulations shall not be construed as abating any action pending under, or by virtue of, prior existing subdivision regulations. Nor shall they be considered as discontinuing, abating, modifying or altering any penalty accruing or about to accrue. They shall not affect the liability of any person, firm or corporation. They shall not waive any right of the municipality under any section or provision existing at the time of adoption of these regulations; nor shall they vacate or annul any rights obtained by any person, firm or corporation, by lawful action of the town, except as shall be expressly provided for in these regulations.
(2004 Code, § 4-106)

§ 155.007 RESERVATIONS AND APPEALS.

Upon the adoption of these regulations according to law, the subdivision regulations of the town previously adopted shall be repealed.
(2004 Code, § 4-107)

§ 155.008 AMENDMENTS.

The town, to provide for the public health, safety and general welfare, on recommendation of the Commission, may from time to time amend these subdivision regulations. Public hearings on proposed amendments shall be held by the Commission and/or the town in the manner prescribed by law.
(2004 Code, § 4-108)

§ 155.009 CONDITIONS.

Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the state to the town. A developer has the duty of compliance with reasonable conditions imposed by the Commission. These conditions may include the design, dedication, improvement and restrictive use of the land to conform to the physical and economical development of the town as well as to the safety and general welfare of the future lot owners in the subdivision and of the town at large.
(2004 Code, § 4-109)

§ 155.010 RESUBDIVISION OF LAND.

(A) *Procedure for resubdivision.* Approval of the Commission, pursuant to the same procedures, rules and regulations applicable to subdivisions, shall be required for any change of an approved or recorded subdivision plat, if such change affects:

(1) Any street layout shown on such plat;

(2) Area reserved thereon for public use;

(3) Any lot line; or

(4) If it affects any plat or plan legally reached before the adoption of any regulations controlling subdivisions.

(B) *Procedure for subdivision where future resubdivision is indicated.* Whenever a subdivision plat includes one or more lots containing more than one acre of land and there are indications that such lots will eventually be resubdivided into smaller building sites, the Commission may require that such parcel of land allow for the future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of such streets may be made a requirement of the plat.
(2004 Code, § 4-110)

§ 155.011 VACATION OF PLATS.

(A) The owner of a recorded plat may vacate the entire plat, or part thereof, at any time before the sale of any lot therein by executing and recording a written instrument, to which a copy of such plat shall be attached, declaring the same to be vacated.

(B) Such an instrument shall be approved by the Commission in like manner as plats of minor subdivisions. The town may reject any such instrument that abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.

(C) Such an instrument shall be executed, acknowledged or approved, and recorded, in like manner as a deed to land. Once being duly recorded or filed, it shall operate to terminate the effect of the plat so vacated. Further, it shall terminate all public rights, public ways and public grounds, and all dedications shown or described in the plat or part of the plat.
(2004 Code, § 4-111)

§ 155.012 VARIANCES.

(A) *General.* Where the Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations, it may approve variances to these subdivision

regulations so that substantial justice may be done and the public interest served; provided that, such variances shall not have the effect of nullifying the intent and purpose of these regulations. The Commission shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:

(1) The granting of the variance will not be detrimental to the public safety, health or welfare or injurious to other nearby property;

(2) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought and are not applicable generally to other property;

(3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations were carried out; and

(4) The variance will not in any manner contravene the provisions of the town's Zoning Ordinance, Comprehensive Plan or Official Map as interpreted by the Commission.

(B) *Conditions*. In approving variances, the Commission may require such conditions as will, in its judgment, serve the purposes of these regulations.

(C) *Procedures*. A petition for any such variance shall be submitted in writing by the applicant at the time when the primary plat is filed for consideration by the Commission. The petition shall state fully the specific grounds for the variance and all the facts relied upon by the petitioner.
(2004 Code, § 4-112)

§ 155.013 ENFORCEMENT.

(A) *General*.

(1) It shall be the duty of the Administrator to enforce these regulations and to bring any violations to the attention of the Commission.

(2) No parcel of land located in a proposed subdivision shall be transferred or sold before a plat of such subdivision has been approved by the Commission and recorded with the County Recorder.

(3) The subdivision of any lot or any parcel of land, as defined in this chapter, resulting in the creation of one or more new building sites shall not be permitted. All such described subdivisions shall be subject to all the appropriate requirements of this chapter.

(4) No improvement location permit (building permit) required under the Uniform Building Code, the Zoning Ordinance or this chapter shall be issued on any property subject to this chapter, until all relevant provisions of this chapter have been met.

(5) Subdivisions and other lands which are subject to this chapter shall be developed in strict compliance with the construction standards.

(B) *Restraining provisions*.

(1) Any land within the Commission's jurisdiction subdivided in violation of the terms of this chapter, after the effective date hereof, is hereby declared to be a common nuisance which may be restrained, enjoined or abated in any appropriate action or proceeding.

(2) The Commission may institute an injunction suit requesting that any person be directed to remove a structure erected in violation of this chapter, or to make the same comply with its terms. If the Commission is successful in its suit, the respondent shall bear the costs of the action, including reasonable attorney's fees.

(3) The Commission may institute a suit for mandatory injunction requesting that any person be directed, where such individual or governmental unit has violated any provisions of this chapter, to comply with the provisions of this chapter.
(2004 Code, § 4-113)

§ 155.014 APPLICATION AND INTERPRETATION.

(A) Certain numbers, abbreviations, terms, words and phrases shall be used, interpreted and defined as set forth in this section and § 155.015 of this chapter for these regulations.

(B) Whenever any words and phrases are not defined within this section and § 155.015 of this chapter, but are defined in the state laws regulating the creation and function of various planning agencies, the state definition shall be deemed to apply.

(C) Certain words and phrases used herein for these regulations, shall be interpreted as follows.

(1) The word "person" includes an individual, firm, association, organization, partnership, trust, company, corporation or any other legal entity.

(2) The masculine includes the feminine.

(3) The present tense includes the past and future tense, and the singular number includes the plural.

(4) The word "shall" is a mandatory requirement; the word "may" is a permissive requirement; and the word "should" is a preferred requirement.

(5) The words "used" or "occupied" include the words "intended, arranged or designed to be used or occupied".

(D) All other words not defined in this section and § 155.015 of this chapter or elsewhere in the chapter shall be defined according to any recent edition of a dictionary of the English language. (2004 Code, § 4-201)

§ 155.015 DEFINITIONS.

For the purpose of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

ACCESSORY BUILDING. A subordinate structure, the use of which is incidental to that of the dominant uses of the primary building or land.

ADMINISTRATOR. The officer appointed and authorized by the Plan Commission to administer and enforce these regulations.

ADVISORY PLAN COMMISSION. A plan commission established by and serving a single local government jurisdiction as defined by Indiana Code.

ALLEY. A permanent public service way providing a secondary means of access to lands otherwise abutting upon a street.

APPLICANT. The owner or owners, legal and equitable, of land within the territorial limits of the town, who submit an application for plat approval under the provisions of this chapter.

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

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

BUFFER LANDSCAPING. Any trees, shrubs, walls, fences, berms or related landscaping features required under this chapter or Ch. 156 of this code of ordinances on private lots and privately maintained for buffering lots from adjacent properties or public rights-of-way for increasing sound and/or visual privacy. (See ***SCREENING*** also.)

BUILDING. Any structure built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind.

BUILDING INSPECTOR. For this chapter, synonymous with the term ***ADMINISTRATOR***.

BUILDING SETBACK LINE. The line, established by this chapter, beyond which a building shall not extend unless varied according to the procedures in this chapter. Also called a ***BUILDING LINE***. ***SETBACK LINES*** may be applicable to the front, side and/or rear yard.

CENTRAL SEWERAGE SYSTEM. A community sewer system including collection and treatment facilities established by a developer to serve a new subdivision or an existing public sewer system.

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 as may be established by the developer to serve a new subdivision.

CERTIFICATE. The signed and attested document that indicates that a subdivision has been granted secondary approval by the Commission.

CHECKPOINT AGENCY. A public agency or organization called upon by the Commission to provide expert counsel about a specific aspect of community development or required by law to give its assent before subdivision may take place.

COLLECTOR STREET. A street designed, planned and intended to carry vehicular traffic to and from thoroughfares, with partial control of access, in conformance with the Comprehensive Plan.

COMMISSION. The Plan Commission of the town.

COMPREHENSIVE PLAN. The applicable Comprehensive Plan for the town, or segment thereof, adopted by the Commission and indicating general locations recommended for public improvements.

CONSTRUCTION PLAN(S). The maps and drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed as part of the subdivision as required by this chapter.

CONSTRUCTION STANDARDS. The *Construction Standards for Subdivisions and Development*, dated May, 1998 and adopted by the Town Council along with and as a part of this chapter.

CONTROL OF ACCESS. The conditions where the right of owners or occupants of abutting land, or of other persons, to access, including its location with streets, are fully or partially controlled by public authority, including the Commission of the town.

COVENANT. A private legal restriction on the use or development of land.

CUL-DE-SAC. A street open to vehicular traffic from a thoroughfare, collector street or local street permanently terminated by a vehicular turnaround for the safe and convenient reversal of traffic movement, including public safety vehicles.

DEAD-END STREET. A street or a portion of a street with only one vehicular traffic outlet.

DESIGNATED OFFICIALS. Those officials of the Commission designated in the subdivision ordinance as required signatories for the execution of secondary approval.

DEVELOPER. The owner of land proposed to be subdivided or his or her representative.

DEVELOPMENT DENSITY. Number of dwelling units per gross acre.

DRAIN. Open ditch, tile or pipe or combination thereof for collection and disbursement of surface water.

DRIVES, PRIVATE. Vehicular streets and driveways that are wholly within private property, except where they intersect with other streets within public rights-of-way.

EASEMENT. An authorization or grant by a property owner to a private party or to the public to use land for specific limited purposes. The title to the land shall remain in the name of the property owner, subject to the right of use designated in the ***EASEMENT***.

EXEMPT DIVISION.

(1) A division of land not required to meet all provisions of this chapter. ***EXEMPT DIVISIONS*** must be one of the following types of divisions:

(a) A division of land into two or more tracts all of which are at least ten acres in size;

(b) A division of land for the sale or exchange of tracts to correct errors in an existing legal description; provided that, no additional building sites other than for accessory buildings are created by the division;

(c) A division of land pursuant to an allocation of land in the settlement of a decedent's estate or a court decree for the distribution of property;

(d) A division of land for the acquisition of street right-of-way or easement;

(e) A division of land for the sale or exchange of tracts between adjoining land owners; provided that, no additional building sites other than for accessory buildings are created by the division; and/or

(f) A division of land into cemetery plots.

(2) ***EXEMPT DIVISIONS*** are subject only to the provisions of §§ 155.034 and 155.099 of this chapter, but shall be exempt from other provisions of this chapter not specified or referred to in those sections.

EXPRESSWAY. A divided arterial street designed, planned and intended for through vehicular traffic, with full and/or partial control of access, in conformance with the Comprehensive Plan.

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

FLOOD HAZARD AREAS. Areas shown on the Floodway-Flood Boundary Maps as not adequately protected from flooding during a regulatory flood by means of dikes, levees or reservoirs. (See also ***FLOODWAY BOUNDARY MAPS***.)

FLOOD PROTECTION GRADE. The elevation of the lowest point around the perimeter of a building at which flood waters may enter the interior of the building.

FLOODPLAIN. The area adjoining a river or stream that has been or may hereafter be covered by flood water during a regulatory flood.

FLOODWAY. See ***REGULATORY FLOODWAY***.

FLOODWAY BOUNDARY MAPS. Maps of flood hazard areas as provided by the Federal Insurance Administration or the state's Natural Resources Commission.

FLOODWAY FRINGE. Those portions of the flood hazard areas lying outside and adjacent to the floodway, shown on the Floodway-Flood Boundary Maps of the Federal Insurance Administration.

FOUNDATION. The supporting member of a wall or structure.

FRONTAGE. All the property on one side of a street between two intersecting streets, measured along the line of the street, or if the street is dead-ended, then all the property abutting on one side between an intersecting street and the dead-end of the street.

GOVERNING BODY. The body of the relevant local government having the power to adopt ordinances.

GRADE. The slope of a street, or other public way, specified in percentage terms.

HIGH DENSITY. Those residential zoning districts in which the density is equal to or greater than one dwelling unit per 7,200 square feet.

IMPROVEMENTS. See ***LOT IMPROVEMENTS*** or ***PUBLIC IMPROVEMENTS***.

IMPROVEMENT LOCATION PERMIT. A certificate issued by the Building Inspector permitting a person to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure or cause the same to be done.

INDIANA CODE. The certified statutes of the state in their current form. (Usually abbreviated as ***I.C.*** herein).

INDIVIDUAL SEWAGE DISPOSAL SYSTEM. A septic tank, seepage tile for sewage disposal system or any other approved sewage treatment device approved by the county's Health Department.

INTERESTED PARTIES. Those parties who are the owners of properties adjoining or adjacent to the proposed subdivision as shown on the sketch plan.

JOINT OWNERSHIP. Joint owners shall be construed as the same owner for imposing subdivision regulations.

LAND DIVIDER. The owner of a parcel of land to be divided through as an exempt subdivision.

LANDSCAPING. See ***BUFFER LANDSCAPING***, ***SCREENING*** and ***SHADE TREES***.

LOCAL STREET. A street intended to provide access to other streets from individual properties and the right-of-way beneath and along it.

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

LOT, CORNER. A lot situated at the intersection of two streets, the interior angle of such intersection not exceeding 135 degrees.

LOT IMPROVEMENT. Any building, structure, object or improvement of any kind located on a lot.

LOW DENSITY. Those residential zoning districts in which the density is equal or less than one dwelling unit per 14,000 square feet.

MAJOR SUBDIVISION. Any subdivision not classified as a minor subdivision, including, but not limited to, subdivisions of four or more lots, or any size subdivision requiring any new street or extension of the local governmental facilities, or the creation of any public improvements.

MARGINAL ACCESS STREET. A minor street, generally parallel and adjacent to a thoroughfare, providing access to land abutting upon said marginal access street.

MARKER. A stake, pipe, rod, nail or any other object that is not intended to be a permanent point for record purposes.

MEDIUM DENSITY. Those residential zoning districts in which the density is between 7,200 and 14,000 square feet per dwelling unit.

MINOR SUBDIVISION. Any subdivision containing not more than three lots fronting on an existing street that is an improved right-of-way maintained by the town which does not involve any new street, the extension of municipal facilities or the creation of any public improvements and will not adversely affect the remainder of the parcel or adjoining property, nor conflict with any provision or portion of the Comprehensive Plan, Official Map, Zoning Ordinance or this chapter.

MODEL HOME. A dwelling unit used initially for display purposes that typifies the kind of units that will be constructed in the subdivision. Such dwelling units may be erected, at the discretion of the Commission, by permitting a portion of a major subdivision involving no more than two lots to be created according to the procedures for minor subdivisions, as set out in these regulations.

MONUMENT. A physical structure that marks the location of a corner or other survey point.

NON-RESIDENTIAL SUBDIVISION. A subdivision intended for non-residential use, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of these regulations and Ch. 156 of this code of ordinances.

OFF-SITE. Not located within the area of the property to be subdivided.

OFFICIAL MAP. The map or maps established by the town, pursuant to law, showing the existing and proposed streets, highways, parks, drainage systems and setback lines identified, adopted and established by law, including any amendments or additions thereto.

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

OWNER. Any person, firm, corporation, partnership, limited liability company, having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

PARCEL. A part or portion of land having a separate legal description formally set forth in a conveyance document.

PERIMETER STREET. Any existing street to which the parcel of land to be subdivided abuts on only one side.

PERSON. Any individual, corporation, partnership, company, limited liability company or other legal entity.

PLAN COMMISSION. The town's planning body as established according to state law, often referred to herein simply as the ***COMMISSION***.

PLANNED UNIT DEVELOPMENT. A means of land regulation that permits large scale, unified land development in a configuration which may also include a mix of uses not otherwise permitted "as of right" under Ch. 156 of this code of ordinances, but requiring under that ordinance a special review and approval process.

PLAT. A map indicating the subdivision or resubdivision of land recorded or intended to be recorded with the County Recorder.

PRELIMINARY PLAT. The preliminary drawing or drawings, described in these regulations, indicating the proposed manner and layout of the subdivision to be submitted to the Commission for approval.

PRIMARY APPROVAL. An approval (or approval with conditions imposed) granted to a subdivision by the Commission after having determined in a public hearing that the subdivision complies with the standards prescribed in this chapter (per I.C. 36-7-4-700).

PRIMARY THOROUGHFARE. An arterial street intended to move through-traffic to and from such major attractors as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas and similar traffic generators within the town.

PRINCIPAL USE BUILDING. A building in which the principal use of the lot or parcel is conducted. (Standards recognized by the state's Administrative Building Council shall be used to determine whether a given structure constitutes one or more buildings in cases where ambiguities exist.)

PUBLIC AGENCY. An agency or governmental department acting under the aegis of and representing an elected or appointed council, commission or other policy-making or advisory body of federal, state or local government to which it is responsible.

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. (All such improvements shall be properly bonded.)

REGISTERED LAND SURVEYOR. A land surveyor properly licensed and registered to practice in the state.

REGISTERED PROFESSIONAL ENGINEER. An engineer properly licensed and registered or permitted to practice in the state.

REGULATORY FLOOD. The flood having a peak discharge that can be equaled or exceeded on the average of once in a 100-year period, as calculated by a method and procedure that is acceptable to and approved by the state's Natural Resources Commission. A flood having a probability of occurrence of 1% in any given year.

REGULATORY FLOOD ELEVATION. The maximum elevation reached by the regulatory flood at the relevant locations of a proposed subdivision under consideration.

REGULATORY FLOODWAY. The channel of a river or stream and those portions of the floodplains adjoining the channel that are reasonably required to efficiently carry and discharge the peak flow of the regulatory flood of any river or stream shown on the Floodway-Flood Boundary Maps.

RESTRICTIVE COVENANTS. Limitations of various kinds on the use of lots within a subdivision which may be proposed by the applicant or imposed by the Commission to serve the interest of public health, safety and welfare and which shall be recorded with the plat and shall run with the land.

RESUBDIVISION/RESTRICTIVE COVENANTS. A change in a map of an approved or recorded subdivision plat that affects any lot lines, street layout or area reserved for public use.

RIGHT-OF-WAY. A strip of land used or intended to be used as a street, pedestrian-way, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, other utility line, landscaping or right-of-way for other public use. ***RIGHTS-OF-WAY*** shall not be included within the dimensions or areas of 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 applicant on whose plat such right-of-way is established.

SALE or ***LEASE.*** Any immediate or future transfer of ownership, possessory interest in land, including contract of sale, lease, devise, intestate succession or transfer, of an interest in a subdivision or part thereof.

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

SCREENING. Where required by Ch. 156 of this code of ordinances, a screen shall be installed along or within the lines of a plat as a protection for adjoining or nearby properties and shall conform with the requirements set out for the applicable zoning districts.

SECONDARY APPROVAL. The stage of application for formal Commission 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 recording.

SECONDARY THOROUGHFARE. An arterial street intended to collect and distribute traffic in a manner similar to a primary thoroughfare; except that, these streets serve minor traffic generating areas or are designed to carry traffic from collector streets to the system of primary arterials. Minor traffic

generating areas include, but are not limited to, community-commercial areas, primary and secondary educational facilities, plants, hospitals, major recreational areas, churches and offices.

SETBACK. A line parallel to and equidistant from the relevant lot line (front, back, side). No buildings or structures of any kind may be erected between the setback lines and corresponding lot lines except as may be specifically permitted by Ch. 156 of this code of ordinances.

SKETCH PLAN. An informal informational drawing of a proposed plat, as described in this chapter.

SOIL SURVEY, GENERAL. A survey done by a combination of visual inspection and utilization of existing information about the area that is sufficiently detailed to delineate soil areas of questionable suitability for on-site sewage treatment and areas subject to flooding. The General Soils Map of the National Cooperative Soil Survey may be used for preliminary or tentative approval purposes.

SOIL SURVEY, OPERATIONAL. A highly detailed analysis of soil characteristics (e.g., texture, structure, acidity or alkalinity, permeability, moisture capacity) and identification of kinds of soil as described and named in the detailed soil maps of the National Cooperative Soil Survey.

STATE ACTS. Such legislative acts of the state, as they affect these regulations.

STATE PLANE COORDINATES SYSTEM. A system of plane coordinates, based on the Transverse Mercator Projection for the Western Zone of Indiana, established by the United States Coast and Geodetic Survey for the state.

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

STREETS, CLASSIFICATION. To provide for the development of the streets, highways and rights-of-way in the governmental unit, and for their future improvement, reconstruction, realignment and necessary widening. This includes provisions for curbs and sidewalks, each existing street, highway and right-of-way, and those located on approved and recorded plats which have been designated on the Official Map of the town and classified therein. The ***CLASSIFICATION*** of each street, highway and right-of-way is based upon: its location in the respective zoning districts of the town; its present and estimated future traffic volume; and its relative importance and function as specified in the town's Comprehensive Plan and/or its Thoroughfare Plan component. The required improvements shall be measured as set forth for each street classification on the Official Map.

STRUCTURE. Anything constructed or erected and located on or in the ground and fixtures or apparatus attached thereto.

SUBDIVISION. The division of a parcel of land into two or more parcels. (See also ***EXEMPT DIVISIONS***.)

SUBDIVISION AGENT. Any person who represents, or acts for or on behalf of, an applicant or developer, relating to the subdividing, selling, leasing or developing, of any interest, lot, parcel, unit, site or plat in a subdivision. Exception: an attorney-at-law whose representation of another person consists solely of rendering legal services.

TEMPORARY IMPROVEMENT. Improvements built and maintained by an applicant during construction of the subdivision and intended to be replaced by permanent improvements before release of the performance bond. This shall also include turn-around improvements at the ends of stub streets intended to be replaced when the adjoining area is developed and the through street connection made.

THOROUGHFARE PLAN. A segment of the Comprehensive Plan for the town, adopted by the Commission of the town. The ***THOROUGHFARE PLAN*** sets forth the location, alignment, dimensions, identification and classification of expressways, primary thoroughfares, secondary thoroughfares and collector streets as a plan for the development, re-development, improvement and extension and revision thereof.

TOWN COUNCIL. The Town Council of New Whiteland, Indiana.

ZONING ORDINANCE. The town ordinance setting forth the regulations controlling the use and development of land in the incorporated area of the town and areas of extended jurisdiction. See Ch. 156 of this code of ordinances.
(2004 Code, § 4-202)

APPLICATION AND APPROVAL PROCEDURES

§ 155.030 GENERAL PROCEDURES.

(A) *Classification of land divisions and permits.*

(1) All land to be divided shall be categorized into one of the three main classes of land division indicated in this chapter's definition of "subdivision". These classes are:

(a) Major subdivision;

(b) Minor subdivisions; and

(c) Exempt divisions.

(2) Before any permit shall be granted for a structure to be erected on land to be subdivided into a major or minor subdivision, the subdividing owner or his or her subdivision agent shall apply for and secure approval of the proposed subdivision in accordance with § 155.031 of this chapter and either

§§ 155.032 or 155.033 of this chapter as appropriate. Before any permit shall be granted for a structure to be erected on a parcel of land to be created or altered by an exempt division, the land divider or his or her agent shall certify to the satisfaction of the Administrator that all requirements for exemption have been met. If the requirements as detailed in § 155.034 of this chapter are met, then the land division may be granted exemption from all other requirements of this chapter.

(B) *Discussion of requirements: pre-design conference*. Before submitting any of the materials required by this chapter, the applicant or applicant's representative should discuss with the Administrator the nature of the land division being proposed and request instruction concerning the classification of the proposed subdivision and what regulatory procedures apply to it and must be followed under this chapter for primary and secondary approval. Where applicable, requirements concerning the general layout of streets and for reservations of land, street improvements, drainage, sewerage, fire protection and similar matters, as well as the availability of existing services should be discussed. The Administrator shall also encourage the applicant, where appropriate, to discuss the proposed land division with those other officials who must eventually approve those aspects of the subdivision plat coming within their jurisdiction. The designation of major and minor subdivisions, as defined in this chapter, shall be made by the Administrator when the applicant submits an application for sketch plan approval. The applicant shall, in the case of exempt divisions, provide the Administrator at a pre-design conference with adequate information to enable him or her to determine whether the proposed division is an exempt division. (2004 Code, § 4-301)

§ 155.031 APPLICATION PROCEDURE FOR MAJOR AND MINOR SUBDIVISIONS.

(A) *Application requirements*. To begin the subdivision process, the applicant shall file with the Administrator a sketch plan in the form as prescribed by § 155.095 of this chapter, an application for review of sketch plan, and all applicable fees. The application shall:

(1) Be submitted on forms approved and prepared by the Commission and signed by the owner;

(2) Identify all contiguous property of the owner with an indication of the portion that is proposed to be subdivided, accompanied by an affidavit of ownership, which shall include the dates each separate parcel of land was acquired, together with the book and page of each conveyance to the present owner as recorded in the County Recorder's office; (The affidavit shall identify the legal owner of the property, the contract owner of the property, optionee of the property and the date on which the contract of sale was executed. If any corporations are involved, the Administrator may request a complete list of all directors, officers and a listing of stockholders if less than ten in number.)

(3) Be presented to the Administrator in duplicate;

(4) Be accompanied by a minimum of three copies of the sketch plan;

(5) Be accompanied by a fee as set by the Commission from time to time, pursuant to I.C. 36-7-4-704 as amended;

(6) Include an address and telephone number of an agent located within the territory of the Commission who shall be authorized to receive all notices required by this chapter; and

(7) Include a listing signed by each checkpoint agency indicating that each has received a copy of the proposed sketch plan or a certification that it has been sent as required by division (B) below.

(B) *Checkpoint submission.*

(1) A copy of the sketch plan shall be submitted to each of the checkpoint agencies which have jurisdiction or authority over any area covered by the proposed subdivision, as listed below.

(2) The sketch plan and application will not be deemed to be submitted until all of the checkpoint agencies are in receipt of the sketch plan (the "submission date").

Checkpoint Agencies

New Whiteland	*Johnson County*	*State of Indiana*
Town Council	County Health Department	State Department of Natural Resources
Town Marshal	Soil and Water Conservation District	State Department of Transportation
Public Works	Clark-Pleasant Schools	State Board of Health
Fire Department		State Department of Environmental Management
Park Department		
Zoning Administrator		
Planning Consultant		

(C) *Checkpoint agency review.* The Administrator shall request that all checkpoint agencies and officials to whom a request for review is made submit to the Administrator a written report within 15 days of their receipt of the sketch plan. No response from an official or checkpoint agency shall be interpreted as meaning "no objection" to the sketch plan.

(D) *Administrator's review.* Within 30 calendar days of the submission date, the Administrator shall:

(1) Study the proposal;

(2) Review any checkpoint agency reports received;

(3) Meet with the applicant and representatives of each checkpoint agency wishing to attend the meeting to discuss pertinent aspects of the proposed subdivision and possible modifications and/or changes that may be appropriately required under this chapter; and

(4) Classify the proposed subdivision as either a major or minor subdivision, as defined in this chapter.

(E) *Consultants' fees*. Applicants shall pay all fees of outside consultants deemed necessary by the town for review of applicants' plans.
(2004 Code, § 4-302)

§ 155.032 MAJOR SUBDIVISIONS.

(A) *General procedures*. If the Administrator, during sketch plan review, classifies the proposed land division as a major subdivision, the applicant shall follow the procedures and be subject to the processes outlined and detailed in this section.

(B) *Official submission dates*. The application and sketch plan shall be submitted at least 61 calendar days before the date of the public meeting at which the applicant intends to present the preliminary plat and at least 31 calendar days before submission of the preliminary plat. Thus, at a minimum, sketch plan submission shall precede preliminary plat submission by no less than 31 calendar days, which in turn shall precede the public meeting at which it is intended to be heard by no less than 30 calendar days.

(C) *Preliminary plat procedures for primary approval*.

(1) *Submission requirements*. Following the submission, review and report on the sketch plan application, the applicant may file a preliminary plat in the form prescribed by § 155.096 of this chapter for primary approval. The submission shall:

(a) Be made on forms approved and provided by the Commission and be submitted with a fee of $5 per lot for each lot;

(b) Show all land that the applicant proposes to subdivide and adjacent land within 100 feet. The application shall include the names and addresses of the owners of adjoining land as shown in the County Auditor's files. This information may be shown on a separate plat map reproduction from the Auditor's office;

(c) Be presented in duplicate to the Administrator no later than 30 calendar days before the regular meeting of the Commission at which it is requested to be heard;

(d) Be accompanied by ten copies of the preliminary plat as described in this chapter; and

(e) Generally comply with the sketch plan as reviewed.

(2) *Placement on the Commission agenda*. Subsequent to the submission of the primary plat for primary approval and subject to the filing deadlines required by this chapter, the public hearing for primary approval shall be on the agenda of the next regular meeting of the Commission which is at least 30 days after the date of submission of the preliminary plat.

(3) *Administrative review*. Subsequent to placement on the agenda, and before the date of public hearing, the Administrator and other individuals serving the Commission in an advisory capacity shall review the proposal. They will then prepare a written report to the Commission and applicant indicating a recommendation concerning the subdivision being proposed.

(4) *Public hearing notification*. The Commission shall hold a public hearing on the preliminary plat. Notice of such hearing shall be published by the applicant and at applicant's expense in one local newspaper of general circulation at least ten days prior to the hearing (per I.C. 5-3-1). Prior to the public hearing, the applicant shall submit proof of publication that the notices of public hearing were published at least ten days prior to the public hearing. All interested parties, as defined in § 155.015 of this chapter, shall be notified by the applicant of the date, time, place and purpose of the public hearing on the subdivision at least ten days in advance of the hearing, by certified mail. The applicant shall file with the Commission prior to the public hearing an affidavit in a form acceptable to the Commission certifying that all interested parties were properly notified.

(5) *Primary approval of the preliminary plat*. At the public hearing, the Commission will receive and consider the Administrator's report, the checkpoint agencies' recommendations, and testimony and exhibits submitted at the public hearing. After the hearing on the preliminary plat, the applicant shall be advised of any required changes and/or additions. The Commission shall approve, conditionally approve or disapprove the preliminary plat. One copy of the preliminary plat shall be returned to the applicant with the date of approval, conditional approval or disapproval and the reasons therefor within five days of the public hearing. Primary approval by the Commission is subject to review by certiorari. Secondary approval of a subdivision cannot occur until a minimum of 30 days after the granting of primary approval.

(6) *Field trip*. The Commission, at its discretion, upon hearing the request for primary approval, may elect to continue the matter until its next regularly scheduled public meeting and may schedule a field trip to the site of the proposed subdivision, accompanied by the applicant or his or her representative.

(7) *Effective period of primary approval*. Unless extended, the primary approval of a preliminary plat shall be effective for two years at the end of which time secondary approval of the subdivision must have been obtained and certified by the designated officials. Any plats not receiving secondary approval within two years shall be null and void. The applicant shall be required to resubmit a new application for sketch plan review and certificate subject to all the zoning restrictions and subdivision regulations in effect at the time of re-submission. Upon request of the applicant, the Commission may extend the term primary approval of a preliminary plat in increments beyond two years without further notice and public hearing.

(D) *Approval of construction plans.*

(1) *Submission procedure and requirements.* Following primary approval and before submission of the final plat for secondary approval, the applicant shall file with the Administrator three sets of the detailed construction plans in the form prescribed in § 155.097 of this chapter. This must be done before starting work on any improvements.

(2) *Review process.* The Administrator shall immediately refer construction plans to the appropriate agencies for review. Upon these agencies notifying the Administrator of their approval of the construction plans or failing to notify the Administrator within 14 working days of their receipt of the plans, the Administrator shall mark the plans approved and return one set to the applicant. In no event shall secondary approval (of the final plat) be given before approval of the construction plans.

(3) *Installation of improvements.* The installation of improvements shall be inspected by the town's appropriate representatives. Such inspections are required in all instances regardless of whether the work is performed before or after secondary approval. Failure to request inspection of work performed before secondary approval may be cause for denial of secondary approval. See §§ 155.080 through 155.084 of this chapter.

(E) *Final plat procedure (secondary approval).*

(1) *Submission requirements.* Following primary approval of the preliminary plat and construction plans, the applicant shall file with the Administrator a request for secondary approval of a final plat in the form prescribed by § 155.098 of this chapter. The application shall:

(a) Be submitted on forms approved and provided by the Commission;

(b) Include the entire subdivision, or section thereof which derives access from an existing state, county or municipal roadway;

(c) Be accompanied by five copies of the final plat as described in this chapter;

(d) Totally comply with the ordinance and the terms and conditions of primary approval;

(e) Be accompanied by a performance bond, if required, in a form satisfactory to the Commission's attorney and in an amount equal to 110% of the estimated cost of the public improvements. The bond amount shall be certified by a qualified professional engineer and shall guarantee the completion of all required subdivision and off-site public improvements. See §§ 155.080 through 155.084 of this chapter; and

(f) Be accompanied by any restrictive covenants in a form approved by the Commission, that have been proposed by the applicant or required by the Commission.

(2) *Determination of conformance (secondary approval).* To secure secondary approval, a final plat must conform with the preliminary plat approved by the Commission. If the final plat deviates from the approved preliminary plat, then the plat shall be submitted to the Commission at a public hearing for a new primary approval. The Commission may delegate authority to grant secondary approval to the Administrator.

(a) If the Administrator is delegated authority to grant secondary approval, then he or she shall review the items submitted according to division (E)(1) above within ten working days and shall determine conformance with all conditions and requirements imposed as part of the primary approval. If the plat is found to be in conformance and complete, then the Administrator shall recommend the signing of the certificate granting secondary approval.

(b) If the Commission reviews a plat for secondary approval, the applicant shall request Commission review in writing no less than 30 calendar days prior to the date of the public meeting at which the final plat is to be reviewed. The matter shall be placed on the agenda of the next regular meeting of the Commission at least 30 days after final plat submission. The Administrator shall review the proposal and submit a written report and recommendations to the Commission and the applicant. The Commission shall approve or disapprove the final plat. If granted secondary approval, the plat shall be signed by the designated officials. If the plat is not granted secondary approval, then the applicant shall be informed as to the insufficiency of his or her submittal.

(3) *Sectionalizing plats.*

(a) Before granting secondary approval of a major subdivision plat, the Commission may permit the plat to be divided into two or more sections. However, it may impose such conditions upon the filing of the sections as it may deem necessary to assure the orderly development of the subdivision. The Commission may require that a performance bond be provided in an amount commensurate with the section or sections of the plat to be filed and may defer the remaining required performance bond principal amount until the remaining sections of the plat are offered for filing. Such sections must contain at least 20 lots or 10% of the total number of lots contained in the approved plat, whichever is less.

(b) The approval of all remaining sections not filed with the Administrator shall automatically expire after five years from the date of primary approval of the preliminary plat, unless the expiration date is extended.

(F) *Signing and recording a plat.*

(1) *Signing of plat.*

(a) When a performance bond is required, the designated officials of the Commission shall endorse secondary approval of the plat by signing the certificate of approval after the bond has been approved, and all the conditions of the primary approval have been satisfied. The certificate of approval shall be part of the tracing cloth or reproducible Mylar of the subdivision plat. The applicant shall provide the Administrator a Mylar print of the approved and fully executed and recorded plat.

(b) When, at the discretion of the Commission, installation of improvements is permitted in place of performance bonds, the designated officials of the Commission shall endorse secondary approval of the plat by signing the certificate. Such signing shall only occur after all conditions of the primary approval have been satisfied and all improvements satisfactorily completed. The developer shall provide certified as-built drawings of the completed public improvements and other such written evidence as necessary to verify that the required public facilities have been installed in a manner satisfactory to the town.

(2) *Assurance to applicant*. If the applicant is permitted to install improvements before the secondary approval and it is shown that all such improvements have been installed in strict conformance with the final plat, then the Commission shall have no other recourse than to grant secondary approval.

(3) *Recording a plat*. It shall be the responsibility of the applicant in the presence of the Administrator or his or her designee to file the plat with the County Recorder within 30 days of the date of signature.
(2004 Code, § 4-303)

§ 155.033 MINOR SUBDIVISIONS.

(A) *General procedures*. If the Administrator, during sketch plan review, classifies the proposed subdivision as a minor subdivision, the applicant shall follow the procedures and be subject to the process as outlined and detailed in this section.

(B) *Official submission date and placement on the agenda*. An application for sketch plan approval for a minor subdivision shall be placed on the agenda of the first regularly scheduled meeting of the Commission to occur 30 days after the date the application is submitted.

(C) *Administrative review*. Subsequent to placement on the Commission's agenda and before the date of the public hearing, the Administrator and other representatives of the Commission shall submit a written report to the Commission and applicant including a recommendation about the subdivision being proposed.

(D) *Public hearing notification*. The Commission shall hold a public hearing on the sketch plan and notice of such hearing shall be in one local newspaper of general circulation ten days prior to the hearing (per I.C. 5-3-1) at the applicant's expense. At the time of the public hearing, the applicant shall submit proofs of publication that the notices of public hearing were published at least ten days prior to the public hearing. Interested parties, as defined in § 155.015 of this chapter, shall be notified by the applicant of the date, time, place and purpose of the public hearing on the subdivision at least ten days in advance of the hearing, by certified mail. The applicant shall file with the Commission at the time of the public hearing an affidavit so testifying.

(E) *Approval of the sketch plan*. After the Commission has, at a regularly scheduled meeting, examined the sketch plan, the Administrator's report, the checkpoint agencies' recommendations,

testimony and exhibits submitted, the Commission shall, at a regularly scheduled meeting, approve, conditionally approve or disapprove the sketch plan. One copy of the sketch plan shall be returned to the applicant with the date of approval, conditional approval or disapproval and the reasons therefor accompanying the sketch plan within five days after the public meeting. Primary approval by the Commission is subject to review by certiorari. Secondary approval of a subdivision cannot occur until the minimum of 30 days has elapsed since the granting of sketch plan.

(F) *Final subdivision plat procedure for secondary approval.*

(1) *Application requirements.* Following approval of the sketch plan, the applicant, if he wishes to proceed with the subdivision, shall file with the Administrator an application for secondary approval of a final plat in the form prescribed in § 155.098 of this chapter. The application shall:

(a) Be submitted on forms approved and provided by the Commission;

(b) Show all land that the applicant proposes to subdivide and adjacent land within 100 feet. The application shall include the names and addresses of owners of adjoining land as shown in the County Auditor's files. This information may be shown on a separate plat map reproduction from the Auditor's office;

(c) Include the entire subdivision, or section thereof, which derives access from all existing state, county or municipal roadways;

(d) Be accompanied by five copies of the subdivision plat as described in this chapter;

(e) Totally comply with this chapter and the terms and conditions of primary approval; and

(f) Be accompanied by restrictive covenants in a form approved by the Commission, where proposed by the applicant or required by the Commission.

(2) *Determination of conformance (secondary approval).* In order to be recorded, a final subdivision plat shall either be found to be in conformance with the approved sketch plan by the Administrator, or by the Commission at a public meeting. If the final subdivision plat deviates from the sketch plan that received primary approval, the subdivision shall be resubmitted to the Commission at a public meeting for a new primary approval. The applicant submitting a final plat conforming to the primary approval shall choose as to whether this review is performed by the Administrator or by the Commission at a public meeting.

(a) Should the applicant not choose Commission review, the Administrator shall, within ten working days, review the items submitted as per division (F)(1) above in order to ascertain conformance with the primary approval. If the submission is found to be in conformance and complete, the Administrator shall recommend the signing of the certificate granting secondary approval.

(b) Should the applicant choose Commission review, the Commission shall perform the same function, but at a public meeting. The applicant shall request in writing Commission review no less than 30 calendar days prior to the date of the public meeting at which the applicant intends to have his or her final plat reviewed. The Commission shall place the matter on its next regular meeting agenda. The Administrator shall review the proposed final plat and submit a written report and recommendations to the Commission and the applicant. The Commission shall approve, conditionally approve or disapprove the final plat. If approved, it shall be signed by the designated officers of the Commission. If not approved, then the applicant shall be informed as to the insufficiency of his or her submittal.

(3) *Sectionalizing plats*. Before granting secondary approval of a minor subdivision plat, the Commission may permit the plat to be divided into two or more sections. Further, it may impose such conditions upon the filing of the sections as it may deem necessary to assure the orderly development of the plat. The Commission may require that the performance bond be in such amount as is commensurate with the section or sections of the plat to be filed. It may also defer the remaining required performance bond principal amount until the remaining sections of the plat are offered for filing.

(G) *Signing and recording a plat*.

(1) *Signing of plat*.

(a) When a bond is required, the designated officials of the Commission shall endorse secondary approval on the plat after the bond has been approved by the town's appropriate representatives and all the conditions of the primary approval have been satisfied. See §§ 155.080 through 155.084 of this chapter.

(b) When installation of improvements is required, the designated officials of the Commission shall endorse secondary approval on the plat by signing the certificate after all conditions of the primary approval have been satisfied and all improvements satisfactorily completed. There shall be written evidence that the required improvements have been installed in a manner satisfactory to the town's appropriate representatives in the form of a certificate signed by the Town Council.

(2) *Assurance to applicant*. If the applicant elects to install all improvements before he or she applies for secondary approval and it is shown that the conditions of the ordinance have been met, and if the final plat completely conforms to the primary approval, the Commission shall have no other recourse than to grant secondary approval.

(3) *Recording of plat*.

(a) The designated officials shall sign the certificates granting secondary approval which shall be a part of the tracing cloth or reproducible Mylar of the subdivision plat, plus two Mylar prints of the subdivision plat. The Mylar prints shall be returned to the applicant and his or her engineer or surveyor.

(b) It shall be the responsibility of the applicant in the presence of the Administrator or his or her designee to record the plat with the County Recorder within 30 days of the date of signature. (2004 Code, § 4-304)

§ 155.034 EXEMPT DIVISIONS.

(A) *General procedure for exempt divisions.* An applicant may apply for an exempt division of the type or types defined in § 155.015 of this chapter by submitting to the Administrator the information prescribed under § 155.099 of this chapter.

(B) *Exempt division review process.*

(1) The Administrator shall review an application for classification as an exempt division within 15 working days of receiving the information required in § 155.099 of this chapter. If the division is not classified as exempt, then the applicant shall be notified to file an application for a major or minor subdivision. If the division is classified as exempt, then the Administrator shall issue a statement of compliance.

(2) Both the applicant and the Administrator shall hold copies of the statement of compliance. When the parcel so exempted by this statement is conveyed to another party, a copy of the statement of compliance may also be conveyed as proof of the exemption.
(2004 Code, § 4-305)

IMPROVEMENTS AND DESIGN STANDARDS

§ 155.045 GENERALLY; CONFORMANCE.

(A) *Conformance to applicable rules and regulations.* In addition to the requirements established herein, all subdivision plats shall comply with the following laws, rules and regulations:

(1) All applicable state and local statutory provisions;

(2) The town's Zoning Ordinance, Comprehensive Plan, Office Map, Building and Housing Codes and all other applicable laws of the town;

(3) The special requirements of these regulations and any rules of the State or County Health Departments and all other appropriate state agencies; and

(4) The rules and regulations of the state's Department of Highways if the subdivision or any lot contained therein abuts a state highway or connecting street. Plat approval shall be withheld if a subdivision is not in conformity with the above requirements and with the policies and purposes of these regulations as established in §§ 155.002 and 155.003 of this chapter.

(B) *Self-imposed restrictions*. If the owner places restrictions on any of the land contained in the subdivision greater than those required by Ch. 156 of this code of ordinances or these regulations, such restrictions or reference thereto may be required to be indicated on the subdivision plat, or the Commission may require that restrictive covenants be recorded with the County Recorder in the form to be approved by the Commission's Attorney. This section, however, shall impose no obligation upon the Commissioner or the town to enforce any such restrictive covenants.

(C) *Boundary improvements*.

(1) The applicant shall place, under the supervision of a registered land surveyor, concrete monuments four inches square or four inches in diameter and 40 inches long with an iron pipe cast in the center, at each corner or angle of the ultimate outside boundary of the subdivision. Those monuments shall be set following grading of each phase of the subdivision.

