

## **TITLE XV: LAND USAGE**

Chapter

- 150. GENERAL PROVISIONS**
- 151. COMPREHENSIVE PLAN**
- 152. SUBDIVISIONS**
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## CHAPTER 150: GENERAL PROVISIONS

Section

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- 150.02 Address numbering system

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## **GENERAL PROVISIONS**

### **§ 150.01 COUNTY AREA PLAN COMMISSION.**

The Board hereby establishes the Area Plan Commission of the county and the County Area Planning Department.

(Prior Code, § 36-7-4-200) (Ord. passed 12-3-1945; Ord. 1970-1, passed 3-16-1970; Ord. 2-1975, passed 3-17-1975)

***Statutory reference:***

*Plan Commission, see I.C. 36-7-4-200*

**§ 150.02 ADDRESS NUMBERING SYSTEM.**

(A) The Board hereby adopts a uniform permanent address numbering system for residential, commercial and industrial units.

(B) Pursuant to I.C. 36-7-4-405(C)(b)(1), the Area Plan Commission of the county shall assign names and numbers to all residences, buildings, structures, streets, avenues, boulevards, lanes, alleys, roads and all public ways within its jurisdiction.

(Prior Code, § 36-7-4-405) (Order passed 9-19-1960; Res. passed 9-8-1969)

***Statutory reference:***

*Recommendations to legislative body, see I.C. 36-7-4-405*

***STREET BUILDING STANDARDS*****§ 150.15 GENERAL.**

(A) For the purposes of this subchapter, the word ***STREET*** shall include, but not be limited to, streets, highways, drives, roads or alleys.

(B) The county shall not accept or maintain any street in any subdivision plat until the Board determines that the street meets the following minimum standards.

(Prior Code, § 36-7-4-406) (Order passed 6-1-1953; Res. passed 4-4-1955; Res. passed 6-6-1955; Res. passed 4-2-1956; Res. passed 6-2-1958; Res. passed 1-20-1964; Res. passed 8-21-1967; Res. 71-11, passed 11-15-1971; Res. passed 8-20-1979)

**§ 150.16 DEDICATION.**

(A) All streets shall be named and dedicated to the public use.

(B) A plat indicating those names and stating that dedication shall be filed in the office of the County Recorder.

(Prior Code, § 36-7-4-406) (Order passed 6-1-1953; Res. passed 4-4-1955; Res. passed 6-6-1955; Res. passed 4-2-1956; Res. passed 6-2-1958; Res. passed 1-20-1964; Res. passed 8-21-1967; Res. 71-11, passed 11-15-1971; Res. passed 8-20-1979)

**§ 150.17 WIDTH.**

All right-of-way easements or dedications shall be at least 50 feet in width, with a berm width of at least six feet and a side ditch at least ten feet from the edge of the pavement.  
(Prior Code, § 36-7-4-406) (Order passed 6-1-1953; Res. passed 4-4-1955; Res. passed 6-6-1955; Res. passed 4-2-1956; Res. passed 6-2-1958; Res. passed 1-20-1964; Res. passed 8-21-1967; Res. 71-11, passed 11-15-1971; Res. passed 8-20-1979)

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**§ 150.19 SUBGRADE AND SUBBASE.**

(A) The subgrade shall be prepared and compacted to the accepted cross-section and grade. A one-inch leveling course of number ten crushed stone shall then be laid and compacted, then a layer of compacted number two crushed stone at least six inches thick shall be laid to the required width. The subbase shall be prepared in three-inch lifts, compacted with a roller of not less than ten tons. Voids shall be filled with number 53 crushed stone. If the subbase shows no signs of crawling when rolled, a two-inch layer of number 53 crushed stone shall then be applied and graded to line and cross-section. The subbase shall then be primed with an approved bituminous material using not less than thirty-five hundredths gallons per square yard of surface immediately before applying the binder course.

(B) Asphalt pavements shall consist of a three-inch thick compacted layer of hot asphalt concrete or hot asphalt emulsion binder course, in accordance with State Highway Specifications 402 and 403, with a bitumen content of 4% to 5%, machine-spread and rolled with a ten-course roller. A one-inch thick compacted layer of hot asphalt concrete or hot asphalt emulsion surface course, in accordance with State Highway Specifications 402 and 403, with a bitumen content of 5% to 6%, shall then be machine-spread and rolled with a ten-course roller until satisfactory compaction produces a smooth riding surface.

(C) The asphalt pavement may be constructed with an inverted crown and the side ditches eliminated if adequate drainage is provided. The ditches shall have a grade of not less than three-tenths feet fall per 100 feet. The curb requirements shall be the same as for concrete pavements and may be either vertical or rolled shape.

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(D) The concrete pavement shall have a minimum thickness of six inches. The concrete shall be 3% to 6% air-entrained and shall have a 28-day compressive strength of 3,500 pounds. Expansion joints shall be used at intersections and changes of direction. Transverse joints at 20-foot intervals and longitudinal centerline joints may be sawed.

(E) Pavements shall conform to the accepted cross-sections and grades as set forth in divisions (A) through (D) above.

(F) The subdivider shall submit plan profile drawings of the subdivision streets (sea level elevation) to the Board for its approval. The grade shall be no more than 6%.

(G) The outlet for the runoff must be sufficient to carry excess water created by the change of land use. The subdivider shall submit plans of all drainage structures to the Board for its approval.

(H) The subdivider shall construct all storm drainage and sanitary sewer systems as required by the Board to protect the public health. The subdivider shall submit plans and profiles of those systems (sea level elevations) to the Board for its approval.

(I) The subdivider shall construct side ditches, curbs or both which shall adequately serve the drainage area involved. Lot driveways and intersections shall be constructed to permit the free flow of storm water to the provided outlet.

(J) The subdivider shall construct curbs, sidewalks, storm drainage systems, sanitary sewer systems or all of them in any area where the development is an extension or addition to an existing subdivision provided with those facilities.

(K) The 1971 Standard Specifications of the State Highway Commission, as amended, concerning material types, material sizes, material grades, material quantities and construction methods are incorporated by reference into this section. Two copies of those specifications are on file in the office of the County Auditor and are available for public inspection.

(L) The cross-section and construction specification drawing depicting the street and drainage construction required by this section is incorporated by reference into this section. Two copies of this drawing are on file in the office of the County Auditor and are available for public inspection.

(Prior Code, § 36-7-4-406) (Order passed 6-1-1953; Res. passed 4-4-1955; Res. passed 6-6-1955; Res. passed 4-2-1956; Res. passed 6-2-1958; Res. passed 1-20-1964; Res. passed 8-21-1967; Res. 71-11, passed 11-15-1971; Res. passed 8-20-1979)

**§ 150.20 COMPLETION DEADLINES AND BONDS.**

The subdivider shall comply with the provisions of this section no later than 18 months from the date the Board approves the final plat. The subdivider shall file a performance bond, in a form acceptable to the Board with surety deemed acceptable by the Board, but in an amount of not less than \$22 per linear foot of streets as measured on the final plat.

(Prior Code, § 36-7-4-406) (Order passed 6-1-1953; Res. passed 4-4-1955; Res. passed 6-6-1955; Res. passed 4-2-1956; Res. passed 6-2-1958; Res. passed 1-20-1964; Res. passed 8-21-1967; Res. 71-11, passed 11-15-1971; Res. passed 8-20-1979)





## **CHAPTER 151: COMPREHENSIVE PLAN**

Section

151.01 Adopted by reference.

### **§ 151.01 ADOPTED BY REFERENCE.**

The Comprehensive Plan is adopted by reference. A copy of the Comprehensive Plan is in the office of the Director of the Area Plan Commission.



## CHAPTER 152: SUBDIVISIONS

### Section

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- 152.02 Purpose
- 152.03 Establishment of control
- 152.04 Classification
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- 152.07 Exemptions
- 152.08 General improvements
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- 152.10 Streets
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### ***SUBDIVISION CONTROL***

#### **§ 152.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall 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 use of the principal building or land.

***ADMINISTRATOR.*** The officer appointed by and or delegated the responsibility for the administration of these regulations by the Plan Commission. This term shall be construed to include those planning staff members working under the direction of the ***ADMINISTRATOR*** in the exercise of these responsibilities in regard to the processing of these subdivision regulations. The ***ADMINISTRATOR*** shall normally be the Executive Director of the County Area Plan Commission.

***AGENCY.*** See ***PUBLIC AGENCY.***

***ALLEY.*** A public or private vehicular right of way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

***APPLICANT.*** The owner of land proposed to be subdivided or his or her agent or his or her legal representative.

***AREA PLAN COMMISSION (APC).*** A multiple jurisdictional Plan Commission established under the Area Plan Law, as defined in the I.C. 36-7-4-102 (1981) as amended, herein the County Area Plan Commission.

***ARTERIAL.*** Either a preliminary arterial or a secondary arterial as defined in this section.

***BLOCK.*** A tract of land bordered by street, or by a combination of street and public parks, cemeteries and railroad rights-of-way, shorelines of waterways or boundary lines of municipalities.

**BOARD OF COUNTY COMMISSIONERS.** Referred to herein as the county so as not to be confused with the Plan Commission, referred to herein as the Commission.

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

**BUFFER LANDSCAPING.** Any trees, shrubs, walls, fences, berms or related landscaping features required under this chapter or Chapter 153 of this code on private lots and privately maintained for buffering lots from adjacent properties or public rights-of-way for the purpose of increasing sound and/or visual privacy. (See **SCREENING** also.)

**BUILDING.** Any roofed structure built for the support, shelter or enclosure of persons, animals, chattels or movable property of any kind.

**BUILDING PERMIT.** A certificate issued by the Building Permit Official of a governing body permitting a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve or convert any building or structure within its jurisdiction, or cause the same to be done.

**BUILDING PERMIT OFFICIAL.** The official of local government authorized to issue building permits.

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

**CENTRAL SEWERAGE SYSTEM.** A community sewer system including collection and treatment facilities established by the developer to serve a new subdivision or an existing public sewer system.

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

**CERTIFICATE.** The signed and attested document which indicates that a subdivision has been granted secondary approval by the Commission subsequent to proper public notice of its hearing.

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

**COLLECTOR STREET.** A street intended to move traffic from local streets to a secondary arterial. A **COLLECTOR STREET** serves a neighborhood or large subdivision and should be designed so that no residential properties face onto it. No driveway access onto it is permitted unless the property is to be multi-family in use for four or more dwelling units.

**COMMISSION.** The County Area Plan Commission as referred to herein, not the Board of County Commissioners or any other commission unless so specified.

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

**COMPREHENSIVE PLAN.** Inclusive physical, social and economic plans and policies in graphic and verbal statement forms for the development of the county and the constituent communities within its planning jurisdiction. Prepared and adopted by the Commission and other legally participating jurisdictions, where appropriate, pursuant to the stated acts and including a part.

**CONDOMINIUM.** The division of building and the related land into horizontal property interests meeting the requirements of and controlled by state statutes for condominiums as prescribed by I.C. 32-25.

**CONSTRUCTION PLAN.** The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed for the subdivision in accordance with the requirements of this chapter as a condition of the approval of the plat.

**COUNTY AUDITOR.** The County Official empowered to examine and settle all accounts and demands that are chargeable against the county and not otherwise provided for by statute.

**COUNTY GOVERNMENT.** The governmental body of the county empowered to adopt planning and public policy ordinances of the County Commission, herein referred to only as the **COUNTY**.

**COUNTY HEALTH OFFICER.** See **HEALTH OFFICER**.

**COUNTY RECORDER.** The County Official empowered to record and file land description plats.

**CUL-DE-SAC.** A local street with only one outlet and having an appropriate terminal for the ease 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 and no turnaround at the terminal end.

**DESIGNATED OFFICIAL.** Those officials of the Commission designated in this chapter as required signatories for the execution of secondary approval.

**DEVELOPER.** The owner of land proposed to be subdivided or his representative. Consent for making applications for development approval shall be required from the legal owner of the premises.

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

**EASEMENT.** An authorization grant by a property owner for the use by another of any designated part of his or her property for clearly specified purpose.

**ENGINEER, COUNTY.** The licensed engineer designated by the county to furnish engineering assistance in the administration of these regulations, where no Jurisdictional Engineer is designated.

**ENGINEER, JURISDICTIONAL.** The licensed engineer designated by a participating jurisdiction to furnish engineering assistance in the administration of these regulations.

**ESCROW.** A deposit of cash with the Commission in lieu of an amount required and still in force on a performance or maintenance bond. The escrow funds shall be held by the County Auditor.

**EXEMPT DIVISION.** See definition of **SUBDIVISION**.

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

**FLOOD HAZARD AREAS.** Those are shown on the Floodway-Flood Boundary Maps of the Federal Insurance Administration or maps provided to the Commission from the State Natural Resources Commission.

**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 waterway or waterbody which has been or may hereafter be covered by flood waiver from the regulatory flood.

**FLOODWAY.** See **REGULATORY FLOODWAY**.

**FLOODWAY FRINGE.** Those portions of the floodplain lying outside the floodway, shown on the Floodway-Flood Boundary Maps of the Federal Insurance Administration.

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

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

**FRONTAGE.** The side of a lot abutting on a street or way and ordinarily regarded as the front of the lot. Lots shall not be considered to front on dead-end ends of streets and in the case of corner lots will be considered to front on both intersecting streets.

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

**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.

**HEALTH DEPARTMENT.** The agency and persons designated by the county or a participating municipality to administer the health regulations within its jurisdiction.

**HIGHWAY, LIMITED ACCESS.** A freeway, or expressway, providing for through traffic, in respect to which owners or occupants of abutting property or lands and other persons have no legal right to access to or from the same, except at the points and in the manner as may be determined by the public authority having jurisdiction over a highway.

**IMPROVEMENT.** See **LOT IMPROVEMENTS** or **PUBLIC IMPROVEMENTS**.

**INDIANA CODE.** The Burns Indiana Statutes Code Edition, which codifies all state statutes for reference purposes. The latest edition with any amending supplements must be referred to for the laws “now” in force and applicable. (Usually abbreviated as **I.C.** herein.)

**INDIVIDUAL SEWAGE DISPOSAL SYSTEM.** A septic tank, seepage tile sewage disposal system or any other approved sewage treatment device approved by the Health Department.

**INTERESTED PARTIES.** Those parties who are the owners of properties adjoining or adjacent to the proposed development.

**JOINT OWNERSHIP.** Joint ownership among persons shall be construed as the same owner; **CONSTRUCTIVE OWNERSHIP** for the purpose of imposing subdivision regulations.

**LAND DIVIDER.** The owner of a parcel of land to be further divided through an exempt division.



**LANDSCAPING.** See **BUFFER LANDSCAPING, SCREENING** and **SHADE TREES.**

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

**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 the intersection not exceeding 135 degrees.

**LOT IMPROVEMENT.** The building, structure, work of art or other object or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of the betterment. Certain **LOT IMPROVEMENTS** shall be properly bonded as provided in these regulations.

**MAJOR STREET.** A collector or arterial thoroughfare.

**MAJOR STREET PLAN.** See **OFFICIAL MAP.**

**MAJOR SUBDIVISION.** Any subdivision not classified as a minor subdivision, including, but not limited to, a subdivision of four or more lots.

**MAP.** A representation of a part of the earth's surface, in sights and symbols, on a plane surface, at an established scale, with a method of orientation indicated.

**MARKER.** A stake, pipe, rod, nail or any other object which is not intended to be a permanent point for record purposes.

**MASTER PLAN.** See **COMPREHENSIVE PLAN.**

**MINOR SUBDIVISION.** Any subdivision containing not more than three lots fronting on an existing street which is an improved right-of-way maintained by the county (or other local government) not involving any new street or the extension of municipal facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Comprehensive Plan, Official Map, Chapter 153 of this code and this chapter.

**MONUMENT.** A physical structure which marks the location of a corner or other survey point.

**NONRESIDENTIAL SUBDIVISION.** A subdivision whose intended use is other than residential, such as commercial or industrial. The subdivision shall comply with the applicable provisions of these regulations.

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

**OFFICIAL MAP.** The map or maps established by the county pursuant to law showing the existing and proposed streets, highways, parks, drainage systems and setback lines therefor laid out, adopted and established by law, and any amendments or additions thereto adopted by the county or participating municipalities or additions thereto resulting from the approval of subdivision plats by the Commission and the subsequent filing of the approved plats.

**OFFICIAL MASTER PLAN.** See **COMPREHENSIVE PLAN.**

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

**OWNER.** Any person, group of persons, firm or firms, corporation or any other legal entity having legal title to or sufficient proprietary interest in the land to be subdivided under these regulations.

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

**PARTICIPATING JURISDICTION** or **PARTICIPATING MUNICIPALITY.** A jurisdiction within a county having an Area Plan Commission which agrees to join a Commission to undertake both planning studies and the administration of zoning, subdivision and other planning-related ordinances for that jurisdiction.

**PERIMETER STREET.** Any existing street to which the parcel of land to be subdivided abuts on only one side.

**PLAN COMMISSION.** The Area Plan Commission, as established in accordance with state law, often referred to herein simply as the **COMMISSION.** (**COMMISSION** standing alone does not refer to the County Commissioners.)

**PLANNED UNIT DEVELOPMENT.** A means of land regulation which permits large scale, unified land development in a configuration and possibly a mix of uses not otherwise permitted “as of right” under Chapter 153 of this code. A **PUD** may still require, under the chapter, a special review and approval process.

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

**PRELIMINARY 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).

**PRELIMINARY ARTERIAL.** A street intended to move through traffic to and from major attractions as central business districts, regional shopping centers, colleges and or universities, military installations, major industrial areas and similar traffic generators within the county; and/or as a route for traffic between communities; a major thoroughfare.

**PRELIMINARY PLAT.** The preliminary drawing or drawings described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Commission for approval.

**PUBLIC AGENCY.** An agency or government 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 whom 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 improvements shall be properly bonded.)

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

**REGISTERED LAND SURVEYOR.** A land surveyor properly licensed and registered or through reciprocity permitted to practice in the state.

**REGISTERED PROFESSIONAL ENGINEER.** An engineer properly licensed and registered in the state or permitted to practice in Indiana through reciprocity.

**REGULATORY FLOOD.** The flood having a peak discharge which can 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 Natural Resources Commission; this flood is equivalent to a flood having a probability of occurrence of 1% in any given year.

**REGULATORY FLOOD ELEVATION.** The maximum elevation, as established by the State Department of Natural Resources, reached by the regulatory flood at the locations in question relevant to approval of a given subdivision under consideration.

**REGULATORY FLOODWAY.** The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonable 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 of the Federal Insurance Administration.

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

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

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

**ROAD(S).** See **STREETS**.

**SALE or LEASE.** Any immediate or future transfer of ownership or any possessor interest in land, including contract of sale, lease, devise, interstate succession or transfer, of an interest in a subdivision or part thereof, whether by metes and bounds, deed, contract, plat, map, lease, devise, interstate succession or other written instrument.

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

**SCREENING.** Either a strip of at least ten feet wide, densely planted (or having equivalent natural growth) with shrubs or trees at least four feet high at the time of planting, of a type that will form a year-round dense screen at least six feet high. Where required by Chapter 153 of this code of ordinances, a **SCREEN** shall be installed along or within the lines of a plot as a protection for adjoining or nearby properties. Earth berms may be incorporated as part of screening measures where appropriate.

**SECONDARY APPROVAL.** The stage of application for formal Plan 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 filing.

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

**SETBACK.** A line parallel to and equidistant from the relevant lot line (front, back or side) between which no buildings or structures may be erected as prescribed in Chapter 153 of this code of ordinances.

**SHADE TREE.** A tree in a public plat, special easement or right-of-way adjoining a street as provided in these regulations.

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

**SPECIAL LANDSCAPING.** Areas of tree planting, shrubs, or other landscape features serving a public purpose and maintained by the county. (See also **BUFFER LANDSCAPING** and **SCREENING**.)

**STATE ACTS.** The 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, DEAD-END.** A street or a portion of a street with only one vehicular-traffic outlet.

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

**STREETS, CLASSIFICATION.** For the purpose of providing for the development of the streets, highways and rights-of-way in the governmental unit, and for the future improvement, reconstruct, realignment and necessary widening, including provision for curbs and sidewalks, each existing street, highway and right-of-way, and those located on approved and filed plats, have been designated on the Official Map of the county or participating jurisdictions or Thoroughfare Plan 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 county and its present and estimated future traffic volume and its relative importance and function as specified in the 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 or Thoroughfare Plan 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 county and its present and estimated future traffic volume and its relative importance and function as specified in the Comprehensive Plan and/or its present and estimated future traffic volume and its relative importance and function as specified in the 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.

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

**SUBDIVIDER.** Any person who:

(1) Having a proprietary interest in land, causes it, directly or indirectly, to be divided into a subdivision; or who

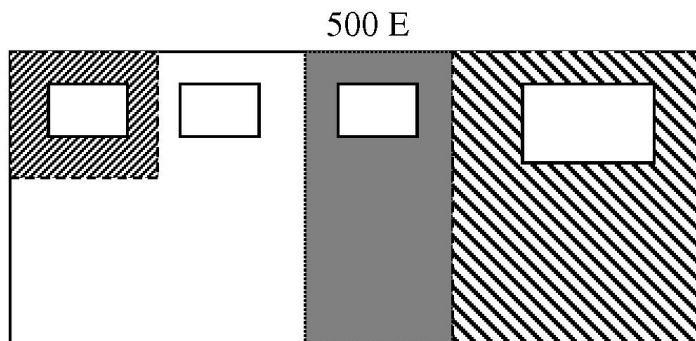
(2) Directly or indirectly sells, leases or develops, or offers to sell, lease or develop, or advertises for sale, lease or development, any interest, lot, parcel site, unit or plat in a subdivision; or who

(3) Engages directly, or through an agent, in the business of selling, leasing, developing or offering for sale, lease or development a subdivision of any interest, lot, parcel, site, unit or plat in a subdivision; and who

(4) Is directly or indirectly controlled by, or under direct or indirect common control with, any of the foregoing.

**SUBDIVISION.** The division of land into two or more lots, parcels, sites, units, plats or interests for the purpose of offer, sale, lease or development, either on the installment plan or upon any and all other plans, terms and conditions, including re-subdivision. **SUBDIVISION** includes the division of development of land zoned for residential and nonresidential uses, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat or other recorded instrument. The followings kinds of divisions of existing parcels of land are herein called “exempt divisions” and are classified into different Exempt I divisions. These divisions are exempt from most provisions of this chapter. Exempt I divisions must be one of the following types of division:

(1) A division of land into no more than four tracts, all of which comply with this chapter and Chapter 153 of this code of ordinances. The remaining piece, tract, lot and the like of ground after three splits or exemptions are approved is considered the fourth piece (see example below), any tract established before February 1992 is excluded from these requirements; (Diagram below reference only.)



(2) A division of land for the transfer of a tract or 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;

(3) 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;

(4) A division of land for federal, state or local government to acquire street right-of-way;

(5) A division of land for the transfer of a tract or tracts between adjoining lots; provided that, no additional principal use building sites are created by the division; or

(6) A division of land into cemetery plots for the purpose of burial of corpses.

**SUBDIVISION AGENT.** Any person who represents, or acts for or on behalf of, a subdivider or developer, in selling, leasing or developing, or offering to sell, lease or develop any interest, lot, parcel, unit, site or plat in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal services, and is not involved in developing, marketing or selling real property in the subdivision.

**SUBDIVISION, EXEMPT.** See **SUBDIVISION**.

**SUBDIVISION, MAJOR.** See **MAJOR SUBDIVISION**.

**SUBDIVISION, MINOR.** See **MINOR SUBDIVISION**.

**TEMPORARY IMPROVEMENT.** The improvements built and maintained by a subdivider during construction of the subdivision and intended to be replaced by a permanent improvement prior to release of performance bond or turnaround 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.** See **OFFICIAL MAP**.

**YARD.** A space on the same lot with a principal building, the space being open, unoccupied and unobstructed by buildings or structures from ground to sky, except where encroachments and accessory buildings are expressly permitted.

**ZONING ORDINANCE.** The ordinance setting forth the regulations controlling the use of land in the unincorporated areas and in those jurisdictions within the participating jurisdictions. The **ZONING ORDINANCE** is also referred to as the **AREAWIDE ZONING ORDINANCE** and **CHAPTER 153 OF THIS CODE OF ORDINANCES**.

(Ord. 2-2000, passed 3-13-2000, § 1.1)

**§ 152.02 PURPOSE.**

The purpose of this chapter shall be to protect and provide for the public health, safety and general welfare and:

(A) To guide the development in the county in accordance with the Comprehensive Plan and related policies;

(B) To provide for the safety, comfort and soundness of the built environment and related open spaces;

(C) To protect the compatibility, character, economic stability and orderliness of all development through reasonable design standards; and

(D) To guide public and private policy and action to provide adequate and efficient public and private facilities, the most aesthetically pleasing beneficial interrelationship between land uses and the conservation of natural resources.

(Ord. 2-2000, passed 3-13-2000, § 2.1)

**§ 152.03 ESTABLISHMENT OF CONTROL.**

No plat or re-plat of a subdivision of land located within the jurisdiction of the Commission shall be recorded until it shall have been approved by the Commission, and the approval shall have been entered in writing on the plat by the President and Secretary of the Commission and the seal of the Commission is on the plat.

(Ord. 2-2000, passed 3-13-2000, § 2.2)

**§ 152.04 CLASSIFICATION.**

(A) 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:

- (1) Major subdivisions;
- (2) Minor subdivisions; or
- (3) Exempt divisions.



(B) For the purpose of this chapter, a lot is “created” on the date of its recording. Before any permit shall be granted for a structure to be erected on land to be subdivided into a major subdivision, minor subdivision or exempt division the subdividing owner or his or her subdivision agent must get secondary approval of the proposed subdivision or exempt division in accordance with this chapter as appropriate. (Ord. 2-2000, passed 3-13-2000, § 2.3)

### § 152.05 MINOR SUBDIVISION.

(A) *Procedure.*

(1) From the standpoint of economy of time and money, it is recommended that the subdivider consult early and informally with the Executive Director of the Commission (hereinafter called “Director”) for advice and assistance. This will enable the subdivider to become familiar with these and other regulations as they affect the area and will prevent unnecessary and costly revisions. The subdivider should present a sketch in inexpensive and tentative form showing, in a general way, the proposed development, the existing conditions within the area proposed for subdivision and of surrounding lands, but this procedure is not mandatory. This shall not require formal application, fee or filing of a preliminary plat, nor shall it be deemed a preliminary plat.

(2) Application for preliminary plat approval can be made on forms available at the Area Plan Commission. The application with all required information must be submitted to the Area Plan Commission by the filing deadline date with the following:

- (a) The application must be signed by the owner;
- (b) A drainage approval letter from the appropriate jurisdiction;
- (c) A variance approval letter from the appropriate agency;

(d) An affidavit verifying that a copy of the notification letter and the proposed plan were sent to the required agencies. A list of these agencies must be included on the affidavit. A copy of this letter must also be included with the affidavit:

1. An affidavit verifying that a copy of the notification letter and the proposed plan were sent to the required agencies, this is sent as a “request for review”.
  - a. If the proposed subdivision is within the unincorporated county, the following shall be notified: Highway Engineer, Drainage Board, Soil and Water Conservation District, Health Department, appropriate park board, appropriate fire department and appropriate school corporation.
  - b. If the proposed subdivision lies within a participating community, the following shall be notified: Town Board, County Health Department, appropriate school corporation, local fire department, Town Marshal and Soil and Water Conservation District.

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2. A list of the agencies the letters were sent to;
3. A copy of the letter sent; and

4. Checkpoint agency review: the Administrator shall request that all officials and agencies to whom a request for review has been made submit a written report within 15 days after receipt of the request. No response from any agency shall be interpreted as meaning “no objection”.

- (e) If septic systems are used, a letter from the Health Department;
- (f) Eight and one-half by 11 copy of plat; and
- (g) Five full size copies of the preliminary plat.

(3) Notification to public (as per state statute):

(a) Adjacent property owners: the APC will notify adjacent property owners at least ten days before the scheduled meeting.

(b) Legal ad: the APC will prepare the legal ad for the petitioner and will deliver the legal ad to the newspaper with instructions for advertisement as per I.C. 5-3-1-2-1. However, it is the responsibility of the petitioner pay for the legal ad and obtains the publisher’s affidavit.

(c) Sign: the APC will supply the petitioner with a sign to advertise the petition. The sign shall be posted, by the petitioner, on the site to be subdivided at least 14 days before the meeting date.

(4) The Area Plan Commission will hold a technical review meeting. The petitioner or his or her agents are encouraged to come to the meeting.

(5) The petitioner and or his or her agent shall attend the Area Plan Commission meeting for which his or her subdivision is on the docket.

(6) The petitioner after the preliminary plat is approved or conditional approved shall file the following with the Area Plan Commission:

- (a) Five copies of the final corrected plat with information as listed on the preliminary plat;
- (b) Two Mylar copies of the final corrected plat;
- (c) Five sets of detailed plans and specifications (constructions plans) shall be submitted by the required deadline, if applicable;
- (d) A bond or letter of credit or escrow agreement, if applicable. The petitioner may install all improvements before he or she applies for secondary approval;

- (e) Performance agreement, if applicable;
- (f) Documentation for any covenants or restrictions, if applicable;
- (g) Documentation for any homeowners or neighborhood associations, if applicable; and

(h) A letter from the appropriate jurisdiction authority approving the construction drawings, if applicable. The petitioner must submit all the information for the petition to be processed and put on the docket. If all the information is not submitted by the established filing deadline, the petition will not be heard until the following meeting.

(7) The petitioner or a representative may attend the Area Plan Commission meeting at which the plat is to be signed (a minimum of 30 days must elapse after the preliminary approval for the minor plat before it can be recorded).

(a) If the final plat deviates from the preliminary plat that received approval, then the plat shall be resubmitted as a preliminary plat that must follow the entire subdivision process.

(b) If the final plat is approved and all other required documents have been submitted and approved by the Area Plan Commission, then it shall be signed by the designated officials.

(8) It shall be the responsibility of the subdivider to file the plat with the County Recorder's office within 30 days of the date of the signature. If the plat is not recorded in this time frame, then the plat will have to be re-submitted as a preliminary plat and follow the entire subdivision platting process.

(9) Three copies of the plat must be taken to the County Recorder's office to be recorded and are as follows.

(a) One Mylar copy will be kept in the County Recorder's office.

(b) One Mylar copy shall be kept by the petitioner or his or her agent.

(c) One copy of the recorded plat (please no Mylar or vellum) shall be returned to the Area Plan Commission to be kept in the file.

(10) Within two years of the date of the final approval of the plat, the petitioner or subdivider must present to the Area Plan Commission a letter of acceptance for all infrastructure or other improvements from the appropriate jurisdictional agency.

(a) If the improvements are not completed within two years, a request for an extension must be brought before the Plan Commission. The extension can be granted for no more than a total of one year.

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(b) If the extension is denied, the county or its representatives will use money from the bond, letter of credit or escrow account to finish the work.

(B) *Specifications for documents to be submitted on the preliminary plat preparation.* The preliminary plat shall be prepared by a licensed land surveyor or professional engineer (PE) at a convenient scale of not more than 100 feet to the inch, the sheets shall be numbered in sequence if more than one sheet is used and shall be of a size as is acceptable for filing in the office of the County Recorder, but shall not be larger than 24 by 36 inches. The following items shall be included on the preliminary plat.

(1) *Boundaries and lots.*

(a) Proposed boundary lines of subdivision with the bearings and distances;

(b) Proposed and existing lots of subdivision with bearings and distances of property lines and the area of the lot(s):

1. Blocks shall be consecutively numbered or lettered in alphabetical order. The blocks in numbered additions to subdivisions bearing the same name shall be numbered or lettered consecutively throughout the several additions; and

2. All lots in each block shall be consecutively numbered. Outlots shall be lettered in alphabetical order.

(c) Proposed boundary lines of any common land in the subdivision with the bearings and distances. The use of the lot must also be listed;

(d) Building setback lines from any ROW;

(e) Location listing of adjacent owners or any adjacent developments; and

(f) Any future sections or phases of the proposed subdivision shall be shown on the plat. The sections or phases should be listed as future consideration.

(2) *Easements.*

(a) Location and width of any existing or proposed easements on site;

(b) Location and width of any existing or proposed easements adjacent to site that will affect the site;

(c) Location and width of any adjacent or on-site railroad ROW; and

(d) Location and width of any existing or proposed utility rights-of-way with explanation of use.

(3) *Natural features.*

- (a) Location of any watercourses or waterbodies; and
- (b) Location of any existing wooded acre(s).

(4) *Other pertinent features.*

- (a) Swamps;
- (b) Floodplains:
  - 1. Delineate the floodway and floodway fringe on the preliminary and final plat; and
  - 2. Reference the benchmarks and elevations on the preliminary only.
- (c) Parks;
- (d) Burial grounds; and
- (e) Cemeteries.

(5) *Technical location and size of existing.*

- (a) Sewers;
- (b) Water mains;
- (c) Culverts;
- (d) Utility poles;
- (e) Fire hydrants;
- (f) Storm water facilities;
- (g) Preliminary proposals for connection with existing water supply and sanitary sewage systems; and
- (h) Topography.

(6) *Drainage.*

- (a) Preliminary provision for collecting and discharging surface water drainage; and
- (b) Notation of:
  - 1. Drainage easements;
  - 2. Site easements; and
  - 3. Site reservations.

(7) *Structures.*

- (a) Location of any underground structures on the tract and adjacent to the tract; and
- (b) Location of any permanent buildings.

(8) *Rights-of-way.*

- (a) Location, width and names of existing platted streets or other public ways within the tract or adjacent to the tract; and
- (b) Location width and names of proposed streets or rights-of-way (rights-of-way and curve data).

(9) *Miscellaneous.*

- (a) Vicinity map;
- (b) Name, address and registration number of surveyor or PE;
- (c) Date of plat;
- (d) North arrow;
- (e) Graphic scale;
- (f) Subdivision name;
- (g) Name and address of a land owner;
- (h) Metes and bounds description;

- (i) Owner endorsement with signature and date; and
- (j) Other information as needed for plat.

(10) *Supporting documents.*

- (a) The last instrument conveying title to each parcel of property involved in the proposed subdivision with the name of the grantor, grantee, date and any recorded land record reference;
- (b) A complete copy of any existing covenants on the property;
- (c) A designation of the purpose and condition of land within the tract dedicated or reserved; and
- (d) Closure data and printout for subdivision boundaries and lots.

(C) *Specifications for items to be submitted with/on the final plat.*

(1) *Preparation.* The final plat shall be prepared by a licensed land surveyor or professional engineer (PE) at a convenient scale of not more than 100 feet to the inch, may be prepared in ink on Mylar or vellum type media, and shall be of a size as is acceptable for filing in the office of the County Recorder, but shall not be larger than 24 by 36 inches.

- (a) *Final plat inclusion.* The following items shall be included on the final plat.
- (b) *Boundaries and lots.*

- 1. Proposed boundary lines of subdivision with the bearings and distances;
- 2. Proposed and existing lots of subdivision with bearings and distances of property lines and the area of the lot(s):
  - a. 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; and
  - b. All lots in each block shall be consecutively numbered. Outlots shall be lettered in alphabetical order.
- 3. Proposed boundary lines of any common land in the subdivision with the bearings and distances. The use of the lot must also be listed;
- 4. Building setback lines from any ROW; and

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5. Location listing of adjacent owners or any adjacent developments.

(2) *Easements.*

(a) Location and width of any existing or proposed easements on site;

(b) Location and width of any existing or proposed easements adjacent to site that will affect the site;

(c) Location and width of any adjacent or on-site railroad ROW; and

(d) Location and width of any existing or proposed utility rights-of-way with explanation of use.

(3) *Natural features.* Location of any watercourses or waterbodies.

(4) *Other pertinent features.*

(a) Floodplains; delineate the floodway and floodway fringe on the preliminary and final plat;

(b) Burial grounds; and

(c) Cemeteries.

(5) *Technical location and size of existing.* Fire hydrants.

(6) *Drainage.* Notation of:

(a) Drainage easements;

(b) Site easements; and

(c) Site reservations.

(7) *Structures.* Location of any permanent buildings.

(8) *Rights-of-way.*

(a) Location, width and names of existing platted streets or other public ways within the tract or adjacent to the tract; and

(b) Location width and names of proposed streets or rights-of-way: rights-of-way and curve data.



(9) *Miscellaneous.*

- (a) Vicinity map;
- (b) Name, address and registration number of surveyor or PE;
- (c) Date of plat;
- (d) North arrow;
- (e) Graphic scale;
- (f) Subdivision name;
- (g) Name and address of a land owner;
- (h) Metes and bounds description;
- (i) Owner endorsement with signature and date; and
- (j) Other information as needed for plat.

(Ord. 2-2000, passed 3-13-2000, § 2.4)

**§ 152.06 MAJOR SUBDIVISION.**

(A) *Procedures.*

(1) From the standpoint of economy of time and money, it is recommended that the subdivider consult early and informally with the Executive Director of the Commission (hereinafter called “Director”) for advice and assistance. This will enable the subdivider to become familiar with these and other regulations as they affect the area and will prevent unnecessary and costly revisions. The subdivider should present a sketch in inexpensive and tentative form showing, in a general way, the proposed development, the existing conditions within the area proposed for subdivision and of surrounding lands, but this procedure is not mandatory. This shall not require formal application, fee or filing of a preliminary plat, nor shall it be deemed a preliminary plat.

(2) Application for preliminary plat can be made on forms available at the Area Plan Commission. The application with all the required information must be submitted to the Area Plan Commission by the filing deadline date with the following:

- (a) The application must be signed by the owner or his or her agent;
- (b) A drainage approval letter from the appropriate jurisdiction;

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(c) A variance approval letter from the appropriate agency;

(d) Review agency comment letters:

1. An affidavit verifying that a copy of the notification letter and the proposed plan were sent to the required agencies. If the proposed subdivision is within the unincorporated county, the following shall be notified: Highway Engineer, Drainage Board, Soil and Water Conservation District, Health Department, appropriate park board, appropriate fire department and appropriate school corporation. If the proposed subdivision lies within a participating community, the following shall be notified: Town Board, County Health Department, appropriate school corporation, local fire department, Town Marshal and Soil and Water Conservation District;

2. A list of the agencies the letters were sent to;

3. A copy of the letter sent; and

4. Checkpoint agency review: the Administrator shall request that all officials and agencies to whom a request for review has been made submit a written report within 15 days after receipt of the request. No response from any agency shall be interpreted as meaning “no objection”.

(e) If a septic system is used, a letter from the Health Department;

(f) Eight and one-half-inch by 11-inch copy of plat; and

(g) Five full size copies of the preliminary plat.

(3) Notification to public (per state code):

(a) Adjacent property owners: the APC will notify adjacent property owners at least ten days before the scheduled meeting.

(b) Legal ad: the APC will prepare the legal ad for the petitioner and will deliver the legal ad to the newspaper with instructions for advertisement as per I.C. 5-3-1-2-1. However, it is the responsibility of the petitioner to pay for the legal ad and obtain the publisher’s affidavit.

(c) Sign: the APC will supply the petitioner with a sign to advertise the petition. The sign shall be posted, by the petitioner, on the site to be subdivided at least 14 days before the meeting date.

(4) The Area Plan Commission will hold a technical review meeting. The petitioner or his or her agent are encouraged to come to the meeting.

(5) The petitioner and or his or her agent shall attend the Area Plan Commission meeting for which his or her subdivision is on the docket.

(6) The petitioner after the preliminary plat is approved or conditional approved shall file the following with the Area Plan:

(a) Five copies of the final corrected plat with information as listed on the preliminary plat;

(b) Two Mylar copies of the final corrected plat;

(c) Five sets of detailed plans and specifications (construction plans) shall be submitted by the required deadline;

(d) A bond, letter of credit or escrow agreement. Improvements can be placed before final approval in lieu of a bond, letter of credit or escrow agreement, as long as all improvement are inspected and approved by the appropriate government agency;

(e) Performance agreement, if applicable;

(f) Documentation for any covenants or restrictions;

(g) Documentation for any homeowners or neighborhood associations, if applicable; and

(h) A letter from the appropriate jurisdictional authority approving the construction drawings, if applicable. The petitioner must submit all the information for the petition to be processed and put on the docket. If all the information is not submitted by the established filing deadline, the petition will not be heard until the following meeting.

(7) The petitioner or his or her representative shall attend the Area Plan Commission meeting for which his, her or their final plat is on the docket. The Commission shall approve or deny the final plat.

(a) If the final plat deviates from the preliminary plat that received approval, then the plat shall be resubmitted as a preliminary plat that must follow the entire subdivision process.

(b) If the final plat is approved and all other required documents have been submitted and approved by the Area Plan Commission, then it shall be signed by the designated officials.

(8) It shall be the responsibility of the subdivider to file the plat with the County Recorder's office within 30 days of the date of the signature. If the plat is not recorded in this time frame, then the plat will have to be re-submitted as a preliminary plat and follow the entire subdivision platting process.

(9) Three copies of the plat must be taken to the County Recorder's office to be recorded and are as follows.

(a) One Mylar copy will be kept in the County Recorder's office.

(b) One Mylar copy shall be kept by the petitioner or his or her agent.

(c) One copy of the recorded plat (please no Mylar or vellum) shall be returned to the Area Plan Commission to be kept in the file.

(10) Within two years of the date of the final approval of the plat, the petitioner or subdivider must present to the Area Plan Commission a letter of acceptance for all infrastructure or other improvements from the appropriate jurisdictional agency.

(a) If the improvements are not completed within two years a request for an extension can be brought before the Plan Commission. The extension can be granted for no more than a total of one year.

(b) If the extension is denied, the county or its representatives will use money from the bond, letter of credit or escrow account to finish the work.

(B) *Specifications for documents to be submitted on the preliminary plat; preparation.* The preliminary plat shall be prepared by a licensed land surveyor or professional engineer (PE) at a convenient scale of not more than 100 feet to the inch, the sheets shall be numbered in sequence if more than one sheet is used and shall be of a size as is acceptable for filing in the office of the County Recorder, but shall not be larger than 24 by 36 inches. The following items shall be included on the preliminary plat.

(1) *Boundaries and lots.*

(a) Proposed boundary lines of subdivision with the bearings and distances;

(b) Proposed and existing lots of subdivision with bearings and distances of property lines and the area of the lot(s).

1. Blocks shall be consecutively numbered or lettered in alphabetical order. The blocks in numbered additions to subdivisions bearing the same name shall be numbered or lettered consecutively throughout the several additions.

2. All lots in each block shall be consecutively numbered. Outlots shall be lettered in alphabetical order.

(c) Proposed boundary lines of any common land in the subdivision with the bearings and distances. The use of the lot must also be listed;

(d) Building setback lines from any ROW;

(e) Location listing of adjacent owners or any adjacent developments. Any future sections or phases of the proposed subdivision shall be shown on the plat. The sections or phases should be listed as future consideration; and

(f) Any future sections or phases of the proposed subdivision shall be shown on the plat. The sections or phases should be listed as future consideration.

(2) *Easements.*

(a) Location and width of any existing or proposed easements on site;

(b) Location and width of any existing or proposed easements adjacent to site;

(c) Location and width of any adjacent or on-site railroad ROW; and

(d) Location and width of any existing or proposed utility rights-of-way with explanation of use.

(3) *Natural features.*

(a) Location of any watercourses or waterbodies; and

(b) Location of any existing wooded acre(s).

(4) *Other pertinent features.*

(a) Swamps;

(b) Floodplains:

1. Delineate the floodway and floodway fringe on the preliminary and final plat; and

2. Reference the benchmarks and elevations on the preliminary only.

(c) Parks;

(d) Burial grounds; and

(e) Cemeteries.

(5) *Technical location and sizes of existing.*

- (a) Sewers;
- (b) Water mains;
- (c) Culverts;
- (d) Utility poles;
- (e) Fire hydrants;
- (f) Storm water facilities;
- (g) Preliminary proposals for connection with existing water supply and sanitary sewage systems; and
- (h) Topography.

(6) *Drainage.*

- (a) Preliminary provision for collecting and discharging surface water drainage; and
- (b) Notation of:
  - 1. Drainage easements;
  - 2. Site easements; and
  - 3. Site reservations.

(7) *Structures.*

- (a) Location of any underground structures on the tract and adjacent to the tract; and
- (b) Location of any permanent buildings.

(8) *Rights-of-way.*

- (a) Location, width and names of existing platted streets or other public ways within the tract or adjacent to the tract; and
- (b) Location width and names of proposed streets or rights-of-way: rights-of-way and curve data.

(9) *Miscellaneous.*

- (a) Vicinity map;
- (b) Name, address and registration number of surveyor or PE;
- (c) Date of plat;
- (d) North arrow;
- (e) Graphic scale;
- (f) Subdivision name;
- (g) Name and address of land owner;
- (h) Metes and bounds description;
- (i) Owner endorsement;
- (j) Signature and date; and
- (k) Other information as needed for plat.

(10) *Supporting documents.*

- (a) The last instrument conveying title to each parcel of property involved in the proposed subdivision with the name of the grantor, grantee, date and any recorded land record reference;
- (b) A complete copy of any existing covenants on the property;
- (c) A designation of the purpose and condition of any land within the tract dedicated or reserved; and
- (d) Closure data and printout for subdivision boundaries and lots.

(C) *Specifications for items to be submitted with/on the final plat; preparation.* The final plat shall be prepared by a licensed land surveyor or professional engineer at a convenient scale of not more than 100 feet to the inch, may be prepared in ink on Mylar or vellum type media and shall be of a size as is acceptable for filing in the office of the County Recorder, but shall not be larger than 24 by 36 inches. The following items shall be included on the final plat.

(1) *Boundaries and lots.*

- (a) Proposed boundary lines of subdivision with the bearings and distances;

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(b) Proposed and existing lots of subdivision with bearings and distances of property lines and the area of the lot(s).

1. Blocks shall be consecutively numbered or lettered in alphabetical order. The blocks in numbered additions to subdivisions bearing the same name shall be numbered or lettered consecutively throughout the several additions.

2. All lots in each block shall be consecutively numbered. Outlots shall be lettered in alphabetical order.

(c) Proposed boundary lines of any common land in the subdivision with the bearings and distances. The use of the lot must also be listed;

(d) Building setback lines from any ROW; and

(e) Location listing of adjacent owners or any adjacent developments.

(2) *Easements.*

(a) Location and width of any existing or proposed easements on site;

(b) Location and width of any existing or proposed easements adjacent to site that will affect the site;

(c) Location and width of any adjacent or on-site railroad ROW; and

(d) Location and width of any existing or proposed utility rights-of-way with explanation of use.

(3) *Natural features.* Location of any watercourses or waterbodies.

(4) *Other pertinent features.*

(a) Floodplains delineate the floodway and floodway fringe on the preliminary and final plat;

(b) Burial grounds; and

(c) Cemeteries.

(5) *Technical location and size of existing.* Fire hydrants.



(6) *Drainage*. Notation of:

- (a) Drainage easements;
- (b) Site easements; and
- (c) Site reservations.

(7) *Structures*. Location of any permanent buildings.

(8) *Rights-of-way*.

(a) Location, width and names of existing platted streets or other public ways within the tract or adjacent to the tract; and

(b) Location width and names of proposed:

- 1. Streets or rights-of-way; and
- 2. Rights-of-way and curve data.

(9) *Miscellaneous*.

- (a) Vicinity map;
- (b) Name, address of registration number of surveyor or PE;
- (c) Date of plat;
- (d) North arrow;
- (e) Graphic scale;
- (f) Subdivision name;
- (g) Name and address of a land owner;
- (h) Metes and bounds description;
- (i) Owner endorsement with signature and date; and
- (j) Other information as needed for plat.

(D) *Construction plans.* 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 same size as the preliminary plat. The following shall be shown:

(1) Profiles showing existing and proposed elevations lines of all streets:

(a) 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; and

(b) Radii of all curves, lengths of tangents and central angles on all streets.

(2) The Commission may require, where steep slopes exist, that cross-sections of all proposed streets at 100-foot stations be shown at five points as follows:

(a) On a line at right angles to the centerline of the street and all elevation points shall be at the centerline of the street; and

(b) All 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 showing the locations and typical cross-section of street pavements including:

(a) Curbs and gutters;

(b) Sidewalks;

(c) Drainage easements;

(d) Servitude;

(e) Rights-of-way;

(f) Manholes;

(g) Catch basins;

(h) The locations of street trees, street lighting standards and street sign; the location, size and invert elevations of existing and proposed sanitary sewers, storm water drains and fire hydrants showing connection to any existing or proposed utility systems; and

(i) Exact location and size of all water, gas or other underground utilities or structures.

(4) Location, size, elevation (all elevations shall be referred to the U.S.G.S. datum plane) and other appropriate description of any existing facilities or utilities including, but not limited to:

(a) Existing streets, sewers, drains, water mains, easements, water bodies, streams, floodplains;

(b) Other pertinent features such as swamps, railroads, buildings;

(c) Features noted on the Official Map or Comprehensive Plan at the point of connection to proposed facilities and utilities within the subdivision;

(d) The water elevations of adjoining lakes or streams at the date of the survey, and the approximate high- and low-water elevations of lakes or streams; and

(e) 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 the waterways.

(5) Topography at the same scale as the preliminary plat with a contour interval of two feet, referred to the sea-level datum. All data provided shall be the latest applicable U.S. Coast and Geodetic Survey data and should be so noted on the plat;

(6) All specifications and references required by the appropriate jurisdiction's construction standards and specifications, including a site-grading plan for the entire subdivision;

(7) Notation of approval as follows:

(8) Title, name, address, signature, registration number, seal of the professional engineer and/or surveyor, and date, including revision dates.

(Ord. 2-2000, passed 3-13-2000, § 2.5)

### **§ 152.07 EXEMPTIONS.**

(A) *General.* In order for a land division to be considered an Exempt I division, the information prescribed for the applicable type of division hereunder shall be submitted to the Administrator.

(B) *Exempt I Divisions.*

(1) Information required for each exempt divisions

(a) For type "A" divisions a metes and bounds legal description of the exempt division and the land from which it is being divided must be provided;

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(b) For type “B” divisions the original legal description and revised legal descriptions must be provided;

(c) For type “C” divisions a copy of the court decree showing by legal description how the land is to be divided must be provided;

(d) For type “D” divisions a legal description and plot plan showing the parcel and the location of the street right-of-way must be provided;

(e) For type “E” divisions a legal description and plot plan showing the tract to be divided and a plot plan of the tract(s) to be added to must be provided; and

(f) For type “F” divisions a plat of the cemetery showing the layout of the private drives, parking areas and size of burial lots must be provided.

(2) *Exempt division review process.* Within three working days of the land divider’s complete submission of Exempt I divisions, the Administrator shall review the submission and notify the land divider that his or her proposed land division either qualifies or does not qualify.

(3) *Necessary conditions for Exempt I divisions.* In addition to definition requirements, a land division qualifying as an Exempt I division shall be shown as meeting the following conditions.

(a) If a parcel created by an exempt division does not have sanitary sewer service available to it, that tract shall contain within its boundaries sufficient soil of a kind defined by the State Board of Health or its successor to allow for the proper installation of an on-site sewage disposal system.

(b) If a parcel created by an Exempt I division has frontage on a public road, the land divider shall dedicate to the public real property of a width sufficient to meet one-half of the required right-of-way width for that specific public road as indicated on the County Thoroughfare Plan or the Official Map. The length must be the public road equal to the length of that parcel along that roadway.

(c) When a parcel is created by such an exempt division the depth of that parcel shall not be:

Less than 5 acres	The depth of that parcel shall not be greater than twice the length of that frontage
5 acres to 9.99 acres	The depth of that parcel shall not be greater than four times the length of that frontage
Over 10 acres	No ratio required; the depth being measured from the front lot line to the rear lot line of the parcel

(4) *Certification of Exempt I divisions.* The land divider shall provide to the Administrator:

(a) Written evidence that the County Board of Health has been satisfied by a duly authorized representative of a qualified soil testing service as to the presence within the parcel to be split out of sufficient soil of a kind defined by the State Board of Health or its successor to allow for the proper installation of an on-site septic sewage disposal system;

(b) Official documentation indicating the dedication of right-of-way to the appropriate jurisdiction; and

(c) A metes and bounds description of the parcel being created indicating that its depth is no more than twice the frontage.

(5) *Exempt division review process.* Within three working days of the land divider's complete submission of an Exempt I, the Administrator shall review the submission and notify the land divider that his or her proposed land division either qualifies as an exempt division, or does not qualify as an exempt division and is thus subject to the relevant subdivision processes described in §§ 152.05 and 152.06.

(6) *Dissolution.*

(a) A recorded Exempt I division or portion thereof may be dissolved by the property owner or owners if, in doing so, no provision of this or any other ordinance, rule, regulation, statute or provision of law is violated. To do so, five copies of a statement dissolving the Exempt I division (or any part of it) shall be submitted to the Administrator for review of compliance with above-stated ordinances, rules and the like. This statement, signed by all legal owners, contract buyers and optionees of the property and notarized, shall contain the Exempt I division number assigned by the Administrator and legal descriptions of the parcels involved.

(b) Upon a finding of compliance, the Administrator or his or her designee shall sign all five statements. Once signed, the approved dissolution is eligible to be recorded.

(c) It shall be the responsibility of the land divider, in the presence of the Administrator or his or her designee, to file the approved dissolution with the County Auditor and Recorder within 30 days of the date of signature. Failure of the land divider to so file and record shall automatically invalidate the approval, rendering it null and void and requiring a complete re-submittal for approval.

(d) Upon recording the dissolution statement, the landowner is once more eligible to pursue the full Exempt I division process as per current ordinance regulations for exempt divisions.

(7) *Responsibility.* It shall be the responsibility of the petitioner to file the approved exempt division forms with the County Recorder's Office within 60 days of the date of the signature. If the exempt division is not recorded in this time frame, then the exempt division will have to be re-certified by the Area Plan Office.

(Ord. 2-2000, passed 3-13-2000, § 2.6)

#### § 152.08 GENERAL IMPROVEMENTS.

(A) *General.* Plat approval may be withheld if a subdivision is not in conformity with the guides and requirements 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 Chapter 153 of this code of ordinances or these regulations, the 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 a form to be approved by the Commission Attorney.

(C) *Plats straddling municipal boundaries.* Lot lines shall be laid out so as not to cross municipal boundary lines.

(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 easement 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, upon recommendation of the local Engineer, to solve the problems created by the unsuitable land conditions. The land shall be set aside for the uses permitted by Chapter 153 of this code of ordinances as shall not involve any danger.

(E) *Fencing.* Each subdivider and/or developer shall be required to furnish and install fences wherever the Commission determines that a hazardous condition may exist. The fences shall be constructed according to standards established by the Jurisdictional Engineer and shall be noted as to height and material on the final plat.

(F) *Subdivision name.* The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the area covered by these regulations. The Commission shall have final authority to approve or deny the name of the subdivision which shall be determined at the time of preliminary approval.

(Ord. 2-2000, passed 3-13-2000, § 2.7)

**§ 152.09 BOUNDARY AND LOT IMPROVEMENTS.**

(A) *Lot improvements.* The performance bond shall include an amount to guarantee completion of all requirements contained in § 152.08 of these regulations including, but not limited to, soil preservation, final grading, lot drainage, lawn-grass seeding, removal of debris and waste, fencing and all other lot improvements required by the Commission. At the expiration of the performance bond, the county may enforce the provisions of the bond where compliance with the provisions of this section or any other applicable law, ordinance or regulation has not occurred.

(1) *Lot arrangement.* The lot arrangement shall be such that there will be no foreseeable difficulties for reasons of topography or other conditions in securing building permits to build on each of the created lots in compliance with Chapter 153 of this code of ordinances and any health regulations and in providing driveway access to buildings on the lots from the appropriate approved street.

(a) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to arterial streets, railroads and waterways.

(b) The lengths, widths and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated.

1. Block lengths in residential areas shall not exceed 2,600 feet nor be less than 264 feet in length.

2. Blocks along arterials and collector streets shall not be less than 1,000 feet in length or exceed 2,600 feet in length.

(c) In long blocks, the Commission may require the reservation of easements through the block to accommodate utilities, drainage facilities or pedestrian traffic.

1. Pedestrian ways or crosswalks, not less than ten feet wide, may be required by the Commission:

a. Through the center of blocks more than 800 feet long or at other appropriate locations; and

b. At the end of the cul-de-sacs where deemed essential to provide for circulation or access to schools, playgrounds, shopping centers, transportation or other community facilities.

2. Blocks designed for industrial uses shall be of a length and width as may be determined to be suitable by the Commission for the intended use.

(2) *Lot dimensions.*

(a) *General.* Lot dimensions shall comply with the minimum standards in Chapter 153 of this code of ordinances. 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 of the off-street parking and loading facilities required for the type of use and development contemplated, as established in Chapter 153 of this code of ordinances.

(b) *Waterbodies and watercourses.* If a tract being subdivided contains a water body, or portion thereof, lot lines shall be so drawn as to distribute the entire ownership of the water body among the fees of adjacent lots.

1. The Commission may approve an alternative allocation of interests whereby the ownership and responsibility for safe maintenance of the water body is so placed that it will not become a local government responsibility.

2. No part of the minimum area of a lot required under Chapter 153 of this code of ordinances may be satisfied by land which is under water.

3. Where a watercourse separates the buildable area of a lot from the street from which it has access, provisions shall be made for installation of a culvert or other structure of a design approved by the County or Jurisdictional Engineer.

(3) *Double frontage lots and access to lots.*

(a) Double frontage lots 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 subdivided lots.

(b) Access from primary and secondary arterial. Lots shall not, in general, derive access from a primary or secondary arterial street. Where driveway access from a primary or secondary arterial street may be the only possible access for several adjoining lots, the Commission may require that the lots be served by a combined access drive in order to limit possible traffic hazards from multiple access to the streets. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on primary or secondary arterials.

(c) Where possible, lots in single-family residential subdivisions fronting on collector streets shall be avoided. Lots at the corners of intersections between local and collector streets shall front on the local street and have driveway access to it only, not to the collector street. In multiple-family residential areas entrances to group parking lots shall have access only to collector streets (where possible) and the entrances shall be widely spaced.



(d) Where a subdivision borders on or contains an existing or proposed primary arterial, the Commission may require that access to it be limited by one of the following means:

1. The lots back onto the primary arterial. The lots front onto a parallel local street. No access shall be provided from the primary arterial and screening shall be provided within a strip of land along the rear property line of the lots;

2. A series of cul-de-sacs, or loop streets entered from, and designed generally to be at right angles to an access street that is at some distance from and parallel to the arterial street, with the rear lines of their terminal lots backing onto the arterial; and

3. A marginal access or service road should be separated from the primary arterial by a landscaped and/or decoratively fenced grass strip. The access road shall be at widely spaced suitable points.

*(4) Soil preservation, grading and seeding.*

(a) *Soil preservation and final grading.* No certificates of occupancy shall be issued until final grading has been completed in accordance with the approved construction plans.

1. There shall be lot pre-covered with top soil having an average depth of at least six inches which shall contain no particles over two inches in diameter over the entire area of the lot, except that portion covered by buildings or included in the streets.

2. The grade shall have not been changed or natural vegetation seriously damaged. Topsoil that was removed from residential lots shall be redistributed so as to provide at least six inches of cover between the sidewalks and curbs and shall be stabilized by seeding or planting.

(b) *Lot drainage.* Lots shall be laid out so as to provide positive drainage away from all buildings and individual lot drainage shall be coordinated with the general storm water drainage pattern for the area and drainage plans adopted by the Drainage Board or any participating jurisdiction. Drainage shall be designed so as to avoid the accumulation of storm water on any one or more lots from adjacent lots. It shall be the responsibility of the lot owner to maintain the lot grade, as it applies to drainage, as provided for in the approved construction plans.

(c) *Lawn-grass seed and sod.* No certificate of occupancy shall be issued until re-spreading of soil and seeding of lawn has been completed; except that, between October 15 and March 15, the applicant shall submit an agreement in writing to the Administrator signed by the developer and the property owner that re-spreading of soil and seeding of the lawn will be done during the immediately following planting season.

(d) *Debris and waste.* No cut trees, timber, debris, earth, rocks, stones, soil, junk, rubbish or other waste material of any kind shall be buried in any land, or left or deposited on any area of the subdivision at the time of expiration of the performance bond or dedication of public improvements, whichever is sooner.

(B) *Boundary improvements.*

(1) The subdivider shall have placed, under the supervision of a registered land surveyor, concrete monuments four inches square or four inches in diameter and 30 inches long with an iron pipe cast in the center, at each corner or angle of the ultimate outside boundary. They shall be set following grading of each phase of the subdivision.

(2) The subdivider shall have placed, under the supervision of a registered land surveyor, pipes or steel rods, three-fourths of an inch in diameter by 30 inches in length at the corners of each lot. They shall be set prior to the issuance of any improvement location permit.

(3) Every monument found at any corner of a quarter-section shall be retained intact and referred to the County Surveyor for recording.

(Ord. 2-2000, passed 3-13-2000, § 2.8)

## § 152.10 STREETS.

(A) *General requirements.* No subdivision shall be approved unless the area to be subdivided shall have frontage on or access from:

(1) An existing state, county or local highway, or whenever the area to be subdivided is to use an existing street frontage, the street shall be suitably improved as provided herein above; and

(2) A street shown upon a plat approved by the Commission and recorded in the office of the County Recorder of Deeds. The street or highway must be suitably improved as required by the highway rules, regulation specifications or be secured by a performance bond required under these regulations, with the width and right-of-way required by these regulations or as indicated on the Official Map or Thoroughfare Plan.

(B) *Grading and improvement plan.* Streets shall be graded and improved and conform to the appropriate jurisdiction's construction standards and specifications and shall be approved as to design and specifications by the Jurisdictional Engineer, in accordance with the construction plans required to be submitted prior to final approval.

*(C) Topography and arrangement.*

(1) Streets shall be related appropriately to the original topography. A combination of steep grades and sharp curves shall be avoided. Specific standards are contained in the design standards of these regulations.

(2) All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rights-of-way as established on the Official Map, Thoroughfare Plan or Comprehensive Plan.

(3) Minor or local streets shall be laid out to conform as much as possible to the topography, to discourage use by through traffic, to permit efficient drainage and utility systems and to require the minimum number of streets necessary to provide convenient and safe access to the property.

(4) Proposed streets shall, where appropriate, be extended to the boundary lines of the tract to be subdivided unless this is prevented by topography or other physical conditions, or unless in the opinion of the Plan Commission the extension(s) is/are not necessary or desirable for the coordination of the layout of the subdivision under consideration with the existing street layout or for the most advantageous future development of adjacent tracts (see division (H)(1) below).

(5) In business and industrial developments, the streets and other accessways shall be planned in connection with the grouping of buildings, location of rail facilities and the provision of alleys, truck loading and maneuvering areas, walkways, bikeways and parking areas so as to minimize conflict of movement between the various types of vehicular and pedestrian traffic.

(D) *Street names.* The plat shall indicate names of proposed streets. As part of his or her review, the Administrator shall refer proposed street names to the local postmaster for his or her comments regarding duplication of names and possible confusion. A street which is, or is planned as, a continuation of an existing street shall bear the same name. All street names are subject to approval by the Area Plan Commission.

(E) *Street regulatory signs.* The applicant shall provide and install a street sign at every street intersection within his or her subdivision as required by the Jurisdictional Engineer.

(F) *Street lights.* Installation of street lights shall be required in accordance with design and specification standards approved by the Jurisdictional Engineer on all streets installed by developer. Street lights are not required for existing county roads, unless specifically requested by the Plan Commission.

(G) *Reserve strips.* The creation of reserve strips shall not be permitted adjacent to a proposed street in a manner as to deny access to it from adjacent property if the street is a local service street rather than a collector or arterial street. (See divisions (E) and (F) above.)

(H) *Construction of streets.*

(1) *Construction of streets other than cul-de-sacs.* The arrangement of streets shall provide for

(a) The continuation of streets between adjacent subdivisions or other properties when the continuation is necessary for the convenient movement of traffic, for effective fire protection, for efficient provision of utilities, and where the continuation is necessary for the convenient movement of traffic, for effective fire protection, for efficient provision of utilities and where the continuation is in accordance with the Comprehensive Plan.

(b) If the adjacent property is undeveloped, the street must be a temporary dead-end street. The right-of-way shall be provided for all temporary dead-end streets, with the notation on the subdivision plat that land outside the normal street right-of-way shall revert to land that abuts whenever the street is continued. Temporary turnarounds must be provided at the ends of the dead end streets. The Commission may limit the length of temporary dead-end streets in accordance with the design standards in these regulations.

(2) *Cul-de-sacs (permanent dead-end streets).*

(a) Cul-de-sac turnarounds shall be provided at the end of a permanent dead-end street in accordance with jurisdictional construction standards and specifications available from the Jurisdictional Engineer's office.

(b) For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall be limited in length in accordance with the design standards in these regulations.

(I) *Design standards.*

(1) *General.* The following design standards for streets are hereby required. Street classifications may be indicated in the Comprehensive Plan, Thoroughfare Plan or on the Official Map; otherwise, they shall be determined by the Commission.

(2) *Street surfacing and improvements.* After sewer and water utilities have been installed by the developer, the applicant shall construct curbs and gutters and shall surface or cause the roadways to be surfaced to the widths prescribed in these regulations. Pavement type and make shall be as determined by the Jurisdictional Engineer.

(a) Adequate provisions shall be made for culverts, drains and bridges.

(b) All street pavement, shoulders, drainage improvements and structures, curbs, turnarounds and sidewalks (if applicable) shall conform to all construction standards and specifications adopted by the Commission, engineer or the jurisdiction and shall be incorporated into the construction plans required to be submitted by the developer for plat approval.

(3) *Excess right-of-way.* Right-of-way widths in excess of the standards designed in these regulations shall be required whenever, due to topography, additional width is necessary to provide for adequate and stable earth slopes.

(4) *Railroads and limited access highways.* Railroad rights-of-way and limited access highways where so located as to affect the subdivision of adjoining lands shall be treated as follows.

(a) In residential districts, a buffer strip at least 25 feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to the railroad right-of-way or limited access highway. This strip shall be part of the platted lots and shall be designated on the plat: "This strip is reserved for screening. The placement of structures, hereon other than earth berms, walls, fences and other landscape screening devices approved by the Commission, is prohibited."

(b) In districts zoned for business, commercial or industrial uses, the nearest street extending parallel or approximately parallel to a railroad shall, wherever practical, be at a sufficient distance therefrom to ensure a suitable depth for commercial or industrial sites.

(c) Streets parallel to railroads when intersecting a street which crosses the railroad at grade shall, to the extent practicable, be at a distance of at least 150 feet from the railroad right-of-way. The distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

(J) *Intersections.*

(1) *Angles.* Streets shall be laid out so as to intersect as nearly as possible at right angles.

(a) A proposed intersection of two new streets at an angle of less than 75 degrees shall not be acceptable.

(b) An oblique street should be approximately at right angles for at least 100 feet therefrom.

(c) Not more than two streets shall intersect at any one point unless specifically approved by the Commission.

(2) *Curb cuts.* Proposed driveway/access cut along one side of an existing street shall, wherever practicable, line up with any existing curb cut on the opposite side of the street.

(a) Street jogs with centerline offsets of less than 150 feet shall not be permitted, except where the intersected street has separated, dual drives, without median breaks at either intersection.

(b) Where local streets intersect with arterials, their alignment shall be continuous.

(c) Intersections of arterials shall be at least 800 feet apart.

(3) *Curb radius.*

(a) Minimum curb radius at the intersection of two local streets shall be at least 20 feet.

(b) Minimum curb radius at an intersection involving a collector street shall be at least 25 feet.

(c) Alley intersections and abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practices to permit safe vehicular movement.

(4) *Flat grade.* Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection a leveling area shall be provided having not greater than a 2% grade at a distance of 60 feet, measured from the nearest right-of-way line of the intersecting street.

(5) *Earth banks or existing vegetation.* Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the owner shall cut the ground and/or vegetation (including trimming trees) in connection with the grading of the public right-of-way to the extent deemed necessary by the Jurisdictional Engineer to provide an adequate sight distance.

(6) *Cross-slopes.* The cross-slopes on all streets, including intersections, shall be 3% or less.

(K) *Bridges.* Bridges of primary benefit to the applicant, as determined by the Commission, shall be constructed at the full expense of the applicant without reimbursement from the county. The sharing of expense for the construction of bridges not being of primary benefit to the applicant as determined by the Commission, will be through special agreement between the county and the applicant. The cost shall be charged to the applicant pro-rata as the percentage of his or her land developed and so served.

(L) *Street dedications and reservations.*

(1) *New perimeter streets.* Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half-streets.

(a) Where an existing half-street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider.

(b) The Commission may authorize a new perimeter street where the subdivider improves and dedicates the entire required right-of-way width within his or her own subdivision's boundaries.

(2) *Widening and realignment of existing streets.* Where a subdivision borders an existing narrow street or when the Comprehensive Plan, Official Map, Thoroughfare Plan or zoning setback regulations indicates plans for realignment or widening of a street that would require use of some of the

land into the subdivision, the applicant shall be required to improve and dedicate the streets at his or her own expense. Land reserved for any street purposes may not be counted in satisfying the yard or area requirements of Chapter 153 of this code of ordinances.

(Ord. 2-2000, passed 3-13-2000, § 2.9)

### § 152.11 DRAINAGE AND STORM SEWERS.

(A) *General requirements.* The system of storm sewers, inlets and catch basins within a specific development area shall constitute a minor system. A major system shall include drainage systems including the portion of a watershed which will become operative once the capacity of a minor system is exceeded. This includes streets or other depressed areas which will act as open channels and convey the excess storm water runoff to a natural drainage course or storage facility.

(1) The Commission shall not recommend for approval any subdivision plat which does not make adequate provisions for storm or flood water runoff channels or basins.

(2) The storm water drainage system shall be separate and independent of any sanitary sewer system.

(3) Storm sewers, where required, shall be designed by the Rational Method, or other methods as approved by the Commission and the County Drainage Board. A copy of the design computations shall be submitted along with the plans. (The "Rational Method" is described in Chapter 3 of the *County Storm Drainage Manual* by Christopher B. Burke, Project for Indiana Counties and Cities, School of Civil Engineering, Purdue University, West Lafayette, May 1981, hereinafter referred to as *Drainage Manual*.)

(4) 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 (*Drainage Manual*, p. 5-27).

(5) 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.

(6) Surface water drainage patterns shall be shown for each and every lot and block.

(B) *Design storm events.* The design storm event return period shall be calculated as follows:

(1) Minor systems shall be designed to handle a 25-year, 24-hour rainfall event.

(2) Major systems shall be designed to handle a 50-year, 24-hour rainfall event.

(3) All systems shall include an investigation of the impact of the 100-year, 24-hour rainfall event, backwater from any perennial stream and any floodplain encroachment.

(4) All systems which discharge into an existing drainage system, which has been determined by the local jurisdiction to be at or near maximum capacity, shall be designed for the storage of the excess storm runoff. The release rate shall be designed for the existing (redevelopment) five-year, 24-hour event.

*(C) Design standards.*

(1) The minimum pipe size for systems shall be 12 inches.

(2) A minimum flow velocity of three feet per second at full flow shall be maintained throughout the drainage system.

(3) A maximum flow velocity of eight feet per second at full flow shall be maintained throughout the drainage system.

(4) Manholes and inlets shall be placed at each junction, grade change or direction change. The maximum spacing between each manhole and inlet shall be 300 feet.

(5) The minimum depth from grade for the top of any storm sewer shall be three feet. In any case where the three-foot minimum cover cannot be maintained, an extra strength pipe shall be used.

(6) Permitted materials shall include PVC SDR-35, reinforced concrete or vitrified clay tile, from 12 to 36 inches in diameter. Pipes larger than 36 inches shall be reinforced concrete or steel plate.

*(D) Requirements of the developer.*

(1) The developer shall provide the appropriate local jurisdiction with an existing topographic site plan and proposed topographic site plan with one-foot contours.

(2) The developer shall provide to the local jurisdiction all calculations used to determine drainage flows and capacity determinations.

(3) The developer shall install all required drainage facilities for the minor system and connection to a major system. If the local jurisdiction anticipates future development in the area, the minor or major systems may be required to be oversized to accommodate future development. The cost of oversizing may be borne by the local jurisdiction.

(4) The developer shall provide for maintenance, easements and ownership of any detention system that is included in a drainage system.



(E) *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 a result of the subdivision. The drainage facilities shall be located in the street right-of-way where feasible, or in perpetual, unobstructed easements of appropriate width and shall be constructed in accordance with the jurisdiction's construction standards and specifications.

(2) *Accessibility to public storm sewers.* Where a public storm sewer is accessible, the applicant shall install storm sewer facilities or if no outlets are within a reasonable distance, adequate provision shall be made for the disposal of storm water, subject to the specifications of the Jurisdictional Engineer.

(a) In subdivisions located in or by commercial or industrial zone districts containing lots of less than 15,000 square feet of area, underground storm sewer systems shall be constructed throughout the subdivision. Inspection of facilities shall be conducted by the Jurisdictional Engineer or Drainage Board.

(b) If a connection to a public storm sewer will be provided eventually, as determined by the Engineer or Drainage Board, the developer shall make arrangements for future storm water disposal by the public utility system at the time the plat receives final approval. Cost provision(s) for the 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 be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Jurisdictional Engineer or Drainage Board shall determine the necessary size of the facility, based on the provisions of the required construction standards and specifications assuming conditions of maximum potential watershed development permitted by Chapter 153 of this code of ordinances.

(4) *Effect of downstream drainage areas.* The Jurisdictional Engineer or Drainage Board shall determine the effect of each proposed subdivision on existing drainage facilities outside the area of the subdivision. County drainage studies together with other studies as may be available and appropriate shall serve as a guide to needed improvements.

(a) Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Commission may withhold secondary approval of the subdivision until provision (such as a storage facility) have been approved.

(b) 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 which are not in the floodplain but contain soils which are subject to flooding may be approved for subdivision by the Commission; provided that, the subdivider provides acceptable provisions with the Drainage Board to alleviate any and all drainage problems.

(6) *Areas of high seasonal water tables.* In areas characterized by soils having a high seasonal water table as determined by the County Soil and Water Conservation District, lots shall be limited to slab type construction unless the Commission determines that appropriate engineering techniques will be applied to alleviate the subsurface problem.

(7) *Floodway areas.* If a subdivision is proposed within the floodplain, floodways shall be preserved and not diminished in capacity by filling or obstruction, except as approved by the State Department of Natural Resources in writing. No residential building site may be located within the floodway.

(8) *Floodway fringe areas.* Where a subdivision is proposed within an area of the floodplain designated as a floodway fringe, the Commission may approve the subdivision; provided that:

(a) All streets are elevated sufficiently to be above the regulatory flood elevation;

(b) All lots for residential usage have a flood protection grade two feet above the regulatory flood elevation;

(c) Where provided, water and sanitary sewer facilities are constructed to eliminate contamination by flood water; and

(d) Lands below the regulatory flood elevation shall not be used for computing the area requirement for any lot.

(9) *Flood hazard areas.* 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 a subdivision unless a determination of the floodway has been made by the State Department of Natural Resources and:

(a) All streets are raised sufficiently to be above the regulatory flood elevation;

(b) All lots for residential usage have a flood protection grade of two feet above the regulatory flood elevation;

(c) Where provided public water and sanitary sewer facilities are constructed to eliminate contamination of or by flood water;

(d) 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; and

(e) All filling in the floodway must be approved in writing by the State 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 floodway and floodway fringe.* All final plats having within their boundaries areas whose elevation 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, on the final plat for recording.

*(F) Dedication of drainage easements.*

(1) *General requirements.* Where a subdivision is traversed by a drainage course, drainage way, channel or stream a storm water easement or drainage right-of-way shall be provided, granted or dedicated to the county or appropriate jurisdiction conforming to the line of the watercourse. The width and construction or both shall be adequate for the purpose of drainage maintenance.

(a) Where possible, the drainage shall be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.

(b) No building may be permitted within 75 feet of any legal drain, unless written variance from the Drainage Board is granted.

*(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, then perpetual unobstructed easements at least 15 feet in width for the drainage facilities shall be provided across property outside the rights-of-way lines and with satisfactory access to the street.

1. Easements shall be indicated on the plat.

2. Drainage easements shall be carried from the street to a natural watercourse or to other drainage facilities.

(b) The applicant shall dedicate by drainage or conservation easement land on both sides of existing watercourses of a width to be determined by the Commission and in the case of legal drains the County Drainage Board.

(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 before final approval is granted.

(d) Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways. The 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.

(Ord. 2-2000, passed 3-13-2000, § 2.10)

### § 152.12 WATER FACILITIES.

#### (A) *General requirements.*

(1) The applicant shall take all actions necessary to extend or create a water supply system for the purpose of providing a water supply system capable of providing for domestic water use and fire protection.

(2) Where a public water main is accessible, the subdivider shall install adequate water facilities (including fire hydrants) conforming to the requirements and specifications of the state or local authorities. All water mains shall be at least six inches in diameter.

(3) Water main extensions shall be approved by the officially designated agency of the state, county or municipality concerned.

(4) To facilitate the above, the location of all fire hydrants, water supply improvements and the boundary lines of proposed districts indicating all improvements proposed to be served shall be shown on the preliminary plat, and the cost of installing same shall be included in the performance bond to be furnished by the subdivider.

(5) 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) *Individual wells and central water systems.*

(1) In low-density zoning districts, if a public water system is not available, at the discretion of the Commission:

(a) Individual wells may be used or a central water system provided in a manner that an adequate supply of potable water will be available to every lot in the subdivision;

(b) Water sample test results shall be submitted to the Health Department for its approval;  
and

(c) Individual wells and central water systems to be approved by the appropriate health authorities. These approvals shall be submitted to the Commission.

(2) If the Commission requires that a connection to a public water main be eventually provided as a condition for approval of an individual well or central water system, the applicant shall make arrangements for future water service at the time the plat receives secondary approval. Performance or cash bonds may be required to ensure compliance.

(C) *Fire hydrants.* In subdivisions with central water systems, hydrants should be provided at each street intersection and at intermediate points between intersections as recommended by the State Insurance Services Office and the local Fire Department. Generally, hydrant spacing may range from 350 to 600 feet depending on the nature of the area being served as determined by the Jurisdictional Engineer.

(Ord. 2-2000, passed 3-13-2000, § 2.11)

#### **§ 152.13 SEWER FACILITIES.**

(A) *General requirements.* The subdivider shall install sanitary sewer facilities in a manner prescribed by the county construction standards and specifications.

(1) All plans shall be designed in accordance with the rules, regulations and standards of the Jurisdictional Engineer, Health Department and other appropriate state and federal agencies. (In the case of a city system extended into the county, the city's engineering standards and the like would prevail.)

(2) 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.

(3) Plans shall be approved by the all state and federal agencies where required by those agencies.

(B) *Sanitary sewage system requirements.*

(1) Where provided, sanitary sewage facilities shall connect with public sanitary sewage systems and shall be installed to serve each lot to grades and sizes required by approving officials and agencies.

(2) Sanitary sewage facilities (including the installation of laterals in the right-of-way) shall be subject to the specifications, rules, regulations and guidelines of the Health Officer, participating jurisdiction and appropriate state agency.

(C) *Individual disposal system requirements.* If public sewer facilities are not available and individual disposal systems are proposed, minimum lot areas shall conform to the requirements of Chapter 153 of this code of ordinances and any ordinance of any participating jurisdiction (where applicable) establishing lot areas for individual sewerage disposal systems.

(D) *Selected design criteria.*

(1) *Alignment.* All sewers shall be laid with a straight alignment between manholes, unless otherwise directed or approved by the Jurisdictional Engineer.

(2) *Manhole location.* Manholes shall be installed at the end of each line and at distances not greater than 400 feet for sewers 18 inches in diameter and larger.

(3) *Manholes.*

(a) The difference in elevation between any incoming sewer and the manhole invert shall not exceed 12 inches where required to match crowns.

(b) The use of drop manholes requires approval by the Jurisdictional Engineer.

(c) The minimum inside diameter of the manholes shall conform to those specified by the Jurisdictional Engineer.

(d) The relationships between intersecting sewer lines shall meet the standards required by the Jurisdictional Engineer. (See division (D)(3)(a) above.)

(4) *Sewage locations.*

(a) Sanitary sewers shall be located within street or alley rights-of-way unless topography dictates otherwise.

(b) When located in easements on private property, access shall be provided to all manholes.

(c) Where sewer lines in private easements cross public street or alley rights-of-way, a manhole shall be provided in the rights-of-way where possible.

(d) Imposed loading shall be considered at all manhole locations.

(e) Not less than six feet of cover shall be provided over the top of pipe in street and alley rights-of-way or three feet in all other areas.

(5) *Cleanouts.* All cleanouts must be sealed to prevent ground water, storm water and the like from entering the system.

(6) *Water supply interconnections.* There shall be no physical connection between a public or private potable water supply system and a sewer. Sewers shall be kept removed from water supply wells or other water supply sources and structures.

(7) *Relation of sewers to water mains.*

(a) A minimum horizontal distance of ten feet shall be maintained between parallel water and sewer lines.

(b) 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.

(Ord. 2-2000, passed 3-13-2000, § 2.12)

**§ 152.14 SIDEWALKS.**

(A) Sidewalks shall be included within the dedicated, unpaved portions of the rights-of-way of all streets as shown in the table below when the proposed subdivision is adjacent to or within 1,320 (one-fourth mile) linear feet of a development or area with existing, proposed or required sidewalks.

(B) Concrete curbs are required for all streets where sidewalks are required by these regulations or required at the discretion of the Commission.

(C) A grassed or landscaped median strip at least two feet wide shall separate all sidewalks from adjacent curbs. The median strip shall be improved according hereto.

<i>Table § 152.14 - Required Sidewalks in Urban Cross Section</i>	
<i>Street Type</i>	<i>Standard Width</i>
All residential	4 feet
Non-residential, except arterial	4 feet
Non-residential, arterial	6 feet

(D) In order to facilitate pedestrian access from the street to schools, parks, playgrounds or other nearby streets, the Commission may require perpetual unobstructed easements at least 20 feet in width. The easements shall be indicated on both the preliminary and final plats.

(Ord. 2-2000, passed 3-13-2000, § 2.13)

**§ 152.15 UTILITIES.***(A) Location.*

(1) All utility lines, including but not limited to gas, electric power, telephone and CATV cables shall be located underground throughout the subdivision.

(2) Wherever existing lines are located above ground, except on public roads and rights-of-ways, they shall be removed and placed underground.

(3) All utility lines and other facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat.

(4) Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense.

(5) 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 preliminary use.

*(B) Easements.*

(1) Easements centered on rear lot lines shall be provided for utilities (private and municipal). The easements shall be at least 12 feet wide. Proper coordination shall be established between the subdivider and the applicable utility companies for the coordination of utility easements with those established in adjoining properties.

(2) Where topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least 12 feet in width shall be provided along side lot lines with satisfactory access to the road or rear lot lines. All easements shall be indicated on preliminary and final plats.

(3) Front line easements may be provided when determined necessary and appropriate by the Commission based upon utility or other agency requests.

(Ord. 2-2000, passed 3-13-2000, § 2.14)

**§ 152.16 PUBLIC USES.**

*(A) Parks, playgrounds and recreation areas; recreation standards.* Single-family residential subdivisions are not required to put in parks, playgrounds and recreation areas, unless the subdivision has 20 or more lots including future phases. All multi-family subdivisions are required to put in parks,



playgrounds or recreation areas. The Commission may require that land be reserved for parks, playgrounds or other recreational purposes in locations in commercial or industrial subdivisions if the Board deems it needed. All required specials must be sized according to Tables § 152.16(A) and (B).

(1) Each reservation shall be of suitable size, dimension, topography and general character and shall have adequate road access for the particular purposes envisioned by the Commission.

(2) The area shall be shown and marked on the plat: “Reserved for Park and/or Recreational Purposes”.

(3) The Commission may refer the proposed reservations to the local government official or agency in charge of parks and recreation for recommendation. If approved by the official or agency, the developer shall dedicate all recreation areas to the local government as a condition of secondary approval.

<i>Table § 152.16(A) - Recreation Requirements</i>	
<i>Single-Family Lots Be Size of Lot Square Feet</i>	<i>Percentage of Total Land in Subdivision to Be Reserved for Recreation Purposes</i>
80,000 and greater	1.5%
50,000 to 79,999	2.5%
40,000 to 49,999	3.0%
35,000 to 39,999	3.5%
25,000 to 29,999	4.0%
15,000 to 19,999	5.0%

<i>Table § 152.16(B) - Recreation Requirements</i>	
<i>Multi-Family Subdivision</i>	<i>Percentage of Total Land in Subdivision to Be Reserved for Recreation Purposes</i>
<i>Number of Units</i>	
30 units and greater	5.0%
20 to 29 units	4.0%
15 to 19 units	3.5%
10 to 14 units	3.0%
5 to 9 units	2.5%
2 to 4 units	2.0%

*(B) Recreation sites.*

(1) Land reserved for recreation purposes shall be of a character and location suitable for use as a playground, play field or other active recreation purposes and shall be relatively level and dry.

(2) It shall be improved by the developer to the standards required by the Commission and the cost of the improvements shall be included in the amount of the performance bond.

(3) Passive recreation areas along stream valleys are acceptable if adequate flat land is also provided for space-consuming recreation activities. A recreation site shall have a total frontage on one or more streets of at least 200 feet at no point be narrower than 50 feet.

(4) The Commission may refer any subdivision intended to contain dedicated park to the local government official, department or agency in charge of parks and recreation for a recommendation.

(5) All land to be reserved for dedication to the appropriate jurisdiction for park purposes shall have prior approval of the jurisdiction and shall be shown on the plat as "Reserved for Park and/or Recreation Purposes".

*(C) Other recreation reservations.* The provisions of this section are minimum standards. None of the preceding sections of this chapter shall be construed as prohibiting a developer from reserving other land for recreation purposes in addition to the requirements of this section.

(Ord. 2-2000, passed 3-13-2000, § 2.15)

**§ 152.17 PRESERVATION OF NATURAL FEATURES AND AMENITIES.**

Existing features which would add value to the type of intended development or to the community as a whole, such as trees, watercourses, falls, beaches, historic spots and similar irreplaceable assets, shall be preserved in the design of the subdivision. All trees on the plat which are required to be retained shall be preserved and all trees, where needed, shall be welled and protected against change of grade.

(Ord. 2-2000, passed 3-13-2000, § 2.16)

**§ 152.18 NONRESIDENTIAL SUBDIVISIONS.***(A) General.*

(1) If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of the subdivision with respect to the land shall meet the special provisions as the Commission finds appropriate and requires and the requirements of this chapter.

(2) A nonresidential subdivision shall also be subject to all the requirements set for in Chapter 153 of this code of ordinances.

(3) Site plan approval and nonresidential subdivision plat approval may proceed simultaneously, at the discretion of the Planning Commission.

(4) All shopping centers and other nonresidential subdivisions of buildings for leasehold shall be subject to the relevant provisions of this chapter.

(B) *Standards.* In addition to the principles and standards in these regulations which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the Commission that the street, parcel and clock pattern proposed are appropriate for the uses anticipated and adequately take into account other uses in the vicinity. The following principles and standards shall be observed.

(1) Proposed commercial or industrial parcels shall be suitable in minimum area and dimensions to the types of industrial development anticipated as listed in Chapter 153 of this code of ordinances. Proposals for incremental lot by lot subdivision must be made clear in a statement on the preliminary plat which 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 to be generated thereupon.

(3) Special requirements may be imposed by the Commission upon recommendation of the appropriate participating jurisdiction with respect to 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 potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing onto existing or potential residential development and provision of a permanently landscaped buffer strip where necessary. The buffer must be located along any boundary line of the subdivision which adjoins a residential district. The Area Plan Commission has the right to require a buffer with higher standards than those listed in divisions (B)(5)(a) and (b) below if it deems necessary:

(a) A privacy type fence at least six feet in height (unless otherwise directed by Area Plan Commission) on a minimum of six feet in width greenway strip (unless otherwise directed by the Area Plan Commission).

(b) A greenway strip at least 12 feet in width (unless otherwise directed by the Area Plan Commission) with trees and shrubs, 50% of which are of the evergreen variety, is an acceptable buffer.

(6) Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas unless approved by the Plan Commission. The request to the Area Plan Commission must be accompanied by a letter of support from the Jurisdictional Engineer or his or her representative.

(Ord. 2-2000, passed 3-13-2000, § 2.17)

#### **§ 152.19 ASSURANCE FOR COMPLETION OF IMPROVEMENTS.**

*(A) Completion of improvements.*

(1) *Bond, escrow account, letter of credit to cover costs.* Before the plat is signed by the designated officials all applicants shall be required to present a bond, escrow account or letter of credit with the performance agreement to cover the cost of 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. The bond, escrow account, letter of credit and performance agreement must be approved by the Commission's Attorney.

*(2) Financing of improvements.*

(a) The applicant shall post bond securable to the County Area Plan and the participating jurisdiction in which the subdivision lies (hereinafter referred to as performance bond) in an amount equivalent to 100% of the estimated cost of completion of the required public improvements.

(b) This amount of the bond shall be sufficient to secure to the participating jurisdiction the satisfactory construction and installation of the uncompleted portion of required public improvements as provided for in this chapter.

(c) In lieu of a bond, the subdivider may submit a certified check made payable to the county or the appropriate jurisdiction in an amount equivalent to 100% of the estimated cost of completion of the uncompleted portion of required public improvements as provided for in this chapter. Any check shall be held by the County Auditor.

(d) In lieu of a bond, the subdivider may submit an irrevocable letters of credit in behalf of the subdivider and securable by the county or the appropriate participating jurisdiction in an amount equivalent to 100% of the estimated cost of completion of the uncompleted portion of required public improvements as provided in this chapter. In the event an irrevocable letter of credit is used, it shall be written for a maximum length of two years. If the improvements have not been accepted, the Commission shall so notify the subdivider of the jurisdiction's intent to secure the funds pledged by the letter of credit.

(e) In lieu of a bond, the subdivider may submit a certificate of deposit made out to the county.

1. The bond is to be held by the County Auditor in an amount equivalent to 100% of the cost of completion of the uncompleted portion of required public improvements as provided for in this chapter.

2. The subdivider must endorse the certificate of deposit before submitting it to the Commission so that the county may secure the funds.

(f) A performance bond furnished pursuant to this chapter shall comply with all statutory requirements and shall be satisfactory to the Commission Attorney as to form, sufficiency and manner of execution as set forth in this chapter.

1. The period within which required public improvements must be completed shall be specified by the Commission in the preliminary 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.

2. The bond shall be approved by the participating jurisdiction as to amount.

3. The Commission may, upon proof of difficulty, grant an extension of the completion date set forth in the bond for a maximum period of one additional year; provided that, the bond submitted for this extension period meets all other requirements herein.

4. The Commission may, at any time during the term of the bond, accept a substitution of principal or sureties on the bond.

*(B) Temporary public improvements.*

(1) The applicant shall pay for all costs of temporary public improvements required by the Commission (or as requested by the participating jurisdiction) and shall maintain same for the period specified by the Commission.

(2) Prior to construction of any temporary public facility or improvement, the subdivider shall file with the Commission a separate suitable bond for temporary facilities. This bond shall insure that the temporary facilities will be properly constructed, maintained and removed (except for turnarounds at ends of the peripheral stub streets intended for connection into adjacent future subdivisions).

*(C) Cost of public improvements.* All required public improvements shall be made by the applicant at his or her expense without reimbursement by the participating jurisdiction or any public improvement district therein, unless sharing of expenses is agreed upon by the county or other participating jurisdiction or any public improvement district therein, unless sharing of expenses is agreed upon by the county or other participating jurisdiction, where applicable.

(D) *Governmental units.* Governmental units to which these bond provisions apply may file a certified resolution or ordinance from officers or agencies authorized to act in their behalf, agreeing to comply with the provisions of this section in lieu of the bond.

(E) *Failure to complete public improvements.*

(1) For subdivisions for which no performance bond or equivalent has been posted, if the public improvements are not completed within the period specified by the Commission in the preliminary approval of the preliminary plat the approval shall be deemed to have expired.

(2) In those cases where a performance bond or equivalent has been posted and the required public improvements have not been installed within the terms of the performance bond or equivalent, the participating jurisdiction may thereupon request the county or participating jurisdiction to declare the bond to be in default and cause all public improvements to be installed according to secondary approval regardless of the extent of the building development at the time the bond is declared to be in default.

(F) *Acceptance of dedication offers.* The approval by the Commission of a subdivision plat shall not be deemed to constitute or imply the acceptance by the county or other participating jurisdiction of any street, easement or park shown on the plat. The Commission may require the plat to be endorsed with appropriate notes to this effect. The approval relates only to the real property itself.

(Ord. 2-2000, passed 3-13-2000, § 2.18)

## § 152.20 INSPECTION OF PUBLIC IMPROVEMENTS.

(A) *General procedure.* If the participating jurisdiction finds upon inspection, per this chapter, that any of the improvements have not been constructed in accordance with the approved construction plans, the applicant shall be responsible for completing the public improvements according to the 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 specifications.

(B) *Release or reduction of performance bond.*

(1) *Certificate of satisfactory completion.* The county or other participating jurisdiction shall not accept required public improvements, nor the Commission release nor reduce a performance bond, until the Jurisdictional Engineer has submitted to it a certificate stating that all required public improvements or a pro rata part in the case of a reduction have been satisfactorily completed.

(a) The applicant's engineer or surveyor shall provide the participating jurisdiction with detailed "as built" construction plans of the public improvements, indicating location, dimensions, materials and other information required by the Commission or participating jurisdiction.

(b) Upon the certification, the county or other participating jurisdiction shall thereafter accept the public improvements for maintenance in accordance with the established procedures unless the county has reliable information as to noncompliance with the plans and specifications.

(2) *Reduction of performance bond.* A performance bond shall be reduced upon actual acceptance of public improvements, but only by the amount originally estimated for the completion of the public improvements.

(C) *Maintenance of public improvements.*

(1) 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 the public improvements by the county or other participating jurisdiction.

(2) The applicant shall be required to file a maintenance bond with the Commission, prior to acceptance, in an amount not to exceed 10% of the cost of all public improvements, and in a form satisfactory to the Commission Attorney. The maintenance bond is provided to assure the satisfactory condition of the required public improvements for a period of three years after the date of their acceptance by the appropriate participating jurisdiction.

(D) *Issuance of improvement location permits.*

(1) No improvement location permit shall be issued for the last 10% of the lots or two lots, whichever is the highest, in a final subdivision plat 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 participating jurisdiction.

(2) No permits may be issued for any portion of the area submitted for subdivision, until the plat has been approved and recorded.

(Ord. 2-2000, passed 3-13-2000, § 2.19)

## ADMINISTRATION

### § 152.35 ESTABLISHMENT OF REGULATIONS.

These regulations shall hereafter be known and cited as the “Grant County Areawide Subdivision Ordinance”.

(Ord. 2-2000, passed 3-13-2000, § 3.1)

**§ 152.36 AUTHORITY AND JURISDICTION.**

These regulations are enacted pursuant to I.C. 36-7-4-700, as amended, which authorizes the County Area Plan Commission to:

(A) Review and approve or disapprove plats for subdivisions through its jurisdiction. The jurisdiction of the Commission shall include the unincorporated areas of the county, and the Towns of Fairmount, Jonesboro, Matthews, Sweetser, Upland and Van Buren; and

(B) No improvement location permit or building permit shall be issued for any parcel or plat that is created by subdividing land that is not in conformity with the provisions of this chapter. The excavation of land or construction of any public or private improvements shall be commenced only in conformity with the construction standards adopted by the county or the participating jurisdictions. (Ord. 2-2000, passed 3-13-2000, § 3.2)

**§ 152.37 INTERPRETATION AND CONFLICT.**

(A) *Public provisions.* These regulations are not intended to interfere with, abrogate or annul any other ordinance, rule, regulation, statute or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule, regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

(B) *Private provisions.*

(1) These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction; provided that, where the provisions of these regulations are more restrictive or impose higher standards or regulations than the easement, covenant or other private agreement or restriction, the requirements of these regulations shall govern.

(2) Where the provisions of the easement, covenant or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of this chapter, and the private provisions are not inconsistent with this chapter or determinations thereunder, then the private provision shall be operative and supplemental to these regulations. Private provisions can only be enforced privately unless a public agency ordered/required the provision and has agreed to enforce the provisions.

(Ord. 2-2000, passed 3-13-2000, § 3.3)



**§ 152.38 SEPARABILITY.**

(A) If any part or provision of this chapter or application thereof to any person or circumstances is judged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision or application directly involved.

(B) The judgment shall not affect or impair the validity of the remainder of these regulations.

(C) The county and participating jurisdictions hereby declare that each would have enacted the remainder of these regulations even without any part, provision or application.

(Ord. 2-2000, passed 3-13-2000, § 3.4)

**§ 152.39 SAVING PROVISION.**

These regulations shall not be construed as abating any action now pending under prior existing subdivision regulations, or as affecting the liability of any person, firm or corporation, or as waiving any right of the county or municipality under any section or provision existing at the time of adoption of these regulations or as vacating or annulling any rights obtained by any person, firm or corporation, by lawful action of the participating jurisdictions, except as shall be expressly provided for in these regulations.

(Ord. 2-2000, passed 3-13-2000, § 3.5)

**§ 152.40 REPEALER.**

Upon the adoption of these regulations according to law, the existing Areawide Subdivision Regulations, as amended, are hereby repealed, except for the sections expressly retained herein.

(Ord. 2-2000, passed 3-13-2000, § 3.6)

**§ 152.41 AMENDMENTS.**

All participating jurisdictions, on recommendation of the Commission, may from time to time amend the provisions imposed by this chapter. Public hearings on all proposed amendments shall be held by the Commission in the manner prescribed by law.

(Ord. 2-2000, passed 3-13-2000, § 3.7)

**§ 152.42 CONDITIONS.**

Regulation of the subdividing of land and the attachment of reasonable conditions to land subdividing is an exercise of valid police power delegated by the state to the county and participating jurisdictions.

(Ord. 2-2000, passed 3-13-2000, § 3.8)

**§ 152.43 RESUBDIVISION OR FUTURE SUBDIVISION OF LAND.**

(A) *Procedure for re-subdivision.* For any change in a map of an approved or recorded subdivision plat except for typographical errors, the petitioner must file the corrected plat with the Area Plan Office and follow the same procedure, rules and regulations for the subdivision plat approval as stated in the current ordinance.

(B) *Procedure for subdivision where future subdivision is indicated.* Whenever a parcel of land is subdivided, the Commission may require that the parcels of land allow for the future opening or streets or the extension of adjacent streets. Easements or rights-of-way providing for the future opening and extension of the streets may be made a requirement of the plat.

(Ord. 2-2000, passed 3-13-2000, § 3.9)

**§ 152.44 VACATION OF PLATS.**

Any recorded plat or part of any recorded plat may be vacated only in accordance with I.C. 36-7-3, as amended from time to time, and according to the rules and procedures of the Area Plan Commission. (Ord. 2-2000, passed 3-13-2000, § 3.10)

**§ 152.45 VARIANCES.**

(A) *General.* Where the Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to these subdivision regulations. The 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 are carried out; and

(4) The variance will not in any manner contradict the provisions of Chapters 151 and 153 or Official Map as interpreted by the Commission and the Jurisdictional Engineer.

(B) *Conditions.* In approving variances, the Commission may require such conditions as will secure the objectives of the standards or requirements of these regulations.

(C) *Procedures.* An approved petition for any variance shall be submitted in writing by the subdivider at the time when the preliminary plat application is filed. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

(D) *Modifications.* Variance modifications must be submitted in writing to the Commission. These modifications shall be referred immediately to the appropriate participating jurisdiction for their approval or rejection. If the participating jurisdiction approves of the modifications in writing, or fails to either approve or disapprove within 30 days after the same has been referred to them, the Commission may modify the requirements, standards and specifications so as to promote the public health, safety and welfare, and prevent detriment to the use and value of the land. However, nothing herein shall be construed as altering or conflicting with the powers and duties of the Board of Zoning Appeals pursuant to I.C. 36-7-4-900, as amended. No authority to modify shall exist in the Commission if the appropriate participating jurisdiction by writing disapproves the modification.