(2) The applicant shall place, under the supervision of a registered land surveyor, pipes or steel rods, five-eighths of an inch in diameter by 30 inches in length at the corners of each lot. Such pipes or rods shall be set prior to and as a condition of the issuance of an improvement water permit for each lot.

(D) *Character of the land*. Land which the Commission finds to be unsuitable for subdivision or development because of flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, environmental conditions, artifacts or other features which might reasonably be harmful to the safety, health and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the Commission to address the unsuitable land conditions. Such land shall be set aside for such suitable uses permitted by Ch. 156 of this code of ordinances.

(E) *Subdivision name*. The proposed name of the subdivision shall not duplicate or too closely phonetically approximate the name of any other subdivision in the area covered by these regulations. The Commission shall have final authority to approve the name of the subdivision which shall be determined at the time of primary approval.
(2004 Code, § 4-401)

§ 155.046 LOT IMPROVEMENTS.

(A) *Lot arrangement*. The lot arrangement shall be such that there will be no foreseeable difficulties in securing building permits to develop each lot in compliance with Ch. 156 of this code of ordinances

and all other applicable laws, codes, rules and regulations in providing safe and efficient driveway access to buildings on such lots from the appropriate approved street.

(B) *Lot dimensions*. Lot dimensions shall comply with the minimum standards in Ch. 156 of this code of ordinances. The Commission may require that lots be arranged to allow further subdivision and the opening of future streets where they may be necessary to serve all such potential lots in compliance with Ch. 156 of this code of ordinances and these regulations. Generally, side lot lines shall be at right angles to the street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum front yard setback from both streets. Depth and width of properties reserved or laid out for business, commercial or industrial purposes shall be adequate to provide for all the off-street parking and loading facilities required for the type of use and development contemplated, as established in Ch. 156 of this code of ordinances.

(C) *Double frontage lots and access to lots*.

(1) *Double frontage lots*. Double frontage and reversed frontage lots shall be avoided, except where necessary to provide for the separation of residential development from the traffic on bordering arterials or to overcome specific disadvantages of topography and orientation affecting the subdivision lots.

(2) *Access from primary and secondary thoroughfares*. If the area proposed to be platted abuts upon or contains an existing or proposed primary or secondary thoroughfare, the street plan shall provide vehicular access to each lot abutting upon said thoroughfare by one of the following means:

(a) A parallel street providing frontage for lots backing onto, but separated from said thoroughfare right-of-way by a screen planting or buffer strip;

(b) A cul-de-sac, or series of cul-de-sacs, entered from a street paralleling said thoroughfare, with the terminal lots of the cul-de-sac backing onto the thoroughfare right-of-way and separated from said thoroughfare right-of-way by a screen planting or buffer strip;

(c) A marginal access street separated from said thoroughfare by a screen planting or buffer strip, access to the thoroughfare being provided at points suitably spaced; and

(d) Any other reasonable means necessary to control the number and location of intersections with such thoroughfare and provide adequate separation of through and local vehicular traffic.
(2004 Code, § 4-402)

§ 155.047 BLOCKS.

(A) The width of blocks shall be sufficient to allow two tiers of lots, except where reverse frontage on a primary thoroughfare is required.

(B) As a general principle, intersections with thoroughfares shall not exist at less than quarter mile intervals. Intersecting streets that determine block lengths shall be provided at such intervals as to conform to the Comprehensive Plan and Thoroughfare Plan and serve cross-traffic adequately. They also must relate logically to existing and proposed topographical and other conditions, produce reasonable grades and suitable sites for the uses proposed and create a desirable local subdivision plan consistent therewith.

(C) Where blocks are not arranged in the direction of natural pedestrian and traffic flow, a crosswalk or pedestrian way may be required near the center and entirely across the block to provide circulation or access to schools, playgrounds, shopping centers, transportation or other community facilities. Pedestrian ways required by the Commission shall be dedicated and paved to a width of at least five feet.
(2004 Code, § 4-403)

§ 155.048 EASEMENTS.

(A) All proposed plats submitted for Commission approval under the provisions of this chapter shall allocate areas of suitable size and location, wherever necessary, for utility easements. As a general principle, such easements shall be centered on rear or side lot lines and shall be at least eight feet wide on both sides of the property lines. Easements shall be continuous to the street at the end of the block to connect with adjoining blocks in the shortest direct line.

(B) If any stream or necessary surface drainage course is located in said area proposed to be platted, then adequate areas shall be allocated along the sides of such stream or surface drainage course for widening, deepening, sloping, improving or protecting said stream or surface drainage course. (See § 155.061 of this chapter.)
(2004 Code, § 4-404)

§ 155.049 BUILDING SETBACK LINES.

Building setback lines shall be regulated by the setback provisions of Ch. 156 of this code of ordinances applicable to said area proposed to be platted, with the exception that front building setback lines shall be as follows.

(A) *Expressway, arterial highway or primary thoroughfare.* No part of any structure (except an eave or cornice overhang four feet or less) shall be built closer than 50 feet from any right-of-way line of an

expressway or arterial highway or closer than 45 feet from any right-of-way line of a primary thoroughfare.

(B) *Secondary thoroughfare*. No part of any structure (except an eave or cornice overhang four feet or less) shall be built closer than 40 feet from any right-of-way line of any secondary thoroughfare.

(C) *Collector street*. No part of any structure (except an eave or cornice overhang four feet or less) shall be built closer than 35 feet from any right-of-way line of any collector street.

(D) *Local street, marginal access street or cul-de-sac*. No part of any structure (except an eave or cornice overhang four feet or less) shall be built closer than 25 feet from any right-of-way line of any local street, marginal access street or cul-de-sac.
(2004 Code, § 4-405)

§ 155.050 NON-RESIDENTIAL SUBDIVISION.

(A) *General*. If a proposed subdivision includes land that is zoned for commercial or industrial purposes, then the layout of the subdivision with respect to such land shall meet such special provisions as the Commission finds appropriate. A non-residential subdivision shall also be subject to all the requirements set forth in Ch. 156 of this code of ordinances, all the requirements of these regulations, as well as such additional standards required by the Commission. It shall also conform to the proposed land use and standards established in the Comprehensive Plan and Official Map. Exception: where lot lines are to be established incrementally, they need not be shown on the sketch plan or the preliminary plat for primary approval. All shopping centers and other non-residential subdivisions of buildings for lease shall be subject to the relevant provisions of this chapter.

(B) *Standards*. The applicant shall demonstrate to the satisfaction of the Commission that the street, parcel and block pattern proposed are appropriate for the uses anticipated and adequately take into account other uses nearby. The following principles and standards shall be observed.

(1) Proposed commercial or industrial parcels shall be of sufficient area and dimensions to the types of industrial development anticipated. Proposals for incremental lot by lot subdivision must be made clear in a statement on the plat that is satisfactory to the Commission.

(2) Street rights-of-way and pavement construction shall be adequate to accommodate the type and volume of traffic anticipated.

(3) Special requirements may be imposed by the Commission regarding street, curb, gutter and sidewalk design and construction.

(4) Special requirements may be imposed by the Commission with respect to the installation of public utilities, including water, sewer and storm water drainage and preprocessing of sewage. Special requirements may also be imposed regarding the storage and disposal of toxic materials.

(5) Every effort shall be made to protect adjacent residential areas from adverse affects from a proposed commercial or industrial subdivision, including extra depth of parcels adjacent to existing or potential residential development and permanently landscaped buffer strips where necessary.

(6) Streets carrying non-residential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.
(2004 Code, § 4-406)

§ 155.051 STREET DESIGN GENERALLY.

(A) The plan, arrangement, character, extent, width, grade and location of streets within and on the perimeter of a plat shall be logically related to the public convenience and safety and shall conform with the Comprehensive Plan and Thoroughfare Plan, and existing and proposed topographical and other conditions, to:

(1) Produce reasonable grades and suitable sites for the uses proposed;

(2) Serve vehicular and pedestrian traffic adequately and provide ease of circulation within, ingress to and egress from said proposed platted area; and

(3) Create a desirable local subdivision plan consistent with said proposed uses.

(B) Such street plan shall provide for logical extension, continuation or completion of all properly located existing streets, either constructed or appearing on any validly recorded plat or survey, or valid plat previously approved by the Commission.
(2004 Code, § 4-407)

§ 155.052 STREET RIGHT-OF-WAY.

All proposed plats submitted for Commission approval under the provisions of this chapter shall allocate adequate areas for streets. They shall be in conformity with the Comprehensive Plan and Thoroughfare Plan. They shall designate and label all such streets thereon according to the following definitions, specifications and requirements regarding platted width, right-of-way and control of access thereto.

(A) *Expressway*. Any street designated and labeled as an “expressway” shall be a divided arterial street designed, planned and intended for through vehicular traffic in conformance with the Comprehensive Plan and Thoroughfare Plan, with full and/or partial control of access thereto. Minimum width of right-of-way for an expressway shall be 120 feet where full control of access is contemplated or exercised. Minimum width shall be 165 feet where partial control of access is contemplated or exercised to permit access connections only at street intersections.

(B) *Primary thoroughfare*. Any street designated and labeled as a "primary thoroughfare" shall be an arterial street designed, planned and intended for through vehicular traffic in conformance with the Comprehensive Plan and Thoroughfare Plan with partial control of access thereto. As a general principle, primary thoroughfares shall be located at approximately one-mile intervals in a north-south, east-west grid pattern, except in congested areas where they may be located at more frequent intervals. Minimum width of right-of-way for primary thoroughfare shall be 90 feet. Partial control of access to a primary thoroughfare shall be exercised to permit access to each lot abutting thereon.

(C) *Secondary thoroughfare*. Any street designated and labeled as a "secondary thoroughfare" shall be designed, planned and intended to serve as a collector and distributor of through vehicular traffic. This shall be done in conformance with the Comprehensive Plan and Thoroughfare Plan from sections of land within the town to expressways, parkways and primary thoroughfares and vice versa, with partial control of access thereto. Minimum width of right-of-way for a secondary thoroughfare shall be 90 feet. Partial control of access to a primary thoroughfare shall be exercised to permit access to each lot abutting thereon. (Refer to "construction standards".)

(D) *Collector street*. Any street designated and labeled as a "collector street" shall be designed, planned and intended to serve as a collector and distributor of vehicular traffic in conformance with the Comprehensive Plan. Collector streets shall carry vehicular traffic to and from expressways, parkways, primary thoroughfares and secondary thoroughfares, with partial control of access thereto. Such streets shall include, but not be limited to, entrance streets of residential subdivisions. Minimum width of right-of-way for a collector street shall be 70 feet. Partial control of access to collector streets shall be exercised to permit access to each lot abutting thereon. (Refer to "construction standards".)

(E) *Local street*. Any street designated and labeled as a "local street" shall be designed, planned and intended to provide access to other streets from individual properties, in conformance with the Comprehensive Plan, primarily to provide access to lots abutting thereon, with partial control of access thereto. Minimum width of right-of-way for a local street shall be 50 feet in subdivisions designed for five dwelling units or less per acre of ground within the boundaries of the plat. Minimum width of right-of-way for a local street shall be 60 feet in subdivisions designed for more than five dwelling units per acre of ground within the boundaries of the plat or for commercial, industrial or other non-residential land uses. Partial control of access to local street shall be exercised to permit access to each lot abutting thereon. (Refer to "construction standards".)

(F) *Cul-de-sac*. Any street designated and labeled as a "cul-de-sac" shall be designed, planned and constructed with one end open to vehicular traffic from an expressway, parkway, primary thoroughfare, secondary thoroughfare, collector street or local street. The closed end thereof shall be permanently terminated by a vehicular turnaround, in conformance with the Comprehensive Plan, with partial control of access thereto. Minimum width of right-of-way for a cul-de-sac shall be 90 feet in subdivisions designed for five dwelling units or less per acre of ground within the boundaries of the plat. Minimum width or right-of-way for a cul-de-sac shall be 110 feet in subdivisions designed for more than five dwelling units per acre of ground within the boundaries of the plat. Minimum width of right-of-way for

a cul-de-sac in a commercial, industrial or other non-residential subdivision shall be 90 feet. Partial control of access to a cul-de-sac shall be exercised to permit access to each lot abutting thereon. (2004 Code, § 4-408)

§ 155.053 STREET DESIGN; MINIMUM STANDARDS.

All streets, as designated and labeled upon said proposed plat, shall be graded, constructed and surfaced in accordance with construction plans and specifications submitted by the applicant and approved as required by relevant sections of this chapter. (Refer to "construction standards".)

(A) *Minimum pavement width.*

(1) The minimum width of local street pavement, including gutters and curbs, shall be 28 feet measured from back to back of curbs. Gutters and curbs shall be constructed according to the requirements of this chapter.

(2) The minimum width of marginal access street pavement, including gutters and curbs shall be 24 feet.

(B) *Maximum grades.*

(1) The maximum grade of expressways and primary thoroughfares shall not exceed 3%.

(2) The maximum grade of secondary thoroughfares, parkways and collector streets shall not exceed 4%.

(3) The maximum grade for local streets, marginal access streets and cul-de-sacs shall not exceed 7%.

(C) *Minimum grades.*

(1) The minimum grade of concrete streets and gutters shall be 0.5%.

(2) The minimum grade for all other types of streets and gutters and for ditches shall be 0.8%.

(D) *Street alignment.*

(1) Profile grades for thoroughfares shall be connected by vertical curves of a minimum length equivalent to 20 times the algebraic difference between the rates of grade, expressed in feet per hundred. Profile grades for collector, local streets and cul-de-sacs, shall be 15 times the algebraic difference.

(2) The minimum radii of center curvature for streets shall be:

(a) Expressways and primary thoroughfares: 475 feet or 12 degrees;

(b) Secondary thoroughfares: 300 feet or 19 degrees;

(c) Collector streets, local streets, marginal access streets and cul-de-sacs: 125 feet or 46 degrees; and

(d) Streets shorter than 500 feet: 100 feet or 58 degrees.

(3) The minimum tangent between reversed curves shall be:

(a) Expressways, primary and secondary thoroughfare: 200 feet; and

(b) Collector streets, and as required by the Commission on all other streets: 100 feet.

(E) *Visibility requirements*.

(1) Minimum vertical visibility measured from four and one-half feet (eye level) to 18 inches (tail light) height, within traveled lanes shall be:

(a) Expressways, primary and secondary thoroughfares: 500 feet;

(b) Collector streets: 300 feet;

(c) Local streets, marginal access streets and cul-de-sacs: 200 feet; and

(d) Streets shorter than 500 feet: 100 feet.

(2) Minimum horizontal visibility measured on centerline shall be:

(a) Expressways, primary and secondary thoroughfares: 300 feet;

(b) Collector streets: 200 feet; and

(c) All other streets: 100 feet.

(F) *Intersections*.

(1) Street curbs shall be rounded by radii of sufficient length to permit smooth flow of traffic. Minimum allowable radius for street curbs will be 20 feet.

(2) Street intersections shall be as nearly at right angles as is possible, and no intersection shall be at an angle of less than 60 degrees.

(3) Street jogs with centerline offsets of less than 125 feet shall be permitted.

(G) *Site distances at intersections*. The following paragraph shall be required as a provision of the covenants of all final plats: no fence, wall, hedge or shrub planting, which obstructs sight lines at elevations between two and six feet above the street, shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting points 25 feet from the intersection of said street lines or, in the case of a rounded property corner, from the intersection of the street lines extended. The same sight line limitations shall apply to any lot within ten feet from the intersection of a street line with the edge of a driveway pavement or alley line. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

(H) *Special requirements for non-residential subdivisions*. Special requirements for non-residential subdivisions shall be as follows.

(1) Where streets are designed to serve industrial or commercial subdivisions or sites, or other developments requiring service by many heavy commercial vehicles, the minimum thicknesses will be appropriate for the anticipated traffic.

(2) Light industrial streets with heavy commercial vehicles in excess of 100 per day in any lane will be designed as collectors or secondary thoroughfares.

(3) Heavy industrial streets with heavy commercial vehicles in excess of 200 per day in any lane will be designed as secondary thoroughfares.

(4) Special pavement requirements in excess of minimum secondary thoroughfare design standards for heavy commercial vehicles in excess of 400 per day will be submitted by the applicant for approval of the Commission.

(5) ***HEAVY COMMERCIAL VEHICLES (HCV)*** are defined as two-axle, six-tired and heavier trucks.
(2004 Code, § 4-409)

§ 155.054 STREET CONSTRUCTION; MINIMUM STANDARDS.

(A) *General requirements*. Minimum requirements for street construction shall be according to the state's Department of Transportation *Standard Specifications*, current edition, hereafter referred to as the *Standard Specifications*, unless otherwise required by this chapter. Copies of said *Standard Specifications* are on file in the office of the town's Zoning Administrator.

(B) *Preparation of sub-grade for street pavements.*

(1) After all earth work is substantially complete and all drains installed, the sub-grade shall be brought to the lines and grades shown on the plans or as may be otherwise approved according to these standards. Such portions shall be known as "sub-grades".

(2) Unless otherwise provided, the upper six inches of all sub-grade shall be uniformly compacted to at least 95% standard density as determined by the provisions of AASHO, T99, Compaction and Density of Soils. During sub-grade preparation and after its completion, adequate drainage shall be provided at all times to prevent water from standing on the sub-grade. Sub-grades shall be so constructed that it will have nearly uniform density throughout. After compaction and final grading, the sub-grade shall be finished with a three-wheel roller weighing not less than ten tons. At areas not accessible to the roller, the required compaction shall be obtained with mechanical tamps or vibrators.

(3) All soft yielding or otherwise unsuitable material that will not compact properly shall be removed. All rock encountered shall either be removed or broken off to conform with the required cross section. Any holes or depressions resulting from the removal of such unsuitable material shall be filled with satisfactory material and compacted to conform with the surrounding sub-grade surface. No placement of pavement shall be permitted on uninspected or unapproved sub-grade and at no time when the sub-grade is frozen or muddy. No hauling shall be done nor equipment moved over the sub-grade when its condition is such that undue distortion results. If these conditions are present, the sub-grade shall be protected with adequate plank runways, mats or other satisfactory means if hauling is done thereon. The sub-grade shall be prepared sufficiently in advance to permit proper inspection so that the final elevation may be checked with a scratch inspection so that the final elevation may be checked with a scratch template and compaction checked. All utility excavations under the pavement shall be backfilled with Grade "B" borrow and construction shall conform to § 211 of the *Standard Specifications* or compacted thoroughly by other means. These locations shall be shown on the construction drawings as submitted to the Commission.

(C) *Rigid (plain concrete) pavement construction.*

(1) At the time of placement of the concrete, the subgrade shall be properly dampened just before the placement where it has become dry, where the surface has been removed by final grading or for any other reason it has not been properly dampened. Plain cement pavement shall be according to § 501 of the *Standard Specifications* or any subsequent amendments thereto.

(2) Materials shall comply with requirements of the *Standard Specifications*. Minimum cement content shall be six bags per cubic yard of concrete mixture. No cement reduction below the minimum shall be allowed for admixtures to increase workability or control setting time. Concrete shall be finished by machine or vibratory screed, except on widened portions, intersections or other places where hand finishing will be permitted.

(3) Weakened plane or dummy, transverse, contraction joints shall be placed not to exceed 20-foot spacing. Closer spacing to average 15 feet will be encouraged. Transverse contraction joints may either be formed or sawed dummy grove, ribbon or premolded strip type, and shall be one-fourth the pavement depth.

(4) When transverse joints are to be formed by sawing, care must be taken to saw the grooves soon after placing the concrete to prevent the formation of cracks due to contraction of the slab. All transverse joints shall be sawed within eight hours after the placing of the concrete unless authorization is given for sawing later. One of the above named joints shall be placed at every catch basin and manhole in line of pavement. The location of manholes and the like in the pavement shall determine the exact location of the joints. All joints shall extend throughout curbs to full width of pavement.

(5) Transverse expansion joints shall be placed at tee intersections and wherever else shown on the plans.

(6) Transverse joints will be formed by sawing or by constructing a slot or groove, as herein described, for dummy construction joints, or by a deformed key plate installed before the depositing of the concrete.

(7) Curing with white membrane curing compound AASHO Number type 2 - M - 14B shall be properly applied to give complete coverage.

(D) *Flexible pavement construction.*

(1) Pavement shall be constructed according to the requirements of § 401 of the *Standard Specifications*. Pavement shall be full depth hot asphaltic concrete unless otherwise approved by the Commission on the recommendation of the Town Engineer.

(2) Where the Commission allows collector streets or local streets to be constructed with compacted aggregate base, the base shall be placed on the prepared subgrade, compacted, primed and covered with binder before being contaminated by construction traffic.

(3) Materials and construction procedures shall comply with the requirements of §§ 303 and 403 of the *Standard Specifications*.
(2004 Code, § 4-410)

§ 155.055 CURBS AND GUTTERS.

(A) Curbs and gutters shall be constructed and installed along both sides of all streets within the boundaries of the plat (unless a waiver is granted by the Commission).

(B) They shall be labeled upon said proposed plat according to the satisfactory construction plans and specifications therefor submitted by the applicant and according to the following specifications and requirements.

(1) Materials shall comply with the requirements for Class A Concrete of the *Standard Specifications*, § 702. Construction methods shall be according to § 605 of the *Standard Specifications*.

(2) Slipforming will be permissible. Refer to "construction standards".
(2004 Code, § 4-411)

§ 155.056 SHOULDERS, SIDE SLOPES AND DITCHES.

(A) All shoulders, side slopes and ditches shall be prepared according to § 208 of the *Standard Specifications* or any subsequent amendments thereto, and construction plans required to be submitted by the applicant.

(B) All shoulders, side slopes and ditches shall be protected from erosion by either sodding or seeding. This shall be done as set forth in § 621 of said *Standards*, as shown on the erosion control plan. Said plan shall be a part of the required construction plans to be submitted by the applicant.

(C) Side slopes having a grade more than two to one shall be protected by hand-laid riprap according to § 616.02(c) of the *Standard Specifications*, or any subsequent amendments thereto, as required by construction plans to be submitted by the applicant.

(D) Ditches having a grade of 3%, 4% or 5% shall have a gutter consisting of sod, or if more than 5% shall have a gutter consisting of concrete or stone as shown on the construction plans to be submitted by the applicant.
(2004 Code, § 4-412)

§ 155.057 MONUMENTS AND MARKERS.

(A) Monuments shall be of stone, pre-cast concrete or concrete poured in place with minimum dimensions of either four inches square or four inches in diameter at the top by three feet in length. They shall be marked on top with a brass or copper dowel set flush with the top of the monument and deeply scored on top with a cross. Markers shall consist of galvanized iron pipes or steel bars at least 30 inches long and not less than five-eighths inch in diameter.

(B) Monuments and markers shall be placed so that the center of the bar, or marked point, shall coincide exactly with the intersection of lines to be marked. Further, it shall be set so that the top of the monument or marker is level with the finished grade.

(C) Monuments shall be installed at all quarter section points on the boundaries of or within the area proposed to be platted. They shall be placed as follows:

(1) At the intersections of all boundary lines of the proposed plat;

(2) At the beginning and end of all curves and points of tangency of the perimeter of said plat;

(3) At the intersections of all street centerlines upon said plat; and

(4) At such other points as are necessary to definitely established all major plat lines, except those describing individual lots.

(D) Markers shall be set at the beginning and ending of all curves along street property lines; at all points where lot lines intersect curves, either front or rear; at all angles in property lines of lots; and at all other lot corners not established by a monument.
(2004 Code, § 4-413)

§ 155.058 STREET SIGNS.

The applicant shall provide street signs to meet the following standards.

(A) At least one street sign shall be installed at each street intersection within or on the perimeter of the plat. The sign shall be located on the northeast corner thereof, whenever possible, and on the park strip, as hereinafter referred to in this chapter, between the street and sidewalk at a point approximately six inches from said sidewalk.

(B) Street signs shall be of aluminum, six inches by 24 inches. They shall be double faced with letters, four inches, of scotchlite or the equivalent. They shall be mounted upon a galvanized pipe post, ten feet in length and two inches inside diameter and approximately two and one-half inches outside diameter and shall be set in concrete to a depth of two and one-half feet. All street signs shall have a minimum height above finished grade of seven and one-half feet.
(2004 Code, § 4-414)

§ 155.059 CULVERTS.

(A) Culverts shall be constructed and installed wherever necessary, to provide adequate drainage, according to the satisfactory construction plans and specifications therefor submitted by the applicant.

(B) The location and size of driveway culverts shall be determined at the time of the improvement location permit application. However, the minimum size of such culverts shall be no less than 12 inches

and in no case less than that specified by the approved construction plans and specifications submitted by the applicant.
(2004 Code, § 4-415)

§ 155.060 SIDEWALKS.

(A) Sidewalks shall be constructed and installed along both sides of all streets within the boundaries of the plat (unless a waiver is granted by the Commission).

(B) They shall be labeled upon said proposed plat according to the approved construction plans and specifications therefor submitted by the applicant and according to the following specifications and requirements.

(1) Sidewalks shall be composed of portland cement concrete, shall have a minimum width of four feet, a minimum depth of four inches and shall otherwise conform to §§ 604 and 702 of the *Standard Specifications*, or any subsequent amendments thereto.

(2) The outside edge of sidewalks shall normally be placed one foot from the right-of-way line and the area between the sidewalk and curb or street pavement shall constitute a park strip.
(2004 Code, § 4-416)

§ 155.061 DRAINAGE AND STORM SEWERS.

(A) *General requirements.* The Commission shall not recommend for approval any subdivision plat that does not make adequate provision for storm or flood water run-off channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer system. Inlets shall be provided so that surface water is not carried across or around any intersection, nor for a distance of more than 600 feet in the gutter or when the encroachment of storm water into the street disrupts traffic. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point and catch basins or inlets shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for each lot and block.

(B) *Nature of storm water facilities.*

(1) *Location.* The applicant may be required by the commission to carry away by pipe or open ditch any spring or surface water that may exist, either previously to, or as result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual, unobstructed easements of appropriate width.

(2) *Accessibility to public storm sewers.*

(a) Where a public storm sewer is accessible, the applicant shall install storm sewer facilities. If there are no outlets within a reasonable distance, adequate provision shall be made for the disposal of storm water subject to the specifications of the Commission. However, in subdivisions containing lots of less than 14,000 square feet in area and in business and industrial districts, underground storm sewer systems shall be constructed throughout the subdivision and be connected to an approved outfall. Inspection of facilities shall be conducted by the town's appropriate officials.

(b) If a connection to a public storm sewer will be provided eventually, as determined by the Commission, the developer shall arrange for future storm water disposal by the public utility system at the time the plat receives final approval. Cost provision(s) for such connection(s) shall be incorporated by inclusion in the amount of the performance bond or equivalent required for the subdivision plat.

(3) *Accommodation of upstream drainage areas.* A culvert or other drainage facility shall in each case be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside the subdivision. The applicant with subsequent approval of the Commission shall determine the necessary size of the facility based on the provisions of the required Construction Standards assuming conditions of maximum potential watershed development permitted by Ch. 156 of this code of ordinances.

(4) *Effect on downstream drainage areas.* The Commission shall require the applicant to determine adequately the effect of each proposed subdivision on existing drainage facilities outside the area of the subdivision. Where it is anticipated that the additional run-off incident to the development of the subdivision will overload an existing downstream drainage facility, the Commission may withhold secondary approval of the subdivision until adequate provisions (such as a storage facility) have been made. No subdivision shall be approved unless adequate drainage from it will be provided to an adequate drainage watercourse or facility.

(5) *Areas of poor drainage.* Areas that are not in the floodplain, but contain soils which are subject to flooding may be approved for subdivision by the Commission. Such approval shall be given only if the applicant fills the affected areas of said subdivision to an elevation sufficient to place building sites and streets two feet above ponding levels.

(6) *Areas of high seasonal water tables.* In areas characterized by soils having a high seasonal water table as determined by the county's Soil and Water Conservation District, lots shall be limited to slab type construction unless the Commission determines that appropriate engineering techniques will be applied to alleviate the subsurface problem.

(7) *Floodway areas.* If a subdivision of land is proposed within the floodplain, floodways shall be preserved and not diminished in capacity by filling or obstruction, except as approved by the Natural Resources Commission in writing. No residential building site may be located within the floodway.

(8) *Floodway fringe areas.*

(a) Where a subdivision is proposed in an area of the floodplain designated as a floodway fringe, the Commission may approve such subdivision if the following conditions are met:

1. All lots for residential usage have a flood protection grade two feet above the regulatory flood elevation;

2. Where provided, water and sanitary sewer facilities are constructed to eliminate contamination of or by flood water; and

3. Approval to fill the area from the Natural Resources Commission has been obtained in writing.

(b) Lands below the regulatory flood elevation shall not be used for computing the area requirement for any lot.

(9) *Floodplain areas.*

(a) Where a subdivision is proposed within an area of the floodplain for which floodway and floodway fringe designations have not been made, the Commission shall not approve such a subdivision unless the following conditions are met:

1. All streets are raised sufficiently to be above the regulatory flood elevation;

2. All lots for residential usage have a flood protection grade of two feet above the regulatory flood elevation;

3. Where provided, public water and sanitary sewer facilities are constructed to eliminate contamination of or by flood water; and

4. Filling to achieve the above will not raise the level of the regulatory flood elevation more than one-tenth of one foot for that reach of the stream.

(b) All filling in the floodplain must be approved in writing by the state's Natural Resources Commission. Lands below the regulatory flood elevation shall not be used for computing the area requirement for any lot.

(10) *Recording of plats in the floodplain and floodway fringe.* All final plats, having within their boundary areas, any elevation of which is below that of the regulatory flood elevation shall show and label the regulatory flood boundary and elevation, as of the date the final plat is drawn. The final plat shall also include all areas of the floodway within a public utility and drainage easement.

(C) *Minimum design standards*. In designing a drainage system, the applicant shall be guided by the following minimum standards and requirements.

(1) Storm street inlets placed in a low point shall be sized to accept a ten-year storm volume with 50% of the inlet clogged and no more than one foot of water pooling above the inlet.

(2) Storm swale inlets shall be sized to accept a ten-year storm volume with 50% of the inlet clogged and no more than one foot of water pooling above the inlet.

(3) The storm detention design shall outlet storm water at a two-year pre-developed rainfall event rate for a ten-year post developed storm. Also, the 100-year post developed storm shall be limited to the ten-year pre-developed outlet rate.

(4) Storm pipes shall be reinforced concrete, Class III, with type B wall thickness. The minimum pipe size shall be 12 inches in diameter. The minimum pipe flow velocity shall be two and one-half feet per second.

(5) Drainage swales with longitudinal slopes flatter than 1% shall have a six-inch thick reinforced concrete swale, a width (minimum three feet) and shape as approved by the town's consultant. Alternative type swale treatments shall be subject to approval of the town's consultant.

(6) Exposed ends of storm pipes shall have six-inch thick reinforced concrete slope walls. Pre-cast reinforced concrete end sections are a permitted alternative.

(7) All streets shall be provided with an adequate storm drainage system consisting of curbs, gutters and storm sewers, or ditches and culverts, as determined by the Commission. A six-inch perforated tile shall be placed on each side of all streets and:

(a) Be two feet below the soil subgrade and parallel with the longitudinal pavement grade;

(b) Flow to the low point and into the storm drainage system;

(c) Be placed below pavement at the inside face of the curbing; and

(d) Be backfilled with #8 washed gravel.

(8) Inlets in streets shall be placed a maximum of 600 feet apart, or 600 feet from the high point in the street.

(9) Downspouts and sump pump outlets shall discharge onto grass surface no closer to the street than the building setback line.

(10) The on-site drainage system shall be designed and sized to handle a minimum of a ten-year rainfall event. The developer is responsible for analyzing the ponding and results of a 100-year rainfall event and establishing flood protection grade for all structures and verifying and adequate outlet for the 100-year storm.

(11) Detention design shall adhere to current soil conservation service methods for drainage. The rational method is acceptable for pipe design only.

(12) Wet detention ponds shall have a minimum six-foot wide safety ledge placed below water level at a maximum water depth of 30 inches. Also, wet detention ponds shall have at least 25% of the pond surface with a minimum water depth of eight feet.

(13) Pre-developed run-off rates shall be based on pasture, meadow, brush or woods ground cover type. Any existing farm ground will be based on the pasture condition.

(14) Any dry detention facilities must be designed with sub-surface drainage.

(15) Whenever evidence available to the Commission indicates natural surface drainage to be inadequate, the applicant shall provide an adequate storm water sewer system. When the surface drainage is adequate, easements for such surface drainage shall be provided.

(D) *Erosion control.* When vegetation has been removed from a slope and the possibility of soil erosion occurs, the applicant and subsequent building contractors shall be required to seed or otherwise prevent damage to adjacent property or accumulation on street surfaces. These erosion control measures shall be according to standards and specifications on file with county's Soil and Water Conservation District.

(E) *Alteration of swales and ditches.* Drainage swales or ditches along dedicated roadways and within rights-of-way, or on easements dedicated to the town are not to be altered in any way without written permission from the town. Driveways may be constructed over these swales or ditches only when appropriate sized culverts or other approved structures have been permitted by the Commission. Swales on private property shall be regulated by covenants.

(F) *Dedication of drainage easements.*

(1) *General requirements.* If a subdivision is traversed by a drainage course, drainage way, channel or stream, then a storm water easement or drainage right-of-way shall be provided. Such easement or right-of-way shall conform substantially to the lines of such watercourse, and be of such width and construction or both as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.

(2) *Drainage easements.*

(a) Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within street rights-of-way, perpetual unobstructed easements at least 15 feet in width for such drainage facilities shall be provided across property outside the right-of-way lines and with satisfactory access to the street. Easements shall be indicated on the plat. Drainage easements shall be carried from the street to a natural watercourse or to other drainage facilities.

(b) The applicant shall dedicate either in fee or by drainage or conservation easement, the land on both sides of existing watercourses of a width to be determined by the Commission and the county's Drainage Board in the case of legal drains.

(c) When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.

(d) Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether included in areas for dedication, shall be preserved and retained in their natural state as drainage ways. Such land or lands subject to periodic flooding shall not be included in the computations for determining the number of lots allowable under average density procedures nor for computing the area requirement for any individual lot.
(2004 Code, § 4-417)

§ 155.062 WATER FACILITIES.

(A) *General requirements.*

(1) The applicant shall install adequate water facilities (including fire hydrants) subject to the specifications of the state and the town. All water mains shall be at least eight inches in diameter.

(2) Water main extensions shall be approved by the Commission or its officially designated representative.

(3) To facilitate the above, the location of all fire hydrants, water supply improvements and the boundary lines of proposed subdivision, indicating all improvements proposed to be served, shall be shown on the preliminary plat. The cost of installing the aforementioned shall be included in the performance bond to be furnished by the applicant.

(4) The design of all water facilities shall conform to or exceed the standards described in the latest edition of *Recommended Standards for Water Works*, as published by Health Education Service, Inc., Albany, New York.

(B) *Fire hydrants*. Hydrants should be provided at each street intersection and at intermediate points between intersections as recommended by the state's Insurance Services Office and the town's Fire Department. Generally, hydrant spacing may range from 350 to 600 feet depending on the area being served.
(2004 Code, § 4-418)

§ 155.063 SEWERAGE FACILITIES.

(A) *General requirements*. The applicant shall install sanitary sewer facilities in a manner prescribed by the town's construction standards. All plans shall be designed according to the rules, regulations and standards of the town's applicable ordinances and other appropriate state and federal agencies. In any case, the design shall meet or exceed the minimum standards described in the latest edition of *Recommended Standards for Sewage Works*, as published by the Health Education Service, Albany, New York. Plans shall be approved by the above agencies where required by those agencies.

(B) *Sanitary sewerage system requirements*. Where provided, sanitary sewerage facilities shall connect with public sanitary sewerage systems, and shall be installed to serve each lot and to grades and sizes required by the town's approving officials. Sanitary sewerage facilities (including the installation of laterals in the right-of-way) shall be subject to the specifications, rules, regulations and guidelines of the town's Sewer Use Ordinance and the state's Department of Environmental Management.

(C) *Selected design criteria*.

(1) *Alignment*. All sewers shall be laid with a straight alignment between manholes, unless otherwise directed or approved by the Commission or its designated representative.

(2) *Manhole location*. Manholes shall be installed at the end of each line and at distances not greater than 400 feet for sewers eight inches in diameter and larger.

(3) *Manholes*. The difference in elevation between any incoming sewer and the manhole invert shall not exceed 12 inches where required to match crowns. The use of drop manholes will require approval by the Commission. The minimum inside diameter of the manholes shall be 48 inches; larger diameters are preferable for large diameter sewers. A minimum access diameter of 22 inches shall be provided. Inside drop manholes will require special consideration; however, in no case shall the minimum clear distance be less than that indicated above. The relationships between intersecting sewer lines shall meet the standards required by the *Recommended Standards for Sewage Works*.

(4) *Sewerage locations*. Sanitary sewers shall be located within street or alley rights-of-way unless topography dictates otherwise. When located in easements on private property, access to all manholes shall be provided. Where sewer lines in private easements cross public rights-of-way, a manhole shall be provided in such rights-of-way where possible. Imposed loading shall be considered at all manhole locations. Not less than six feet of cover shall be provided over top of pipe in street and alley rights-of-way and three feet in all other areas.

(5) *Clean outs*. Cleanouts will be permitted only for special conditions and shall not be substituted for manholes, nor installed at the end of laterals greater than 150 feet.

(6) *Water supply interconnections*. There shall be no physical connection between a potable water supply system (public or private) and a sewer that will permit the passage of any sewage or polluted water into the potable water system. Sewers shall be kept removed from water supply wells or other water supply sources and structures.

(7) *Relation of sewers to water mains*. A minimum horizontal distance of ten feet shall be maintained between parallel water and sewer lines. At points where sewers cross water mains, the sewer shall be constructed of cast iron pipe or encased in concrete for a distance of ten feet in each direction from the crossing, measured perpendicular to the water line. This will not be required when the water line is at least two feet above the sewer line.
(2004 Code, § 4-419)

§ 155.064 UTILITIES.

(A) All utility lines, including, but not limited to, gas, electric power, telephone and CATV cables shall be located underground throughout the subdivision. Wherever existing lines are located above ground, except on public roads and rights-of-way, they shall be removed and placed underground. All utility lines and other facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat or sketch plan in the case of a minor subdivision. Underground service connections to the street property line of each platted lot shall be installed at the applicant's expense.

(B) At the discretion of the Commission, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership intended to be developed for the same primary use.
(2004 Code, § 4-420)

§ 155.065 NATURAL FEATURES AND AMENITIES; PRESERVATION.

(A) *General*. Existing features that would add value to the type of intended development or to the town as a whole, such as trees, as herein defined, watercourses and falls, historic spots and similar irreplaceable assets, shall be preserved in the design of the subdivision. No trees shall be removed from any subdivision, nor any change of grade of the land affected until primary approval of the preliminary plat has been granted. All trees on the plat that are required to be retained shall be preserved, and all trees, where required, shall be welled and protected against change of grade. The sketch plan shall show the number and location of existing trees, as required by these regulations. It shall further indicate all those marked for retention, and the location of all proposed shade trees required along the street side(s) of each lot as required by these regulations.

(B) *Shade trees planted by developer.*

(1) As a requirement for subdivision secondary approval, the applicant shall plant trees on the property of the subdivision. Such trees are to be planted within five feet of the right-of-way of the street or streets within and abutting the subdivision, or at the discretion of the Commission and the County Engineer within the right-of-way of such streets. One tree shall be planted for every 40 feet of frontage along each street unless the Commission shall grant a waiver. Such waiver shall be granted only if there are existing trees growing along such a right-of-way or on the abutting property which, in the opinion of the Commission, comply with these regulations.

(2) New trees to be provided pursuant to these regulations shall be approved by the Commission and shall be planted according to regulations set out by the Commission. Such trees shall have a minimum trunk diameter (measured 12 inches above ground level) of not less than two inches. Only Oak, Little Leaf Linden, Sweet Gum, Hard Maple and Mountain Ash, or other long-lived shade trees acceptable to the Commission, shall be planted.
(2004 Code, § 4-421)

COMPLETION OF IMPROVEMENTS

§ 155.080 IMPROVEMENT AND PERFORMANCE BOND.

(A) *Completion of improvements.* Before the plat is signed by the designated officials, all applicants shall be required to complete, in accordance with the Commission's decision and to the satisfaction of the Administrator, all the streets, sanitary and other public improvements including lot improvements on the individual lots of the subdivision as required in this chapter, specified in the approved construction plans and on the final subdivision plat, and as approved by the Commission and to dedicate the public improvements to the town, free and clear of all liens and encumbrances.

(B) *Performance bond.*

(1) The Commission at its discretion may waive the requirement that the applicant complete all public improvements prior to the approval of the final subdivision plat. In lieu thereof, the applicant shall post a bond in favor of the town, hereinafter referred to as a "performance bond", in an amount equivalent to 110% of the estimated cost of completion of the required public improvements to secure to the town the satisfactory construction and installation of the uncompleted portion of required public improvements, as provided for in §§ 155.032 and 155.033 of this chapter.

(2) Such performance bond shall comply with all statutory requirements and shall be satisfactory to the Commission's Attorney as to form, sufficiency and manner of execution. The period within which required public improvements must be completed shall be specified by the Commission in the primary approval of the preliminary plat and shall be incorporated into the bond and shall not in any

event exceed two years from date of secondary approval. Such bond shall be approved by the Commission as to amount. The Commission may upon proof of difficulty, grant an extension of the completion date set forth in such bond for a maximum period of one additional year; provided that, the bond submitted for this extension period meets all other requirements herein. The Commission may accept, at any time during the period of such bond, a substitution of principal or sureties on the bond.

(3) In place of such a bond, the applicant may submit a certified check payable to the town in an amount equivalent to 110% of the estimated cost of completion of the uncompleted portion of required public improvements. Any such check shall be held by the Clerk-Treasurer.

(4) In place of such a bond, the applicant may submit irrevocable letters of credit on behalf of the applicant and in favor of the town in an amount equivalent to 110% of the estimated cost of completion of the uncompleted portion of required public improvements. In the event an irrevocable letter of credit is used, it shall be written for a maximum length of two years. Two months prior to the expiration of the letter of credit, the Commission shall determine if the public improvements have been accepted for maintenance by the town. If they have not been accepted, the Commission shall:

(a) Notify the applicant of intent to secure the funds pledged by such letter of credit; or

(b) At the discretion of the Commission, grant an extension for such period fixed by the Commission not to exceed one year, in which event the applicant shall file with the Commission a new letter of credit for the period so fixed.

(5) In place of such a bond, the applicant may submit a certificate of deposit in an amount equivalent to 110% of the cost of completion of required public improvements. Such certificate shall be made out to either the town and/or the applicant and shall be held by the Clerk-Treasurer. If the applicant is named singly or jointly on such certificate, then the applicant must endorse it before submitting it to the Commission so that the town may secure the funds.

(C) *Temporary public improvements*. The applicant shall build and pay for all costs of temporary public improvements required by the Commission and shall maintain the aforementioned for the period specified by the Commission. Before construction of any temporary public facility or improvement, the applicant shall file with the Commission a separate suitable bond for temporary facilities. Such bond shall ensure that the temporary facilities will be properly constructed, maintained and removed.

(D) *Cost of public improvements*. All required public improvements shall be made by the applicant at his or her expense without reimbursement, unless sharing of expenses is agreed upon by the town.

(E) *Governmental units*. Governmental units to which these bond provisions apply may file in place of said bond a certified resolution or ordinance from officers or agencies authorized to act in their behalf, agreeing to comply with the provisions of this section.

(F) *Failure to complete public improvements*. For subdivisions for which no performance bond has been posted, if the public improvements are not completed within the period specified by the Commission, the approval shall be deemed to have expired. In those cases where a performance bond has been posted and the required public improvements have not been installed within the terms of such performance bond, the town may declare the bond to be in default and cause all public improvements to be installed according to the secondary approval regardless of the progress of development at the time the bond is declared to be in default.

(G) *Acceptance of dedication offers*.

(1) The approval by the Commission of a subdivision plat shall not be deemed to constitute or imply the acceptance by the town of any street, easement or other improvement shown on said plat.

(2) The Commission may require said plat to be endorsed with appropriate notes to this effect.

(3) The acceptance is that of only the real property itself.
(2004 Code, § 4-501)

§ 155.081 INSPECTION OF PUBLIC IMPROVEMENTS.