(Ord. 2-2000, passed 3-13-2000, § 3.11)

#### **§ 152.46 ENFORCEMENT, VIOLATION AND PENALTIES.**

(A) *Generally.* It shall be the duty of the Administrator to enforce these regulations and to bring any violations or lack of compliance to the attention of the Commission Attorney.

(1) No owner, or agent of the owner, of any parcel of land located in a proposed subdivision shall transfer or sell any parcel before the subdivision plat has been approved by the Commission and filed with the County Recorder.

(2) The division of any lot or any parcel of land into a subdivision by the use of metes and bounds description for the purpose of sale, transfer or lease resulting in the creation of one or more new building sites shall not be permitted. All described divisions shall be subject to all of the appropriate requirements of this chapter.

(3) No improvement location permit shall be issued on any property until the property complies with all the provision of this chapter.

(B) *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) Chapter 153 of this code of ordinances and all other applicable laws and ordinances of the appropriate jurisdictions;

(3) Chapter 151 of this code of ordinances and Capital Improvements Program of the county and participating jurisdictions including all streets, drainage systems and parks shown on the Official Map or Comprehensive Plan as adopted;

(4) The special requirements of these regulations and any rules of the Health Department and/or appropriate state agencies;

(5) The rules and regulations of the State Department of Highways if the subdivision or any lot contained therein about a state highway or state frontage road;

(6) The highway and drainage standards and regulations adopted by the Jurisdictional Engineer and all boards, commissions, agencies and officials of the county or participating jurisdiction;

(7) All pertinent standards contained within still valid planning guides published by the Plan Commission; and

(8) Instructions to surveyors, as adopted by the Commission.  
(Ord. 2-2000, passed 3-13-2000, § 3.12)

#### **§ 152.47 RESTRAINING PROVISIONS.**

(A) Any land within any participation jurisdiction that was subdivided in violation of the terms of this chapter after the effective date hereof, is declared a common nuisance and may be restrained, enjoined or abated in any appropriate action or proceeding.

(B) The Commission may institute a suit for mandatory injunction requesting an individual or governmental unit be directed to remove a structure erected in violation of this chapter, or comply with the terms of the chapter. If the Commission is successful in its suit, the respondent shall bear the costs of the action.

(C) The Commission may institute a suit for mandatory injunction requesting an individual or governmental unit be directed to comply with the provisions of this chapter. If the Commission is successful in its suit, the respondent shall pay the Commission's reasonable attorney fees and all costs related to the enforcement of this chapter.

(Ord. 2-2000, passed 3-13-2000, § 3.13)

**§ 152.48 USAGE.**

For the purpose of these regulations, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this section.

(A) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense.

(B) Words used in the plural number include the singular.

(C) The word “herein” means “in these regulations”.

(D) The word “regulations” means “these regulations”.

(E) A “person” includes a corporation, a partnership and an incorporated association of person such as a club.

(F) The word “shall” is always mandatory.

(G) The words “used” or “occupied” as applied to any land or building shall be construed to include the words “intended”, “arranged” or “designed to be used or occupied”.

(Ord. 2-2000, passed 3-13-2000, § 3.14)

**§ 152.99 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 \$10 and not more than \$300 for each day’s violation.

(Ord. 2-2000, passed 3-13-2000, § 3.12)



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**GENERAL PROVISIONS**

**§ 153.001 SHORT TITLE.**

These regulations, together with all future amendments, shall be known as the “Grant County Areawide Zoning Ordinance”, may be cited as such, and will be also referred to herein as “this chapter”.  
(Ord. 2-2000, passed 3-13-2000, § 1.1)

**§ 153.002 AUTHORITY.**

This chapter is hereby adopted pursuant to the authority conferred within I.C. Article 7, Planning and Development, of Title 36, Local Government, as amended.  
(Ord. 2-2000, passed 3-13-2000, § 1.2)

**§ 153.003 PURPOSE AND RELATIONSHIP TO THE COUNTY COMPREHENSIVE PLAN.**

(A) This code is enacted to protect health, safety and general welfare of the present and future growth, development and distribution of land uses within the county.

(B) Enactment, amendment and administration of this chapter shall be governed by the statutory authority granted to counties to govern the use and development of land, consistent with applicable constitutional principles.

(C) Enactment, amendment and administration of this chapter shall be in accordance with and shall serve to implement the goals and policies of the County Comprehensive Plan, and the authority set forth in the applicable provisions of the state code as well as the provisions of any jointly adopted intergovernmental agreement or master plan governing the use and development of land of mutual concern to the county.

(Ord. 2-2000, passed 3-13-2000, § 1.3)

**§ 153.004 JURISDICTION AND AUTHORITY.**

(A) This chapter shall apply to all land within the unincorporated areas of the county.

(B) This chapter, including any future amendments, shall take effect immediately upon adoption by all legislative bodies under the jurisdiction of the Area Plan Commission, unless otherwise set forth in the Board's motion of approval.

(C) In cases where regulations contained in this chapter conflict with regulations approved as part of a state statute, the higher regulatory standard will apply.

(D) In cases where regulations contained in this chapter conflict with the body's bylaws these regulations shall prevail/govern.  
(Ord. 2-2000, passed 3-13-2000, § 1.4)





**§ 153.005 SAVING PROVISIONS AND AMENDMENTS.**

(A) The enactment or amendment of this chapter shall not be construed in any of the following ways, except as expressly stated:

- (1) Abating any action either approved or pending under prior provisions;
- (2) As discontinuing, abating, modifying or altering any penalty accruing or about to accrue;
- (3) As affecting the liability of any person;
- (4) As waiving any right of the county under any provision existing prior to the adoption of this chapter; or
- (5) As vacating or annulling any rights obtained by any person by lawful action of the county.

(B) The provisions of this chapter may be amended as defined:

(1) All proposed amendments must be presented to the Plan Commission, at a duly advertised public hearing, for a recommendation. Notification of the meeting and proposed amendment must meet all state requirements for advertisement and notification.

(2) All proposed amendments must be presented to all legislative bodies with a recommendation from the Plan Commission. The legislative bodies must take action to deny, approve or continue on the proposed amendment(s). In cases of amendments to the chapter for a chapter designated for a specific town or city, the proposed amendments must only go before the affected legislative body and not all legislative bodies.

(Ord. 2-2000, passed 3-13-2000, § 1.5)

**§ 153.006 SEVERABILITY.**

If any provision of this chapter is ruled to be invalid by any court of competent jurisdiction, the effect of the judgment shall be confined to that specific provision held to be invalid as expressly stated in the judgment, and shall not affect, impair or nullify the validity or application of any other portion of this chapter.

(Ord. 2-2000, passed 3-13-2000, § 1.6)

**§ 153.007 NONINTERFERENCE WITH GREATER RESTRICTIONS.**

It is not intended for this chapter to interfere with, or abrogate or annul any easements, covenants or other agreements between parties, or ordinance, other than expressly repealed hereby, rules, regulations or permits previously adopted or issued, and not in conflict with any of the provisions of this chapter, or which shall be adopted or provided; except that, where this chapter imposes a greater restriction upon the use of buildings or land, or upon the height of buildings, or requires larger open spaces or greater to area per family, than are required or imposed by the easements, covenants or agreements between parties, or by the ordinances, rules, regulations or permits, the provisions of this chapter shall control. This provision shall not be construed to require that the Commission shall administer any easement, covenant or other agreement, unless expressly provided herein.

(Ord. 2-2000, passed 3-13-2000, § 1.7)

**§ 153.008 INTERPRETATION.**

(A) The following principles shall be used in interpreting this chapter:

(1) The provisions of this chapter shall be regarded as the minimum requirements for the protection of the public health, safety and general welfare. This chapter shall therefor be regarded as remedial and shall be liberally construed to further its underlying purposes;

(2) This chapter is not intended to interfere or conflict with, abrogate or annul any other regulation, statute or provision of law;

(3) Whenever a provision of this chapter and provision of any other law, ordinance, resolution, rule or regulation of any kind, including another provision of this chapter, contain any restrictions covering the same subject matter, the more restrictive shall govern;

(4) It is presumed that the requirements of this chapter apply to future actions unless otherwise stated; and

(5) The titles and subtitles of all articles and sections are operative provisions of this chapter. The text shall control in any case of difference in meaning or implication.

(B) Any person may request in writing an interpretation of any provision of this chapter that pertains to an application under review. The Area Plan Office shall issue a written determination to the person requesting the interpretation within five business days of request.

(Ord. 2-2000, passed 3-13-2000, § 1.8)



**§ 153.009 RULES OF CONSTRUCTION OF LANGUAGE.**

The following rules of construction of language shall be used in interpreting this chapter.

(A) Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.

(B) The particular controls the general.

(C) The word “shall” is always mandatory and not directory. The words “may” and “should” are permissive.

(D) Words used in the present tense include the future, unless the context clearly indicates the contrary.

(E) Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.

(F) Every word importing the masculine gender is extended and applied to females and things as well as males; every work importing the feminine gender is extended and applied to males and things as well as females; and every work importing the neutral gender is extended and applied to natural persons as well as things.

(G) If there is a conflict between figures and words in expressing a number, the words govern.

(H) A “building” or “structure” includes any part thereof. A “building or other structure” includes all other structures of every kind, regardless of similarity to buildings.

(I) The phrase “used for” includes “arranged for”, “designed for”, “intended for”, “maintained for” and “occupied for”.

(J) The words “existing”, “existed”, “exists” and “occupied” shall imply the modifier “lawfully”.

(K) Unless otherwise stated, the term “mailed” shall always mean transmitted via first class postage. (Ord. 2-2000, passed 3-13-2000, § 1.9)

**§ 153.010 COMPUTATION OF TIME.**

(A) The term “days” shall always refer to calendar days, unless otherwise specified.

(B) In computing a period of days, the first day is excluded and the last day is included unless the last day of any period is a Saturday, Sunday or legal holiday, in which case the last day shall be the next working day.

(C) The number of months is to be computed by counting the months from a particular day. The period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun. If there are not that many days in the concluding month, the period ends on the last day of that month.

(Ord. 2-2000, passed 3-13-2000, § 1.10)

### § 153.011 PRINTING.

If the language of the official copy of this chapter conflicts with the language of any subsequent printing or reprinting of this chapter, the language of the official copy always prevails.

(Ord. 2-2000, passed 3-13-2000, § 1.11)

### § 153.012 DEFINITIONS.

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

**ABANDONED.** To cease or suspend from developing or maintaining a building or use for one year or more.

**ABANDONED ACTIVITY.** A business or activity with no reported sales or activity for a period of at least 180 days. Exceptions are temporary closures for repairs, alterations or other similar situations.

**ABBATOIR.** A building or structure specifically designed to accommodate the penning and slaughtering of live animals and the preliminary processing of animal carcasses may include the packing, treating, storing and sale of the product on the premises.

**ABUT.** Having a common border with or being separated from a common border by a right-of-way, alley or easement.

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

**ACCESS DRIVEWAY.** The area between the traveled portion of a roadway and a parking lot used by motor vehicles for access to and from the parking lot but does not include an aisle.

**ACCESSORY.** A use which is clearly incidental to, and is customarily found in connection with, the principal use, and in the same ownership as such principal use, or is operated and maintained on the same zoning lot substantially for the benefit or convenience of the owners, occupants, employees, customers or visitors of the principal use.

**ACCESSORY APARTMENT.** A secondary dwelling unit either in or added to an existing business or single-family detached dwelling, or in a separate accessory structure on the same lot as the main dwelling or business, for use as a complete, independent living facility with provision within the accessory apartment for cooking, eating, sanitation and sleeping. Such a dwelling is an accessory use to the main dwelling.

**ACCESSORY BUILDING/STRUCTURE.** A detached building located on the same lot as an existing building, the use of which is incidental or secondary to that of the main building and which is not used for human habitation and includes a private garage or implement shed.

**ACCESSORY OFFICE USE.** A business or professional office which is an accessory use, and which occupies less than 25% of the gross floor area of the premises with which it is associated.

**ACCESSORY OPEN STORAGE USE.** The storage of goods or things customarily associated with a retail commercial or a public utility use when the storage is not contained within a building.

**ACCESSORY STRUCTURE (APPURTENANT STRUCTURE).** A structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. **ACCESSORY STRUCTURES** should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of **ACCESSORY STRUCTURES** are detached garages, carports, storage sheds, pole barns, and hay sheds.

**ADDITION.**

(1) Any construction which increases the size of a building such as a porch, attached garage or carport, or a new room.

(2) For the Floodplain Management subchapter, **ADDITION** (to an existing structure) means 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 a new construction.

**ADULT CARE, RESIDENTIAL FACILITY.** A dwelling or similar building of a residential character which is used or intended to be used to provide housing and care for five or fewer unrelated ambulatory persons who are 18 years of age or older and who are elderly, physically ill or infirm, physically disabled, mentally retarded or who have a mental disability or illness such that they do not require constant supervision or treatment. **RESIDENTIAL FACILITY FOR ADULT CARE** includes a group or community residence which is licensed by the state/province as a “residential facility for groups” and is designed to provide transitional living arrangements for persons with illness or disability, but only if medical and psychiatric care is provided therein no more than on an occasional basis and incidental to its use as a residence. The term does not include a convalescent care facility, hospital or special care facility nor any facility which:

(1) Provides or is designed to provide surgical, medical or other specialized treatment which normally is provided by a convalescent care facility, hospital or special care facility; or

(2) Provides housing or care to persons who have a chronic illness, disease, injury or other condition that would require the degree of care and treatment normally provided by a convalescent care facility, hospital or special care facility.

**ADULT ENTERTAINMENT PARLOR.** (Sexually oriented businesses.) Any premises or part thereof in which is provided, in pursuance of a trade, calling, business or occupation, goods, including books, magazines, pictures, slides, film, phonograph records, prerecorded magnetic tape and any other reading, viewing or listening matter, or services including activities, facilities, performances, exhibitions, viewing and encounters, the principal feature or characteristic of which is the nudity or partial nudity of any person, or in respect of which the word “nude”, “naked”, “topless”, “bottomless”, “sexy” or any other word or any picture, symbol or representation having like meaning or implication is used in any advertisement.

**ADULT USES.** (Sexually oriented businesses.)

(1) **ADULT BOOKSTORE.** An establishment having, as a substantial or significant portion of its stock-in-trade, books, magazines, and other periodicals which are distinguished or relating to specified sexual activities or specified anatomical areas, as defined below or an establishment with a segment or section devoted to the sale or display of the material.

(2) **ADULT MOTION PICTURE THEATER.** An enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined below, for observation by persons therein.

(3) **SPECIFIED ANATOMICAL AREAS.** Less than complete and opaquely covered human genitals, pubic region, buttocks and female breasts below a point immediately above the areola and human male genitals in a discernibly turgid state even if completely and opaquely covered.

(4) **SPECIFIED SEXUAL ACTIVITIES.** Human genitals in a state of sexual stimulation or arousal, acts of human masturbation, sexual intercourse or sodomy, fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

**ADVENTURE GAME.** An outdoor sport or recreation in which, participants carry or use one or more of the following items of equipment: paint pellet pistols with a CO<sub>2</sub> cartridge, paint pellets, safety goggles (to prevent pellets from striking participant’s eyes) and/or armbands identifying team participants.

**ADVERTISING USE.** A use of land, of a building exterior, or of a structure or thing for the advertising or promotion by visible or other means of a product, service, place, or event which is for sale, for rent, available, held, assembled, grown or manufactured elsewhere than on the same lot.

**AGGREGATE.** Gravel, sand, clay, earth, shale, limestone, dolostone, sandstone, marble, granite, rock, other than metallic ores, or other prescribed material under the appropriate statute.

**AGRICULTURE.** The use of land for agriculture purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture and animal or poultry husbandry and the necessary accessory uses for packing, treating or storing, the produce; provided, however, that, the operation of any accessory uses shall be secondary to that of the normal agricultural activities.

**AGRICULTURAL BUILDING.** Any building or structure customarily used in connection with a farm other than a residence.

**AGRICULTURAL, COMMERCIAL.** The use of land, structure or building for the purposes of buying and selling or the processing, storage and supply of commodities and services necessary to support agricultural operations, but does not include any manufacturing, assembling, processing, warehousing or construction use.

**AGRICULTURAL PRODUCE WAREHOUSE.** A building or part of a building used for the storage of agricultural produce and may include facilities for wholesale distribution or an accessory retail commercial outlet for the sale of the agricultural produce to the general public.

**AGRICULTURAL SERVICE ESTABLISHMENT.** The use of land, buildings or structures for the purpose of buying or selling commodities and services that support agricultural uses. These shall include such sales and services as welding and machinery repairs, farm drainage and excavation, well-drilling, contracting and trades related to farm buildings and structures, and custom spray, tillage, planting and harvesting services.

**AGRICULTURAL SUPPLY ESTABLISHMENT.** The use of land, buildings or structures for the purpose of supplying goods, materials and/or services that support agricultural uses. These shall include the goods and services as the sale and storage of seed, feed, fertilizer and chemical products, farm machinery and equipment sales and service.

**AGRICULTURAL USE.** Any farming or agricultural use and includes apiaries, aviaries, berry or bush crops, breeding, raising or training of horses, cattle or dogs, commercial greenhouses, farms devoted to the hatching, raising and marketing of chickens, turkeys or other fowl or game birds, animals, fish or frogs, farms for grazing, flower gardening, field crops, goat or cattle dairies, growing, raising, picking, treating and storing of vegetable or fruit product produced on the premises, mushroom farms, nurseries, orchards, riding stables, the raising of sheep or goats, the raising of swine, tree crops, market gardening, bee-keeping, wood lots, the uses or enterprises as are customarily carried on in the field of general agriculture, but shall not include a commercial slaughterhouse. The **AGRICULTURAL USE** shall include single-family dwelling houses and buildings and structures, such as barns and silos, which are incidental and accessory to the operation of a farm.

**AGRICULTURAL WORKER.** One who is engaged in the performance of the duties and maintenance necessary for the operation of a farm and is employed by the owner of a farm for that purpose.

**Air Bed & Breakfast Housing.** Applies only to a short-term rental property that is not owner-occupied or the owner's primary residence used for a short-term rental property. Also see: **Bed & Breakfast Housing-** "owner-occupied short-term rental property" means property that is the owner's primary residence and is offered to the public as a short-term rental.

**AIRFIELD.** Any land lot or building used for the purpose of landing, storing, taxiing or taking off of private or commercial aircraft pursuant to the regulations of the appropriate authority.

**AIRPORT.** The use of land, including water, runway or other facilities designed, used or intended to be used either publicly or by any person or persons for the landing or taking off of aircraft including all necessary buildings, structures and open spaces.

**AIRPORT ELEVATION.** The highest point of an airport's usable landing area measured in feet from sea level.

**AIRPORT HANGAR.** A building or structure designed and used for the shelter of aircraft.

**AIR-RIGHTS.** An estate, interest, easement or any legal right in or over land which grants or conveys the right to allow development to occur in the airspace over the land.

**AISLE.** The area used by motor vehicles for access to and from all off-street parking spaces but does not include an access driveway.

**ALLEY.** A public or private way permanently reserved as a secondary means of access to abutting property.

**ALTER.** Used in reference to a building or part thereof, shall mean to change any one or more of the external dimensions of the building, or to change the type of construction of the exterior walls or roof thereof. When used in reference to a lot, the word **ALTER** shall mean to change the area frontage, or depth thereof, to change the width, depth or area of any required yard, landscaped open space or parking area, or to change the location of any boundary of the lot with respect to a street or lane, whether the alteration is made by conveyance or alienation of any portion of the lot or otherwise. The words **ALTERED** or **ALTERATION** shall correspond in meanings.

**ALTERATION.** Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors or windows, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

**AMBIENT STANDARD.** A limit on the intensity of an environmental pollutant as measured at a receptor point rather than at the source.

**AMENITY AREA OR SPACE.** The area situated within the boundaries of a residential development site intended for recreational purposes, and may include landscaped areas, patios, private amenity areas, balconies, communal lounges, swimming pools, play areas and similar uses, but does not include any area occupied at grade by a building's service areas, parking lots, aisles, or access driveways.

**AMORTIZATION.** The process by which nonconforming uses and structures may be discontinued or made to conform to requirements of this chapter at the end of a specified period.

**AMUSEMENT DEVICE.** Any device which upon insertion of a coin, slug, token, plate or disc or the payment of a consideration may be used by the public as a game, entertainment, amusement, test of skill and shall include pool tables, pinball machines, electronic games, fixed kiddy rides, mechanical bulls, but shall not include radios or televisions.

**AMUSEMENT GAME.** Any mechanical or electronic device used or designed to be operated for entertainment or as a game by the insertion of a coin or slug or payment of consideration of any type or by any means and shall include the type of mechanical or electronic devices commonly known as “baseball”, “radio”, “target gun or similar target”, “football”, “pinball”, “pool table”, “snooker table”, “foosball” and television-screen type or video games. The above enumeration shall not be deemed exclusive.

**AMUSEMENT GAME** does not include jukeboxes or coin-operated billiard tables.

**AMUSEMENT PARK.** A commercial-recreational establishment where permanent buildings or structures have been erected for the purposes of a circus or carnival or similar exhibition or midway show or sideshow and where one or more of the following classes of amusement or recreation are also provided:

- (1) Mechanically or electrically operated rides; and/or
- (2) A restaurant(s).

**AMUSEMENT RIDES.** A device or a combination of devices designed or intended to entertain and amuse people by physically moving them.

**ANIMAL CLINIC.** A facility in which the practice is conducted is essentially of an outpatient nature for animals excluding humans.

**ANIMAL ENCLOSURE.** An area completely enclosed and covered by chain link fencing of at least six-cm gauge, or solid walls within which one or more animals can be confined but shall not include a temporary holding space. Where an earthen floor is provided within an animal enclosure, a two-foot-wide strip of wire mesh shall be provided, extending horizontally underground into the cage from the enclosing wall or fence.

**ANIMAL HOSPITAL.** A building or structure in which facilities are provided for the prevention, cure and alleviation of disease and injury to animals, excluding humans, and in conjunction with which there may be shelter provided, within the building or structure, during the period of treatment.

**ANIMAL POUND.** The use of land or buildings for the purposes of impounding dogs and cats pursuant to an ordinance of the county and where the dogs and cats are kept for a minimum redemption period as defined in the appropriate statute.

**ANIMAL SHELTER.** A lot and/or building or part thereof used for the care of lost, abandoned or neglected animals, excluding humans.

**ANTENNA.** Any system of wires, poles, rods, reflecting discs or similar devices used for the transmission or reception of electromagnetic waves external to or attached to the exterior of any building.

**ANTIQUÉ STORE.** Any building used for the sale of any old and authentic objects of personal

property which was made, fabricated, or manufactured 60 or more years earlier and which has a unique appeal and enhanced value mainly because of its age, and, in addition, may include the sale of any article of personal property which was made, fabricated, or manufactured 20 or more years earlier and because of public demand has attained value in a recognized commercial market which is more than its original value.

**APARTMENT BUILDING.** A separate building containing between five and 20 units having common corridors and stairways and having shared exit and entrance facilities.

**APARTMENT HOTEL.** A building or portion of a building used mainly for the purpose of furnishing living quarters for families by the month or more than a month, and not for any period of less than a month and having at least six suites of rooms for rent and having a restaurant or dining room.

**APPEAL.** In the Floodplain Management subchapter, a request for a review of the Floodplain Administrator's interpretation of any provision of that subchapter.

**APPROACH SURFACE.** A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth herein. In plan, the perimeter of the **APPROACH SURFACE** coincides with the perimeter of the approach zone.

**AQUACULTURE.** Land devoted to the hatching, raising, and breeding of fish or other aquatic plants or animals for sale or personal use.

**ARCADE.** A place of business where an individual, association, partnership, or corporation maintains four or more amusement devices or games for public use.

**AREA OF SHALLOW FLOODING.** A designated AO or AH Zone on the community's flood insurance rate map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**AREAS OF NATURAL AND SCIENTIFIC INTEREST.** Areas of land and water containing natural landscape features which have been identified as having values related to protection, natural heritage appreciation, scientific study, or education.

**ART GALLERY.** A building, place or area where paintings, sculptures or other works of art are exhibited or sold.

**ARTERIAL STREET OR ROAD.** A street with a minimum road allowance width of 66 feet or whose access shall be controlled and limited and is designed to handle through traffic between major land uses.

**AS OF RIGHT ZONING.** Uses and development standards that are determined in advance and specifically authorized by this chapter.



**ASSEMBLY HALL.** A building, or part of a building, in which facilities are provided for such purposes as meetings for civic, educational, political, religious, or social purposes and may include a banquet hall, private club or fraternal organization.

**ATTACHED.** A building otherwise complete, which depends, for structural support or complete enclosure, upon a division wall or walls shared in common with an adjacent building or buildings.

**ATTIC.** The space between the roof and the ceiling of the top story of a dwelling or the space between a dwarf wall and a sloping roof of a dwelling.

**AUCTION BARN.** Any premises used predominantly as a livestock auction facility may include the auction of agriculturally related chattels on an incidental or accessory basis only.

**AUCTION ROOM.** Any premises used for the auction of household chattels, which may also include motor vehicles on an incidental basis only.

**AUCTIONEER.** A person gainfully employed in conducting a public sale in which articles are sold to the highest bidder.

**AUTOMATIC CAR WASH.** A structure containing facilities for washing automobiles with automatic or semi-automatic application of cleaner, brushes, rinse water and heat for drying.

**AUTOMOBILE, COMPACT.** An automobile 15.74 feet or less in length and 5.9 feet less in width.

**AUTOMOBILE, FULL SIZED.** An automobile greater than 15.74 feet in length and greater than 5.9 feet in width.

**AUTOMOBILE REPAIR, MAJOR.** General repair, rebuilding or reconditioning of engines, motor vehicles or trailers such as collision service, body repair and frame straightening, painting, and upholstering, vehicle steam cleaning and undercoating.

**AUTOMOBILE REPAIR, MINOR.** Minor repairs, incidental replacement of parts and motor service to passenger automobiles and trucks not exceeding one and one-half tons' capacity.

**AUTOMOBILE SERVICE STATION.** Buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail, and where, in addition, the following services may be rendered and sales made, and no other:

- (1) Sale and servicing of spark plugs, batteries and distributors and distributors parts.
- (2) Tire servicing and repair, but not recapping or regrooving.

(3) Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, brake pads, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors and the like.

(4) Radiator cleaning and flushing.

(5) Greasing and lubrication.

(6) Providing and repairing fuel pumps, oil pumps and lines.

(7) Minor servicing and repair of carburetors.

(8) Emergency wiring repairs.

(9) Minor motor adjustments not involving removal of the head or crankcase or racing the motor; and

(10) Sales of cold drinks, packaged foods, tobacco, and similar convenience goods for filling stations' customers, as accessory and incidental to principal operation.

***AUTOMOBILE STORAGE AREA.*** An open space either used or required for the standing of motor vehicles held for sale or rental.

***AUTOMOBILE WRECKING YARD.*** An area outside of an enclosed building where motor vehicles are disassembled, dismantled, or junked, or where vehicles not in operable condition, or used parts of motor vehicles are stored.

***AVERAGE SETBACK.*** The mean setback from a street right-of-way of buildings on both sides of a lot.

***BAKE SHOP.*** A bakery store in which the manufacture of bakery goods is permitted only as an accessory use, the floor area of which the accessory use is not greater than 650 square feet.

***BAKERY.*** A factory for producing, mixing, compounding, or baking bread, biscuits, ice cream cones, cakes, pies, buns, or any other bakery product of which flour or meal is the principal ingredient, but does not include a restaurant or other premises where any product is made for consumption on the premises or a bake shop.

***BALCONY.*** A partially enclosed platform attached to or extending horizontally from one or more main walls of a building and used as an outdoor porch or sundeck.

***BANK.*** An institution where money is deposited, kept, lent, or exchanged.

**BANQUET HALL.** A building or part of a building used for entertaining a large group of people where food and liquor are generally provided.

**BASE FLOOD.** The flood having a 1% chance of being equaled or exceeded in any given year.

**BASE FLOOD ELEVATION (BFE).** The elevation of the 1% annual chance flood.

**BASE LODGE.** A building in which facilities are provided for day recreation use which may include eating establishments, taverns, lockers, change rooms, meeting area, rental and sales facilities and ticket sales facilities, but shall not include facilities for overnight accommodation.

**BASEMENT.**

(1) A portion of a building between two floor levels which is partly underground, but which has at least 50% of its height (floor to ceiling) below the adjacent average finished grade level of the exterior walls of the building.

(2) For the Floodplain Management subchapter, that portion of a structure having its floor sub-grade (below ground level) on all sides.

**BATCHING PLANT, ASPHALT OR CONCRETE.** An industrial facility used to produce asphalt or concrete, or asphalt or concrete products, used in building or construction, and includes facilities for the administration or management of the business, the stockpiling of bulk materials used in the production process or of finished products manufactured on the premises and the storage and maintenance of required equipment, but does not include the retail sale of finished asphalt or concrete products.

**BED AND BREAKFAST.** “owner-occupied short-term rental property” means property that is the owner's primary residence and is offered to the public as a short-term rental. Also see: **Air B&B Housing**-applies only to a short-term rental property that is not owner-occupied or the owner's primary residence used for a short-term rental property.

**BLOCK.** All land fronting on one side of a street between the nearest streets, intersecting, meeting, or crossing the previously mentioned street.

**BOARDER.** An individual, other than a member of the family, occupying the dwelling unit or a part thereof who, for a consideration, is furnished sleeping accommodations and may be furnished meals or other services as part of the consideration.

**BOARDING HOUSE.** A dwelling in which the proprietor supplies, for a fee, sleeping accommodations with board for at least three persons and not more than eight persons, exclusive of the proprietor, members of the proprietor's family and servants of the establishment, but does not include a hotel.



**BORROW PIT.** Any place or premises where dirt, soil, sand, gravel, or other material is removed below the grade of surrounding land for any purpose other than that necessary and incidental to site grading or building construction.

**BOUNDARY RIVER.** The part of the Ohio River that forms the boundary between Kentucky and Indiana.

**BOUNDARY RIVER FLOODWAY.** The floodway of a boundary river.

**BREEZEWAY.** A roofed open passage connecting two or more buildings.

**BUFFER AREA/STRIP.** Land area used to visibly separate one use from another or to shield or block noise, lights or other nuisances.

**BUILDABLE AREA.** The area of a lot remaining after the minimum yard and open space requirements of this chapter have been met.

**BUILDER'S YARD.** The yard of a building contractor or company used as a depot for the storage and maintenance of equipment used by the contractor or company and includes facilities for the administration or management of the business and the stockpiling or storage of supplies used in the business but does not include the wholesale or retail sale of building supplies or home improvement supplies.

**BUILDING.**

(1) Any structure used or intended for supporting or sheltering any use or occupancy as set forth in this chapter and includes any structure having walls covered by a roof or roofs.

(2) For Floodplain Management regulations, see **STRUCTURE**.

**BUILDING AREA.** The maximum projected horizontal area of a building at established grade measured to the center (centre) of party walls and to the outside of other walls including air wells, and all other spaces within the building, but excluding open air porches, verandahs, steps, cornices, chimney breasts, fire escapes, exterior stairways, breezeways, accessory buildings, ramps, and open loading platforms.

**BUILDING, GRANDFATHERED.** Any building which as of April, 1975, became effective either was completed or was under construction as authorized by a validly issued building permit, or for which a valid application for a building permit had been received by the town.

**BUILDING INSPECTOR.** The officer or employee of the corporation, for the time being, is charged with the duty of enforcing the provisions of §§ 153.145 through 153.166.

***BUILDING SEPARATION.*** The least horizontal distance permitted between the nearest portions of any building envelopes on a lot.

***BUILDING SETBACK LINE.*** The least horizontal distance permitted between a lot line of a lot and the nearest portion of any building envelope on the lot.

***BUILDING SUPPLY AND LUMBER OUTLET.*** A building or structure in which building, or construction and home improvement materials are offered or kept for sale at retail and may include the fabrication of certain materials related to home improvement.

***BULK FUEL DEPOT.*** Lands, buildings and structures for the storage, distribution of fuels and oils, but not including retail sales or key lock operations.

***BULK OF BUILDING.*** The cubic content of a building above the street level.

***BULK STORAGE.*** The storage of chemicals, petroleum products and other materials in aboveground containers for subsequent resale to distributors or retail dealers or outlets.

***BUNKHOUSE.*** A building designed or used for the accommodation of up to 50 workers and consisting of at least two full bathrooms and not fewer than three habitable rooms providing therein living, dining, kitchen and sleeping accommodation in appropriate individual or combination rooms.

***BUS LOADING AREA.*** An area at which passengers may board or disembark from a bus and may include bus bays and bus shelters.

***BUS SHELTER.*** A small, roofed structure, having from one to three walls, located near a street, and designed primarily for the protection and convenience of bus passengers.

***BUS STATION/TERMINAL/DEPOT.*** A building or premises where commercial motor vehicles pick up and discharge fare paying, inter-city passengers. Accessory uses may include ticket offices, luggage checking facilities and similar uses.

***BUSINESS, PROFESSIONAL OFFICE OR ADMINISTRATIVE OFFICE.*** Any building or part of a building in which one or more persons are employed in the management, direction or conducting of an agency, business or brokerage, labor, or fraternal organization, and shall exclude such uses as retail sale, manufacture, assembly or storage of goods, or places of assembly and amusement.

**CABIN ESTABLISHMENT.** A tourist establishment comprised of two or more cabins arranged singly or in pairs and which does not provide cooking facilities.

**CABIN, SLEEPING.** A building or structure designed and built for temporary human accommodation containing separate heating facilities, but no culinary or sanitary facilities and having an area of not less than 28 square feet and not more than 90 square feet, which is not a cottage.

**CAMP SITE.** A parcel of land within a campground intended for occupancy by travel trailers, tent-trailers, tents or similar transportable accommodation together with all yards and open space defined in this chapter but shall not include a mobile home.

**CAMPGROUND.** A lot used for not more than seven months in any consecutive 12-month period, for the parking and use of travel trailers, tent-trailers, tents, or similar transportable accommodation together with all yards and open space defined in this chapter which shall not include a mobile home as defined by this chapter. Where currently licensed by the county, **CAMPGROUND** may include the off-season storage of travel trailers, tent-trailers, or similar transportable accommodation.

**CANAL.** An artificial waterway for transportation or irrigation.

**CANOPY.** A roof free of enclosing walls over an entrance to a building, structure, or gasoline pump island.

**CAR COMPOUND.** A parcel of land used only for the temporary storage of damaged or impounded motor vehicles (vehicle stored for up to four months).

**CARGO CONTAINER.** A unit originally or specifically designed or used to store goods or merchandise during shipping or in hauling containers upon ships, rail, or other types of transportation and are usually eight feet wide and eight feet six inches high by either 20 feet or 40 feet in length. Also referred to as a Conex Box or Shipping Container.

**CAR RENTAL AGENCY.** The use of land, building or structure where motor vehicles are kept for lease and where the vehicles may be dropped off or picked up.

**CAR SALES LOT.** A lot where motor vehicles are stored or displayed for the purpose of sale or hire only.

**CAR WASH.** A building or part of a building where mechanical equipment is used for washing passenger vehicles.

**CARETAKER'S DWELLING UNIT.** A single-family dwelling which is used as a residence by a caretaker or watchperson.

**CARPORT.** A permanent or temporary roofed structure, not enclosed, to be used for vehicle parking.

**CARRYING CAPACITY.** Capacity of a site to support a use without substantial negative impact on environmental features such as water quality, natural vegetation, soil, wildlife population and visual attractiveness.

**CARTAGE OR TRANSPORT DEPOT.** A building, structure, or place where trucks or tractor trailers are rented, leased, kept for hire or stored or parking for remuneration, or from which trucks or transports, stored or parked on the property, are dispatched for hire as common carriers, and which may include a bonded or sufferance warehouse.

**CATERER ESTABLISHMENT.** An establishment in which food and beverages are prepared for consumption off the premises and are not served to customers on the premises or to take out but does not include a food services establishment.

**CEMETERY.** The land that is set apart or used as a place for the interment of the dead or in which human bodies have been buried.

**CENTERLINE (CENTRELINE).** As used in this chapter with reference to a street or highway means a line drawn parallel to and equidistant from the limits of a road allowance as originally laid out prior to any subsequent road widening.

**CHAIN STORE.** Retail outlets with the same name, selling similar types of merchandise, operating under a common merchandising policy, and usually owned or franchised by a single corporate entity.

**CHILD CARE CENTER (CENTRE).** An establishment where five or more children under age 12, excluding members of the family occupying the premises, are cared for. The term includes day nurseries and kindergartens.

**CHURCH.** A building wherein persons regularly assemble for religious worship, which is maintained and controlled by a religious body, organized to sustain public worship.

**CHURCH ORGANIZATION.** A religious association or corporation which maintains a place for regular worship.

**CITY PLANNING.** The decision-making process in which goals and objectives are established, existing resources and conditions analyzed, strategies developed, and controls enacted to achieve the goals and objectives as they relate to cities.



**CIVIC CENTER (CENTRE).** A building or complex of buildings that house municipal offices and services, and which may include cultural, recreational, athletic, convention and entertainment facilities owned and/or operated by a governmental agency.

**CLINIC.** A place for outpatient medical services to human patients.

**CLUB.** An association of persons, whether incorporated or not, united by some common interest, meeting periodically for cooperation or conviviality. **CLUB** shall also mean, where the context requires, premises owned or occupied by members of the association within which the activities of the club are conducted.

**CLUSTER DEVELOPMENT.** A development design technique that locates buildings in limited areas on a site to allow the remaining land to be used for a variety of open space purposes.

**COLD STORAGE LOCKER PLANT.** A building in which space in individual lockers is rented or otherwise made available for the storage of frozen food.

**COLLECTOR STREET.** A street with a minimum road allowance width of 66 feet whose accesses are partially controlled and is designed to convey traffic from local streets to arterial streets.

**COLUMBARIUM.** A structure designed for storing the ashes of human remains that have been cremated.

**COMMERCIAL.** The use of land, building or structure for the purpose of buying and selling commodities and supplying of services as distinguished for such uses as manufacturing or assembling of goods, warehousing, transport terminals, construction, and other similar uses.

**COMMERCIAL CAMPGROUND.** Real property which offers temporary accommodations to moveable recreational vehicles of any type and/or travel trailers, tents and other portable living quarters.

**COMMERCIAL EXHIBIT.** A place in which there are exhibited or displayed, for profit or gain, works of art, curios, artifacts, pictures or other objects of cultural, artistic or aesthetic interest and shall include a garden, greenhouse or other place in which flowers, herbs, shrubs or trees are cultivated or grown for public display or exhibition and for admission to which a fee or price is charged, demanded or accepted.

**COMMERCIAL HOUSEBOAT.** A boat rented for commercial gain, which contains facilities for overnight accommodation of people by including facilities for sleeping, the preparation, storage and cooking of food and sanitary facilities.

**COMMERCIAL MOTOR VEHICLE.** Commercial vehicles in excess of 5,000 pound gross weight (weight of vehicle, plus load and trailer, plus load, if included).

**COMMERCIAL NURSERY AND/OR GREENHOUSE.** A building and/or land for the growing of flowers, fruits, vegetables, plants, shrubs, trees and/or similar vegetation which is sold directly from the building or lot at retail.

**COMMERCIAL PARKING LOT.** An open area other than a street or lane or parking structure, used for the parking of motor vehicles and available for public and/or private use whether or not for compensation. A **COMMERCIAL PARKING LOT** shall include six or more parking spaces together with aisles, shall have principal access to a street, and shall for the purposes of this chapter, constitute a main use of the lot.

**COMMERCIAL PARKING STRUCTURE.** Includes a partially open and/or enclosed area other than a street or lane used for the parking of motor vehicles. A **COMMERCIAL PARKING STRUCTURE** shall include six or more parking spaces together with aisles, shall have principal access from a driveway to a street and shall, for the purpose of this chapter, constitute a main use of the lot.

**COMMERCIAL SCHOOL.** A school conducted for hire or gain such as a studio of dancing, art school, drama school, school of calisthenics, business or trade school or any other specialized school, but shall not include a private academic, religious or philanthropic school.

**COMMERCIAL USE.** An occupation, employment or enterprise that is carried on for profit by the owner, lessee or licensee.

**COMMON WALL.** A vertical wall separating two dwelling units between the top of the footings to the underside of the roof deck and shall be mutually common to both dwelling units over 40% of the depth of each dwelling between the front and rear yard of each dwelling.

**COMMUNITY.** A political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

**COMMUNITY CENTER (CENTRE).** Any tract of land or building(s) or any part of any buildings used for community activities whether used for commercial purposes or not, the control of which is vested in the municipality, a local board or agent thereof.

**COMMUNITY RATING SYSTEM (CRS).** A program developed by the Federal Insurance Administration to provide incentives for those communities in the regular program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

**CONCENTRATION.** The amount of a given pollutant per unit volume of air, for example, grains per standard cubic foot, micrograms per cubic meter.

**CONDOMINIUM.** A building in which each individual unit is held in separate private ownership and all floor space, facilities and outdoor areas used in common by all tenants are owned, administered and maintained by a corporation created pursuant to the provisions of the appropriate statute.

***CONDOMINIUM COMMERCIAL.*** A building or group of buildings, used for office, businesses, professional services and other commercial enterprise organized, owned and maintained as a ***CONDOMINIUM.***

***CONDOMINIUM INDUSTRIAL.*** An industrial building (or group of buildings) organized, owned and maintained as a ***CONDOMINIUM.***



**CONFERENCE CENTER.** An establishment used for the holding of conventions, seminars, workshops or similar activities, including dining and lodging facilities for the use of participants, as well as compatible accessory facilities.

**CONFORMING.** A use which falls within the uses permitted in and conforms to all the regulations set out in this chapter for the zone in which the use, building or structure is located.

**CONGREGATE HOUSING.** A residential facility for four or more elderly persons (age 60 or older) within which are provided living and sleeping facilities, meal preparation, laundry services and room cleaning. The facilities may also provide other services, such as transportation for routine social and medical appointments and counseling.

**CONSERVATION.** The wise management of the environment in a way that will maintain, restore, enhance and protect its quality and quantity for sustained benefit to humans and environment.

**CONSERVATION AND WILDLIFE SANCTUARY.** Land left in its natural state for the purpose of providing sanctuary, habitat and breeding grounds for wild birds, animals and plant life and includes a forest reserve.

**CONTIGUOUS.** Next to, abutting or touching and having a boundary, or portion thereof, which is coterminous.

**CONTRACTOR'S YARD.** A yard of any general contractor or builder where equipment and materials are stored or where a contractor performs shop or assembly work, but does not include any other yard or establishment otherwise defined or classified herein.

**CONVENIENCE STORE.** Any retail establishment with a gross area of 600 square feet or less that is primarily engaged in retail dealings in goods required by the inhabitants of a residential district to meet their day to day needs, but shall not include a store catering primarily to the requirements of a commercial district.

**CONVENT.** A building used as a residence, operated as a single housekeeping unit, solely by and for a group of women who have professed vows in a religious order and who live together as a community under the direction of a local supervisor designated by the order, without more than two persons occupying any one bedroom.

**CONVENTION FACILITY.** A building or part thereof in which facilities are provided for such purposes as meeting for groups of civic, educational, political, religious or social purposes.

**CONVERTED BUILDING.** A building originally constructed as a single detached dwelling unit which, because of size or design, has been converted by partition or the addition of sanitary and cooking facilities or both, into more than one dwelling unit, but less than five dwelling units.

***CORRECTION HOME.*** A federal, state, provincial, municipal, religious or charitable institution in which minors are detained or treated when requiring special care because of a delinquency, physical or mental deficiency, physical disability or other cause requiring special care or supervision and may include an emergency receiving home or special treatment center.

***CORRECTIONAL GROUP HOME.*** A building which is used to house three to ten persons exclusive of staff requiring residential, sheltered, specialized or group care, which is maintained and operated primarily for persons who have been placed on probation, released on parole or admitted for correctional purposes and which is licensed, approved or supervised by any government under any general or specific act.

***COTTAGE.*** A building or structure designed and built as an independent and separate housekeeping establishment with separate culinary and sanitary facilities, provided for the exclusive use of one family for temporary occupancy during weekends or vacation periods and not for year-round or permanent human habitation, notwithstanding that it may be designed and/or constructed for year-round or permanent human habitation, and does not include a tent, cabin, trailer or mobile home.

***COTTAGE INDUSTRY.*** An occupation conducted as an accessory use within a single-family dwelling by one or more of its residents. A ***COTTAGE INDUSTRY*** may include occupations such as dressmaking, upholstering, weaving, baking, ceramic making, painting, sculpting and the repair of personal effects.

***COUNTRY INN.*** A building of historic and/or architectural significance as determined by the county which is used for the overnight sleeping accommodation of the traveling public and which shall include residential accommodation for the owner or caretaker.

***COUNTY.*** Grant County and the governing bodies that are represented in the county.

***COURT, INNER.*** An open area, unobstructed from the ground to the sky which is bounded on more than three sides by the exterior walls of one or more buildings.

***COURT, OUTER.*** An open area, unobstructed from the ground to the sky, which is bounded on not more than three sides by the exterior walls of one or more buildings.

***COURTYARD.*** A private landscaped outdoor living space surrounded by walls or fences.

***COVERAGE.*** The percentage of the lot which may be covered by all the footprints of buildings or structures on a lot.

***CRAFT SHOP.*** A building or part thereof, in which ahandicraft is conducted for gain or profit and may include sales of the handicraft.

***CREMATORIUM.*** A building fitted with the proper appliances for the purposes of the cremation of human remains and includes everything incidental or ancillary thereto.

**CRISIS CARE FACILITY/RESIDENCE/CENTER.** A place where short-term and temporary accommodation is provided for persons in an emergency.

**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.

**CUL-DE-SAC.** A local street, one end of which is closed and consists of a circular turnaround.

**CUSTOM WORKSHOP.** A building or workshop or part hereof where the manufacturing of small quantities of articles is performed by a tradesperson requiring manual or mechanical skills.

**DANGEROUS TRADES.** A use which is likely to create danger to health or danger from fire or explosion which without limiting the generality of the foregoing, shall include storage or manufacture of acids, benzene, burning fluid, coal oil, dualine, dynamite, gas, gunpowder, naphtha, nitroglycerine, petroleum, petroleum products, rock oil or water oil.

**DAY CARE CENTER.** Any type of group day care programs including nurseries for children of working parent(s), nursery schools for children under minimum age for education in public schools, parent cooperative nursery schools, playgroups for pre-school children, programs covering after-school care for school children; provided, the establishment is licensed by the state and conducted in accordance with state requirements.

**DAY NURSERY or KINDERGARTEN.** An establishment providing care and maintenance of ten or more children separated from their parents or guardian during part of the day between 6:00 a.m. and 7:00 p.m., except a public school or elementary school having a similar curriculum and at least four grades, including kindergarten.

**DAYLIGHTING TRIANGLE.** An area free of buildings or structures and which area is to be determined by measuring from the point of intersection of street lines on a corner lot or the intersection of a street line and railway right-of-way, the distance required by this chapter along each street line or railway right-of-way and joining the points with a straight line. The triangular-shaped land between the intersecting street lines or railway right-of-way created by the straight line joining the points of the required distance along the street lines or railway right-of-way is the **DAYLIGHTING TRIANGLE**.

**DECIBEL.** A unit, which describes the sound, pressure level or intensity of sound. A sound level meter is calibrated in **DECIBELS**.

**DECK.** A structure abutting a dwelling with no roof or walls, except for railings, which is constructed on piers or a foundation above-grade for use as an outdoor living area.

**DELIVERY SPACE.** An area provided for the temporary parking of vehicles delivering or picking up equipment, goods, materials or persons.

**DENSITY.** The ratio of the number of dwelling units or commercial or industrial structures to the lot area.

**DEPARTMENT STORE.** A store organized into a number of individual departments selling a great variety of merchandise including men's and women's clothing and home furnishings.

**DERELICT MOTOR VEHICLE.** An inoperative motor vehicle which is not currently licensed.

**DEVELOPMENT.**

(1) The subdivision and severance of land, the erection or alteration of buildings and structures, and includes any improvement that can be made on land. The use of the term shall be taken to include redevelopment in all cases.

(2) (a) For the Floodplain Management subchapter, **DEVELOPMENT** means any man-made change to improved or unimproved real estate, including, but not limited to:

1. Construction, reconstruction, or placement of a structure or any addition to a structure;
2. 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;
3. Installing utilities, erection of walls and fences, construction of roads, or similar projects;
4. Construction of flood control structures such as levees, dikes, dams, channel improvements, and the like;
5. Mining, dredging, filling, grading, excavation, or drilling operations;
6. Construction and/or reconstruction of bridges or culverts;
7. Storage of materials; or
8. Any other activity that might change the direction, height, or velocity of flood or surface waters.



(b) **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.

**DIFFUSED AIR.** A type of sewage aeration where air is pumped into the sewage through a perforated pipe.

**DIMENSIONAL NONCONFORMITY.** A nonconforming situation that occurs when the height, size or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

**DIRECTOR.** The Executive Director of the Area Planning Department.

**DISH ANTENNA.** A combination of an antenna or dish antenna whose purpose is to receive communication or other signals from orbiting satellites and other extraterrestrial sources; a low-noise amplifier (LNA) which is situated at the focal point of the receiving component and whose purpose is to magnify the transfer signals; and a coaxial cable whose purpose is to carry the signal into the interior of the building.

**DISPLAY YARD.** An open area used for the display of new or used passenger automobiles, motor vehicles, trailer, trucks, truck trailers, equipment, machinery or boats in operable condition, which are continually available for sale or rental, and where no repair work is done, except of a minor incidental nature.

**DISTILLATION PLANT.** Any plant or premises used for the distillation of bones, wood, tar, petroleum or any of its products.

**DOMESTIC PURPOSES.** Those purposes for the property owner's use and not for sale or offer to the public.

**DORMITORY.** A building used as a group living quarters for a student body or religious order as an associate use to a college, university, boarding school, orphanage, convent, monastery, farm labor camp or other similar use. **DORMITORIES** do not include kitchen facilities, except a group kitchen facility to serve all residents.

**DRIVE** or **DRIVEWAY.** A vehicular passageway having at least one end thereof connected to a public thoroughfare and providing ingress to and/or egress from a lot.



***DRIVE-IN THEATER.*** A theater consisting of a screen or screens and parking area where the public is able to view projected movies from a private automobile.

***DRIVING RANGE.*** A public or private area operated for the purpose of developing golfing techniques, including miniature golf courses, but excluding golf courses.

***DRY-CLEANERS, COIN-OPERATED.*** A building or part of a building where the services of coin-operated dry cleaning machines, using only noncombustible and nonflammable solvents, is made available to the public for the purpose of dry cleaning.

***DRY-CLEANERS DISTRIBUTION STATION.*** A building or part of a building used only for the purpose of collection and distribution of articles or goods of fabric to be subjected to the process of dry-cleaning, dry dyeing, cleaning and spotting and stain removing, and for the pressing of any articles or goods which have been subjected to any process elsewhere at a dry-cleaners' plant.

***DRY INDUSTRY.*** Those industries which by the nature of their processes or fabrication of raw materials or service rendered do not require a water supply other than that available from within the limits of the lot upon which the use is located and which do not discharge effluent from the limits of the lot upon which the use is located.

***DRUG STORE.*** A store where the primary business is the filling of medical prescriptions and the sale of drugs, medical devices and supplies and nonprescription medicines, but where nonmedical products are sold as well.

***DUMP.*** A waste disposal site where waste is deposited without cover material being applied at regular intervals.

***DWELLING.*** A building used or intended for residential occupancy having a permanent perimeter wall or foundation, following the International Residential Code as amended from time to time, but not including a hotel, motel, lodging house, boarding house or tourist home, as defined herein.

***DWELLING, ACCESSORY.*** A use, separate building or structure, which is usually incidental, subordinate, exclusively devoted to and located on the same lot as the principal use, building or structure but not including a building or structure which is used as a dwelling unless specifically permitted.

***DWELLING, APARTMENT.*** A separate building containing three or more dwelling units sharing a common hall and common entrance at grade, but which is not a row dwelling.

***DWELLING, DOUBLE DUPLEX.*** A separate building containing only four dwelling units divided horizontally into two floors, with each floor containing only two dwelling units.

***DWELLING, DUPLEX.*** A building that is divided horizontally into two dwelling units each of which has an independent entrance either directly or through a common vestibule.

**DWELLING, HIGH-RISE APARTMENT.** An apartment building more than three stories high.

**DWELLING, MAISONETTE.** A building that is divided into three or more dwelling units, each of which has two independent entrances, one to a common corridor and the other directly to the outside yard area adjacent to the dwelling unit.

**DWELLING, MANUFACTURED.** A residential dwelling unit originally designed and built on or after 6-15-1976 in a factory, which manufactured home bears a seal certifying that it was built in compliance with the Federal Manufactured Housing and Construction and Safety Standards Law of 1974, being 42 U.S.C. §§ 5401 *et seq.*

**DWELLING, MOBILE HOME.** A detached residential dwelling unit designed for transportation after fabrication on streets or highways on its own wheels or a flatbed, or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities and the like. A travel trailer is not to be considered as a **MOBILE HOME**.

**DWELLING, MODULAR.** A prefabricated single detached dwelling being so constructed or assembled that the shortest side of the dwelling is not less than 20 feet in width.

**DWELLING, ROW.** A building designed for or occupied as three or more dwelling units side by side, under one roof and each unit having a separate front and rear access.

**DWELLING, SEASONAL.** A single detached dwelling used essentially for recreation, rest or relaxation from time to time, throughout any season of the year, by any person or persons, but not used or intended to be used continuously in excess of five months or as a permanent residence.

**DWELLING, SINGLE-FAMILY.** A detached residential dwelling unit other than a mobile home, designed for and occupied by one family only.

**DWELLING, SPLIT-LEVEL.** A dwelling in which the first floor above the finished grade is so constructed as to create two or more different levels, the vertical distance between the levels being less than the full story. For the purpose of this chapter, a **SPLIT-LEVEL DWELLING** shall be considered as a one-story dwelling.

**DWELLING, UNDERGROUND.** A dwelling which is specifically designed to be partially or wholly below the average level of the surrounding ground, but complies with all the applicable requirements of the applicable statute with special regard to ventilation and lighting.

**DWELLING UNIT.** A room or rooms in which a kitchen, living quarters and sanitary conveniences are provided for the exclusive use of the residents and with a private entrance from outside the building or from a common hallway or stairway inside. This definition includes a manufactured home, mobile home, modular home and traditional built home.

**EASEMENT.** An area of land over which a right of entry for the purpose of constructing and maintaining a public service or a surface drainage outlet which has been legally described in a registered deed.

**EAST-WEST AXIS.** A direction along a line drawn between due east and due west.

**EAVE.** A roof overhang, free of enclosing walls, without supporting columns.

**EDUCATIONAL USE.** A place of instruction under the jurisdiction of a governmental authority and a place of instruction (excepting a commercially operated trade or vocational school) offering courses equivalent to those customarily offered in a place of instruction under the jurisdiction of a governmental authority, and includes a day nursery and residence buildings for staff and students; provided that, the buildings are on the same lot as the place of instruction.

**EFFICIENCY APARTMENT.** A dwelling consisting of not more than one room excluding the sanitary facilities, including a kitchen, dining area and separate sanitary facilities.

**ELECTRIC POWER DISTRIBUTION STATION.** The use of land building or structure for the purpose of reducing electric power from one distribution level to another.

**ELECTRIC POWER GENERATING STATION.** The use of land, building or structure or part thereof for the generation of electric power.

**ELEVATED BUILDING/STRUCTURE.** A non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation, perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (post and piers).

**ELEVATION CERTIFICATE.** A certified statement that verifies a structure's elevation information.

**EMERGENCY PROGRAM.** The first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

**EMERGENCY SHELTER/MISSION.** A nonprofit, charitable or religious organization providing boarding and/or lodging and ancillary services on its premises to primarily indigent, needy, homeless or transient persons.

**EMINENT DOMAIN.** The legal right of government to acquire or “take” private property for public use or public purpose upon paying just compensation to the owner.

**EMISSION RATE.** The release per unit time of air pollutants from a given source.

**ENCROACHMENT.** In any reach of a stream, an artificial restriction within the floodplain increasing the height of water surface associated with the regulatory flood.

**ENERGY STORAGE FACILITY.** Equipment consisting of containers, heat exchangers, piping and other transfer mechanisms (including fluids, gases or solids), controls and related structural support for transporting and storing collected energy (from solar energy systems), including structural elements designed for use in passive solar energy systems.

**ENLARGEMENT.** An increase in the size of an existing structure.

**ENTRANCE SEPARATION.** The least horizontal distance permitted between the nearest portions of any entrances on a lot.

**ENTRANCE WIDTH.** The maximum horizontal distance permitted between the extremities of an entrance, measured along the limit of the traveled portion of the street or lane.

**ENVIRONMENTAL PROTECTION.** Land which is not suitable to be used for the erection of buildings because the land is on a floodplain, is subject to erosion, has steep slopes, has organic soils, or has a high water table, or other similar physical limitations.

**ERECT.** Build, construct, reconstruct, alter and relocate and without limiting the generality of the foregoing shall be taken to include any preliminary physical operation such as excavating, grading, piling, cribbing, filling or draining, structurally altering any existing building or structure by an addition, deletion, enlargement or extension.

**ESTABLISHED BUILDING LINE.** The average distance from the street line or shoreline to existing buildings measured 330 feet on either side of the lot where more than half the frontage has been built upon, as of the date of passing of this chapter.

**EXACTION.** A contribution or payment required as an authorized precondition for receiving a development permit.

**EXISTING.** Legally existing, being a reality or an actuality as of the date of passing of this chapter.

**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.

**EXOTIC CABARET.** An establishment which features topless or bottomless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers and where the sale of beer, wine or intoxicating liquor for consumption on the premises may or may not be permitted.

**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).

**EXPRESSWAY.** A highway or public roadway the function of which is to permit a relatively unimpeded traffic flow through and between the major elements of the city or its most important traffic generators, and secondarily, to serve adjacent properties.

**EXTERNAL DESIGN.** The arrangement and/or pattern of materials forming the exterior of a building or structure.

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

**FACTORY OUTLET.** A building or part of a building, accessory to a permitted industrial use, where the products manufactured by that industry are kept for wholesale or retail sale.

**FAIRGROUND.** The use of land, or building, or structure where the temporary exhibition of music, art, goods, wares, vehicles and the like are displayed and made available for sale and shall include a midway and a place of amusement.

**FAMILY.** An individual or two or more persons related by blood, marriage or adoption, or a group of not more than five persons who need not be related by blood or marriage, all living together as a single housekeeping unit and using common cooking facilities, and including bona fide servants with or without separate accommodation thereof.

**FAMILY CRISIS SHELTER.** A nonprofit institutional establishment providing counseling, assistance and temporary emergency shelter for the victims of a domestic or marital conflict or physical assault.

**FARM.** Land used for the tillage of soil and the growing of vegetables, fruits, grains and other staple crops including livestock raising, dairying or woodlots.

**FARM IMPLEMENT DEALER.** An establishment for the repair or sale of agricultural implements and including the sale of lubricants for agricultural equipment on the same premises as an accessory use.

**FARM MARKET.** The use of land, buildings or structures or part thereof for the purpose of selling fruit and vegetables to the general public. The fruit and vegetables sold in a **FARM MARKET** must be grown exclusively by the operator on property owned by the operator of the **FARM MARKET**.

**FARM OCCUPATION.** An accessory use conducted on a farm which is clearly secondary to the agricultural use of the farm, does not change the character or use of the farm for agricultural purposes,

does not significantly alter the appearance of the farm operation and, does not create or become a public nuisance, particularly in respect to noise, traffic or parking.

**FARM, SPECIALIZED.** Any land on which the predominant economic activity consists of raising chickens, turkeys or other fowl, the raising of fur bearing animals, the raising of swine, goats, horses or cattle on feed lots, the raising or boarding of dogs or cats or the growing of mushrooms.

**FARM SUPPLY DEALER.** A building, structure or area where farm equipment and farm supplies are kept for sale at retail, but shall not include any other establishment otherwise defined or classified herein.

**FARMING.** The production of plants and animals useful to humans, including the breeding, raising or maintaining of livestock, fur farming, fruit growing, the keeping of bees, fish farming, greenhouse farming, hydroponics farming, vegetable growing, tree growing and sod farming.

**FAST FOOD OUTLET.** A building in which food or beverages are offered for sale to the public solely for off-site consumption.

**FBFM.** Flood Boundary and Floodway Map.

**FEEDLOT.** Any tract of land or structure, pen or corral, wherein cattle, horses, sheep, goats and swine are maintained in close quarters for the purpose of fattening the livestock for final shipment to market.

**FEMA.** Federal Emergency Management Agency.

**FENCE.** A barrier closing or bordering a field, yard and the like usually made of posts and wire or wood, used to prevent entrance, to confine or to mark a boundary.

**FILL.** Sand, gravel, earth or other materials of any composition whatsoever placed or deposited by humans.

**FINANCIAL OFFICE.** The premises of a bank, trust company, mortgage company or investment company.

**FIRM.** Flood Insurance Rate Map.

**FIRST FLOOR.** The floor of a building immediately above a cellar or basement, or where no basement or cellar exists, the **FIRST FLOOR** shall be that floor at or above grade level.

**FISHERIES MANAGEMENT.** The management of fish habitat and fish population for the purpose of sustaining and improving the quality and quantity of fish.



**FITNESS CENTER.** A building in which facilities are provided for recreational athletic activities including, but not limited to, body building and exercise classes, and may include associated facilities such as a sauna and solarium.

**FIVE-HUNDRED-YEAR FLOODPLAIN.** The area covered by flood water because of the flood having a 1/5% of being equaled or exceeded in any given year.

**FLAMMABLE LIQUIDS.** Liquids having a flash point below 200°F, closed-cup tester.

**FLEA MARKET.** A building or open area in which stalls or sales areas are set aside and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old, obsolete or antique and may include the selling of goods at retail by businesses or individuals who are generally engaged in retail trade.

**FLOOD.** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

**FLOOD BOUNDARY** and **FLOODWAY MAP (FBFM).** An official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

**FLOOD HAZARD AREA.** Any floodplain, floodway, floodway fringe, lake district or any combination thereof which is subject to inundation by the regulatory flood or any floodplain district as delineated by Zone X on the Flood Insurance Rate Map, which FEMA has prepared.

**FLOOD INSURANCE RATE MAP.** 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.

**FLOOD INSURANCE STUDY (FIS).** The official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), 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 **FLOOD**.

**FLOOD PROTECTION GRADE.** The elevation of the regulatory flood plus two feet at any given location in the SFHA. See **FREEBOARD**.

**FLOODPLAIN.** The channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The **FLOODPLAIN** includes both the floodway and the fringe districts.

**FLOODPLAIN, LAKE.** The area adjacent to a lake, which would be flooded by high water levels and/or water buildup caused by high winds.

**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.** Sections 153.315 through 153.329 and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. **FLOODPLAIN MANAGEMENT REGULATIONS** are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

**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. This certification must be by a registered professional engineer or architect.

**FLOODWAY.** The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

**FLOODWAY FRINGE.** All that land in a floodplain not lying within a delineated floodway. Land within a **FLOODWAY FRINGE** is subject to inundation by relatively low velocity flows and shallow water depths.

**FLOOR AREA.** The total number of square feet of floor space within the exterior walls of a building, not including space in cellars or basements.

**FLOOR AREA, GROSS.** The total floor area in a principal building or structure measured between the exterior faces of the exterior walls of the building or structure at the level of each story below, at and above grade, excluding the area used for off-street unloading, parking, mechanical equipment, stairways or shafts.

**FLOOR AREA, GROUND.** The maximum ground floor area of a building measured by the outside walls, excluding, in the case of a dwelling house, any private garage, carport, porch, verandah or sunroom (unless the sunroom is habitable at all seasons of the year).

**FLOOR AREA RATIO/FLOOR SPACE INDEX.** The floor area in square feet of all buildings on the lot, divided by the area of the lot in square feet.

**FLORIST.** A retail store where flowers and plants or either in singular are sold or offered for sale to the public and the use may include the incidental raising and arranging of flowers and plants for sale in the store.

**FLYING SCHOOL.** A school other than an educational institution where aviation instruction is provided for gain or profit.

**FOOD PROCESSING ESTABLISHMENT.** A commercial establishment in which food is processed or otherwise prepared for human consumption, but not consumed on the premises.

**FOREST.** Areas or stands of trees, the majority of which are greater than 12 inches caliper measured four feet above grade, covering an area greater than one-quarter acre; or groves of mature trees without regard to minimum area consisting of more than ten individual specimens.

**FOREST MANAGEMENT.** The management of forests for the production of wood and wood products and to provide outdoor recreation, to maintain, restore or enhance environmental conditions for wildlife and for the protection and production of water supplies.

**FORESTRY.** The use of land for the purpose of conservation and/or the growing and cutting of trees for the purpose of producing commercial or noncommercial wood products such as furniture and firewood, but shall not include the manufacturing or processing of the products.

**FOUNDRY.** An industrial building, the primary use of which is casting metals.

**FRATERNAL ORGANIZATION.** A group of people formally organized for a common interest, usually cultural, religious or entertainment with regular meetings, rituals and formal written membership requirement.

**FRATERNITY OR SORORITY HOUSE.** A dwelling maintained exclusively for members enrolled in or employed by an academic college or university.

**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.** Those portions of the floodplain lying outside the floodway.

***FRONT OF LOT.*** The side of any lot designated as the front by the plan of subdivision in which the lot lies. In the absence of positive identification by the plan, the ***FRONT*** of any lot is the narrowest side which faces the street, unless by customary use and occupation in the area in which the lot is located, a side other than the narrowest side facing the street is clearly indicated to be the ***FRONT OF THE LOT.***

***FRONTAGE.*** The minimum straight-line distance between the intersection of the side lot lines and the front lot line.

***FUEL STORAGE TANK.*** A tank for the bulk storage of petroleum, gasoline, fuel, oil, gas or flammable liquid or fluid sold at retail or wholesale but does not include a container for flammable liquid or fluid legally and properly kept in a retail store or a tank for storage merely incidental to some other use of the premises where the tank is located.

**FUEL STORAGE TANK FARM.** An establishment primarily engaged in the bulk storage and distribution of petroleum, gasoline, fuel oil, gas or other similar inflammable products in fuel storage tanks. The limited retailing of the products shall be permitted in association with a **FUEL STORAGE TANK FARM**; provided, the retailing is clearly incidental and secondary to the bulk storage and distribution function.

**FUNERAL HOME.** A building designed for furnishing funeral supplies and services to the public and includes facilities intended for the preparation of the dead human body for interment or cremation.

**FURNITURE SHOWROOM.** A retail store where furniture is displayed, stored and offered for sale.

**GAME** or **GAMBLING GAME.** Any banking or percentage game played with cards, dice or any mechanical device or machine for money, property or any item of value, and located exclusively within a casino.

**GARAGE, ATTACHED.** A private garage accessory to a dwelling on the same lot and attached thereto by a common wall and/or common roof structure; provided, however, for the purposes of determining line of setback and side yard, an **ATTACHED GARAGE** will be considered part of the main building.

**GARAGE, COMMUNITY.** A space or structure or series of structures for the storage of the self-propelled vehicles of residents of the neighborhood.

**GARAGE, DUAL.** The whole of a building that is divided vertically along a lot line into two separate private garages.

**GARAGE, MUNICIPAL.** A structure owned or operated by a municipality and used primarily for the parking and storing of vehicles owned by the public.

**GARAGE, PRIVATE.** A detached accessory building or portion of a dwelling house that is designed or used for the sheltering of, permitted vehicles. This definition shall not include a carport or other open shelter.

**GARAGE SALE.** The sale of personal property, which is conducted on premises within a residential district upon which is located a dwelling.

**GARBAGE CONTAINER.** A bin, with or without a lid, used to store garbage and refuse temporarily. This definition excludes a container used for a construction or demolition project for which a valid building or demolition permit has been issued.

**GARBAGE CONTAINER/ENCLOSURE.** A solid opaque walls or fences comprised of concrete block, brick, wood, stucco or metal, with a gate, that screens a garbage container.

**GAS.** Natural gas, manufactured gas, propane-arc gas or any mixture of any of them.

***GASOLINE PUMP ISLAND.*** A structure which is an accessory use intended to provide gasoline for vehicles.

***GAZEBO.*** A freestanding, roofed accessory structure which is not enclosed, except for screening or glass and which is utilized for the purposes of relaxation in conjunction with a residential dwelling, but shall not include any other use or activity otherwise defined or classified in this chapter.

***GOLF COURSE.*** A public or private area operated for the purpose of playing golf, and includes a par three golf course, club house and recreational facilities, accessory driving ranges and miniature golf courses and similar uses.

***GOVERNMENT OFFICES.*** A municipal office, court house, registry office, health and welfare center, employment office, post office or other office uses for purpose of local or other government administration.

***GRADE.*** An average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

***GRANNY FLAT.*** An additional dwelling unit intended for the sole occupancy of one or two adult persons who are 67 years of age or over. The floor area of the attached ***GRANNY FLAT*** dwelling unit shall not exceed 30% of the existing living area of the primary residence or 1,200 square feet in a floor area on a lot zoned residential, whichever is the lesser.

***GRAVEL PIT.*** An open land area where sand, gravel and rock fragments are mined or excavated for sale or off-premises use.

***GREENHOUSE, COMMERCIAL.*** A building for the growing of flowers, plants, shrubs, trees and similar vegetation which are not necessarily transplanted outdoors on the same lot containing the greenhouse and can be sold from the lot at wholesale or retail.

***GRINDING SITE.*** Land, buildings or parts of buildings where the treatment of waste by uniformly reducing the waste to particles of controlled maximum size is conducted.

***GROSS DENSITY.*** The ratio of dwellings to the overall area of development, excluding all streets.

***GROUND WATER INFILTRATION AREA.*** An area where the porous nature of surface materials allows significant percolation of water into the ground water system.

***GUEST.*** A person who contracts for accommodation in a motel or hotel and includes all members of the person's party.

***GUEST HOUSE.*** Living quarters, having no kitchen facilities, located on the same premises with a main building and occupied for the sole use of members of the family, temporary guests or persons permanently employed on the premises.

**HAIRDRESSING ESTABLISHMENT.** A service commercial establishment providing a personal service to men, women or children by shampooing, cutting, styling, tinting or treatment of hair, by giving manicures, pedicures or facial treatments or by the use of cosmetic products, and, without limiting the generality of the foregoing, includes a barber shop and beauty salon.

**HARDSHIP.** As related to variances of the Floodplain Management subchapter, the exceptional hardship that would result from a failure to grant the requested variance. The 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.

**HAZARD LANDS.** Lands which are or may be inappropriate for urban development by reason of having inherent or natural environmental hazards such as susceptibility to flood or erosion, poor drainage, organic soils, steep slopes or any physical condition or limitation and which, if developed, may lead to the deterioration or degradation of the environment or cause property damage or loss of life.

**HEADWATERS.** The source area of a stream.

**HEALTH CLUB.** Includes, but is not limited to, gymnasiums (except public), private clubs (athletic, health or recreational), reducing salons and weight control establishments.

**HEALTH SERVICES.** Establishments primarily engaged in furnishing medical, surgical or other services to individuals, including the offices of physicians, dentists and other health practitioners, medical and dental laboratories, out-patient care facilities, blood banks and oxygen and miscellaneous types of medical supplies and services.

**HEAVY EQUIPMENT SALES AND RENTAL.** A building or part of a building or structure in which heavy machinery and equipment are offered or kept for sale, rent, lease or hire under agreement for compensation.

**HEIGHT.** The vertical distance measured from grade level to the higher of the highest point of a roof.

**HEIGHT ABOVE SEA LEVEL.** The perpendicular distance measured from sea level to the highest point of a building or structure including any attachments thereto.

**HELIPORT-LIMITED USE.** Any landing area used for the landing and taking off of helicopters, including all necessary passenger and cargo facilities, fueling and emergency service facilities. This facility is not open to use by any helicopter without prior permission having been obtained.

**HELIPORT-UNLIMITED USE.** Any landing area used by helicopters which, in addition, includes all necessary passenger and cargo facilities, maintenance and overhaul, fueling, service, storage, tie-down areas, hangars and other necessary buildings and open spaces.

**HEREAFTER.** After the date of the passing of this chapter.

**HEREIN.** In this chapter and shall not be limited to any particular section of this chapter.

**HEREOF** and **HERETO.** Of this chapter, and to this chapter, respectively.

**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.

**HIGH WATER MARK.** The mark made by the action of water under natural conditions on the shore or bank of a body of water which action has been so common and usual that it has created a difference between the character of the vegetation or soil on one side of the mark and the character of the vegetation and soil on the other side of the mark.

**HIGHWAY COMMERCIAL USE.** Commercial uses which rely on automobile or truck traffic and the tourist population.

**HIGHWAY, STATE.** A public improved road under the jurisdiction of the state government.

**HISTORIC DISTRICT.** An area containing buildings or place in which historic events occurred or having special public value because of notable architectural or other features relating to the cultural or artistic heritage of the community, of a significance as to warrant conservation and preservation.

**HISTORIC SITE.** Parcel of land which marks or is associated with some event or person of historical importance.

**HISTORIC STRUCTURE.** Any structures individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

**HOME DISPLAY COURT.** An establishment or premises where prefabricated dwellings including cottages are erected for display purposes only and from which orders can be placed for the purchase and delivery of the dwellings or parts and accessories associated therewith, but this definition shall not include mobile (relocatable) homes.

**HOME OCCUPATION.** Any business or commercial activity that is conducted or petitioned to be conducted from property that is zoned for residential or agricultural use. A **HOME OCCUPATION** is incidental to the primary use of the building as a residence.

**HOME OCCUPATION CONDITIONAL USE PERMIT.** A permit authorized by the Board of Zoning Appeals after a public hearing.



**HOME OCCUPATION PERMIT.** A permit issued for a home occupation that is authorized by this chapter without a public hearing before the Board of Zoning Appeals.

**HORIZONTALLY ATTACHED.** Attached at right angles to a vertical plane.

**HOSPITAL.** Any institution, building or other premises or place established for the maintenance, observation, medical and dental care and supervision and skilled nursing care of persons afflicted with or suffering from sickness, disease or injury or for the convalescent or chronically ill persons.

**HOTEL.** A building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are sleeping accommodations for more than six persons, other than the hotel staff, with no cooking facilities in any individual room or suite of rooms, except in rooms occupied by the owner or manager, but not including motels, tourist cabins or tourist or trailer camps.

**HOUSEHOLD SALE.** The sale by the occupant of a dwelling unit, on his or her own premises, of household goods belonging to him or her.

**HOUSING FOR THE ELDERLY.** Multi-family housing designed for older people.

**HUNTING CABIN.** A detached structure, one story maximum in height and used for periodic recreation uses and not designed in a manner that the structure can be used on a year-round basis and shall not be construed as a dwelling unit, as defined elsewhere in this chapter.

**HUNTING LODGE.** A building or structure for use during the hunting season on a commercial basis consisting of one or more rooms for overnight accommodation and may include facilities for the preparation of food.

**IMPOUNDING YARD.** A place to which disabled motor vehicles, and motor vehicles or other mobile equipment impounded for a breach of the law, may be taken or towed and stored temporarily until reclaimed, but does not include an automobile service station, gas bar, public garage, junk yard, salvage yard or wrecker's yard.

**IMPROVED PUBLIC ROAD.** A road or highway under the jurisdiction of the corporation or a private road within a registered plan of condominium which is maintained so as to allow normal vehicular access to adjacent properties and which, in the case of a township road, is a road for which the township receives construction and maintenance subsidies from the Department of Transportation.

**INCREASED COST OF COMPLIANCE (ICC).** The cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

**INDUSTRIAL, EXTRACTIVE.** Land including accessory buildings and structures used for the removal, refinement and/or processing of sand, gravel, stone or other aggregate resources and includes an asphalt plant, a borrow pit, a concrete plant, a gravel pit and a stone quarry.

**INDUSTRIAL USE.** The use of land, building or structures for the manufacturing, processing, fabricating or assembly of raw materials or goods, warehousing or bulk storage of goods and related accessory uses.

**INDUSTRY, NONEFFLUENT PRODUCING.** An industrial use which does not utilize process waters and which does not produce wastewaters.

**INSTITUTIONAL USE.** The use of land, buildings or structures for a public or nonprofit purpose and without limiting the generality of the foregoing, may include such uses as schools, places of worship, indoor recreation facilities, community centers, public hospitals and government buildings.

**ISLAND.** A land area surrounded by water; or a parking lot design, built-up structures, usually curbed, placed at the end of parking rows as a guide to traffic and also used for landscaping, signing or lighting.

**JEWELRY STORE, NEW.** Shops which sell new merchandise primarily and some used merchandise from estate sales or reconstitute precious metals they purchase into jewelry forms, which are sold at retail on the premises.

**JUNK YARD.** The storage yard of a dealer in discarded materials and includes facilities for the administration or management of the business and for the storage and maintenance of equipment used in the business.

**KENNEL.** An establishment for the keeping, breeding and raising of domesticated animals for profit or gain, but shall not apply to the keeping of animals in a veterinary establishment for the purpose of observation and/or recovery necessary to veterinary treatment.

**LAND.** Ground, soil or earth including structures, on, above or below the surface.

**LANDFILL.** A disposal site employing an engineering method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume and applying cover material over all exposed waste at the end of each operating day.

**LANDING.** A platform with or without a roof having an area not exceeding five square feet and extending horizontally from the wall of a building no more than four feet, adjacent to a door and providing direct access to the ground or a stair.

**LANDING STRIP.** A strip of ground used or capable of being used for the landing and take-off of an aircraft.

**LANDMARK.** A structure or landscape feature which by its architectural or historic merit or impact is worthy of special recognition and preservation.

**LANDSCAPE SCREEN.** An opaque visual barrier formed by a row of shrubs or trees, by a fence or masonry wall or by a combination of these.

**LANDSCAPING.** Any combination of trees, shrubs, flowers, grass or other horticultural elements, decorative stonework, paving, screening or other architectural elements, all of which are designed to enhance the visual amenity of a property and/or to provide a screen to mitigate any objectionable aspects that may detrimentally affect adjacent land.

**LANDSCAPING CENTER.** Land, buildings or structures used for the purpose of growing and selling vegetables, plants and flowers and may include the selling of materials associated with landscaping.

**LANDSCAPING STRIP.** An open unobstructed space free of buildings or structures which is used for the growing and maintenance of grass, flowers, shrubs or other landscaping.

**LANE.** A public or private right-of-way which affords a secondary means of access to the lots abutting thereon.

**LAUNDROMAT.** A building or structure where coin-operated laundry machines, using only water, detergents and additives, are made available to the public for the purpose of laundry cleaning.

**LAUNDRY AND DRY-CLEANING SHOP.** A building or part of a building used for the purpose of receiving articles or goods of fabric to be subjected to the process of laundering, dry-cleaning or cleaning elsewhere, and for the pressing and distribution of any articles or goods which have been subjected to any process, and shall include a self-service laundry and/or self-service dry cleaning.

**LAUNDRY PLANT.** A building or structure in which the business of a laundry is conducted on the ground floor in which only water and detergent is used, and where the drying, ironing and finishing of the goods are conducted.

**LEATHER GOODS FACTORY.** A factory for the manufacture or processing of leather belting, leather boot or shoe findings, boots, shoes, gloves or other leather goods, but does not include a tannery or any tanning operation.

**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 include **LETTER OF MAP AMENDMENT (LOMA)**, **LETTER OF MAP REVISION (LOMR)**, and **LETTER OF MAP REVISION BASED ON FILL (LOMR-F)**. The definitions are presented below:

(1) **LETTER OF MAP AMENDMENT (LOMA).** An amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A **LOMA** is only issued by FEMA.

(2) **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.

(3) **LETTER OF MAP REVISION BASED ON FILL (LOMR-F).** An official revision by letter to an effective NFIP map. A **LOMR-F** provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

**LIBRARY.** A building containing printed and pictorial material for public use for purposes of study, reference and recreation.

**LIGHT EQUIPMENT SALES AND RENTAL ESTABLISHMENT.** A building or structure or part of a building or structure in which light machinery and equipment such as air compressors and related tools and accessories, augers, automotive tools, cleaning equipment, light compaction equipment, concrete and masonry equipment, electric tools and accessories, fastening devices such as staplers and tackers, floor and carpet tools, gasoline generators, jacks and hydraulic equipment, lawn and garden tools, ladders, moving equipment, painting and decorating equipment, pipe tools and accessories, plumbing tools and accessories; and appurtenances are offered or kept for rent, lease or hire under agreement for compensation.

**LIGHTING, FULLY SHIELDED.** Luminaries constructed or shielded in a manner that all light emitted by the luminaries, either directly from the lamp or indirectly from the luminaries, is projected below the horizontal plane through the luminaries' lowest light emitting part as determined by photometric test or certified by the manufacturer.

**LIGHTING, GLARE.** The sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort or loss in visual performance and visibility.

**LIQUOR LICENSED PREMISES.** Any building or structure or premises licensed under the appropriate statute.

**LIVESTOCK.** Farm animals kept for use, for propagation or for intended profit or gain and without limiting the generality of the foregoing includes: dairy and beef cattle, horse, swine, sheep, laying hens, chicken and turkey broilers, turkeys, goat, geese, mink and rabbits.

**LOADING SPACE.** An off-street space on the same lot as the building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, lane or other appropriate means of access.

**LOGGING.** The removal or cutting of logs from harvestable timber for commercial purposes, either by selective, strip or clear-cutting operations.

**LONG-TERM CARE FACILITY.** An institution or a distinct part of an institution which is licensed or approved to provide health care under medical supervision for 24 or more consecutive hours to two or more patients who are not related to the governing authority or its members by marriage, blood or adoption.

**LOT.** A parcel of land with frontage on a street or road whether or not occupied by a building or structure that is in ownership.

**LOT AREA.** The total horizontal area within the lot lines of a lot, excluding the horizontal area of the lot covered by water, or marsh or between the rim of the banks of a river or watercourse; provided that, only the lot area lying within the zone in which a proposed use is permitted may be used in calculating the minimum lot area under the provisions of this chapter for the permitted use.

**LOT, CORNER.** A lot situated at the intersection of, and abutting upon, two or more streets; provided that, the interior angle of intersection of the streets is not more than 135 degrees.

**LOT COVERAGE.** The percentage of the lot area covered by the perpendicular vertical projection of the area of all buildings onto a horizontal plane.

**LOT DEPTH.** The horizontal distance between the midpoints of straight lines connecting the foremost points of the lot lines in front and the rearmost points of the lot lines in the rear.

**LOT FRONTAGE.** The minimum straight line distance between the points intersection of the side lot lines and the front lot line.

**LOT LINE.** Any boundary line of a lot.

**LOT LINE, EXTERIOR.** The side lot line which abuts the street on a corner lot.

**LOT LINE, REAR.** The lot line or point of intersection of the side lot lines farthest from and opposite the front lot lines.

**LOT LINE, SIDE.** A lot line other than a front or rear lot line.

**LOT PANHANDLE.** Any lot which gains highway frontage through the use of a narrow strip of land which is an integral part of the lot.

**LOT, THROUGH.** A lot bounded on opposite sides by streets or navigable waterways.

**LOT WIDTH.** The average horizontal distance between the side lot lines.

**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.** The lowest elevation described among the following:

- (1) The top of the lowest level of the structure;
- (2) The top of the basement floor;
- (3) The top of the garage floor, if the garage is the lowest level of the structure;
- (4) The top of the first floor of a structure elevated on pilings or pillars;
- (5) The top of 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 flood waters unless:
  - (a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;
  - (b) The total net area of all openings shall be 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; and
  - (c) Such enclosed space shall be usable solely for the parking of vehicles and building access.

**MAGNET STORE.** The largest retail establishment in a shopping center that draws customers and thereby generates business for surrounding stores.

**MAIN BUILDING.** The building designed or used for the principal use on the lot.

**MAIN WALL.** The exterior front, side or rear wall of a building and all structural members essential to the support of a fully enclosed space or roof.

**MAJOR ARTERIAL ROAD.** A highway or public roadway the purpose of which is to expedite the movement of through traffic to major traffic generators and from community to community, and

primarily, to serve the adjacent land, to collect and distribute traffic from freeways and expressways to less important arterial roads or directly to traffic destinations.

**MALL.** A shopping center where stores front on both sides of a pedestrian way which may be enclosed or open.

**MANEUVERING AISLE.** A maneuvering space that serves two or more parking spaces such as the area between two rows of parking spaces.

**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.

**MANUFACTURING.** The use of land, buildings or structures for the purpose of manufacturing, assembly, making, preparing, inspecting, finishing, treating, altering, repairing, warehousing or storing or adapting for sale of any goods, substance, article, thing or service.

**MANUFACTURING FLOOR AREA.** The portion of the gross floor area of an industrial establishment, which is used for manufacturing purposes and office purposes, but does not include areas used for storage.

**MARINA.** A facility for storing, servicing, fueling, berthing and securing and launching of private pleasure craft that may include the sale of fuel and incidental supplies for the boat owners, crews and guests.

**MARINA FACILITY.** An accessory structure which is used to take a boat into or out of a navigable waterway, or to moor a boat. This definition includes a launching ramp, boatlift or dock, but does not include any building or any boat servicing, repair or sales facility.

**MARKET VALUE.** The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. **MARKET VALUE** can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

**MARQUEE.** Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

**MASSAGE ESTABLISHMENT.** Any premises or part thereof where massages are given, offered or solicited in pursuance of a trade or calling, business or occupation; provided that, the service is rendered by a person duly trained, licensed and registered.

**MAUSOLEUM.** A building or other structure used as a place for the interment of the dead in sealed crypts or compartments.

**MEAT PRODUCTS PLANT.** A canned meat factory, sausage factory, meat processing plant and any other factory where meat, poultry or eggs are cooked, cured, smoked or otherwise processed or packed, but does not include a delicatessen shop, stock-yard, slaughterhouse, tannery or hideprocessing plant, a poultry-killing establishment, an animal food factory or an animal by-products plant.

**MEDIAN.** A paved or planted area separating a street or highway into two or more lanes of opposite direction of travel.

**MEDICAL CLINIC.** A building or structure where two or more members of the medical profession, dentists, chiropractors, osteopaths and physicians or occupational therapists provide diagnosis and treatment to the general public without overnight accommodation and shall include such uses as reception areas, offices, coffee shop, consultation rooms, x-ray and minor operating rooms and a dispensary; providing that, all uses have access only from the interior of the building or structure.

**MEDICAL/DENTAL CLINIC.** A business office used extensively by members of the medical or dentistry professions.

**MEDICAL PRACTITIONER.** A doctor, dentist, chiropractor, chiropodist, optometrist or oculist, but shall not include a veterinarian.

**METAL PRODUCTS FACTORY.** A factory for forging, rolling, stamping or drawing (either cold or hot), casting, fabricating, grinding, turning, machining, heat-treating, galvanizing, plating, coating, annealing or other fabrication or processing of structural steel, boilers, tanks, drums or cans, machines, motors or large parts, including railway, automotive, agricultural or electrical equipment, hardware or tools, other ferrous or ferro-alloy metal products, aluminum products, brass or copper products, white metal alloy products, bronze powder or other nonferrous or nonferrous alloy metal products and includes an industrial welding shop, a casting factory and a die casting factory premises used for making sandcastings and a railway rolling stock repair shop, but does not include a small metal wares factory.

**MINERAL DISPOSAL.** The disposal or storage of waste products resulting from the processing of minerals and may include tailing sites and slag dumping sites.

**MINERAL PROCESSING.** The processing of raw minerals extracted from the ground and may include smelting or any other form of processing.

**MINI-STORAGE WAREHOUSE.** A building containing separate, individual self-storage units divided from the floor to the ceiling by a wall with an independent entrance from the exterior of the building, designed to be rented or leased on a short-term basis to the general public for private storage of personal goods, materials and equipment.



**MINI WAREHOUSE AND PUBLIC STORAGE.** A building used for the temporary storage of household items and seasonal, recreational or commercial vehicles, boats, trailers and the like and designed primarily to accommodate those vehicles, boats, trailers and the like, which may not conveniently or legally be parked or stored elsewhere.

**MINIATURE GOLF COURSE.** An area of land or a building, structure or premises or part thereof operated for profit or gain as a commercial place of amusement in which facilities are provided to simulate the game of golf or any aspect of the game on a small scale, but does not include a golf ball driving range.

**MINING.** The extraction of any material, other than sand, gravel or other forms of aggregate, from the ground, and the processing thereof, which may include refining, smelting or any other form of processing.

**MINOR SAND AND GRAVEL PIT.** A small pit on a lot, of which the aggregate materials are required only for the use of the lot.

**MISCELLANEOUS VEGETABLE FOOD PRODUCTS FACTORY.** Any factory used for the blending, processing or preparing of cornflakes, puffed wheat, popcorn or other cereal food products, or jelly powder, baking powder, flavoring extract, beverage powder, tea, coffee, spice yeast, sugar, dextrine, starch, glucose or other vegetable food product, but not including a brewery, distillery, winery, soft drink bottling works, bakery or other use otherwise classified.

**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.

**MIXED USE BUILDING.** A building in a commercial district used partly for residential use and partly for community facility or commercial use.

**MOBILE BUSINESS.** A commercial or industrial operation including a refreshment operation which is established at a location on a temporary basis and which may change location from time to time through the use of motorized transportation and which is not located in a permanent building or structure. **MOBILE BUSINESSES** do not include the delivery of goods and services that have been prearranged.

**MOBILE HOME.** A transportable single-family dwelling unit suitable for long-term occupancy, designed to be transported on its own wheels or by other means and arriving at the site ready for occupancy apart from incidental operations such as location or foundation supports and connection to utilities.

**MOBILE HOME PARK.** A parcel of land under single ownership, which have been planned and improved for the placement of mobile homes for nontransient use.

**MOBILE HOME SITES.** A parcel of land for the placement of a single mobile home and the exclusive use of its occupants.

**MODULAR HOME.** Any dwelling that is designed in more than one unit and is designed to be made mobile on a temporary basis, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a mobile home, recreational travel trailer or recreational motor vehicle, as defined therein.

**MORGUE.** A place for the storage of human bodies prior to autopsy, burial or release to survivors.

**MOTEL.** A building or buildings or part thereof on the same site used to accommodate the traveling public for gain or profit, by supplying them with sleeping accommodation, with or without meals.

**MOTOR HOME.** A self-propelled vehicle capable of being used for the temporary living, sleeping, eating or accommodation of persons.

**MOTOR VEHICLE.** An automobile, truck, motorcycle and any other vehicle propelled or driven otherwise than by muscular power, but does not include the cars of electric or steam railways, or other motor vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self-propelled implement of husbandry or road building machine.

**MOTOR VEHICLE BODY SHOP.** A building or structure use for the painting or repairing of the exterior and/or undercarriage of motor vehicle bodies and in conjunction with which there may be towing service and motor vehicle rentals for customers while the motor vehicle is under repair.

**MOTOR VEHICLE DEALERSHIP.** A building or structure where a franchised dealer displays motor vehicles for sale or lease and in conjunction with which there may be used motor vehicle sales or leasing, a motor vehicle repair garage, a motor vehicle service station, a motor vehicle gasoline bar or a motor vehicle body shop.

**MOTOR VEHICLE REPAIR GARAGE.** A building or structure where the exclusive service performed or executed on motor vehicles for compensation shall include the installation of exhaust system, repair of the electrical system, transmission repair, brake repair, radiator repair, tire repair and installation, rust-proofing, motor vehicle diagnostic center, major and minor mechanical repairs or similar use and in conjunction with which there may be a towing service, a motor vehicle service station and motor vehicle rentals for the convenience of the customer while the motor vehicle is being repaired.

**MUNICIPAL SERVICES.** Public streets, storm sewers, sanitary sewage and water systems designed and capable of servicing a lot.

**MUSEUM.** An institution that is established for the purpose of acquiring, conserving, studying, interpreting, assembling and exhibiting to the public for its instruction and enjoyment, a collection of artifacts of historical interest.

**NATIONAL FLOOD INSURANCE PROGRAM (NFIP).** The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the federal government and the private insurance industry.

**NATIONAL GEODETIC VERTICAL DATUM (NGVD) OF 1929.** As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

**NATURAL BOUNDARY.** The visible high water mark of any lake, river, stream or other body of water where the presence and action of the water are so common and usual as to mark upon the soil of the bed of lake, river, stream or other body of water a character distinct from that of the banks thereof, in respect to vegetation, as well as in respect to the nature of the soil itself.

**NEIGHBORHOOD CLINIC.** A building or part thereof used in the professional practice of not more than three doctors, dentists or drugless practitioners for the purpose of consultation, diagnosis or treatment but shall not include a pharmacy or laboratory accessory to the clinic.

**NEIGHBORHOOD HEALTH CENTER.** A clinic organized as a voluntary, nonprofit enterprises to provide health-care services to a broad socioeconomic mix of patients within a specific service area under the review and approval of the appropriate regulating authority.

**NEIGHBORHOOD STORE.** A store that serves the needs of the adjacent neighborhood, no larger than 600 square feet, and includes the following types of stores: variety stores, clothing stores, food stores, drug stores, banks, restaurants and delicatessens, barber shops, beauty salons, hardware stores, sporting goods stores, dry cleaning agencies for the receipt and delivery only of dry-cleaned articles, a self-service laundry or a laundry receiving depot.

**NEW CONSTRUCTION.** Any structure for which the "start of construction" commenced after the effective date of the community's first floodplain ordinance.

**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.

**NOISE ATTENUATION BARRIER.** A physical structure placed between a noise source and a noise sensitive area where reduced noise levels are required.

**NON-BOUNDARY RIVER FLOODWAY.** The floodway of any river or stream other than a boundary river.

**NONCOMPLYING.** A lot, building or structure that does not fulfill the requirements of the zone provisions for the zone in which the lot, building, structure is located.

**NONCONFORMING.** An existing use or activity of any land, building or structure which does not conform with the permitted uses or activities of this chapter for the zone in which the existing land, building or structure is located, so long as it continues to be used for that purpose.

(1) **BUILDING or STRUCTURES.** A building or structure, which conformed to applicable laws when constructed, but does not conform to the provisions of the current code.

(2) **LOT.** A lot, the area, frontage or dimensions of which do not conform to the provisions of this chapter, but were in existence prior to September, 1974.

(3) **USE.** A lawful specific use in existence prior to September, 1974.

**NONRESIDENTIAL.** When used with reference to a building, structure or use, shall mean designed, intended or used for purposes other than those of a dwelling.

**NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88).** As adopted in 1993, a vertical control datum used as a reference for establishing varying elevations within the floodplain.

**NOXIOUS.** When used with reference to any use or activity in respect of any land, building or structure or a use or activity which, from its nature or from the manner of carrying on same, creates or is liable to create, by reason or destructive gas or fumes, dust, objectionable odor, noise or vibration or unsightly storage of goods, wares, merchandise, salvage, machinery parts, junk, waste or other material, a condition which may become hazardous or injurious as regards to health or safety or which prejudices the character of the surrounding area or interferes with or may interfere with the normal enjoyment of any use of activity in respect of any land, building or structure.

**NUISANCE.** Any condition existing that is or may become injurious or dangerous to health or that prevents or hinders or may prevent or hinder in any manner the suppression of a disease.

**NURSERY/GARDEN CENTER/GREENHOUSE.** A building or structure, and lands associated therewith, for the growing of flowers, fruits, vegetables, plants, shrubs, trees or similar vegetation together with gardening tools and implements which are sold at retail from the building or lot to the general public.

**NURSING HOME.** Any premises in which persons are cared for, lodged, either by a charitable institution within the meaning of the appropriate statute or for hire, where, in addition to sleeping accommodation and meals, personal care, nursing services or medical care and treatment are provided or made available. (The definition **PERSONAL CARE** means personal services such as the provision of aid to residents in walking or climbing or descending stairs, in getting in or out of bed, in feeding, dressing, bathing or in other matters of personal hygiene, and includes the preparation of special diets,

the provision of tray service for meals, the supervision of medication and other similar types of personal assistance. The definition **RESIDENT** means a person who is cared for or lodged for hire in the premises.)

**OBNOXIOUS.** A use which, from its nature or operation, creates a nuisance or is liable to become a nuisance or offensive by the creation of noise or vibration, or by reason of the emission of gas, fumes, dust or objectionable odor, or by reason of the matter, waste or other material, and without limiting the generality of the foregoing shall include any uses which under the appropriate statute or regulations thereunder may be declared to be a noxious or offensive trade, business or manufacture.

**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.

**OBSTRUCTION IN A FLOODWAY.** Any object in, along, across or projecting into any portion of the floodway which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting water-borne debris, or that is placed where the flow of water would carry the same downstream to the damage or detriment of life or property.

**OCCUPANCY.** To reside in as owner or tenant on a permanent or temporary basis.

**OFFICE.** A building or part thereof, designed, intended or used for the practice of a profession, the carrying on of a business, the conduct of public administration, or, where not conducted on the site thereof, the administration of an industry, but shall not include a retail commercial use, any industrial use, clinic or place of amusement or place of assembly.

**ONE-PERCENT ANNUAL CHANCE FLOOD.** The flood that has a 1% chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the 1% annual chance flood. See **REGULATORY FLOOD**.

**OPEN SPACE.** The open, unobstructed space on a lot, including the open unobstructed space accessible to all occupants of any residential or commercial building or structure on the lot, which is suitable and used for the growth and maintenance of grass, flowers, bushes and other landscaping and may include any surface pedestrian walk, patio, pool or similar area, but does not include any driveway, ramp or parking area.

**ORNAMENTAL STRUCTURE.** Any ornamental fountain or other structure, any statue, monument, cenotaph or other memorial, except a mausoleum or columbarium.

**OUTDOOR CAFÉ.** An outdoor area adjoining a restaurant, and consisting of outdoor tables, chairs, plantings and related decorations and fixtures, and where meals or refreshments are served to the public for consumption on the premises.

**OUTDOOR DISPLAY AND SALES AREA.** An area set aside outside of a building or structure, used in conjunction with a business located within the building or structure on the same property, for the display or sales of seasonal items, new merchandise or the supply of services.

**OUTDOOR DISPLAY AREA.** A portion of a lot used for exhibiting in an orderly and safe manner, completely assembled or finished products sold by a retail business located on the same lot.

**OUTSIDE STORAGE.** The storage of equipment, goods, chattels, raw or processed materials outside of any building, or structure. For the purpose of this chapter, the overnight parking of vehicles shall not be deemed to be **OUTSIDE STORAGE**, unless otherwise defined in this chapter.

**OVERLAY ZONING.** Zones, which are superimposed over other zones and which either add further requirements or replace certain requirements of the underlying zone.

**OWNER.** A mortgagee, lessee, tenant, occupant or a person entitled to a limited estate or interest in land, a trustee in whom the land is vested, a committee of the estate of a mentally incompetent person, executor, an administrator or a guardian.

**PARK.** An area permanently devoted to recreational uses and generally characterized by its natural, historic or landscaped features, and used for both passive and active forms of recreation designed to serve the residents of a neighborhood, community, region and/or state.

**PARKING AISLE.** A portion of a private parking area, a commercial parking lot or a private or a commercial parking structure which abuts a parking space on one or more sides and which provides access from the parking space to a street or lane, and which is not used for vehicular parking.

**PARKING AREA.** An area or areas of land or a building or part thereof which is provided and maintained upon the same lot or lots upon which the principal use is located for the purpose of storing motor vehicles. A **PARKING AREA** shall be defined as six or more vehicles.