(A) *General procedure*. If the Administrator finds, upon inspection in §§ 155.032 and 155.033 of this chapter, that any of the improvements have not been constructed according to the approved construction plans, the applicant shall be responsible for completing the public improvements according to such plans. Where the cost of the public improvements is covered by a performance bond, the applicant and the bonding company shall be severally and jointly liable for completing the public improvements according to the approved plans.

(B) *Release or reduction of performance bond certificate of satisfactory completion*.

(1) The town shall not accept required public improvements, nor the Commission release nor reduce a performance bond, until the town has submitted a certificate stating that all required public improvements or a pro rata part in the case of a reduction have been satisfactorily completed. The applicant's engineer or surveyor shall provide the town with detailed "as built" construction plans of the public improvements, indicating location, dimensions, materials and other information required by the Commission.

(2) Upon such certification, the town shall thereafter accept the public improvements for maintenance according to the established procedures.
(2004 Code, § 4-502)

§ 155.082 MAINTENANCE OF PUBLIC IMPROVEMENTS.

(A) The applicant shall be required to maintain all public improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks (where required) until acceptance of said public improvements by the town.

(B) (1) Before pubic improvements can be accepted, the applicant shall be required to file a maintenance bond with the Commission.

(2) The amount of such bond shall be 25% of the cost of all public improvements.

(3) The bond shall be in a form satisfactory to the Commission's Attorney, to assure the satisfactory condition of the required public improvements, for three years after the date of their acceptance by the town.
(2004 Code, § 4-503)

§ 155.083 WAIVER OF REQUIRED PUBLIC IMPROVEMENTS.

(A) The Commission may defer or waive at the time of primary approval, subject to appropriate conditions, the provision of any or all such public improvements.

(B) Such deferral or waiver may occur if, in the Commission's judgment, such improvements are not required in the interest of the public health, safety and general welfare, or are inappropriate because of inadequacy or lack of connecting facilities.
(2004 Code, § 4-504)

§ 155.084 ISSUANCE OF BUILDING PERMITS.

No building permit shall be issued for the last 10% of lots in a final subdivision plat or section thereof, or if 10% be less than two, for the last two lots of a subdivision or section thereof, until all public improvements required by the Commission for the plat with the exception of sidewalks have been fully completed and accepted for maintenance by the town.
(2004 Code, § 4-505)

DOCUMENTATION

§ 155.095 SKETCH PLAN.

Sketch plans submitted to the Commission, prepared in pen or pencil, shall be drawn to a convenient scale of not more than 100 feet to an inch and shall show the following information:

(A) *Name*.

(1) Name of subdivision if property is within an existing subdivision;

(2) Proposed name (if not within a previously platted subdivision). The proposed name shall not duplicate the name of any subdivision plat previously recorded; and

(3) Name of property if no subdivision name has been chosen. (This is commonly the name by which the property is locally known.)

(B) *Ownership*.

(1) Name and address, including telephone number, of legal owner or agent of property, and citation of last instrument conveying title to each parcel of property involved in the proposed subdivision, giving grantor, grantee, date and land records reference;

(2) Citation of any existing legal rights-of-way or easements affecting the property;

(3) Existing covenants on the property, if any; and

(4) Name and address, including telephone number, of the professional person(s) responsible for subdivision design, for the design of the public improvements, and surveys.

(C) *Description*. Location of property, name of local jurisdiction, lot, section, township, range, county, graphic scale, north arrow and date;

(D) *Features*.

(1) Location of property lines, existing easements, burial grounds, railroad rights-of-way, watercourses and existing wooded areas or trees eight inches or more in diameter, measured four feet above ground level; location, width and names of all existing or platted streets or other public ways within or immediately adjacent to the tract, names of adjoining property owners (from the latest assessment rolls) within 300 feet of any perimeter boundary of the subdivision;

(2) Location, sizes, elevations and slopes of existing sewers, water mains, culverts and other underground structures within the tract and immediately adjacent thereto; existing permanent buildings and utility poles on or immediately adjacent to the site and utility rights-of-way;

(3) Approximate topography, at the same scale as the sketch plan (normally showing two-foot contour intervals, but the Administrator may require one-foot intervals on very flat land or permit five-foot intervals on very steep slopes);

(4) The approximate location and widths of proposed streets;

(5) Preliminary proposals for connection with existing water supply and sanitary sewage systems, or alternative means of providing water supply and sanitary waste treatment and disposal; preliminary provisions for collecting and discharging surface water drainage;

(6) The approximate location, dimensions and areas of all proposed or existing lots;

(7) The approximate location, dimensions and areas of all parcels of land proposed to be set aside for park or playground use or other public use, or for the use of property owners in the proposed subdivision;

(8) The location of temporary stakes to enable the commission to find and appraise features of the sketch plan in the field;

(9) Whenever the sketch plan covers only a part of an applicant's contiguous holdings, the applicant shall submit a sketch in pen or pencil of the proposed subdivision area. The sketch shall show the proposed street system, and an indication of the probable future street and drainage system of the remaining portion of the tract. Such sketch shall be at the scale of no more than 200 feet to the inch; and

(10) A vicinity map showing streets and other general development of the surrounding area. The sketch plan shall show all school and improvement district lines with the zones properly designated. (2004 Code, § 4-601)

§ 155.096 PRELIMINARY PLAT.

(A) *General.* The preliminary plat shall be prepared by a licensed land surveyor. It shall be done at a convenient scale of not more than 100 feet to the inch. It may be prepared in pen or pencil and the sheets shall be numbered in sequence if more than one sheet is used. It shall be of such size as is acceptable for filing in the office of the County Recorder, but shall not be larger than 24 inches by 36 inches. It should be noted that the map prepared for the preliminary plat may also be used for the final subdivision plat and, therefore, should be drawn on tracing cloth or reproducible Mylar; preparation in pencil will make required changes and additions easier.

(B) *Features*. The preliminary plat shall show the following:

(1) The location of the property with respect to surrounding property and streets, the names of all adjoining property owners of record, or the names of adjoining developments, and the names of adjoining streets;

(2) The location and dimensions of all boundary lines of the property to be expressed in feet and decimals of a foot;

(3) The location of existing streets, easements, water bodies, streams, and other pertinent features such as swamps, floodplains, railroads, buildings, parks, cemeteries, drainage ditches and bridges;

(4) The location and width of all existing and proposed streets, alleys and other public ways, and their rights-of-way, and of easements and building setback lines;

(5) The locations, dimensions and areas of all proposed or existing lots;

(6) The location and dimensions of all property proposed to be set aside for park or playground use, or other public or private reservation, with designation of the purpose thereof, and conditions, if any, of the dedication or reservation;

(7) The name and address of the owner or owners of land to be subdivided, the name and address of the applicant if other than the owner, and the name of the land surveyor;

(8) The date of the map, approximate true north point, scale and title of the subdivision;

(9) Sufficient data acceptable to the Administrator to determine readily the location, bearing and length of all lines, and to reproduce such lines upon the ground; also the location of all proposed monuments;

(10) Names of the subdivision and all new streets to be approved by the Commission;

(11) Indication of the use of any lot (single-family, two-family, multi-family, townhouse) and all uses other than residential proposed by the applicant;

(12) Blocks shall be consecutively numbered or lettered in alphabetical order. The blocks in numbered additions to subdivisions bearing the same name shall be numbered or lettered consecutively throughout the several additions;

(13) All lots in each block shall be consecutively numbered. Outlets shall be lettered in alphabetical order. If blocks are numbered or lettered, outlets shall be lettered in alphabetical order within each block; and

(14) All information required on the sketch plan should also be shown on the preliminary plat, and the following notation shall also be shown:

(a) Explanation of drainage easements, if any;

(b) Explanation of site easements, if any;

(c) Explanation of site reservations, if any; and

(d) Endorsement of owner, as follows:

1. Owner; and

2. Date.

(2004 Code, § 4-602)

§ 155.097 CONSTRUCTION PLANS.

(A) General construction plans shall be prepared for all required improvements. Plans shall be drawn at a scale of no more than one inch equals 50 feet, and map sheets shall be of the some size as the preliminary plat.

(B) The following shall be shown:

(1) Profiles showing existing and proposed elevations along centerlines of all streets. Where a proposed street intersects an existing street or streets, the elevation along the centerline of the existing street or streets within 100 feet of the intersection, shall be shown. Approximate radii of all curves, lengths of tangents and central angles on all streets;

(2) Where steep slopes exist, the Commission may require that cross-sections of all proposed streets at 100-foot stations shall be shown at a minimum of five points as follows: on a line at right angles to the centerline of the street, and said elevation points shall be at the centerline of the street, each property line, and points 25 feet inside each property line;

(3) Plans and profiles placed on separate sheets according to number below showing:

(a) (Sheet #1) - the locations and typical cross-section of street pavements including curbs and gutters, sidewalks, drainage easements, servitude, rights-of-way, manholes and catch basins;

(b) (Sheet #2) - the locations of street trees, street lighting standards and street signs;

(c) (Sheet #3) - the location, size and invert elevations of existing and proposed sanitary sewers, and storm water drains, showing connection to any existing or proposed utility system; and

(d) (Sheet #4) - the exact location and size of all water, gas or other underground utilities or structures and fire hydrants.

(4) Location, size elevation and other appropriate description of any existing facilities or utilities. Such facilities shall include, without limitation, existing streets, sewers, drains, water mains, easements, water bodies, streams, floodplains and other pertinent features such as swamps, railroads, buildings, features noted on the Official Map or Comprehensive Plan, at the point of connection to proposed facilities and utilities within the subdivision, and each tree with a diameter of eight inches or more, measured four feet above ground level, the water elevations of adjoining lakes or streams at the date of the survey, and the approximate high-low water elevations of such lakes or streams. All elevations shall be referred to the U.S.G.S. datum plane. If the subdivision borders a lake, river or stream, the distances and bearings of a meander line established not less than 20 feet back from the ordinary high-water mark of such waterways;

(5) Topography at the same scale as the sketch plan with a contour interval of two feet, referred to sea-level datum. All datum provided shall be the latest applicable U.S. Coast and Geodetic Survey datum and should be so noted on the plat;

(6) All specifications and references required by the town's construction standards, including a site-grading plan for the entire subdivision;

(7) Notation of approval as follows:

(a) Owner and date; and

(b) Plan Commission Chairperson and date.

(8) Title, name, address and signature of the professional engineer and/or surveyor, and date, including revision dates.
(2004 Code, § 4-603)

§ 155.098 FINAL SUBDIVISION PLAT.

(A) *General.* The final subdivision plat shall be presented in India ink on tracing cloth or reproducible Mylar at an appropriate scale and contain the same information, except for any changes or additions required by the conditions of primary approval. The preliminary plat may be used as the final plat if it meets these requirements and is revised according to the Commission's approval. All revision dates must be shown as well as the following:

(1) Notation of any self-imposed restrictions, and locations of any building lines proposed to be established in this manner, if required by the Commission according to these regulations; and

(2) All monuments erected, corners and other points to be made shall be noted at the representation thereof or by legend. Metal monuments shall indicate the kind of metal, the diameter, length and weight per lineal foot of the monuments.

(B) *Preparation*. The final subdivision plat shall be prepared by a land surveyor licensed by the state.
(2004 Code, § 4-604)

§ 155.099 EXEMPT DIVISIONS.

(A) The information that must be provided in order for the decision to be made that a division is an exempt division varies as follows according to the definition for each type of exempt division listed under exempt division in § 155.015 of this chapter.

(B) Thus:

(1) For Type "1" divisions, a metes and bounds legal description of the exempt division and the land from which it is being divided must be provided;

(2) For Type "2" divisions, the old legal and new legal descriptions must be provided;

(3) For Type "3" divisions, a copy of the court decree showing by legal description how the land is to be divided must be provided;

(4) For Type "4" divisions, a legal description and plot plan showing the parcel and the location of the street right-of-way or easement must be provided;

(5) For Type "5" divisions, a legal description and plot plan showing the tract to be divided and the tract (s) to be added must be provided; and

(6) For Type "6" divisions, a plat of the cemetery showing the layout of the private drives, parking areas and size of burial lots must be provided.
(2004 Code, § 4-605)

§ 155.999 PENALTY.

Any person who violates a provision of this chapter, or any regulations herein contained, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than $25, and not more than $2,500, for each day's violation.
(2004 Code, § 4-113)

CHAPTER 156: ZONING

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GENERAL PROVISIONS

§ 156.001 TITLE.

This chapter shall be known and may be cited as the "Zoning Ordinance of the Town of New Whiteland, Indiana".
(2004 Code, § 1-100)

§ 156.002 PURPOSE.

The purpose of this chapter is to provide a Zoning Ordinance for the town and providing for the administration, enforcement and amendment thereof in accordance with the provisions of I.C. 36-7-4 et seq. and for the repeal of all ordinances in conflict herewith.
(2004 Code, § 1-200)

§ 156.003 DECLARATION OF NECESSITY.

This chapter is deemed necessary by the Town Council in order:

(A) To preserve, promote and protect the public health, safety, comfort, morals, convenience and general welfare of the town;

(B) To provide for adequate light, air and privacy, to secure safety from fire, flood and other danger, and to prevent overcrowding of the land and undue congestion of population;

(C) To protect the character and the social and economic stability of all parts of the town and to encourage the orderly and beneficial development of all parts of the town;

(D) To protect and conserve the value of land throughout the town and the value of buildings and improvements upon the land and to minimize the conflicts among the use of land and buildings;

(E) To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation and other public improvements and facilities;

(F) To prevent the pollution of air, streams and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and management of natural resources throughout the town in order to preserve the integrity, stability and beauty of the community and the value of land; and

(G) To preserve the natural beauty and topography of the town and to ensure appropriate development with regard to these natural features.
(2004 Code, § 1-300)

§ 156.004 AUTHORITY.

This chapter is adopted pursuant to I.C. 36-7-4 et seq., as added by Pub. Law No. 309, Acts of 1981 of the General Assembly of Indiana, and all acts supplemental and amendatory thereto.
(2004 Code, § 1-400)

§ 156.005 COMPLIANCE.

No structure shall be located, erected, constructed, reconstructed, moved, converted or enlarged; nor shall any structure or land be used or designed to be used, except in full compliance with all provisions of this chapter and after lawful issuance of permits required by this chapter.
(2004 Code, § 1-500) Penalty, see § 156.999

§ 156.006 SEVERABILITY.

If any provision of this chapter or application of any provision to particular circumstances is held invalid, the remainder of the chapter or the application of such provision to other circumstances shall not be affected.
(2004 Code, § 1-600)

§ 156.007 APPLICATION.

The provisions of this chapter shall be interpreted and applied as minimum requirements. Whenever the requirements of this chapter are at variance or in any way conflict with other lawfully adopted rules, regulations, ordinances or restrictions, the most restrictive requirements or the higher standards shall govern.
(2004 Code, § 1-700)

§ 156.008 REPEAL OF CONFLICTING ORDINANCES; EFFECTIVE DATE.

All previously enacted zoning ordinances of the town are hereby repealed. This chapter became effective on 11-21-1989 consistent with the resolution of the Town Council duly adopted on 11-21-1989.
(2004 Code, § 1-800)

§ 156.009 DEFINITIONS.

(A) *Application and interpretation.*

(1) For the purpose of this chapter, certain numbers, abbreviations, terms, words and phrases shall be used, interpreted and defined as set forth in this section. Whenever any words and phrases are not defined within this section, but are defined in I.C. 36-7-4 et seq. and in any acts supplemental or amendatory thereto, the state statutory definition shall be deemed to apply.

(2) The following words and phrases used herein shall be interpreted as follows.

(a) The word “person” shall include an individual, firm, association, organization, partnership, trust, company, corporation or any other legal entity.

(b) The masculine shall include the feminine.

(c) The present tense shall include the past and future tense.

(d) The singular number shall include the plural and the plural shall include the singular.

(e) The word "shall" is a mandatory requirement; the word "may" is a permissive requirement; and the word "should" is a preferred requirement.

(f) The words "used" or "occupied" shall include the words "intended, arranged or designed to be used or occupied".
(2004 Code, § 2-100)

(B) *Words and phrases defined*. For the purpose of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning. Any words not defined in this section shall be construed in their generally accepted meanings as defined in a recent edition of a dictionary of the English Language.

ACCESSORY BUILDING AND USE.

(a) A structure or use which:

1. Is clearly incidental to and customarily found in connection with a principal building or use;

2. Is subordinate to and serves a principal building or a principal use;

3. Is subordinate in area, extent or purpose to the principal building or principal use served;

4. Contribute to the comfort, convenience or necessity of occupants, business or industry in the principal building or principal use served; and

5. Is located on the same lot as the principal building or use served.

(b) Where an ***ACCESSORY BUILDING*** is attached to a principal building by means of a wall or roof assembly, such ***ACCESSORY BUILDING*** shall be considered a part of the principal building.

ALLEY. A minor right-of-way, dedicated to public use, which affords a secondary means of vehicular access to the back or side properties otherwise abutting a street, and which may be used for public utility purposes.

ALTERATION. As applied to a building or structure, means any change or rearrangement in the structural parts or in the exit facilities; or an enlargement, whether by extending outward from a side or sides, or by increasing in height; or the moving from one location or position to another.

APARTMENT. A building or portion thereof arranged, intended or designed to be occupied by three or more families living independently of each other.

APARTMENT, TOWNHOUSE. An apartment building located on a lot either alone or together with similar apartment buildings, which does not exceed three and one-half stories and has private entrances to each dwelling unit.

AUTOMOBILE REPAIR. The repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, painting and steam cleaning of vehicles.

AUTOMOBILE WASHING. An activity conducted for the purpose of cleaning automobiles, whether performed automatically, semiautomatically or manually.

AUTOMOBILE, TRAVEL TRAILER OR MOBILE HOME SALES. An open area other than a street used for the display, sale or rental of new or used automobiles, travel trailers or mobile homes. No repair work is done, except minor incidental repair of automobiles, travel trailers or mobile homes to be displayed or sold on the premises.

BASEMENT. The portion of a building or structure that is constructed either partly or wholly underground. For purposes of height measurement, a ***BASEMENT*** shall be counted as a story when more than one-half of its height is above the average level of the adjoining ground.

BILLBOARD. Any off-premises sign on a permanent structure on which the copy is periodically changed and which is not located on the premises to which such advertising copy pertains.

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

BOARD. The Board of Zoning Appeals of the town.

BOARDING HOUSE. Any dwelling in which more than three persons individually or as families are housed or lodged for hire with or without meals. A rooming house or a furnished room house shall be deemed a ***BOARDING HOUSE***.

BUILDING. Any structure designed or intended for the support, enclosure, shelter or protection of person, animals, chattels or property of any kind.

BUILDING, ACCESSORY. See ***ACCESSORY BUILDING AND USE***.

BUILDING HEIGHT. The vertical distance measured from the average level of the proposed or existing finished surface of ground adjacent to the exterior walls of the building to the highest point of the building.

BUILDING INSPECTOR. Synonymous with the term ***ZONING ADMINISTRATOR*** and shall refer to the person delegated the primary responsibility of issuing improvement location permits (building permits), conducting related inspections and issuing certificates of occupancy.

BUILDING PERMIT (IMPROVEMENT LOCATION PERMIT). A certificate issued by the Building Inspector permitting a person to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure within the locality, or cause the same to be done.

BUILDING, FRONT LINE OF. A line extending across that portion or face of the building nearest the front line of the lot. This face includes sun parlors and covered porches whether enclosed or unenclosed, but does not include steps. If no building exists, the depth of the required front yard shall determine the ***FRONT LINE OF BUILDING***.

BUILDING, PRINCIPAL. A building in which is conducted the main or principal use of the lot on which the building is situated.

BUILDING, SETBACK LINE. The line, established by this chapter, beyond which a building shall not extend unless varied according to the procedures in this chapter. Also called a ***BUILDING LINE***. ***SETBACK LINES*** may be applicable to the front, side and/or rear yard.

BUSINESS, GENERAL. Commercial uses which generally require locations on or near major arterial and/or their intersections, and which serve the daily needs of the neighborhood and also supply the more durable and permanent needs of the community.

BUSINESS, PROFESSIONAL, RETAIL OFFICE. Quasi-commercial uses which may often be transitional between retail business and/or manufacturing and residential uses. Office business generally accommodates such occupations as administrative, executive, professional, accounting, clerical and drafting.

BUSINESS SERVICES. Any profit making activity which renders services primarily to other commercial or industrial enterprises, or which services and repairs appliances and machines used in businesses and homes.

BUSINESS WHOLESALE. Business establishments that generally sell commodities and materials in large quantities or by the piece to retailers, jobbers, other wholesale establishments or manufacturing establishments. These commodities are basically for further resale, for use in the fabrication of a product or for use by a business or service.

CARPORT, PORTABLE. A detached manufactured accessory building customarily used for the shelter or storage of vehicles and/or watercraft, including canopies used for such, which can be easily moved without disassembly, after removal of any tie-down or other anchoring provisions intended to compensate for wind displacement, and which is generally a frame covered by lightweight membrane material.

CEMETERY. Land use for the burial of the dead and dedicated for other cemetery purposes, including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

CERTIFICATE OF OCCUPANCY. A certificate issued by the Building Inspector stating that the actions approved in the building permit (improvement location permit) have been completed satisfactorily and that the occupancy and use of land or building referred to therein complies with the provisions of this chapter.

CHILD CARE CENTER. Any place, home or institution which receives four or more children under the ages of 16 years, and not of common parentage, for care apart from their natural parents, legal guardians or custodians, for regular periods of time and for compensation.

CLINIC. An establishment where patients who are not lodged overnight are admitted for examination and treated by physicians.

CLUB. A building or portion thereof or premises owned or operated by a corporation, association, person or persons, for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

COMMERCIAL ENTERTAINMENT FACILITIES. Any activity conducted for economic gain which is generally related to the entertainment field, such as motion picture theater, carnivals, night clubs and similar entertainment activities.

COMMERCIAL RECREATIONAL FACILITIES. Any activity conducted for economic gain which is generally related to the recreational field, such as bowling alleys, roller skating rinks, miniature golf, golf driving ranges and so on.

COMMISSION. The Plan Commission of the town.

COMPREHENSIVE PLAN. A plan, or portion thereof, adopted by the Plan Commission and the governing body of the town, showing the general location and extent of present and proposed physical facilities including housing, industrial and commercial uses, parks, schools, transportation corridors and other community facilities.

CONTIGUOUS. Lands which have a boundary line or a portion of a boundary line in common or touching.

CONVALESCENT HOME. See ***NURSING HOME***.

CORNER. The point of intersection of any public road or easements which have been dedicated and accepted by a unit of government.

COVENANT. A private legal restitution on the use of land contained in the deed to the property. Normally applied to all lots in any subdivision.

COVERAGE. The lot area covered by all buildings located upon it, including the area covered by all overhanging roofs.

CUL-DE-SACS. A minor street having only one means of ingress and egress and terminating in a tee or turn around.

DAY CARE CENTER AND OTHER PRESCHOOL FACILITIES. A facility operated on a regular basis providing daytime care or instruction for four or more children under seven years of age, who are not related to the operators.

DENSITY. A unit of measurement; the number of dwelling units per acre of land.

DENSITY, GROSS. The number of dwelling units per acre of the total land to be developed, including public right-of-way.

DENSITY, NET. The number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses, excluding public right-of-way and other public land.

DEVELOPMENT PLAN. A drawing, including a legal or site description, of the real estate, which shows the location and size of all existing and proposed lots, buildings, structures and yards; location and dimension of all building lines and easements; widths and lengths of all entrances and exits to and from said real estate; location of all adjacent or adjoining streets; all of which presents a unified arrangement of streets, lots, buildings and public parking areas, all of which shall have a functional relationship to all real estate comprising the planned development and to the uses of properties immediately adjacent thereto.

DISTRICT. A part of the town where in the restrictions of this chapter are uniform.

DRIVEWAY. A public or private access which provides ingress or egress to a property.

DWELLING. Any building or portion thereof which is designed for residential purposes.

DWELLING, MULTIPLE-FAMILY. A residential building occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING, SINGLE-FAMILY. A detached residential dwelling unit other than a mobile home, occupied by only one family.

DWELLING, TWO-FAMILY. A detached residential building containing two dwelling units, designed for occupancy by two families with each unit having a separate entrance.

DWELLING UNIT. One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

EASEMENT. An authorization or grant by a property owner to a specific person or to the public to use land for specific purpose. The title to the land shall remain in the name of the property owner and shall be subject to the right of use designated in the ***EASEMENT***.

FAMILY. One or more persons occupying a single dwelling unit; provided that, unless all members are related by blood, marriage or adoption, no such family shall contain over five persons.

FENCE. A structure, including entrance and exit gates, designed and constructed for enclosure or screening.

FILLING STATION. Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel at retail for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning or servicing such motor vehicles.

FLOOD (or ***FLOOD WATER***)**.** The temporary inundation of land adjacent to and inundated by overflow from a river, stream, lake or other body of water. I.C. 14-28-1, defines flood as "the water of any river or stream in the State of Indiana, which is above the bank and/or outside the channel and banks of such river or stream; and also means the water of any lake which is above and outside the banks thereof." See I.C. 1971 for additional definitions.

FLOOD CONTROL. The prevention of floods, the control, regulation, diversion or confinement of flood water or flood flow, and the protection therefrom, according to sound and accepted engineering practice, to minimize the extent of floods, and the death, damage and destruction caused thereby, and all things incidental thereto or connected with.

FLOOD HAZARD AREA. A floodplain, or portion thereof, which has not been adequately protected from flood water by means of dikes, levees, reservoirs or other works approved by the Indiana Natural Resources Commission.

FLOODPLAIN. The relatively flat or low land adjoining the channel of a river or stream which has been or may be covered by flood water. The ***FLOODPLAIN*** includes the channel, floodway and floodway fringe.

FLOODWAY. The channel of a river or stream and those portions of the floodplain adjoining the channel, which are reasonably required to carry and discharge the flood water or flood flow of any river or stream.

FLOODWAY FRINGE. These portions of the flood hazard areas lying outside the floodway.

FLOOR AREA, GROSS. The sum in square feet of the floor areas of all roofed portions of a building as measured from the interior walls. It includes the total of all space on all floors of a building. It also includes porches, attached garages or space in a basement which is used for storage or other such incidental uses. The gross floor area is generally applied in residential use for determining minimum ground level floor area.

FLOOD AREA, NET. The floor area of the specified use excluding stairs, washrooms, elevator shafts, storage spaces, display windows and so on. The net area is used in calculating parking requirements.

FLOOD AREA, USABLE LIVING. The usable floor area is determined by subtracting from the gross floor area such areas as attached garages, unfinished basements or rooms, closets, stairways and the like. ***USABLE LIVING FLOOR AREA*** is generally applied in residential use for determining minimum dwelling size for a given residential zoning district.

FLOOR AREA RATIO. The gross floor area of the building divided by the area of the lot(s) on which the building is located.

FRONTAGE. All the property on one side of a street between two intersecting streets, measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

GARAGE, PARKING. Any building, or portion thereof, used for storage of four or more automobiles in which any servicing which may be provided is incidental to the primary use for storage purposes, and where repair facilities are not provided.

GARAGE, PRIVATE. An accessory building designed or used for the storage of motor vehicles owned and used by the occupants of the building to which the garage is an accessory.

GARAGE, PUBLIC. Any garage other than a private garage, available to the public, operated for gain, and which is used of storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

GARAGE SALE. An open sale of tangible personal property from a dwelling, or other structure, driveway, and/or yard on property which is zoned residential, or planned unit development district (PUD), and designated for residential use.

GRADE, FINISHED. The completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs relating thereto.

GROUND FLOOR AREA. The square foot area of a residential building within its largest outside dimensions computed on a horizontal plane at the first floor level, exclusive of open porches, breezeways, terraces, garages, exterior stairways and secondary stairways.

HOME FOR THE AGED. A facility for the care of the aged with routine nursing and/or medical care and supervision provided. A ***HOME FOR THE AGED*** is different from a nursing home in that the clientele are restricted by age.

HOME OCCUPATION. An occupation or profession for gain or support conducted only by members of a family residing on the premises, and conducted entirely within the principal building; provided that, no article is sold or offered for sale. Said occupation shall be customary and traditional,

incidental to the primary use of the premises as a residence, and not construed as a business, and be of a personal services or professional service nature. There shall be no outside storage or display. See § 156.255 of this chapter for operating rules and regulations for home occupations and § 156.170 of this chapter for permitted uses.

HOSPITAL. An institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central services facilities and staff offices which are an integral part of the facilities.

HOTEL. A building in which lodging or boarding are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contrast to a boarding house, a lodging house or an apartment.

IMPROVEMENT LOCATION PERMIT (BUILDING PERMIT). A certificate issued by the Building Inspector permitting a person to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure within the locality, or cause the same to be done.

INSTITUTION. Building(s) and/or land designed to aid individuals in the need of mental, therapeutic, rehabilitative, counseling or other correctional services.

JUNKYARD, including ***AUTOMOBILE WRECKING.*** Any place at which personal property may be salvaged for reuse, resale or reduction or similar disposition.

KENNEL. Any lot or premises on which three or more dogs (except litters of animals not more than six months of age) are kept, raised, bred, cared for or boarded for commercial or non-commercial purposes.

LOADING SPACE, OFF-STREET. Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used and accessible to such vehicles when required off-street parking spaces are filled. A ***REQUIRED OFF-STREET LOADING SPACE*** is not to be included as off-street parking space in computation of required off-street parking space. All ***OFF-STREET LOADING SPACE*** shall be located totally outside of any street or alley right-of-way. See §§ 156.275 through 156.282 of this chapter for loading space requirements.

LOT. A parcel of land of sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

(a) A single lot of record;

(b) A portion of a lot of record;

(c) A combination of complete lots of record, or of complete lots of record and portions of lots of records, or of portions of lots of records; and

(d) A parcel of land described by metes and bounds; provided that, in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter.

LOT AREA. The area of any lot exclusive of street, highway, alley, road or other right-of-way. Easements are considered to be part of the ***LOT AREA***.

LOT, CORNER. A parcel of land at the junction of and bounded by two or more intersecting streets.

LOT COVERAGE. The ratio of ground floor area of all buildings on a lot to the horizontally projected area of the lot. See ***FLOOR AREA RATIO***.

LOT FRONTAGE. The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered ***FRONTAGE***, and yards shall be provided as indicated under the definitions of "yards" in this section.

LOT LINE, FRONT. On an interior lot, the line separating the lot from the street. On a corner or through lot, the line separating the lot from either street.

LOT LINE, REAR. The lot line opposite the front lot line. On a lot pointed at the rear, the ***REAR LINE*** shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten feet long, lying farthest from the front lot line. On a corner lot, the ***REAR LOT LINE*** shall be opposite the side of the house containing the main entrance to the structure. If a corner lot contains multiple-family dwelling units having entrances on each of the intersecting streets, the ***REAR LOT LINE*** shall be the interior lot line with the larger dimension.

LOT LINE, SIDE. Any lot line other than a front lot line or rear lot line.

LOT, MEASUREMENT OF. A lot shall be measured as follows.

(a) ***DEPTH.*** The horizontal distance between the mid-points of straight lines connecting the foremost points of the side lot lines in the rear.

(b) ***WIDTH.*** The horizontal distance between the side lot lines, measured at the building setback line.

LOT OF RECORD. A lot which is part of a subdivision or a lot or a parcel described by metes and bounds, the descriptions of which have been recorded in the office of the County Recorder.

LOT TYPES. Terminology used in this chapter with reference to different types of lots is as follows.

(a) ***CORNER LOT.*** A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a ***CORNER LOT*** if tangent projections of the front lot lines drawn perpendicular at the side lot lines meet at an interior angle of less than 135 degrees in front of the lot.

(b) ***INTERIOR LOT.*** A lot with only one frontage on a street.

(c) ***REVERSE FRONTAGE LOT.*** A lot on which frontage is at right angles to the general pattern in the area. A ***REVERSED FRONTAGE LOT*** may also be a corner lot.

(d) ***THROUGH LOT.*** A lot other than a corner to with frontage on more than one street. ***THROUGH LOTS*** abutting two streets may be referred to as double frontage lots.

MANUFACTURED HOME. A dwelling unit fabricated on or after 6-15-1976, in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the Federal Manufacturing Housing Construction and Safety Standards Code or the state's Pub. Law No. 360, Acts of 1971, as promulgated by the state's Administrative Building Council.

MANUFACTURING, HEAVY. Manufacturing, processing, assembling, storing, testing and similar industrial uses which are generally major operations and extensive in character; require large sites, open storage and service areas, extensive services and facilities, ready access to regional transportation; and normally generate some nuisances such as smoke, noise, vibration, dust, glare, air pollution and water pollution, but not beyond district boundary.

MOBILE HOME. A transportable structure larger than 320 square feet, designed to be used as a year-round residential dwelling, and built prior to the enactment of the Federal Mobile Home Construction and Safety Act of 1974, which became effective for all mobile home construction on 6-15-1976.

MANUFACTURED OR MOBILE HOME COMMUNITY (PARK). A parcel of land platted for subdivision upon which five or more manufactured or mobile homes are harbored for the purpose of being occupied as principal residences and includes all real and personal property used in the operation of the manufactured or mobile home park. An area of land that is subdivided in accordance with all requirements of this chapter, designed or intended for lots to be conveyed by deed, lease or to be otherwise contracted for to individual owners is a ***MANUFACTURED OR MOBILE HOME PARK*** if five or more manufactured or mobile homes are harbored there for residential occupancy.

MOTOR HOME. A self-propelled vehicle containing living accommodations, used for recreational purposes.

NON-CONFORMING USE. A building, structure or use of land existing at the time of enactment of this chapter, which does not conform to the regulations of the district in which it is situated.

NURSING HOME and ***CONVALESCENT FACILITIES.*** A private home, institution, building, residence or other place, whether operated for profit or not, including those places operated by units of government, which undertakes through its ownership or management to provide for a period exceeding 24 hours, maintenance, personal care or nursing for three or more persons not related by blood or marriage to the operator who by reason of illness, physical infirmity or advanced age, are unable to care for themselves.

OCCUPIED SPACE. The total area of earth horizontally covered by the structure, excluding accessory structures, such as, but not limited to, garages, patios and porches.

OPEN SPACE. A public or private outdoor area expressly set aside for the use and benefit of many unrelated people. The area may include along with natural environment features, swimming pools, tennis courts and outdoor recreational facilities that the Plan Commission deems permissive. Streets, parking areas, structures for habitation and the like shall not be included in the ***OPEN SPACE*** area calculations.

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

PARKING LOT, OFF-STREET. An area which is adequate for parking sufficient automobiles to meet the optimum need of each appropriate land use, together with properly related access to a public street or alley and maneuvering room, and located totally off of a public right-of-way. Required off-street parking areas for three or more automobiles shall have individual spaces marked. As a rule of thumb, the area provided for an ***OFF-STREET PARKING LOT*** should be at least one and one-half times the space required for the number of parking spaces anticipated.

PARKING SPACE OR STALL. The area required for parking one automobile, with its attendant maneuvering room. The area required for a parked car should be ten feet wide and 22 feet long; however, ***PARKING SPACES*** which are designed for the exclusive use of compact or subcompact cars, the space may be designed appropriately smaller.

PERSONAL SERVICES. Any enterprise conducted for profit which primarily offers services to the general public, such as barber shops, beauty parlors, day care centers and so on.

PLANNED UNIT DEVELOPMENT (PUD). An area of land in which a variety of residential, commercial and/or industrial uses are planned and developed as a whole according to comprehensive and detailed plans, with more flexible standards, such as lot sizes, uses and setbacks, than those restrictions that would normally apply under these regulations.

PORTABLE CARPORT. See definition for ***CARPORT, PORTABLE***.

PREMISES. One or more lots which are in the same ownership and are contiguous, or separated only by a right-of-way or water body, including all buildings, structures and improvements.

PRINCIPAL USES. The primary use to which the premises are devoted, and the main purpose for which the premises exist.

PROFESSIONAL ACTIVITIES. The use of offices and related spaces for such professional services as provided by health practitioners, lawyers, architects, engineers and similar professions.

PROHIBITED USE. A use indicated as prohibited for a certain district in the Schedule of Uses shall not be allowed to locate in the said district, except as specified under non-conformities. A "use" variance cannot be used to legalize the conversion to or erection of a ***PROHIBITED USE***.

PUBLIC UTILITY. Any person, firm, or corporation duly authorized to furnish electricity, gas, steam, telephone, telegraph, water or sewage systems to the public under public regulation.

RECORDING SECRETARY. The person employed and delegated the responsibility of recording and writing minutes and transcripts of the proceedings of the Plan Commission and/or Board of Zoning Appeals.

RECREATIONAL VEHICLE. A vehicle primarily designed as temporary living quarters for recreation, camping or travel, either with its own motor power or mounted on or towed by another powered vehicle.

RECREATION CAMPGROUND. An area of land on which or more recreational vehicles including campers, tents or other similar temporary recreational structures are regularly accommodated with or without charge, including any building, structure or fixture of equipment that is used in connection with providing such accommodations.

REPLACEMENT COST. The sum of money which would be required to re-erect a structure identical to the one in question.

RESEARCH ACTIVITIES. Research, development and testing related to such fields as chemical, pharmaceutical, medical, electrical, transportation and engineering. All research, testing and development shall be carried on within entirely enclosed buildings, and no noise, smoke, glare, vibration or odor shall be detected outside of the building.

ROADSIDE STAND. A temporary structure designed or used for the display or sale of agricultural and related products, or novelties and other items of interest, to the motoring public.

ROOMING HOUSE (BOARDING HOUSE). A dwelling or part thereof, other than a motel, hotel or restaurant, where lodging is provided for compensation, for three or more unrelated persons.

SCREENING. A structure erected or vegetation planted which eventually is of sufficient height and density for concealing an area from view.

SEAT. For purpose of determining the number of off-street parking spaces for certain use, the number of seating units installed or indicated or each 24 lineal inches of benches, pews or space for loose chairs.

SETBACK. A required open area unoccupied and unobstructed by any structure or any projection, except as specifically provided for in this chapter.

SETBACK, FRONT. A setback extending across the front of a lot, being the required minimum horizontal distance between the front lot line and front of the buildings.

SETBACK, REAR. A setback extending across the rear of a lot, being the required minimum horizontal distance between the rear property line and the rear of the building.

SETBACK, SIDE. A setback between any structure and the side lot line extending from the required front setback to the required rear setback and being the minimum horizontal distance between a side lot line and the rear of the building.

SIDEWALK. The portion of the road right-of-way which is improved for the use of the pedestrian traffic.

SIGN. An identification, description, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land and which directs attention to a product, place, activity, service, person, institution or business. Sign regulations are set out in §§ 156.335 through 156.343 of this chapter.

SPECIAL EXCEPTIONS. A use that is not listed as a permitted use in the particular district under this chapter, but which may be compatible with such permitted uses and may promote the realization of the purposes of this chapter if such special exception uses are restricted as to number and location in the district and to such other conditions as may be required by the Board of Zoning Appeals. ***SPECIAL EXCEPTIONS*** permitted in each district are listed in the official Schedule of Uses.

STATE. The State of Indiana.

STREET. A dedicated public right-of-way, other than an alley, intended for vehicular traffic, including expressways, primary and secondary arterials, parkways, collector streets, primary thoroughfares, local streets, cul-de-sacs, marginal access streets, roads, lanes and other public ways, further defined as follows.

(a) ***COLLECTOR STREETS.*** Streets designed, planned and intended to carry intermediate traffic volumes within residential areas and from minor streets to secondary, primary and arterial streets.

(b) ***CUL-DE-SACS.*** Short streets having one end open to traffic, the other end being permanently terminated by a vehicular turn-around.

(c) ***EXPRESSWAYS, ARTERIAL HIGHWAY OR PRIMARY THOROUGHFARES.*** Major streets and highways used primarily for through traffic, or fast or heavy traffic, generally including U.S. and/or state routes.

(d) ***LOCAL STREETS.*** Streets designed, planned and intended to carry intermediate traffic volumes within residential areas to secondary, major and arterial streets.

(e) ***MARGINAL ACCESS STREETS.*** Minor streets which are parallel to and adjacent to arterial streets and highways, and which provide access to abutting properties and protection from through traffic.

(f) ***SECONDARY THOROUGHFARES.*** Streets or roads designed, planned and intended to serve as collectors and distributors of through vehicular traffic in conformance with the town's Comprehensive Plan.

STORY. The part of a building between the surface of a floor and the ceiling immediately above; or, if there is a floor above, the portion of a building between the surface of any floor and the surface of the floor next above.

STRUCTURE. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, ***STRUCTURES*** include buildings, walls, fences and signs, portable carports and sheds (whether the shed is anchored or not anchored to the ground).

SUBDIVISION. The division of any parcel of land shown as a unit, as part of a unit or as contiguous units, on the last preceding transfer of ownership thereof, into two or more parcels or lots, for the purpose, whether immediate or future, of transfer of ownership or building development; provided, however, that, the division of land into parcels of more than three acres, not involving any new streets or easements of access, and the transfer or exchange of parcels between adjoining land owners, if such transfer or exchange does not create additional building lots, shall not constitute a ***SUBDIVISION*** for purposes of this chapter.

SUBDIVISION REGULATIONS. The applicable requirements, standards and specifications imposed by Ch. 155 of this code of ordinances as enacted by the governing body of the town.

SWIMMING POOL. A pool, pond, lake or open tank containing at least 18 inches of water at any point and maintained by the owner or manager.

SWIMMING POOL, PRIVATE. A swimming pool used exclusively without paying an additional charge for admission, by the residents and guests of a single household, a multiple-family

development, a community, the members and guests of a club or the patrons of a motel or hotel; and accessory use.

TEMPORARY PERMITS. The Plan Commission may authorize by written permit in any zoning district for a period of not more than one year from the date of such permit, a temporary building which is incidental and necessary for the sale, rental, lease construction or reconstruction of real property on premises in the zoning districts, or as otherwise provided in § 156.060 of this chapter.

THOROUGHFARE PLAN. The portion of the Comprehensive Plan indicating the general location recommended for arterial, collector and local streets and roads within the appropriate jurisdiction.

TOWN COUNCIL. The Town Council of the town.

TRAVEL TRAILER. A vehicle or other portable structure less than 35 feet in length designed to move on the highway, not under its own power, and designed as a recreational dwelling.

USE. The specific purposes for which land or a building is designated, arranged, intended or for which it is occupied or maintained.

VARIANCE. A modification of the strict terms of the relevant regulations of this chapter where such modifications will not be contrary to the public interest, and where, owning to conditions peculiar to property and not the result of the action of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship.

VETERINARY ANIMAL HOSPITAL OR CLINIC. A place used for the care, diagnosis and treatment of sick, ailing, infirm or injured animals, and those animals which are in need of medical or surgical attention. It may also include overnight accommodations on the premises for treatment, observation and/or recuperation and boarding that is incidental to the principal activity or use.

WALKWAY. A public way, four or more feet in width, for pedestrian use only, whether along the side of a street or not.

YARD. An open area on a lot, other than a court, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.

YARD, FRONT. An open unoccupied area extending the full width of the lot and situated between the front [lot] line and the front line of the building projected to the side lines of the lot. Covered porches whether enclosed or unenclosed, shall be considered as part of the building and shall not project into a required ***FRONT YARD***. On corner lots, the ***FRONT YARD*** shall be determined by the location of the main entrance of the structure.

YARD REAR. A yard extending the full width of the lot between a principal building and the rear lot line or lines.

YARD SIDE. A yard between the principal building and side lot line, and extending from the front yard line of the building to the rear line of the building.

ZONING. A police power measure, enacted by the governing body of local governments, which the community is divided into districts or zones within which permitted and special uses are established as are regulations governing lot size, building bulk, placement and other development standards. Requirements vary from district to district, but they must be uniform within districts.

ZONING BOARD. The Board of Zoning Appeals of the town.
(2004 Code, § 2-200) (Ord. 2019-12, passed 10-15-2019)

PLAN COMMISSION

§ 156.020 MEMBERSHIP.

The Plan Commission shall consist of seven members appointed as follows.

(A) The Town Council shall appoint three persons in the municipal government as members of the Plan Commission.

(B) The Town Council shall appoint four citizen members who are not elected or appointed members of the municipal government, of whom no more than two may be of the same political party.
(2004 Code, § 3-100)

§ 156.021 TERM OF APPOINTMENTS.

Each new appointment to the Plan Commission shall be made for a term of four years.

(A) The term of each member shall expire on the first Monday of January of the fourth year after the year of the member's appointment. A member service until his or her successor is appointed and qualified. A member is eligible for reappointment.

(B) If a vacancy occurs among the members of the Plan Commission, the Town Council shall appoint a member for the unexpired term of the vacating member. In addition, the Town Council may appoint an alternate member to participate with the Plan Commission in any hearing or decision in which the regular member has a disqualification under § 156.023 of this chapter.

(C) A member of the Plan Commission who misses three consecutive regular meetings of the Commission shall be treated as if he or she had resigned. The Secretary shall give written notification

to the Town Council within seven days following the third consecutive absence of any Commission member. The Town Council shall remove the absent member and appoint a replacement to complete the unexpired term of the absent member.
(2004 Code, § 3-101)

§ 156.022 CONFLICT.

(A) (1) A member of the Plan Commission may not participate in a hearing or decision of the board concerning a zoning matter in which he or she has a direct or indirect financial interest.

(2) For the purpose of this subchapter, the term ***ZONING MATTER*** does not include the preparation or adoption of a Comprehensive Plan.

(B) The Plan Commission shall enter in its records:

(1) The fact that a regular member has such a disqualification; and

(2) The name of the alternate member, if any, who participated in the hearing or decision in place of the regular member.
(2004 Code, § 3-102)

§ 156.023 PROCEEDINGS.

(A) The Plan Commission shall adopt rules necessary for the conduct of its affairs in keeping with the provisions of this chapter.

(B) At the first meeting of each year, the Commission shall elect a Chairperson and a Vice-Chairperson from its members.

(C) Meetings shall be held at the call of the Chairperson or at other times which the Commission deems necessary.

(D) All meetings shall be open to the public.

(E) The Commission shall keep minutes of its proceedings showing the vote of each member for each question or, if absent or failing to vote, indicating such.

(F) The Commission shall also keep records of its examinations and other official actions, all of which shall be of public record and be immediately filed in the office of the Plan Commission.
(2004 Code, § 3-103)

§ 156.024 DUTIES.

For the purposes of this chapter, the Plan Commission shall have the following duties:

(A) To initiate proposed amendments to this chapter;

(B) To review all proposed amendments to this chapter and make recommendations to the Town Council;

(C) To review and make findings on development plans for subdivisions, commercial structures, industrial structures, planned unit developments and other similar plans for all proposed developments within the Commission's jurisdiction;

(D) To review and revise the zoning ordinance, subdivision regulations and other land use regulations to keep them up-to-date;

(E) Render interpretation of this chapter as may be necessary from time to time; and

(F) To consider and act upon written requests for the waiver or reduction of fines imposed pursuant to this chapter.
(2004 Code, § 3-104) (Ord. 2001, passed 2-15-2005)

BOARD OF ZONING APPEALS

§ 156.035 REESTABLISHMENT; MEMBERSHIP.

As part of this chapter, a Board of Zoning Appeals is hereby re-established and shall consist of five members, appointed as follows:

(A) Four citizen members appointed by the Town Council, of whom one must be a member of the Plan Commission and three must not be members of the Plan Commission; and

(B) One citizen member appointed by the Plan Commission, who must be a member of the Plan Commission other than the member appointed under division (A) above.
(2004 Code, § 3-200)

§ 156.036 QUALIFICATIONS OF MEMBERS.

The members appointed to the Board of Zoning Appeals must have the following qualifications.

(A) A member must be a town resident.

(B) No member may hold other elective or appointed offices in the town government.
(2004 Code, § 3-201)

§ 156.037 TERM OF APPOINTMENTS.

(A) Each new appointment to the Board of Zoning Appeals shall be made for a term of four years.

(B) The term of each member shall expire on the first Monday of January of the fourth year after the year of the member's appointment. A member serves until his or her successor is appointed and qualified. A member is eligible for reappointment.

(C) If a vacancy occurs among the members of the Board of Zoning Appeals, the appointing authority (Town Council or Plan Commission) that had appointed the vacating member shall appoint a member for the unexpired term of the vacating member. In addition, the appointing authority may appoint an alternate member to participate with the board in any hearing or decision in which the regular member it has appointed has a disqualification under § 156.038 of this chapter.

(D) A member of the Board of Zoning Appeals who misses three consecutive regular meetings of the Board shall be treated as if he or she had resigned.
(2004 Code, § 3-202)

§ 156.038 CONFLICT.

(A) A member of the Board of Zoning Appeals may not participate in a hearing or decision of the board concerning a zoning matter in which he or she has a direct or indirect financial interest.

(B) The Board shall enter in its records:

(1) The fact that a regular member has such a disqualification; and

(2) The name of the alternate member, if any, who participates in the hearing or decision in place of the regular member.
(2004 Code, § 3-203)

§ 156.039 PROCEEDINGS.

(A) The Board shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this chapter.

(B) At the first meeting of each year, the Board shall elect a Chairperson and Vice-Chairperson from its members.

(C) Meetings shall be at the call of the Chairperson and at other times as the Board may determine.

(D) The Chairperson or, in his or her absence, the Vice-Chairperson may administer oaths and compel the attendance of witnesses.

(E) All meetings shall be open to the public.

(F) The Board shall keep minutes of its proceedings, showing the vote of each member, or if absent or failing to vote.

(G) The Board shall keep record of its examinations or other official actions, all of which shall be public record and be immediately filed in the office of the Recording Secretary.

(H) A majority of Board members shall constitute a quorum.

(I) The concurring vote of three members of the Board shall be necessary to decide in favor of the applicant in any matter upon which said Board is required to pass under the provisions of this chapter. (2004 Code, § 3-204)

§ 156.040 DUTIES.

For the purpose of this chapter, the Board of Zoning Appeals has the following specific duties:

(A) To hear and to determine appeals from and review any decision or determination made by the Zoning Administrator;

(B) To hear and to determine special exceptions to the terms of this chapter; and

(C) To authorize variances from this chapter in cases where a literal enforcement of the chapter would result in undue hardship; provided that, the public interest is not injured by granting the variance. (2004 Code, § 3-205)

ADMINISTRATION AND ENFORCEMENT

§ 156.055 ZONING ADMINISTRATOR.

(A) A Zoning Administrator employed and designated by the Plan Commission shall administer and enforce this chapter. For the purpose of this chapter, the term ***ZONING ADMINISTRATOR*** shall be synonymous with the term ***BUILDING INSPECTOR***. He or she may be provided with the assistance of other persons as the Town Council directs.
(2004 Code, § 3-300)

(B) For the purpose of this chapter, the Zoning Administrator shall have the following duties:

(1) To issue improvement location permits, conduct inspections to assure compliance with this chapter and issue certificates of occupancy;

(2) To notify in writing persons responsible for violations of assure compliance with this chapter and order the action necessary to correct such violations;

(3) To order discontinuance of illegal uses of land, buildings or structures;

(4) To order removal of illegal buildings, structures or illegal additions or alterations;

(5) To order discontinuance of any illegal work being done;

(6) To assume responsibilities as the Plan Commission directs;

(7) To assess fines authorized by this chapter for violation of the provisions of this chapter; and

(8) To take any other action authorized by this chapter to ensure compliance with or to prevent violations of this chapter.
(2004 Code, § 3-301) (Ord. 2001, passed 2-15-2005)

§ 156.056 IMPROVEMENT LOCATION PERMITS; APPLICATION.

(A) (1) No building or structures shall be erected, moved, enlarged, be established or changed in use without an improvement location permit issued by the Plan Commission or its designated representative. Building permits shall be issued in conformance with this chapter unless a written order is received from the Plan Commission, Board of Zoning Appeals or Court directing the issuance of a permit not in conformance with this chapter.

(2) The town requires that an improvement location permit (building permit) be obtained for the following specific projects:

(a) Single-family and two-family residential dwellings;

(b) Residential storage shed (maximum 140 square feet);

(c) Detached residential buildings (over 140 square feet);

(d) Residential garages, carports, portable carports (except portable carports located, or to be located, on the premises for less than 72 hours during any 30-day period), and/or additions;

(e) Temporary structures;

(f) Signs;

(g) Swimming pools;

(h) Demolition;

(i) New buildings;

(j) Alterations, modification or remodeling;

(k) Structures other than buildings;

(l) Drainage work (land alteration);

(m) Street cuts;

(n) Curb cuts;

(o) Storm sewer hook-ons; and

(p) Driveways.

(3) No improvement location permit (building permit) shall be required for ordinary repair and maintenance where the total cost of materials and labor does not exceed $500 and the work does not include a potential health or safety hazard or expand the scope of any existing use. No improvement location permit (building permit) shall be required for fences.
(2004 Code, § 3-400)

(B) Applications for improvement location permits (building permits) shall be made on forms provided by the town's Plan Commission. Each application shall be accompanied by two copies of a plot plan which is drawn to scale and shows clearly and completely:

(1) The location, dimensions and nature of the property;

(2) The location and dimensions of any existing or proposed structure;

(3) All adjoining streets and any existing or proposed access to these streets;

(4) The existing and proposed uses of all structures and land;

(5) The location and type of sewerage system, water system and drainage facilities;

(6) Estimated cost of construction; and

(7) Such other information as may be necessary to determine conformance with this chapter.
(2004 Code, § 3-401)
(Ord. 1088, passed 9-7-2004)

§ 156.057 FEES.

Fees shall be charged for all applications for permits or petitions in accordance with the fee schedule adopted by the town's Plan Commission and Town Council. Until all applicable fees, charges and expenses have been paid in full, no final action shall be taken on any permit application, appeal or petition. No fee shall be required for appealing a decision of the Zoning Administrator.
(2004 Code, § 3-402) (Ord. 994, passed 3-3-1999)

§ 156.058 APPROVAL OF PERMITS.

(A) Within 30 days after receipt of the application, the Zoning Administrator shall either approve or disapprove the application. One set of plans shall be returned to the applicant, marked approved or disapproved. If the application is disapproved, the reasons for the disapproval shall be stated in writing.

(B) All commercial and industrial projects shall be submitted to the Technical Committee for review prior to receiving an improvement location permit. At the option of the Technical Committee:

(1) Additional data may be required; and/or

(2) The Technical Committee may elect to forward the application to the Plan Commission.
(2004 Code, § 3-403)

§ 156.059 CERTIFICATE OF OCCUPANCY.

(A) It is unlawful to use or occupy any building or premises without a certificate of occupancy. An application for an improvement location permit shall, without an additional fee, include and be deemed an application for a certificate of occupancy.

(B) A certificate of occupancy shall be obtained before any person may:

(1) Occupy or use any vacant land;

(2) Occupy or use any structure hereafter constructed, reconstructed, moved, enlarged or structurally altered;

(3) Change the use of a structure or land to a different use; or

(4) Renew, change or extend a non-conforming use.
(2004 Code, § 3-404)

§ 156.060 TEMPORARY OCCUPANCY PERMIT.

(A) Pending the issuance of a permanent certificate of occupancy, a temporary occupancy permit may be issued by the Building Inspector for a period of not more than six months.

(B) Such temporary certificate shall not be construed in any way to alter the respective rights, duties or occupancy of the land or building or any other matter covered by this chapter.

(C) The temporary occupancy permit shall not be issued, except under such restrictions and provisions as will adequately ensure the safety of the occupants.
(2004 Code, § 3-405)

§ 156.061 EXPIRATION OF PERMIT.

(A) If work has not commenced within 90 days after the date of issuance of the permit, the permit shall expire. If work described in any permit has not been substantially completed within six months of the date of issuance thereof, said permit shall expire.

(B) One six-month extension of a permit may be obtained without an additional fee, if:

(1) No code violations exist related to the project;

(2) The project is in compliance with inspection requirements; and

(3) A written extension request is submitted prior to the expiration of the original permit.

(C) (1) In the event a six-month extension has been granted and the project is not substantially complete within one year after the date of issuance of the original permit, a new permit must be applied for and a new permit fee shall be required.

(2) Once a permit has expired, further work shall not occur unless pursuant to a new permit.
(2004 Code, § 3-406) (Ord. 1058, passed 8-20-2002)

§ 156.062 APPEALS.

(A) It is the intent of this chapter that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator. Questions shall be presented to the Board of Zoning Appeals only on appeal from the decisions of the Zoning Administrator.

(B) Recourse from decisions of the Board of Zoning Appeals shall be to the courts as provided by laws.

(C) Appeals to the Board of Zoning Appeals concerning interpretation or administration of this chapter may be taken by any persons aggrieved by any officer or bureau of the legislative authority of the town affected by any decision of the Zoning Administrator.

(D) Such appeal shall be taken within such times as established by the Board of Zoning Appeals by general rule.

(E) The Zoning Administrator shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.
(2004 Code, § 3-600)

§ 156.063 REVIEW OF CERTIORARI.

(A) Every decision of the Board of Zoning Appeals shall be subject to review by certiorari.

(B) Any person aggrieved by a decision of the Board may present to the court of the county in which the premises affected area is located, a petition duly verified, setting forth that the decision by the Board is illegal in whole or in part, and specifying the grounds of the illegality.

(C) The petition shall be presented to the court within 30 days after the entry of the decision of the Board.
(2004 Code, § 3-700)

ZONING AMENDMENTS

§ 156.075 GENERAL.

Amendments to this chapter may be initiated in one of the following ways:

(A) By adoption of a motion by the Plan Commission;

(B) By adoption of a resolution by the Town Council; and/or

(C) By the filing of a petition of at least 50% of the owners of property within the area proposed to be changed or affected by the amendment.
(2004 Code, § 4-100)

§ 156.076 CONTENTS OF APPLICATION.

Application for amendments to this chapter shall contain at least the following information:

(A) Name, address and phone number of applicant;

(B) Any application filed by any person other than the legal owner of the real estate involved shall be accompanied by a written statement of such legal owner consenting to the filing of such application;

(C) Present use;

(D) Present zoning district;

(E) Proposed zoning district;

(F) A vicinity map showing property lines, thoroughfares, existing and proposed zoning, and other items which the Zoning Administrator may require;

(G) A list of all property owners and their mailing addresses for all adjoining parcels of land to a depth of two ownerships or 250 feet, whichever is greater, of the exterior boundaries of the area proposed to be rezoned or redistricted, as well as a list of all parcels of land that are within the area included in the petition who owners are not petitioners, and others that may have substantial interest in the case; and

(H) A statement of how the proposed amendment relates to the town's Comprehensive Plan.
(2004 Code, § 4-101)

§ 156.077 PUBLIC HEARING BY PLAN COMMISSION.

(A) The Plan Commission shall schedule a public hearing after a petition is received.

(B) The hearing shall not be less than 20, or more than 40, days from the date of adoption of such motion, transmittal of such resolution or the filing of the application.
(2004 Code, § 4-102)

§ 156.078 NOTICE OF PUBLIC HEARING.

Notice of public hearing shall include the following.

(A) At least 15 days prior to holding the public hearing, notice of the hearing shall be given in one or more newspapers of general circulation in the town, and posted at the Town Hall.

(B) The notice shall state:

(1) The time and place of the hearing;

(2) Either the geographic areas (or zoning districts in a specified geographic area) to which the proposal applies, if the proposal is a text amendment; or the geographic area that is the subject of the zone map change, if the proposal is a zone map change;

(3) Either a summary of the subject matter contained in the proposal that describes any new or changed provisions, if the proposal is a text amendment; or a description of the proposed change in the zone maps, if the proposal is a zone map change;

(4) If the proposal contains or would add or amend any penalty or forfeiture provisions, the entire text of those penalty or forfeiture provisions;

(5) The place where a copy of the proposal is on file for examination before the hearing;

(6) Written objections to the proposal that are filed with the secretary of the Plan Commission before the hearing will be considered;

(7) Oral comments concerning the proposal will be heard; and

(8) The hearing may be continued from time to time as may be found necessary.

(C) The Commission shall require the initiator(s) of the petition to bear the cost of the public notice.
(2004 Code, § 4-103) (Ord. 1058, passed 8-20-2002)

§ 156.079 NOTICE TO PARTIES IN INTEREST.

(A) Notice to parties in interest shall include:

(1) If the proposed amendment intends to alter, rezone or redistrict any parcel of land as listed on the tax duplicate, written notice of the hearing shall be mailed by the initiator(s) of a petition by certified mail, return receipt-requested, in a form which meets the Board's requirements at least 15 days prior to the day of the hearing to the owners of all adjoining parcels of land to a depth of two ownerships or 250 feet, whichever is greater, of the exterior boundaries of the area proposed to be rezoned or redistricted, and to the owner of all parcels of land within the area included in the petition, who are not petitioners. For the purpose of notification of parties in interest, where any such adjacent parcels of land are owned by petitioner, the subject property shall be deemed to include adjacent land owned by petitioner;

(2) All cost for required notice to parties in interest shall be borne by the initiator(s) of petition;

(3) A verified written statement that all parties in interest have been mailed a written notification as set out in this division (A) shall be submitted by the petitioner prior to final action being taken on the petition; and

(4) Failure of a person to receive notice shall not invalidate the amendment.

(B) If division (A) above does not apply to a proposed amendment, due notice to interested parties shall be satisfied by the publication otherwise required under I.C. 36-7-4-604 and § 156.078 of this chapter.
(2004 Code, § 4-104)

§ 156.080 RECOMMENDATION BY PLAN COMMISSION.

Within 60 days from the receipt of the proposed amendment, the Plan Commission shall transmit its recommendation to grant, modify or deny the request to the Town Council. After receipt of recommendations from the Plan Commission the Town Council may amend, supplement, change or repeal the regulations, restrictions and boundaries or classifications of property whenever the public welfare or good zoning practices require.
(2004 Code, § 4-105)

§ 156.081 APPROVALS.

After the public hearing, the Town Council shall either adopt or deny the recommendation of the Plan Commission or some modification thereof, consistent with the requirements of I.C. 36-7-4.
(2004 Code, § 4-106)

§ 156.082 EFFECTIVE DATE.

An amendment adopted by the Town Council shall become effective immediately upon adoption and approval by the Town Council.
(2004 Code, § 4-107)

§ 156.083 EFFECT OF ANNEXATION.

All land annexed to the town subsequent to the adoption of this chapter shall automatically be zoned RS low-density single-family residential unless otherwise requested in the annexation ordinance or until such time as the Official Zoning Map is amended according to the provisions of this chapter.
(2004 Code, § 4-200)

VARIANCES

§ 156.095 GENERAL.

The Board of Zoning Appeals may authorize upon appeal in specific cases variances from the terms of this chapter when, because of special conditions, a literal enforcement of this chapter would result in unnecessary hardship upon a specific property. No conforming use of neighborhood lands, structures or buildings in the same district, and no permitted non-conforming use of lands, structures or buildings in other districts shall be considered grounds for issuance of variance.
(2004 Code, § 4-300)

§ 156.096 DEFINITIONS.

(A) Two types of variances maybe granted by the Board of Zoning Appeals.

(B) They are as follows.

DIMENSIONAL VARIANCE. Designed to adjust the regulations of the zoning ordinance to the land for which the variance is granted. Generally speaking, a ***DIMENSIONAL VARIANCE*** applies to a bulk, height, area or space requirement of the zoning ordinance. The primary basis for granting a dimensional variance is the showing by the applicant that a “practical difficulty” exists if the letter of the law is strictly applied. Once granted, a ***DIMENSIONAL VARIANCE*** shall run with the land.

USE VARIANCE. Serves a different function than a dimensional variance. If a zoning ordinance is valid in general, but confiscatory as applied to a specific property, the traditional remedy is a use variance. A ***USE VARIANCE*** grants permission for a prohibited use in a given zoning district.

The primary basis for granting a use variance is the showing by the applicant that an "unnecessary hardship" exists if the letter of the law is strictly applied. When granted, a ***USE VARIANCE*** runs with the applicant (tenant or landlord), not with the land itself.
(2004 Code, § 4-301)

§ 156.097 REVOCATION OF A DIMENSIONAL VARIANCE.

A dimensional variance shall be deemed automatically null and void if the property, building or structure for which the variance was granted is for any reason demolished or destroyed. Thus, a new replacement building or structure may be required to conform to regulations in effect at that time. The granting of a dimensional variance becomes official only upon issuance of an improvement location permit for the subject property. The issuance of said permit must occur within 90 days from the date that the dimensional variance was approved by the Board of Zoning Appeals or the approval becomes null and void. Actual construction must begin within 90 days from the date that the improvement location permit is obtained or said permit shall become null and void.
(2004 Code, § 4-302)

§ 156.098 REVOCATION OF A USE VARIANCE.

A use variance shall be deemed automatically null and void under any and all of the following conditions:

(A) If the use for which the variance was granted ceases for any continuous period greater than six months in length;

(B) If the property or structures for which the variance was granted change ownership or occupancy;

(C) If the applicant to whom the variance was granted fails to comply with any of the conditions made a part of the variance; and

(D) If the Board of Zoning Appeals discovers at some future date that the variance has created some previously unforeseen problem, nuisance or hazard that is adversely affecting the health, safety or welfare of adjacent properties or the general public.
(2004 Code, § 4-303)

§ 156.099 REVOCATION PROCEDURES.

Procedures for revocation of a variance shall be as follows.

(A) Upon determination by the Zoning Administrator that possible grounds for revocation of a variance exists, the matter shall be placed on the Board of Zoning Appeals agenda for a public hearing.

(B) The original applicant to whom the variance was granted or his or her successor shall be notified by certified mail of the reasons for the possible revocation at least 30 days prior to the public hearing.

(C) Notice of the public hearing shall also be given as set out in §§ 156.135 through 156.138 of this chapter.
(2004 Code, § 4-304)

§ 156.100 APPLICATION STANDARDS FOR A VARIANCE.

(A) A variance from the terms of this chapter shall not be granted by the Board of Zoning Appeals unless and until a written application for a variance is submitted to the Zoning Administrator and the Board of Zoning Appeals containing:

(1) Name, address and phone number of applicant;

(2) Any application filed by any person other than the legal owner of the real estate involved shall be accompanied by a written statement of such legal owner consenting to the filing of such application;

(3) Legal description of property;

(4) Description of nature of variance requested; and

(5) A narrative statement demonstrating that the requested variance conforms to each of the following standards:

(a) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district;

(b) A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;

(c) Special conditions and circumstances do not result from the action of the applicant; and

(d) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings.

(B) There shall accompany such application for a variance a verified statement (affidavit) by the applicant that adjoining property owners were notified in writing at least 15 days prior to the date of the public hearing of such application as required by § 156.137 of this chapter.

(C) Any applicant shall furnish a verified proof (affidavit) of at least one publication of a notice in at least one newspaper having general circulation within the town consistent with the requirements of § 156.136 of this chapter.

(D) The cost of legal advertising any required notice to affected property owners shall be borne by the petitioners.
(2004 Code, § 4-305)

§ 156.101 CONSIDERATION PRIOR TO GRANTING A VARIANCE.

Prior to granting a variance, the Board of Zoning Appeals shall consider the following conditions.

(A) The variance must not be injurious to the public health, safety and welfare of the town.

(B) The use or value of adjacent property must not be adversely affected by the variance.

(C) The need for a variance must arise from some condition peculiar to the property involved and must not exist in similar property in the same district.

(D) Undue hardship as a result of strict application of the chapter must be proven. Literal interpretation of the provisions of this chapter must be shown to deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.

(E) The hardship must not be self-imposed from previous actions. It should not be a purely financial hardship or a matter of convenience.

(F) The variance granted is the minimum variance that will make it possible to reasonably use the land or structure.
(2004 Code, § 4-306)

§ 156.102 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS.

Under no circumstances shall the Board of Zoning Appeals grant an appeal or variance which allows a use not permissible under the terms of this chapter in the district. The Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of these conditions and safeguards, when made a part of the terms under which the appeal safeguards when made

a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this chapter and punishable under § 156.999 of this chapter.
(2004 Code, § 4-307)

§ 156.103 PUBLIC HEARING FOR APPEAL AND VARIANCE.

The Board of Zoning Appeals shall hold a public hearing within a reasonable length of time after receipt of an application for an appeal or variance from the applicant, but only after assuring itself that legal advertisement and interested party notification requirements as set out in §§ 156.135 through 156.138 of this chapter have been met. However, the public hearing shall not be held sooner than 15 days after its receipt.
(2004 Code, § 4-308)

§ 156.104 ACTION BY THE BOARD OF ZONING APPEALS.

Within a reasonable length of time after the public hearing required in § 156.103 of this chapter, the Board of Zoning Appeals shall either approve, approve with conditions and safeguards or disapprove the request for an appeal or variance. Furthermore, the Board shall demonstrate that the reasons set forth in the application justify the granting of a variance to make a reasonable use of the land or buildings possible.
(2004 Code, § 4-309)

SPECIAL EXCEPTIONS

§ 156.115 GENERAL.

Special exceptions or conditional uses are uses which have unique characteristics and cannot be properly classified in any particular zone. In each case, the impact of those uses upon neighboring land must be given the individual consideration. Special exceptions, while requiring special consideration by the Board of Zoning Appeals, shall be deemed permitted uses in the district in which they are provided.
(2004 Code, § 4-400)

§ 156.116 APPLICATION FOR A SPECIAL EXCEPTION.

(A) An application for a special exception permit shall be filed with the Zoning Administrator and the Board of Zoning Appeals by at least one owner or lessee of the property for which the special exception is proposed.

(B) At a minimum, the application shall contain the following information:

(1) Name, address and phone number of applicant;

(2) Any application filed by any person other than the legal owner of the real estate involved shall be accompanied by a written statement of such legal owner consenting to the filing of such application;

(3) Legal description of the property;

(4) Description of existing use;

(5) Zoning district;

(6) Description of the proposed special exception; and

(7) A plan of the proposed site for the special exception showing the location of all buildings, parking and loading areas, traffic access and traffic circulation, open space, landscaping, refuse and service areas, utilities, signs, yards and other information as the Board may require to determine if the proposed special exception meets the intent and requirements of this chapter and is appropriate for the location at which it is proposed.

(C) There shall accompany such application for a special exception a verified statement (affidavit) by the applicant that adjoining property owners were notified in writing at least 15 days prior to the date of the public hearing of such application as required by § 156.137 of this chapter;

(D) Any applicant shall furnish a verified proof (affidavit) of at least one publication of a notice in at least one newspaper having general circulation within the town consistent with the requirements of § 156.136 of this chapter.

(E) The cost of legal advertising and any required notice to affect property owners shall be borne by the petitioner.
(2004 Code, § 4-401)

§ 156.117 CONSIDERATIONS PRIOR TO GRANTING A SPECIAL EXCEPTION.

(A) The Board of Zoning Appeals may grant a special exception after consideration of the appropriateness of the specific property for the use, congestion of public streets, availability of public facilities and impact on surrounding property.

(B) The Board shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence that such use at the proposed locations:

(1) Is in fact a special exception as established under the provisions of this chapter and appears on the official Schedule of Uses for the zoning district involved;

(2) Will be designed, constructed, operated and maintained in a manner which is harmonious and appropriate in appearance with the existing character of the area and shall not change the essential character of the area;

(3) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be hazardous or disturbing to any persons or property;

(4) Will have vehicular approaches to the property which shall not create an interference with traffic on surrounding public thoroughfares;

(5) Will not create excessive additional requirements for public facilities and services; and

(6) Will not result in the destruction, loss or damage of natural, scenic or historic features.
(2004 Code, § 4-402)

§ 156.118 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS.

In granting any special exceptions, the Board may prescribe appropriate conditions and safeguards in conformity with this chapter. When the conditions and safeguards are made part of the terms upon which the special exception is granted, violations shall be deemed a violation of this chapter and punishable under § 156.999 of this chapter.
(2004 Code, § 4-403)

§ 156.119 EXPIRATION OF SPECIAL EXCEPTIONS.

A special exception authorized by the Board of Zoning Appeals shall become void if the use for which the special exception was granted has not commenced within one year.
(2004 Code, § 4-404)

§ 156.120 REVOCATION OF SPECIAL EXCEPTIONS.

(A) Special exceptions may be revoked or modified by the Board of Zoning Appeals after a public hearing for any one or more of the following reasons:

(1) The approval was obtained by fraud or misrepresentation of the facts; and/or

(2) The special exception is being exercised contrary to the terms or conditions of approval or in violation of any statute, ordinance, law or regulation.

(B) Procedure for revocation of a special exception shall be as follows.

(1) Upon determination by the Zoning Administrator that possible grounds for revocation of a special exception exists, the matter shall be placed on the Board of Zoning Appeals' agenda for a public hearing.

(2) The original applicant to whom the special exception was granted or his or her successor shall be notified by certified mail of the reasons for the possible revocation at least 30 days prior to the public hearing.

(3) Notice of the hearing shall also be given as stated in §§ 156.135 through 156.138 of this chapter.
(2004 Code, § 4-405)

§ 156.121 PUBLIC HEARING FOR SPECIAL EXCEPTIONS.

The Board of Zoning Appeals shall hold a public hearing within a reasonable length of time after receipt of an application for a special exception from the applicant, but only after assuring itself that legal advertisement and interested party notification requirements as set out in §§ 156.135 through 156.138 of this chapter have been met. However, the public hearing shall not be held sooner than 15 days after its receipt.
(2004 Code, § 4-406)

§ 156.122 ACTION BY THE BOARD OF ZONING APPEALS.

The Board of Zoning Appeals shall approve, approve with stipulations or disapprove the request for a special exception within a reasonable time after the public hearing.
(2004 Code, § 4-407)

PUBLIC HEARINGS

§ 156.135 GENERAL.

The Board of Zoning Appeals shall hold a public hearing within a reasonable length of time after the receipt of an application for an appeal, variance, special exception or revocation from the applicant or initiator. However, the public hearing shall not be held sooner than 15 days after its receipt.
(2004 Code, § 4-500)

§ 156.136 NOTICE OF PUBLIC HEARINGS.

The notice requirements for publication in a newspaper are as follows.

(A) Before holding the public hearing, notice of the hearing shall be given in one or more newspapers of general circulation in the town at least 15 days before the date of the hearing.

(B) The notice shall set forth the time and place of the hearing, and the nature of the proposed appeal, variance, special exception or revocation.

(C) All cost for the notice of public hearing shall be borne by the applicant or initiator and a proof of publication shall be required from the applicant or initiator prior to final action being taken on the petition.
(2004 Code, § 4-501)

§ 156.137 NOTICE TO PARTIES IN INTEREST.

Notice shall be given to parties of interest as follows.

(A) Before holding the public hearing, written notice of such hearing shall be mailed by the applicant(s) or initiator(s) by certified mail, return receipt requested, in a form by certified mail, return receipt requested, in a form which meets the Board's requirements at least 15 days prior to the day of the hearing to the owners of all adjoining parcels of land to a depth of two ownerships or 250 feet, whichever is greater, of the exterior boundaries of the subject property. For the purposes of notification of parties in interest, where any such adjacent parcels of land are owned by the applicant(s), the subject property shall be deemed to include adjacent land owned by the applicants.

(B) A verified written statement that all interested parties have been mailed a written notice as set out in division (A) above shall be submitted by the applicant prior to final action being taken on the petition.
(2004 Code, § 4-502)

§ 156.138 RECORDS.

The Board shall keep records of its examinations, findings and other official actions, all of which shall be public record and be immediately filed in the office of the Recording Secretary of the Board.
(2004 Code, § 4-503)

ZONING DISTRICTS AND OFFICIAL MAP

§ 156.150 ESTABLISHMENT AND DEFINITION.

To classify, regulate and restrict the use of land and structures, the town is hereby divided into, or provisions are hereby made for future division into, the following zoning districts. Furthermore, these districts have been established to encourage the most appropriate use of land within the town, to protect property values, to regulate the intensity of land use and to promote the health, safety and general welfare of the public.
(2004 Code, § 5-100)

§ 156.151 SINGLE-FAMILY RESIDENTIAL DISTRICTS.

The residential districts are intended to be limited to dwellings and public or semi-public uses which are normally associated with residential neighborhoods. The only uses permitted in residential districts are those which would not detract from the residential character of the neighborhood. The purpose of these three districts is to create an attractive, stable and orderly residential environment. However, the property development regulations vary among the three districts in order to provide for the various housing needs and designs of citizens.
(2004 Code, § 5-101)

§ 156.152 GENERAL BUSINESS ONE (GB1).

The General Business One District is created to provide for local or neighborhood business uses that will be compatible with adjoining residential areas. The GB1 District is designed to provide for commercial, office, public and semi-public structures which are to be typically much less commercial in appearance and architecturally more harmonious with residential structures. This district can serve as a buffer between residential areas and general business districts where a gradual transition from existing residential use to general business use is occurring or should occur.
(2004 Code, § 5-102) (Ord. 2026, passed 4-4-2006)

§ 156.153 GENERAL BUSINESS TWO (GB2).

The General Business Two District is designed to permit the development of a complete range of retail sales and personal, professional and business services required to meet the demands of a fully developed residential community. In general, to achieve maximum flexibility of permitted land use, the GB2 District makes possible a highly varied grouping of retail and business functions.
(2004 Code, § 5-103) (Ord. 2026, passed 4-4-2006)

§ 156.154 GENERAL BUSINESS MANUFACTURING (GBM).

The General Business Manufacturing District is designed to permit, within a single zoning district, multi-use business complexes or land use combinations of business and non-business uses or single-use business projects. The primary objective of this district is to encourage development which achieves a high degree of design and function, and can be intermixed, grouped or otherwise uniquely located with maximum cohesiveness and compatibility. The district provides flexibility and procedural economy by permitting the broadest range of land use choices within a single district, while maintaining adequate land use controls. The GBM District can be applied to large or small land areas appropriately located throughout the town, and can be useful in areas of renewal or redevelopment. Development site plans should incorporate and promote environmental considerations, working within the constraints and advantages presented by existing site considerations.
(Ord. 2026, passed 4-4-2006)

§ 156.155 MANUFACTURING (M).

(A) The purpose of the Manufacturing District is to encourage the establishment of manufacturing and wholesale businesses which are clean, quite of and free of hazardous or objectionable elements. Operation of these establishments should take place entirely within an enclosed structure and should generate little industrial traffic. No storage of raw materials, manufactured products or any other materials is permitted in the non-screened open space around the building. This district has strict controls on the intensity of land use providing protection of each industry from the encroachment of other industries.

(B) It is usually located adjacent to residential areas and may serve as a buffer between heavier industrial districts and business or residential districts.
(2004 Code, § 5-104)

§ 156.156 MANUFACTURED OF MOBILE HOME COMMUNITY OR PARK DISTRICT (MH).

(A) The purpose of the MH District is to accommodate the housing needs of those residents who prefer manufactured or mobile home living and of those who desire an economic alternative to conventional dwellings.

(B) The term mobile home when used in this section shall denote either a manufactured home or a mobile home, both of which are more specifically defined in § 156.410 of this chapter, and the term mobile home park when used in §§ 156.405 through 156.416 of this chapter shall mean a parcel of land platted for subdivision upon which five or more manufactured or mobile homes are harbored for the purpose of being occupied as principal residences.
(2004 Code, § 5-105)

§ 156.157 FLOOD HAZARD (FH).

(A) Flood hazard zoning has been created to protect the public health and to reduce the financial burdens which may be imposed on the community, its governmental units and its citizens as a result of improper use of lands which are subject to periodic flooding.

(B) Construction or development of the flood hazard areas of the town could result in the potential loss of life and property, create health and safety hazards and lead to extraordinary public expenditures for flood protection and relief.

(C) Since development of these areas is not essential to the orderly growth of the community, these lands are to be reserved for suitable open space uses that do not require structures or fill.
(2004 Code, § 5-106)

§ 156.158 OFFICIAL ZONING MAP; REPLACEMENT.

(A) The town is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter, is hereby adopted by reference and declared to be a part of this chapter.
(2004 Code, § 5-201)

(B) The Official Zoning Map shall be identified by the Chairperson of the town's Plan Commission with the date of the adoption of this chapter.
(2004 Code, § 5-202)

(C) No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this chapter. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this chapter and punishable as provided under § 156.999 of this chapter.
(2004 Code, § 5-203)

(D) The Official Zoning Map which shall be located in the Town Hall and shall be the final authority as to the current zoning status of land and water areas, building and other structures in the town.
(2004 Code, § 5-204)

(E) (1) In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature and number of changes and additions, the Plan Commission may, by resolution, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omission in the prior Official Zoning Map.

(2) The new Official Zoning Map shall be identified by the signature of the Chairperson of the Plan Commission under the following words:

> This is to certify that this is the Official Zoning Map of the Town of New Whiteland, adopted this _____ day of _____ , and hereby supersedes and replaces any and all previous zoning maps.
>
> _____
> Plan Commission Chairperson
>
> _____
> Recording Secretary

(3) Unless the prior Official Zoning Map has been lost or has been totally destroyed, the prior map, or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.
(2004 Code, § 5-205)

§ 156.159 INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply.

(A) *Centerlines of streets*. Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.

(B) *Platted lot lines*. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(C) *Town limits*. Boundaries indicated as approximately following town limits shall be construed as following such town limits.

(D) *Railroad lines*. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

(E) *Conflicts to Official Zoning Map*. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by divisions (A) through (D) above, the Board of Zoning Appeals shall interpret the district boundaries.

(F) *Lots divided by district boundaries*. Where a district boundary line divides a lot which was in single ownership at the time of passage of this chapter, the Board of Zoning Appeals may permit, as a special exception, the extension of the regulations for either portions of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.
(2004 Code, § 5-300)

GENERAL DISTRICT REGULATIONS

§ 156.170 PERMITTED USES AND SPECIAL EXCEPTIONS.

The permitted uses for each district are listed in the following Table A, Official Schedule of Uses. A proposed use not specifically listed shall not be permitted, unless the Plan Commission determines, in its discretion, that it is similar enough to a listed use that it should be permitted and deems it to be a permitted use. In which case, the proposed use will be permitted only in those zoning classifications in which the use to which it is deemed to be most similar is permitted. The special exceptions for each district that may be permitted by the Board of Zoning Appeals are also shown in Table A. The Board shall follow provisions of this and other applicable sections when considering any application for a special exception.

TABLE A: OFFICIAL SCHEDULE OF USES										
DISTRICTS	***RS1***	***RS2***	***RS3***	***RF1***	***MH***	***F***	***GB1***	***GB2***	***GBM***	***M***
AGRICULTURAL USES										
Agricultural crop production						P				
Agricultural crop production, organic						P				

TABLE A: OFFICIAL SCHEDULE OF USES										
DISTRICTS	***RS1***	***RS2***	***RS3***	***RF1***	***MH***	***F***	***GB1***	***GB2***	***GBM***	***M***
Agricultural products, processing						P				
Agricultural products, sales						P		S	S	P
Agricultural products, storage								S	S	P
Bio-diesel production (micro)										S
Cider mill										S
Forestry						P				
Grain elevator										
Hobby gardening	P	P	P	P		P	S	S	S	P
Plant nursery, wholesale						P		S	S	P
Tree farm, wholesale								S	S	P
Vineyard								S	S	S
RESIDENTIAL USES										
Assisted living facility				S			S	P	P	
Bed and breakfast								P	P	
Boarding house							P	P	P	
Dwelling, accessory	P	P	P	P	P		P	P	P	
Dwelling, duplex (2 units)	S	S	S	P			S	S	S	
Dwelling, manufactured home					P					
Dwelling, multiple-family (3 - 4 units)			S	S						
Dwelling, multiple-family (5 - 8 units)			S	S				S	S	
Dwelling, multiple-family (9 - 16 units)			S	S				S	S	
Dwelling, multiple-family (17+ units)				S				S	S	
Dwelling, single-family attached	P	P	P	P				S	S	
Dwelling, single-family detached	P	P	P	P				S	S	
Garage sales	P	P	P	P	P	P				

TABLE A: OFFICIAL SCHEDULE OF USES										
DISTRICTS	***RS1***	***RS2***	***RS3***	***RF1***	***MH***	***F***	***GB1***	***GB2***	***GBM***	***M***
RESIDENTIAL USES										
Home occupations	S	S	S	S	S		P	P	P	
Manufactured home park					P					
Retirement community				S				S	S	
INDUSTRIAL USES										
Arena								P	P	S
Cemetery/mausoleum	S	S	S	S	S	S	S	S	S	S
Community center						S	S	S	S	
Fire/police station	S	S	S	S	S	S	S	S	S	S
Government office	S	S	S	S	S	S	P	P	P	S
Hospice facility								P	P	S
Hospital								P	P	S
House of worship, church	S	S	S	S	S	S	P	P	P	
Landscaping contractor										P
Library							S	S	S	
Museum							S	S	S	S
Nature preserve	S	S	S	S	S	S				
Park, public	S	S	S	S	S	S	S	S	S	
Post office	S	S	S	S			P	P	P	
Recreational field	S	S	S	S	S	S				
Rehabilitation clinic							S	S	S	
Retirement community	S	S	S			S	S	S	S	S
School, public	S	S	S			S	S	S	S	S
Sewer treatment facility, public	S	S	S	S	S	S	S	S	S	S
Water tower	S	S	S	S	S	S	S	S	S	S
Water treatment facility, public	S	S	S	S	S	S	S	S	S	S
Wellhead, public	S	S	S	S	S	S	S	S	S	S

TABLE A: OFFICIAL SCHEDULE OF USES										
DISTRICTS	***RS1***	***RS2***	***RS3***	***RF1***	***MH***	***F***	***GB1***	***GB2***	***GBM***	***M***
COMMERCIAL USES										
Airport, private								S	S	S
Amusement park								S	S	
Animal care/grooming (no kennel)							P	P	P	
Auction (indoor)								S	S	S
Auction (outdoor)								S	S	S
Barber or beauty shop							P	P	P	
Billiard hall or arcade								S	S	
Bowling alley								S	S	
Brew pub								S	S	S
Broadcast studio								P	P	
Car and truck rental								P	P	
Catering service								P	P	S
Check cashing service							P	P	P	
Club or lodge							P	P	P	
Coffee shop							P	P	P	
Coin laundry							P	P	P	
Computer service							P	P	P	
Copy center							P	P	P	
Convenience store								S	S	
Counseling center							P	P	p	
Country club								S	S	
Crematory								S	S	
Dance studio								P	P	
Day care							P	P	S	
Delicatessen							P	P	P	
Design services							P	P	P	

TABLE A: OFFICIAL SCHEDULE OF USES										
DISTRICTS	***RS1***	***RS2***	***RS3***	***RF1***	***MH***	***F***	***GB1***	***GB2***	***GBM***	***M***
COMMERCIAL USES										
Donation collection point							P	P	P	S
Driving range								S	S	S
Dry cleaning pickup and drop-off							P	P	P	S
Express shipping center							P	P	P	S
Exterminator								S	S	S
Farmers market						S		S	S	S
Filling station								P	P	S
Funeral home							P	P	P	
Hotel								P	P	
Ice cream shop							P	P	P	
Kennel								S	S	S
Landscaping, retail materials and supplies								P	P	S
Lumberyard									S	P
Martial arts school								P	P	
Medial rental							P	P	P	
Medical clinic							P	P	P	
Mobile device dealer							P	P	P	S
Nail salon							P	P	P	
Night club								S	S	
Office, construction trade								P	P	P
Office, general							P	P	P	S
Office, medical							P	P	P	
Paintball facility								S	S	
Parcel shipping							P	P	P	
Parking lot, pay								P	P	S
Party facility								P	P	
Pharmacy							P	P	P	

TABLE A: OFFICIAL SCHEDULE OF USES										
DISTRICTS	***RS1***	***RS2***	***RS3***	***RF1***	***MH***	***F***	***GB1***	***GB2***	***GBM***	***M***
COMMERCIAL USES										
Photography studio							P	P	P	
Printing, commercial								P	P	S
Real estate office							P	P	P	S
Recreation center								S	S	
Recreational vehicle (RV) sales and service								S	S	S
Rehabilitation clinic, medical							P	P	P	S
Repair shop, electronics							P	P	P	S
Repair shop, equipment								P	P	S
Repair shop, general							P	P	P	S
Restaurant							P	P	P	
Restaurant, drive-in								S	S	
Restaurant, drive-through only								S	S	
Restaurant with drive-up window								S	S	
Retail, agriculture related (plants and produce)								P	P	
Retail sales, general							P	P	P	
Seamstress/tailor							P	P	P	
Shoe repair							P	P	P	
Shooting range (indoor)								S	S	
Software development							P	P	P	P
Spa								P	P	
Sports field (indoor)								S	S	
Sports field (outdoor)								S	S	
Studio arts - music, dance, art							P	P	P	
Tanning salon							P	P	P	
Tattoo/piercing parlor							S	S	S	
Theater, movie (indoor)								S	S	

TABLE A: OFFICIAL SCHEDULE OF USES										
DISTRICTS	***RS1***	***RS2***	***RS3***	***RF1***	***MH***	***F***	***GB1***	***GB2***	***GBM***	***M***
COMMERCIAL USES										
Title company							P	P	P	
Tool/equipment sales and/or rental (indoor)								P	P	S
Tool/equipment sales and/or rental (outdoor)								S	S	S
Trade or business school								P	P	S
Travel agency							P	P	P	
Truck sales								S	S	S
Veterinary clinic							P	P	P	
INDUSTRIAL USES										
Bottling/canning										P
Brewery										P
Broadcast facility										P
Chemical manufacturing										S
Coatings and finishes										S
Composting facility										S
Distribution facility										P
Dry cleaning processing										S
Electrical generation plant										S
Fireworks manufacturing										S
Fleet vehicle storage										P
Food processing										P
Freight terminal										P
Heavy equipment repair										P
Industrial park										P
Liquid fertilizer distribution										S
Meat processing										S

TABLE A: OFFICIAL SCHEDULE OF USES										
DISTRICTS	***RS1***	***RS2***	***RS3***	***RF1***	***MH***	***F***	***GB1***	***GB2***	***GBM***	***M***
INDUSTRIAL USES										
Metal casting										S
Motor sports team										P
Outdoor storage										P
Printer, industrial										P
Produce terminal										P
Research center, general										P
Research center, medical										P
Rock crushing										S
Sawmill										S
Scrap metal yard										S
Sign fabrication										P
Stone cutting										S
Storage tanks (hazardous)										S
Storage tanks (non-hazardous)										P
Telecommunication facility										P
Testing lab, electronics										P
Testing lab, materials										P
Tool and die shop										P
Transfer station										S
Utility facility, above-ground										P
Warehouse										P
Welding service										P
Wholesale business										P

(2004 Code, § 6-100) (Ord. 2016-13, passed 9-6-2016; Ord. 2019-12, passed 10-15-2019; Ord. 2022-04, passed 5-4-2022)

§ 156.171 PROPERTY DEVELOPMENT REGULATIONS.