**PARKING LOT.** A parking area forming the principal use of a lot.

**PARKING, SHARED.** The development and use of parking areas on two or more separate properties for joint use by the businesses on those properties.

**PARKING SPACE.** An off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors, together with properly related access to a public street or alley and maneuvering room. Required off-street parking areas for three or more automobiles shall have individual spaces marked, and shall be so designed, maintained and regulated so that no parking or

maneuvering incidental to parking shall be on any public street, walk or alley, and so that any automobile may be parked or driven from a **PARKING SPACE** without moving another.

**PATIO.** A surfaced, open space of land at grade adjacent to a residential dwelling unit or mobile home which is used as an extension to the interior of the home for private or semi-private entertainment or leisure activities.

**PAVED.** Use of blacktop, asphalt, concrete or other similar substance to create a smooth surface, including bituminous penetration, but not the use of dirt, clay, slag or stone.

**PEDESTRIAN WALKWAY.** An allowance designed exclusively for pedestrians other than a sidewalk and shall include nature trails and paths.

**PERIMETER LANDSCAPED OPEN SPACE.** A landscaped open space intended to enhance the appearance of parking lots and other outdoor auto-related uses by means of landscaping or screening primarily along the public right-of-way.

**PERSON.** Any human being, association, firm, partnership, incorporated company, corporation, agent or trustee, and the heirs, executor or other legal representatives of a person to whom the context can apply according to law.

**PERSONAL SERVICE ESTABLISHMENT.** A business where professional or personal services are provided for gain and where the sale of retail of goods, wares, merchandise, articles or things is only accessory to the provisions of the services, including, but without limiting, the generality of the foregoing, the following: barber shops, beauty shops, tailor shops, laundry or dry-cleaning shops or shoe repair shops.

**PET SHOP.** A shop or place where animals or birds for use as pets are sold, kept for sale or groomed, but does not include a shop or place for the breeding or overnight boarding of pets.

**PHARMACEUTICAL FACTORY.** A factory for manufacturing perfumes, cosmetics, toilet preparations, deodorants, soaps or cleaning compounds, patent medicines and disinfectants that are manufactured and packaged for medical or pharmaceutical purposes only or bleaches other than chlorine bleaches.

**PHARMACY.** A retail outlet which dispenses drugs by prescription.

**PHOTOGRAPHIC ESTABLISHMENT.** A building or part of a building used primarily for the developing and print processing of film, sale of film and photographic equipment, and includes portrait and commercial photography and repair of photographic equipment.

**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.

**PLACE OF WORSHIP.** Churches, chapels, temples, parish halls and synagogues including offices for the administration of the religious institution, convents, seminaries, monasteries, rectories, parsonages and parish houses.

**PLANT, HOT MIX.** A building or structure used for the manufacturing of concrete in a form suitable for the immediate use in the construction of buildings, structures, roads or driveways.

**PLANT, READY MIX.** A building or structure used for the manufacturing of concrete in a form suitable for the immediate use in the construction of buildings, structures, roads or driveways.

**PLANTING STRIP WIDTH.** The least horizontal dimension of a planting strip measured perpendicularly to the lot line abutting the planting strip.

**PLAT.** A map showing the location, boundaries and ownership of individual properties planned and developed as a single project.

**PLAYGROUND.** An area of landscaped open space equipped with children's equipment including, but not limited to, slides, swings or wading pools.

**POINT OF INTERSECTION.** The point at which two street lines abutting a corner lot intersect or if the two street lines meet in a curve, then it is the point at which the production of the two lot lines abutting the two streets intersect.

**PORCH.** A roofed, open gallery or portico attached to the exterior of a building.

**PRE-FABRICATED HOME.** A building which is capable of being occupied exclusively as a dwelling and which is comprised of pre-fabricated components which are manufactured off-site, transported and erected on a lot.

**PRIMARY METALS PLANT.** A smelter, blast furnace, cupola, foundry, mill or other factory used for the production of primary iron or steel, including pig-iron, ferro-alloys and rolled products, or of babbitt metal or other primary non-ferrous metals.

**PRINCIPAL OR MAIN BUILDING.** A building that occupies the major or central portion of a lot, is the chief or main building on a lot, or constitutes, by reason of its use, the primary purpose for which the lot is used.

**PRINT SHOP.** A retail establishment that provides duplicating services using photocopy, blueprint and off-set printing equipment, including collating of booklets and reports.



**PRINTING ESTABLISHMENT.** An establishment used for blueprinting, engraving, stereotyping, electro-typing, printing or typesetting, and shall include a duplicating shop and a letter-shop.

**PRIVACY FENCE.** A fence that will visually isolate, conceal or seclude objects, things, places or people.

**PRIVATE CAMP.** One or more buildings used for sleeping accommodation, the preparation and serving of food and/or sport and recreation facilities, operated under single ownership and intended for recreational purposes on a temporary or seasonal basis.

**PRIVATE GASOLINE PUMP ISLAND.** A gasoline pump island used to dispense gasoline solely to vehicles owned or leased by the occupant of the lot where the gasoline pump island is located. This definition shall not include an automobile service station or any other facility for the sale of fuels.

**PRIVATE PARK.** Any open space or recreational area, other than a public park, owned and operated or maintained in whole or in part for profit by a private club or fraternal organization for members only, and may include therein one or more swimming, wading and boat facilities, picnic area, ski area, gardens or refreshment rooms.

**PRIVATE ROAD.** A private access over private property, which affords access to abutting lots and is not maintained by a public body.

**PRIVATE SWIMMING POOL.** Any outdoor pool, having a depth of at least two feet and a water surface area of at least 150 square feet, which is used, or intended to be used, as a swimming or bathing pool in connection with a residence and available only to the family and private guests of the householder.

**PROCESSING PLANT.** The use of lands, buildings or structures where agricultural produce, including meat and poultry products, is washed, cleaned, dusted, waxed or otherwise prepared or packaged and from which the produce is shipped to a wholesale or retail outlet.

**PROFESSIONAL MEDICAL CARE.** A building or part thereof used for the consultation, diagnosis, surgical or therapeutic treatment of persons by one or more members of the medical and/or dental professions and drugless practitioners.

**PROPANE TRANSFER FACILITY.** A facility at a fixed location having not more than one storage container and the container shall not have an aggregate propane storage capacity in excess of 50,000 liters and from which no retail sale of propane fuels to the public is or may be affected.

**PUBLIC ACCESS POINT.** Public land designated by the appropriate authority and developed and maintained by the authority as a public access to a navigable water body.

**PUBLIC AUTHORITY.** Any federal, state, provincial, district, region, county or municipal agencies, and includes any commission, board, authority or department established by the agency.

***PUBLIC PARK.*** An area of public land specifically defined or set aside for use by and for the general public in both active or passive recreational uses; and includes all landscaping, facilities and apparatus, playing fields, utilities, buildings and other structures that are consistent with the general purposes of public parkland, and whether or not the recreational facilities are publicly operated or operated by other organizations pursuant to arrangements with the public authority owning the park and may include public and private cemeteries.

***PUBLIC SAFETY AND NUISANCE.*** Anything which is injurious to the safety or health of an entire community, neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin.

***PUBLIC UTILITY BUILDING.*** The building in which the proprietor of the public utility maintains its office or offices or maintains or houses any equipment used in connection with the public utility.

***PUBLIC WATER SUPPLY.*** When used with reference to a lot, a system of underground piping and related storage, pumping and treatment facilities, operated by a public authority for public use, and to which the lot has access to make connection thereto.

***QUARRY.*** A place where consolidated rock has been or is being removed by means of an open excavation to supply material for construction, industrial or manufacturing purposes, but does not include a wayside quarry or open pit metal mine.

***RAIL CORRIDOR.*** The railway right-of-way of any railway company.

***RAIL YARD.*** The use of land, building or structure or part thereof for activities directly associated with the operation of a railway. Without limiting the generality of the foregoing, the activities may include loading and offloading freight and maintenance and repair of railway cars.

***REACH.*** Longitudinal segments of a stream or river that will be affected by the placement of an obstruction in a floodway or an encroachment on the floodway fringe.

***RECONSTRUCTION.*** The cleaning, repairing, restoring or renovation of a building to a safe and/or better condition.

***RECREATION FACILITY.*** A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities and may include benches or bleachers for observers.

***RECREATIONAL ASSOCIATION.*** An organization owning land in common for recreation purposes on a temporary or seasonal basis, and may consist of any combination of individually or commonly owned dwelling units and/or recreation facilities.

***RECREATIONAL TRAILER OR VEHICLE.***

(1) A vehicular, portable unit designed for travel, camping or recreational use, including, but not limited to, the following.

(a) ***BOAT TRAILER.*** A vehicle without motive power, designed to be drawn by a motor vehicle and designed for the hauling or storage of a boat, aircraft, snowmobile or other recreational vehicle.

(b) ***MOTORIZED CAMPER.*** A portable dwelling designed and constructed as an integral part of a self-propelled vehicle.

(c) ***PICK-UP CAMPER.*** A portable dwelling unit designed to be mounted on a pick-up truck or chassis, whether or not so mounted.

(d) ***TENT TRAILER.*** A folding structure, constructed of canvas, plastic or similar water repellent material, designed to be mounted on wheels to be used as a temporary dwelling.

(e) ***TRAVEL-TRAILER.*** A vehicular, portable dwelling unit built on a chassis, being of any length provided its gross weight does not exceed 4,500 pounds, or being of any weight provided its overall length does not exceed 28 feet.

(2) For the Floodplain Management subchapter, ***RECREATIONAL VEHICLE*** means a vehicle which is:

(a) Built on a single chassis;

(b) Four-hundred square feet or less when measured at the largest horizontal projections;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

***RECTORY.*** A building used as a residence, operated as a single housekeeping unit, solely by and for a group of men who have been ordained as priests or who have professed vows in a religious order and who live together as a community under the direction of a resident pastor or superior, without more than two persons occupying any one bedroom.

***RECYCLING CENTER.*** A building in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products.

**REDEVELOPMENT.** The removal of buildings or structures from land and the construction or erection of other buildings or structures thereon.

**REGULAR PROGRAM.** The phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

**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 § 153.319(B). The **REGULATORY FLOOD** is also known by the term "base flood", "1% annual chance flood", and "100-year flood."

**RENT-ALL SHOP.** A building or part of a building where residential, industrial and commercial equipment is kept for rental to the general public and includes such things as lawn and garden tools, floor cleaning equipment, masonry tools, painting and decorating equipment, moving tools, plumbing tools and power tools.

**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.

**RESCUE MISSION.** A building that is used or intended to be used to provide to homeless individuals temporary accommodations, shelter, meals or any combination thereof. (For purposes of this section, a **HOMELESS INDIVIDUAL** includes an individual who lacks a fixed, regular and adequate nighttime residence.)

**RESEARCH ESTABLISHMENT/LABORATORY.** A building or group of buildings in which are located facilities for scientific research, investigation, testing or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

**RESERVOIR.** A pond, lake, tank or basin, natural or human-made, used for the storage, regulation and control of water.

**RESIDENTIAL CARE FACILITY.** A family home, group care facility or similar facility for 24-hour non-medical care of persons in need of personal services, supervision or assistance essential for sustaining the activities of daily living or for the protection of the individual.

**RESIDENTIAL USE.** The use of a building or structure or parts thereof as a dwelling.

**RESORT.** A tourist establishment that provides accommodation throughout all or part of the year and that has facilities for serving meals and furnishes equipment, supplies or services to persons in connection with angling, hunting, camping or recreational purposes.

**RESTAURANT.** An establishment which is located in a building or part of a building and which has full kitchen facilities for the preparation of meals and is engaged in the sale and service of meals to the public for consumption on the premises, and the sale of articles incidental to the meal, and may include accessory take-out facilities.

**RESTAURANT, CARRY-OUT.** An establishment in which the design of physical facilities, the serving or packaging procedures permit or encourage the purchase of prepared, ready-to-eat foods intended to be consumed off the premises, and where the consumption of foods in motor vehicles on the property is neither permitted nor encouraged.

**RESTAURANT, DRIVE-IN.** A place where food and drink is served to the public, and which does not necessarily provide facilities for consumption thereof on the premises other than parking areas.

**RETAIL STORE.** A building or part thereof in which foods, wares, merchandise, substances, articles or things are offered or kept for sale directly to the public at retail.

**RETAIL WAREHOUSE.** A building or portion thereof other than part of an industrial mall where the following household or office furniture and furnishings are displayed and offered for sale to the public: furniture, carpets and floor coverings, curtains and drapery, blinds and light fixtures, plumbing fixtures and supplies, pictures, picture frames, mirrors and appliances.

**RETAINING WALL.** A structure constructed to hold back or support an earthen bank.

**RETIREMENT LODGE or RETIREMENT HOME.** A residence providing accommodation primarily for retired persons or couples where each private bedroom or living unit has a separate private bathroom and separate entrance from a common hall, but where common facilities for the preparation and consumption of food are provided, and common lounges, recreation rooms and medical care facilities may also be provided.

**RE-ZONING.** An amendment or change to this chapter.

**RIDING SCHOOL or BOARDING STABLE.** An area of land that is used as an educational center for horse training, handling, care or for the lodging of horses.

**RIDING STABLE.** The use of lands, buildings or structures for the boarding of horses, the training of horses and riders and the staging of equestrian events, but does not include the racing of horses.

**RIGHT-OF-WAY.** An area of land for the provision of public access on which there is usually a paved road.

**ROADWAY.** The part of the highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder.

**ROOF, FLAT.** A roof which is not pitched and the surface of which is parallel to the ground.

**ROOF, GABLE.** A ridged roof forming a gable at both ends of the building.

**ROOF, GAMBREL.** A gabled roof with two slopes on each side, the lower steeper than the upper.

**ROOF, HIP.** A roof with sloping ends and sides.

**ROOF, MANSARD.** A roof with two slopes on each of four sides, the lower steeper than the upper.

**ROOF, SHED.** A roof with one slope.

**ROOMERS or BOARDERS.** A person other than the lessee, tenant, owner or person related thereto to whom lodging is provided for compensation.

**ROOMING HOUSE.** A building or structure or part of a building or structure kept, used or advertised as or held out to be a place where sleeping accommodation is furnished to roomers whether for remuneration, compensation or not, for a period of one week or more and having sleeping accommodation for more than five roomers, but not more than ten roomers.

**ROOMING UNIT.** A room or suite of rooms rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom.

**SALVAGE OR WRECKING YARD.** A place where one or more of the following occur, land or buildings where motor vehicles and parts are wrecked, disassembled, repaired and resold, a place where second-hand goods, including waste paper, bottles, automobile tires, clothing, rags, bones, bicycles, old metal, other scrap material or salvage are bought, sold, exchanged, baled, packed, disassembled, handled for further use or collected to be sorted and a place where used lumber and used building materials are stored for sale or resale.

**SAMPLE SHOWROOM.** A part of a building primarily used for the display of samples, patterns or other goods and wherein orders are taken for merchandise which is stored in bulk in a warehouse part of the same building, generally for future delivery to its customers.

**SANITARIUM.** An establishment for the care and treatment of mental and nervous diseases.

**SANITARY LANDFILL.** A waste disposal site where waste is deposited with cover material being applied at regular intervals.

**SAW OR PLANING MILL.** A building, structure or area where timber is cut, sawed or planed, either to finished lumber, or as an intermediary step and may include facilities for the kiln drying of lumber and may or may not include the distribution of the products on a wholesale or retail basis.

**SCHOOL.** A public school, a separate school, a university, a college or a private school authorized by the authority having jurisdiction.

**SCRAP YARD.** A place where goods and materials which are used, worn out, cast or discarded are stored for the purpose of reclamation, recycling, reuse or consignment for remanufacture of partly one purpose and partly another.

**SCREENING.** A continuous fence, wall, compact, evergreen hedge or combination thereof, supplemented with landscape planting, that would effectively screen the property which it encloses, and is broken only by access drives and walks.

**SECOND DWELLING UNIT.** An additional dwelling unit.

**SECONDHAND SHOP.** A building or part of a building in which used goods, merchandise, substances, articles or things are offered or kept for sale at retail and may include such uses as a flea market, a pawnshop, an antique store, an opportunity shop or similar use.

**SECTION 1316.** That section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

**SENIOR CITIZENS' HOME.** Any home for senior citizens sponsored and administered by any public agency or any service club, church or other nonprofit organization, either of which obtains its financing from federal, state, provincial or municipal governments or agencies, or by public subscription or donation, or by any combination thereof, and may include accessory uses such as club and lounge facilities, usually associated with senior citizens developments.

**SEPARATION DISTANCE.** The shortest distance between buildings on abutting lots.

**SETBACKS, FRONT, REAR, SIDE YARD.** The horizontal distance measured at right angles to the boundary of the parcel, lot or block of land, between the main wall of the building and the main boundary.

**SEWAGE.** The wastewater and matter from domestic, commercial or industrial uses.

**SEWAGE WORKS OR FACILITIES.** Any works by a public authority for the collection, transmission, storage, treatment and disposal of sewage.

**SHOPPING CENTER.** A commercial development, containing at least three individual business establishments conceived and designed as a single, comprehensively planned development project with

appropriate relationships between the shopping center's buildings, activities, open spaces, parking areas, loading areas, driveways, other shared facilities, public areas and adjoining streets and held in single ownership or by participants in a condominium corporation or commercial cooperative.

***SHORELINE.*** A lot line or portion thereof which abuts the high water mark of a waterbody.

***SHORT-TERM OCCUPANCY/USE.*** A period of not more than 90 consecutive days in one calendar year.

***SIDEWALK/PARKING LOT SALE.*** A promotional sales event conducted by one or more businesses which is held outside the confines of the commercial or manufacturing structures in which the business is normally conducted and which sale involves the outdoor display of merchandise which is normally displayed within the structures within a paved or concrete area on the same lot as the structures.

***SIGHT TRIANGLE.*** The triangular space formed by the street lines of a corner lot and a line drawn from a point in one street line to a point in the other street line, each point being 15 meters from the point of intersection of the street lines (measured along the street lines). Where the two street lines do not intersect at a point, the point of intersection of the street lines shall be deemed to be the intersection of the projection of the street lines or the intersection of the tangents to the street lines.



**SIGN.** Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

**SIGN, ANIMATED.** Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

**SIGN, BANNER.** Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one or more edges. National flags, state or municipal flags or the official flag of any institution or business shall not be considered **BANNERS**.

**SIGN, BEACON.** Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

**SIGN, BENCH.** An advertising message on any portion of a bench or other nonmobile structure or device intended for public seating or convenience.

**SIGN, BILLBOARD.** Any structure or portion thereof situated on private premises, on which lettered, figured or pictorial matter is displayed for advertising purposes other than the name and occupation of the user of the premises or the nature of the business conducted thereon or the products primarily sold or manufactured thereon, or any structure or portion thereof, the area of which, devoted to advertising purposes, exceeds 100 square feet.

**SIGN, BUILDING.** Any sign attached to any part of a building, as contrasted to a freestanding sign.

**SIGN, BUILDING MARKER.** Any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into masonry surface or made of bronze or other permanent material.

**SIGN, CANOPY.** Any sign that is a part of or attached to an awning, canopy or other fabric, plastic, or structural protective cover over a door, entrance, window or outdoor service area. A marquee is not a **CANOPY**.

**SIGN, CHANGEABLE COPY.** Any sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight times per day shall be considered an animated sign and not a **CHANGEABLE COPY SIGN** for purposes of this chapter. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a “time and temperature” portion of a sign and not a **CHANGEABLE COPY SIGN** for purposes of this chapter.

**SIGN, COMMERCIAL MESSAGE.** Any sign wording, logo, or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.

**SIGN, CONSTRUCTION.** A temporary sign erected on the premises on which construction is taking place, during the period of the construction, indicating the names of the architects, engineers, landscape architects, contractors or similar artisans, and the owners, financial supporters, sponsors and similar individuals or firms having a role or interest with the structure or project.

**SIGN FACE.** The area or display surface used for the message.

**SIGN, FLAG.** Any fabric, banner or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision or other entity.

**SIGN, FREESTANDING.** Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

**SIGN HEIGHT.** The distance from the top of the sign to the base at normal grade (for determination of grade, see §§ 153.270 through 153.281).

**SIGN, INCIDENTAL.** A sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as “no parking”, “entrance”, “loading only”, “telephone” and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered **INCIDENTAL**.

**SIGN, MARQUEE.** Any sign attached to, in any manner, or made a part of a marquee.

**SIGN, NONCONFORMING.** Any sign that does not conform to the requirements of this chapter.

**SIGN, PENNANT.** Any lightweight plastic, fabric or other materials, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.

**SIGN, PORTABLE.** Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; sign attached or painted on vehicles parked and visible from the public right-of way, unless the vehicle is used in the normal day to day operations of the business.

**SIGN, PROJECTING.** Any sign affixed to a building or a wall in a manner that its leading edge extends more than six inches beyond the surface of the building or wall.

**SIGN, RESIDENTIAL.** Any sign located in a district zoned for residential uses that contains no commercial message, except advertising for goods or services legally offered on the premises where the sign is located, if offering the service at the location conforms with all requirements of this chapter.

**SIGN, ROOF.** Any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

**SIGN, ROOF-INTEGRAL.** Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six inches.

**SIGN, SUSPENDED.** A sign that is suspended from the underside of a horizontal plane surface and is supported by the surface.

**SIGN, TEMPORARY.** Any sign that is used only temporarily and is not permanently mounted.

**SIGN, WALL.** Any sign attached parallel to, but within six inches of, a wall, painted on the surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by the wall or building, and which displays only one sign surface.

**SIGN, WINDOW.** Any sign, pictures, symbol or combination thereof, designed to communicate information about an activity, business, commodity, event sale or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

**SITE PLAN.** A scale drawing showing the relationship between the lot lines and their uses, buildings or structures, existing or proposed on a lot, including such details as parking areas, access points, landscaped areas, building areas, setbacks from lot lines, building heights, floor areas, densities, septic tank tile fields, utility lines and currents or a special or particular use.

**SLAUGHTERHOUSE, COMMERCIAL.** Any establishment primarily engaged in commercial abattoir operations and/or in meat processing and packing operations.

**SLOPE.** The degree of deviation of a surface from the horizontal expressed in percentage or degrees.

**SMALL METAL WARES FACTORY.** A metal products factory that is used only for the forming, stamping, spinning, machining, buffing, plating, coating or other such fabrication or processing of ferrous or non-ferrous small wares or small parts, including cutlery, flatware, hollowware, small springs, coat hangers, small auto parts, light carpenters' or garden hand tools, light electrical equipment, jewelry or other small wares or small parts of iron and steel and their products or of manufactures of the non-ferrous metals, but shall not include the manufacture of bronze powder or other similar grinding process, or a die and casting factory.

**SOCIAL ORGANIZATION.** A non-government, not-for-profit, noncommercial organization which carries on social, cultural, welfare, athletic or recreational programs for the benefit of the community.

**SOD FARM.** The use of land for the purpose of eventual removal of the grasses and the soil that supports them, for any retail or wholesale commercial purposes.

**SOLAR COLLECTOR.** A device or combination of devices, structure or part of a device, or structure that transforms direct solar energy into thermal, chemical or electrical energy and that contributes significantly to a structure's energy supply. **SOLAR COLLECTORS** may be attached to or detached from principal structures.

**SPECIAL EVENT.** An event, the duration of which is temporary in nature and which is limited to one or more of the following uses: an exhibition, a fair, a carnival, a regatta, a religious or music festival or a recreational competition. (For the purposes of this definition, **TEMPORARY** shall mean that the combined total duration of all special events held on one property shall not exceed seven days in a calendar year except in the case of tractor pull, snowmobile race, motorcycle motorcross event, music festival or other special event capable of producing excessive noise levels, in which case only one of the events may be held and for a duration of no longer than three days on one property in a calendar year.)

**SPECIAL FLOOD HAZARD AREA (SFHA).** Those lands within the jurisdiction of the county subject to inundation by the regulatory flood. The SFHAs of the county are generally identified as such on the Grant County, Indiana and incorporated areas flood insurance rate map dated December 9, 2014, as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1-A30, AH, AR, A99, or AO).

**SPRAY AREA.** An area on the same site as the principal permitted use, which is used for the purpose of spraying effluent generated on site.

**STADIUM.** A large, open or enclosed place used for games and major events and partly or completely surrounded by tiers of seats for spectators.

**STANDARD WATERFRONT LOT.** A lot which has water access on one shoreline only.

**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.

**STORY.** The part of a building between the surface of one floor and the ceiling above. However, a cellar does not count as a **STORY**.

**STREET HARDWARE.** Mechanical and utility systems within a street right-of-way which includes, but is not limited to, hydrants, manhole covers, traffic lights and signs, utility poles and lines, parking meters and the like.

**STRIP COMMERCIAL AREA.** An area of existing linear commercial development along a public street or highway.

**STRIP MINING.** A process of recovering ore or fuel deposits by mechanically scraping away the overhanging rock and strata.

**STRUCTURE.**

(1) Anything erected or constructed, the use of which requires temporary or permanent location on, or support of, the soil, or attached to something having permanent location on the ground of soil, but not including pavements, curbs, walks or open air surfaced areas.

(2) For the Floodplain Management subchapter, a **STRUCTURE** that is principally above-ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

**SUBDIVISION.** The process and the result of dividing a parcel of raw land into smaller buildable sites, blocks, streets, open space and public areas and the designation of the location of utilities and other improvements.

**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 or any alteration of a "historic structure," provided that the alteration will not preclude the structures continued designation as a "historic structure."

**SUBSTANTIAL MODIFICATION.** 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 incurred "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 or any alteration of a “historic structure”; provided that, the alteration will not preclude the structure’s continued designation as a “historic structure”.

**SUMMER CAMP, PRIVATE.** A building or group of buildings, including sleeping, eating and recreational uses which is operated within the period from April 15 to October 15 by a nonprofit organization for its members or as a public service and not as a commercial operation.

**SUPERMARKET.** A retail establishment primarily selling food as well as other convenience and household goods.

**SURFACE WATER.** Water on the earth’s surface exposed to the atmosphere as rivers, lakes, streams and oceans.

**SUSPENSION.** The removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

**SWAP MEET/FLEA MARKET.** Any indoor or outdoor place, location or activity where new or used goods or secondhand personal property is offered for sale or exchange to the general public by a multitude of individual licensed vendors, usually in compartmentalized spaces, and where a fee may be charged to prospective buyers for admission, or a fee may be charged for the privilege of offering or displaying the merchandise. The term **SWAP MEET** is interchangeable with and applicable to **FLEA MARKETS, AUCTIONS, OPEN AIR MARKETS, FARMER’S MARKETS** or other similarly named or labeled activities, but the term does not include the usual supermarket or department store retail operations.

**SWIMMING POOL.** A water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level of the surrounding land, or an above-surface pool, having a depth of more than 30 inches, designed, used and maintained for swimming and bathing.

**TAILOR SHOP.** A building or part of a building wherein the business of individual custom tailoring for women or men is carried on, including remodeling, hemstitching and buttonhole making, but does not include a manufacturing industry where clothing manufacture other than individual custom tailoring is carried on.

**TANK FARM.** A facility having two or more storage containers for the transfer of inorganic liquids or gases and from which no retail sale of fuel to the public is or may be conducted.

**TAVERN.** A building or part thereof where, in consideration of payment therefor, liquor, beer or wine or any combination thereof are served for consumption on the premises, with or without food.

**TEMPORARY BUILDING.** A building or structure intended for removal or demolition within a prescribed time not exceeding two years or as set out in a building permit.

**TEMPORARY EMERGENCY, CONSTRUCTION OR REPAIR RESIDENCE.** A residence (which may be a mobile home) that is: located on the same lot as a residence made uninhabitable by fire, flood or other natural disaster and occupied by the persons displaced by the disaster, or located on the same lot as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in the permanent residence when the work is completed.

**TEMPORARY FARM HELP ACCOMMODATION.** A separate building or trailer used or intended to be used for seasonal accommodation of workers of the owner or operator of a farm; provided, the seasonal employees perform their duties on the farm, and in which lodging with or without meals is supplied or intended to be supplied to the employees.

**TEMPORARY USE.** A use established for a period of no more than 90 days with the intent to discontinue the use upon the expiration of the time period.

**TEMPORARY STRUCTURE.** A structure without any foundation or footings and which is removed when the designated time period, activity or use for which the temporary structure was erected has ceased.

**TENT.** Any kind of temporary shelter for sleeping that is not permanently affixed to the site and that is capable of being easily moved and is not considered a structure.

**TENT AND TRAILER CAMPGROUND.** A parcel of land providing overnight or short-term accommodation for trailers, motor homes and tents, but not mobile homes and includes services and facilities normally incidental and subordinate to such a use including common washroom lavatory and bathing facilities, indoor and/or outdoor recreation areas and an entrance kiosk.

**TEXTILE FACTORY.** Any mill, shoddy mill or other factory for the manufacture or processing of cotton yarn, thread, cloth or waste, woolen yarn, felt, blankets, curtains, carpets, rugs or mats, hats, hosiery, knitted goods, garments or other clothing, tents, awnings, sails or parachutes, cordage, rope or twine, cotton or jute bags, and any other articles usually manufactured by the needle trades, including silk or synthetic yarn products, but not including the manufacture of rayon or other synthetic yarn or material.

**THEATER.** A building or part of a building which is used for the commercial showing of films or presentation of live entertainment.

**THRIFT SHOP.** A shop operated by a charitable organization, which sells donated used merchandise only. All merchandise shall be displayed and/or stored in an enclosed building.

**TOP OF BANK.** A point or line which is the beginning of a significant change in the land surface, thence from which the land surface slopes downward towards an abandoned or existing watercourse. When two or more slopes are located together, the slope that is highest and farthest away from the watercourse shall be the slope considered for the **TOP OF BANK**.





**TOWER.** A structure situated on a site that is intended for transmitting or receiving television, radio, telephone or communications, excluding those used exclusively for dispatch communications.

**TOXIC OR NOXIOUS SUBSTANCE.** Any solid, liquid or gaseous matter, including, but not limited to, gases, vapors, dusts, fumes and mists containing properties which by chemical means are inherently harmful and likely to destroy life and impair health, or capable of causing injury to the well-being of persons or damage to property.

**TRAIL SYSTEM.** An area used for hiking, horseback riding, cross-country skiing or other similar forms of nonmotorized recreational travel.

**TRAILER.** A vehicular portable structure designed as a temporary dwelling for travel accommodation, recreational and vacation use.

**TRAILER PARK.** Any land in or upon which any trailer is used or intended to be used for human occupation by the traveling public.

**TRAILER, TRANSPORT.** Any vehicle so constructed that it is suitable for being attached to a motor vehicle and capable of being used for transporting goods, materials, equipment or livestock notwithstanding that the vehicle is jacked up or that its running gear is removed.

**TRAIN STATION.** The use of land, building or structure for loading and unloading freight and passengers on and off trains, including ticket offices, restaurant, luggage checking facilities and similar uses.

**TRANSIENT SALES LOT.** Any area that is used exclusively for the sale of or taking of orders for any merchandise where the sales or order-taking are not part of the operation of an established business or where no permanent physical structures or facilities are used as integral parts of the sales or order-taking operations.

**TRANSPORTATION DEPOT.** Any building or land where buses, trucks or tractor-trailers are rented, leased, kept for hire, stored or parked for commercial purposes.

**TRANSPORTATION TERMINAL.** The use of land, buildings or structures for the purpose of storing, servicing, repairing or loading trucks, transport trailers and/or buses, but does not include automobile service stations or transportation sales or rental outlets.

**TRUCK CAMPER.** Any unit so constructed that it may be attached upon a motor vehicle as a separate unit, and capable of being temporarily utilized for the living, sleeping or eating accommodation of persons.

**TRUCK STOP.** Any building, premises or land in which or upon which a business, service or industry involving the maintenance, servicing, storage or repair of commercial vehicles is conducted or rendered including the dispensing of motor fuel or petroleum products directly into motor vehicles, the sale of accessories or equipment for trucks and similar commercial vehicles. A **TRUCK STOP** also may include overnight accommodation and restaurant facilities solely for the use of truck crews.

**TRUCK TERMINAL.** A building or property used as an origin or destination point of the loading, unloading, assembling or transferring of goods transported by truck, or which provides containerized freight handling facilities, or rail truck services, and/or where local pick-up, delivery and transitory storage of goods incidental to the primary function of the motor freight shipment is provided. Any lot where motor freight shipment is the principal use and where vehicles in excess of single unit, single axle weight of 29,920 pounds GVW are operated, shall be considered, for the purposes of this chapter, as a **TRUCK TERMINAL**.

**UNSTABLE SLOPES.** Slopes which are or may be subject to erosion such as mass movement, slumping, landslides, mudflows or rock falls.

**USABLE LOT AREA.** The area of a lot taken in a horizontal plane between the lot boundaries, excluding land in excess of 25% slope and natural bodies of water.

**USE.** The purpose for which the building, structure or premises or part thereof is designed, arranged, used, occupied, maintained or intended to be used or occupied.

**USE, CONTINUOUS.** The continuous use of any lot, building or structure notwithstanding a change of ownership of the property where the use is located. Use shall further be deemed to be continuous if, after having ceased, the same use recommences within a period of 12 months from the date of cessation, and/or if a structure is destroyed or damaged, it is rebuilt or repaired for the same use within a period of one year from the date of its destruction or damage.

**USE, PRINCIPAL.** The main or primary purpose for which a building, other structure and/or lot is designed, arranged or intended, or for which may be used, occupied or maintained under this chapter. The use of any other building, other structure and/or land on the same lot and incidental or supplementary thereto and permitted under this chapter shall be considered an accessory use.

**UTILITY FACILITIES.** Any above-ground structures or facilities, other than buildings, unless the buildings are used as storage incidental to the operation of the structures or facilities, owned by a governmental entity, a nonprofit organization, a corporation or any entity defined as a public utility for any purpose and used in connection with the production, generation, transmission, delivery, collection or storage of water, sewage, electricity, gas, oil or electronic signals.

**UTILITY INSTALLATION.** Any building, structure, plant or equipment essential to the provision and operation of electricity, water, sewage disposal, telephone service, telegraph service, pipeline, railway telecommunications or cable television.

**UTILITY, PRIVATE OR PUBLIC.** Any agency, which under public franchise or ownership, or under certificate of convenience and necessity provides the public with electricity, gas, heat, steam, communication, rail transportation, water, sewage, collection or other similar service.

**VARIANCE.**

(1) A relaxation of the terms of this chapter where the variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the chapter would result in unnecessary and undue hardship.

(2) In relation to the Floodplain Management subchapter, a **VARIANCE** is a grant of relief from the requirements of the subchapter, which permits construction in a manner otherwise prohibited by the subchapter where specific enforcement would result in unnecessary hardship.

**VEHICLE.** A motor vehicle, trailer, traction engine, farm tractor, road building machine and any vehicle drawn, propelled or driven by any kind of power including muscular power, but does not include the cars of electric or steam railways running only upon rails.

**VEHICLE, RECREATIONAL.** A vehicle designed to provide temporary living accommodation, but does not include a mobile home, travel trailer or other vehicle defined herein.

**VERTICAL CLEARANCE.** The distance from the bottom of the sign face to the base of the sign at normal/natural grade.

**VIDEO OUTLET/RENTAL STORE.** The use of land, building or structure for the purpose of renting video cassette recorders and/or video disc players and/or the rental of video tapes and/or discs.

**VIOLATION.** The failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation, other certification, or other evidence of compliance required in the Floodplain Management subchapter is presumed to be in violation until such time as that documentation is provided.

**WALK-UP SERVICE WINDOW.** An opening in a building designed and intended to permit pedestrians to receive a service or obtain a product without entering the building.

**WAREHOUSE.** A building or part thereof, which is used primarily for the housing, storage, adapting for sale, package or wholesale distribution of goods, wares, merchandise, food stuff substances, articles and the like, but does not include a fuel storage tank.

**WATERBODY.** Any bay, lake, natural watercourse or canal, other than a drainage or irrigation channel.

**WATERCOURSE.**

(1) Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks and includes any area adjacent thereto subject to inundation by reason of overflow or flood water.

(2) In relation to the Floodplain Management subchapter, 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.

**WATER FRONTAGE.** The straight-line horizontal distance from the two most widely separated points on any one shoreline of a lot.

**WATER SETBACK.** The straight-line horizontal distance from the high water mark of a watercourse, bay or lake to the nearest part of any excavation, building, structure or open storage use on the lot.

**WATER SUPPLY.** A distribution system of underground piping and related storage, including pumping and purification appurtenances owned and operated by the appropriate authority.

**WATERSHED MANAGEMENT.** The analysis, protection, development, operation and maintenance of the land, vegetation and water resources of a drainage basin.

**WAYSIDE PIT OR QUARRY.** A temporary pit or quarry opened and used by public road authority solely for the purpose of a particular project or contract of road construction and not located on the road right-of-way.

**WELDING SHOP.** The use of land, building or structure where pieces of metal are welded.

**WELL, WATER.** An underground source of water that has been rendered accessible by the drilling or digging of a hole from ground level to the water table and may include a private piped water system from a surface water source.

**WHOLESALE.** The sale of commodities to retailers or jobbers and shall include the sale of commodities for the purpose of carrying on any trade or business even if the trade or business is the consumer or end user of the commodity.

**WHOLESALE TRADE.** Establishments or places of business primarily engaged in selling merchandise to retailers, industrial, commercial, institutional or professional business users, or to other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

**WILDLIFE PRESERVES.** Land used or intended to be used for the preservation of wildlife and plant life.

**WOOD PRODUCTS FACTORY.** A factory used for the manufacture of barrels, baskets, boats, boxes, coffins, crates, doors, excelsior, flooring, furniture, pressed pulp products, spools, wagons or other wood products, but shall not include a wood distillation plant or other use otherwise classified, or a sawmill or planing mill save one permitted as accessory to a **WOOD PRODUCTS FACTORY**.

**X ZONE.** The area where the flood hazard is less than that in the SFHA. Shaded **X ZONES** shown on recent FIRMs (B Zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2% chance of being equaled or exceeded (the 500-year flood). Unshaded **X ZONES** (C Zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2%.

**YARD.** A part of a site, which is unoccupied and unobstructed by building from the ground upward, excepting thereout and therefrom, chimneys, fire escapes and the ordinary projections of sills, belt courses, cornices and eaves.

**YARD, EXTERIOR SIDE.** A side yard immediately adjacent to an exterior lot line.

**YARD, FRONT.** A yard extending along the full length of a front lot line. In the case of a corner lot, any yard extending along the full length of a street line shall be considered a **FRONT YARD**.

**YARD, REAR.** The part of a lot which extends across the full width of a lot between the rear lot line and nearest wall or supporting member of a principal building or structure.

**YARD, REQUIRED.** The minimum yard required by the provisions of this chapter.

**YARD, SIDE.** A yard extending along a side lot line from the required front yard (or from the front lot line, if no front yard is required) to the required rear yard or to the rear lot line, (if no rear yard is required). In the case of a corner lot, any yard that is not a front yard shall be considered a **SIDE YARD**.

**ZERO LOT LINE DEVELOPMENT.** A residential subdivision in which building lots may be provided for the erection of detached one-family dwellings having no side yard on one side of a dwelling provided the wall of the dwelling on the side with zero setback contains no doors or other openings other than windows.

**ZONE.**

(1) An area delineated on a zoning map and established and designated by this chapter for a specific use.

(2) For the Floodplain Management subchapter, **ZONE** means a geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

**ZONE A.** Portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In **A ZONES**, flood waters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as **ZONE A**, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:

(1) **ZONE A.** Areas subject to inundation by the 1% annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

(2) **ZONE AE** and **A1-A30.** Areas subject to inundation by the 1% annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (**ZONE AE** is on new and revised maps in place of **ZONES A1-A30.**)

(3) **ZONE AO.** Areas subject to inundation by 1% annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

(4) **ZONE AH.** Areas subject to inundation by 1% annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

(5) **ZONE AR.** Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

(6) **ZONE A99.** Areas subject to inundation by the 1% annual chance flood event, but which will ultimately be protected upon completion of an under-construction federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. **ZONE A99** may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

**ZONE B, C, and X.** Areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (**ZONE X** is used on new and revised maps in place of **ZONES B** and **C.**)

**ZONE PROVISIONS.** The permissible uses, the minimum area and dimensions of lots, the minimum dimensions of yards, the maximum lot coverage, the minimum setback, gross floor area, the

minimum landscaped open space, the maximum height of buildings, minimum parking requirements and all other zone provisions as set out within the chapter for the respective zones.

**ZOO.** The use of land, building or structure for keeping live animals for public exhibition.  
(Ord. 2-2000, passed 3-13-2000, Ch. 22; Ord. 7-2014, passed 11-12-2014; Ord. 10-2021, passed 9-20-2021)

### **ADMINISTRATION**

#### **§ 153.025 INCORPORATION AND INTERPRETATION OF MAPS.**

(A) The location and boundaries of the zoning districts established by this chapter are shown on the Zoning District Maps of the county, which are incorporated into this chapter. It is the expressed intent of the Commissioners that all unincorporated areas within the county be located within a zoning district.

(B) In zoning matters relating to access to existing highways, the “Grant County Road Map”, as amended, is adopted as the county’s official map of the public highway system.

(C) If for any reason the location of any zoning district boundary line is not readily determinable from the Zoning District Maps, the location of the zoning district boundary line shall be determined by the Director in accordance with the following provisions. (Where more than one of the following provisions are applicable in any given situation, the first enumerated applicable provision shall prevail over all other provisions.)

(1) Where a zoning district boundary line is located with reference to a fixture, monument or natural feature, the location of the boundary with respect to the attribute shall control.

(2) All water areas, waterways, alleys, roads, streets, highways, railroads and other rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zoning district as the property immediately abutting upon same.

(3) Where district boundaries are indicated as approximately following the centerlines of streets, alleys, railroads or waterways, the lines shall be construed to be the boundaries.

(4) Where a zoning district boundary line is shown as closely (and approximately) following subdivision plat lot lines, municipal boundary or county boundary lines, the zoning district boundary line shall be deemed to coincide with the known boundaries.

(5) Where a zoning district boundary divides a parcel of land, the location of the boundary, unless the same is indicated by dimensions shown on the map, shall be determined by use of the scale appearing thereon, and scaled to the nearest foot.

(6) Where a zoning district boundary line is shown by a specific dimension, that dimension shall control.

(7) In all other circumstances, the location of the zoning district boundary line shall be determined by scaling from the Zoning District Maps.

(Ord. 2-2000, passed 3-13-2000, § 1.12)

#### **§ 153.026 OTHER PLANS, RULES AND REGULATIONS CITED IN THIS CODE.**

In addition to the requirements specifically established within this chapter, the following plans, rules and regulations may contain additional requirements:

(A) All applicable statutory provisions;

(B) The *County Road Standards and Specifications* (the *Road Standards*);

(C) The County Comprehensive Plan;

(D) The *County Storm Drainage Criteria Manual* (the *Drainage Manual*);

(E) Any applicable rules of the Health Department, Board of Health and/or appropriate state agencies;

(F) The rules of the State Highway Department for lots or outlots abutting a state highway or connecting street or road;



(G) The standards and specifications adopted by the County Engineer, other administrative officers of the county and any other agency providing community services and facilities to the land to be subdivided;

(H) All other regulations of the county;

(I) Specific Fire Code regulations in areas where the regulations have been jointly adopted by a Fire Protection District or the Board of County Commissioners; and

(J) The National Fire Protection Association, *National Fire Code "Standard on Water Supplies for Suburban and Rural Fire Fighting"*, unless otherwise provided for in this chapter.  
(Ord. 2-2000, passed 3-13-2000, § 1.13)

**§ 153.027 COUNTY BOARD OF COMMISSIONERS.**

(A) The County Board of County Commissioners may also be referred to as Commissioners.

(B) Under state statute, the Commissioners have the authority to adopt and amend zoning and subdivision regulations, specifically including, but not limited to, regulations regarding planned unit developments and areas and activities of statewide interest; enact ordinances; adopt a building code; review service plan for proposed special districts; and enter into intergovernmental agreements to plan for and control land uses and development.

(C) The Commissioners shall hold regularly scheduled meetings to take official action on these issues and any other matter which requires official action.  
(Ord. 2-2000, passed 3-13-2000, § 1.14)

**§ 153.028 AREA PLAN COMMISSION DIRECTOR.**

(A) The Area Plan Commission Director may also be referred to as the Director.

(B) The Director is responsible for the administration of the Area Plan Office, including, but not limited to, the processing of applications of Comprehensive Plan amendments, amendments to the chapter's regulations and zoning and subdivision approvals. In order to carry out these responsibilities, the Director fulfills the roles of the Zoning Administrator and the Secretary to the Planning Commission and Board of Zoning Appeals.  
(Ord. 2-2000, passed 3-13-2000, § 1.15)

**§ 153.029 COUNTY BUILDING OFFICIAL.**

(A) The County Building Official may also be referred to as the Building Inspector.

(B) The Building Official is responsible for the administration of the County Building Code, located within this chapter, including, but not limited to, the issuance of building permits and conducting the necessary building inspections and the determination of hazardous or life threatening situations. (Ord. 2-2000, passed 3-13-2000, § 1.16)

**§ 153.030 COUNTY PLAN COMMISSION.**

(A) The County Planning Commission may also be referred to as the Planning Commission, APC or the Board.

(B) Members of the Board are appointed as dictated by state planning and zoning laws.

(1) All members must be residents of the county.

(2) The term of members is four years or for elected officials, reflective of their term of office.

(C) The Plan Commission holds regularly scheduled meetings to take official action on rezoning requests, subdivision and any other related matters which require official Planning Commission action.

(D) The procedures followed by the Planning Commission are contained in the state planning and zoning laws as amended and in the *Rules of Procedures* by the Planning Commission. (Ord. 2-2000, passed 3-13-2000, § 1.17)

**§ 153.031 COUNTY BOARD OF ZONING APPEALS.**

(A) The Board of Zoning Appeals may also be referred to as the BZA.

(B) Members of the BZA are appointed as dictated by state planning and zoning laws.

(1) All members must be residents of the county.

(2) The term of members is four years or for elected officials, reflective of their term of office.

(C) The BZA holds regularly scheduled meetings to take official action on variances, special exceptions and any other related matters which required official Board of Zoning Appeals action. The BZA is responsible for hearing any appeals of any order, requirement, decision or determination made by the Director in administering or enforcing provisions of this chapter. The Director does have the authority, granted by the BZA, to approve minor variances (§§ 153.095 through 153.105).

(D) The BZA does not have the authority to grant any variance:

- (1) From uses permitted in the zoning district;
- (2) From any definition in the chapter;
- (3) Which authorizes a substantial modification of a planned unit development; and/or
- (4) Which will cause an increase in the base flood to occur.

(Ord. 2-2000, passed 3-13-2000, § 1.18)

### § 153.032 ZONE MAP.

(A) The zone maps, which are on file in the Area Plan office, show the boundaries of and the area covered by the zone districts. These maps are incorporated by reference into this chapter, with two copies being on file in the Office of the County Recorder and the Clerk of each participating municipality available for public inspection. The notations, references, indications and other matters shown on the zone maps are a part hereof as if they were fully described herein.

(B) The boundaries of the districts by this section are as shown on the zone maps, which are a part of this chapter. The boundaries may be changed only by amending this chapter. The exact location of split zone boundaries in regards to individual tracts of land shall be determined as follows:

- (1) When the exact boundaries of a district are uncertain, they shall be determined by use of the scale of the zone map;
- (2) When a right-of-way is vacated, the districts adjoining each side are respectively extended to the center of the area so vacated;
- (3) If the boundary line of a district divides a lot having frontage on a street so that the front part of the lot lies in one district and part of the lot lies in another, the zoning restriction that applies to the front part of the lot applies to the entire lot;
- (4) If the boundary line of a district divides a lot in a manner essentially perpendicular to a street, that restriction which applies to the larger part of the lot applies to the entire lot;
- (5) If the boundary of a district divides a through lot, the district that applies to the greater frontage applies to the entire lot, except that if one frontage is a designated arterial, the district of that frontage shall apply. If the frontage is equal, the Director shall determine the intent of the zone map; and
- (6) In the case of further uncertainty, the Director shall request that the Board of Zoning Appeals interpret the intent of the zone map as to the location of the boundary in question.

**Grant County - Land Usage**

(C) In the event of annexation of lands to a city or town, the zoning classification existing at the time of annexation shall remain until changed by amendment procedures.

(Ord. 2-2000, passed 3-13-2000, § 1.19)

**§ 153.033 ESTABLISHMENT OF DISTRICTS.**

The jurisdictional area of the County Area Plan Commission is hereby classified and divided into districts designated as follows:

AG	Agricultural
RS	Residential Suburban
R1	Low Single-Family Residential
R2	Medium Density Single-Family Residential
R3	Low Density Single- and Multiple-Family Residential
R4	Medium Density Single- and Multiple-Family Residential
R5	High Density Single- and Multiple-Family Residential
PB	Professional Business
NC	Neighborhood Convenience
LB	Local Business
CC	Central Core
GB	General Business
I1	Light Industry
I2	General Industry
I3	Heavy Industry

(Ord. 2-2000, passed 3-13-2000, § 1.20)

**§ 153.034 AUTHORIZED USES.**

The authorized uses permitted in the zone district established by or under § 153.033 are shown in § 153.186.