The following general standards shall govern the development of lots and buildings in all zoning districts.
(2004 Code, § 6-200)

§ 156.172 LOT AND YARD REQUIREMENTS.

The minimum lot area, width of frontage, width of lot, width of side yards, depth of front and rear yards, maximum building heights, floor area ratio and minimum floor areas for each district shall be as shown in Table 156.172 below. (Some district development standards may vary from the standards defined herein - see district requirements and notes to Table 156.172 on next page.)

[Please insert landscape table - NewWhitelandTable156-172.wpd here. One page.]

(2004 Code, § 6-201)

§ 156.173 SETBACK REQUIREMENTS.

(A) The below shown setbacks are considered to be minimums. The Plan Commission may prescribe greater setbacks if either the proposed use or the condition of the area, in the discretion of the Plan Commission, warrant such greater setbacks.

(B) Yards, having a minimum depth in accordance with the following setback requirements, shall be provided along all public street right-of-way lines, and building setback lines shall be as follows:

(1) *Express, arterial highway or primary thoroughfare*. U.S. 31 as designated on the Comprehensive Plan of the town. No part of any structure shall be built closer than 75 feet to any right-of-way line of an expressway or arterial highway, and not closer than 45 feet to any right-of-way line of a primary thoroughfare. Except, however, in a manufacturing district which shall have setback requirements as set out in §§ 156.215 through 156.218 of this chapter;

(2) *Secondary thoroughfare*. Secondary thoroughfare, as designated on the Comprehensive Plan of the town. No part of any structure shall be built closer than 40 feet to any right-of-way line of a secondary thoroughfare. Except, however, in a manufacturing district which shall have setback requirements as set out in §§ 156.215 through 156.218 of this chapter;

(3) *Local streets or marginal access streets or cul-de-sacs*. No part of any structure shall be built closer than 25 feet to any right-of-way line of a local street or marginal access street or cul-de-sac, except where more restrictive requirements are otherwise provided for in this chapter. Except, however in a manufacturing district which shall be as set out in §§ 156.215 through 156.218 of this chapter. Additionally, it shall be further provided, that in any block in which an existing yard depth is established (by existing legally established structures within the same district) for more than 25% of the frontage of the block (or a distance of 400 feet, whichever is the lesser), the required yard depth and setback for any new building shall be the average of such established yards; and

(4) *Established setbacks*.

(a) If 25% or more of the lots on one side of the street between two intersecting streets are improved with buildings all of which have observed an average setback line greater than the minimum setback requirements for that specific zoning district, and no building varies more than six feet from this average setback line, then no building shall be erected closer to the street line than the minimum setback so established by the existing buildings.

(b) If 25% or more of the lots on one side of the street between two intersecting streets are improved with buildings all of which have observed an average setback line less than the minimum setback requirements for that specific zoning district, and no building varies more than six feet from this average setback line, then it shall be permissible to erect a building as close to the street line as the average setback line so established by the existing building; provided, however, that, this provision shall not apply to corner lots or lots having frontage on more than one street.
(2004 Code, § 6-202)

§ 156.174 HEIGHT RESTRICTIONS.

The following requirements are intended to provide exceptions to or qualify and supplement as the case may be, the specific district regulations set forth in § 156.172 of this chapter and in each of the individual district's developmental regulations.

(A) *General*. In measuring heights, a habitable basement or attic shall be counted as a story at a height of four feet above the floor does not exceed two-thirds of the area of the story immediately below it and which does not contain an independent apartment, shall be counted as half story. Height shall be measured from ground level to the highest point of the building.

(B) *Projections not for human occupancy*. Chimneys, elevators, poles, spires, tanks towers and other projections not used for human occupancy may extend above the height limit.

(C) *Public and semi-public buildings*. Houses of worship, schools, hospitals, sanatoriums and other public and semi-public buildings may exceed the height limitation of the district if the minimum depth of rear yards and the minimum width of the side yards required in district are increased one foot for each two feet by which the height of such public or semi-public structure exceeds the prescribed height limitation.

(D) *Accessory buildings*. The building height of an accessory building may not exceed the building height of the principal building.
(2004 Code, § 6-203)

RESIDENTIAL DISTRICTS

§ 156.185 RESTRICTIONS FOR PERMITTED USES.

(A) The permitted uses of property in all residential districts are the same. Variations among RS1, RS2 and RS3 are in the property development regulations as shown in Table 156.172. See § 156.170 of this chapter, official Schedule of Uses, for a complete listing of permitted uses in these districts.

(B) The following additional requirements shall apply in all residential districts.

(1) *Attached single-family dwelling (zero lot lines)*. An ***ATTACHED, SINGLE-FAMILY DWELLING*** shall be defined as a dwelling structure designed and intended for multiple-family occupancy with the provision, unlike rental apartments or condominiums, for private fee simple ownership of each individual dwelling and lot. Attached, single-family dwellings may provide for two or more dwelling units per attached structure, up to a maximum of eight units per attached dwelling structure.

(a) *Intent.*

1. It is the intent of this section to provide for the construction of attached, single-family dwellings and to clarify the distinction between such units and apartments or condominiums. The structure itself may be the same as a conventional two-family or multiple-family structure. The difference is in the extent of ownership and method of maintenance.

2. A conventional apartment building has a single owner (individual or corporate) with the individual dwelling units leased or rented to tenants. Building and grounds maintenance normally would be the responsibility of the property owner.

3. Condominiums, on the other hand, have individual owners for each dwelling unit, with the surrounding common grounds owned and maintained by a condominium association. In other words, the property owner normally owns only the dwelling unit in which he or she resides.

4. Attached, single-family dwellings are similar to apartments and condominiums, yet unique in that the property owner owns both the dwelling and the accompanying lot. Attached, single-family dwellings are single-family dwellings with zero lot lines and common walls (with other single-family dwellings) on three or less sides.

(b) *Permitted zoning districts.* Attached, single-family dwellings shall be permitted in the RF Zoning District and by special exception in RS1, RS2 or RS3 single-family zoning districts.

(2) *Manufactured housing Type I.*

(a) *General.* It is the intent of this chapter to encourage the provision of alternative modest income housing in certain residential areas by permitting the use of Type I manufactured homes. To assure similarity in exterior appearance between manufactured houses and homes constructed on-site, only Type I manufactured houses, as defined in § 156.410(A) of this chapter, will be a permitted use in general residential areas.

(b) *Permitted placement.* The establishment, location and use of Type I manufactured homes as permanent residences approved individually, by specific materials, or by design, shall be permitted in any zoning district permitting installation of a dwelling unit subject to requirements and limitations applying generally to such residential use in the district; and, provided, such homes shall meet the requirements for Type I manufactured homes as set out in §§ 156.215 through 156.218 of this chapter. Other types of manufactured homes including mobile homes shall be a permitted use only in the MH District.
(2004 Code, § 6-301)

§ 156.186 RESIDENTIAL PROPERTY DEVELOPMENT REGULATIONS.

(A) *Minimum lot areas*.

(1) Any plat of a subdivision consisting of five lots or more for plat approval in accordance with Ch. 155 of this code of ordinances subsequent to the effective date this chapter, may reduce said minimum lot area of 20% of the total number of lots within said plat, to the extent of 20% below such square feet requirements; provided, the average size of all lots within said approved plat shall then be at least equal to the minimum lot area requirements for the district involved.

(2) When not serviced by a public sanitary sewer system, the minimum lot area for a single-family dwelling shall be increased to a minimum of one acre. The Plan Commission shall require approval of the private system to be used from the county's Health Department.

(B) *Minimum lot width and street frontage*.

(1) Any plat of a subdivision consisting of five lots or more submitted for plat approval in accordance with Ch. 155 of this code of ordinances, subsequent to the effective date of this chapter, may reduce said minimum width of 20% of the total number of lots within said plats, to the extent of 10% below such 80-, 75- and 60-foot requirements.

(2) Each lot shall have as a minimum the front footage shown on a public street and shall gain access from said street.
(2004 Code, § 6-302)

§ 156.187 GARAGE SALES.

(A) *Limitation on number and duration of garage sales*.

(1) No more than one garage sale each month shall be held at the same location. Garage sales shall not be held in the same location in consecutive weeks.

(2) No single garage sale shall continue for more than four consecutive days.

(3) Garage sales shall not being prior to 7:00 am. or continue past 7:00 p.m.

(B) *Restrictions on garage sales*. It shall be unlawful to hold a garage sale:

(1) Within the travel portion of any street or alley, or upon any median thereof, while such street or alley is open to vehicular traffic; or

(2) Upon any public sidewalk or right-of-way in such a manner as to impede the flow of pedestrian traffic.

(C) *Regulations related to signage*. If a garage sale is advertised by the use of signs, the number, size, location, and duration of such signs shall comply with the applicable provisions of §§ 156.335 through 156.341. All signs advertising a garage sale must include the address of the garage sale and the dates of the sale.
(Ord. 2019-12, passed 10-15-2019)

GENERAL BUSINESS DISTRICTS

§ 156.200 RESTRICTIONS FOR PERMITTED USES; GB1.

(A) All permitted GB1 uses are listed in the official Schedule of Uses in § 156.170 of this chapter.

(B) The following restrictions shall be applicable to all permitted uses within the GB1 District:

(1) All uses and operations (except off-street loading, off-street parking and drive-in customer service windows) shall be conducted within completely enclosed buildings;

(2) No merchandise shall be produced, stored or handled on the premises for purposes of delivery or for sale at retail, wholesale or discount to the public or other businesses unless minor and incidental to the primary office function; and

(3) No show windows or other exterior display, displaying, promotion or advertising products, merchandise or services retailed, offered, promoted or advertised by the use occupying the premises shall be permitted.
(2004 Code, § 6-401)

§ 156.201 RESTRICTIONS FOR PERMITTED USES; GB2.

(A) All permitted uses shall be as listed in the official Schedule of Uses in § 156.170 of this chapter.

(B) The following additional restrictions shall be applicable in the GB District:

(1) Gasoline service station, tire and auto service center shall be limited to indoor service bays only; provided, however, that, the service station and center functions, services, operation and sales shall not include the following:

(a) Outdoor operations other than the dispensing of gasoline, oil, antifreeze and other similar products and the performing of minor services for customers;

(b) The sale, rental, display or storage of new or used motor vehicles, trailers, tractors, machinery or other similar equipment; or merchandise not related to the minor servicing of motor vehicles or for the immediate convenience of customers;

(c) Commercial parking of motor vehicles;

(d) Major exterior displays of merchandise; or any exterior displays which restrict traffic visibility in any way or which impede the movement of vehicles on the service or center driveways or public rights-of-way, or located in or in any way conflicting or interfering with pedestrian walks, off-street parking areas or required landscaped yards. Any exterior display shall be maintained in an orderly manner;

(e) Major servicing or motor or body repair such as, but not limited to, body, fender work, motor overhaul, major transmission repair, auto glass work, tire recapping;

(f) Dismantling or wrecking of motor or other vehicles, or the storage of inoperable, damaged or wrecked vehicles; and

(g) A driveway so located and constructed that it permits traffic movement completely around or behind the service station or service center structure (except where necessary to provide adequate access to the off-street parking area, building, storage tanks, trash containers and the like, or to adjacent commercial property, or in the case of a station or service center structure designed to provide service on all sides).

(2) Automobile sales, new or used, service and repair, are a permitted use; provided:

(a) Any major repair and service is conducted within enclosed buildings;

(b) Auto storage is incidental to the primary function;

(c) Not more than 50% of the developed area of the premises is used for outdoor display, storage and/or sales;

(d) Outdoor storage shall be screened by a solid decorative fence or wall not less than six feet in height, and to a distance from the front lot line not less than the front building line of the primary structure;

(e) Outdoor display of automobiles shall be located not less then 20 feet from the front lot line; provided, a 20-foot wide strip of the required front yard, paralleling and measured from the front lot line, and extending the full length thereof (except for walks, access cuts and driveways) shall be landscaped in grass and shrubbery, trees and/or hedge; and

(f) Any lighting used to illuminate an outdoor display area or an outdoor area where any service or activity is conducted shall comply with the following requirements.

1. When parking areas are illuminated, the lighting equipment shall provide good visibility with a minimum of direct glare.

2. In applying exterior floodlighting, equipment shall be of those types or distribution that are appropriate to lighting within the property line. The lighting equipment shall be so located, shielded and directed that the lighting distribution is confined to the area to be lighted.

3. Objectionable spill light onto adjacent properties or streets shall be avoided to prevent direct glare or disability glare.

(3) Further, it shall be prohibited to:

(a) Light an area by the use of stringers or unshielded incandescent lamps in which the entire lamp envelope is designed to function as a light emitter; and

(b) Make use of attention attracting lighting from apparatus of a type used by emergency vehicles.

(4) Rental of cars, trucks and trailers shall be permitted subject to the provisions of this section. (2004 Code, § 6-402) (Ord. 2056, passed 8-7-2007)

§ 156.202 PROPERTY DEVELOPMENT REGULATIONS; GB1 AND GB2.

(A) *Uses in GB2.*

(1) All uses and operations (except off-street loading and off-street parking) shall be conducted within completely enclosed buildings, except where otherwise permitted.

(2) No outdoor storage shall be permitted other than trash containers; provided that, trash containers exceeding six cubic feet shall be located within a solid-walled stall behind or beside the primary structure.

(3) No vending machines shall be permitted on the exterior of any building on the premises, except where contained in a shelter, stall or other area so located as not to interfere materially with the use of adjacent properties.

(B) *Required front yard, minimum front setback (GB1 and GB2).*

(1) A front yard, having at least 35 feet width of frontage on a public street and having a minimum depth in accordance with the thoroughfare setback requirements of § 156.173 of this chapter, shall be provided along the street right-of-way line.

(2) Frontage roads shall be considered collector streets, requiring a front setback of 35 feet from the right-of-way of such frontage road unless such frontage road is designated otherwise on the official Thoroughfare Plan of the town or on the recorded plat thereof as required by Ch. 155 of this code of ordinances.

(C) *Required corner side yard, double frontage lot minimum setback (GB1 and GB2).* In any case where the side or rear lot line abuts a street right-of-way line, there shall be provided a side or rear yard in which the setback of any structure shall comply with the minimum front setback requirements of this section, unless subject to the established setback provisions of § 156.173 of this chapter.

(D) *Required side yards, minimum side setback (GB1 only).* A side setback and landscaped side yard of not less than eight feet in depth shall be provided along each side lot line, (unless subject to the additional setback requirements of division (K) below for building or structural heights in excess of 35 feet, or transitional yards requirements of division (H) below). If any portion of a side yard is used for a driveway or off-street parking area, there shall be provided and maintained along the entire length of such lot line, a three-foot landscaped strip, extending the full length thereof; provided, however, that, where a dedicated alley separates a side yard from the adjacent property, the entire required side yard may be used for off-street parking and/or driveway.

(E) *Required side yard, minimum side setback (GB2).* No side yard or side setback is required unless subject to the requirements for transitional yards of division (H) below.

(F) *Required rear yard, minimum rear setback (GB1).*

(1) A rear yard and setback of not less than ten feet in depth shall be provided along the rear lot line (unless subject to additional setback requirements of division (C) above or division (K) below, for building or structural heights in requirements of division (H) below.

(2) Said rear yard, whether abutting an adjacent property or separated therefrom by a dedicated alley, may be entirely used for off-street parking and/or driveway.

(G) *Required rear yard, minimum rear setback (GB2).* No rear yard or rear setback is required unless subject to the requirements for transitional yards of division (H) below.

(H) *Transitional yards (GB1 and GB2).*

(1) Where a front yard abuts a street on the opposite side of which is a residential district, the minimum required front yard and setback shall be the same as the standard front yard and setback requirement of division (B) above; provided, however, the front yard use of such minimum required transitional front yard shall not include off-street parking if said abutting street is a collector, local, marginal access street or cul-de-sac. If the abutting street is an expressway, primary or secondary thoroughfare, the front yard may include off-street parking provided a 20-foot wide strip of said required front yard, paralleling and measured from the front lot line, and extending the full length thereof (except for walks, access cuts and driveways) shall be maintained as a landscaped portion of the yard in conformance with division (I)(1) below.

(2) Where a side or rear lot line abuts either a side or rear lot line in an adjacent residential district, a side or rear yard and setback not less than 15 feet in depth shall be provided along such side or rear lot line.

(I) *Screening and landscaping of transitional yards for yards fronting upon or abutting a residential district.*

(1) (a) Front transitional yards (fronting upon a residential district) shall be landscaped in an open pattern, in grass and shrubbery, trees and/or hedge to provide a partial screening of the GB use. An ornamental, decorative fence or masonry wall, not more than two and one-half feet in height if solid, or six feet if open, may be used in conjunction with the landscaping; provided, however, along any portion of said transitional front yard in which an off-street parking area is located there shall be provided and maintained along the front lot line a buffer screen of either:

1. ***ARCHITECTURAL SCREEN.*** A wall or fence of ornamental block, brick, solid wood fencing or combination thereof. Said wall or fence shall be at least 42 inches in height and shall be so constructed to such minimum height to restrict any view there through; or

2. ***PLANT MATERIAL SCREEN.*** A compact hedge of evergreen or deciduous shrubs, at least 36 inches in height at the time of planting.

(b) Ground area between such wall, fence or hedge and the front lot line shall be planted and maintained in grass, other suitable ground cover, shrubbery and/or trees. All shrubs and trees shall be planted balled and burlapped and shall meet the standards of the American Association of Nurserymen.

(c) To provide maximum flexibility in the landscape design of a side screen and ground area, a variety of plant material may be used; provided, however, that, a plan indicating the species, variety, size, spacing and location of all plants shall be filed with the Zoning Administrator and approved by him or her prior to the time of planting.

(2) Side and rear transitional yards (abutting residential districts) shall be landscaped in grass and shrubbery, trees and/or hedge to form an effective screening of the GB1 use. An ornamental, decorative fence or masonry wall, may be used in conjunction with the landscaping; provided, however, if any portion of a side or rear transitional yard is used for a driveway or off-street parking area, there shall be provided and maintained along the entire length of such lot line to the front setback line, a wall or fence of ornamental block, brick, solid wood fencing or combination thereof. Said wall or fence shall be at least six feet in height and shall be so constructed to such height to restrict any view there through.

(J) *Use of required yards*. All required yards shall be landscaped in grass and shrubbery, trees and/or hedge, or in combination with other suitable ground cover materials, except:

(1) Required front yards may include:

(a) Pedestrian walks, access cuts, driveways, flag poles and similar appurtenant uses; and

(b) Off-street parking; provided, however, a six-foot wide strip of the required front yard, paralleling and measured from the front lot line, and extending the full length thereof (except for walks, access cuts and driveways) shall be maintained as a landscaped portion of the front yard as required above, unless subject to. the transitional yard requirements of division (H) above.

(2) Required side and rear yards may include:

(a) Pedestrian walks, access cuts, driveways, flag poles and similar appurtenant uses; and

(b) Off-street parking, subject to the requirements of divisions (D), (E), (F) and (G) above.

(K) *Height of buildings and structures (GB1)*. The maximum height of buildings and structures shall be 45 feet; provided, however, in case of the transitional yards, as specified in division (H) above, minimum required side and rear setbacks shall be increased by one foot for each additional three feet, or part thereof, of building or structural height above 35 feet.
(2004 Code, § 6-403)

§ 156.203 GBM GENERAL BUSINESS MANUFACTURING.

(A) *General.* All land uses within the GBM District shall be limited to the use or uses specified in the applicable rezoning petition or ordinance redistricting and zoning the particular land to the GBM District. A site and development plan for a proposed GBM District shall be filed with the zoning petition and approved by the Plan Commission. The Commission may approve, amend or disapprove the plan and may impose any reasonable conditions upon its approval. All development within the GBM District shall be subject to any further standards, conditions, restrictions or requirements specified in such rezoning petition or ordinance.

(B) *Development standards.*

(1) *Uses.* All GBM District uses shall:

(a) Be so planned, designed, constructed and maintained as to create a superior land development, in conformity with the Comprehensive Plan;

(b) Create and maintain a desirable, efficient and economical use of land with high functional value and compatibility of land uses, within the GBM District and with adjacent uses;

(c) Provide sufficient and well-designed access, parking and loading areas;

(d) Provide traffic control and street plan integration with existing and planned public streets and interior access roads;

(e) Provide adequately for sanitation, drainage and public utilities; and

(f) Allocate adequate sites all uses proposed: the design, character, grade, location and orientation hereof to be appropriate for the uses proposed, logically related to existing and proposed topographical and other conditions, and consistent with the Comprehensive Plan.

(2) *Required minimum street frontage.* Each lot or integrated center shall have at least 50 feet of frontage on a street right-of-way, and shall gain access from such street frontage.

(3) *Required minimum front yards, minimum front setback.* The setback requirements of § 156.202(B) of this chapter shall apply to the property in the GBM District.

(4) *Required minimum side yards, minimum side setback.* No side yard or side setback shall be required unless subject to the requirements of transitional yards of § 156.202(H) of this chapter.

(5) *Required minimum rear yards, minimum rear setback.* No rear yard of rear setback shall be required unless subject to additional setback requirements of § 156.202(K) of this chapter, for building or structural heights in requirements of § 156.202(H) of this chapter.

(6) *Required front yards*.

(a) May include pedestrian walks, driveways, flag poles, fences, screening walls and similar appurtenant structures; and

(b) Shall not include parking areas or interior access drives.

(7) *Required side and rear yards*.

(a) May include pedestrian walks, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and

(b) May include interior access drives and parking areas.

(8) *Required front, side or rear transitional yards*.

(a) May include pedestrian walks, driveways, interior access driveways, flag poles, fences, screening walls and similar appurtenant structures; and

(b) Shall not include parking areas or interior access drives.

(9) *Maximum height of buildings and structures*. There shall be no height limitation for buildings and structures provided that:

(a) Minimum required front, side and rear yard setbacks shall be increased by one foot for each three additional feet, or part thereof, of building or structural height above 35 feet to a maximum front, side or rear building setback requirement of 30 feet; and

(b) Minimum required setback along any required front, side or rear transitional yard shall be increased by one foot for each one foot, or part thereof, of building or structural height above 35 feet to a maximum front, side or rear building setback requirement of 50 feet.

(10) *Signs*. Signs and sign structures shall comply with all applicable provisions of the town's zoning ordinances and all additional requirements imposed by the Plan Commission.

(11) *Additional developments requirements*. Site and landscape plans, street requirements, recycling containers, temporary use structures or buildings, temporary seasonal retail sales uses or screening, landscaping and grounds maintenance, shall be in accordance with all applicable sections of this chapter for the GB2 District and all additional requirements imposed by the Plan Commission. (Ord. 2026, passed 4-4-2006)

MANUFACTURING DISTRICT

§ 156.215 RESTRICTIONS FOR PERMITTED USES.

(A) All permitted M District uses are listed in the official Schedule of Uses Table, § 156.170 of this chapter.

(B) The following restrictions shall be applicable to all permitted uses within the M District.

(1) The storage, utilization and/or manufacture of materials intended for detonation (explosives) shall not be a permitted use in any manufacturing district.

(2) Retail sales or services, business offices or discount establishments dealing directly with the consumer, shall not be a permitted use within the M District; except those service facilities expressly designed for employees or guests; and, further provided that, said service facilities shall be wholly within a building and shall have no exterior advertising display.
(2004 Code, § 6-501)

§ 156.216 PROPERTY DEVELOPMENT REGULATIONS.

(A) *Use*.

(1) *Enclosed operations*. All operations, servicing or processing (except storage and off-street loading) shall be conducted within completely enclosed buildings.

(2) *Outside storage*. All outside storage of materials or products shall be:

(a) Within completely enclosed buildings; or

(b) Effectively screened by a chain link, lattice or similar type fence, with ornamental, non-solid or chain link or similar type entrance and exit gates. (Canvas may be attached to gates for effective screening). The height of said fence shall be at least six feet and shall not exceed eight feet, said fence shall be surrounded by trees or an evergreen hedge of a height not less than the height of said fence. The storage of materials or products within the enclosure may not exceed the height of the fence. Total area of outside storage shall not exceed 25% of the total gross floor area of enclosed structures and buildings.

(B) *Required front yard, minimum setback*. A front yard, having at least 75 feet width of frontage on a public street and having a minimum depth in accordance with the following setback requirements, shall be provided along the street right-of-way line. No part of any structure (excluding an eave or cornice overhang not exceeding four feet or a canopy at an entrance) shall be built closer to the centerline of a right-of-way of the following streets (as designated on the Comprehensive Plan of the town) than:

(1) Primary thoroughfare: 105 feet;

(2) Secondary thoroughfare: 95 feet; or

(3) Closer to the right-of-way line of all other streets (including, but not limited to, collector streets, local streets, cul-de-sacs and marginal access streets) than 50 feet; and

(4) Frontage roads shall be considered collector streets, requiring a front setback of 50 feet from the right-of-way of such frontage road unless such frontage road is designated otherwise on the official Comprehensive Plan of the town, or on the recorded plat thereof as required by Ch. 155 of this code of ordinances.

(C) *Required corner side yard, minimum setback.* In any case where the side lot line abuts a street right-of-way line, there shall be provided a corner side yard in which the setback of any structure shall comply with the minimum front setback requirements of division (B) above, unless subject to the requirement for transitional yards of division (F) below.

(D) *Required side yards, minimum side setback.* A side yard and setback of not less than 30 feet in depth shall be provided along each side lot line; provided, however, if the side lot line abuts a railroad operating right-of-way the building shall be permitted to abut the railroad operating right-of-way unless subject to the requirement for transitional yards of division (F) below.

(E) *Required rear yard, minimum rear setback.* A rear yard and setback of not less than 30 feet in depth shall be provided along the rear lot line; provided, however, if the rear lot line abuts a railroad operating right-of-way, the building shall be permitted to abut the railroad operating right-of-way unless subject to the requirement for transitional yards of division (F) below.

(F) *Transitional yards; minimum front, side and rear yards and setbacks.*

(1) Where a front lot line faces a residential district on the opposite side of the street, a front yard and setback shall be provided not less than 100 feet in depth from the front lot line.

(2) Where a side lot line abuts a side or rear lot line in an adjacent residential district, a side yard and setback not less than 50 feet in depth shall be provided along such side lot line.

(3) Where a rear lot line abuts a side or rear lot line in an adjacent residential district, a rear yard and setback not less than 50 feet in depth shall be provided along such rear lot line; provided, however, additional front, side and/or rear setback distances for transitional yards, as specified in division (I) below, shall be required to permit building heights exceeding 22 feet to a maximum height of 35 feet.

(G) *Screening and landscaping.*

(1) Where a side or rear lot line adjoins a residential district, a compact hedge, row of shrubbery or evergreen trees shall be provided along or within 20 feet of such lot line, and not less than

six feet in height. Such hedge, shrubbery or row of trees shall extend the full length of said lot line; except that, it shall be omitted between the front lot line and a point five feet greater than the required or established building setback line of the adjacent residential or business district. Any ground area between such hedge, shrubbery or row of trees and the lot line shall be planted in grass and/or shrubbery, maintained in good condition and kept free of litter.

(2) Exception: such hedge, row of shrubbery or evergreen trees shall not be required if the entire yard between the lot line and the building is landscaped with grass, trees and shrubbery or hedges. Non-vegetative materials not exceeding 25% of the entire yard area may be used in combination with vegetation and structural or ornamental fixtures.

(H) *Use of required yards*. All required yards shall be planted with grass or landscaped with other suitable ground cover materials, except:

(1) Required front yards may include:

(a) Pedestrian walks, driveways, entrance guard boxes, flag poles, directional signs and similar appurtenant uses;

(b) Off-street parking areas not exceeding 10% of the total area of the required front yard and subject to the off-street parking regulations of §§ 156.315 through 156.322 of this chapter; and

(c) Access cuts and drives; provided, they are not located within 20 feet of a lot line abutting a residential district.

(2) Required side and rear yards may include:

(a) Pedestrian walks driveways, entrance guard boxes, flag poles, directional signs and similar appurtenant uses;

(b) Off-street parking, subject to the off-street parking regulations of §§ 156.315 through 156.322 of this chapter; and

(c) Access cuts and drives; provided, they are not located within 20 feet of a lot line abutting a residential district.

(I) *Height of buildings and structures*.

(1) Maximum vertical height of buildings and structures shall be 35 feet; provided, however, along any required front, side or rear setback line which is adjacent to a residential district, the maximum vertical height shall be:

(a) Twenty-two feet; or

(b) Thirty-five feet if for each foot of height in excess of 22 feet, to an absolute maximum height of 35 feet, one additional foot setback shall be provided beyond such adjacent required front, side or rear setback line.

(2) Height exceptions: the following exceptions to the height regulations shall be permitted:

(a) Parapet walls not exceeding two feet in height;

(b) Roof structures for the housing of elevators, stairways, air conditioning apparatus, roof water tanks, ventilating fans, sky lights or similar equipment to operate and maintain the building;

(c) Chimneys, smokestacks, flag poles, radio and television antennas and other similar structures; and

(d) A monitor roof not exceeding 25% of the total horizontal area of the roof.
(2004 Code, § 6-502)

§ 156.217 GENERAL MANUFACTURING PERFORMANCE STANDARDS.

All uses established or placed into operation after the effective date of this chapter shall comply with the following performance standards. No use in existence on the effective date of this chapter shall be so altered or modified as to conflict with these standards. Performance standards as measured at the boundary lines of the Manufacturing District are maximums. Firms which exceed these standards are in violation of this chapter.

(A) *Smoke.*

(1) For the purpose of measuring the density of smoke, the Ringelmann Chart, published by the United States Bureau of Mines shall be used.

(2) The emission of smoke shall not exceed 20 smoke units and a smoke density greater than Ringelmann number two is prohibited except, as otherwise provided herein.

(3) For the purpose of fire cleaning and blowing of stacks, a smoke density not to exceed Ringelmann number three shall be permitted. Such emissions in excess of Ringelmann number two shall not exceed 30 minutes in any 24-hour period.

(B) *Particulate matter.*

(1) Dust and other types of air pollution borne by the wind from such sources as storage areas, yards and roads shall be kept to a minimum by the provision of landscaping, paving, oiling, fencing and other appropriate means.

(2) The emission from all sources within the lot area of particulate matter containing more than 10% by weight of particles with a diameter larger than 44 microns is prohibited.

(C) *Noise*.

(1) Sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association. Measurements shall be made using the flat network of the sound level meter.

(2) Impulsive type noises shall be subject to the performance standards hereinafter prescribed; provided that, such noises may be accurately measured with the equipment.

(3) For the purposes of this chapter, noises capable of being measured shall be those which cause rapid fluctuations of the needle of the sound level meter with a variation of no more than plus or minus two decibels. Noises incapable of being so measured such as those of an irregular and intermittent nature shall be controlled so as not to create a nuisance to adjacent uses.

(4) At the boundary of a residential or business district, the sound pressure level of any operation or plant (other than the operation of motor vehicles or other transportation facilities) shall not exceed the decibel limits in the octave bands designated as the following:

Octave Band (Frequency cycles per second)	***Maximum Permitted Sound Level (Decibels)***	
	Along Residential District Boundaries	***Along Business District Boundaries***
0 to 75	72	75
75 to 150	67	70
150 to 300	59	63
300 to 600	52	57
600 to 1,200	46	52
1,200 to 2,400	40	45
2,400 to 4,800	34	40
Above 4,800	32	38

(D) *Fire and explosive hazards*.

(1) The storage, utilization or manufacture of all products or materials shall conform to the standards prescribed by the National Fire Protection Association (a copy of which is on file in the office of the Zoning Administrator for the town, and which standards are hereby incorporated by reference and made a part hereof).

(2) Such storage, utilization or manufacturing shall not produce a hazard or endanger the public health, safety or welfare.

(E) *Vibration.*

(1) Vibrations shall be measured at any point along the district boundary line with a measuring instrument approved by the Plan Commission and shall be expressed as displacement in inches.

(2) No industrial operation or activity shall cause ground transmitted vibrations in excess of the following limits:

Frequency (Cycles per Second)	***Maximum Permitted Displacement Along Manufacturing District Boundaries***
0 to 10	0.0008
10 to 20	0.0005
20 to 30	0.0002
30 to 40	0.002
40 and over	0.0001

(F) *Odor.* The emission of odorous matter in a quantity which is readily detectable along the perimeter lot lines of the point of origination or which produces a public nuisance or hazard beyond said lot lines is prohibited.

(G) *Toxic or noxious matter.* No use shall discharge toxic or noxious matter of any sort in concentrations which may be detrimental to the public health safety, comfort or welfare or which may cause injury or damage to property or business.

(H) *Glare or heat.* Any operation producing intense glare or heat shall be performed completely within an enclosed building so it does not create a public nuisance or hazard along lot lines.

(I) *Discharge of waste matter.* No use shall accumulate within the lot or discharge beyond the lot lines any waste matter, whether liquid or solid, in violation of the applicable ordinances, standards and regulations of the town, the state's Board of Health and the Stream Pollution Control Board of the state; or in such a manner as to endanger the public health, safety or welfare; or cause injury to property. Prior to improvement location permit issuance for any industrial use.

(1) Plans and specifications for proposed sewage disposal facilities therefor (unless a connection is being made to a public sewer), and industrial waste treatment and disposal facilities, shall be submitted to and written approval obtained from the Stream Pollution Control Board of the state.

(2) Written approval of proposed connection to a public sewer shall be obtained from the Zoning Administrator of the town.

(3) Plans and specifications for proposed storm drainage facilities shall be submitted to and written approval obtained from the Zoning Administrator of the town.
(2004 Code, § 6-503)

§ 156.218 VIOLATION OF PERFORMANCE STANDARDS.

(A) When rough tests by a duly constituted enforcement officer indicate to the Plan Commission that a possible violation of performance standards may exist, the Plan Commission shall require the manufacturer to obtain and bear the cost of the appropriate technical assistance to measure the exact extent of the effects at the lot lines of the property in question. This technical assistance shall be approved in writing by the Plan Commission before tests are conducted.

(B) Results of the tests shall be presented to the Plan Commission in writing. Any test results in excess of the appropriate performance standards shall be considered a violation of this chapter with penalties as set out in § 156.999 of this chapter.
(2004 Code, § 6-504)

NON-CONFORMING USES

§ 156.230 NON-CONFORMING USES, LOTS, BUILDINGS AND STRUCTURES.

(A) Within the districts established by this chapter or by amendments that may be adopted later, there exist the following, which were lawful before the effective date of this chapter, but which would be prohibited, regulated or restricted under the terms of this chapter:

(1) Non-conforming uses; and

(2) Non-conforming structures; and

(3) Non-conforming uses of land and structures in combination.

(B) It is the purpose of these zoning regulations to prohibit the enlargement, expansion or extension of such non-conforming lots, structures and uses.
(2004 Code, § 7-100)

§ 156.231 EXISTING USES.

Any lawful lot, structure or use of land existing at the effective date of this chapter which will become a non-conforming use by the terms of this chapter shall not be considered to be in violation of

these regulations. However, any such lot, structure or use shall be subject to their continuance, change and discontinuance.
(2004 Code, § 7-101)

§ 156.232 BUILDINGS UNDER CONSTRUCTION.

To avoid undue hardship, nothing in this chapter shall be interpreted to require a change in the plans, construction or designated use of any building on which a valid building permit was issued prior to the effective date of adoption or amendment of this chapter.
(2004 Code, § 7-102)

§ 156.233 NON-CONFORMING USE OF LAND.

Any use of land having lawful existence at the effective date of adoption or amendment to this chapter, which does not conform to the provisions of this chapter, may be continued, subject to the following provisions.

(A) Non-conforming uses shall not be extended to occupy a greater land area or replaced by another use not specifically permitted in the zoning district.

(B) If any non-conforming uses of land are discontinued or abandoned for more than six months, any subsequent use of land shall conform to the regulations specified by this chapter for the district in which the land is located.

(C) No additional structure not conforming to the requirements of this chapter shall be erected in connection with the non-conforming land use.

(D) Non-conforming uses shall not be moved in whole or in part to any portion of the lot or parcel other than that occupied by the non-conforming use at the effective date of adoption or amendment of this chapter.
(2004 Code, § 7-103)

§ 156.234 NON-CONFORMING STRUCTURES.

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

(A) The non-conforming structure may not be enlarged or altered in any way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.

(B) If a non-conforming structure or non-conforming portion of a structure is destroyed by any means to the extent of more than 51% 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 chapter.

(C) If a structure is moved for any reason for any length of distance, it shall thereafter conform to the regulations for the district in which it is located after the move.
(2004 Code, § 7-104)

§ 156.235 NON-CONFORMING USES OF STRUCTURES AND LANDS IN COMBINATION.

If a lawful use involving individual structures, or if a structure and land use in combination, exist at the effective date of adoption or amendment of this chapter that would not be allowed in the district under the terms of this chapter, the lawful use may be continued subject to the following provisions.

(A) No existing structures devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, constructed, reconstructed, moved or structurally altered, except in changing the use to a use permitted in the district.

(B) A non-conforming use may be extended throughout any parts of the building which was arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy land outside such a building.

(C) (1) If no structural alterations are made, any non-conforming use of a structure and land, may upon appeal to the Board of Zoning Appeals be changed to another non-conforming use; provided that, the Board of Zoning Appeals shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use.

(2) In permitting such a change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accordance with other provisions of this chapter.

(D) Any structure or combination of structure and land where a non-conforming use is superseded by a permitted use shall thereafter conform to the regulations for the district, and the non-conforming use may not be resumed.

(E) When a non-conforming use of a structure or combination of structure and land is discontinued or abandoned for more than six months, the structure or structure and land combination, shall thereafter only be used in conformity with the regulations of the district in which it is located.

(F) Where non-conforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.
(2004 Code, § 7-105)

§ 156.236 REPAIRS AND MAINTENANCE.

Nothing in this subchapter shall be interpreted to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charge with protecting the public safety. On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done on ordinary repairs; provided that, the area of the non-conforming use is not increased.
(2004 Code, § 7-106)

§ 156.237 USES UNDER SPECIAL EXCEPTION PROVISION ARE NOT NON-CONFORMING USES.

Any use which is a permitted use as a special exception in a district under the terms of this chapter shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.
(2004 Code, § 7-107)

SPECIAL REGULATIONS

§ 156.250 ACCESSORY USES, BUILDINGS AND STRUCTURES.

(A) *General*. This section includes those accessory uses, buildings and structures customarily incidental and subordinate to the principal use or building and located on the same lot, it does not include fences, walls and hedges which are covered in § 156.254 of this chapter.
(2004 Code, § 7-200)

(B) *Permitted accessory uses; residential districts*. The following accessory uses shall be permitted in all residential districts (except the MH District, see §§ 156.405 through 156.416 of this chapter), subject to the accessory use requirements of division (D) below:

(1) Accessory garages; carports; portable carports; canopies; awnings; greenhouses; sheds, storage and accessory buildings; patios; outdoor fireplaces; children's playhouses; swings and swing sets; basketball goals; and other play structures and equipment; and other similar uses;

(2) Off-street parking areas, as regulated in §§ 156.315 through 156.322 of this chapter;

(3) Signs, as regulated in §§ 156.335 through 156.343 of this chapter;

(4) Private swimming pools, as regulated in § 156.258 of this chapter; and

(5) Amateur radio sending and receiving antenna; provided, the height thereof (including masts) shall not exceed 75 feet measured from finished lot grade.
(2004 Code, § 7-201)

(C) *Permitted accessory uses; all non-residential districts*. Permitted accessory uses, buildings and structures for all non-residential districts shall be subordinate, appropriate and incidental to the permitted principal uses as set out in the official Schedule of Uses for the district in which they are located.
(2004 Code, § 7-202)

(D) *Accessory use requirements*. Accessory uses in all zoning districts, unless otherwise specified in this chapter, shall comply with the following requirements:

(1) Shall be customarily incidental accessory and subordinate to, and commonly associated with, the operation of the principal use of the lot;

(2) Shall be operated and maintained under the same ownership and on the same lot as the principal use;

(3) Shall be subordinate in area, extent and purpose to the principal use of building served;

(4) Unless otherwise specified in this chapter, accessory buildings:

(a) Shall not be located closer to any front or side lot line than the required minimum front and side yard setback distances of the district, except as provided in § 156.173 of this chapter; and

(b) In all residential districts, shall not be located closer to any rear lot line than five feet, but in no case shall it encroach upon any easement. Sheds constructed on skids and not anchored to the ground may be located upon an easement.

(5) Shall not be permitted prior to the erection of the principal building;

(6) The entire floor area of carports, portable carports, storage rooms, sheds, patios and porches shall be of concrete or other permanent hard surface material. However, this requirement shall not apply to portable carports located, or to be located, on the premises for less than 72 hours during any 30-day period; and

(7) (a) Portable carports shall be assembled to comply with the manufacturer's instructions and anchored to the ground in compliance with one of the following methods. (However, this requirement shall not apply to portable carports located, or to be located, on the premises for less than 72 hours during any 30-day period.)

1. One continuous eight-inch wide by 36-inch deep concrete stem wall on each longitudinal side of the carport with threaded anchor bolts embedded to match the carport manufacturer's recommended anchorage spacing.

2. A four-inch thick concrete slab that extends beyond the perimeter of the carport in each direction with threaded anchor bolts embedded in the slab, deepened to eight inches at each anchorage location, to match the carport manufacturer's recommended spacing.

3. Each of the support legs of the frame be embedded in at least 40 pounds of concrete. This can be achieved by placing each leg in a standard five-gallon bucket filled with concrete or by adding one 40-pound bag of sack concrete mix per bucket. The foot of each metal support shall have four #10 self-tapping sheet metal screws with at least one inch of length and head protruding for embedment, or comparable physical method of holding the leg in the concrete.

4. Bolting the support legs or adjacent cross support, to an existing concrete slab. The method of attaching the upright frame to the slab must be shown in the application for building permit.

5. Install concrete footings under each leg and bolt the legs, or adjacent cross support, to the new footings. The new footings are to be approximately one foot by one foot by one foot deep. The method of attaching the upright frame to the footing must be shown in the application for building permit.

6. An alternate anchoring design that provides a permanently paved hard surface floor and anchors the portable carport to the ground and that is approved by the Zoning Administrator. If an alternative method is proposed, complete installation details must be provided for review.

(b) The plans and details submitted must clearly indicate the method of anchoring and the flooring to be used. If new concrete footings or slabs are to be installed, they must be inspected when formed and prior to pouring of concrete. In all cases, a final inspection must be requested by the applicant.
(2004 Code, § 7-203)

§ 156.251 APPURTENANCES.

The following regulations shall govern appurtenant features in all districts.

(A) Such appurtenant features as walks, driveways, curbs, drainage installations, mailboxes, lamp posts, bird baths and structures of like nature shall be permitted on any lot.

(B) The growing of vegetables, grasses, fruits, flowers, shrubs, vines and trees, provided such operations are not for profit, shall be permitted on any lot.

(C) Fences and walls shall be permitted; provided, they do not impede the view of street and/or railroad intersections.
(2004 Code, § 7-300)

§ 156.252 ANIMALS.

No animals other than common household pets shall be permitted in any residential district. Examples of common household pets include, but are not limited to, dogs, cats, hamsters and parakeets. Rabbits, chickens, ducks, snakes and other such animals are not considered household pets.
(2004 Code, § 7-400)

§ 156.253 CORNER VISIBILITY.

On a corner lot, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one-half and six feet above the centerline grades of the intersecting streets in an area bounded by the street lines of such corner lots and a line joining points along said street lines 25 feet from the point of the intersection.
(2004 Code, § 7-500)

§ 156.254 FENCES, WALLS AND HEDGES.

(A) *General*. Nothing herein shall be construed so as to permit construction within a public or private easement in which it is prohibited.
(2004 Code, § 7-600)

(B) *Residential fences, walls and fences*. All fences and said walls shall be of sound construction and shall not detract from the surrounding area and shall be governed by the following standards.

(1) No barbed wire, spire tips, sharp objects or electrically charged fences shall be erected in any residential area.

(2) When used to enclose a patio, swimming pool, garden supply or tool compound, or similar living, recreational or storage areas, the facility and the fences, walls and hedges surrounding it shall be considered an accessory structure.

(3) (a) Unless otherwise permitted by the Board of Zoning Appeals under the provisions of §§ 156.095 through 156.104 of this chapter, fences, walls or hedges in the front yard of any lot or in the side yard along a flanking street of a corner lot shall not exceed 42 inches in height.

(b) In the rear and side yards, not along a flanking street, fences, walls or hedges shall not exceed 72 inches.

(4) (a) Fences, walls or hedges may be erected, placed or maintained on lot lines; provided that, placement of a fence, wall or hedge shall not interfere with provisions contained in granted easements for the lot on which they are to be located.

(b) Fences, walls and hedges shall not shield the driveway entrances in such a way as to obstruct the view of a driver entering a public road from the driveway.
(2004 Code, § 7-601)

(C) *Non-residential fences, walls and hedges.* All fences and walls shall be of sound construction and shall not detract from the surrounding area. All non-residential uses shall comply with the requirements for fences, walls and hedges as set out in the district regulations in which the non-residential use is located.
(2004 Code, § 7-602)

§ 156.255 HOME OCCUPATIONS.

(A) *General.* This section includes rules and regulations for occupations or activities which may be maintained or conducted within a dwelling. These uses shall exist only if the following general provisions are fulfilled.

(1) Any use of a residence for a home occupation shall be clearly incidental and subordinate to its use for residential purpose by its occupants. It shall not change the character or adversely affect the uses permitted in the residential district of which it is a part.

(2) Such use shall be conducted entirely within the dwelling unit.

(3) Such occupation shall be conducted solely by resident occupants, non-resident employees are expressly prohibited.

(4) No more than one room or 25% of the gross floor area of the dwelling, whichever is less, shall be used for such purposes. Use of accessory buildings or detached garages for these purposes is prohibited.

(5) No use shall require internal or external alterations or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the structure or the fire district in which the structure is located.

(6) There shall be no outside storage of any kind related to the home occupation. Generally speaking, with a nameplate as permitted herein excluded, a home occupation shall be "invisible" from outside the dwelling.

(7) Only one nameplate shall be allowed. It may display the name of the occupant and/or the name of the home occupation. It shall not exceed one square foot in area, shall not be illuminated and shall be attached flat to the main structure or visible through the window. The limitation to one nameplate is extended to apply to all lots, including corner lots.

(8) The home occupation may increase vehicular traffic flow and parking by no more than one vehicle at a time. Off-street parking shall be provided without encroaching upon required front-yard open space or setback requirements.

(9) No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.

(10) The home occupation shall not involve the use of advertising signs or any other local advertising media which calls attention to the fact that the dwelling is used for business purposes, telephone number excluded;
(2004 Code, § 7-700)

(B) *Professional offices; special restrictions.* A physician, dentist, lawyer, clergyman, engineer, insurance agent, real estate agent, consultant or other professional person may use his or her residence for office work, consultation, emergency treatment or performance of religious rites, but not for the general practice of his or her profession and not for the installation or use of any mechanical or electrical equipment customarily incidental to the practice of any such profession.
(2004 Code, § 7-701)

(C) *Variance procedure available.* Non-residential uses which are either expressly prohibited as home occupations or which do not conform to all of the conditions and restrictions of this section, may be conducted in a residential dwelling only upon submission of a variance petition to the town's Board of Zoning Appeals and receiving a favorable decision from said Board. The procedures and requirements for submitting a variance petition to the Board of Zoning Appeals are found in § 156.100 of this chapter.
(2004 Code, § 7-702)

§ 156.256 HOUSES OF WORSHIP.

Property development regulations for houses of worship shall be as follows.

(A) Minimum lot area for a house of worship shall be not less than 30,000 square feet.

(B) Houses of worship and main and accessory buildings, other than dwellings and accessory buildings to dwellings, shall be set back from all exterior and interior sidelines a distance of not less than 25 feet.

(C) Houses of worship may exceed the height limitation of the district if the minimum depth of rear yards and the minimum width of the side yards required in district are increased one foot for each two feet by which the house of worship exceeds the prescribed height limitations.

(D) Off-street parking shall be provided as specified in §§ 156.315 through 156.322 of this chapter.

(E) All other property development regulations within the districts in which the house of worship is located shall apply and be the minimum required. If a house of worship is to be located in a non-residential district, property development regulations of the most restrictive district (RS) shall be the minimum unless otherwise specified in divisions (A), (B) and (C) above.
(2004 Code, § 7-800)

§ 156.257 PARKS, PLAYGROUNDS AND RECREATION AREAS.

(A) These uses are permitted in a district so long as the plans for their development and use are approved by the Plan Commission. See individual district's for recreational space requirements.

(B) (1) Illuminated areas shall be approved prior to development. Lights shall be placed in such a way that they do not infringe upon the rights of adjacent property owners.

(2) In no case shall lights be placed closer than 50 feet from adjacent property lines.

(C) At the option of the Zoning Administrator or the Plan Commission, buffers may be required to shield adjacent residences from noise or activities. Buffers may be in the form of a tall solid fence or hedge.
(2004 Code, § 7-1200)

§ 156.258 PRIVATE SWIMMING POOLS.

(A) *General.*

(1) The requirements of this section shall apply to all pools which are accessory uses to single- and multiple-family dwellings.

(2) No pool shall be erected or constructed until an improvement location permit has been obtained.
(2004 Code, § 7-1300)

(B) *Location.*

(1) Unenclosed pools or pools enclosed only with open mesh screen shall meet the setback requirements for accessory uses. They shall be located:

(a) A minimum of ten feet from any principal or other accessory building;

(b) A minimum of 30 feet from any street right-of-way; and

(c) No closer to a street right-of-way than the principal building.

(2) Any pool which is covered by a roof shall be subject to the same setback regulations as the principal use.
(2004 Code, § 7-1301)

(C) *Fencing; in-ground swimming pools*.

(1) The pool area shall be enclosed by a substantial protective barrier, which shall be adequate to prevent persons, children or animals from danger or harm, and shall be equipped with a self-closing, self-latching gate. Such protective barrier shall be chainlink or ornamental fence, solid fence or wall, and shall be not less than five feet in height.

(2) A buffer screen shall be provided and maintained between the pool and lot lines.
(2004 Code, § 7-1302)

(D) *Fencing; above-ground swimming pools*. Every above-ground swimming pool shall meet the fencing requirements for in-ground pools or shall be constructed to limit access to a gate.
(2004 Code, § 7-1303)

§ 156.259 STORAGE OF LIQUID; PETROLEUM GASES.

The use of land or buildings for the commercial, wholesale or retail storage of liquified petroleum gases shall be in accordance with the regulations of the Liquefied Petroleum Gas Administration of the state.
(2004 Code, § 7-1800)

§ 156.260 ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT.

In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot; provided that, yard and other requirements of this chapter shall be met for each structure as though it were on an individual lot.
(2004 Code, § 7-1900)

§ 156.261 STRUCTURE TO HAVE ACCESS.

Every building hereafter erected or moved shall be on a lot adjacent to either a public or private street, or with legal access to either a private or public street, and all structures shall be located on lots so as to provide safe and convenient access for servicing, fire protection and required off-street parking.
(2004 Code, § 7-2000)

OFF-STREET LOADING AND UNLOADING

§ 156.275 GENERAL.

Off-street loading facilities accessory to uses in non-residential districts shall be provided in accordance with the following regulations, in addition to the requirements of §§ 156.315 through 156.322 of this chapter.
(2004 Code, § 7-900)

§ 156.276 REGULATIONS; MINIMUM AREA.

A required off-street loading berth shall be at least 12 feet in width by at least 55 feet in length, exclusive of aisle and maneuvering space, and shall have a vertical clearance of at least 15 feet.
(2004 Code, § 7-901)

§ 156.277 ACCESS TO AND FROM OFF-STREET LOADING/UNLOADING FACILITIES.

(A) Each required off-street loading space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such loading space.

(B) All off-street loading facilities shall be designed with appropriate means of vehicular access to a street or alley in such a manner as to minimize interference with traffic movement.

(C) No driveway extending into the street right-of-way (between the lot line and street pavement) shall exceed a width of 25 feet; provided, however, two driveways not exceeding 25 feet in width each, may constitute a single entrance-exit.

(D) Off-street loading entrances shall be located a minimum distance of 50 feet from the nearest point of two intersecting street right-of-way lines. Such access cuts shall further conform to all requirements of Ch. 155 of this code of ordinances.
(2004 Code, § 7-902)

§ 156.278 LOCATION AND SETBACK.

(A) All required loading berths shall be located on the same lot as the use served and shall be so designed and located that the trucks shall not back from or into a public street.

(B) No open loading berth shall be located in a minimum required front yard or the area between the front lot line and the front line of the principal building.

(C) No loading berth shall be located in a minimum required side or rear yard.
(2004 Code, § 7-903)

§ 156.279 SCREENING.

All motor vehicle loading berths on any lot abutting a residential district or separated by an alley from a residential district shall be enclosed within a building or screened and landscaped in accordance with the non-residential district's regulations for screening and landscaping of transitional yards.
(2004 Code, § 7-904)

§ 156.280 USE OF LOADING AREA.

Spare time allotted to off-street loading berths and maneuvering area shall not be used to satisfy the off-street parking space requirements.
(2004 Code, § 7-905)

§ 156.281 SURFACE OF LOADING AREA.

(A) Off-street loading berths may be open to the sky, covered or enclosed in a building. In any instance where a building is constructed or used for loading, it shall be treated as any other major structure and subject to all requirements thereof.

(B) All open off-street loading areas shall be paved with concrete, or improved with a compacted macadam base, and surfaced with an asphaltic surface to adequately provide a durable and dust-free surface which shall be maintained in good condition and free of weeds, dirt, trash and debris; except that:

(1) A gravel surface may be used for a period not exceeding one year after the loading area is opened for use where ground conditions are not immediately suitable for permanent surfacing as specified above; and

(2) A gravel surface in the area of storage or handling may be used permanently in association with industries that handle liquids or chemicals which create a potential hazard if containment should be lost and where absorption into the ground through a loose surface material would eliminate on or alleviate such hazard.

(C) The surface shall be graded and drained in such a manner that there will be no detrimental flow of water onto adjacent properties or public sidewalks.

(D) When lighting facilities are used to illuminate a loading area, they shall be so located, shielded and directed upon the loading area that they do not create glare or reflect onto adjacent properties or interfere with street traffic.
(2004 Code, § 7-906)

§ 156.282 AMOUNT OF LOADING AREA REQUIRED.

(A) Off-street loading space shall be provided and maintained in accordance with the following minimum requirements.

Type of Use	*Gross Floor Area (sq. ft.)*	*Loading/Unloading Berths Required*
Manufacturing establishments	40,000 or less	1
	40,001 to 100,000	2
	100,001 to 200,000	3
	Each 200,000 additional	1 additional
Office buildings	10,000 to 40,000	1
	40,001 to 100,000	2
	Each 60,000 additional	1 additional
Retail stores, department stores, wholesale establishments, storage and other business uses	10,000 to 25,000	1
	25,001 to 60,000	2
	Each 60,000 additional	1 additional

(B) For any non-residential use not specified above, the requirements for off-street loading for a specified use to which said use is most similar, shall apply. These requirements may be modified or waived by the Plan Commission.
(2004 Code, § 7-907)

OFF-STREET PARKING AND LOADING REGULATIONS

§ 156.295 GENERAL.

Accessory off-street parking and loading facilities for motor vehicles shall be provided and maintained for all uses in all districts in accordance with the following regulations.
(2004 Code, § 7-1000)

§ 156.296 APPLICATION OF REGULATIONS.

The off-street parking and loading provisions of this chapter shall apply as follows.

(A) *Buildings, structures, uses hereafter established; special exception permits previously issued.* For all buildings and structures erected and all uses of land established after the effective date of this chapter, accessory parking and loading facilities shall be provided in accordance with the regulations of this subchapter. However, where improvement location and building permits have been issued prior to the effective date of this chapter; and, provided that, construction is begun within six months of such effective date and diligently prosecuted to completion, but not to exceed two years after the issuance of said building permit, parking and loading facilities in the amounts required for issuance of said permits may be provided in lieu of any different amounts required by the off-street parking and loading regulations of this chapter.

(B) *Buildings, structures, uses existing or hereafter established; increased intensity of use.* When the intensity of use of any building, structure or premises (existing on the effective date of this chapter or hereafter established) shall be increased (through addition of gross floor area or other unit of measurement specified herein for required parking or loading facilities), parking and loading facilities as required herein shall be provided for such increase in intensity of use. However, no building or structure lawfully erected or use lawfully established prior to the effective date of this chapter shall be required to provide such additional parking or loading facilities unless and until the aggregate increase in units of measurement shall equal not less than 15% in which event parking and loading facilities as required herein shall be provided for the total increase.

(C) *Change of use.* Whenever the use of a building, structure or premises shall hereafter be changed to a new use permitted by this chapter, parking and loading facilities shall be provided as required for such new use.
(2004 Code, § 7-1001)

§ 156.297 EXISTING PARKING OR LOADING FACILITIES.

Accessory off-street parking or loading facilities in existence on the effective date of this chapter shall not hereafter be reduced below, or if already less than, shall not be further reduced below, the requirement for such a new building or use of the provisions of this chapter.
(2004 Code, § 7-1002)

§ 156.298 NEW OR EXPANDED PARKING OR LOADING FACILITIES.

Nothing in this chapter shall be deemed to prevent the establishment of off-street parking or loading facilities to serve any existing use of land or buildings; provided that, all regulations herein governing the location, design and operation of such facilities shall be adhered to.
(2004 Code, § 7-1003)

§ 156.299 DAMAGE OR DESTRUCTION.

(A) For any non-conforming buildings or use which is hereafter damaged or partially destroyed by fire or other disaster not exceeding two-thirds of the gross floor area of the structures or facilities affected, and which is reconstructed, off-street loading and parking facilities equivalent to those maintained at the time of such damage or partial destruction shall be restored and continued in operation.

(B) However, in no case shall it be necessary to restore or maintain parking or loading facilities in excess of those required by this chapter for equivalent new use or construction.
(2004 Code, § 7-1004)

§ 156.300 CONTROL OF OFF-SITE PARKING FACILITIES.

In cases where accessory parking facilities are permitted on land other than the lot on which the building or use served is located, such facilities shall be in the same possession as the lot occupied by the building or use to which the parking facilities are accessory.
(2004 Code, § 7-1005)

§ 156.301 SUBMISSION OF PARKING AREA PLAN.

(A) (1) Plans for proposed parking areas which have a capacity of five or more vehicles shall be submitted to the Plan Commission.

(2) The plan shall include the location, size, shape, design, curb cuts, lighting, landscaping and other features of the proposed area.

(B) The plan shall be submitted to the Plan Commission prior to the issuance of a building permit.

(C) If deemed necessary, the Plan Commission may require additional lighting, joint development of parking areas, entrances and exits, enclosures and other restrictions.
(2004 Code, § 7-1006)

§ 156.302 COMPUTATION.

In determining the minimum required number of off-street parking spaces or loading berths, if the unit of measurement (number of persons or square foot area and the like) is any fraction of the unit specified in relation to the number of parking spaces to be provided, said fraction shall be considered as being the next unit and shall be counted as requiring one additional space or berth.
(2004 Code, § 7-1007)

§ 156.303 COLLECTIVE PARKING.

Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so provided is not less than the sum of the separate requirements for each such use; and, provided that, all regulations governing location of accessory parking spaces in relation to the use served are adhered to.
(2004 Code, § 7-1008)

OFF-STREET PARKING

§ 156.315 OFF-STREET PARKING REGULATIONS.

Off-street parking facilities for motor vehicles shall be provided for all uses in the non-residential districts in accordance with the following regulations, in addition to the requirements of this subchapter.
(2004 Code, § 7-1100)

§ 156.316 MINIMUM PARKING SPACE DIMENSIONS.

A required off street parking space shall be at least ten feet in width and at least 22 feet in length, exclusive of access drives or aisles, ramps, columns or office or work areas.
(2004 Code, § 7-1101)

§ 156.317 ACCESS TO AND FROM PARKING AREAS.

(A) Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space.

(B) All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in such a manner as to minimize interference with traffic movement.

(C) No driveway extending into the street right-of-way (between the lot line and street pavement) shall exceed a width of 25 feet; provided, however, two driveways, not exceeding 25 feet in width each, may constitute a single entrance-exit.

(D) In any manufacturing (M) district, each industrial use which is so located that it fronts upon and provides access to a parkway, secondary or primary thoroughfare, or expressway shall provide a frontage lane paralleling and adjoining the improved part of the right-of-way and at least 11 feet in width for right turn traffic entering the lot. The access point(s) shall be located so the frontage lane shall be

a minimum of 100 feet in length, exclusive of the entrance way; provided, however, if the lot frontage is too small to provide such 100 feet of frontage, the entrance shall be so located that the frontage shall extend the entire width of the lot (except for the side yard 20-foot setback requirement of § 156.216(H) of this chapter for access drives in the case of lots abutting a residential district), except when regulated by division (E) below.

(E) Off-street parking and loading entrances shall be located a minimum distance of 50 feet from the nearest point of two intersecting street right-of-way lines. Such access cuts shall further conform to all requirements of Ch. 155 of this code of ordinances.
(2004 Code, § 7-1102)

§ 156.318 LOCATION AND SETBACK.

(A) *General*. All parking spaces required to serve buildings or uses erected or established after the effective date of this chapter shall be located on the same lot as the building or use served. Buildings or uses existing on the effective date of this chapter which are subsequently altered or enlarged so as to require the provision of additional parking spaces under the requirements of this chapter may be served by parking facilities located on land other than the lot on which the building or use served is located; provided, such facilities are within 200 feet of a lot line of the use served. (See § 156.300 of this chapter.)

(B) *Front yards*.

(1) Off-street parking may be located in minimum required front yards of manufacturing districts; provided, the total parking area does not occupy more than 10% of the total area of the minimum required front yard.

(2) In any manufactured district off-street parking may be located in front of the building; provided, the parking area is located between the required front the building setback line and the building.

(C) *Side and rear yards*. Off-street parking may be located in required side and rear yards; provided that, it does not extend within 20 feet of any lot line abutting a residential district.
(2004 Code, § 7-1103)

§ 156.319 SCREENING AND LANDSCAPING.

The ground area between the required off-street parking area setback and any lot line abutting a residential district shall be screened and landscaped in accordance with the non-residential district's transitional yard requirements.
(2004 Code, § 7-1104)

§ 156.320 USE OF PARKING AREA.

(A) The parking area shall not be used for the storage, display, advertisement, sale, repair, dismantling or wrecking of any vehicle, equipment or materials, and shall be for the sole use of the occupants and visitors of the premises.

(B) The required parking area shall not be used for the storage of any commercial vehicles.

(C) Buildings or structures shall be permitted for shelters for guards, attendants or watchmen; however, any such structure shall not occupy required off-street parking space.

(D) Loading and unloading spaces and maneuvering area, as required in §§ 156.275 through 156.282 of this chapter, shall not constitute required off-street parking space, nor shall off-street parking area be used for off-street loading purposes.
(2004 Code, § 7-1105)

§ 156.321 SURFACE OF PARKING AREA.

(A) Off-street parking spaces may be open to the sky, covered or enclosed in a building. In any instance where a building is constructed or used for parking, it shall be treated as any major structure and subject to all requirements thereof.

(B) All open off-street parking areas shall be paved with concrete or improved with a compacted macadam base, and surfaced with an asphaltic pavement to adequately provide a durable and dust-free surface which shall be maintained in good condition free of weeds, dirt, trash and debris; except that:

(1) A gravel surface may be used for a period not exceeding one year after the parking area is opened for use where ground conditions are not immediately suitable for permanent surfacing as specified above; and

(2) A gravel surface in the area of storage or handling may be used permanently in association with industries that handle liquids or chemicals which create a potential hazard if containment should be lost and where absorption into the ground through a loose surface material would eliminate or alleviate such hazard.

(C) The surface shall be graded and drained in such a manner that there will be no free flow of water onto either adjacent properties or public sidewalks.

(D) The parking area(s) shall be so lined or designated where abutting a required yard that no part of the parked vehicles shall extend beyond the boundary of the established parking area into any minimum required yard or into adjoining property.

(E) When lighting facilities are used to illuminate the parking area(s) they shall be so located, shielded and directed upon the parking area that they do not create glare or reflect onto adjacent properties or interfere with street traffic. In no instance shall bare incandescent bulbs be used for such illumination.
(2004 Code, § 7-1106)

§ 156.322 AMOUNT OF PARKING AREA REQUIRED.

For any use not specified in this subchapter, the requirements for off-street parking for a specified use to which said use is most similar, as determined by the Plan Commission, shall apply. The parking space requirements set out in this subchapter may be modified or waived by the Plan Commission.

Uses	*Required Parking Spaces*
Automobile or trailer sales area	1 per 1,000 sq. ft. of retail area
Automobile sales and repair (indoor)	1 per 200 sq. ft. of floor area
Banks, business offices, professional services and similar service uses	1 per 300 sq. ft. of floor area
Boarding or lodging house, sorority, fraternity or student housing	1 per 3 occupants
Bowling alley	3 per lane, plus 1 per 6 spectator seats
Clinic, medical or dental	1 per 100 sq. ft. of floor area
Commercial recreational use	1 per 1 employee, plus 1 per 200 sq. ft. of floor area
Home occupation	1 in addition to residence requirement
Hospital, nursing or convalescent homes or homes for aged	1 per 3 beds, plus 1 per 2 staff doctors plus 1 per employee, plus 1 per institutional vehicle on largest work shift
Hotels, motels or motor hotels	1 per employee, plus 1 per sleeping room
House of worship/church	1 for every 3 seating spaces in the largest gathering room. If the seating is in the form of pews of benches, every 2 feet of linear pew or bench seating shall be considered 1 seat.
Industrial park, research and manufacturing	1 per person estimated on premises at peak period during day or night
Industrial uses generally	1 per person estimated on premises at peak period during day or night
Kindergarten or day nursery	1 per employee, plus 1 per 5 children

Uses	*Required Parking Spaces*
Manufactured or mobile home community (park)	1 per 1 employee, plus 2 per manufactured or mobile home space
Mortuary or mausoleum	1 per 50 sq. ft. of floor area of parlors or assembly rooms
Police or fire station	1 per 1 employee on a shift
Private club or lodge	1 per 6 active members
Private recreational development	1 per customer, plus 1 per employee per shift
Public library or town building	1 per 200 sq. ft. of floor area
Radio or television tower	1 per employee per shift, plus 1 for a service vehicle
Residential use, including apartments	2 per dwelling unit
Retail stores - heavy traffic generators, including, but not limited to, supermarkets and other food stores, restaurants, bars, night clubs, ice cream parlors, bakery, drug stores, beauty and barber shops, discount stores	1 per 150 sq. ft. of floor area for an individual use or a combination of 2 or more uses in 1 structure or a shopping center of comparably integrated uses where all uses included do not exceed 50,000 sq. ft. of floor area
Retail stores - light traffic generators, including, but not limited to, furniture, jewelry, gifts, hardware, appliance stores and the like, personal service shops, household or equipment repair shops, clothing and shoe repair shops, wearing apparel	1 per 300 sq. ft. of floor area for an individual use or a combination of 2 or more uses in 1 structure or a shopping center of comparably integrated uses where all uses included do not exceed 50,000 sq. ft. of floor area.
School	1 per staff member, plus 1 per 6 auditorium seats
Shopping center (over 50,000 sq. ft.)	1 per 160 sq. ft. of floor area
Theater	1 per 3 seats
Trade, vocational or business school	1 per 3 students and 1 per staff member
Truck freight terminal	1 per employee, plus 4 for customers, plus truck capacity
Veterinary hospital for small animals kennel	1 per 3 animal spaces (cages or pens)
Wholesaling, distributing, warehousing, storage, transfer firms, contractors, custom fabricators	1 per 2 persons estimated on premises at peak period during day or night. Retail space in establishment shall require additional space specified for that type of retail establishment

(2004 Code, § 7-1107) (Ord. 2022-08, passed 5-25-2022)

SIGNS

§ 156.335 PROHIBITION; PURPOSE.

Except as otherwise provided in this chapter, no sign shall be erected, moved, enlarged, improved or altered, nor shall any sign be established or changed in use, without an improvement location permit issued by the Plan Commission or its designated representative. Permits shall be issued in conformance with this chapter. The purpose of the sign regulations of this chapter is to promote the use of signs which enhance the visual environment of the town and to encourage the use of signs which are harmonious with their surroundings.

(A) All signs and their surrounding structures shall be kept in good repair. Any sign that advertises an abandoned business or use shall be removed by the owner of the property on which that sign is located. For purposes of this section, any business or use that ceases to exist or fails to open for business continuously for 60 days shall be deemed to be abandoned. With respect to signs that advertise only one abandoned business or use, all signs and structures related exclusively to those signs shall be removed. With respect to sign panels located on a structure shared by two or more businesses, only the panel(s) advertising the abandoned business must be removed. All signs advertising abandoned businesses or uses, as defined herein, shall be removed within 30 days of the date on which the business or use is deemed to be abandoned or, in other words, within 90 days of the date on which the business or use ceases.

(B) Two permanent freestanding subdivision or project identification ground signs shall be permitted at each entrance to a subdivision or other residential project that has been approved in accordance with Ch. 155 of this code of ordinances. Such signs shall be located on some portion of the subdivision or project property. The maximum sign face area of such a sign shall not exceed 40 square feet. If the sign is located on a fence or wall, only the area of the actual sign itself shall be calculated in determining the maximum sign area, not the fence or wall itself. No part of the sign face or the sign support structure of a ground sign shall be more than four feet above grade level, and earth mounding that is inconsistent with the ground level of the land surrounding the sign structure and that increases the elevation of the sign, shall be included in the measurement of the sign height. Such signs shall be located no closer than ten feet from the existing street right-of-way line and no closer than five feet from a side or rear property line. Such signs shall not be placed on utility easements or drainage easements as defined on recorded plats or site plans without the express consent of the Plan Commission. Such signs shall not be placed as to interfere with the sight path of vehicular traffic.

(C) No sign shall be erected or maintained at any location where by reason of its position, working size, shape, color or illumination it may obstruct, obscure, impair or interfere with the view of, or be confused with any authorized traffic control devise, signal or sign.

(D) No part of any sign attached to the exterior wall of a building shall be erected to a height in excess of six feet above the roof line or parapet line of such building.

(E) No part of any free-standing sign shall be erected to a height greater than that specified for other structures in the district in which it is located; rooftop signs shall not extend more than 20 feet above the roof line, nor shall such sign be located closer to an exterior wall than a distance equal to the height such sign extends above the roof.

(F) 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.

(G) (1) No illuminated sign shall be permitted within 50 feet of any residential district or in the GB District, unless it is so designed that it does not reflect or shine light into said district.

(2) No illuminated sign shall create an unduly distracting or hazardous condition to motorists or pedestrians. No sign shall project beyond a lot line, obstruct a driver's vision of the road or hinder his or her passage in any way. Further, no sign shall hinder or obstruct any pedestrian path.

(3) No illuminated sign shall shine directly or reflect glare into any dwelling, hospital, nursing or convalescent home.

(4) All sign illumination shall be indirect or interior. No exposed bulbs, neon tubing or fluorescent tubing shall be allowed, with the exception of automatic changing signs which display time, temperature or other general information and illuminated seasonal or holiday signs.

(H) Each permitted or required parking area that has a capacity of more than five cars shall be permitted one sign, not more than two square feet in area, designating each entrance or exit; and one sign, not more than 12 square feet in area, identifying or designating the conditions of use of such parking area for each 25 spaces.

(I) Signs established by, or by the order of any governmental agency shall be permitted.

(J) One sign, not more than 12 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 under way.
(2004 Code, § 7-1400) (Ord. 1061, passed 10-1-2002; Ord. 1068, passed 9-30-2003; Ord. 2113, passed 10-6-2009) Penalty, see § 156.999

§ 156.336 RESIDENTIAL DISTRICT REQUIREMENTS.

(A) A nameplate which shall not exceed one square foot in area is permitted for each dwelling unit of a single family, or multi-family structure; such nameplate shall indicate nothing other than name and/or address of the occupant and/or customary home occupation. No other sign shall be allowed. No permit is required.

(B) Multiple-family residences and residential projects of all types 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 six square feet in area.

(C) For uses other than those listed in divisions (A) and (B) above, bulletin boards or identification signs 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 signs shall not exceed 12 square feet in area.

(D) For each use of divisions (B) and (C) above, 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 500 feet of frontage or major fraction thereof.
(2004 Code, § 7-1401) (Ord. 1068, passed 9-30-2003)

§ 156.337 GENERAL BUSINESS DISTRICT REQUIREMENTS.

(A) Residential uses shall be subject to the provisions of § 156.336 of this chapter.

(B) Each public recreation, community facility, clinic use and similar uses shall be permitted one bulletin board or identification sign, not to exceed 12 square feet, except that use occupying extended frontages or major fraction thereof.

(C) Each primary use other than those listed in divisions (A) and (B) above shall be permitted signs according to the following formula: the area of all permanent advertising signs for any single business enterprise may have an area equivalent to one and one-half square feet of sign area for each lineal foot of width of a building, or part of a building occupied by such enterprise, but shall not exceed a maximum area of 100 square feet.

(D) (1) The area of all permanent advertising signs for any single business enterprise shall be limited according to the widths of the building or part of the building occupied by such enterprise.

(2) For purposes of this section, width shall be measured along the building face nearest parallel to the street line.

(3) In the case of a corner lot, either frontage may be used in determining width, but the frontage selected shall be considered the front wall of the building for the purpose of determining maximum area of the sign.

(E) No sign shall project over a lot line and no sign shall project in to a required yard by more than two feet, except in those blocks where 25% of the frontage is already occupied by business uses and where overhanging signs are already established, signs may project to within two feet of an established right-of-way line, but in no event shall a sign extend more than six feet beyond the face of the building.

(F) Free-standing signs not over 25 feet in height, having a maximum total sign area of 100 square feet and located not closer than ten feet to any street line, and not closer than 100 feet to any adjoining lot line may be erected to serve a group of business establishments.
(2004 Code, § 7-1402)

§ 156.338 MANUFACTURING DISTRICT REQUIREMENTS.

(A) Each use shall be permitted identification signs on the lot only as incidental uses.

(B) All provisions applying to GB Districts apply; except that, the area of all permanent advertising signs for any single manufacturing enterprise may have an area equivalent to five square feet of sign area for each lineal foot of width of a building, or part of a building occupied by such enterprise.
(2004 Code, § 7-1403)

§ 156.339 BILLBOARDS.

Billboard signs shall only be permitted in the GB and M Districts and shall be subject to the following regulations, which are in addition to the zoning ordinance regulations otherwise applicable and not in conflict herewith.

(A) *Billboard sign size*. The face of a billboard sign shall not be greater than 14 feet in vertical dimension nor greater than 50 feet in horizontal dimension, and shall not contain more than two signs per facing.

(B) *Distance between billboard signs*. The minimum distance between billboard signs shall be as specified below.

(1) *Linear spacing between billboard signs*. The minimum distance between billboard signs located along and oriented toward the same public street shall be 1,000 feet, subject to the following.

(a) The spacing requirement shall be applied regardless of whether the signs are on the same side of the street.

(b) The spacing requirement shall be applied continuously along a street to all signs oriented toward that street in either direction whether the signs are in the same block or are in different blocks separated by an intersecting street.

(c) For purposes of applying the spacing requirement to billboard signs, pole, roof, wall, ground and projecting signs shall be treated the same, whether double-faced or single-faced.

(d) Billboard signs located at the same intersection are not in violation of the minimum spacing requirement specified in this section because of their nearness to one another if they are located so that their messages are directed toward traffic flowing in different directions.

(2) *Radial spacing between billboard signs*. In no event shall any point of a billboard sign or sign structure be closer than 500 feet from any point of any other billboard sign or sign structure regardless of location or orientation.

(3) *Method of measurement*. The method of measurement of the spacing between billboard signs oriented toward the same street shall be along the centerline of the street to which the sign is oriented from the point in the street's centerline closest to the leading edge of the sign.

(C) *Distance from protected districts*. No billboard sign shall be located within 350 feet of a protected district. For purposes of this section. Protected district shall include all residential districts, areas platted for residential use as part of a PUD ordinance, parks, schools and churches.

(D) *Roof top billboard signs*. Roof top billboard signs shall not be permitted in any zoning district.

(E) *Billboard sign setback*. Signs or sign structures shall be set back in accordance with the building setback lines required by the applicable zoning district.

(F) *Construction of billboard signs*. The supports, uprights, bracing and framework of an billboard sign shall be of steel construction.
(2004 Code, § 7-1404) (Ord. 2100, passed 4-7-2009)

§ 156.340 SIGNS NOT PERMITTED IN ANY DISTRICT.

(A) Portable, folding and similar movable signs shall not be permitted, except under a temporary sign permit;

(B) Signs which are structurally unsafe or are incompatible with their surroundings as determined by the Commission or its designated representatives;

(C) Signs obstructing free ingress or egress from a required exit, or which prevent light or ventilation as required in local codes and ordinances;

(D) Signs which by reason of size, location, content, coloring or illumination violate municipal or state highway standards;

(E) Signs, words, phrases, symbols, colors or characteristics which may mislead, interfere with or confuse motorists;

(F) Signs erected on or attached to any sidewalk, street or highway right-of-way, curb, curbstones, hydrant, lamppost, tree, barricade, temporary walkway, telephone, telegraph or electric light pole, other utility pole, public fence or on a fixture of the fire alarm or police system, except public information signs;

(G) An advertising sign shall not be painted directly on an exterior wall of a building or structure; or

(H) Signs which involve revolving or rotating beams of light.
(2004 Code, § 7-1405)

§ 156.341 TEMPORARY SIGNS.

The following temporary signs are permitted in all zoning districts within the town subject to the specific provisions for each asset forth below.

(A) *"For Sale" or "For Rent"*. One "For Sale" or "For Rent" sign, not more than 12 square feet in area, for each dwelling unit, garage or other building, structure or land, shall be permitted. No permit is required.

(B) *Agricultural products*. One sign, not more than 20 square feet in area, pertaining to the sale of agricultural products raised on the premises shall be permitted. No permit is required.

(C) *Public interest event*. For an event of public interest such as a county fair, church event, town event or fundraising activity, one sign, not over 24 square feet in area and located upon the site of the event shall be permitted, as well as off-site signs advertising such event, not more than 12 square feet in area, and not more than one such sign per parcel. The display period of such signs shall be limited to 30 days before the event advertised through the date of the event. Also directional signs shall be permitted, not more than three fee in area, showing only a directional arrow and the name and address of the event location. The display period of such directional signs shall be limited to 14 days before the event advertised through the date of the event. No permit is required for public interest event signs and related directional signs.

(D) *Construction signs*. During construction of approved non-residential structures and subdivision infrastructure improvements, including for residential subdivisions, signs, not exceeding 32 square feet each, identifying the architects, engineers, developers, lenders, realtors and contractors involved with such projects shall be permitted. All such signs shall be located on the property on which the development or building project is located, and shall be removed within 30 days after the end of construction. The "end of construction " for purposes of this section shall be the date on which a certificate of occupancy is issued for a building or the date on which subdivision improvements are accepted by the town. Such signs shall be located no closer than ten feet from any street right-of-way line or property line. A sign permit and permit fee is required for construction signs.

(E) *Sale of subdivision lots*. For real estate development that has been approved in accordance with Ch. 155 of this code of ordinances, temporary signs advertising the sale of lots shall be limited to one sign per entrance to the development, shall not be larger than 32 square feet, shall not be illuminated and shall be located a minimum distance of ten feet from any street right-of-way or property line. Such signs shall be permitted only during the time that unimproved subdivision lots are offered for sale by the original developer of the subdivision and not later than three years after the first lot is sold. Permits for such signs shall be issued for one-year periods and may be renewed for additional one-year periods to allow time for reasonable display.

(F) *Portable signs*.

(1) In residential districts, portable signs shall be of a non-commercial nature, shall be limited to one per residential lot and shall be permitted only for up to 72 consecutive hours in any seven-day period. No permit is required for portable signs in a residential district.

(2) In non-residential districts, portable signs shall be subject to the issuance of a permit and shall not be displayed for longer than 60 consecutive days in any 180-day period.

(3) A "portable sign" shall be defined as any sign that is not permanently attached to the ground and that is designed to be transported and used from place to place, including, but not limited to, signs transported by means of wheels; signs attached to A- or T-frames; yard card signs; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used for transportation in the normal day-to-day operation of the business.

(4) All portable signs shall:

(a) Be located not less than ten feet from any public right-of-way or property line;

(b) Not obstruct the flow or sight pattern of vehicular traffic on any established right-of-way;

(c) Not exceed 32 square feet;

(d) Meet the illumination requirements as set forth in § 156.335(G) of this chapter; and

(H) *Political campaign signs*. Political campaign signs shall be located on private property, with the permission of the property owner, and not within the street right-of-way, shall be permitted no more than 45 days prior to the scheduled election, and shall be removed within seven days after the election. A permit shall not be required for such signs.

(I) *Model home signs*. Model home signs shall be limited to only one sign located on the model home lot, shall not exceed 16 square feet or four feet in height, shall not be located closer than ten feet to any public right-of-way line or property line and shall be removed immediately after the home no longer serves as a model home. No permit shaft be required for model home signs.
(2004 Code, § 7-1406) (Ord. 1068, passed 9-30-2003; Ord. 2104, passed 10-6-2009)

§ 156.342 SIGN PERMITS.

(A) Except as otherwise provided in this chapter, it shall be unlawful for any person to establish any sign within the jurisdictional area of this chapter, or cause the same to be done without first obtaining a sign permit for each such sign from the Building Inspector as required by this chapter. These directives

shall not be construed to require any permit for a change of copy for legal changeable copy, nor for the repainting, cleaning and other normal maintenance or repair of a sign or sign structure for which a permit has previously been issued, so long as the sign or sign structure is not modified in any way to violate the standards or provisions of this chapter. No permit is required for signs which are exempted from permits elsewhere in this chapter. No new permit is required for signs which have permits and which conform with the requirements of this chapter on the date of its adoption unless and until the sign is altered or relocated in violation of this chapter. A permit must be secured when the fee ownership of the property upon which the sign is located has been changed, or when the ground upon which the sign is situated has been leased to a new tenant.

(B) Every sign permit issued by the Building Inspector shall become null and void if the sign is not established within six months after the issuance of such permit. Signs which require approval by the Commission must be established within one year after the date such approval is granted or such approval shall become null and void. Signs which require variance approval from the Board shall be established within one year.

(C) No person shall establish any sign upon any property or building without the consent of the owner or person entitled to possession of the property or building, if any, or his or her authorized representative.

(D) Application for a permit shall be made to the Building Inspector upon a form provided by the Building Inspector and shall be accompanied by such information as may be required to assure compliance with all appropriate laws and regulations of the town including, but not limited to:

(1) Name and address of the owner of the sign;

(2) Name and address of the owner (fee owner) of the premises where the sign is to be located;

(3) Name and address of the person leasing the premises (if applicable);

(4) Clear and legible drawing(s) clearly indicating the proposed location of the sign which is the subject of the permit and all other existing signs that require permits, when such signs are on the same premises; and

(5) Drawings showing the dimensions, construction supports, sizes, electrical wiring and components, materials and design of the sign and method of attachment. The design, quality, materials, and loading shall conform to the requirements of the Building Official's and Administrative Code (BOAC), as amended. If required by the Building Inspector, engineering data shall be supplied on plans submitted certified by a duly licensed engineer.

(E) The Building Inspector shall issue a permit for the establishment of a sign when an application therefor has been properly made to the town. The person establishing a sign shall notify the Building Inspector upon completion of the work for which permits are required, and shall submit a color

photograph of the established sign to the Building Inspector. All signs shall be subject to an inspection by the Inspector.

(F) The Building Inspector may, in writing, suspend or revoke a permit issued under provisions of this subchapter whenever the permit is issued on the basis of a misstatement of fact or fraud after due notice by and hearing before the Building Inspector. When a sign permit is denied or revoked by the Building Inspector, he or she shall give written notice of the denial to the applicant together with a brief written statement of the reasons for the denial. No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to maintain an unlawful sign nor shall any permit issued hereunder constitute a defense in an action to abate an unlawful sign. An appeal may be taken to the Board from either the Building Inspector's denial or revocation of a permit or from the failure of the Building Inspector to formally grant or deny a permit within 30 days.

(G) (1) The application, including all required documentation, shall be filed with the Building Inspector together with the appropriate permit fee.

(2) If any sign is hereafter erected, placed, installed to or otherwise established on any property before obtaining a permit as required herein, the fees specified shall be doubled.

(3) Payment of such double fee shall not relieve any person from compliance with other provisions of this code and penalties prescribed herein.
(2004 Code, § 7-1407) (Ord. 1068, passed 9-30-2003)

§ 156.343 VARIANCES.

A variance from the terms of these regulations may be submitted to the town's Board of Zoning Appeals as stated in §§ 156.095 through 156.104 of this chapter.
(2004 Code, § 7-1408) (Ord. 1068, passed 9-30-2003)

STREET DEVELOPMENT

§ 156.355 ATTACHED MULTI-FAMILY DWELLINGS, MANUFACTURED HOME DWELLINGS AND INDUSTRIAL PARK DWELLINGS; SITE PLAN REQUIREMENT TO IMPROVEMENT LOCATION PERMIT ISSUANCE.

Prior to improvement location permit issuance for any structure or building within an attached multi-family dwelling, manufactured or mobile home dwelling or industrial park projects, two copies of the site plan for the entire project shall be filed with the Zoning Administrator.
(2004 Code, § 7-1501)

§ 156.356 PUBLIC STREET REQUIREMENTS.

(A) All public streets shall be dedicated to the public and improved and constructed in accordance with the standards set forth in Ch. 155 of this code of ordinances.