(Ord. 2-2000, passed 3-13-2000, § 1.21)

**§ 153.035 ENFORCEMENT.**

The staff of the Area Plan Office or their designated representative(s) shall be responsible for enforcement of all provisions of this chapter in accordance with §§ 153.050 through 153.059. (Ord. 2-2000, passed 3-13-2000, § 1.22)

***ENFORCEMENT*****§ 153.050 AUTHORITY.**

This chapter shall be administered and enforced by the Area Plan Commission staff, who shall have all necessary authority on behalf of the Plan Commission to administer and enforce the provisions of this chapter. The authority shall include the ability to order, in writing, the remedy of any condition found in violation of this chapter and the ability to institute legal action to ensure compliance with the provisions, including injunction, abatement or other appropriate action or proceeding. (Ord. 2-2000, passed 3-13-2000, § 2.1)

**§ 153.051 NONLIABILITY OF COUNTY.**

This code shall not be construed to hold the county or any of its employees or officials acting within the scope of their employment in any manner responsible or liable for any damages to persons or property resulting from any inspection or enforcement as herein authorized or resulting from any failure to so inspect or enforce, or resulting from the issuance or denial of any building permit or the institution of or failure to institute any court action as herein required or authorized. In enacting this chapter, the Area Plan Commission intends to preserve all rights of the county, its agencies and departments, and its elected and appointed officials and employees, to immunity from liability. (Ord. 2-2000, passed 3-13-2000, § 2.2)

**§ 153.052 VIOLATIONS.**

(A) Any of the following shall be a violation of this chapter and shall be subject to the enforcement remedies and penalties provided by this chapter and by state law:

(1) To engage in any development use, construction, remodeling or other activity of any nature upon the land or improvements thereon subject to the jurisdiction of this chapter without all required permits, certificates or other forms of authorization as set forth in this chapter;

(2) To engage in any development, use, construction, remodeling or other activity of any nature in any way inconsistent with any approved plan, permit, certificate or other form of authorization granted for the activity;

(3) To violate, by act or omission, any term, variance or waiver, condition or qualification placed by the governing body or its agent boards upon any required permit, certificate or other form of authorization for the use, development or other activity upon land or improvements thereon;

(4) To erect, construct, reconstruct, alter, repair, convert, maintain or use any building or structure or to use any land in violation or contravention of this chapter, or any other regulation made under the authority conferred thereby; and

(5) To subdivide land in violation of this chapter or transfer or sell land by reference to, exhibition of or any other use of a plat or map showing a subdivision of the land before the plat or map has been properly approved under this chapter and Chapter 152 of this code of ordinances and recorded in the office of the Recorder. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from violation of this chapter.

(B) Each day of any violation is a separate violation, a notice of infraction may be issued for each day of any violation, however, the Enforcement Officer is not required to issue a notice of infraction for each day of the violation.

(Ord. 2-2000, passed 3-13-2000, § 2.3)

#### **§ 153.053 ENFORCEMENT AND INTENT.**

(A) It is the intention of this chapter, unless otherwise provided, that all questions arising in connection with the enforcement of this chapter shall be presented first to the Director and that the questions shall be presented to the Board of Zoning Appeals only on appeal from the Director's decision. An appeal from the decision of the Board of Zoning Appeals shall be by proceedings in the nature of certiorari to the Superior Court as provided by law.

(B) It is further the intention of this chapter that the duties of the legislative body in connection with this chapter shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement thereof.

(Ord. 2-2000, passed 3-13-2000, § 2.4)

#### **§ 153.054 REMEDIES.**

Any one of the following procedures may be used to enforce the provisions of this chapter.

(A) *Injunction.* Any violation of this chapter or of any condition, order or requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated or enjoined by other appropriate proceeding pursuant to state law.

(B) *Civil penalties.* Any person who violates any provisions of this chapter shall be subject to the assessment of a civil penalty under the procedures provided in.

(C) *Denial of permit or certificate.* The Director may withhold or deny any permit, certificate, occupancy or other form of authorization on any land, building, sign, structure or use in which there is an uncorrected violation of a provision of this chapter or of a condition or qualification of a permit, certificate or other authorization previously granted.

(D) *Conditional permit or temporary certificate.* The Director may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time or the posting of a compliance security approved by appropriate governmental authority.

(E) *Stop work orders.* Whenever a building, sign or structure, or part thereof is being constructed, reconstructed, altered or repaired in violation of this chapter, the Enforcement Officer may order the work to be immediately stopped. The stop order shall be in writing and directed to the owner, occupant or person doing the work. The stop order shall state the work to be stopped, the specific reasons for the stoppage and the conditions under which the work may be resumed.

(F) *Revocation of permits.* The Enforcement Officer may revoke and require the return of a permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans or specifications, refusal or failure to comply with the requirements of state or local laws or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(Ord. 2-2000, passed 3-13-2000, § 2.5)

### **§ 153.055 ENFORCEMENT PROCEDURE.**

(A) The Director, Building Inspector or their authorized representatives are empowered in conformity with the requirements of this chapter to inspect and examine any building, structure or parcel, or other area of land (collectively “premises”), concerning which they have reasonable cause to believe that a use exists or construction or alteration work is being performed or has been performed, in violation of the applicable provisions of this code. The provisions of this chapter notwithstanding, consent to enter or an administrative search warrant shall not be required in the following circumstances:

(1) To conduct inspections during regular county business hours under an applied for or issued building permit, for work authorized under that permit prior to the issuance of a final certificate of occupancy;

(2) To conduct inspections within the scope of another official document, such as a duly executed zoning compliance affidavit;

(3) To make observations of the premises in plain view from public property or from portions of the premises which are open or accessible to the public or in which the owner or occupant otherwise lacks a reasonable expectation of privacy; and/or

(4) In emergency situations in which the enforcing official has reason to believe that the public health or safety is in imminent danger and could be jeopardized by any delay in securing entry.

(B) When the Enforcement Officer or his or her agent finds a violation of this chapter, he or she shall, by written order, direct that the remedial action be taken immediately that will result in full compliance with the applicable provisions of this chapter. The owner or occupant of any land, building, structure, sign or use of land or part thereof and any architect, builder, contractor, agent or any other person who participates or acts in concert, assists, directs, creates or maintains any condition that is in violation of the requirements of this chapter may be held responsible for the violation and subject to the civil penalties and remedies herein provided.

(C) If the owner or occupant of the land, building, sign, structure or use in violation fails to take prompt corrective action, the Enforcement Officer shall give the owner or occupant a warning ticket notice of violation to his or her last known address, by personal service or by posting notice of the violation conspicuously on the property that includes:

- (1) The land, building, sign, structure or use is in violation of this chapter;
- (2) The nature of the violation and citation of the section of the ordinance violated;
- (3) The measures necessary to remedy the violation; and
- (4) The amount of penalty due under § 153.054.

(D) If the owner or occupant of a property fails to comply with a notice of violation, the owner or occupant shall be subject to the remedies and penalties as may be provided for by state law. If the owner or occupant fails to comply with the remedies and penalties prescribed, enforcement shall be sought through an order of a court of competent jurisdiction.

(Ord. 2-2000, passed 3-13-2000, § 2.6)

#### **§ 153.056 CIVIL PENALTIES; ASSESSMENT AND PROCEDURES.**

(A) Each day of any violation is a separate violation, a notice of infraction may be issued for each day of any violation, however, the Enforcement Officer is not required to issue a notice of infraction for each day of the violation.

(B) (1) No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation § 153.055(C).

(2) If, after receiving a notice of violation under § 153.055(C), the owner or other violator fails to take corrective action, a civil penalty may be imposed under this chapter in the form of a citation in a court of appropriate authority.



(3) In emergency situations where the violation being carried out cannot be undone or there is an imminent public health or safety concern, a written warning is not a required step of the procedure.

(C) (1) If payment is not received or equitable settlement reached within 30 days after the warning ticket is issued and the violation has not been corrected, the matter shall be referred to legal counsel for institution of a civil action in the appropriate division of the courts of justice for recovery of the civil penalty and correction of violation.

(2) Provided, if the civil penalty is not paid within the time prescribed, the Enforcement Office may have a criminal summons or warrant issued against the violator.

(3) Upon convictions, the violator shall be subject to any criminal penalty the court may impose.

(D) The Enforcement Officer may, by mandatory injunction in the circuit or superior courts of the county, require removal of a structure erected in violation of this chapter.  
(Ord. 2-2000, passed 3-13-2000, § 2.7)

**§ 153.057 OTHER POWERS AND ACTIONS.**

(A) In addition to other enforcement provisions contained in this chapter, the Area Plan Commission may exercise any and all enforcement powers granted to it by state law or common law.

(B) Nothing in this chapter shall prohibit the continuation of previous enforcement actions.  
(Ord. 2-2000, passed 3-13-2000, § 2.8)

**§ 153.058 REMEDIES CUMULATIVE AND CONTINUOUS.**

(A) (1) All remedies provided herein shall be cumulative.

(2) To the extent that state law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, the remedy shall remain available for other violations or other parts of the same violation.

(B) If an owner or occupant repeats the same violation within a five-year period from the date of the initial violation, it shall be considered to be a continuation of the initial violation and shall be subject to additional penalties and remedies.  
(Ord. 2-2000, passed 3-13-2000, § 2.9)

**§ 153.059 SUBDIVISION REGULATION ENFORCEMENT.**

(A) The Area Plan Commission and its duly appointed representatives shall have the authority to enforce Chapter 152 of this code of ordinances.

(B) If it is determined, after a final plat for any subdivision is approved or filed for recording, that the plat approval was based on inaccurate, false or misleading information of a material nature, the Area Plan Commission may take appropriate action to withdraw or reconsider the approval, to require corrective measures, or to void the plat, after a public hearing where adequate notice and opportunity to be heard are given to the subdivider, any successor property owners, and any affected adjacent property owners, referral agencies or service providers.

(C) In addition to any other enforcement action specified in this chapter, the Director is authorized to withhold or demand the withholding of the issuance of any building permit or related permit under this chapter sought or requested for property which is determined to have been divided without the required county approval, has not been recorded, or which is the subject of a violation of the final plat approval, including any plat note or restriction or any commitment of record in the county's final plat approval file.

(Ord. 2-2000, passed 3-13-2000, § 2.10)

***PLAN COMMISSION*****§ 153.070 SCOPE AND FUNCTION.**

The Area Plan Commission (APC) ensures that community development and growth complies with the rules set forth in this chapter and Chapter 152 of this code of ordinances. Under state statute, the Board has the authority to adopt and amend zoning and subdivision regulations, specifically including, but not limited to, regulations regarding planned unit development, subdivision plats and service plans for proposed special districts. The Board has jurisdiction over all land subject to this chapter.

(Ord. 2-2000, passed 3-13-2000, § 14.1)

**§ 153.071 LEGISLATIVE AND QUASI-JUDICIAL CHARACTERIZATION.**

Whether a proposed action is characterized as legislative or quasi-judicial is a legal determination made on a case by case basis. However, a decision which applies an existing policy to a specific situation, at the request of a few number of persons, and which involves a limited number of parcels in readily identifiable ownership is generally a quasi-judicial action, whereas a decision which formulates a general policy applicable to a broad class of situations and to a large number of parcels and persons,

not readily identifiable, is generally legislative in nature. Furthermore, a decision which formulates policy yet affects relatively few individuals, or a decision which requires correct factual determinations for the application of preexisting criteria, regardless of the number of persons affected, will generally be characterized as a quasi-judicial action.

(Ord. 2-2000, passed 3-13-2000, § 14.2)

#### **§ 153.072 CREATION OF AREA PLAN COMMISSION.**

An Area Plan Commission (APC) is hereby created and established in accordance with I.C. 36-7-4-200, 36-7-4-300 and 36-7-4-400. The word **BOARD**, when used in this chapter, shall be construed to mean the Plan Commission. The Board shall consist of 13 members or as required by I.C. 36-7-4.

(Ord. 2-2000, passed 3-13-2000, § 14.3)

#### **§ 153.073 POWERS OF THE PLAN COMMISSION.**

(A) The Plan Commission shall make recommendations to the appropriate legislative body or bodies concerning:

- (1) The adoption of the Comprehensive Plan and amendments to the Comprehensive Plan;
- (2) The adoption or text amendment of:
  - (a) An initial zoning ordinance;
  - (b) A replacement zoning ordinance; and
  - (c) A subdivision control ordinance or other needed ordinances.
- (3) The adoption or amendment of a PUD district ordinance; and
- (4) Zone map changes (rezonings).

(B) Render decisions for plats, re-plats and amendments to plats of subdivisions.

(Ord. 2-2000, passed 3-13-2000, § 14.4)

#### **§ 153.074 ACTION BY THE PLAN COMMISSION.**

(A) In exercising the above mentioned powers, the Board may give a favorable, unfavorable or no recommendations to a rezoning, planned unit development or a proposed ordinance or plan.

(B) The Board may deny any subdivision plat that does not meet the requirements of Chapter 152 of this code of ordinances.

(C) Because the Board is the ultimate authority over the Area Plan Office, it can adopt policies for the Office.

(D) It is strongly enforced to Board members that they should not discuss a pending petition outside of public hearings to ensure members do not become biased. However, the APC welcomes and encourages testimony from the public at its meetings.

(E) A specific application, which has been adversely decided to the petitioner, shall not be placed on the agenda for consideration for a period of one year following the date of the adverse decision issued by the Plan Commission.

(Ord. 2-2000, passed 3-13-2000, § 14.5; Ord. 16-2019, passed 12-16-2019; Ord. 6-2020, passed 3-16-2020)

#### **§ 153.075 ZONING MAP AND TEXT AMENDMENTS.**

(A) Zoning regulations, restrictions and zone boundaries as shown on the Official Zoning Map may from time to time be amended, supplemented, changed, modified or repealed according to the provisions of this chapter.

(B) Temporary cessation on permits is allowed when zoning amendments are pending (§§ 153.470 through 153.488).

(C) If the Plan Commission determines at a public hearing, that changes in Chapter 152 of this code of ordinances, related land use regulations or the Comprehensive Plan under active consideration by the Plan Commission are such that owners of property will attempt to circumvent the provisions under consideration by applying for approval of a subdivision plat prior to the effective date of the proposed change, then the Plan Commission may, by resolution, order the Director to not accept applications for proposals that violate the provisions under consideration. The resolution shall be effective for not more than six months.

(D) If the Plan Commission determines at a public hearing that changes, alterations or additions in any zoning maps, text amendments, land use regulations or related matters are under consideration by the Plan Commission, whether or not it has prepared drafts of the language of the changes to be considered and if the Plan Commission further determines that the changes may have a direct impact on certain types or categories of applications for permits and/or that the applications may be in conflict with

the objectives of the Comprehensive Plan, and/or the changes under consideration, then the Plan Commission may, by resolution, suspend the filing of applications for approvals and/or permits the completion of any file by uncompleted applications for approvals and/or permits or the granting of any approvals and/or permits pursuant to the applications from the time of adoption of the resolution until the time of final disposition by the legislative body of any changes recommended to the legislative body by the Plan Commission with respect to the matters under consideration. The resolution to suspend the filing of applications for approvals and/or permits may be used to apply to any applications which by this chapter are to be filed with the Plan Commission or its staff including, but not limited, to all applications for improvement locations permits, building permits, certificates of occupancy, approval of a site specific development plan, approval of a primary or secondary plan, approval of a conditional use, special exception or special use or the approval of a planned unit development. The resolution of suspension may be passed as an emergency measure without public notice. The resolution shall be effective for not more than six months. The language of this provision shall be deemed to be in addition to and independent of any other provisions of the rules, regulations or zoning ordinances to which this provision is a part of. (This division (D) does not apply to the Town of Matthews, Indiana.) (Ord. 2-2000, passed 3-13-2000, § 14.6; Ord. 5-2006, passed 8-1-2006)

#### **§ 153.076 REZONINGS.**

(A) Any person authorized to seek an ordinance amendment shall submit an application according to a form provided by the Area Plan Commission, along with other required information.

(B) No application for rezoning request of the same district shall be filed within a one-year period from the date of final action of the previous rezoning request (other than a withdrawal prior to the public hearing) on a given parcel of land or portion thereof.

(C) Under no circumstances may more than two zoning map amendments be filed for a given parcel of land or any portion thereof within any one-year period.

(D) The Plan Commission may continue a rezoning request for up to two months; provided, the reason for the continuance is stated in the motion to continue. Nothing in this section shall prohibit a continuance being granted for a greater period of time provided it is mutually agreed upon by all parties concerned. Upon failure of the Planning Commission to act on a request immediately following all proper continuances, or if no action is taken, the petitioner may take the rezoning application to the legislative body without a recommendation from the Plan Commission.

(E) The proposed rezone shall be evaluated with reference to the purpose, intent and applicable standards of the Comprehensive Plan, this title and other applicable laws. All relevant facts may be considered to determine if the public interest would be served by the proposed rezone.

(F) Any appeals to the legislative body's decision must be filed in a civil suit. (Ord. 2-2000, passed 3-13-2000, § 14.7)

**§ 153.077 SUBDIVISIONS.**

(A) Chapter 152 of this code of ordinances is used extensively by the Plan Commission. It sets minimum standards for division of land for development purposes other than agricultural use. It does not, however, control the use of land. The use is determined by this chapter, whether it be residential, commercial or industrial. Chapter 152 of this code of ordinances controls how a use relates to the land upon which it is located. A properly prepared and implemented ordinance helps prevent poorly planned and developed subdivisions by requiring good design and adequate improvements.

(B) The APC shall approve a subdivision plat if the plat meets all requirements of Chapter 152 of this code of ordinances and pertinent sections of this chapter.

(Ord. 2-2000, passed 3-13-2000, § 14.8)

**§ 153.078 PLANNED UNIT DEVELOPMENT.**

(A) Planned unit developments are formulated in order to encourage the flexibility in the development of land that may be necessary to permit adjustment to changing public and private needs to encourage integrated planning to reduce the burden on existing streets and utilities by more efficient development and to conserve the value of land.

(B) The APC shall approve a planned unit development upon consideration of:

(1) A PUD must conform with the objectives of the County Comprehensive Plan;

(2) The uses permitted in a PUD must be of a type and so located as to exercise no undue detrimental influence upon surrounding properties. The PUD shall not endanger the public health, welfare or safety; and

(3) Section 153.451.

(Ord. 2-2000, passed 3-13-2000, § 14.9)

**§ 153.079 AMENDMENTS.**

(A) Applications to amend the text of this chapter shall be submitted to the Area Plan Commission.

(B) The Area Plan Commission will provide a draft of the proposed text change and recommendations on the change.

(C) Applications for text amendments shall be processed, considered and voted upon in the same procedure as that required for zoning map amendments, except that the Plan Commission does not have authority to approve a text amendment.

(D) The Plan Commission shall make a recommendation to the legislative body concerning the proposed text amendment.

(E) The plan or ordinance is then voted on by the appropriate legislative body.

(F) If a plan or ordinance is denied, it may be sent back to the Plan Commission for review.  
(Ord. 2-2000, passed 3-13-2000, § 14.10)

**§ 153.080 OFFICE BUSINESS.**

(A) The APC has the authority to review Area Plan Office procedures, policies and performance.

(B) The APC may adopt policies for the Area Plan Office, as needed.  
(Ord. 2-2000, passed 3-13-2000, § 14.11)

**§ 153.081 PUBLIC HEARINGS.**

(A) The Area Plan Office will follow I.C. 5-3-1-2 and I.C. 5-3-1-4 for advertising and notification for public hearings.

(1) The petition must be advertised in a newspaper of general circulation in the county ten days before the public hearing (subdivision plats must be advertised in two newspapers or twice in one newspaper).

(a) The Area Plan Office will prepare the legal ad for the newspaper.

(b) The petitioner must collect the publisher's affidavit from the newspaper and pay for the legal ad (the county is not responsible for the cost of advertising).

(c) The petitioner must submit the publisher's affidavit to the Area Plan Office before the meeting.

(2) Adjacent property owners must be notified of the petition ten days before the public hearing. The Area Plan Office will prepare the list of adjacent property owners and then send notification to them.

(3) A sign must be placed on the property of the petition 14 days before the public hearing.

(a) The Area Plan Office will provide the petitioner with a sign.

(b) The sign must be posted and maintained until the time of the meeting.

(B) Every year the Area Plan Commission and Board of Zoning Appeals will adopt a schedule of meeting and filing dates to determine what meeting a petitioner will qualify for.  
(Ord. 2-2000, passed 3-13-2000, § 14.12)

### ***BOARD OF ZONING APPEALS***

#### **§ 153.095 SCOPE AND FUNCTION.**

The County Board of Zoning Appeals (BZA) ensures that community development and growth comply with the rules set forth in this chapter. The BZA is a quasi-judicial body, which means it follows procedures similar to those used in a court of law. The Board has jurisdiction over all land subject to this chapter.

(Ord. 2-2000, passed 3-13-2000, § 15.1)

#### **§ 153.096 LEGISLATIVE AND QUASI-JUDICIAL CHARACTERIZATION.**

(A) Whether a proposed action is characterized as legislative or quasi-judicial is a legal determination made on a case-by-case basis. However, a decision which applies an existing policy to a specific situation, at the request of a few numbers of persons, and which involves a limited number of parcels in readily identifiable ownership is generally a quasi-judicial action, whereas a decision which formulates a general policy applicable to a broad class of situations and to a large number of parcels and persons, not readily identifiable, is generally legislative in nature. Furthermore, a decision which formulates policy yet affects relatively few individuals, or a decision which requires correct factual determinations for the application of preexisting criteria, regardless of the number of persons affected, will generally be characterized as a quasi-judicial action.

(B) Because the BZA reviews some issues in quasi-judicial terms, state law prohibits Board members from discussing these types of issues outside of public hearings to ensure members do not become biased. However, the BZA welcomes and encourages testimony from the public at its regular monthly meetings.

(Ord. 2-2000, passed 3-13-2000, § 15.2)

#### **§ 153.097 CREATION OF BOARD OF ZONING APPEALS.**

A Board of Zoning Appeals (BZA) is hereby created and established in accordance with I.C. 36-7-4-900. The word ***BOARD***, when used in this chapter, shall be construed to mean the Board of Zoning Appeals. The Board shall consist of seven members or as required by I.C. 36-7-4.

(Ord. 2-2000, passed 3-13-2000, § 15.3; Ord. 4-2008, passed 8-5-2008)



**§ 153.098 POWERS OF THE BOARD OF ZONING APPEALS.**

(A) The BZA shall have the following powers and it shall be its duty:

(1) To hear and decide appeals where it is alleged there is an error of law in any order, requirement, decision or determination made by the Plan Commission Director or Zoning Administrator in the enforcement of this chapter:

(2) To hear and decide special exceptions where it is alleged there is reason and conditions are favorable to allow a questioned use in a zone district and neighborhood:

(3) Permit a variance in the yard requirements, height restrictions or lot area per dwelling unit requirements of any district, but only where there are unusual and practical difficulties or unnecessary hardships in the carrying out of those provisions providing the variances will not negatively affect any adjoining property or the general welfare:

(4) Waive or reduce the parking and loading requirements in any district whenever the use of a building or land is so extraordinary as to make unnecessary the full provisions of parking or unloading facilities or whenever it can be shown that provisions of required off-street parking space within 300 feet of the main building is not feasible and would impose an unreasonable hardship:

(5) Reduce the height requirements for structures in the floodway fringe to the base flood elevation or higher. No variances can be granted for structures in the floodway:

(6) Interpret a zoning boundary line, use classification or other requirement when the chapter is unclear or vague. The Administrator shall comply with the Board's interpretation. The interpretation shall apply in all similar and subsequent cases; and

(7) No variance may be granted for a use of land or building or structure that is prohibited by the authorized use table of this chapter.

(B) In consideration of all appeals and all proposed special exceptions or variances under the terms of this chapter, the Board shall, before approving any special exception or variance from the ordinance in a specific case, first determine that it will not impair an adequate supply of air or light to adjacent property, unreasonably increase the congestion in public streets, diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, morals, comfort or welfare.

(C) Every year, the Board shall adopt a schedule of meeting dates and filing deadlines.  
(Ord. 2-2000, passed 3-13-2000, § 15.4)

**§ 153.099 ACTION BY THE BOARD OF ZONING APPEALS.**

(A) In exercising the above-mentioned powers, the Board may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make the order, requirement or determination as ought to be made and, to that end, shall have all the powers of the Area Plan Commission. In granting a special exception or variance, the Board may attach thereto conditions as it may deem advisable in furtherance of the purpose of this chapter.

(B) The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision or determination of the Executive Director or Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass.

(C) Any person or persons, or any office, department, board, or bureau severally aggrieved by any decision of the Board of Zoning Appeals, may present to the Superior or Circuit Court of the county, within 30 days after the decision of the Board, an appeal to the decision of the Board.

(D) Because the BZA reviews some issues in quasi-judicial terms, state law prohibits Board members from discussing these types of issues outside of public hearings to ensure members do not become biased. However, the BZA welcomes and encourages testimony from the public at its meetings.

(E) A specific application, which has been adversely decided to the petitioner, shall not be placed on the agenda for consideration for a period of one year following the date of the adverse decision issued by the Board.

(F) Before any final BZA decision, all petitioners must request the participating community place their petition on the next available regular meeting agenda to be heard and provide the BZA with the recommendation signed by the executive. This is a recommendation only; the Board of Zoning will be the entity to approve or deny the petition.

(Ord. 2-2000, passed 3-13-2000, § 15.5; Ord. 4-2008, passed 8-5-2008; Ord. 3-2020, passed 2-3-2020)

**§ 153.100 VARIANCES.**

(A) The BZA shall approve or deny variances (I.C. 36-7-4-918.5) from the development standards of this chapter. A variance may be approved under this section only upon a determination in writing that:

(1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community:

(2) The use or value of the area subject to the property included in the variance will not be adversely affected:

(3) The need for the variance arises from some condition peculiar to the property involved and does not exist in similar property in the same district; and

(4) The strict application of the terms of the chapter will constitute an unusual and unnecessary hardship as applied to the property for which a variance is sought.

(B) An application (I.C. 36-7-4-916) for variance must be completed on a form approved by the Office and submitted with the application fee, legal description, site plan and other information as required to be placed on the agenda for the next eligible BZA meeting.

(C) In granting a variance, the Board of Zoning Appeals may impose more restrictive requirements upon the permit as it may deem necessary in order that the purpose and intent of this chapter are served.

(D) Any approved variance shall be perpetually binding upon the property.

(E) If, for any reason, any condition imposed pursuant to these regulations is found to be illegal or invalid, the variance shall be null and void and of no effect.

(F) If, after receiving a notice of violation for violation of the terms or conditions of a variance, the owner fails to correct the violations within a reasonable time, then the variance may, after a hearing, be revoked by the BZA.

(G) The BZA shall revoke the permit on all or part of a development if it finds that there has been a violation that was intentional or continued for an unreasonable time after the owner had notice thereof or was substantially inconsistent with the purposes of the district and continued for any time after the owner had notice thereof and the opportunity to cure.

(Ord. 2-2000, passed 3-13-2000, § 15.6)

### **§ 153.101 SPECIAL EXCEPTIONS.**

Each zoning district lists special exception uses that, because of their special impact or unique characteristics, can have a substantial adverse impact upon or be incompatible with other uses of land. This impact often cannot be determined in advance of the use being proposed for a particular location. The uses may be allowed to locate within given districts only through the review process of the special exception permit and under the controls, limitations, and regulations of the permits. This chapter establishes general and specific development standards for special exceptions and provides for a review process which will evaluate the location, scale and development characteristics of the uses and their impact on adjacent properties and the community as a whole.

(A) The BZA shall approve or deny a special exception (I.C. 36-7-4-918.2) from the terms of the chapter, only after a public hearing if it finds that:

(1) The proposed special exception is to be located in a district wherein the use may be permitted:

(2) The requirements set forth in the district and the section for the special exception will be met; and

(3) The special exception is consistent with the spirit, purpose and intent of these regulations, will not substantially and permanently injure the appropriate use of neighboring property and will serve the public convenience and welfare.

(B) An existing use which is listed herein as a special exception and which is located in a district in which the special exception may be permitted and was approved by BZA, is a conforming use. Any expansion of the special exception involving the enlargement of the buildings, structures and land area devoted to the use shall be subject to the procedures described in this section.

(C) An application (I.C. 36-7-4-916) for special exception must be completed on a form approved by the Office and submitted with the application fee, legal description, site plan and other information as required to be placed on the agenda for the next eligible BZA meeting.

(D) In granting a special exception, the Board of Zoning Appeals may impose more restrictive requirements upon the permit as it may deem necessary in order that the purpose and intent of this chapter are served.

(E) Any special exception so authorized shall be binding with the current owner of property only, unless otherwise specified.

(F) If, for any reason, any condition imposed pursuant to these regulations is found to be illegal or invalid, the special exception shall be null and void and of no effect.

(G) If, after receiving a notice of violation for a violation of the terms or conditions of a special exception, the owner fails to correct the violations within a reasonable time, then the special exception may, after a hearing, be revoked by the BZA. The BZA shall revoke the permit on all or part of a development if it finds that there has been a violation that was intentional or continued for an unreasonable time after the owner had notice thereof or was substantially inconsistent with the purposes of the district and continued for any time after the owner had notice thereof and the opportunity to cure. (Ord. 2-2000, passed 3-13-2000, § 15.7)

**§ 153.102 SPECIAL EXCEPTION STANDARDS.**

The uses outlined in Table § 153.102 below shall meet the following requirements, unless otherwise varied by the Board, in addition to all other requirements of this chapter.

<i>Table § 153.102 - Special Exception Standards</i>						
<i>Land Use</i>	<i>Distance to Residence Zone District</i>	<i>Front Setback</i>	<i>Side Setback</i>	<i>Rear Setback</i>	<i>Fence/Wall</i>	<i>Solid Planting Screen Abutting Residential</i>
Airport	100 feet					6 feet x 3 feet
Anhydrous ammonia facility	500 feet	300 feet	300 feet	300 feet		
Auto body/painting	100 feet					
Commercial facility for raising fowl and animals	200 feet	100 feet	100 feet	100 feet		6 feet x 3 feet
Commercial petroleum tank farm	300 feet	150 feet	100 feet	100 feet		6 feet x 3 feet
Farm confinement feeding facility (Fairmount and Matthews only)	100 feet	100 feet	100 feet	100 feet		6 feet x 3 feet
Junk yard	1,320 feet	300 feet	100 feet	100 feet	6 feet solid screen	
Livestock sales barn	500 feet	150 feet	100 feet	100 feet		6 feet x 3 feet
LP gas dealer	300 feet	100 feet				
Manufacture and storage of explosives	500 feet	300 feet	100 feet	100 feet	6 feet wire mesh	
Mineral extraction	300 feet	100 feet	100 feet	100 feet		
Penal or correctional institution					8 feet security wire mesh	
Racetrack	500 feet	100 feet	100 feet	100 feet	6 feet wire mesh	6 feet x 3 feet
Sanitary landfill or transfer station	500 feet	300 feet	300 feet	300 feet	6 feet x 3 feet solid planting screen	6 feet x 3 feet
Sewage disposal facility					6 feet x 3 feet solid planting screen	6 feet x 3 feet

*Table § 153.102 - Special Exception Standards*

<i>Land Use</i>	<i>Distance to Residence Zone District</i>	<i>Front Setback</i>	<i>Side Setback</i>	<i>Rear Setback</i>	<i>Fence/Wall</i>	<i>Solid Planting Screen Abutting Residential</i>
Sexually oriented business (adult entertainment parlor or adult uses)	1,320 feet					
Shooting range, outdoor	500 feet	200 feet	100 feet	100 feet		
Slaughterhouse	1,320 feet	500 feet	300 feet	300 feet	6 feet solid screen	
Storage of disabled vehicles	500 feet	300 feet	100 feet	100 feet	6 feet solid screen	6 feet x 3 feet
Travel trailer park/campground	500 feet	100 feet	100 feet	100 feet		8 feet x 3 feet

(Ord. 2-2000, passed 3-13-2000, § 15.8)

**§ 153.103 APPEALS.**

(A) The BZA shall hear and determine appeals (I.C. 36-7-4-918.1) from and review: any order, requirement, decision, or determination made by an Administrative Official, Hearing Officer or staff member under this chapter.

(B) An appeal (I.C. 36-7-4-919) filed with the BZA must specify the grounds of the appeal and must be filed within the time and in the form as may be prescribed by the BZA by rule.

(1) The Administrative Official, Hearing Officer, Administrative Board, or other body from whom the appeal is taken shall, on the request of the BZA, transmit to it all documents, plans and papers constituting the record of the action from which an appeal was taken.

(2) Upon appeal, the BZA may reverse, affirm, or modify the order, requirement, decision, or determination appealed from. For this purpose, the BZA has all the powers of the official, officer, board, or body from which the appeal is taken.

(C) An application (I.C. 36-7-4-916) for appeal must be completed on a form approved by the Office and submitted with the application fee, legal description, site plan and other information as required within 30 days of the date of decision.

(Ord. 2-2000, passed 3-13-2000, § 15.9)

**§ 153.104 MINOR VARIANCES.**

(A) The Plan Commission may establish an alternate procedure under which there can be a more expedient disposition of certain matters. A Hearing Officer may be appointed by the Plan Commission and will have the power of the BZA to approve or deny.

(B) The Director will act as the Hearing Officer and may grant a minor variance if he or she finds:

(1) The variance will not be for more than 10% of the required setback, height, or lot coverage.

(2) The approval will not be injurious to the public health, safety, morals, and general welfare of the community.

(3) The use or value of the area subject to the property included in the variance will not be adversely affected.

(4) The need for the variance arises from some condition peculiar to the property involved and does not exist in similar property in the same district; and

(5) The strict application of the terms of the chapter will constitute an unusual and unnecessary hardship as applied to the property for which a variance is sought.

(C) All requirements for variances, special exceptions and uses imposed by I.C. 36-7-4-900 apply to this alternate procedure, except to the extent that the provision of I.C. 36-7-4-924 imposes a different requirement.

(D) The Hearing Officer (who may be a Board member, a staff member, or any other person) shall be appointed by the Plan Commission. More than one Hearing Officer may be appointed. A Hearing Officer may be removed from his or her responsibilities at any time by the Plan Commission.

(E) An application (I.C. 36-7-4-916) for minor variance must be completed on a form approved by the Office and submitted with the application fee, legal description, site plan and other information as required.

(Ord. 2-2000, passed 3-13-2000, § 15.10)

***Statutory reference:***

*Alternate procedure for expedient disposition of petitions; hearing officers, see I.C. 36-7-4-923.*

**§ 153.105 PUBLIC HEARINGS.**

(A) The Area Plan Office will follow I.C. 36-7-4-920, I.C. 5-3-1-2 and I.C. 5-3-1-4 for advertising and notification for public hearings.

(1) The petition must be advertised in a newspaper of general circulation in the county ten days before the public hearing.

(a) The Area Plan Office will prepare the legal ad for the newspaper.

(b) The petitioner must collect the publisher's affidavit from the newspaper and pay for the legal ad (the county is not responsible for the cost of advertising).

(c) The petitioner must submit the publisher's affidavit to the Area Plan Office before the meeting.

(2) Adjacent property owners must be notified of the petition ten days before the public hearing. The Area Plan Office will prepare the list of adjacent property owners and then send notification to them.

(3) A sign must be placed on the property of the petition 14 days before the public hearing.

(a) The Area Plan Office will provide the petitioner with a sign.

(b) The sign must be posted and maintained until the time of the meeting (except for minor variances).

(B) Every year, the Area Plan Commission and Board of Zoning Appeals adopt a schedule of meeting and filing dates.

(Ord. 2-2000, passed 3-13-2000, § 15.11)

***GENERAL DEVELOPMENT*****§ 153.115 GUIDELINES.**

No structures shall be erected, reconstructed or structurally altered in any manner which will encroach upon, or reduce in any manner, the yards, lot area per family, ground floor area of structures or lot coverage regulations established and specified for the use and the district in which the structures is located, except as otherwise provided in this chapter.

(Ord. 2-2000, passed 3-13-2000, § 17.1)



**§ 153.116 MINIMUM LOT AREA.**

(A) No building or structure shall be erected or located on a lot unless the lot conforms to the regulations of the district in which it is located. Lots of record or individually held prior to 12-15-1971 may be built upon if stipulations in §§ 153.430 through 153.436 are met.

(B) The minimum lot area for each dwelling unit not served by sanitary sewers shall be subject to approval by the County Health Department.

(C) The restriction of this chapter pertaining to creating a parcel of land below a specified minimum size shall not apply to a division of land by operation of law.

(D) After the effective date of any ordinance by which any area is first zoned for any district, no land in the district may be divided by the recordation of any map or voluntary sale, contract sale or conveyance of any kind which creates a new parcel of land which consists of less than the minimum lot area required for the district of which the lot is a part.

(Ord. 2-2000, passed 3-13-2000, § 17.2)

**§ 153.117 LOT DIMENSIONS.**

(A) Every lot shall have a minimum frontage width along a street, place and the like not less than the required minimum lot widths in the zone district under consideration.

(B) Where a lot has a minimum width or depth less than that prescribed by this section and the lot was of record under one ownership at the time that the area was first zoned whereby the lot became nonconforming, the lot may be built upon subject to all other requirements of the district in which the lot is located.

(C) Every building hereafter erected shall be located on a lot which fronts on a street, place and the like.

(Ord. 2-2000, passed 3-13-2000, § 17.3)

**§ 153.118 LOT CONFIGURATION.**

Flag lots are permitted when they meet the following criteria.

(A) The configuration of flag lots shall not be permitted to create a continuous double stacking of lots on a single roadway and, in no instance, shall flag lots represent more than 20% of the total number of lots within a given subdivision.

(B) The area of a flag lot occupied solely by the flag lot road frontage length shall not be deemed to be a part of the required minimum lot area specified for the district in which the lot is located. (Ord. 2-2000, passed 3-13-2000, § 17.4)

### **§ 153.119 BUILDING HEIGHT.**

All buildings hereafter designed or erected and existing buildings which may be reconstructed, altered, moved, or enlarged shall comply with the height regulations of the district in which they are located. Some exceptions will apply.

(A) An agricultural structure, as listed below, may be erected, or changed to any height necessary for its operation:

- (1) Silos;
- (2) Grain bins or dryers; and
- (3) Pole barns or barns used in conjunction with a farming operation of 20 acres or more.

(B) Spires, church steeples, chimneys, cooling towers, elevator bulkheads, fire towers, scenery lofts, penthouses, stacks, tanks, water towers, utility poles and necessary mechanical appurtenances may be erected or changed to any height that is not otherwise prohibited.

(C) Buildings may be erected or changed to a height not to exceed ten feet over that permitted in the district; provided that, an additional side yard setback of one foot for each one foot that the building exceeds the district height limitations is provided.

(Ord. 2-2000, passed 3-13-2000, § 17.5)

### **§ 153.120 YARDS AND SETBACKS.**

(A) No structure shall be erected, reconstructed, or structurally altered in any manner which will encroach upon or reduce in any manner, the yards, lot area per family, ground floor area or lot coverage regulations established and specified for the use and the district in which the structure is located, except as otherwise provided for in this chapter.

(B) On corner and reversed lots, any side with a street must meet the front yard setback.

(C) The ordinary projection of sills, cornices, eaves, rain gutters, bay windows, garden windows, canopies, chimneys, and ornamental features may project a distance not to exceed two feet into the required yard.

(D) Air conditioning units and other mechanical units may not be closer than two feet from any property line.

(E) No portion of any structure or fence, 30 inches or more from grade, can be closer than two feet from any property line or block visual clearance at an intersection of two or more rights-of-way.

(F) No merchandise or product associated with any business may be displayed in a public right-of-way without express written permission of the entity governing the right-of-way.

(G) It is the responsibility of the owner of the property to conform to private restrictions when in a recorded subdivision. A local permit from the Area Plan Commission does not exempt the owner from meeting private setbacks or other restrictions.

(H) There shall be no encroachment into the public right-of-way, defined as any intrusion, irrespective of height or size, into a sidewalk, street, alleyway, or other public right-of-way and includes, but is not limited to, fill material, retaining walls, rockeries, plants either deliberately planted or growing from adjacent property, or any other materials or structures.

(Ord. 9B-2021, passed 9-20-2021)

**§ 153.121 MEASUREMENT OF REQUIRED YARDS AND SETBACKS.**

(A) Required yards shall be measured to the nearest portion of the outside wall of livable space or the support column of a structure over 30 inches above grade.

(B) In measuring a front yard or side yard adjoining a street, it shall be the perpendicular distance between the street and a line to the corner or face of the building closest to and drawn parallel with the street, excluding any architectural features.

(Ord. 2-2000, passed 3-13-2000, § 17.7)

**§ 153.122 REDUCTION IN SETBACKS.**

(A) In any residential district, where a front yard less than that required by this chapter has been maintained on lots having 75% or more of the total frontage of the block, each structure built after the effective date of this chapter may maintain a front yard the same size as the average front yard of the existing structures in the block.

(B) A variance may be granted in accordance with § 153.100 and a minor variance may be granted in accordance with § 153.103.

(Ord. 2-2000, passed 3-13-2000, § 17.8)

**§ 153.123 USE.**

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

(Ord. 2-2000, passed 3-13-2000, § 17.9)

**§ 153.124 ACCESSORY USES.**

(A) Nonresidential accessory uses such as the following are permitted on the same lot with the principal commercial or industrial uses, as allowed by the ordinance for a zoning district, when all other ordinances requirements are met. Signs, fenced storage, advertising structures, parking facilities, accessory apartment, and open storage in conjunction with a principal permitted use (as allowed by the ordinance for a zoning district).

(B) Parking or storage of small cargo trailers and major recreational equipment in residential and rural districts, including, but not limited to, boats, boats trailers, camping trailers, travel trailers, motorized dwellings, recreational vehicles, tent trailers, houseboats and horse vans are subject to the following limitations:

(1) The equipment shall not be used for living, sleeping or other occupancy associated with residential uses when parked or stored on a residential lot, or in any other location not approved for the use. These types of equipment are intended for recreational use only and do not meet building, fire, safety, and health code standards associated with residential uses. Temporary occupancy is permitted but shall not exceed ten days in any six-month period.

(2) The equipment over six feet in height, when not parked in a garage, carport or other structure, shall not be located in any required front or side yard reserved for building setback.

(3) The equipment shall not be hooked up to utilities, sewage or septic or water facilities unless located in a recreational vehicle park. An exception can be made for an electrical extension to prevent freezing when the recreational vehicle is being stored.

(4) The equipment shall not be attached to other structures including, but not limited to, decks, porches, roofs, room additions, foundations, carports, storage units, accessory structures, walls, fences, dwellings or other structures.

(C) Outside storage when allowed in a zoning district shall be maintained in an orderly manner and shall create no fire, safety, health or sanitary hazard.

(D) The keeping of four or fewer dogs or other small animals normally kept as pets and at least six months old, not including indoor caged pets, is allowed in all zone districts.  
(Ord. 2-2000, passed 3-13-2000, § 17.10)

**§ 153.125 ACCESSORY STRUCTURES.**

(A) Residential accessory structures shall include garages, sheds, pools, patios, decks and other similar structures.

(B) An accessory building may not be erected before the principal building, except in Agricultural - AG and Residential Suburban - RS zoning districts.

(C) Accessory buildings shall not be installed in the required front yard.

(D) To ensure that accessory buildings are clearly secondary to the principal building, the floor area for the accessory building shall, in no case, exceed the footprint for the principal structure. With a residentially zoned district, the following size limitations shall apply to all accessory structures:

<i>Table § 153.125 - Accessory Structures</i>	
<i>Lot Size (square feet)</i>	<i>Structure Size (square feet)</i>
10,000	720
10,001 to 15,000	960
15,001 to 25,000	1,200
25,001 to 43,559	2,000
43,560 (1 acre)	No limit

(E) A **Guest House or room(s) for guests** in an accessory structure may be permitted in all residential districts; provided, the house is used for the occasional housing of guests of the occupants of the principal structure and not as rental units or for permanent occupancy as housekeeping units. No kitchens shall be allowed in a guest house or room(s).

(F) A **Cargo Container** will be permitted to be used as permanent storage in accordance with the following:

(1) All cargo containers shall comply with the Indiana Building Code, Indiana Fire Code, and shall require a building permit.

(2) *Cargo containers permitted zoning and development standards.*

(a) Cargo containers are permitted as a temporary use in any land use district in conjunction with an authorized construction project and shall be removed upon completion of the project unless properly permitted to remain as permanent storage in accordance with this section. Temporary use shall not be longer than six consecutive months, with any additional time being approved by the Executive Director.

(b) Agricultural Districts (AG) are permitted to have one cargo container per five acres of agricultural land; no minimum acreage is required.

(c) General Business (GB) and Industrial Zoning (I1, I2, I3) Districts are permitted one (1) cargo container per acre; no minimum acreage is required.

(d) Residential Suburban (RS) and Local Business (LB) Districts are permitted one (1) by special exception only.

(3) All cargo containers shall be placed in either the side or rear yard and must meet accessory structure setbacks for the applicable land use districts.

(4) Cargo containers shall not be located within any public utility easement, public right-of-way, or public drainage easements. Cargo containers shall not impede adjacent structures or buildings. Cargo containers will not impede line of sight required for safe traffic flow.

(5) Cargo containers shall not occupy any required off-street parking spaces, vehicular accesses or drive aisles, pedestrian facilities, or landscape areas for the site.

(6) Cargo containers shall not be permitted to have signage of any type.

(7) Cargo containers shall not be modified or retrofitted for habitation; cargo containers shall be an accessory use for storage only.

(8) Cargo containers shall not be allowed as a principal use in any zone district.

(9) Cargo containers shall not connect to utility services, except for electric, nor shall any other utility services be utilized within a cargo container.

(10) Existing cargo containers installed prior to the adoption of this division are considered existing nonconforming per the Grant County Area Wide Zoning Ordinance.

(11) Vertical stacking and/or the stacking of materials on top of the cargo container is prohibited.

(Ord. 2-2000, passed 3-13-2000, § 17.11; Ord. 26-2003, passed 1-12-2003; Ord. 10-2021, passed 9-20-2021)

**§ 153.126 PRINCIPAL STRUCTURES AND USES.**

(A) Only one principal single-family or two-family residential building may be located on any tract/parcel of land.

(B) Only one principal residential building and one additional single-family residential structure may be located on any tract of land (if a single-family home is allowed in the zone district); provided that, the tract in question provides at least 20 acres in size for each residential structure. The structures may be clustered, but must be at least 50 feet apart and must meet the local and state septic and water supply regulations. The additional home shall be used only for residence by a farm employee or relative of the residents of the first principal residence.

(Ord. 2-2000, passed 3-13-2000, § 17.12)

**§ 153.127 REQUIRED FENCES AND WALLS.**

(A) Swimming pools requiring permits shall be entirely enclosed by buildings, fences or walls, consistent with and to the requirements of the current Indiana Building Codes.

(1) The fence or wall must be equipped with a self-latching gate or door.

(2) The latching device cannot be located less than four feet above the ground.

(3) Fencing packages attached to a pool may be construed as meeting this requirement, if at least five feet to top of fence.

(B) Scrap and metal processing facilities shall be entirely enclosed by buildings, fences or walls that shall be at least eight feet in height. The fence or wall may enclose the required front yard setback if needed for screening.

(C) Slaughterhouses and storage of disabled vehicles shall be screened with a six-foot high solid painted fence.

(D) Junk yards and scrap processing facilities shall be screened with an eight feet high solid painted fence.

(E) Public sewage disposal facilities, landfills and transfer stations shall be screened with a six-foot high by three feet wide planting strip and a six feet high chain link fence.  
(Ord. 2-2000, passed 3-13-2000, § 17.13; Ord. 17-2019, passed 12-16-2019)

#### **§ 153.128 ANIMAL FEEDING OPERATION.**

(A) A farm confinement feeding operation may be located no closer to the following uses than as follows:

(1) Five hundred feet from any nonagricultural development or from a residence, except for residences which are located on the land with the feeding operation.

(2) One thousand feet from any public/private school, church, public park or building owned by a political subdivision which is open to the public; and

(3) One thousand feet from the nearest platted subdivision of five or more houses or other area of seven or more dwellings adjacent to one another.

(B) A single-family dwelling or two-family dwelling may not be located closer than 500 feet to an existing feeding operation.



(C) A subdivision of five or more platted lots may not be located closer than 1,000 feet to an existing feeding operation.  
(Ord. 2-2000, passed 3-13-2000, § 17.14; Ord. 7-2006, passed 11-28-2006)

**§ 153.129 TEMPORARY USES.**

(A) Seasonal and transitory uses may be allowed if the intended site is appropriate, meets the applicable district standards, has adequate operational safeguards and the adjoining established uses will not be adversely affected. The temporary sale of farm and landscape products is allowed for the sale of small landscape plants, yard and garden supplies or farm produce grown on or off the premises. The sales space shall be of portable or seasonable construction and shall observe the setbacks for permanent structures. Temporary use may be allowed for no more than five months per calendar year.

(B) Auto sales provided the sales are held in a commercial or industrial zone with proper zoning certification. Temporary use may be allowed for no more than one month per calendar year on any given site/location.

(C) Unoccupied mobile homes may be stored in Industrial 1, 2 or 3 Zoning or General Business Zoning. Temporary use may be allowed for no more than six months on any given site/location in Industrial 1, 2 or 3 or General Business District.

(D) *Temporary uses such as outdoor festivals.* Concerts, carnivals, fairs, and motorized quasi athletic-recreational events held on a one-time or non-recurring basis must have all applicable local and state permits, take every effort to shield lighting or noise from adjoining residential property and streets, obtain and show evidence upon request of all appropriate permits at least 30 days before the event, and not create a nuisance or hazard to the public health, safety, or welfare nor create objectionable dust, noise, light, or odors to adjoining properties. The Planning Director shall have the discretion to limit the permitted times and dates of the event and to request local enforcement to monitor and/or place a stop order on the event if necessary.

(Ord. 2-2000, passed 3-13-2000, § 17.15; Ord. 2, passed 5-15-2017)

**§ 153.131 ENVIRONMENTAL STANDARDS.**

(A) The filling of lands not included in a flood hazard area is permitted; provided, all federal, state and local requirements are met.

(B) No discharge of liquid or solid wastes into public waters is allowed except as permitted by federal, state and local regulations. Overflows from drain fields are not allowed unless approved by the affected drainage or utility jurisdiction.

(Ord. 2-2000, passed 3-13-2000, § 17.17)

**§ 153.132 OUTDOOR LIGHTING.**

(A) All outdoor lighting, whether or not required by this section, on residential, commercial, industrial, municipal, recreational or institutional property, shall be aimed, located, designed fitted and maintained so as not to present a disabling glare hazard to drivers or pedestrians or a nuisance glare concern to neighboring properties.

(B) Directional fixtures such as flood lights, spot lights and sign lights shall be installed or aimed so that they do not shine directly into the window of a neighboring residence, directly into a roadway or skyward.