(B) The right-of-way of all streets indicated on the Comprehensive Plan for the town, within the project shall be dedicated to the public, or the right-of way thereof shall be reserved for future dedication or acquisition.
(2004 Code, § 7-1502)

§ 156.357 PRIVATE INTERIOR ACCESS ROADS FOR DRIVEWAYS, ATTACHED MULTI-FAMILY DWELLINGS, MANUFACTURED OR MOBILE HOME DWELLING OR INDUSTRIAL PARK PROJECTS.

(A) All interior access roads and driveways shall be paved with concrete or improved with a compacted aggregate base and surfaced with an asphaltic pavement, to adequately provide a durable and dust-free surface.

(B) Interior access roads and driveways shall be privately maintained (not by governmental agencies) in good condition and free of weeds, dirt, trash and debris.

(C) Where interior access roads or driveways intersect with public streets, a turning radius of not less than ten feet shall be provided.

(D) No fence, wall, hedge, tree, shrub or other sight obstruction shall be located within the turning radius described in division (C) above to materially impede the view of any street, highway or railroad intersection with an interior access road or driveway.

(E) Interior access roads and driveways shall be designed with sufficient width to provide at all times for the passage of emergency vehicles.

(F) Interior access roads or driveways shall be located a minimum distance of 25 feet from the nearest point of intersecting street right-of-way lines. Such locations shall further conform to all requirements of § 156.253 of this chapter, regarding corner visibility and Ch. 155 of this code of ordinances.
(2004 Code, § 7-1503)

§ 156.358 PRIVATE DRIVEWAYS; ALL RESIDENTIAL DISTRICTS.

(A) All residential dwellings shall have one paved driveway, with a minimum width, at all points, of 15 feet, that shall run from the street curb to a point that is no more than five feet from the front setback line. An area along and adjacent to the edge of a paved driveway, closest to the nearest side lot

line, may be used for additional parking. The entire additional area shall be improved and maintained either with #53 stone compacted to a minimum depth of four inches and level with the surface of the paved driveway, or be paved. The driveway width where it intersects with a sidewalk, or if there is no sidewalk, where it intersects with the front lot line, shall not exceed 22 feet. All areas between the sidewalk, or if there is no sidewalk, the front lot line, and the street curb shall be paved. ***PAVED***, for purposes of this section, means concrete or asphalt.

(B) All residential driveways shall be paved with concrete or improved with compacted aggregate base, and surfaced with an asphaltic pavement, to adequately provide a durable and dust-free surface.

(C) All residential driveways shall be privately maintained (not by governmental agencies) in good condition and free of weeds, dirt, trash and debris.

(D) No fence, wall, hedge, tree, shrub or other sign obstruction shall be located so as to materially impede the view of any street, highway or railroad intersection with a residential driveway.

(E) Only one driveway shall be permitted for each single-family dwelling, mobile home or manufactured home with a maximum width not to exceed 20 feet at the point of intersection with the street right-of-way line.
(2004 Code, § 7-1504) (Ord. 2064, passed 9-18-2007)

TEMPORARY USES

§ 156.370 PERMIT.

Subject to conditions, fees and standards (including official Schedule of Uses) otherwise required by this chapter, a temporary use permit may be issued:

(A) To an applicant in the process of building, rebuilding, developing or otherwise constructing within the districts set out in this chapter, to locate a manufactured or mobile home on a building lot during the course of said construction; such permit shall not be issued until after a building permit for the construction has been issued; and

(B) To an applicant to use a manufactured or mobile home as a caretaker's quarters or construction office at a job site.
(2004 Code, § 7-1600)

§ 156.371 LENGTH OF PERMIT.

A temporary use permit may be issued at the discretion of the Plan Commission for a period not to exceed 90 days. The temporary permit may be renewed for additional 90-day periods upon showing of good cause and with permission of the Plan Commission to do so.
(2004 Code, § 7-1601)

§ 156.372 PERMIT EXPIRATION.

At the time the temporary permit expires, the manufactured or mobile home and all appurtenances shall be removed from the property within 30 days.
(2004 Code, § 7-1602)

§ 156.373 COMMERCIAL TENTS.

A permit shall be required for the erection of any tent proposed to be used for commercial purposes (any use that is non-residential or non-recreational), the applicant for a tent permit shall submit a proposed site plan to the Zoning Administrator for his or her approval, the erection and securing methods shall be subject to the approval of the Zoning Administrator. No tent shall be erected within 25 feet of a street or highway right-of-way. A tent permit shall be good for a maximum time period of 30 days from the date of issuance. Renewal of a tent permit shall be at the discretion of the Plan Commission or its designated representative.
(2004 Code, § 7-1603)

COMMERCIAL AND RECREATIONAL VEHICLES

§ 156.385 CAMPERS, TRAVEL TRAILERS, AND HAULING TRAILERS.

Campers, travel trailers, hauling trailers shall be permitted on lots within Residential Districts, subject to the following:

(A) Only one of each type of vehicle described in this section shall be permitted to be stored or parked on any residential lot and no more than two different vehicles described under this section shall be permitted to be parked or stored on any residential lot at the same time.

(B) If two different vehicles as described under this section are parked on the same residential lot at the same time, at least one of those vehicles shall be stored or parked, at all times that both are present, behind the front line of the building as that term is defined in this section.

(C) For purposes of this section, a boat stored on a boat trailer shall be considered one vehicle.

(D) For purposes of this section, ***RESIDENTIAL LOT*** shall mean a lot located within a Residential District.
(2004 Code, § 7-1700) (Ord. 2023, passed 2-21-2006)

§ 156.386 PARKING AND STORAGE.

None of the vehicles referred to in § 156.385, or any parts thereof, shall be parked or stored, at any time, within 12 feet of the curb of any public street abutting the residential lot on which any such vehicle is located.
(2004 Code, § 7-1701) (Ord. 2023, passed 2-21-2006) Penalty, see § 156.999

§ 156.387 LICENSING AND REGISTRATION.

All vehicles referred to in § 156.385 must be kept in compliance with all licensing and registration requirements of all applicable federal, state and local laws and required plates, tags, decals, permits, etc. during all times they are stored or parked on a residential lot.
(2004 Code, § 7-1702) (Ord. 2023, passed 2-21-2006) Penalty, see § 156.999

§ 156.388 NOT A NUISANCE OR HAZARD.

All vehicles referred to in § 156.385 shall be maintained in good and safe condition at all times while stored or parked on a residential lot so as not to constitute a nuisance or hazard to any other person.
(2004 Code, § 7-1703) (Ord. 2023, passed 2-21-2006) Penalty, see § 156.999

§ 156.389 NOT TO BE INHABITED.

None of the vehicles referred to in § 156.385 shall be inhabited by any person, at any time, while parked or stored on a residential lot.
(2004 Code, § 7-1704) (Ord. 2023, passed 2-21-2006) Penalty, see § 156.999

MANUFACTURED HOUSING AND MOBILE HOMES

§ 156.405 MANUFACTURED OR MOBILE HOME COMMUNITY OR PARK DISTRICT (MH).

The purpose of the MH District is to accommodate the housing needs of those residents who prefer manufactured or mobile home living and of those who desire an economic alternative to conventional dwellings. The term mobile home when used in this section shall denote either a manufactured home or a mobile home, both of which are more specifically defined in § 156.410 of this chapter, and the term mobile home park when used herein shall mean a parcel of land platted for subdivision upon which five or more manufactured or mobile homes are harbored for the purpose of being occupied as principal residences.
(2004 Code, § 8-100)

§ 156.406 CONFLICT WITH OTHER APPLICABLE REGULATIONS.

(A) Whenever there is a conflict between the provisions of this subchapter and other sections of this chapter, the provisions of this section shall prevail.

(B) Subjects not covered by this section shall be regulated by the respective sections found elsewhere in this chapter.
(2004 Code, § 8-200)

§ 156.407 PERMITTED USES.

(A) The following uses and others listed in the official Schedule of Uses shall be permitted in the MH District.

(B) All uses in the MH District shall conform to the MH development regulations of § 156.414 of this chapter and the MH general requirements of § 156.415 of this chapter.
(2004 Code, § 8-300)

§ 156.408 MOBILE DWELLING PROJECTS.

(A) Mobile dwelling projects are subject to all development regulations of § 156.414 of this chapter, including the 25-acre minimum project area requirement.

(B) Each permitted manufactured or mobile home within a mobile home park shall be limited to one-family use and occupancy.
(2004 Code, § 8-301)

§ 156.409 TEMPORARY AND ACCESSORY USES.

(A) Temporary uses are permitted, as regulated in §§ 156.370 through 156.373 of this chapter.
(2004 Code, § 8-302)

(B) Accessory uses, subject to the accessory use requirements of § 156.250 of this chapter:

(1) Manager's office and apartment;

(2) Project maintenance equipment storage facility;

(3) Common recreation and service buildings and areas, including laundry facilities;

(4) Open storage area;

(5) Accessory parking areas;

(6) Carports, canopies, covered patios, storage rooms, porches, awnings, swings and other play structures or equipment, provided the height thereof shall not exceed ten feet measured from the finished manufactured or mobile home lot grade, and that floors of carports, patios, storage rooms and porches shall be of concrete or other permanent hard surface material; and

(7) Wholesale and retail sales of manufactured or mobile homes conducted as a business by dealers or manufactured or mobile home project owners/operators shall be prohibited in the MH District; except, however, a manufactured or mobile home project owner/operator may display not more than three "model" manufactured or mobile home units on lots in the interior of the project; provided, such model units shall not be displayed for sale or removal outside the project; and, further provided that, no signs relative to the "model" units shall be installed as to be visible to the public outside the project. A model home sign, as regulated in § 156.335 of this chapter, shall be permitted for each "model" manufactured or mobile home; provided further, however, nothing contained herein shall restrict the right of any individual owner of any mobile dwelling unit to sell or lease such unit.
(2004 Code, § 8-303)

§ 156.410 CLASSIFICATION DEFINITIONS.

For the purposes of this chapter, manufactured homes and mobile homes shall be classified as follows.
(2004 Code, § 8-400)

TYPE I MANUFACTURED HOME. Shall:

(1) Have more than 950 square feet of occupied space in a double-section or larger multi-section unit;

(2) Have a minimum width of 23 feet;

(3) Be placed onto a permanent foundation;

(4) Utilize a permanent perimeter enclosure in accordance with approved installation standards, as specified in § 156.411 of this chapter;

(5) Be anchored to the ground, in accordance with the One- and Two-Family Dwelling Code and to the manufacturer's specifications;

(6) Have wheels, axles and hitch mechanisms removed;

(7) Have utilities connected, in accordance with the One- and Two-Family Dwelling Code and manufacturer's specifications;

(8) Have siding material of a type customarily used on site constructed residences; and (See § 156.412 of this chapter for approved material list.)

(9) Have roofing material of a type customarily used on site constructed residences. (See § 156.412 of this chapter for approved materials list.)

TYPE II MANUFACTURED HOME. Shall:

(1) Have more than 700 square feet of occupied space in a single, double, expando or multi-section unit (including those with add-a-room units);

(2) Have a minimum width of 12 feet;

(3) Be placed onto a support system, in accordance with installation standards, as specified in § 156.411 of this chapter;

(4) Be enclosed with foundation siding/skirting, in accordance with approved installation standards, as specified in § 156.411 of this chapter;

(5) Be anchored to the ground, in accordance with manufacturer's specifications or the ANSI/NFPA 501 A Installation Standards;

(6) Have utilities connected in accordance with manufacturer's specifications or the ANSI/NFPA 501 A Installation Standards;

(7) Have siding material of a type customarily used on site constructed residences (see § 156.412 of this chapter for approved material list); and

(8) Have roofing material of a type customarily used on site constructed residences (see § 156.412 of this chapter for approved material list).
(2004 Code, § 8-401)

§ 156.411 INSTALLATION STANDARDS.

(A) *Permanent perimeter enclosure.*

(1) Those manufactured homes designated in this chapter as requiring a permanent perimeter enclosure must be set onto an excavated area, with foundations, footings and crawl space or basement walls constructed in accordance with the terms of the One- and Two-Family Dwelling Code.

(2) The space between the floor joists of the home and the excavated underfloor grade shall be completely enclosed with the permanent perimeter enclosure (except for required openings).
(2004 Code, § 8-501)

(B) *Foundation siding/skirting.*

(1) All manufactured or mobile homes without a permanent perimeter enclosure shall have an approved foundation siding/skirting enclosing the entire perimeter of the home. Foundation siding/skirting and back-up framing shall be weather-resistant, non-combustible or self-extinguishing materials, which blend with the exterior siding of the home. Below grade level and for a minimum distance of six inches above finish grade, the materials shall be unaffected by decay or oxidation. The siding shall be installed in accordance with manufacturer's recommendations or approved equal standards.

(2) The siding shall be ventilated by openings, which shall have a net area of not less than one and one-half square feet for each 25 linear feet of exterior perimeter. The openings shall be covered with corrosion resistant wire mesh not larger than one-half inch in any dimension. The underfloor area shall be provided with an 18-inch by 24-inch minimum ducts, or other construction interfering with the accessibility of the underfloor space, or other approved access mechanism.
(2004 Code, § 8-502)

(C) *Support system.*

(1) *Type I manufactured homes.* All Type I manufactured home load-bearing foundations shall be installed in conformance with the regulations in the One- and Two-Family Dwelling Code and with the manufacturer's installation specifications.
(2004 Code, § 8-503)

(2) *Type II manufactured homes*. All Type II manufactured homes not placed on a permanent foundation, shall be installed on a support system in conformance with the manufacturer's installation specifications or with the support systems regulations in the ANSI/NFPA 501 A 1977 installation standards.
(2004 Code, § 8-504)

§ 156.412 APPROVED MATERIALS FOR TYPE I AND TYPE II MANUFACTURED HOMES.

(A) *Siding materials*. The following siding materials are approved for usage on residential Type I and Type II manufactured homes:

(1) Residential horizontal aluminum lap siding;

(2) Residential horizontal vinyl lap siding;

(3) Cedar or other wood siding;

(4) Wood grain, weather resistant, press board siding;

(5) Brick or stone siding; and

(6) Other approved siding materials which are aesthetically compatible.
(2004 Code, § 8-601)

(B) *Roofing materials*. The following roofing materials are approved for usage on residential design Type I and Type II manufactured homes:

(1) Asbestos shingles on a roof pitched according to the design specifications of the shingles;

(2) Fiberglass shingles on a roof pitched according to the design specifications of the shingles;

(3) Shake shingles on a roof pitched according to the design specifications of the shingles;

(4) Asphalt shingles on a roof pitched according to the design specifications of the shingles; and

(5) Tile materials on a roof pitched according to the design specifications of the materials.
(2004 Code, § 8-602)

§ 156.413 MOBILE HOME PARK APPLICATION PROCEDURES.

(A) *General.* The applicant for a mobile home park (owner or person with consent of owner) shall file the following documents with the Plan Commission at least 15 days prior to the public hearing at which the development plans are to be presented for consideration:

(1) Development plans: two copies;

(2) Letter of intent: two copies; and

(3) Zoning petition: two copies.
(2004 Code, § 8-700)

(B) *Public notification.* The applicant shall provide the Plan Commission with a legal affidavit for proof of one publication of public notice prior to the hearing. If the applicant is petitioning for rezoning of property for mobile home park use, the applicant shall also provide the Plan Commission with proof that all property owners within 600 feet and/or two properties whichever is greater distance from said property have been given notice of the public hearing and petition. Mail receipts and proof of publication affidavits must be submitted at least two working days prior to the hearing. All costs for public notification shall be borne by the applicant.
(2004 Code, § 8-701)

(C) *Preparation of development plans.* All development plans for a mobile home park shall contain the following information:

(1) A vicinity key map at an appropriate scale;

(2) Description:

(a) Name and address of applicant;

(b) Proposed name of such mobile home park;

(c) Location by quarter section, township and range, or by other legal descriptions, and city, town or civil township;

(d) Name, address and seal of registered professional engineer or land surveyor preparing the plan; and

(e) Scale of the plan, north point and date.

(3) Existing conditions:

(a) Boundary line of proposed mobile home park indicated by solid heavy line;

(b) Location, width and names of all existing or prior dedicated streets or public ways abutting or in said area of the proposed mobile home park, railroad and utility rights-of-way, parks and other public open spaces within said area, and location of permanent buildings or structures;

(c) Any existing sewers, water mains, culverts, drainage tile or underground facilities within the area of the proposed mobile home park;

(d) Existing zoning of proposed mobile home park and adjacent tracts; and

(e) Other conditions on the tract such as watercourses, marshes, rock outcrop, wood areas and the like.

(4) Proposed conditions:

(a) Layout of streets and sidewalks with width thereof, whether dedicated or private street, together with typical cross-section;

(b) Layout of any alleys, crosswalks and easements;

(c) The dimensions and number of lots;

(d) Land to be set aside for common use of the tenants of the mobile home park;

(e) All setback lines;

(f) Location of all proposed permanent buildings, storage area, office and community center; and

(g) Sanitary sewer system, storm sewer system, off-site drainage system or similar related items.
(2004 Code, § 8-702)

(D) *Preparation of improvement plan.* At the time of filing the development plan, the applicant shall also file two copies of the proposed improvement plans which shall contain the following information:

(1) *Description.* The same information as outlined in preparation of development plan in divisions (B)(1) through (B)(4) above; and

(2) *Proposed conditions.*

(a) Plan and profile sheets of the proposed mobile home park streets, including typical cross-section showing pavement design; and

(b) Plans for the proposed handling of surface water drainage, including plan and profile sheets of storm sewers, if included in the proposed improvements.
(2004 Code, § 8-703)

(E) *Public hearing*. The Plan Commission shall hold a public hearing prior to granting approval of any mobile home park plans. The applicant shall give at least 15 days' notice prior to such hearing as prescribed in this section. The applicant shall also meet the public notification requirements as prescribed in this section. Either the applicant or his or her designated representative shall attend the public hearing. Such notification and attendance requirements shall be a condition precedent to the right of the Plan Commission to conduct such hearing. At the hearing, the Commission may approve, deny, modify or take under advisement the plans presented by the applicant. If the plans are modified or denied by the Commission, the Commission shall promptly notify the applicant of such action, together with the reasons for such modification or denial. The Plan Commission may, at its own discretion, require the applicant to submit their development and improvement plans to the county's Drainage Board for approval.
(2004 Code, § 8-704)

§ 156.414 MOBILE HOME PARK DEVELOPMENT REGULATIONS.

The design requirements of a mobile home park are as follows.
(2004 Code, § 8-800)

(A) *Minimum area*. Each mobile home park shall contain a minimum of 25 acres of total area.
(2004 Code, § 8-801)

(B) *Maximum building height*. All structures and buildings: 25 feet.
(2004 Code, § 8-802)

(C) *Hazards to health and safety*. Conditions of soil, ground water level, drainage, geologic structures and topography shall not create hazards to the park site or to the health and safety of occupants, nor shall the site be subject to the hazards of objectionable smoke, odor or noise, or the possibility of subsidence, sudden flooding or severe erosion.
(2004 Code, § 8-803)

(D) *Setback of mobile home park*. The minimum setback of a mobile home park exterior boundary where such park abuts a public street right-of-way shall be as shown herein.
(2004 Code, § 8-804)

(E) *Access to public thoroughfare*. Mobile home parks shall have direct access to an adequate public thoroughfare with a minimum 150-foot frontage thereon for the proper construction of entrances and exits. Such entrances and exits shall be designed for the safe movement of mobile homes into and out of the park.
(2004 Code, § 8-805)

(F) *Streets*.

(1) Public streets and private interior access roads or driveways shall be provided in accordance with §§ 156.357 and 156.358 of this chapter and shall also meet the minimum standards for design and construction as required in Ch. 155 of this code of ordinances.

(2) Private interior access roads (in addition to the requirement of division (F)(1) above) shall be constructed with curbs and gutters and shall have a minimum width, including curbs and gutters, of:

(a) One-way, no parking: 27 feet;

(b) One-way, parking on one side only: 36 feet;

(c) Two-way, no parking: 12 feet;

(d) Two-way, parking on one side only: 20 feet; and

(e) Two-way, parking on both sides: 20 feet.

(2004 Code, § 8-806)

(G) *Sidewalks*. A paved sidewalk shall be installed on both sides of each mobile home park street. The minimum width of such sidewalks shall be four feet and the minimum thickness shall be four inches. Sidewalks may abut a curb, but shall not intersect a driveway or street so as to be subjected to vehicular traffic or parking.

(2004 Code, § 8-807)

(H) *Off-street parking spaces*. Each mobile home space shall be provided with at least two paved off-street parking spaces adjacent thereto, which parking spaces shall have unobstructed access to a mobile home park street.

(2004 Code, § 8-808)

(I) *Mobile home stands*. Mobile home stands must be so located within the mobile home space that when occupied by a mobile home, the clear distance between a mobile home and any adjacent mobile home will not be less than 25 feet, except end to end clear distance which may not be less than 15 feet. The clear distance between mobile homes located on spaces which are on a cul-de-sac shall be at least 20 feet. In any case, the back side (side opposite the main entrance) of a mobile home shall be no closer than ten feet to the sideline of the mobile home space that it occupies.

(2004 Code, § 8-809)

(J) *Setback from permanent buildings*. No mobile home shall be located closer than 20 feet to any permanent building within the mobile home park or closer than 50 feet wherever the project abuts adjoining perimeter property.

(2004 Code, § 8-810)

(K) *Mobile home spaces*. Each mobile home park shall provide mobile home spaces, and each such space shall be clearly defined or delineated. Each space shall have an area of not less than 3,200 square feet or three times the mobile home living space area, whichever is greater; exclusive of roadways; provided, however, that, mobile home parks which, at the time of the adoption of this chapter, existed lawfully or whose plans were approved with mobile home spaces that do not comply with any of the foregoing minimum area and width or minimum average widths required, may continue to operate and shall be excused from such existing spaces only.
(2004 Code, § 8-811)

(L) *Interior front line setback*. No mobile home shall be located closer than 15 feet to the curb of any interior street within the project.
(2004 Code, § 8-812)

(M) *Storage sheds*.

(1) In order to provide adequate storage facilities on or conveniently near each mobile dwelling side for the storage of outdoor equipment, furniture and tools, and other materials used only seasonally or infrequently, or incapable of convenient storage within the mobile dwellings, a minimum of 150 cubic feet for general storage space per mobile dwelling unit shall be provided on the mobile dwelling lot, or in compounds located within reasonable distance thereof, generally not more than 100 feet from each mobile dwelling. Each such storage facility shall be constructed and located in conformity with the approved development plan required by § 156.413(A) of this chapter; provided, however, that, the following minimum setbacks are met:

(a) Side yard: three feet;

(b) Rear yard: three feet; and

(c) Front yard: ten feet or mobile home setback line, whichever is greater.

(2) Storage sheds shall be free standing and not attached to the mobile home itself. Sheds shall set a minimum of three feet from a mobile home.
(2004 Code, § 8-813)

(N) *Patios and stands*. All mobile dwelling lots shall be improved as follows.

(1) A minimum of 50 square feet of asphaltic or portland cement concrete walkway or patio connecting the mobile dwelling with its off-street parking area shall be provided at the mobile home front door location.

(2) Concrete runners, concrete pillars or a paved stand shall be provided to accommodate each mobile dwelling. An anchoring system shall be provided in accordance with the manufacturers specifications or the ANSI/NFPA A Installation Standards.

(3) Stand shall be defined as the area reserved for the placement of a mobile dwelling, appurtenant structure and any additions thereto, including necessary electrical, plumbing and other utility installations.
(2004 Code, § 8-814)

(O) *Skirting of mobile homes*. Skirting of mobile homes is required and shall be of fireproof material and of uniform appearance. See § 156.411 of this chapter for requirements. Areas enclosed by such skirting shall be so maintained so as not to provide harborage for rodents or create a fire hazard. Easy access to utility service lines and pipes shall be provided.
(2004 Code, § 8-815)

(P) *Utility line shut-off valve*. Any utility pipes, lines or hoses which serve a mobile home with water, fuel oil, natural gas or other similar resources shall provide shut-off valves which are easily accessible, either above grade or in a meter pit or box.
(2004 Code, § 8-816)

(Q) *Minimum recreational and open space areas*. Developed recreational and common open space areas equal to, at a minimum, 8% of the total area of the mobile dwelling project shall be required.

(1) Developed recreational areas may include, but shall not be limited to, such facilities as playground, tot lots, swimming pools, shuffleboard courts and common recreational buildings. An imaginative approach to the provision and design of such areas is encouraged. Project recreational needs will depend upon such factors as project site, size and the anticipated age characteristics of the residents. These areas shall be appropriately located within the project with respect to the residents they are designed to serve and with regard to adjacent land uses.

(2) Common open space areas are those areas within the project set-aside for the common use of all project residents. The general design of these areas should demonstrate an awareness of their intended use for passive enjoyment. Utilization of common open space areas may be enhanced by improvements such as walkways, meandering trails, benches, flowers, shrubs and tree plantings, while still maintaining their natural open character.

(3) Other items such as drainage swales may be included as open space if, through proper design, they add favorably to the open space inventory and site development of the project and do not present a health or safety hazard to project residents. Minimum required yards shall be excluded from the computation of developed recreational and common open space area requirements.

(4) Off-street pedestrian ways and/or bike paths shall be constructed where necessary to provide safe access to recreational and other service areas. Such off-street pathways should be at least three feet wide and paved with an all-weather hard-surfaced material.
(2004 Code, § 8-817)

(R) *Minimum parking area.*

(1) A minimum of two paved off-street parking spaces shall be required for each mobile dwelling.

(2) One parking space for each 180 square feet or fraction thereof of gross floor area shall be required for the manager's office (not including storage space), and one parking space for each 300 square feet or fraction thereof of gross floor area shall be required for any common recreation buildings located within the mobile dwelling project.

(3) Off-street parking facilities shall be provided and maintained in accordance with §§ 156.315 through 156.322 of this chapter.

(4) Off-street parking areas shall not be permitted in any required yard abutting a perimeter public street.
(2004 Code, § 8-818)

(S) *Screening, landscaping, lighting and grounds maintenance.*

(1) *Screening.*

(a) *Front yards.* An ornamental, decorative fence or masonry wall, not more than two and one-half feet in height if solid, or six feet if open, may be used in conjunction with the required landscaping.

(b) *Side and rear yards.* An ornamental, decorative fence or masonry wall may be used in conjunction with the required landscaping; provided, however, if any portion of a side or rear yard abutting a residential or agricultural district is used for a driveway or off-street parking area, there shall be provided and maintained along the entire length of such lot line to the front setback line, a wall or fence of ornamental block, brick, solid wood fencing or combination thereof. Said wall or fence shall be at least six feet in height and shall be constructed to such height to restrict any view there through.

(2) *Landscaping.*

(a) Landscaping of all required perimeter yards shall consist of trees, shrubs, evergreens, grasses or ground cover materials, planted or transplanted and maintained, or preserved as existing natural vegetation areas (woods, thickets and/or meadows). There shall be one tree planted at a maximum of every 25 feet on center of linear distance along all perimeter yard property lines. Trees may be planted in groups as close as 12 feet on center. Trees shall be deciduous and/or evergreen with a spreading branch habit. A group of shrubs may be substituted for a tree upon approval by the Zoning Administrator and shall be planted five feet or less on center. All trees shall be under planted with creeping red fescue and/or bluegrass sod or seed, Euonymus Coloratus Fortuni, Vinca Minor, English Ivy or the equivalent thereof.

(b) Groups of prostrate deciduous or evergreen shrubs may be used as ground cover upon approval by the Zoning Administrator.

(c) The size of all required landscape plant materials planted on the site shall be as follows:

1. Deciduous trees: two and one-half- to three-inch caliper or larger at one foot above the ground;

2. Evergreen trees: five feet in height or larger;

3. Deciduous shrubs: four to five feet in height; and

4. Evergreen shrubs: 30- to 36-inch spread or larger.

(d) Deciduous shrubs used for hedges shall be planted an average of 42 inches or less on center. Evergreen trees and shrubs used for hedges shall be planted an average of 24 inches on center.

(e) All trees, shrubs and evergreens shall be planted an average of 42 inches or less on center. Evergreen trees and shrubs used for hedges shall be planted an average of 24 inches on center.

(f) The removal from a minimum required front, side or rear yard of any existing deciduous tree over two and one-half-inch caliper or shrub or evergreen tree over five feet in height, must first be approved by the Zoning Administrator.

(g) All existing trees larger than ten-inch caliper at one foot above the ground which are to be preserved shall be maintained without injury and with sufficient area for the root system to breathe. Care, such as providing temporary protective fencing, shall be taken to prevent alteration, compaction or increased depth of the soil in the root system area during and after construction. Construction shall not be any closer than the drip line (branch tips) of a tree unless approved by the Zoning Administrator.

(h) The Zoning Administrator upon request by the applicant and upon receiving a suitable alternative plan, shall have the power to modify or waive any landscape requirements deemed by the Zoning Administrator to be unfeasible or unreasonably burdensome. Such modification or waiver shall be in writing and shall become a part of the file for the improvement location permit.

(3) *Lighting*.

(a) All access entrances, interior streets and intersections, dead ends, aspices of curves, open storage areas, walks and passive and active recreation areas shall be provided with lighting devices to adequately illuminate these areas. The lighting devices shall be so located, shielded and directed that they do not glare onto or interfere with internal or external street traffic or property uses. Recommended illumination levels are:

1. Access entrances: 1.0 footcandle;

2. Interior streets and open storage: 0.4 footcandle;

3. Walkways and passive recreation areas: 0.2 footcandle; and

4. Active recreation areas: 10.0 footcandles.

(b) Lighting devices may be mounted at heights beginning at (or slightly below) ground level to 42 inches above ground or from ten to 30 feet above ground. Spacing of all lighting devices shall be determined by the height above ground level and maximum footcandles of each device in conjunction with their capacity to adequately illuminate the required area. Maximum spacing distance, at 30 feet maximum height, shall be 150 feet. All lighting for private streets and roadways shall require the approval of the Zoning Administrator.

(4) *Grounds maintenance*. The project management shall:

(a) Maintain the entire site in a safe, neat and clean condition, free from litter, trash, debris and junk;

(b) Maintain all sidewalks, pedestrian ways, interior streets and roadways, and parking facilities in good repair and reasonably free of dirt, water, ice and snow;

(c) Maintain the landscaping by keeping lawns mowed and all plants properly pruned or replaced when needed, except in natural vegetation areas; and

(d) Provide sanitary refuse disposal facilities as required by Rule 410 I.A.C. 6-6 of the state's Board of Health.
(2004 Code, § 8-819)

(T) *Maximum mobile home density*. A maximum of five mobile homes and/or manufactured homes per acre shall be permitted. This maximum shall be determined from the gross acreage of the mobile home park.
(2004 Code, § 8-820)

§ 156.415 GENERAL REQUIREMENTS FOR MANUFACTURED OR MOBILE HOME COMMUNITIES OR PARKS.

(A) *Prohibited uses*. It shall be unlawful for any person to keep, park, store or maintain any mobile home within the town's jurisdiction that does not comply with the requirements of this section. It shall be understood that this regulation does not pertain to vehicles classified as "campers" or "recreational vehicles".
(2004 Code, § 8-900)

(B) *Attachment or addition.* Any action to attach a mobile home to the ground by means of posts, piers, foundations or otherwise, or to add thereto in any way shall be subject to the requirements of the Building Code of the town as well as this chapter and, if said Building Code does not permit the addition, said addition shall be prohibited.
(2004 Code, § 8-902)

(C) *Damaged or dilapidated mobile homes.* Wrecked, damaged or dilapidated mobile homes shall not be kept or stored either within or without a mobile home park at any time. The Zoning Administrator shall determine if a mobile home is damaged or dilapidated to a point which makes said mobile home unfit for human occupancy on either a temporary or permanent basis. Whenever such a determination is made, the mobile home shall be vacated and removed from the premises.
(2004 Code, § 8-903)

(D) *Storage of equipment or materials.* No person shall store lawn equipment, lawn chairs, bicycles, toys, utensils, lumber, debris or any other item outside of any enclosure fully screened from view. It is not the intent of this division (D) to prohibit furniture and recreational equipment designed for outdoor use. The intent is to encourage the use of a garage or storage shed for the storing of items such as those enumerated in this division (D).
(2004 Code, § 8-904)

(E) *Prerequisites for moving mobile homes into parks.* No mobile home shall be moved into any mobile home park until the terms and conditions of the improvement location permit have been fully satisfied and all construction therein completed throughout the entire park area; provided, however, that, a staged development plan for a mobile home park may be filed and, if approved by the Plan Commission, the mobile home park may be occupied in accordance with the terms and conditions of that part of the stage of development as set forth in the plan.
(2004 Code, § 8-905)

(F) *Proper zoning required.* All mobile home parks shall be located as provided in this chapter. All proposed mobile home parks must obtain proper zoning (MH District) through the normal procedures for re-zoning as set forth in this chapter.
(2004 Code, § 8-906)

(G) *Storage buildings.* A storage building shall be provided in each park for inside storage of all equipment and other items used to maintain the park.
(2004 Code, § 8-907)

(H) *Water supply.*

(1) An adequate supply of pure water for drinking and domestic purposes shall be supplied to all service buildings and to all mobile home spaces within the park to meet the occupancy requirements of the park.

(2) Each mobile home space shall be provided with a cold water tap at least four inches above the ground. Said tap shall have a shut-off valve that meets current Plumbing Code requirements.
(2004 Code, § 8-908)

(I) *Electrical service.* An electrical outlet supplying at least 110-115/220-225 volts, 100 amperes shall be provided for each mobile home space.
(2004 Code, § 8-909)

(J) *Fire protection.*

(1) Every mobile home park shall be equipped at all times with a sufficient number of fire hydrants spaced throughout the park. The total number of hydrants and location of hydrants shall be subject to the approval of the town's Fire Chief, who shall submit his or her recommendations to the Plan Commission.

(2) No open fires shall be permitted at any place within any mobile home park.
(2004 Code, § 8-910)

(K) *Garbage and trash.* All garbage and trash in each park shall be deposited in metal cans or other suitable containers with tight-fitting covers, with a sufficient supply of said containers for adequate disposal of all such garbage and trash. All receptacles used for storage or collection of garbage shall be kept in a sanitary condition at all times. All garbage and trash in each park shall be collected and disposed of as frequently as is necessary to ensure that garbage and trash containers do not overflow or create an odor or otherwise cause a nuisance.
(2004 Code, § 8-911)

(L) *Sewers and sewage disposal.* Each mobile home space shall be provided with a sanitary sewer line at least four inches in diameter, which shall be connected to receive the waste from the showers, bath tubs, flush toilets, lavatory and kitchen sinks and washing machines of the mobile home harbored in such space and having any or all such facilities. The sewer line in each space shall be connected to discharge the mobile home waste into a public sanitary sewer system in compliance with applicable ordinances, or into a privately owned and operated wastewater treatment plant and disposal system; provided, said privately owned system is approved by the administrative agency having charge of approvals of such systems. The installation of sanitary sewer main lines and lateral service lines shall meet or exceed the requirements of applicable building codes.
(2004 Code, § 8-912)

(M) *Compliance with the state's Board of Health.* Prior to the issuance of any improvement location permits, a manufactured or mobile home park licensee must file with the Plan Commission office a letter from the state's Board of Health, evidencing approval by such Board and compliance with the requirements of such Board.
(2004 Code, § 8-913)

(N) *Permits and inspections required.* An improvement location permit shall be obtained by the licensee for each and every mobile home stand within a mobile home park. The Building Inspector shall issue such permits, and collect such fees as established by the Town Council. Said permits shall pertain to the proper installation of:

(1) The mobile home stand, including any slabs, piers, ribbons, patios, sidewalks or driveways;

(2) Utility service connections, including sewer lines, gas lines, fuel lines, water lines and electrical lines; and

(3) Presence of Building Code certification tag on mobile home.
(2004 Code, § 8-914)

(O) *Occupancy permit required.* It shall be unlawful for any person to occupy a mobile home within an approved mobile home park prior to the issuance of an occupancy permit by the Building Inspector. An occupancy permit will be issued only after a proper permit has been obtained and permit requirements have been met.
(2004 Code, § 8-915)

(P) *Prerequisites for mobile home park operation.* It shall be unlawful for any person to maintain or operate a mobile home park within the town's jurisdiction unless such person shall first:

(1) Obtain a license therefor from the state's Board of Health;

(2) Submit development plans to the Plan Commission and receive approval of same;

(3) Obtain proper zoning of the property; and

(4) Obtain required building permits and construct all improvements according to town specifications and appropriate building codes.
(2004 Code, § 8-916)

(Q) *Notice of violation.* If at any time a mobile home park is found to be violating any provisions of this chapter any duly constituted officer or agent of the town's Plan Commission shall notify the licensee of such condition. Such conditions shall be corrected by the licensee to the satisfaction of the Commission within a reasonable time after notification.
(2004 Code, § 8-917)

(R) *Emergency situations.* Whenever the State or County Health Officer or the Building Inspector finds that an emergency exists which requires immediate action to protect the public health, safety or welfare, he or she may without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he or she may deem necessary to meet the emergency, including the suspension of the license issued pursuant to state laws appertaining thereto. Such order shall be in writing, shall be notwithstanding any other provisions of the section, and shall be

effective immediately. Any person to whom such an order is directed shall comply therewith immediately or be subject to suspension or revocation according to law, and shall be punished in accordance with § 156.999 of this chapter.
(2004 Code, § 8-918)

(S) *Responsibility for violation.* The manager or caretaker of a mobile home park shall, with the licensee, be responsible for the violation of any provisions of this section to which licensee is subject.
(2004 Code, § 8-919)

(T) *Responsibility of occupants for violations*. The occupants of a mobile home within a park shall, with the persons operating and maintaining said park, be liable for the violation of any provisions of this subchapter, except for such requirements that are only to be complied with expressly by the licensee.
(2004 Code, § 8-920)

§ 156.416 DEFINITIONS.

As used in this subchapter, the following words and phrases shall have the meaning respectively ascribed to them in this section.

ADD-A-ROOM UNIT. A unit of manufactured housing with less occupied space than a manufactured housing section.

ANCHORING SYSTEM. An approved system of straps, cables, turnbuckles, chains, ties or other approved materials used to secure a manufactured or mobile home to ground anchors.

ANSI/NFPA 501 A INSTALLATION STANDARDS. Standards for installation of manufactured and mobile homes as adopted and copywrited by the Manufactured Housing Institute and the National Fire Protection Association contained within their publication, *Standard for the Installation of Mobile Homes*.

APPROVED. Acceptable to the appropriate authority having jurisdiction, by reason of investigation, accepted principles or tests by nationally recognized organizations.

FOUNDATION SIDING (SKIRTING). A type of wainscoting constructed of fire and weather resistant material, such as aluminum, asbestos board, treated pressed wood or other approved materials enclosing the entire undercarriage of the manufactured or mobile home.

LICENSEE. Any person licensed to operate and maintain a mobile home park under the statutes of the state and the regulations of the state's Board of Health.

MANUFACTURED HOME. A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code (1974 U.S.C. et seq.). See § 156.413 of this chapter.

MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS CODE. Title VI of the 1974 Housing and Community Development Act (Pub. Law No. 93-383, U.S.C. 5401 et seq.), as amended (previously known as the Federal Mobile home Construction and Safety Act), rules and regulations adopted thereunder, which include information supplied by the home manufacturer, (which has been stamped and approved by a design approval primary inspection agency, who is an agent of the U.S. Department of Housing and Urban Development pursuant to HUD rules), and regulations and interpretations of said code by the state's Administrative Building Council.

MANUFACTURED OR MOBILE HOME COMMUNITY OR PARK. A parcel of land on which five or more manufactured or mobile homes are occupied as residences.

MANUFACTURED OR MOBILE HOME SUBDIVISION. A parcel of land platted for subdivision according to all requirements of the Comprehensive Plan, designed or intended for lots to be conveyed by deed to individual owners for residential occupancy primarily by manufactured homes.

MOBILE HOME. A transportable structure larger than 320 square feet, designed to be used as a year-round residential dwelling, and built prior to the enactment of the Federal Mobile Home Construction and Safety Act of 1974, which became effective for all mobile home construction on 6-15-1976.

MOBILE HOME PARK. Any plot of ground upon which five or more manufactured or mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

MOBILE HOME SPACE. A plot of ground within a mobile home park designated for the accommodation of one manufactured or mobile home.

MOBILE HOME STAND. The part of an individual manufactured mobile home space which has been reserved for the placement of the manufactured or mobile home, appurtenant structures or additions.

NON-CONFORMING MOBILE HOME PARK. Any mobile home park whose plans have been approved and otherwise fully complies with all applicable town ordinances as of the date of adoption of this chapter.

OCCUPIED SPACE. The total area of earth horizontally covered by the structure, excluding accessory structures, such as, but not limited to, garages, patios and porches.

ONE- AND TWO-FAMILY DWELLING CODE, INDIANA. The nationally recognized model building code prepared by the Council of American Building officials, adopted by the state's Department of Fire and Building Safety as mandated through Pub. Law No. 360, Acts of 1971, and, which includes those supplements and amendments promulgated by the Department.

PERIMETER RETAINING WALL. A perimeter non-load bearing structural system completely enclosing the space between the floor joists of the home and the ground.

PULL OUT UNIT. An expandable manufactured housing unit.

SECTION. A unit of a manufactured home at least 12 body feet in width and 30 body feet in length.

STREET. A street designed primarily for through traffic and leading directly to an exit or entrance and permitting one-way or two-way traffic.

SUPPORT SYSTEM (FOUNDATION). A combination of footings, piers, caps, plates and shims, which, when properly installed, support the manufactured or mobile home; footings being the part of the support system which transmit loads to the soil at or below the surface and the frost line; piers and caps being the part of the support system between the footing and the home, exclusive of plates and shims; plates and shims being the cushion of wood or other approved material, which are used to fill the gap between the top of the pier caps and the frame of the home.
(2004 Code, § 8-1000)

PLANNED UNIT DEVELOPMENT (PUD)

§ 156.430 GENERAL PURPOSE.

(A) The purpose of this subchapter is to set forth procedures and requirements for the establishment of a Planned Unit Development (PUD) Zoning District within the town.

(B) The intent of this subchapter is to set guidelines whereby a PUD plan can achieve:

(1) A maximum choice in the types of living environment, occupancy tenure (i.e., cooperatives, individual ownership, condominium, leasing and the like), types of housing, types of ownership and community facilities available to existing and potential residents;

(2) Usable open space and recreation areas directly related to the intended users;

(3) Convenience in location of accessory commercial and service areas or supportive industrial areas;

(4) Preservation of natural topographical and geological features with emphasis upon:

(a) Prevention of soil erosion;

(b) Conservation of existing surface and subsurface water; and

(c) Preservation of trees and other environmental enhancing features.

(5) A creative and efficient approach to the use of land and related physical development, resulting in a smaller network of utilities and streets and lower housing costs;

(6) An environment of stable character in harmony with the surrounding development; and

(7) A more desirable environment than would be possible through the strict application of other sections of this chapter.
(2004 Code, § 9-100)

§ 156.431 DEFINITIONS.

For the purpose of this subchapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

COMMON OPEN SPACE. A parcel or parcels of land or an area of water, or a combination of land and water within the PUD site designed and intended for the use or enjoyment of the occupants. Street rights-of-way, driveways and parking lots which directly serve dwellings or commercial buildings shall not be counted toward area requirements of ***COMMON OPEN SPACE***. Those directly serving recreational areas may be counted toward ***COMMON OPEN SPACE*** area requirements at the discretion of the Plan Commission.

GROSS LAND AREA. All areas (whether covered by land or water) contained within the exterior property boundaries of the PUD that are a part of the PUD.

LANDOWNER. The legal or beneficial owner or owners of all of the land proposed to be included in a PUD. The holder of an option or contract to purchase, a lessee or other persons having an enforceable proprietary interest in such land shall be deemed to be a ***LANDOWNER*** for the purposes of this subchapter.

PLAN. The written and graphic submission for a PUD, including a plat of subdivision; all covenants and articles of incorporation of the homeowner's association relating to use; location and bulk of buildings and other structures; density of development; private streets, ways and parking facilities; common open space; and public facilities.