(C) Vegetation screens shall not be employed to serve as the primary means for controlling glare. The control shall be achieved primarily through the use of sharp cut-off fixtures, the appropriate application of mounting height, wattage, aiming angle, fixture placement, fixtures design and the like and the addition of shields and baffles as necessary.

(D) Externally illuminated signs shall be lighted by fixtures mounted at the top of the sign and aimed down rather than by fixtures mounted at the bottom of the sign and aimed up.

(E) All residential developments must meet minimum requirements for the placement of street lighting fixtures.

(1) All entrance roads entering the proposed development and intersecting any public road must be lighted.

(2) All intersections involving proposed public roads, within the proposed development, must be lighted.

(F) All multi-family residential developments must meet minimum requirements for the placement of street lighting fixtures. One fixture for every ten contiguous parking spaces provided.

(G) All nonresidential developments must meet minimum requirements for the placement of street lighting fixtures.

(1) All entrance roads entering the proposed development and intersecting any public road must be lighted.

(2) All intersections involving proposed public roads, within the proposed development, must be lighted.

(3) Any non-public road designed and/or used as a main thoroughfare through a land development shall be considered a public road as it pertains to § 153.121.



(H) No luminary shall have any blinking, flashing, fluttering lights or other illuminating device which has a changing light intensity, brightness or color nor is any beacon light permitted, except those required for fire alarm or emergency systems.

(I) If the Code Enforcement Officer judges that a lighting installation creates a safety or personal security hazard, the person responsible for the lighting shall be notified and requested to take timely remedial action.

(Ord. 2-2000, passed 3-13-2000, § 17.18)

**§ 153.133 DEVELOPMENT IN AGRICULTURAL ZONING AND RESIDENTIAL SUBURBAN ZONING.**

Any development that occurs in Agricultural Zoning and Residential Suburban Zoning (and any other additional Agricultural Zonings as they may be created and added to this chapter) shall be required to sign a “notice of agricultural activity”.

(Ord. 7-2006, passed 11-28-2006)

***BUILDING CODE***

**§ 153.145 STATUTORY AUTHORIZATION.**

(A) This subchapter and all material included herein by reference shall be known as the “Building Code of Grant County, Indiana”. The purpose of this subchapter is to protect the life, public safety, health and general welfare of the citizens of the county and shall be construed in a manner to effectuate this purpose.

(B) The “Building Code of Grant County, Indiana” incorporates by reference building rules, codes and standards required to be enforced under I.C. 36-7-2-9, Unsafe Structure Law, and Title 675 of the Fire Prevention and Building Safety Commission; providing for the issuance of permits; providing penalties for violations; and repealing all ordinances and parts of ordinances in conflict therewith. The County Area Plan Commission hereby adopts an unsafe building ordinance as provided for under I.C. 36-7-9.

(C) The Area Plan Commission is hereby authorized and directed to administer and enforce all of the provisions of this code. Whenever in this code, it is provided that anything must be done to the approval of or subject to the direction of a Plan Commission Official or any other officer of the county, this shall be construed to give the officer the discretion of determining whether this code has been complied with. No such provision shall be construed as giving an officer discretionary powers as to what this code shall be, power to require conditions not prescribed by the ordinance or to enforce this code in an arbitrary or discriminatory manner. Any variance from adopted building rules is subject to approval under I.C. 22-13-2-7(b).

(D) The definitions set forth in I.C. 22-12-1 are hereby incorporated by reference for this subchapter and will supersede any definitions in this subchapter only in conjunction with this subchapter.

(E) The Building Official is hereby authorized and directed to administer and enforce the following:

- (1) All of the provisions of this subchapter;
- (2) Variances granted in accordance with I.C. 22-13-2-11; and
- (3) Orders issued under I.C. 22-12-7.

(Ord. 2-2000, passed 3-13-2000, § 18.1; Ord. 14-07, passed 11-13-2007)

### § 153.146 DEFINITIONS.

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

***BUILDING OFFICIAL.*** Individuals employed by the County Area Plan Commission that are authorized to represent the County Building Official.

***CLASS 1 STRUCTURE.*** Pursuant to I.C. 22-12-1-4, has the following definition:

(1) ***CLASS 1 STRUCTURE*** means any part of the following:

(a) A building or structure that is intended to be or is occupied or otherwise used in any part by any of the following:

1. The public;
2. Three or more tenants; and/or
3. One or more persons who act as the employees of another.

(b) A site improvement affecting access by persons with physical disabilities to a building or structure described in division (1)(a) above.

(c) Outdoor event equipment.

(d) Any class of buildings or structures that the Commission determines by rules to affect a building or structure described in division (1)(a) above, except buildings or structures described in divisions (3) through (6) below.

(2) Division (1)(a) above includes a structure that contains three or more condominium units (as defined in I.C. 32-25-2-9) or other units that:

- (a) Are intended to be or are used or leased by the owner of the unit; and
- (b) Are not completely separated from each other by an unimproved space.

(3) Division (1)(a) above does not include a building or structure that:

(a) Is intended to be or is used only for an agricultural purpose on the land where it is located; and

(b) Is not used for retail trade or is a stand used for retail sales of farm produce for eight or less consecutive months in a calendar year.

(4) Division (1)(a) above does not include a Class 2 structure.

(5) Division (1)(a) above does not include a vehicular bridge.

(6) Division (1)(a) above does not include a structure that is intended to be or is occupied solely to provide periodic maintenance or repair of:

- (a) The structure; or
- (b) Mechanical or electrical equipment located within and affixed to the structure.

(7) Pursuant to I.C. 22-12-1-24, structure includes swimming pool.

**CLASS 2 STRUCTURE.** Pursuant to I.C. 22-12-1-5, has the following definition:

(1) **CLASS 2 STRUCTURE** means any part of the following:

(a) A building or structure that is intended to contain or contains only one dwelling unit or two dwelling units unless any part of the building or structure is regularly used as a Class 1 structure.

(b) An outbuilding for a structure described in division (1) above, such as a garage, barn or family swimming pool, unless any part of the outbuilding is regularly used as a Class 1 structure.

(2) Division (1) above does not include a vehicular bridge.

(3) Pursuant to I.C. 22-12-1-24, structure includes swimming pool.

**CONSTRUCTION.** Pursuant to I.C. 22-12-1-7, means any of the following:

- (1) Fabrication of any part of an industrialized building system or mobile structure for use at another site;
- (2) Erection or assembly of any part of a Class 1 or Class 2 structure at the site where it will be used;
- (3) Installation of any part of the permanent heating, ventilating, air conditioning, electrical, plumbing, sanitary, emergency detection, emergency communication or fire or explosion suppression systems for a Class 1 or Class 2 structure at the site where it will be used;
- (4) Work undertaken to alter, remodel, rehabilitate or add to any part of a Class 1 or Class 2 structure; and
- (5) Work undertaken to relocate any part of a Class 1 or Class 2 structure, except a mobile structure.

**INDUSTRIALIZED BUILDING SYSTEM.** Pursuant to I.C. 22-12-1-14, means any part of a building or other structure that is in whole or in substantial part fabricated in an off-site manufacturing facility for installation or assembly at the building site as part of a Class 1 structure, a Class 2 structure or another building or structure. However, the term does not include a mobile structure or a system that is capable of inspection at the building site.

**MANUFACTURED HOME.** Pursuant to I.C. 22-12-1-16 has the meaning set forth in 42 U.S.C. § 5402 as it existed on 1-1-2003. This definition is as follows: **MANUFACTURED HOME** means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under this 42 U.S.C. §§ 5401 *et seq.* and except that the term shall not include any self-propelled recreational vehicle.

**MOBILE STRUCTURE.** Pursuant to I.C. 22-12-1-17, has the following definition:

- (1) **MOBILE STRUCTURE** means any part of a fabricated unit that is designed to be:
  - (a) Towed on its own chassis; and
  - (b) Connected to utilities for year-round occupancy or use as a Class 1 structure, a Class 2 structure or another structure.



(2) The term includes the following:

(a) Two or more components that can be retracted for towing purposes and subsequently expanded for additional capacity; and

(b) Two or more units that are separately towable, but designed to be joined into one integral unit.

**PERSON.** Pursuant to I.C. 22-12-1-18, means an individual, corporation, limited liability company, partnership, unincorporated association or governmental entity.

**STRUCTURE.** Both Class 1 and Class 2 structures, unless specifically stated otherwise.

**VEHICULAR BRIDGE.** Pursuant to I.C. 22-12-1-26, means any bridge that is neither:

(1) A pedestrian walkway; nor

(2) A passageway for light vehicles; suspended between two or more parts of a building or between two or more buildings.

( Ord. 2-2000, passed 3-13-2000, § 18.2; Ord. 14-07, passed 11-13-2007

**Statutory reference:**

*Related provisions, see I.C. 22-12-1*

## § 153.147 SCOPE AND PURPOSE.

(A) The purpose of this section is to provide minimum standards for the protection of life, health, environment, public safety and general welfare, and for the conservation of energy in the design and construction of structures.

(B) The provisions of this code apply to the construction, alterations, repair, use, occupancy, relocation, maintenance and additions to all structures, other than industrialized building systems or mobile structures certified under I.C. 22-15-4.

(C) All work on the construction, alteration and repair of buildings and other structures shall be performed in a good workmanlike manner according to accepted standards and practices in the trade.

(D) Pursuant to I.C. 22-13-2-6, this subchapter shall not apply to industrialized building systems or mobile structures certified under I.C. 22-15-4; however, the provisions of this subchapter and the rules promulgated by the Fire Prevention and Building Safety Commission do apply to any construction related to an industrialized building system or mobile structure not certified under I.C. 22-15-4.

(E) Pursuant to I.C. 22-13-2-9, this subchapter is not applicable to regulated amusement devices, regulated boilers, regulated pressure vessels or regulated lifting.

(F) All construction shall be accomplished in compliance with the provisions of this subchapter. (Ord. 2-2000, passed 3-13-2000, § 18.3; Ord. 14-07, passed 11-13-2007)

**§ 153.148 ADOPTION OF RULES BY REFERENCE.**

(A) Building rules of the State Fire Prevention and Building Safety Commission, as set out in the following articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this chapter, and shall include later amendments to those articles as the same are published in the State Administrative Code with the effective dates as fixed therein:

- (1) Article 13, Building Codes:
  - (a) Fire and Building Safety Standards;
  - (b) Indiana Building Code;
  - (c) Indiana Building Code Standards; and
  - (d) Indiana Handicapped Accessibility Code.
- (2) Article 14, One and Two Family Dwelling Codes:
  - (a) Council of American Building Officials One and Two Family Dwelling Code;
  - (b) International Residential Code; Amendments; and
  - (c) Standard for Permanent Installation of Manufactured Homes.
- (3) Article 16, Plumbing Codes: International Plumbing Codes;
- (4) Article 17, Electrical Codes:
  - (a) National Electrical Code; and
  - (b) Safety Code for Health Care Facilities.
- (5) Article 18, Mechanical Codes: International Mechanical Code;
- (6) Article 19, Energy Conservation Codes:
  - (a) Indiana Energy Conservation Code; and
  - (b) Modifications to the Model Energy Code.

- (7) Article 20, Swimming Pool Codes: Indiana Swimming Pool Code;
- (8) Article 22, Indiana Fire Code;
- (9) Article 24, Migrant Day Care Nursery Fire Safety Code;
- (10) Article 25, Indiana Fuel Gas Code; and
- (11) I.C. 36-7-9, Unsafe Building Law.

(B) Two copies of the above building rules incorporated by reference are on file in the office of the County Clerk for public inspection as required by I.C. 36-1-5-4.

(C) (1) The Building Official and the Fire Prevention and Building Safety Commission may grant a variance to the fire safety laws and building laws adopted in this subchapter.

(2) Pursuant to I.C. 22-13-2-7(b), a variance granted by the Building Official is not effective until it has been approved by the Fire Prevention and Building Safety Commission.  
(Ord. 2-2000, passed 3-13-2000, § 18.4; Ord. 14-07, passed 11-13-2007)

**§ 153.149 OTHER ORDINANCES AND REQUIREMENTS.**

(A) All work done under any permit shall be in full compliance with all other ordinances and other sections of this chapter. In addition to the fees for permits, there shall be paid the fees prescribed in other ordinances.

(B) All structures wired for electrical service must pass the Sure Test Branch Circuit Analyzer Tester, which is UL listed, to receive a “certificate of occupancy”.  
(Ord. 2-2000, passed 3-13-2000, § 18.5; Ord. 14-07, passed 11-13-2007)

**§ 153.150 BUILDING PERMIT REQUIRED.**

Construction is prohibited unless in conformity with a valid building permit obtained from the County Area Plan Commission prior to commencement of construction.  
(Ord. 2-2000, passed 3-13-2000, § 18.6; Ord. 14-07, passed 11-13-2007)

**§ 153.151 APPLICATION FOR BUILDING PERMIT.**

(A) Any person required to have a building permit shall submit a complete application to the County Area Plan Commission.

(B) This application shall be submitted on a form prepared by the County Area Plan Commission and shall contain the following:

(1) Information that the Building Official determines to be necessary to locate and contact the applicant;

(2) A clear and understandable copy of detailed plans and specifications drawn to scale which indicate in a precise manner the nature and location of all work to be accomplished;

(3) A plot plan drawn to scale; provided, however, the plot plan shall not be required in the instance where all construction is to occur entirely within an existing structure. This plot plan shall reflect the location of the structure in relation to existing property lines and show streets, curbs and sidewalks and proposed changes or additions to the streets, curbs and sidewalks;

(4) If required by state law or any rule of the Fire Prevention and Building Safety Commission, a copy of a design release for the work to be done that has been issued by the State Building Commissioner and the State Fire Marshal pursuant to I.C. 22-15-3; and

(5) Any additional information that the Building Official finds to be necessary to determine that the construction will conform to all applicable building laws and will not violate any other applicable ordinances or laws.

(C) Application for a building permit shall be made by the person entitled to obtain the permit or by an employee or agent of that person. The County Area Plan Commission may require that such an employee or agent provide written authority to apply for a permit.

(Ord. 2-2000, passed 3-13-2000, § 18.7; Ord. 14-07, passed 11-13-2007)

**§ 153.152 INSPECTIONS.**

(A) After the issuance of any building permit, the owner or contractor should contact the Building Inspector to have inspections of the work being done (as are necessary to ensure full compliance with the provisions of this chapter and the terms of the permit).

(B) In addition to the specified inspections, the Building Inspector may make or require other inspections or documents as deemed necessary to assure compliance with the provisions of this subchapter.

(C) The owner of the property is responsible for any inspection fees related to a project.

(1) Fees for regular inspections are encumbered in the cost of a building permit.

(2) Where additional inspections are required due to failure of permit holder to have work ready for inspection at a designated stage of construction, the Building Inspector shall assess a re-inspection fee, as designated in the fee schedule, for each additional inspection. Re-inspection fees shall be paid prior to the issuance of a certificate of occupancy.

(D) The Building Official and the Fire Department shall work cooperatively to conduct inspections and investigations to promote compliance with fire safety laws. (The Fire Department has independent authority to conduct inspections and take enforcement actions under I.C. 36-8-17.) (Ord. 2-2000, passed 3-13-2000, § 18.8; Ord. 14-07, passed 11-13-2007)

#### **§ 153.153 REVIEW OF APPLICATIONS.**

The Area Plan Commission shall consider the following before issuing any permit:

(A) Review all building permit applications to determine full compliance with the provisions of this subchapter. The minimum detail for construction plans submitted should be a dimensioned floor plan to include location of windows with each room's use labeled; and

(B) Review building permit applications for major repairs within a special flood hazard area to determine that the proposed repair:

(1) Is protected against flood damage;

(2) Is designed (or modified) and anchored to prevent floatation, collapse or lateral movement of the structure; and

(3) Uses construction methods and practices that will minimize flood damage. (Ord. 2-2000, passed 3-13-2000, § 18.9; Ord. 14-07, passed 11-13-2007)

#### **§ 153.154 CONTRACTOR REGISTRY.**

(A) *Record.* The Area Plan Commission shall maintain a registry of all persons, partnerships or corporations which apply for contractor registration and all persons, partnerships or corporations which receive permits.

*(B) Qualifications and exemptions.*

(1) Any person, partnership or corporation that enters into any contract (verbal or written) with another person, partnership or corporation to engage in any type of construction activity, including demolition work, in or upon real estate located within the participating jurisdictional area of County Area Plan Commission must be registered under this subchapter.

(2) A person who is employed by a contractor who has been registered may accomplish construction work for which his or her employer is registered while working under the direction and control of the contractor, but shall not otherwise enter into or offer to enter a contractual relationship to engage in any type of construction activity unless registered.

(3) Sub-contractors are required to be registered.

(4) A person not registered under this section may accomplish construction type activities in carrying out ordinary maintenance of sole, full-time employment by the owner of the premises where the ordinary maintenance occurs.

(5) Any public utility company and its sub-contractors that work exclusively for the public utility company (excluding wireless communication companies) shall be exempt from all the requirements and penalties contained in § 153.151.

(6) Property owners and tenants working on their own property are excluded from registration.

*(C) Eligibility.* A person, partnership or corporation shall be entitled to receive a contractor registration as a contractor if the following requirements are met:

(1) An application form indicating the name, address and legal business status of the contractor has been submitted to the Area Plan Commission;

(2) The person, partnership or corporation has not had a contractor registration, issued under this section, suspended or revoked within the past 12 months of the date of the application; and

(3) The partnership has not had a partner or the corporation has not had an officer who has had a contractor registration issued under this section suspended or revoked within the past 12 months of the date of the permit application.

*(D) Approval.*

(1) Approval of the contractor registration shall be issued by the Area Plan Commission.

(2) Upon receipt of the approval, the Area Plan Commission shall issue the contractor registration.

(3) The contractor registration shall be for a one-year period from January 1 to December 31.

(4) No contractor registration issued under the provisions of this section shall be assigned or transferred.

(E) *Suspension or revocation.* The Area Plan Board of Zoning Appeals will be appointed as a Building Commission and may suspend the contractor registration, issued under this section, to any person, partnership or corporation if one of the following is shown:

(1) The contractor made any materially false statement of fact on his or her application or registration;

(2) The contractor acted fraudulently or with deceit in his or her relationship with other person, partnerships or corporations with regard to construction activities engaged in by the contractor;

(3) Construction activity was performed either incompetently or in a manner that it does not comply with the Building Codes and procedure or any provisions of state or local law;

(4) The contractor failed to correct a violation of the Building Code, provisions of state or local law relative to the construction activity for which the contractor was responsible, after any authorized official or employee of the Area Plan Commission issued a notice of the violation, revoked a permit or issued a stop work order;

(5) The contractor has consistently failed to apply for or obtain required permits for construction activity accomplished by the contractor;

(6) The contractor has consistently failed to timely file certificates of completion and compliance as required for construction activity accomplished pursuant to his or her registration;

(7) The contractor has consistently failed to obtain inspections at designated stages of construction activity;

(8) The contractor has attempted to conceal violations of the Building Codes, provisions of state or local law relative to construction activity; and/or

(9) Knowingly violates a posted stop work order.

(F) *Fees.* An annual registration fee will be charged as designated in the Fee Schedule. (Ord. 2-2000, passed 3-13-2000, § 18.10; Ord. 14-07, passed 11-13-2007)

**§ 153.155 ENTRY.**

(A) Upon presentation of proper credentials, the Area Plan Commission Official or authorized representative may enter at reasonable times any building, structure or premises in the participating jurisdictional area of the county to perform any duty imposed upon him or her by this subchapter.

(B) The inspection and investigation may be made before and/or after construction on the project is completed for the purposes of determining whether the structure meets building standards and procedures, and ascertaining whether the construction and procedures have been accomplished in a manner consistent with this subchapter and the rules of the Fire Prevention and Building Safety Commission.

(Ord. 2-2000, passed 3-13-2000, § 18.11; Ord. 14-07, passed 11-13-2007)

**§ 153.156 STOP WORK.**

Whenever any work is being done contrary to the provisions of this subchapter or any other applicable state or county law, the Area Plan Commission may order the work stopped (as defined in §§ 153.050 through 153.059) on any persons engaged in the doing or causing of the work to be done, and any persons shall discontinue the work until authorized by the Area Plan Commission to proceed with the work.

(Ord. 2-2000, passed 3-13-2000, § 18.12; Ord. 14-07, passed 11-13-2007)

**§ 153.157 CERTIFICATE OF OCCUPANCY.**

A structure may not be occupied until a certificate of occupancy (COO) has been issued per §§ 153.470 through 153.488.

(Ord. 2-2000, passed 3-13-2000, § 18.13; Ord. 14-07, passed 11-13-2007)

**§ 153.158 UNSAFE STRUCTURES AND PREMISES.**

(A) For the purpose of this subchapter, any building, structure, premises or any part of a building or structure is considered unsafe (I.C. 36-7-9-4) if it is:

- (1) In an impaired structural condition that makes it unsafe to a person or property;
- (2) A fire hazard;
- (3) A hazard to the public health;
- (4) A public nuisance;



(5) Dangerous to a person or property because of a violation of a statute or ordinance concerning building condition or maintenance; or

(6) Vacant and not maintained in a manner that would allow human habitation, occupancy or use under the requirements of a statute or an ordinance.

(B) The conditions listed below include, but are not limited to, are symptoms of unsafe structures or premises as listed in § 153.155.

(1) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic;

(2) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe adequate means of exit in case of fire or panic;

(3) 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 in the Building Code for new buildings of similar structure, purpose or location;

(4) Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before the catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location;

(5) Whenever any portion or member or appurtenance is likely to fail, to become detached, dislodged or to collapse and thereby injure persons or damage property;

(6) Whenever any portion of a building, any member, appurtenance or ornamentation on the exterior is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for the buildings;

(7) Whenever any portion thereof has wracked, warped, buckled or settled to an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction;

(8) Whenever the 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 the building; the deterioration, decay, inadequacy of its foundation or any other cause, is likely to partially or completely collapse;

(9) Whenever the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used;

(10) Whenever the exterior walls or other vertical structural members list, lean or buckle to an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base;

(11) Whenever the 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 nonsupporting members, enclosing or outside walls;

(12) Whenever the 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, a harbor for vagrants or criminals, or as to enable persons to resort thereto for the purpose of committing unlawful or immoral acts;

(13) Whenever any structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to the building or structure provided by the building regulations of the jurisdiction, as specified in the Building Code or Housing Code or of any law or ordinance of the state or jurisdiction relating to the condition, location or structure of buildings;

(14) Whenever any structure whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting 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 structure of like area, height and occupancy in the same location;

(15) Whenever a structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise is determined by the Health Officer to be unsanitary, unfit for human habitation, or in a condition that is likely to cause sickness or disease;

(16) Whenever any structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electrical wiring, gas connection or heat apparatus, or other cause, is determined by the Fire Marshal to be a fire hazard;

(17) Whenever any building, structure or land is in a condition as to constitute a public nuisance known to the common law or in equity jurisprudence;

(18) Whenever any portion of a structure remains on a site after the demolition or destruction of the structure or whenever any structure is abandoned for a period in excess of one year so as to constitute the building or portion thereof an attractive nuisance or hazard to the public;

(19) Whenever a premises contains debris that is determined by the Health Officer to be unsanitary or harboring vermin;

(20) Whenever a premises contains open pits, excavation in excess of ten feet or unstable piles of earth and is not fenced to prevent entry;

(21) Whenever a premises contains debris that may cause entrapment or injury and is not fenced to prevent entry; and

(22) By definition accessory buildings solely for agricultural use that are on premises meeting the definition of general farm that are not occupied, are not generally accessible to the public (to be determined on a case basis, based on proximity of right-of-way, whether attended by owner/tenant, evidence of unauthorized entry or nature of complaints) will not be considered unsafe.

(C) Structures reported and determined unsafe or dangerous by an official of the Area Plan Department, his or her designated representative (to include jurisdictional health, fire or environmental officials) whether under construction (with or without an applicable permit) or pre-existing may be condemned, and/or removed subject to injunctive order as defined in §§ 153.050 through 153.059. (Ord. 2-2000, passed 3-13-2000, § 18.14; Ord. 14-07, passed 11-13-2007)

#### **§ 153.159 CONSEQUENCES OF VACANT OR UNSAFE STRUCTURES AND PREMISES.**

(A) In the state, especially in urban areas, there exist a large number of unoccupied structures that are not maintained and that constitute a hazard to public health, safety and welfare.

(B) Vacant structures often become dilapidated because the structures are not maintained and repaired by the owners or person in control of the structures.

(C) Vacant structures attract children, become harborage for vermin, serve as temporary abodes for vagrants and criminals, and are likely to be damaged by vandals or set ablaze by arsonists.

(D) Unkept grounds surrounding vacant structures invite dumping of garbage, trash and other debris.

(E) Many vacant structures are situated on narrow city lots and in close proximity to neighboring structures, thereby increasing the risk of conflagration and spread of insect and rodent infestation.

(F) Vacant, deteriorated structures contribute to blight, cause a decrease in property values and discourage neighbors from making improvements to properties.

(G) Structures that remain boarded up for an extended period of time also exert a blighting influence and contribute to the decline of the neighborhood by decreasing property values, discouraging persons from moving into the neighborhood and encouraging persons to move out of the neighborhood.

(H) Vacant structures often continue to deteriorate to the point that demolition of the structures is required, thereby decreasing available housing in a community and further contributing to the decline of the neighborhood.

(I) The blighting influence of vacant, deteriorated structures adversely affects the tax revenues of local government.

(J) The general assembly finds that vacant, deteriorated structures create a serious and substantial problem in urban areas and are public nuisance.

(K) In recognition of the problems created in a community by vacant structures, the general assembly finds that vigorous and disciplined action should be taken to ensure the proper maintenance and repair of vacant structures and encourages local government bodies to adopt maintenance and repair standards appropriate for the community in accordance with this subchapter and I.C. 36-7-9-4.5. (Ord. 2-2000, passed 3-13-2000, § 18.15; Ord. 14-07, passed 11-13-2007)

#### **§ 153.160 ORDERS, CONTENTS AND NOTICES FOR UNSAFE STRUCTURES AND PREMISES.**

The Code Officer may issue an order, as defined in §§ 153.050 through 153.059, requiring action relative to any unsafe premises:

(A) Vacating of any unsafe structures;

(B) Sealing an unsafe structure against intrusion by unauthorized persons, in accordance with a uniform standard established by ordinance;

(C) Extermination of vermin in and about the unsafe premises;

(D) Removal of trash, debris or fire hazardous material in and about the unsafe premises;

(E) Repair or rehabilitation of an unsafe structure to bring it into compliance with standards for building condition or maintenance required for human habitation, occupancy or use by a statute a rule adopted under I.C. 4-22-2 or an ordinance;

(F) Removal of part of an unsafe structure;

(G) Removal of an unsafe structure; and/or

(H) Require an unsafe structure that will be sealed for a period of more than 90 days:

(1) Sealing against intrusion by unauthorized persons and the effects of weather;

(2) Exterior improvements to make the structures compatible in appearance with other

structures in the area; and/or

(3) Continuing maintenance and upkeep of the structures and premises.  
(Ord. 2-2000, passed 3-13-2000, § 18.16; Ord. 14-07, passed 11-13-2007)

**§ 153.161 EMERGENCY ACTION.**

If the Enforcement Officer finds it necessary to take emergency action concerning an unsafe premises in order to protect life, safety or property it may take that action without issuing an order or giving notice (I.C. 36-7-9-9). However, this emergency action must be limited to removing any immediate danger.

(Ord. 2-2000, passed 3-13-2000, § 18.17; Ord. 14-07, passed 11-13-2007)

**§ 153.162 ESTABLISHMENT OF AN UNSAFE BUILDING FUND.**

An Unsafe Building Fund is hereby established in the operating budget of the Area Plan Department in accordance with the provisions of I.C. 36-7-9-14.

(Ord. 2-2000, passed 3-13-2000, § 18.18; Ord. 14-07, passed 11-13-2007)

**§ 153.163 LIABILITY AND COSTS.**

(A) I.C. 36-7-9-11;

(B) I.C. 36-7-9-12;

(C) I.C. 36-7-9-13; and

(D) I.C. 36-7-9-13.5.

(Ord. 2-2000, passed 3-13-2000, § 18.19; Ord. 14-07, passed 11-13-2007)

**§ 153.164 TRANSFER OF PROPERTY BY PERSONS NOT COMPLYING WITH ORDERS.**

(A) A person who has been issued and has received notice of an order relative to unsafe premises or structure and has not complied with that order:

(1) Must supply full information regarding the order to a person who takes or agrees to take a substantial property interest in the unsafe premises or structure before transferring or agreeing to transfer that interest; and

(2) Must, within five days after transferring or agreeing to transfer a substantial property interest in the unsafe premises, supply the enforcement authority with written copies of:

(a) The full name, address and telephone number of the person taking a substantial property interest in the unsafe premises; and

(b) The legal instrument under which the transfer or agreement to transfer the substantial property interest is accomplished.

(B) If a judgment is obtained against the department, enforcement authority or other governmental entity for the failure of that entity to provide notice to person holding an interest in unsafe premises or structure in an action taken by the entity under this subchapter, a person who failed to comply with this section is liable to the entity of the amount of the judgment if it can be shown that the entity's failure to give notice was a result of that person's failure.

(Ord. 2-2000, passed 3-13-2000, § 18.20; Ord. 14-07, passed 11-13-2007)

#### **§ 153.165 RIGHT OF APPEAL.**

(A) All persons shall have the right to appeal the Area Plan Commission's decision in accordance with I.C. 36-7-8-9 and I.C. 36-7-9-8 first through the Building Commission (the County Division of the Area Board of Zoning Appeals shall be appointed as such by this subchapter), then through the jurisdiction's executive body, and finally (when applicable) to the State Fire Prevention and Building Safety Commission in accordance with the provisions of I.C. 22-13-2-7 and I.C. 4-21.5-3-7.

(B) (1) A person aggrieved by an order issued under this subchapter may appeal to the Fire Prevention and Building Safety Commission, in accordance with I.C. 22-13-2-7.

(2) The Commission may modify or reverse any order issued by the county that covers a subject governed by I.C. 22-12, I.C. 22-13, I.C. 22-14, I.C. 22-15, a fire safety or a building rule.

(3) The Fire Prevention and Building Safety Commission must review orders that concern a Class 2 Structure if the person aggrieved by the order petitions for review under I.C. 4-21.5-3-7 within 30 days after the issuance of the order.

(4) The Fire Prevention and Building Safety Commission may review all other orders issued under this subchapter.

(5) The review of an order by the Fire Prevention and Building Safety Commission does not suspend the running of the time period under any statute in which a person must petition a court for judicial review of the order.

(Ord. 2-2000, passed 3-13-2000, § 18.21; Ord. 14-07, passed 11-13-2007)

**§ 153.166 LIFTING DEVICES LOCATED WITHIN A PRIVATE RESIDENCE.**

(A) Pursuant to I.C. 22-12-1-22(b)(12), lifting devices, such as elevators and wheelchair lifts, located within a private residence are not regulated lifting devices. Therefore, the following standards applicable to lifting devices located within a private residence are incorporated by reference:

(1) Part 5.3, Private Residence Elevators, ANSI/ASME A17.1-2000, Safety Code for Elevators and Escalators published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016;

(2) Part 5.4, Private Residence Inclined Elevators, ANSI/ASME A17.1-2000, Safety Code for Elevators and Escalators published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016;

(3) Section 5, Private Residence Vertical Platform Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016;

(4) Section 6, Private Residence Inclined Platform Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016; and

(5) Section 7, Private Inclined Stairway Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016.

(B) Two copies of the above lifting device standards incorporated by reference are on file in the office of the Clerk for the legislative body for public inspection as required by I.C. 36-1-5-4. (Ord. 2-2000, passed 3-13-2000, § 18.22; Ord. 14-07, passed 11-13-2007)

***AUTHORIZED USES*****§ 153.180 PURPOSE.**

The purpose of this subchapter is to provide for the placement of uses in a zoning district that would best accommodate and suit the uses.

(Ord. 2-2000, passed 3-13-2000, § 20.1)

**§ 153.181 CLASSIFIED USES.**

(A) The authorized uses permitted in the zone districts, established by or under § 153.033, are shown in Table § 153.186.

(B) Where the district column is marked “X”, the use is permitted by right.

(C) Where the district column is marked “S”, the use may be permitted only as a special exception granted by the Board of Zoning Appeals.

(D) Where the district column is blank, the use is not allowed.  
(Ord. 2-2000, passed 3-13-2000, § 20.2)

**§ 153.182 UNCLASSIFIED USES.**

(A) In the event a use is proposed which is not listed in this chapter or classifiable by staff under one of the North American Industry Class System (NAICS) delineation, the Director shall determine whether the use should be treated as one of the listed uses. The determination shall be based on:

- (1) Similarity to a listed use; and
- (2) Consistency with the intent of the district in which the use is listed.

(B) In a zoning district where a land use is authorized by special exception in one (NAICS) classification and in another as a permitted use, the use shall be allowed without special exception as a permitted use.

(C) When a land use is specifically designated in Table § 153.186 as not allowed and under a NAICS as a permitted use or by special exception, the specific designation of use in Table § 153.186 will not prevail.

(D) Appeals of this determination may be made to the Board of Zoning Appeals pursuant to §§ 153.095 through 153.105 or submitted to the Plan Commission for a text amendment pursuant to §§ 153.070 through 153.081.  
(Ord. 2-2000, passed 3-13-2000, § 20.3)



**§ 153.183 DESCRIPTION OF DISTRICTS.**

(A) The Agricultural District (AG) is established in recognition of agriculture as the predominate and basic use of land throughout much of the county and for the conservation thereof.

(B) The Residential Suburban District (RS) is established in recognition for the need to buffer predominately agricultural uses from predominately residential uses and is used as a transition between the two.

(C) The Residential 1 (R1) District is a single-family, low density residential district. The minimum lot size and building area are less than the RS district. R1 districts usually include new and developing single-family neighborhoods and subdivisions.

(D) The Residential 2 (R2) District is primarily single-family of medium density district. The R2 requirements as to minimum lots and ground floor area of buildings are less than those specified for RS and R1. This district frequently applies to existing residential neighborhoods and comparable expansions thereof.

(E) The Residential 3 (R3) District is established to include areas of relatively low density two-family and multiple-family residences permitted on a density of use basis, with the minimum lot size being increased for more than one family in a building. Single-family residences are also permitted on a density basis somewhat higher than R2.

(F) The Residential 4 (R4) District is a medium density, residential district with single-family, two-family and multiple-family residences permitted.

(G) The Residential 5 (R5) District is a high density district with all types of residential development permitted.

(H) The Professional Business (PB) District is established as a buffer generally between commercial and residential districts permitting selected professional and business uses having limited contact with the public.

(I) (1) The Neighborhood Convenience (NC) District is established to provide for the location of small business which have a high degree of compatibility with the residential areas and are characterized by:

- (a) Small buildings;
- (b) Low traffic generation; and
- (c) Operations with little or no late night activity.

(2) The purpose is to serve the everyday personal needs of the neighborhood.

(J) The Local Business (LB) District is established to accommodate the primary and service needs of the locality. Although limited in area occupied, the district is important to the economic welfare of the community.

(K) The Central Core (CC) District is a special district applicable to the “downtown” areas of all municipalities. It is established to provide for the special needs of the area by waiving certain requirements.

(L) The General Business (GB) District is established to provide for all types of business and service uses.

(M) The Industrial 1 (I1) District incorporates many of the existing industrial developments and provides for their expansion. Generally, the permitted uses will include only those where all of the operations, including the storage of material, are confined within a building and the performance characteristics are compatible with uses permitted in neighboring districts.

(N) The Industrial 2 (I2) District is provided for general industrial operations utilizing both enclosed and unenclosed space for storage, fabricating and manufacturing.

(O) The Industrial 3 (I3) District is established to provide for general industrial operations in the processing of raw materials for the production of basic commodities.  
(Ord. 2-2000, passed 3-13-2000, § 20.4)

### **§ 153.184 RESIDENTIAL USES AND REQUIREMENTS.**

Residential and related uses are permitted in the districts indicated in Table § 153.186 when complying with all other requirements of this chapter.

(A) A single-family dwelling is a detached dwelling designed for or occupied by one family exclusively.

(B) A two-family dwelling is a detached building designed to be occupied by two families.

(C) A multi-family dwelling is a building for or occupied by three or more families.  
(Ord. 2-2000, passed 3-13-2000, § 20.5)

**§ 153.185 COMMERCIAL AND INDUSTRIAL REQUIREMENTS.**

(A) Commercial, industrial and related uses in Table § 153.186 are permitted in the district indicated when complying with all other requirements of this chapter.

(B) If the use is authorized in more than one zone classification within a multiple classification district, then the least restrictive requirements will apply.

(Ord. 2-2000, passed 3-13-2000, § 20.6)

**§ 153.186 USE TABLE.**

[Please insert "Table153-186" here. 14 pages.]



***DISTRICT REQUIREMENTS*****§ 153.200 SINGLE-FAMILY RESIDENTIAL USES AND REQUIREMENTS.**

Single-family residential uses are permitted in the districts indicated in § 153.186. These uses must comply with the following tables and all other applicable provisions of this chapter or state or federal regulations. Planned unit developments and zero lot line developments may be exempt from Tables §§ 153.200(A), 153.200(B), 153.201(A), 153.201(B), 153.202(A) or 153.202(B).

<i>Table § 153.200(A) - Single Family District Requirements</i>							
<i>Requirement</i>	<i>AG</i>	<i>RS</i>	<i>R1</i>	<i>R2</i>	<i>R3</i>	<i>R4</i>	<i>R5</i>
<b>Minimum Lot Area in Square Feet per Unit</b>							
With Sewers	30,000	15,000	12,000	10,000	8,000	6,000	6,000
Without Sewers	43,560	43,560	43,560	43,560	43,560	43,560	43,560
<b>Minimum Lot Width in Feet</b>	150	100	80	75	70	60	50
<b>Maximum Building Height in Feet</b>	40	35	30	30	40	40	40
<b>Minimum Front Yard in Feet</b>							
Arterial Road	40	40	35	30	20	15	15
Collector or Local Road	30	30	25	20	15	10	10
<b>Minimum Side Yard, Percent of Lot Width in Feet</b>	10%	10%	10%	10%	10%	10%	10%
Not Less than 5 Feet							
Not More than 25 Feet							
<b>Minimum Rear Yard in Feet</b>							
Main Building	20	20	20	20	15	10	10
Accessory Building	5	5	5	5	5	5	5
<b>Visual Clearance on Corner Lots</b>	yes	yes	yes	yes	yes	yes	yes
<b>Minimum Ground Floor Building Area in Square Feet</b>							
One-Story Dwelling	720	720	960	960	720	720	720
Two-Story Dwelling	672	672	720	720	672	672	672
<b>Number of Off-Street Parking Spaces to Be Provided for Dwelling Unit</b>	2	2	2	2	2	2	2

<i>Table § 153.200(A) - Single Family District Requirements</i>							
<i>Requirement</i>	<i>AG</i>	<i>RS</i>	<i>R1</i>	<i>R2</i>	<i>R3</i>	<i>R4</i>	<i>R5</i>
<b>Maximum Lot Coverage in Percent of Lot Area</b>	20%	20%	30%	30%	35%	35%	40%

<i>Table § 153.200(B) - Single Family District Requirements</i>				
<i>Requirement</i>	<i>PB</i>	<i>NC</i>	<i>LB</i>	<i>CC</i>
<b>Minimum Lot Area in Square Feet per Unit</b>				
With Sewers	6,000	6,000	6,000	6,000
Without Sewers	43,560	43,560	43,560	43,560
<b>Minimum Lot Width in Feet</b>	50	50	50	50
<b>Maximum Building Height in Feet</b>	45	45	45	45
<b>Minimum Front Yard in Feet</b>				
Arterial Road	15	15	15	15
Collector or Local Road	10	10	10	10
<b>Minimum Side Yard, Percent of Lot Width in Feet</b>	10%	10%	10%	10%
Not Less than 5 Feet				
Not More than 25 Feet				
<b>Minimum Rear Yard in Feet</b>				
Main Building	10	10	10	10
Accessory Building	5	5	5	5
<b>Visual Clearance on Corner Lots</b>	yes	yes	yes	yes
<b>Minimum Ground Floor Building Area in Square Feet</b>				
One-Story Dwelling	960	960	960	960
Two-Story Dwelling	720	720	720	720
<b>Number of Off-Street Parking Spaces to Be Provided for Dwelling Unit</b>	2	2	2	2
<b>Maximum Lot Coverage in Percent of Lot Area</b>	40%	40%	40%	40%

(Ord. 2-2000, passed 3-13-2000, § 21.1)

### § 153.201 TWO-FAMILY AND MULTI-FAMILY RESIDENTIAL USES AND REQUIREMENTS.

Two-family and multi-family residential uses are permitted in the districts indicated in § 153.186. These uses must comply with the following tables and all other applicable provisions of this chapter or state or federal regulations. Planned unit developments and zero lot line developments may be exempt from Tables §§ 153.200(A), 153.200(B), 153.201(A), 153.201(B), 153.202(A) or 153.202(B).

<i>Table § 153.201(A) - Two- and Multi-Family District Requirements</i>						
<i>Requirement</i>	<i>AG</i>	<i>RS</i>	<i>R3</i>	<i>R4</i>	<i>R5</i>	<i>PB</i>
<b>Minimum Lot Size in Square Feet</b>	16,000	16,000	12,000	8,000	6,000	6,000
<b>Minimum Lot Area per Dwelling Unit in Square Feet</b>						
Multi-Family with Sewers	NA	NA	4,000	2,000	1,000	1,000
Multi-Family without Sewers	N/A	N/A	20,000	20,000	20,000	20,000
Two-Family with Sewers	8,000	8,000	6,000	4,000	2,000	2,000
Two-Family without Sewers	20,000	20,000	20,000	20,000	20,000	20,000
<b>Minimum Lot Width in Feet</b>	150	100	70	60	50	50
<b>Maximum Building Height in Feet</b>	35	35	40	45	60	60
<b>Minimum Front Yard in Feet</b>						
Arterial Road	40	40	20	15	10	10
Collector or Local Road	30	30	15	10	7	7
<b>Minimum Side Yard in % of Lot Width</b>	10%	10%	10%	10%	10%	10%
Not Less than 5 Feet						
<b>Minimum Rear Yard in Feet</b>	20	20	15	15	10	10
<b>Minimum Distance Between Main and Accessory Buildings in Feet</b>	20	20	15	15	10	10
<b>Minimum Distance between Main Buildings in Feet</b>	25	25	20	20	15	15
<b>Vision Clearance on Corner Lots</b>	yes	yes	yes	yes	yes	yes
<b>Minimum Square Footage in Square Feet per Unit</b>	720	720	720	720	720	720
<b>Minimum Ground Floor Building Area in Square Feet</b>						
One-Story Dwelling	720	720	720	720	720	720
Two-Story Dwelling	620	620	620	620	620	620



<i>Table § 153.201(A) - Two- and Multi-Family District Requirements</i>						
<i>Requirement</i>	<i>AG</i>	<i>RS</i>	<i>R3</i>	<i>R4</i>	<i>R5</i>	<i>PB</i>
<b>Number of Off-Street Parking Spaces per Dwelling Unit</b>	2	2	2	2	1.5	1.5
<b>Maximum Lot Coverage in % of Lot Area</b>	20%	20%	35%	40%	50%	50%

<i>Table § 153.201(B) - Two- and Multi-family District Requirements</i>			
<i>Requirement</i>	<i>LB</i>	<i>CC</i>	<i>GB</i>
<b>Minimum Lot Size in Square Feet</b>	6,000	6,000	6,000
<b>Minimum Lot Area per Dwelling Unit in Square Feet</b>			
Multi-Family with Sewers	1,000	N/A	1,000
Multi-Family without Sewers	20,000	20,000	20,000
Two-Family with Sewers	2,000	N/A	2,000
Two-Family without Sewers	20,000	20,000	20,000
<b>Minimum Lot Width in Feet</b>	50	N/A	50
<b>Maximum Building Height in Feet</b>	60	75	75
<b>Minimum Front Yard in Feet</b>			
Arterial Road	10		10
Collector or Local Road	7	NA	7
<b>Minimum Side Yard in Percent of Lot Width</b>	10%	NA	10%
Not Less than 5 Feet			
<b>Minimum Rear Yard in Feet</b>	10	NA	10
<b>Minimum Distance between Main and Accessory Buildings in Feet</b>	10	NA	10
<b>Minimum between Main Buildings in Feet</b>	15	NA	15
<b>Visual Clearance on Corner Lots</b>	yes	NA	yes
<b>Minimum Square Footage in Square Feet per Unit</b>	720	720	720
<b>Minimum Ground Floor Building Area in Square Feet</b>			
One-Story Dwelling	720	720	720
Two-Story Dwelling	620	620	620

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<i>Table § 153.201(B) - Two- and Multi-family District Requirements</i>			
<i>Requirement</i>	<i>LB</i>	<i>CC</i>	<i>GB</i>
<b>Number of Off-Street Parking Spaces per Dwelling Unit</b>	1.5	N/A	1.5
<b>Maximum Lot Coverage in % of Lot Area</b>	50%	N/A	75%

(Ord. 2-2000, passed 3-13-2000, § 21.2)

### § 153.202 COMMERCIAL AND INDUSTRIAL REQUIREMENTS.

Commercial and industrial uses are permitted in the districts indicated in § 153.186. These uses must comply with the following tables and all other applicable provisions of this chapter or state or federal regulations. Planned unit developments and zero lot line development may be exempt from Tables §§ 153.200(A), 153.200(B), 153.201(A), 153.201(B), 153.202(A) or 153.202(B).

<i>Table § 153.202(A) - Commercial and Industrial District Requirements</i>					
<i>Requirement</i>	<i>R5</i>	<i>PB</i>	<i>NC</i>	<i>LB</i>	<i>CC</i>
<b>Minimum Front Yard in Feet</b>					
Arterial Road	20	20	20	20	N/A
Collector or Local Road	15	15	15	15	N/A
<b>Minimum Side Yards in Feet</b>					
Adjoining Residential District	15	15	15	15	5
Not Adjoining Residential District	10	10	10	10	N/A
<b>Minimum Street Side Yard in Feet</b>	15	15	15	15	N/A
<b>Minimum Rear Yard in Feet</b>					
Adjoining Residential Districts	15	15	15	15	5
Not Adjoining Residential Districts	10	10	10	10	N/A
<b>Maximum Building Height in Feet</b>	40	60	45	60	N/A
<b>Maximum Lot Coverage in Percent of Lot Area</b>	40%	60%	45%	60%	N/A
<b>Visual Clearance on Corner Lots</b>	yes	yes	yes	yes	N/A

<i>Table § 153.201(B) - Two- and Multi-family District Requirements</i>					
<i>Requirement</i>	<i>LB</i>	<i>CC</i>	<i>GB</i>		
<b>Off-Street Parking (Requirements in §§ 153.240—153.256)</b>					N/A
<b>Maximum Square Footage of Building in Square Feet</b>	N/A	N/A	2,500	N/A	N/A

<i>Table § 153.202(B) - Commercial and Industrial District Requirements</i>					
<i>Requirement</i>	<i>GB</i>	<i>I1</i>	<i>I2</i>	<i>I3</i>	
<b>Minimum Front Yard in Feet</b>					
Arterial Road	15	15	20	20	
Collector or Local Road	10	10	25	25	
<b>Minimum Side Yards in Feet</b>					
Adjoining Residential District	10	10	15	25	
Not Adjoining Residential District	5	5	10	20	
<b>Minimum Street Side Yard in Feet</b>	10	10	15	20	
<b>Minimum Rear Yard in Feet</b>					
Adjoining Residential District	10	10	15	25	
Not Adjoining Residential District	5	5	10	20	
<b>Maximum Building Height in Feet</b>	75	75	75	75	
<b>Maximum Lot Coverage in Percent of Lot Area</b>	75%	75%	75%	75%	
<b>Visual Clearance on Corner Lots</b>	yes	yes	yes	yes	
<b>Off-Street Parking (Requirements in §§ 153.240—153.256)</b>					
<b>Maximum Square Footage of Building in Square Feet</b>	N/A	N/A	N/A	N/A	N/A

(Ord. 2-2000, passed 3-13-2000, § 21.3)

**§ 153.203 INTERPRETATION OF REQUIREMENTS.**

In the case of a legal nonconforming use located in zoning district for which specific district requirements are not given, the Director shall interpret Tables §§ 153.200(A), 153.200(B), 153.201(A), 153.201(B), 153.202(A) or 153.202(B) to assign district requirements to the use. The district requirements listed that most closely relate and suit the nonconforming use will be the designated requirements.

(Ord. 2-2000, passed 3-13-2000, § 21.4)

***SPECIFIC MUNICIPAL REGULATIONS*****§ 153.225 MATTHEWS.**

(A) *Authority.* The information in this section applies to the Town of Matthews only. The Town Board felt that unique situations required some modified requirements from the general ordinance. Any specific requirements listed in this section pertain to Matthews only. Furthermore, any specific requirements in this section will supersede any requirements listed in this chapter that are in conflict with related requirements herein.

(Ord. 2-2000, passed 3-13-2000, § 23.1)

(B) *Setbacks.* The Town of Matthews will have front yard setbacks based upon ROW width and not zone districts. All zone districts will have the following front yard setbacks; this includes all yards abutting a road ROW.

(1) If property is abutting a road with a ROW of zero feet to 70 feet, the front yard setback will be ten feet.

(2) If the property is abutting a road with a ROW of 71 feet or more, the front yard setback will be seven feet.

(Ord. 2-2000, passed 3-13-2000, § 23.2)

(C) *Lot width.* The Town of Matthews will have specific lot frontage requirements for property zoned R1 and R2. These zone districts will have the following lot frontage requirements. The minimum lot frontage width is 44 feet.

(Ord. 2-2000, passed 3-13-2000, § 23.3)

(D) *Downtown core.* The Town of Matthews' downtown area will be Central Core Zoning, which affords no setback, lot coverage or parking requirements.