PLANNED UNIT DEVELOPMENT (PUD). An area of land, controlled by a landowner, to be developed as a single entity for a variety of dwelling units and/or other uses, the plan for which does not correspond in lot size, bulk or types of dwelling, density, lot coverage and required open space to the regulations established in any one zoning district, created from time to time, under the provisions of this chapter, enacted by the Town Council.

PROFESSIONAL CONSULTANT. A person who possesses the knowledge and skills, by reason of education, training and experience, to comprehend the full nature and extent of the project in question regarding its social, economic, physical, environmental and design characteristics and implications in order to foster a unified plan for development. He or she may be, but not necessarily limited to, a registered architect, landscape architect, engineer, planner or equivalent.

PUD. Planned unit development, as defined in ***PLANNED UNIT DEVELOPMENT (PUD)*** above.
(2004 Code, § 9-200)

§ 156.432 MINIMUM AREA REQUIREMENTS.

The minimum area required for PUD zoning shall be a gross land area of ten acres if used for residential zone purposes; provided, however, no commercial uses shall be permitted in a PUD containing a gross land area less than 25 acres; Further provided, however, that, no manufacturing uses shall be permitted in a PUD containing a gross land area of less than 50 acres.
(2004 Code, § 9-301)

§ 156.433 LOCATION OF A PUD DISTRICT.

The PUD zoning district may be applicable to any area where the applicant can demonstrate that his or her proposal will meet the objectives of this section. After having reviewed the PUD preliminary proposal, the Plan Commission shall submit its recommendation to the Town Council.
(2004 Code, § 9-302)

§ 156.434 SETBACK REQUIREMENTS.

The location of all structures shall be as shown on the final approved plat. Minimum lot size, front, rear and side yard lines, and lot width are not regulated specifically by this subchapter, although the Plan Commission may be guided by standards set elsewhere in this chapter for comparable conditions and by common good practice. The relationship of buildings to each other, to the local street system and to open space land shall be consistent with the intent of this subchapter.
(2004 Code, § 9-303)

§ 156.435 INTENSITY OF LAND USE.

(A) Because land is used more efficiently in a PUD, improved environmental quality can often be produced with a greater number of dwelling units per gross acre than usually permitted in a traditionally zoned district. The Plan Commission shall determine in each case the appropriate land use and dwelling unit density for individual projects or sections thereof.

(B) However, the following guidelines shall be adhered to:

(1) Residential densities:

(a) *Overall*. The maximum residential density for the overall project shall be five units, per acre: computed by comparing the total number of dwelling units to the gross land area of the project; and

(b) *Sections*. The maximum residential density for any particular section shall be 15 units per acre; computed by comparing the number of dwelling units within a particular section to the gross land area of that particular section.

(2) Land use ratios:

(a) *Professional*. Professional research, office or general business commercial or business uses may occupy up to a maximum of 20% of the gross land area;

(b) *Manufacturing*. Industrial uses may occupy up to a maximum of 10% of the gross land area; and

(c) *Residential*. The remainder of the area shall be devoted to residential uses; providing that, open space accompanies this land utilization at the rate of 12 acres for every 300 dwelling units.
(2004 Code, § 9-304)

§ 156.436 COMMON PROPERTY.

Common property in a PUD is a parcel of parcels of land, together with the improvements thereon, the use and enjoyment of which are shared by the owners and occupants. When common property exists, the ownership of such common property may be either public or private. When common property exists, satisfactory arrangements shall be made for the improvement, operation and maintenance of such common property and facilities, including private streets, drives, service and parking areas, and recreational and open spaces. The landowner shall provide for and establish an organization for the ownership and maintenance of any private common open space, and such organization shall not be dissolved nor shall it dispose of any common open space.
(2004 Code, § 9-305)

§ 156.437 PERMITTED USES.

All uses within an area zoned as a PUD District are determined by the provisions of this subchapter and the approved plan of the project concerned.

(A) *Residential uses*. Residential uses may be of a variety of types. In developing a balanced community, the use of a variety of housing types shall be deemed in keeping with this subchapter.

(B) *Commercial, service, other non-residential uses*. Commercial, industrial and other non-residential uses may be included in a PUD subject to approval by the Plan Commission. Such uses, their locations and commercial area designs shall be compatible with the residential uses. This subchapter encourages a mixture of non-residential uses in a PUD as supportive economic development to the PUD specifically, and to the town in general.
(2004 Code, § 9-306)

§ 156.438 CONFLICT OF RESTRICTIONS.

Wherever there is a conflict or difference between the provisions of this subchapter and those of the other sections of this chapter, the provisions of this subchapter shall prevail. Subjects not covered by this subchapter shall be governed by the respective provisions found elsewhere in this chapter unless otherwise approved by the Plan Commission.
(2004 Code, § 9-307)

§ 156.439 NON-RESIDENTIAL USE COMPATIBILITY.

Commercial, business or industrial uses shall be reviewed by the Plan Commission to determine the following:

(A) The uses permitted are necessary or desirable and are appropriate with respect to the purpose of this subchapter;

(B) The uses are not of such nature or so located as to exercise a detrimental influence on the PUD, nor on the surrounding neighborhood;

(C) The areas and uses are planned as an integral part of the PUD;

(D) The uses are located and so designed as to provide direct access to a collector or an arterial street without creating traffic congestion or hazard;

(E) No commercial or industrial uses shall be allowed in a combination PUD unless the size of the PUD meets or exceeds the area requirements set out in § 156.432 of this chapter;

(F) An area map showing adjacent property owners and existing uses within 600 feet of the proposed PUD parcel; and

(G) A sketch plan approximately to scale, though it need not be to the precision of a finished engineering drawing; and it should show the following:
(2004 Code, § 9-308)

§ 156.440 UTILITIES.

(A) All utilities, including communication and electrician systems, shall be placed underground within the limits of a PUD.

(B) Appurtenances to these systems may be accepted.
(2004 Code, § 9-309)

§ 156.441 STREETS.

The design and designation of all streets, public or private, shall be subject to the approval of the Plan Commission. Minimum pavement construction and dimension standards shall be as set forth in Ch. 155 of this code of ordinances. Because of the nature of a PUD and the intent of this subchapter, the overall shape and dimension of the street right-of-way shall be at the discretion of the Plan Commission.
(2004 Code, § 9-310)

§ 156.442 HOMEOWNERS ASSOCIATION.

There shall be an established home owners association and its by-laws and other similar deed restrictions which provide for the control and maintenance of all common areas, recreation facilities or open spaces shall meet with the approval of the Plan Commission. If any open space or recreational facility is to be used solely by the residents of the PUD, adequate provisions shall be made for assessments against the property within the project so that such facilities can be properly maintained and operated.
(2004 Code, § 9-311)

§ 156.443 COMMERCIAL/INDUSTRIAL DESIGN.

The plan of the project shall provide for the integrated and harmonious design of buildings in commercial and industrial areas and such parcels shall be developed in park like surroundings utilizing landscaping and existing woodlands as buffers to screen lighting, parking areas, loading areas and other features from the adjoining and surrounding residential areas.
(2004 Code, § 9-312)

§ 156.444 APPLICATION AND APPROVAL PROCESS.

(A) *General*. Whenever a PUD is proposed, before a permit for the erection for a permanent building in such PUD shall be granted, and before a subdivision plat of any part thereof may be filed in the office of the Plan Commission, the developer or his or her authorized agent shall apply and secure approval of such PUD in accordance with this subchapter. Review of the project shall take place in four phases. At the culmination of each phase, the applicant must receive the necessary approvals from the appropriate body (Town Plan Commission or Town Council) prior to proceeding into subsequent review phases. Lack of sufficient or continuous progress as defined herein, either through or between phases, may lead to nullification of all approvals by the Town Plan Commission and Town Council. Approval of any one phase does not guarantee approval of any subsequent phases.
(2004 Code, § 9-400)

(B) *Phase I - Concept Approval*.

(1) *Concept plan*. In order to allow the Plan Commission and the developer to reach an understanding on basic design requirements prior to detailed design, the applicant shall submit:

(a) A legal description of the metes and bounds of the parcel;

(b) An area map showing adjacent property owners and existing uses within 600 feet of the proposed PUD parcel;

(c) A sketch plan approximately to scale, though it need not be to the precision of a finished engineering drawing; and it should show the following:

1. The existing topographical features of the site;

2. General map of the watershed in which the project is to be located;

3. Location of the various uses and their areas in acres;

4. The general outlines of the interior roadway system and all existing right-of-way and easements whether public or private;

5. Delineation of the various residential and non-residential areas, indication for each area, its general extent, size and composition in terms of total number of dwelling units and approximate percentage allocation by dwelling unit type;

6. Calculation of the residential density in dwelling units per gross acre, including interior roadways;

7. The interior open space system;

8. Where portions of the site are subject to flooding, the map shall indicate extent and frequency;

9. Principal ties to the community at large with respect to transportation, water supply and sewage disposal;

10. General description of the availability of other community facilities, such as schools, fire protection services and cultural facilities, if any, and how these facilities are affected by these proposals;

11. Evidence that the proposed PUD is compatible with the goals of the town's official Comprehensive Plan;

12. General statement as to how common open space is to be owned and maintained;

13. If the development is to be staged, a general indication of how the staging is to proceed. Whether or not the development is to be staged, the sketch plan shall show the intended total project; and

14. The application shall certify that a professional consultant is being utilized in the planning procedures. Said consultant shall be involved in the application procedures.

(d) The Plan Commission shall review the concept plan and its related documents at a public hearing and shall render a written report to the Town Council and to the applicant within 15 days of the public hearing. The Plan Commission may call upon other public or private consultants to provide a sound review of the proposal. The Plan Commission may require preliminary approval from other county or state agencies. The Commission or consultants need only concern themselves with general conceptual merit, and in no way shall commit any future acceptance or rejection of detailed design elements required in subsequent phases of plan review. The written report shall include the following:

1. Whether the proposal meets the intent and objectives of this subchapter;

2. Whether the proposal is conceptually sound in that it conforms to accepted design principals in the proposed functional roadway system, land use configuration, open space system, drainage system and scale of the developed elements; and

3. Whether there are adequate services and utilities available or proposed to be made available in the construction of the project.

(e) The Town Council shall review the proposed conceptual PUD plan within 45 days of receipt of recommendations from the Plan Commission.

(2) *Proceeding to Phase II.* If the Town Council shall grant by formal resolution approval of the proposed PUD conceptual plan, then the applicant may proceed to Phase II.
(2004 Code, § 9-401)

(C) *Phase II - Preliminary Plat Approval and Rezoning Petition.*

(1) *Simultaneous platting and zoning.* After having received approval of the proposed PUD conceptual plan, the applicant may then proceed to Phase II of the approval process. In Phase II, the applicant shall present the preliminary site plan (plat) for Plan Commission Review, and may simultaneously petition for PUD zoning of the total parcel. It should be emphasized that although the platting procedures may be initiated simultaneously and progress concurrently, final zoning approval shall be subject to final plan approval, and shall not occur until after final plan approval (to allow the "Master Plan" to be made a part of the Zoning Ordinance).
(2004 Code, § 9-402)

(2) *Application filing and public notification.* Application for preliminary plat approval shall be submitted to the town's Plan Commission. The proposed preliminary plat and any supportive documents shall be filed with Plan Commission office at least 15 days in advance of the public hearing at which the proposed plat is to be reviewed. The applicant shall meet all Plan Commission public hearing requirements as set out in § 156.077 of this chapter.
(2004 Code, § 9-403)

(3) *Contents of preliminary plat.*

(a) The preliminary plat shall be filed in three copies and include the following information prepared by a professional consultant:

1. An area map showing the applicant's entire holding, that portion of the applicant's property under consideration, and all properties, subdivisions, streets and easements within 300 feet of the applicant's property.

2. A topographic map of the entire area showing contour intervals of not more than two feet of elevation shall be provided.

3. A preliminary site plan including the following information:

a. Title of drawing, name of project, name and address of applicant, name and address of professional consultant;

b. The land use plan identifying the type, location, quantity, design, floor area and density of specific sections and the project in total;

c. North point, scale and date;

d. Existing and proposed watercourses;

e. Street layout and design;

f. The open space plan and planned sites for schools, recreation areas, community centers and other public improvements where applicable;

g. Location of all existing or proposed site and off-site improvements, including drains, ditches, culverts, retaining walls, and fences; descriptions and location of method of sewage disposal and water supply; location and size of all signs (street name and traffic control); location and design of street and parking lighting; and the amount of building area proposed for non-residential uses, if any; and

h. A plan for phasing the construction of the project, showing the geographical coverage of future plats, their approximate sequence of development and the tentative timetable for development. It is the intent of this subchapter that the tempo and sequence of development in a PUD be such that land uses which provide only moderate local revenues, yet require large municipal and school service costs, are scheduled simultaneously with those that provide larger local revenues yet which are not as costly to service.

(b) The Plan Commission may require, if all or part of the gross land area of the PUD has moderate to high susceptibility to flooding, a transparent overlay showing all soils, areas and their classifications; as well as those areas susceptible to flooding, or moderately or highly susceptible to erosion. For areas with potential erosion problems, the overlay shall also include an outline and description of existing vegetation and tree coverage.

(c) The Plan Commission may further require, if the proposed PUD is within close proximity to an airport, a transparent overlay showing aircraft patterns, approach patterns and seasonal wind directions. Areas of possible noise or odor pollution on- or off-site shall be indicated.
(2004 Code, § 9-404)

(4) *Factors for consideration.* The Plan Commission's review of a preliminary site plan shall include, but not be limited to, the following considerations:

(a) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures, signs and traffic controls;

(b) Adequacy and arrangement of pedestrian traffic access and circulation; separation of pedestrian from vehicular traffic; and pedestrian convenience;

(c) Location, arrangement, appearance and sufficiency of off-street parking and loading;

(d) Location, size and placement of buildings, lighting and signs;

(e) Type and arrangement of landscape features;

(f) Adequacy, location and size of storm water and sanitary waste disposal facilities;

(g) Adequacy of structures or roadways in areas with moderate to high susceptibility to flooding, ponding or erosion;

(h) Conformance with other specific requirements of the Town Council which may have been stated in the PUD conceptual resolution or PUD zoning ordinance;

(i) In its review, the Plan Commission may consult with the Town Engineer, other departments or officials, as well as with the representatives of federal and state agencies such as the Soil Conservation Services, the state's Board of Health or Department of Natural Resources. The Plan Commission may also require such additional provisions and conditions that appear necessary for the public health, safety and general welfare; and

(j) Property adjacent to the proposed development will not be adversely affected.
(2004 Code, § 9-405)

(5) *Action on preliminary plat plan.*

(a) Within 30 days of the public hearing at which the preliminary plat is submitted for approval, the Plan Commission shall act on it. If no decision is made within said 30-day period, the preliminary plat plan shall be considered conditionally approved. The Plan Commission's actions shall be in the form of a written statement to the applicant stating whether or not the preliminary plat plan is conditionally approved. A copy of the appropriate minutes of the Plan Commission shall be sufficient report.

(b) The Plan Commission's statement may include recommendations as to desirable revisions to be incorporated into the final plat plan, of which conformance with shall be considered a condition of approval. Such recommendations shall be limited, however, to siting and dimensional details within general use areas and shall not significantly alter the sketch plan as it was approved in the zoning proceedings.

(c) If the preliminary plat plan is disapproved, the Plan Commission's statement shall contain the reasons for such findings. In such a case the Plan Commission may recommend further study of the plat plan and re-submission of the preliminary plat plan to the Plan Commission after it has been revised.
(2004 Code, § 9-406)

(6) *Town Council review.* After having received Plan Commission approval of the preliminary plat plan, the applicant may then submit his or her proposed re-zoning ordinance to the Town Council along with the approval recommendations of the Plan Commission.
(2004 Code, § 9-407)

(D) *Phase III - Master Plan and Final Zoning Approval.*

(1) *Application for final master plan approval.*

(a) After receiving the conditional approval from the Plan Commission on a preliminary plan and approval for all necessary permits and curb cuts from town, state and county officials, the applicant may prepare his or her final detailed master plan and submit it to the Plan Commission for final approval.

(b) The final detailed master plan shall conform substantially to the preliminary plat plan that has received conditional approval. It should incorporate any revisions or other features that may have been recommended by the Plan Commission and/or the Town Council during plan concept and preliminary plat plan review procedures.
(2004 Code, § 9-408)

(2) *Scope of final platting procedures*. Because of the uniqueness of a PUD compared to conventional zoning and development, the following items shall be primary considerations related to the final platting of the development:

(a) PUD is to be developed as a total project with all area being in harmony and continuity with each other. Once the project has begun actual construction, its completion, in the form originally planned and approved, should be guaranteed in as much as it reasonably can; and

(b) At the same time, PUD is usually of sufficient size so as to make it impractical, both physically and financially, to develop without a phased and sequenced plan. Thus, some degree of flexibility should be provided to allow such phasing of the project.
(2004 Code, § 9-409)

(3) *Master plan to accompany or precede final plat*. In the spirit and intentions of division (D)(2) above, after having received approval of the proposed master plan, the applicant shall:

(a) Provide the Plan Commission with three copies of the final master plan of the PUD. Said master plan shall show the precise exterior boundaries of the project, as well as the precise boundary lines of each section or phase within the PUD. Each section or phase shall have a specific zoning designation shown on the master plan that conforms to current zoning designations of the town. At least one of such copies shall be on reproducible Mylar or equivalent. Subsequent final plats of various individual phases or sections shall substantially conform to the master plan. Said plan shall also contain a statement of the good faith intent of the applicant to carry out the proposed development in accordance with the master plan.

(b) The master plan shall further contain a statement of recommendation from the Plan Commission to the Town Council that said plan, in conjunction with any other documents or requirements made a part of the project during the review process, should be a part of the zoning

ordinance for the specific PUD. The statement shall bear the signatures of the Chairperson of the Plan Commission and the Zoning Administrator.

(c) Said master plan when approved by the Town Council shall become a part of the Zoning Ordinance for the PUD. The master plan shall contain a statement of approval by the Town Council and shall bear the same signatures as required on the zoning ordinance. The master plan shall be recorded with the County Recorder.
(2004 Code, § 9-410)

(E) *Phase IV - Final Plats*. The preliminary plats and final plats for individual sections or phases shall be approved and signed by the Plan Commission Chairperson and Recording Secretary in the same manner as prescribed in Ch. 155 of this code of ordinances (including requirements for "content of plat"). The Town Council does not participate in the review or approval of preliminary plats, final plats or building permits.
(2004 Code, § 9-411)

(F) *Supplemental regulations*.

(1) *Proceedings*. 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, except that notice by publication shall be sufficient notice for proceedings related solely to approval and modification of preliminary plat plans and final plat plan.
(2004 Code, § 9-501)

(2) *Modification*. In the exercise of its continuing jurisdiction, the Plan Commission may, from time to time, modify the approved final plat plan in a manner consistent with the approved preliminary plat plan to allow for changed circumstances and conditions unforeseen at the time of the original approval. This division (F)(2) does not apply to zoning designations.
(2004 Code, § 9-502)

(3) *Request for changes*. If, in the site development, it becomes apparent that certain elements of the plan as it has been approved by the town are not feasible and in need of significant modification, the applicant shall then present his or her solution to the Plan Commission. The Plan Commission shall then determine whether or not the modified plan is still in keeping with the intent of the master plan and zoning ordinance of that specific PUD. If a negative decision is reached, the site plan shall be considered as disapproved. The applicant may then produce another site plan solution. If an affirmative decision is reached, the Plan Commission shall so notify the Town Council, stating all of the particulars of the matter and the reasons for its recommendations for approval, whichever the case may be. This division (F)(3) does not apply to zoning designations.
(2004 Code, § 9-503)

(4) *Expiration of approval*. Approval by the Plan Commission shall expire after a period of five years from the approval of the PUD's master plan unless the development is 51% completed in terms of public improvements such as power, gas, water and sanitary sewers, in which latter instance an

extension of time may be granted by the Plan Commission not to exceed five successive periods of two years each.
(2004 Code, § 9-504)

(5) *Abandonment*. Upon 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 master plan for 24 months or upon expiration of the approval as prescribed in division (F)(5) above), the Plan Commission shall initiate an amendment to the zoning ordinance 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 it deems appropriate.
(2004 Code, § 9-505)

(6) *Recording*. All approved final plat plans and modifications thereof shall be recorded in the appropriate plat books in the offices of the County Recorder within two years after approval by the Plan Commission.
(2004 Code, § 9-506)

(7) *Re-zoning limitations*. The Plan Commission shall not initiate any amendments to the zoning ordinance concerning property involved in a PUD before completion of development so long as development is in conformity with the approved master plan and final approved plat plans, and is proceeding in accordance with the time requirements. Re-zoning may, however, be initiated by consent of the property owner. In such a case, the regular procedures for re-zoning property shall be conformed to.
(2004 Code, § 9-507)

(8) *Official zoning map amended*. Upon final passage of the PUD zoning ordinance by the Town Council, the specific area rezoned shall be shown on the official zoning map of the town as a PUD district. Reference shall be made on the map to the number, title and date of passage of said ordinance, as well as the approved master plan of the PUD and any other supportive documents designated by the Town Council shall constitute the zoning regulations for that specific PUD. Any matters not specifically addressed by said ordinance shall be governed by this chapter and Ch. 155 of this code of ordinances.
(2004 Code, § 9-508)

INDUSTRIAL PARKS

§ 156.455 GENERAL.

An "industrial park" shall be defined as a planned industrial subdivision comprising a single parcel of land, having not less than 400 feet of continuous frontage on a public street and developed according to a general overall plan to provide serviced sites for uses permitted in the applicable Manufacturing Zoning District, including manufacturing, processing, assembly plants, distribution, wholesalers,

warehouses and/or related industrial uses and accessory facilities therefor and as set out in the official Schedule of Uses.
(2004 Code, § 9-600)

§ 156.456 PERMITTED USES.

An "industrial park" as so defined in this chapter, shall be permitted in any manufacturing district by special exception permit (granted by the Board of Zoning Appeals in accordance with §§ 156.115 through 156.122 of this chapter); provided, all development standards and performance standards of the Manufacturing District and Ch. 155 of this code of ordinances shall be met, except as specifically modified by the grant of special exception permit. (The specific exceptions requested shall be stated on the application for special exception permit and indicated on the site plan for the proposed industrial park.)
(2004 Code, § 9-601)

§ 156.457 APPLICATION.

The petitioner shall submit with the application for special exception permit (filed with the Zoning Administrator) a general site plan of the proposed industrial park. The site plan shall be a scaled drawing of the development plan of the industrial park, and shall have indicated (on the plan or written reference) exceptions or deviations, as follows (from the standard regulations and requirements of the Manufacturing Zone District or districts comprising said industrial park and Ch. 155 of this code of ordinances).
(2004 Code, § 9-602)

§ 156.458 EXCEPTIONS.

Exceptions which may be authorized by grant of special exception permit for an industrial park shall include, but not be limited to:

(A) *Front setback and frontage on a public street*. Sites for uses within the industrial park may front upon and be serviced by private interior access roads; provided:

(1) Each such site shall have front yard and setback (from the interior access road) of adequate depth in relation to building height, width and area; and

(2) The industrial park shall have at least 400 feet of frontage on a public street and that a front yard and setback (in accordance with the Manufacturing Zoning District's standard requirements) shall be provided along all public streets abutting the periphery of the industrial park.

(B) *Side yard and setback*. The total of the required side yards and setbacks may be provided entirely on one side or divided in any proportion between the two sides; provided, however, that, the sides of any two buildings shall be separated by a minimum of 20 feet unless abutting; and

(C) *Deceleration lane*. No deceleration lane shall be required within the industrial park provided the streets or private interior access roads are of sufficient width and number of lanes that continuous movement of through traffic is not impeded.
(2004 Code, § 9-603)

§ 156.459 DEVELOPMENT REQUIREMENTS.

All development and use of the area included in the industrial park shall be in accordance with all requirements of the applicable Manufacturing Zoning District(s), as modified by the grant of special exception permit, conditions thereof and site plan therefor (as approved and granted by the Board of Zoning Appeals in accordance with §§ 156.115 through 156.122 of this chapter). Such conditions and site plan shall be a part of and incorporated in the grant of special exception permit by said Board.
(2004 Code, § 9-604)

§ 156.460 DESIGN OBJECTIVES.

Design objectives are:

(A) All special treatment and handling of street patterns, and arrangement of grouping of buildings, off-street parking and loading, accessory uses and the like shall result in a superior land development scheme which accomplishes the objectives and carries out the spirit of the applicable Comprehensive Plan and this chapter;

(B) To create and maintain desirable, efficient and economical use of land with high aesthetic value, attractiveness and compatibility of land use;

(C) To permit reasonable deviation from standard zoning district requirements where necessary due to special size or shape of site(s) or character of condition of topography and terrain or other special conditions;

(D) To permit adequate private interior access roads to serve industrial sites and uses within such industrial park;

(E) To provide sufficient and adequate access, parking and loading areas for all uses and structures therein;

(F) To provide adequate traffic control and street plan integration with existing and planned street;

(G) To provide adequate sanitation, drainage and public utilities servicing the industrial park; and

(H) To allocate adequate sites for all uses proposed; the design, character, grade, location and orientation thereof to be appropriate for the uses proposed, logically related to existing and proposed topographical and other conditions, and consistent with the Comprehensive Plan of the town.
(2004 Code, § 9-605)

FLOOD HAZARD DISTRICT (FH)

§ 156.475 PURPOSE.

Flood hazard zoning has been created to protect the public health and to reduce the financial burdens which may be imposed on the community, its governmental units and its citizens as a result of improper use of lands which are subject to periodic flooding. Construction or development of the flood hazard areas of the town could result in the potential loss of life and property, create health and safety hazards and lead to extraordinary public expenditures for flood protection and relief. Since development of these areas is not essential to the orderly growth of the community these lands are to be reserved for suitable open space uses that do not require structures or fill.
(2004 Code, § 10-100)

§ 156.476 DEFINITIONS.

For the purpose of this subchapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

DEVELOPMENT. Any human-made change to improved or unimproved real estate including, but not limited to, buildings, and other structures, mining, dredging, filling, grading, paving, excavation or drilling operation.

FLOODPLAIN. Any floodplain, floodway or floodway fringe district or combination thereof as illustrated on the Flood Boundary and Floodway Map, as prepared by the Federal Insurance Administration.

NATURAL RESOURCES. The state's Natural Resources Commission.

REGULATORY FLOOD. The flood having a peak discharge which can be expected to be equaled or exceeded on the average of once in a 100-year period, as calculated by a method and procedure which is acceptable to and approved by the state's Natural Resources Commission. This ***FLOOD*** is equivalent to a flood having the probability of occurrence of 1% in any given year.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, detached garages, cabins, mobile homes and other similar items.
(2004 Code, § 10-200)

§ 156.477 BASIS FOR ESTABLISHING FLOOD HAZARD DISTRICTS.

(A) The Flood Hazard Districts (areas subject to inundation by the regulatory flood) as identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the Town of New Whiteland, dated February 16, 1982, with the accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps", along with any subsequent revisions to the text or maps are hereby adopted by reference and declared to be a part of this chapter.

(B) The Flood Insurance Study is on file in the office of the Recording Secretary of the Plan Commission.
(2004 Code, § 10-300)

§ 156.478 DESIGNATION; DUTIES OF PLAN COMMISSION.

The Plan Commission or its designated representative for the town is appointed to review all development and subdivision proposals within the Flood Hazard Districts to ensure compliance.
(2004 Code, § 10-400)

§ 156.479 USES IN FLOOD HAZARD DISTRICT.

(A) All buildings, structures, construction grading and deposits that are essential to the operation of public works such as bridges, water and sewer facilities, utility sub-stations, power and telephone line supports, transmission towers and other service structures.

(B) Non-damageable or low damage potential uses, such as agriculture, parking lots, park and recreation areas, signs and similar uses.

(C) All buildings and structures permitted in the Flood Hazard District shall be subject to the regulations of said district; and, provided that:

(1) The ground upon which such building or structure is to be located and an area 20 feet beyond the limits of such building or structure shall, prior to or at the time of construction, be raised to an elevation of not less than one foot above the designated flood elevation and the first floor elevation shall be not less than three feet above the designated flood elevation;

(2) Buildings for uses other than residential, where permitted in a Flood Hazard Zone, may be constructed without reference to division (C)(1) above; provided, they are flood proof to prevent damage and if the plans for such buildings have been approved by Natural Resources;

(3) All development applications located in the Flood Hazard District will require the review and approval by Natural Resources prior to the issuance of an improvement location permit. The Plan Commission or its designated representative shall forward all applications along with plans and specifications to Natural Resources for review and comment; and

(4) All improvement location permits shall be issued upon the condition that no occupancy permit will be issued and no occupancy will be permitted until the applicant furnishes a certification from a registered professional engineer or land surveyor stating that the elevation of the structure and the site meet the requirements of this chapter, or certification of plan approval from Natural Resources as provided in divisions (C)(2) and (C)(3) above.
(2004 Code, § 10-500)

§ 156.480 NON-CONFORMING USES.

Any building, structure or use of land in the Flood Hazard District which is not in conformance with this chapter constitutes a non-conforming use. All applications to repair, extend or enlarge a non-conforming use shall be forwarded to Natural Resources for review and comment. All terms and conditions imposed by Natural Resources shall be incorporated into the issuance of any improvement location permit.
(2004 Code, § 10-600)

§ 156.481 DETERMINATION OF FLOOD ELEVATION.

The official flood elevation shall be that maximum elevation recommended by Natural Resources, concurrent with the date of interpretation and shall, therefore, be variable in accordance with the flood control measures as are being constructed from time to time to reduce the flood threat in the future.
(2004 Code, § 10-700)

§ 156.482 VARIANCES.

Applications for variances within a Flood Hazard District shall be forwarded to Natural Resources for review and comment. All terms and conditions imposed by Natural Resources shall be incorporated into the issuance of any improvement location permit.
(2004 Code, § 10-800)

§ 156.483 NATIONAL FLOOD INSURANCE PROGRAM REGULATIONS.

The Plan Commission or its designated representative, during its review of improvement location permits, shall assure that all NFIP regulations pertaining to state and federal permits, subdivision review, mobile home tie down standards, utility construction, record keeping (including lowest floor elevations) and watercourse alteration and maintenance have been met.
(2004 Code, § 10-900)

§ 156.484 DISCLAIMER.

Larger floods can and will occur on rare occasions. Therefore, this chapter does not create any liability on the part of the community, Natural Resources or the state for any damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.
(2004 Code, § 10-1000)

§ 156.999 PENALTY.

(A) It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any structure or land in violation of any regulation in, or any provisions of, this chapter or any regulation enacted hereunder by the Commission or Board. Unless otherwise specified herein, any person who initiates such construction activities, for which a building permit is required by the relevant provisions of this chapter, prior to obtaining a building permit and all other required permits shall be subject to a fine of $500 and may be required to remove or modify improvements made prior to issuance of all requisite permits that:

(1) Do not conform with all relevant provisions of this chapter; or

(2) Because any such improvements are covered or concealed and not open to inspection, their conformance with all relevant provisions of this chapter cannot be confirmed.

(B) Any person who initiates such construction activities on residential property, other than a developer or contractor, for which a building permit is required by the relevant provisions of this chapter, prior to obtaining a building permit and all other required permits, shall be subject to a fine of $100, rather than the $500 fine referenced above. Any person who otherwise violates this chapter or fails to comply with its other provisions shall be fined not less than $10 and not more than $300. Each day the violation continues shall constitute a separate and distinct violation. The Zoning Administrator and the Plan Commission are each independently authorized to assess fines authorized by this section. Any appeal of a fine assessed by the Zoning Administrator or by the Plan Commission shall be pursued in accordance with § 156.062 of this chapter. Any request for a reduction or waiver of a fine shall be presented in writing to the Plan Commission for consideration.

(C) In addition, a structure erected, raised or converted, or land or premises used, in violation of this chapter, or regulation made under this chapter, is a common nuisance and the owner or possessor of the structure, land or premises is liable for maintaining a common nuisance and subject to the enforcement and penalty provisions of this code of ordinances for common nuisances.

(D) The owner or tenant of any residential lot on which there exists any violation of §§ 156.385 to 156.389 shall be notified of the violation and afforded three days after notice to bring the residential lot into compliance. Failure to bring the residential lot withing three days of notice will be subject the owner or tenant of the residential lot to a fine of $50 per day for each day the violation exists, dating back to the first day of the violation. Any subsequent violation occurring within 60 days after the residential lot is brought into compliance will subject the owner or tenant of the residential lot to a fine of $100 per day for as long as the violation continues from the first day of violation until the property is brought into compliance.

(2004 Code, § 3-500) (Ord. 994, passed 3-3-1999; Ord. 1020, passed 6-20-2000; Ord. 2001, passed 2-15-2005; Ord. 2023, passed 2-21-2006; Ord. 2063, passed 11-20-2007; Ord. 2122, passed 3-2-2010)

CHAPTER 157: EROSION AND SEDIMENT CONTROL

Section

General Provisions

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Operation and Maintenance (O&M) Manual

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Storm Water and SWPPP Inspection, Enforcement, and Penalty

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GENERAL PROVISIONS

§ 157.01 INTRODUCTION AND PURPOSE.

(A) During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat. Eroded soil also necessitates repair of sewers and ditches and the dredging of lakes. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat.

(B) The purpose of this chapter is to safeguard persons, protect property and prevent damage to the environment in the town. This chapter will also promote the public welfare by guiding, regulating, controlling the design, construction, use and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the town.
(Ord. 2023-11, passed 11-1-2023)

§ 157.02 DEFINITIONS.

For the purpose of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning.

CLEARING. Any activity that removes the vegetative surface cover.

DRAINAGE WAY. Any channel that conveys surface run-off throughout a site.

EROSION CONTROL. A measure that prevents erosion.

GRADING. Excavation or fill of material, including the resulting conditions thereof.

PERIMETER CONTROL. A barrier that prevents sediment from leaving a site by filtering sediment-laden run-off or diverting it to a sediment trap or basin.

PHASING. Clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

SEDIMENT CONTROL. Measures that prevent eroded sediment from leaving the site.

SITE. A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

SITE DEVELOPMENT PERMIT. A permit issued by the town for construction or alteration of ground improvements and structures for the control of erosion, run-off and grading.

STABILIZATION. The use of practices that prevent exposed soil from eroding.

START OF CONSTRUCTION. The first land-including disturbing activity associated with a development, including land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP). A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems and/or receiving waters to the maximum extent practicable.

WATERCOURSE. Any body of water, including, but not limited to, lakes, ponds, rivers, streams and other bodies of water delineated by the town.

WATERWAY. A channel that directs surface run-off to a watercourse or to a public storm drain. (Ord. 2023-11, passed 11-1-2023)

§ 157.03 SWPPP DESIGN REQUIREMENTS.

(A) SWPPP design shall meet the design criteria set forth in this chapter, the CSGP, the most recent version of the town's Storm Water Construction Standards and the Indiana Storm Water Quality Manual.

(B) Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all other chapters of this code. Clearing techniques that retain natural vegetation and drainage patterns, as described in the town's Storm Water Construction Standards and the Indiana Storm Water Quality Manual or similar guidance documents, shall be used to the satisfaction of the town.

(C) Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and are functioning.

(D) Ensure that a sufficient construction plan is complete and submitted Site Development Application, plans, drainage report, operation and maintenance manual (O&M Manual) and SWPPP are complete and submitted in accordance with procedures established by the town.

(E) Complete a sufficient Notice of Intent (NOI) to the Indiana Department of Environmental Management following town approval of the SWPPP and forward a copy of the NOI to the town.

(F) Make application for a Site Development Permit in accordance with procedures established by the town.

(G) Ensure compliance with this chapter during:

(1) The construction activity; and

(2) Implementation of the construction plan.

(H) Ensure that all persons engaging in construction activities on a permitted project site comply with the applicable requirements of this chapter and the approved construction plan.
(Ord. 2023-11, passed 11-1-2023) Penalty, see § 157.99

OPERATION AND MAINTENANCE (O&M) MANUAL

§ 157.10 O&M MANUAL.

(A) Stormwater management facilities including pipes, structures, ponds, detention/retention facilities, swales, open channels, subsurface drains, water quality BMPs, and low impact development practices shall have an O&M manual. The O&M manual shall be submitted with the permit application.

(B) O&M manual should include maintenance of all ponds, stormwater components, and low-impact development facilities/BMPs. Owners will be responsible for all maintenance. It is the plan designer's responsibility to determine which additional operation and maintenance measures are necessary to prolong the optimal function of the facility.

(C) The approved O&M manual shall be signed by the owner and notarized and provided to the owner and the town. The signed and notarized O&M manual shall be recorded with the property by the County Recorder's office. A copy of the O&M manual shall be provided to each new owner before the transfer of ownership and shall be signed by the new owner, notarized, and submitted to the town.

(D) All O&M manuals shall include the following information, at a minimum:

(1) *Owner information*. This section shall list the names and contact information of all responsible parties, including property owner(s), maintenance staff, and person(s) responsible for performing inspections. The responsibilities of each individual shall be clearly defined. Contact information shall include business or mobile phone number, address for giving notice, and email address (if available).

(2) *Site maps*. The O&M manual shall include a site maps and exhibits drawn to a legible scale on 8.5"x 11" or 11"x 17" sized paper that clearly indicates the following:

(a) The physical street address of the property and location map;

(b) The location of the storm water management facility or BMP;

(c) Plan and cross-section details, showing applicable features;

(d) The flow of stormwater through the site, including an overview of the stormwater's path through the onsite stormwater facilities and BMPs; and

(e) Dimensions, casements, outlets/discharge points and outfall locations, drainage patterns, stormwater runoff flow directions, the extent and depth (elevation) of high water levels, flood routing path, signage, connecting structures, weirs, invert elevations, structural controls used to control stormwater flows, and other relevant features.

(3) *O&M practices*. Each stormwater management facility and BMP shall require specific inspection and maintenance procedures.

(a) Guidance shall be written in simple, layperson's terms, including:

1. Guidance on owner-required periodic inspections;

2. Guidance on routine maintenance including mowing, litter removal, woody growth removal, etc. to be performed by the owner;

3. Guidance on remedial maintenance such as inlet replacement, outlet work, etc. to be performed by the owner;

4. Guidance on sediment removal describing when sediment removal shall occur in order to ensure proper function. Guidance shall include instructions as to how the depth of sediment shall be measured and at what measurement removal will be required;

5. Methods to measure depth of sediment accumulation in ponds and instructions for performing pond dredging;

6. Instructions on inspection and clean-out of BMPs, sumps, trash screens, settling pits, and oil/grease collection chambers;

7. Instructions on proper disposal of removed sediments, trash, debris, and other substances; and

8. Guidance and methods for preventing water stagnation and all recommended maintenance.

(b) The minimum requirements below shall also be incorporated into the inspection and maintenance regimen and clearly documented in the O&M manual.

1. Operation and maintenance procedures and practices shall be reviewed and assessed annually.

2. Access routes, including roadways and sidewalks, shall be inspected annually and maintained as needed.

3. Drainage structures and flow restrictors shall be inspected and cleaned semi-annually or per the manufacturer's recommendations, whichever is more stringent.

4. Volume control facilities and BMPs shall be inspected semi-annually and after significant rainfall events.

5. The owner shall keep an updated log book or inspection worksheets documenting the performance of the required operation and maintenance activities for perpetuity. Note inspection dates, facility components inspected, facility condition, and any maintenance performed or repairs made. Documentation must be produced upon the request of the town, within 48 hours of the request.

6. Vegetation shall be maintained on a regular basis per design specifications.

7. Mechanical measures shall be maintained on a regular basis per the manufacturer's recommendations.

8. Signage and fencing shall be installed and maintained where necessary to protect property and the public. Native vegetation plantings shall have "No Mow" or other appropriate signage.

9. Underground vaults and structures shall include design measures to facilitate regular cleaning and maintenance. Confined space entry procedures shall be followed.

(4) *Right-of-entry statement*. The O&M manual shall include a statement that the Town of New Whiteland has the right to enter the property to inspect the stormwatcr management facility or BMP. The statement shall be signed and notarized.

(5) *Implementation schedule*. An inspection and maintenance schedule shall be prepared in a tabular formal and included in the O&M manual. This schedule shall provide for routine examination of all stormwater management facilities and BMPs on the property and incorporate the varying maintenance needs of each.

(6) *Drainage easement(s) documentation*. The O&M manual shall include documentation of drainage easement(s) around the stormwater management facilities and BMPs. The documentation shall be in graphic format.
(Ord. 2023-11, passed 11-1-2023) Penalty, see § 157.99

STORM WATER AND SWPPP INSPECTION, ENFORCEMENT, AND PENALTY

§ 157.20 STORM WATER MANAGEMENT FACILITY AND BMP MAINTENANCE.

(A) Stormwater management facilities and BMPs shall be maintained in a properly functioning condition so that their effectiveness in managing and treating stormwater runoff is not diminished, in accordance with the operation and maintenance procedures and schedules recommended by the manufacturer of the BMP or listed in the Indiana Stormwater Quality Manual, the approved O&M manual. The stormwater management facility or BMP owner is considered in violation of this chapter if the facility or BMP is not maintained properly.

(B) Following construction completion and the issuance of an NOT, inspection and maintenance of stormwater management facilities and BMPs shall be the long-term responsibility of the owner of those facilities (including Homeowners Associations or any other entity as specified in restrictive covenants).
(Ord. 2023-11, passed 11-1-2023)

§ 157.21 RECORDS OF INSPECTION AND MAINTENANCE ACTIVITIES.

(A) The owner must conduct necessary inspections at least once per year or more frequently has required. Completed inspection forms must be maintained by the owner and produced upon request by town personnel within 48 hours of the request.

(B) The town must be notified of any changes in ownership, major repairs, or failure in writing within 30 days.

(C) In the event that town personnel find a stormwater management facility in need of maintenance or repair, the town will notify the owner on record of the necessary maintenance or repairs and give the owner a timeframe for completing the work. If the maintenance or repairs are not completed within the designated timeframe, the town may perform the work and bill the owner for the actual costs of the work.

(D) The town also has the authority to perform long-term inspection of all public or privately-owned stormwater management facilities. Such inspections will be in addition to the regular inspections required to be performed by the facility owner. Noted deficiencies and recommended corrective action will be included in an inspection report.
(Ord. 2023-11, passed 11-1-2023)

§ 157.22 INSPECTION.

(A) The town's designated agent shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permit holder wherein the work fails to comply with the SWPPP and construction plans as approved. Plans for grading, stripping, excavating and filling work bearing the stamp of approval by the town shall be maintained at the site during the progress of the work. To obtain inspections, the permit holder shall notify the town at least two working days before the following:

(1) Start of construction;

(2) Installation of sediment and erosion control;

(3) Completion of site clearing;

(4) Installation of storm water infrastructure;

(5) Completion of rough grading;

(6) Completion of final grading;

(7) Close of the construction season; and

(8) Completion of final landscaping.

(B) The permit holder or his or her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved SWPPP and construction plans. The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the town at the time interval specified in the approved permit and within 48 hours of request by the town.

(C) The town's designated agent shall enter the property of the permit holder as deemed necessary to make regular inspections and to ensure the validity of the reports filed under division (B) above.
(Ord. 2023-11, passed 11-1-2023)

§ 157.23 ENFORCEMENT.

In the event that any person holding a site development permit pursuant to this chapter violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the town may suspend or revoke the site development permit.
(Ord. 2023-11, passed 11-1-2023)

§ 157.99 PENALTY.

No person shall construct, enlarge, alter, repair or maintain any grading, excavation or fill, or cause the same to be done, contrary to or in violation of any terms of this chapter. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this chapter is committed, continued or permitted shall constitute a separate offense. Upon conviction of any such violation, such person, partnership or corporation shall be punished by a fine of not more than $500 for each offense. In addition to any other penalty authorized by this section, any person, partnership or corporation convicted of violating any of the provisions of this chapter shall be required to bear the expense of such restoration.
(Ord. 2023-11, passed 11-1-2023)

TABLE OF SPECIAL ORDINANCES

[Reserved]

PARALLEL REFERENCES

References to Indiana Code
References to 2004 Code
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I.C. Cites	*Code Section*
1-1-1-5	10.04
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1-1-1-8	10.06
1-1-4-5	10.05
1-1-5-1	10.11
1-1-6-1	10.08
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