(Ord. 2-2000, passed 3-13-2000, § 23.4)

**§ 153.226 SWEETSER.**

(A) *Authority.* The information in this section applies to the Town of Sweetser only. The Town Council felt that unique situations required some modified requirements from the general ordinance. Any specific requirements listed in this section pertain to Sweetser only. Furthermore, any specific requirements in this section will supersede any requirements listed in this section that are in conflict with related requirements herein.

(Ord. 2-2000, passed 3-13-2000, § 24.1)

(B) *Mobile home storage.* Mobile homes may be stored in Industrial 2 and Industrial 3 districts only. All other requirements in § 153.343 will apply.

(Ord. 2-2000, passed 3-13-2000, § 24.2)

(C) *Mobile home.*

(1) No mobile home may be located in the town outside of legally established mobile home park (that is operated in accordance with this chapter).

(2) The Town Council may permit by resolution a mobile home in any zone district if the following requirements are met:

(a) The mobile home is to be placed for no more than six months;

(b) The mobile home is to be placed as temporary living accommodations to the owner or occupant of a residence for an existing home, on the site, that was rendered uninhabitable or unusable by fire, wind or other causality;

(c) The mobile home must be out of the ROW; however, the Council may allow the home to not meet established setbacks, if not realistic to do so;

(d) The mobile home must be served with the same water supply and sewage facilities that are intended to serve the permanent residence;

(e) The mobile home shall remain on its wheels, not have a permanent perimeter masonry wall, and meet all other installation requirement for footers, tie-downs and skirting; and

(f) The Director may grant a permit for the placement of a mobile home in such circumstances; however, the permit shall expire within 30 days after its issuance, unless the Town Council approves its extension for an additional six months.

(Ord. 2-2000, passed 3-13-2000, § 24.3)

**§ 153.227 FAIRMOUNT.**

(A) *Authority.* The information in this section applies to the Town of Fairmount only. The Town Council felt that unique situations required some modified requirements from the general ordinance. Any specific requirements listed in this section pertain to Fairmount only. Furthermore, any specific requirements in this section will supersede any requirements listed in this section that are in conflict with related requirements herein.

(Ord. 2-2000, passed 3-13-2000, § 25.1)

(B) *Infrastructure requirements.*

(1) Chapter 152 of this code of ordinances allows for the Town Council to grant waivers from certain infrastructure requirements as they pertain to subdivisions. Although this option is needed for truly unique circumstances, waivers should be contemplated carefully before being approved. The town usually has to encumber the expense of the waivers in the coming years. Therefore, waivers should be given only if the majority of the Council agrees that the following standards apply:

(a) The approval of the waiver will not be injurious to the public safety and general welfare of the community;

(b) The use and value of the area adjacent to the property will not be affected in a substantially adverse manner;

(c) The need for the waiver arises from some condition peculiar to the property involved and does not exist in similar property in the same district;

(d) The strict application of the terms of the requirements will result in an unnecessary hardship in the developing of the property and the developer is not simply trying to cut expenses; and

(e) If the waiver is granted, will the future residents demand these amenities (the infrastructure requirements waived) and if so, is the town prepared to pay for these amenities (the developer will no longer be liable if a waiver is granted).

(2) These standards should be applied to any requested waiver from infrastructure requirements.

(Ord. 2-2000, passed 3-13-2000, § 25.2)

**§ 153.228 UPLAND.**

(A) *Authority.* The information in this section applies to the Town of Upland only. The Town Council felt that unique situations required some modified requirements from the general ordinance. Any specific requirements listed in this section pertain to Upland only. Furthermore, any specific requirements in this section will supersede any requirements listed in this section that are in conflict with related requirements herein.

(Ord. 2-2000, passed 3-13-2000, § 26.1)

(B) *Mobile home storage.* Mobile homes may be stored in Industrial 2 and Industrial 3 districts only. All other requirements in § 153.343 will apply.

(Ord. 2-2000, passed 3-13-2000, § 26.2)

(C) *Mobile home.*

(1) No mobile home may be located in the town outside of legally established mobile home park (that is operated in accordance with this chapter).

(2) The Town Council may permit by resolution a mobile home in any zone district if the following requirements are met:

(a) The mobile home is to be placed for no more than six months;

(b) The mobile home is to be placed as temporary living accommodations to the owner or occupant of a residence for an existing home, on site, that was rendered uninhabitable or unusable by fire, wind or causality;

(c) The mobile home must be out of the ROW; however, the Council may allow the home to not meet established setbacks, if not realistic to do so;

(d) The mobile home must be served with the same water supply and sewage facilities that are intended to serve the permanent residence;

(e) The mobile home shall remain on its wheels, not have a permanent perimeter masonry wall and meet all other installation requirement for footers, tie-downs and skirting; and

(f) The Director may grant a permit for the placement of a mobile home in such circumstances; however, the permit shall expire within 30 days after its issuance, unless the Town Council approves its extension for an additional six months.

(Ord. 2-2000, passed 3-13-2000, § 26.3)

(D) *Infrastructure requirements.*

(1) Chapter 152 of this code of ordinances allows for the Town Council to grant waivers from certain infrastructure requirements as they pertain to subdivisions. Although this option is needed for truly unique circumstances, waivers should be contemplated carefully before being approved. The town usually has to encumber the expense of the waivers in the coming years. Therefore, waivers should be given only if the majority of the Council agrees that the following standards apply:

(a) The approval of the waiver will not be injurious to the public safety and general welfare of the community;

(b) The use and value of the area adjacent to the property will not be affected in a substantially adverse manner;

(c) The need for the waiver arises from some condition peculiar to the property involved and does not exist in similar property in the same district;

(d) The strict application of the terms of the requirements will result in an unnecessary hardship in the developing of the property and the developer is not simply trying to cut expenses; and

(e) If the waiver is granted, will the future residents demand these amenities (the infrastructure requirements waived) and if so, is the town prepared to pay for these amenities (the developer will no longer be liable if a waiver is granted).

(2) These standards should be applied to any requested waiver from infrastructure requirements.

(Ord. 2-2000, passed 3-13-2000, § 26.4)

(E) *Variations and special exceptions.* All petitioners must have a recommendation from the Town Council for all variations and special exceptions before being heard by the Board of Zoning Appeals.

(1) The petitioner must contact the Town Clerk to be put on the agenda for the Town Council meeting.

(2) This is a recommendation from the Town Council only; the Board of Zoning will be the entity to approve or deny the petition.

(Ord. 2-2000, passed 3-13-2000, § 26.5)



***PARKING***

**§ 153.240 SCOPE.**

All off-street parking areas for motor vehicles, accessory to the uses in the Commercial Districts, shall be provided in accordance with the following regulations.  
(Ord. 2-2000, passed 3-13-2000, § 3.1)

**§ 153.241 BUILDINGS, STRUCTURES AND USES.**

(A) For all buildings and structures erected and all uses of land established after the effective date of this chapter, accessory parking facilities shall be provided in accordance with the regulations of this chapter.

(B) Where improvement location and building permits have been issued prior to the effective date of the chapter, and provided that construction has begun within one year of the effective date and is completed within two years of the date of the issuance of the permit. All required parking facilities, in the amount required by the permit, shall be provided.  
(Ord. 2-2000, passed 3-13-2000, § 3.2)

**§ 153.242 NONCONFORMING BUILDING, STRUCTURES AND USES.**

(A) When the intensity of use of any legally established building, structure or premises (existing on the effective date this chapter or hereafter established) is increased resulting in a net increase of gross floor area of any unit of measurement specified herein for determining required parking areas, parking spaces and any other facilities as required herein shall be provided for to accommodate the increase in intensity of use.

(B) No building, structure or use lawfully erected or established, prior to the effective date of this chapter, shall be required to provide additional parking spaces or areas unless an aggregate increase in the gross floor area, by any unit of measurement specified herein, is made. If the increase in gross floor area causes an increase in the required number of parking spaces that equals 50% or more of the number of parking spaces existing on the effective date of this chapter, then additional parking spaces and areas, as required herein, shall be provided in the entirety.  
(Ord. 2-2000, passed 3-13-2000, § 3.3)

**§ 153.243 CHANGE OF USE.**

Whenever the type of use of a building, structure or premises is hereafter changed to a new type of use permitted by this chapter, parking spaces and areas shall be provided as required by the provisions of this chapter for the new type of use, subject to the exception noted in § 153.242 and the applicable provisions of §§ 153.430 through 153.436.

(Ord. 2-2000, passed 3-13-2000, § 3.4)

**§ 153.244 EXISTING PARKING AREAS.**

Required accessory off-street parking areas 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 requirements for the use as would be required as a new use of a building, structure or premises under the provisions of this chapter.

(Ord. 2-2000, passed 3-13-2000, § 3.5)

**§ 153.245 NEW OR EXPANDED PARKING AREAS.**

Nothing in this chapter shall prevent the establishment of or expansion of the amount of parking areas to serve any existing use of land or building; provided that, all other regulations in this chapter governing the location, design, landscaping, construction and operation of the areas shall be adhered to.

(Ord. 2-2000, passed 3-13-2000, § 3.6)

**§ 153.246 LOCATION.**

(A) Accessory off-street parking areas shall be provided on the same lot as the building or use served or as provided in § 153.247, and shall not be located within the public right-of-way.

(B) Accessory parking areas shall be located in a zone district which permits the primary use.

(C) Any accessory parking area located in a different district than that of the primary use must comply with the development standards for the zone district in which the parking area is located.

(Ord. 2-2000, passed 3-13-2000, § 3.7)

**§ 153.247 COMMON OR COMBINED OFF-STREET PARKING.**

(A) Common or combined accessory off-street parking areas may be provided to serve two or more primary buildings or uses; provided, the common or combined accessory off-street parking areas shall be:

(1) Planned, designed, constructed and maintained as to create a desirable, efficient and well planned off-street parking area with functional and aesthetic value, attractiveness and compatibility with adjacent land uses, and is consistent with the character of the zone district within which it is located;

(2) Located within 500 feet of the primary uses served, measured from the nearest point of the parking area boundary to the property of primary use served; and

(3) At all times have the minimum total number of spaces that is equal to the sum of the minimum required parking spaces for the use, or integrated center. No parking space for one use shall be included in the calculation of parking space requirements for any other use, unless the parking for one use is not used by at certain times (i.e., school sharing with a church).

(B) Common or combined off-street accessory parking area shall be developed, maintained and used only in accordance with the approved site and development plan and all other requirements of this chapter.

(Ord. 2-2000, passed 3-13-2000, § 3.8)

**§ 153.248 MINIMUM PARKING LOT AND PARKING SPACE DIMENSIONS.**

The interior access drives, interior access driveways, drives, driveways, entrances, exits, aisles, bays and traffic circulation for parking lots and parking garages shall be designed and constructed at not less than the recommended specifications contained in *Architectural Graphic Standards*, Ramsey/Sleeper, John Wiley and Sons, Inc., New York, New York (a copy of which is on file in the Area Plan Office and is hereby incorporated by reference and made a part hereof); except that, minimum parking space (or stall) dimensions shall be as set forth below.

(A) Each off-street parking space shall have, regardless of angle of parking, a usable parking space dimension measuring not less than nine feet in width (measured perpendicularly from the sides of the parking space) and not less than 18 feet in length; provided, however, that, the total usable parking space area shall be, in no instance, less than 162 square feet in total area.

(B) All required parking spaces for any use allowing shopping carts to be removed from the interior of the establishment (i.e., grocery store) shall have a usable parking space dimension measuring not less than ten feet in width (measured perpendicularly from the sides of the parking space) and not less than 18 feet in length; provided, however, that, the total usable parking space area shall be at least 180 square feet.

(C) All parking spaces reserved for the use of physically handicapped persons shall have a usable parking space dimension measuring not less than 13 feet in width (measured perpendicularly from the sides of the parking space) and not less than 20 feet in length, Tables § 153.255(A) and (B). (Ord. 2-2000, passed 3-13-2000, § 3.9)

#### **§ 153.249 ACCESS TO AND FROM PARKING SPACES AND AREAS.**

(A) Each off-street parking space shall open directly upon an aisle or driveway of the width and design as to provide safe and efficient means of vehicular access to the parking space.

(B) All off-street parking spaces or areas shall be designed with appropriate means of vehicular access to a street or alley in a manner as to minimize interference with traffic movement and to provide safe and efficient means of vehicular access. Off-street parking spaces and areas shall be designed and located so that vehicles shall not back from or into a public street or adjoining property. (Ord. 2-2000, passed 3-13-2000, § 3.10)

#### **§ 153.250 USE OF PARKING AREAS.**

(A) The parking area shall not be used for the storage, display, advertisement or sale of equipment, product or material, unless an adequate number of spaces are left and all other provisions of this chapter are complied with.

(B) The parking area shall not be used for the storage, repair, dismantling or wrecking of any commercial or inoperable vehicles.

(C) Buildings or structures for guards, attendants or watchpersons shall be permitted; however, any part of the structure shall not occupy a required off-street parking space(s) and shall comply with all setback requirements.

(D) Loading spaces and maneuvering area, as required in § 153.256, shall not constitute a required off-street parking space; nor shall any required off-street parking area be used as a loading space or area. (Ord. 2-2000, passed 3-13-2000, § 3.11)

#### **§ 153.251 SURFACE OF PARKING AREAS.**

(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 other building or structure and subject to all use and development standards requirements of the applicable zone district in addition to the requirements contained herein.

(B) All off-street parking areas, and the access to and from the areas, shall be hard surfaced to adequately provide a durable and dust-free surface. A gravel surface may be used for a period not exceeding six months after the commencement of the use for which the parking areas is provided or where ground or weather conditions are not immediately suitable for permanent surfacing.

(C) The surface shall be graded, constructed and drained in a manner that there will be no detrimental flow of water onto sidewalks or adjacent property.

(D) The parking area(s), where abutting a required landscaped yard or area, shall be designed and constructed in a manner that no part of any parked vehicle shall extend beyond the boundary of the established parking area into any minimum required landscaped yard or area or onto adjoining property. (Ord. 2-2000, passed 3-13-2000, § 3.12)

#### **§ 153.252 MARKING OF PARKING SPACES.**

(A) All parking spaces shall be marked by durable painted lines at least four inches wide and extending the length of the space or by curbs or other means to indicate individual spaces.

(B) Signs or markers located on the pavement surface within a parking lot may be used as necessary to ensure efficient and safe traffic operation of the lot. (Ord. 2-2000, passed 3-13-2000, § 3.13)

#### **§ 153.253 LIGHTING OF PARKING AREAS.**

(A) When parking areas are illuminated, the lighting equipment shall provide good visibility with a minimum of direct glare.

(B) In applying exterior lighting, equipment shall be of an appropriate type and be so located, shielded and directed that the distribution of light is confined to the area to be lighted.

(C) Objectionable light onto adjacent properties and streets shall be avoided to prevent direct glare or disability glare.

(D) Lighting levels for outdoor parking areas shall meet the following minimum average maintained horizontal foot-candles (as specified in *Architectural Graphic Standards*, Tenth Edition, Ramsey/Sleeper, John Wiley and Sons, Inc., New York, New York, a copy of which is on file in the Area Plan and is hereby incorporated by reference and made a part hereof). (Ord. 2-2000, passed 3-13-2000, § 3.14)

**§ 153.254 LANDSCAPING.**

Must meet the requirements in §§ 153.500 through 153.512.  
(Ord. 2-2000, passed 3-13-2000, § 3.15)

**§ 153.255 AMOUNT OF PARKING SPACES REQUIRED.**

(A) Off-street parking spaces shall be provided and maintained for uses in the zone district in accordance with the minimum requirement set forth in Tables § 153.255(A) and (B).

(B) When a computation of required parking spaces results in a fraction of one-half or greater, the number of required parking spaces shall be rounded up to the next whole number.

<i>Table § 153.255(A) - Minimum Number of Off-Street Parking Spaces Required by Use</i>	
1. Any amusement establishments (commercial, recreational) involving the assembling of persons (unless otherwise specified in this table):	
a. Indoor	1 parking space for each 250 square feet of gross floor area
b. Outdoor	1 parking space for each 200 square feet of gross floor area, plus 1 parking space for each 400 square feet of site area accessible to the public, exclusive of the parking area
2. Auto, truck or motorcycle sales or repair	1 parking space for each employee per largest work shift, plus 2 spaces per service bay, (a service bay shall not be considered a parking space), plus 1 space for each 200 square feet of interior sales and display area, plus 1 space for each 7,000 square feet of outdoor display area
3. Banking: bank, savings and loan, credit union	
a. Combined drive-through and walk-in facilities	1 parking space for each 250 square feet of gross floor area
b. Drive-through facility only	1 parking space for each employee per largest work shift, plus a minimum of 3 additional parking spaces. In addition, reserve waiting spaces at each service window or station shall be provided at the rate of 3 for each service window or station. Each waiting space shall measure not less than 20 feet in length
c. Walk-in facility only	1 parking space for each 200 square feet of gross floor area

<b>Table § 153.255(A) - Minimum Number of Off-Street Parking Spaces Required by Use</b>	
4. Bowling alleys	a. 3 parking spaces for each alley/lane
	b. If, in addition, there are other uses or accessory uses located within or operated in conjunction with the bowling alley, such as restaurants, night clubs and the like, additional parking spaces, calculated based upon the parking requirements for that specific use, shall be provided (calculation shall be based upon the total square feet of gross leasable floor area for uses located within or operated in conjunction with the bowling alley)
5. Churches/synagogues, auditoriums, assembly halls, recital halls	1 parking space for each 4 seats at maximum calculated capacity
6. Community centers, museums, civic clubs, philanthropic and eleemosynary institutions	1 parking space for each 400 square feet of gross floor area
7. Convenience market	1 parking space for each 300 square feet of gross floor area. Parking spaces at gasoline pumps may be included in the calculation of required parking
8. Day nurseries, day care centers, kindergartens, nursery schools	1 parking space for each employee per largest work shift, plus 1 parking space for each 500 square feet of gross floor area
9. Fire station	1 parking space for each 2 employees on the premises during the largest work shift, plus a minimum of 3 additional parking spaces
10. Furniture/floor or wall covering store	1 parking space for each 400 square feet of gross floor area
11. Gasoline service stations, tire and auto service center, other auto service functions	1 parking space for each employee per largest work shift, plus 2 spaces per service bay, (a service bay shall not be considered a parking space), plus 3 customer spaces, plus 1 space for each 300 square feet of gross floor area devoted to retail sales
12. Gasoline service station/convenience market	Same as (7) convenience market
13. Grocery store/supermarket	1 parking space for each 200 square feet of gross floor area
14. Hardware/paint/home improvement store	1 parking space for each 250 square feet of gross floor area, plus 1 parking space for each 1,000 square feet of the facility devoted to outside operations or storage, exclusive of the parking area
15. Health spa/sports club	a. 1 parking space for each 200 square feet of gross floor area
	b. If, in addition, there are other uses or accessory uses located within or operated in conjunction with the health spa or sports club, such as dining areas, restaurants, night clubs, retail stores and the like, additional parking spaces, calculated based upon the parking requirements for that specific use, shall be provided (calculation shall be based upon the total square feet of gross leasable floor area for such uses located within or operated in conjunction with the health spa or sports club)

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<b>Table § 153.255(A) - Minimum Number of Off-Street Parking Spaces Required by Use</b>	
16. Hotels, motels	a. 1 parking space for each rental sleeping unit
	b. If, in addition to sleeping units, there are other uses or accessory uses located within or operated in conjunction with the hotel or motel, such as ballrooms meeting rooms, dining areas, retail stores, auditoriums, restaurants, night clubs and the like, additional parking spaces, calculated based upon the parking requirements for that specific use, shall be provided (calculation shall be based upon the total square feet of gross leasable floor area for such uses located within or operated in conjunction with the hotel or motel)
17. Library	1 parking space for each 400 square feet of gross floor area
18. Medical, dental, optometrists clinics/offices	1 parking space for each 200 square feet of gross floor area
19. Mini-warehouses	3 parking spaces for each office, plus 1 parking space per each employee based on the largest work shift, plus 1 parking space per resident/manager, plus 1 parking space for each 30 storage units. Required off-street parking spaces shall not be utilized as rental or leased spaces
20. Miniature golf	2 parking spaces for each golf hole, plus 1 parking space per each employee based on the largest work shift, plus 1 space per each 100 square feet devoted to accessory retail or amusement establishments
21. Mortuary, funeral service, crematories	1 parking space for each 75 square feet of floor area in parlors and assembly rooms
22. Nursing and convalescent homes, homes for the aged, sanitariums, rehabilitation	1 parking space for each 3 patient beds, plus 1 parking space for each 2 employees and each 2 staff doctors on the premises during the largest work shift
23. Office commercial use, general: (to include, but not be limited to) business, professional office, post office, office park, research center	3 parking spaces for each 1,000 square feet of gross floor area
24. Racquetball/tennis courts/club facilities	1 parking space per employee, plus 2 parking spaces per game court, plus 1 parking space for each 200 square feet of the remaining floor area in the building devoted to retail activities
25. Restaurant:	
a. Family	1 parking space per employee per largest work shift, plus 1 parking space for each 4 customer seats
b. Fast food, with or without drive-through	1 parking space per employee per largest work shift, plus 1 parking space for each 3 customer seats. Provided, however, in no case shall any such use provide less than 5 parking spaces (also subject to the drive-through requirements)
c. Fast food, drive-through only (no seating)	1 parking space per employee per largest work shift, plus a minimum of 3 additional parking spaces (also subject to the drive-through requirements)



<b>Table § 153.255(A) - Minimum Number of Off-Street Parking Spaces Required by Use</b>	
26. Taverns and night clubs	1 parking space per employee per largest work shift, plus 1 parking space for each 75 square feet of gross floor area
27. Retail or service commercial uses individual, freestanding uses: including, but not limited to: bakeries; drugstores; beauty and barber shops; package liquor stores; laundromats, photo studios; jewelry, gift, appliance and similar stores; personal service shops	3 parking spaces for each 1,000 square feet of gross leasable area shall be required for any individual, freestanding retail or service commercial use unless listed separately in this section, in which case the parking requirement noted for that specific use shall be utilized. Provided, however, that, in no case shall any individual use provide less than 5 parking spaces
28. Retail or service commercial uses integrated centers	a. If the total gross leasable area of an integrated center is less than 400,000 square feet, 4 parking spaces for each 1,000 square feet of gross leasable area shall be required
	b. If the total gross leasable area of an integrated center is greater than 400,000 square feet, but less than 600,000 square feet, 4-1/2 parking spaces for each 1,000 square feet of gross leasable area shall be required
	c. If the total gross leasable area of an integrated center is greater than 600,000 square feet, 5 parking spaces for each 1,000 square feet of gross leasable area shall be required
Provided, however:	(1) In no case shall any individual use provide less than 5 parking spaces; and
	(2) The following individual uses: grocery store/supermarket; theaters - motion picture or legitimate; bowling alley; or night club, shall provide parking spaces as required for the individual use by this section and the calculation shall be separate from the calculation of the gross leasable area calculation of the integrated center
29. Roller/ice skating rink	1 parking space for each 200 square feet of gross floor area in the building
30. Schools: business, technical, trade and vocational:	1 parking space for each 100 square feet of gross floor area in the building, or 1 parking space per each 25 square feet of classrooms, whichever provides the greatest number of spaces
31. Theaters: motion picture or legitimate theater	1 parking space for each 3 seats
32. All uses permitted in the C-ID commercial-industrial district	1 parking space for each 2 employees per largest work shift, plus 5 customer spaces. Any floor area in the establishment devoted to retail sales shall require additional customer parking spaces in the amount specified elsewhere in this section for the type of retail sales involved
33. Uses not specified	For any use not specified above, specific requirements shall be determined by Table § 153.255(B)

## Grant County - Land Usage

*Table § 153.255(B) - Non-Specified Use Off-Street Parking Requirements*

<i>Use/District</i>	<i>AG, RS</i>	<i>R1, R2, R3, R4, R5</i>	<i>PB, NC, LB, GB, II, I2, I3</i>	<i>CC</i>
Agriculture NAICS 011,111, 112, 113, 115	1 space per 2 employees	NA	1 space per 2 employees	No spaces required
Amusement and Recreation NAICS 71	1 space per 2 of the average number of employees, customers and users on site at one time	1 space per 2 of the average number of employees, customers and users on site at one time	1 space per 2 of the average number of employees, customers and users on site at one time	No spaces required
Industrial NAICS 21, 23, 31-33, 41-43, 453998, 561450	1 space per 2 employees	NA	NA	No spaces required
Institutional NAICS 491, 61, 622	1 space per 2 of the average number of employees, customers and users on site at one time	1 space per 2 of the average number of employees, customers and users on site at one time	1 space per 2 of the average number of employees, customers and users on site at one time	No spaces required
Institutional NAICS 491, 61, 622	1 space per 2 of the average number of employees, customers and users on site at one time	1 space per 2 of the average number of employees, customers and users on site at one time	1 space per 2 of the average number of employees, customers and users on site at one time	No spaces required
Large Product Retail and Services (over 5,000 square feet of gross floor area) NAICS 44-46, 54, 561, 72, 811	NA	NA	1 space per 400 square feet gross floor area	No spaces required
Retail and Service (under 4,999 square feet of gross floor area) NAICS 44-46, 54, 561, 72, 812	1 space per 200 square feet gross floor area	NA	1 space per 200 square feet gross floor area	No spaces required
Office and Business Services NAICS 51, 52, 53, 54, 55, 561, 621, 623, 624, 73, 81, 91-93	NA	1 space per 200 square feet gross floor area	1 space per 200 square feet gross floor area	No spaces required

**Table § 153.255(B) - Non-Specified Use Off-Street Parking Requirements**

<i>Use/District</i>	<i>AG, RS</i>	<i>R1, R2, R3, R4, R5</i>	<i>PB, NC, LB, GB, II, I2, I3</i>	<i>CC</i>
Residential	2 for single family unit. 1.5 for multi-family unit. 1 space per bedroom for boarding houses, cooperatives and similar group uses. 2 spaces per home professional business or customary home occupation, in addition to dwelling requirements	2 for single family unit. 1.5 for multi-family unit. 1 space per bedroom for boarding houses, cooperatives and similar group uses. 2 spaces per home professional business or customary home occupation, in addition to dwelling requirements	2 for single family unit. 1.5 for multi-family unit. 1 space per bedroom for boarding houses, cooperatives and similar group uses. 2 spaces per home professional business or customary home occupation, in addition to dwelling requirements	No spaces required
Transportation and Utility NAICS 22, 48, 49, 562	1 space per 2 of the average number of employees, customers and users on site at one time	1 space per 2 of the average number of employees, customers and users on site at one time	1 space per 2 of the average number of employees, customers and users on site at one time	No spaces required
Nonclassified	BZA	BZA	BZA	BZA
<p>When development is a standard design structure/site for a chain or franchise design professional, parking requirements can be based on documentation (provided by the developer in writing) of parking needs of establishment and successful similar development. These requirements can be established by the Area Plan Department, at its discretion, without the need for public hearing.</p>				

**Table § 153.255(C) - Required Parking Spaces for the Physically Challenged**

**Every parking facility available to the public shall have parking spaces reserved for the use of physically challenged persons according to the following schedule:**

<b>Total Required Number of Parking Spaces in Facility</b>	<b>Minimum Number of Reserved Spaces</b>
0 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9

<i>Table § 153.255(C) - Required Parking Spaces for the Physically Challenged</i>	
<i>Every parking facility available to the public shall have parking spaces reserved for the use of physically challenged persons according to the following schedule:</i>	
<i>Total Required Number of Parking Spaces in Facility</i>	<i>Minimum Number of Reserved Spaces</i>
501 to 1,000	2% of the total number of parking spaces
1,000 and over	20, plus 1 for each 100 spaces over 1,000
<p>- Parking spaces reserved for the use of the physically challenged persons shall count towards the minimum number of off-street parking spaces required in Tables § 153.255(A) and (B). The dimensions of parking spaces reserved for the use of physically challenged persons shall be compliant with the standards set forth in the <i>American National Standard Book for Accessible and Usable Buildings and Facilities</i>, §§ 502 and 503.</p> <p>- Also, the provisions for physically challenged parking shall be revised as the standards in the <i>American National Standard</i> are amended.</p>	

(C) The Administrator may authorize reductions in accordance with § 153.104. (Ord. 2-2000, passed 3-13-2000, § 3.16)

**§ 153.256 LOADING.**

Commercial or industrial uses, except those that do not receive or transport goods in quantity by truck delivery, shall be provided with loading berths. The loading berths must be paved with a hard or dustproof surface.

(A) Retail stores, department stores, wholesale establishments, storage uses and other commercial uses shall provide one berth for each 3,000 to 15,000 square feet of use with an additional berth for each 25,000 or fraction thereof above 15,000.

(B) Office buildings shall be provided one berth for the first 100,000 square feet of gross floor area, plus one additional loading berth for each additional 200,000 square feet or fraction thereof above 100,000.

(C) Industrial uses shall be provided with loading berths as follows:

<i>Table § 153.256 - Loading Berths</i>	
0—15,000 square feet of area	1 loading berths
15,001—40,000 square feet of area	2 loading berths

40,001—100,000 square feet of area	3 loading berths
Each additional 40,000 square feet of area or fraction thereof above 100,000 square feet	1 loading berth

(Ord. 2-2000, passed 3-13-2000, § 3.17)

**SIGNS**

**§ 153.270 COMPUTATIONS.**

The following principles shall control the computation of sign area and sign height.

(A) *Computation of area of individual signs.* The area of a sign face (which includes the sign area of a wall sign) shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof that will encompass the extreme limits of the writing, representation, emblem or other display, along with any material or color forming used as an integral part of the background of the display or use to differentiate the sign from the backdrop or structure against which it is placed. This does include any supporting framework, bracing or decorative fence or wall when the fence or wall otherwise meets chapter regulations and is clearly incidental to the display itself. To find the area, multiply the length of the sign by the width of the sign. An example of determining sign area is shown in Diagram § 153.270 below.

(B) *Computation of area of multi-faced signs.* The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When identical sign faces are placed back to back, so that both faces cannot be viewed from any one point at the same time, and when the sign faces are part of the same sign structure and are not more than 24 inches apart, the sign shall be computed by the measurement of one of the faces.

(C) *Computation of height.* The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of existing grade prior to construction or the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zone lot, whichever is lower. An example of determining sign height is shown in Diagram § 153.270.

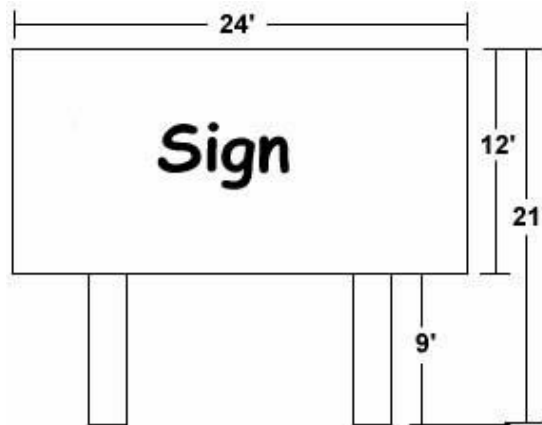
(D) *Computation of maximum total permitted sign for a zone lot.* The permitted sum of the area of all individual signs on a zone lot shall be computed by applying the formula contained in Tables § 153.270(A), (B), (C) and (D), to the lot frontage, building frontage or wall area, as appropriate, for the zoning district in which the lot is located (excluding billboards). Lots fronting on two or more streets are allowed the permitted sign area for each street frontage. However, the total sign area that is oriented toward a particular street may not exceed the portion of the lot’s total sign area allocation that is derived from the lot, building or wall area frontage on that street.

**Diagram § 153.270**

Area = 24'x 12' = 288 square feet

Sign Height = 21 feet

Vertical Clearance = 9 feet



<i>Table § 153.270(A)(1) - Maximum Total Sign Area and Number, Dimension and Location of Individual Signs By Zoning District</i>					
<i>Zoning District</i>	<i>AG</i>	<i>RS</i>	<i>R1</i>	<i>R2</i>	<i>R3</i>
<b>Maximum Total Sign Area Per Zone Lot By Zoning District</b>					
Maximum Number of Total Square Feet	40	25	8	8	8
Percentage of Ground Floor Area of Principal Building	NA	NA	NA	NA	NA
<b>Number, Dimension and Location of Individual Signs by Zoning District</b>					
Freestanding					
Area (square feet)	40	25	8	8	8
Height (feet)	8	5	4	4	4
Setback (feet from edge of ROW)	2	2	2	2	2
Number Permitted	1				
Per Zone Lot	1	1	1	1	1
Per Feet of Street Frontage	NA	NA	NA	NA	NA

**Table § 153.270(A)(1) - Maximum Total Sign Area and Number, Dimension and Location of Individual Signs By Zoning District**

Zoning District	AG	RS	R1	R2	R3
<b>Building</b>					
Area (maximum square feet)	20	10	0	0	0
Wall Area (percentage)	NA	NA	NA	NA	NA
Billboards					
Institutional	d.	d.	d.	d.	d.

**NOTES TO TABLE:**

a. Maximum sign height is listed and minimum setback is listed; however, in no case shall the actual sign height exceed the actual sign setback from any adjacent lot that is zoned and used for residential purposes.

b. All signs must meet visual clearance requirements.

c. Billboards are allowed in this zone district, but have a specific set of requirements.

d. Institutional signs are allowed in this zone district, but have a specific set of requirements.

e. The percentage figure here shall mean the percentage of the area of the wall of which the sign is a part or to which each sign is most nearly parallel.

f. Flags of the United States, the state, the city, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction, and shall not be flown from a pole the top of which is more than 40 feet in height. These flags must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes. Any flag not meeting any one or more of these conditions shall be considered a banner sign and shall be subject to regulations as such.

**Table § 153.270(A)(2) - Maximum Total Sign Area and Number, Dimension and Location of Individual Signs By Zoning District**

Zoning District	R4	R5	MH	NC	PB
<b>Maximum Total Sign Area Per Zone Lot By Zoning District</b>					
Maximum Number of Total Square Feet	10	10	40	100	100
Percentage of Ground Floor Area of Principal Building	NA	NA	NA	NA	NA
<b>Number, Dimension and Location of Individual Signs by Zoning District</b>					
Freestanding					
Area (square feet)	10	10	40	60	60
Height (feet)	5	5	10	15 a.	15 a.
Setback (feet from edge of ROW)	2	2	2	5 a.	5 a.
Number Permitted					
Per Zone Lot	1	1	1	NA	NA
Per Feet of Street Frontage	NA	NA	NA	1 per 200 feet	1 per 200 feet

**Table § 153.270(A)(2) - Maximum Total Sign Area and Number, Dimension and Location of Individual Signs By Zoning District**

<i>Zoning District</i>	<i>R4</i>	<i>R5</i>	<i>MH</i>	<i>NC</i>	<i>PB</i>
<b>Building</b>					
Area (maximum square feet)	4	4	0	NA	NA
Wall Area (percentage)	NA	NA	NA	10%e.	10%e.
Billboards					
Institutional	d.	d.	d.	d.	d.
<p><b>NOTES TO TABLE:</b></p> <p>a. Maximum sign height is listed and minimum setback is listed; however, in no case shall the actual sign height exceed the actual sign setback from any adjacent lot that is zoned and used for residential purposes.</p> <p>b. All signs must meet visual clearance requirements.</p> <p>c. Billboards are allowed in this zone district, but have a specific set of requirements.</p> <p>d. Institutional signs are allowed in this zone district, but have a specific set of requirements.</p> <p>e. The percentage figure here shall mean the percentage of the area of the wall of which the sign is a part or to which each sign is most nearly parallel.</p> <p>f. Flags of the United States, the state, the city, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction, and shall not be flown from a pole the top of which is more than 40 feet in height. These flags must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes. Any flag not meeting any one or more of these conditions shall be considered a banner sign and shall be subject to regulations as such.</p>					

**Table § 153.270(A)(3) - Maximum Total Sign Area and Number, Dimension and Location of Individual Signs By Zoning District**

<i>Zoning District</i>	<i>LB</i>	<i>CC</i>	<i>GB</i>
<b>Maximum Total Sign Area Per Zone Lot By Zoning District</b>			
<b>Maximum number of Total Square Feet</b>	100	150	500
<b>Percentage of Ground Floor Area of Principal Building</b>	NA	NA	NA
<b>Number, Dimension and Location of Individual Signs by Zoning District</b>			
<b>Freestanding</b>			
Area (square feet)	60	100	300
Height (feet)	15 a.	20 a.	40 a.
Setback (feet from edge of ROW)	5 a.	5 a.	5 a.
Number Permitted			
Per Zone Lot	NA	NA	NA
Per Feet of Street Frontage	1 per 200 feet	1 per 100 feet	1 per 200 feet



<i>Table § 153.270(A)(3) - Maximum Total Sign Area and Number, Dimension and Location of Individual Signs By Zoning District</i>			
<i>Zoning District</i>	<i>LB</i>	<i>CC</i>	<i>GB</i>
<b>Building</b>			
Area (maximum square feet)	NA	NA	NA
Wall Area (percentage)	10% e.	10% e.	15% e.
Billboards	c.		c.
Institutional	d.	d.	d.
<p><b>NOTES TO TABLE:</b></p> <p>a. Maximum sign height is listed and minimum setback is listed; however, in no case shall the actual sign height exceed the actual sign setback from any adjacent lot that is zoned and used for residential purposes.</p> <p>b. All signs must meet visual clearance requirements.</p> <p>c. Billboards are allowed in this zone district, but have a specific set of requirements.</p> <p>d. Institutional signs are allowed in this zone district, but have a specific set of requirements.</p> <p>e. The percentage figure here shall mean the percentage of the area of the wall of which the sign is a part or to which each sign is most nearly parallel.</p> <p>f. Flags of the United States, the state, the city, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction, and shall not be flown from a pole the top of which is more than 40 feet in height. These flags must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes. Any flag not meeting any one or more of these conditions shall be considered a banner sign and shall be subject to regulations as such.</p>			

<i>Table § 153.270(B) - Number and Dimensions of Certain Individual Signs by Sign Type</i>				
<i>No sign shall exceed any applicable maximum numbers or dimensions or encroach on any applicable minimum clearance shown on this table.</i>				
	<i>Number Allowed</i>	<i>Maximum Sign Area</i>	<i>Vertical Clearance From Sidewalk or Private Drive or Parking</i>	<i>Vertical Clearance From Public Street</i>
<b>Freestanding</b>				
Residential	See Text Chart A	See Text Chart A	NA	NA
Other and incidental	See Text Chart A	See Text Chart A	NA	NA
<b>Building</b>				
Banner	NA	NA	9 feet	12 feet
Building Marker	1 per building	4 square feet	NA	NA
Canopy	1 per building	25% of vertical surface	9 feet	9 feet
Identification	1 per building	NA	NA	NA

## Grant County - Land Usage

<i>Table § 153.270(B) - Number and Dimensions of Certain Individual Signs by Sign Type</i>				
<i>No sign shall exceed any applicable maximum numbers or dimensions or encroach on any applicable minimum clearance shown on this table.</i>				
	<i>Number Allowed</i>	<i>Maximum Sign Area</i>	<i>Vertical Clearance From Sidewalk or Private Drive or Parking</i>	<i>Vertical Clearance From Public Street</i>
Incidental	NA	NA	NA	NA
Marquee	1 per building	NA	9 feet	12 feet
Projecting	1 per building	NA	9 feet	12 feet
Residential	1 per zone lot	NA	NA	NA
Roof	1 per principal building	NA	NA	NA
Roof, integral	2 per principal building	NA	NA	NA
Suspended	1 per entrance	NA	9 feet	NA
Temporary	See § 153.270(A)	NA	NA	NA
Wall	NA	NA	NA	NA
Window	NA	25% of total window area	NA	NA
<b>Miscellaneous</b>				
Banner	NA	NA	9 feet	12 feet
Flag	NA	60 square feet	9 feet	12 feet
Portable	1 where allowed	20 square feet	NA	NA
Beacon	1 where allowed	NA	NA	NA
Pennants	1 where allowed	NA	NA	NA
Strings of light	NA	NA	NA	NA
Inflatable	1 where allowed	20 square feet	NA	NA
Billboard signs c.	1 where allowed	500 square feet	15 feet	15 feet

**Table § 153.270(B) - Number and Dimensions of Certain Individual Signs by Sign Type**

*No sign shall exceed any applicable maximum numbers or dimensions or encroach on any applicable minimum clearance shown on this table.*

	<i>Number Allowed</i>	<i>Maximum Sign Area</i>	<i>Vertical Clearance From Sidewalk or Private Drive or Parking</i>	<i>Vertical Clearance From Public Street</i>
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**NOTES TO TABLE:**

- a. Permitted on the same terms as a temporary sign, in accordance with §§ 153.278 and 153.279, except that it may be freestanding.
- b. No direct light or significant glare from the sign shall be cast onto any adjacent zone lot that is zoned and used for residential purposes.
- c. Billboards signs not exceeding 300 square feet shall be permitted if:
  - i. A minimum separation between lawfully established billboard signs shall be 1,000 feet, linear measure, taken along the right-of-way lines on both sides of the street or highway from which the sign is intended to be viewed.
  - ii. All off-premise signs must be of a single pole construction and are limited to a single panel.
  - iii. Signs shall not be located closer than 15 feet to any existing right-of-way of any street or highway.
  - iv. There shall be a minimum distance of 100 feet, linear measure, from any billboard sign to any residential zone district.
  - v. Signs shall have a maximum height of 35 feet.
  - vi. Back to back signs may be separated in the shape of the letter V if the greatest point of separation between the signs does not exceed 15 feet.

**Table § 153.270(C)(1) - Permitted Signs by Type and Zoning District**

<i>Sign Type</i>		<i>AG</i>	<i>RS</i>	<i>R1</i>	<i>R2</i>	<i>R3</i>	<i>R4</i>	<i>R5</i>
<b>Freestanding</b>								
	Residential	X	X	X	X	X	X	X
	Other					X d.	X d.	X d.
<b>Building</b>								
	Banner							
	Building marker e.	X	X	X	X	X	X	X
	Canopy							
	Identification d.	X	X	X	X	X	X	X
	Incidental c.					X f.	X f.	X f.
	Marquee g.							
	Projecting g.							
	Residential b.	X	X	X	X	X	X	X
	Roof							
	Roof, integral							

Grant County - Land Usage

<i>Table § 153.270(C)(1) - Permitted Signs by Type and Zoning District</i>								
<i>Sign Type</i>		<i>AG</i>	<i>RS</i>	<i>R1</i>	<i>R2</i>	<i>R3</i>	<i>R4</i>	<i>R5</i>
	Suspended g.							
	Temporary h.							
	Wall							
	Window							
<b>Miscellaneous</b>	Banner							
	Flag i.	X	X	X	X	X	X	X
	Portable							
	Beacons							
	Pennants							
	Strings of light							
	Inflatable							
	Billboard signs a.							
	<b>Permitted Sign Characteristics</b>	Animated						
Changeable copy								
Illumination internal								
Illumination external								
Illumination exposed								
Bulbs or neon								
<p>X = Allowed without sign permit                      S = Allowed only with a special exception                      P = Allowed only with a sign permit                      Blank = Not allowed                      H = Hearing before the Director</p>								



Grant County - Land Usage

<i>Table § 153.270(C)(2) - Permitted Signs by Type and Zoning District</i>										
<i>Sign Type</i>		<i>PB</i>	<i>NC</i>	<i>LB</i>	<i>GB</i>	<i>CC</i>	<i>I1</i>	<i>I2</i>	<i>I3</i>	<i>MH</i>
	Identification d.	X	X	X	X	X	X	X	X	X
	Incidental c.	X	X	X c.	X c.	X c.	X	X	X	X c.
	Marquee g.				P	P				P
	Projecting g.	P	P	P	P	P	P	P	P	P
	Residential b.									
	Roof			P		P				
	Roof, integral			P		P				
	Suspended g.					X				
	Temporary h.	P	P	P	P	P				P
	Wall	X	X	P	P	P	P	P	P	P
	Window	X	X	X	X	X	X	X	X	X
<b>Miscellaneous</b>										
	Banner c.	P	P	P	P	P				P
	Flag i.	X	X	X	X	X	X	X	X	X
	Portable				P					P
	Beacons				P k.					P k.
	Pennants				P					P
	Strings of light				P k.					P k.
	Inflatable				P					P
	Billboard signs a.	S	S		P			P	P	P
<b>Permitted Sign Characteristics</b>										
	Animated	S	S	S	S	P	S	S	S	
	Changeable copy	S	S	S	P	P	S	S	S	P
	Illumination internal	P k.	P k.	P k.	P k.	P k.	P	P	P	P k.
	Illumination external	P k.	P k.	P k.	P k.	P k.	P	P	P	P k.
	Illumination exposed									
Bulbs or neon				S	S				S	

**Table § 153.270(C)(2) - Permitted Signs by Type and Zoning District**

<i>Sign Type</i>		<i>PB</i>	<i>NC</i>	<i>LB</i>	<i>GB</i>	<i>CC</i>	<i>I1</i>	<i>I2</i>	<i>I3</i>	<i>MH</i>
<p>X = Allowed without sign permit                      S = Allowed only with a special exception                      P = Allowed only with a sign permit                      Blank = Not allowed                      H = Hearing before the Director</p>										
<p>a. Billboards signs not exceeding 300 square feet shall be permitted if:</p> <ul style="list-style-type: none"> <li>i. A minimum separation between lawfully established billboard signs shall be 1,000 feet, linear measure, taken along the right-of-way lines on both sides of the street or highway from which the sign is intended to be viewed.</li> <li>ii. All off-premises signs must be of a single pole construction and are limited to a single panel.</li> <li>iii. Signs shall not be located closer than 15 feet to any existing right-of-way of any street or highway.</li> <li>iv. There shall be a minimum distance of 100 feet, linear measure, from any billboard sign to any residential zone district.</li> <li>v. Signs shall have a maximum height of 35 feet.</li> <li>vi. Back-to-back signs may be separated in the shape of the letter V if the greatest point of separation between the signs does not exceed 15 feet.</li> </ul> <p>b. No commercial message allowed on sign, except for a commercial message drawing attention to an activity legally offered on the premises.</p> <p>c. No commercial message of any kind allowed on signs if the message is legible from any location off the zone lot on which the sign is located.</p> <p>d. Only the address and name of occupant allowed on sign.</p> <p>e. May include only building name, date of construction or historical data on historic site; must be cut into masonry, bronze or similar material.</p> <p>f. No commercial message of any kind allowed on sign.</p> <p>g. If a sign is suspended or projects above a right-of-way, the issuance and continuation of a sign permit shall be conditioned on the sign owner obtaining and maintaining in force liability insurance for a sign in a form and an amount as the Director may reasonably from time to time determine; provided that, the amount of such liability insurance shall be at least \$500,000 per occurrence per sign.</p> <p>h. The conditions of § 153.278 apply.</p> <p>i. Flags of the United States, the state, the city, foreign nations having diplomatic relations with the United States, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction; provided that, a flag shall not exceed 60 square feet in area and shall not be flown from a pole the top of which is more than 40 feet in height. These flags must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes. Any flag not meeting any one or more of these conditions shall be considered a banner sign and shall be subject to regulation as such.</p> <p>j. Permitted on the same terms as a temporary sign, in accordance with § 153.278, except that it may be freestanding.</p> <p>k. No direct light or significant glare from the sign shall be cast onto any adjacent zone lot that is zoned and used for residential purposes.</p>										

**Table § 153.270(D) - Permitted Sign Characteristics by Zoning District**

<i>Sign Type</i>	<i>AG</i>	<i>RS</i>	<i>R1</i>	<i>R2</i>	<i>R3</i>	<i>R4</i>	<i>R5</i>	<i>PB</i>	<i>NC</i>	<i>LB</i>	<i>CC</i>	<i>GB</i>	<i>I1</i>	<i>I2</i>	<i>I3</i>	<i>MH</i>
Animated	N	N	N	N	N	N	N	N	S	S	S	S	S	S	S	N
Changeable copy	N	N	N	N	N	N	N	N	S	S	S	S	S	S	S	N
Illumination internal	N	N	N	N	N	N	N	S a.	S a.	S a.	S a.	S a.	S	S	S	S a.
Illumination external	N	N	N	N	N	N	N	S a.	S a.	S a.	S a.	S a.	S	S	S	S a.

<i>Table § 153.270(D) - Permitted Sign Characteristics by Zoning District</i>																
<i>Sign Type</i>	<i>AG</i>	<i>RS</i>	<i>R1</i>	<i>R2</i>	<i>R3</i>	<i>R4</i>	<i>R5</i>	<i>PB</i>	<i>NC</i>	<i>LB</i>	<i>CC</i>	<i>GB</i>	<i>I1</i>	<i>I2</i>	<i>I3</i>	<i>MH</i>
Illumination exposed bulbs or neon	N	N	N	N	N	N	N	N	N	S	S	S	S	S	N	S
<p><b>NOTES TO TABLE:</b>                      X = Allowed without sign permit                      S = Allowed only with a sign permit                      N = Not allowed                      E = Allowed only with a special exception</p>																
<p>a. No direct light or significant glare from the sign shall be cast onto any adjacent zone that is zoned and used for residential purposes.</p>																

(Ord. 2-2000, passed 3-13-2000, § 4.1)

**§ 153.271 SIGNS ALLOWED ON PRIVATE PROPERTY WITH AND WITHOUT PERMITS.**

(A) Signs shall be allowed on private property in the county only in accordance with Tables § 153.270(C) and (D) above.

(B) If the letter “X” appears for a sign type in a column, such sign is allowed without prior permit approval in the zoning districts represented by that column. If the letter “P” appears for a sign type in a column, the sign is allowed only with a permit. If the letter “S” appears for a sign type in a column, a sign is only allowed with a special exception. If there is no letter in the use chart, then the sign is not allowed in the zoning district represented by that column under any circumstances.

(C) Every sign must meet all the requirements as established in Tables § 153.270(A), (B), (C) and (D) or Text Chart A in § 153.272. (Ord. 2-2000, passed 3-13-2000, § 4.2)

**§ 153.272 TEXT CHART A.**

Maximum total area, number, dimensions and location of individual signs by zoning district:

**(AG) General Agriculture**

Maximum Total Sign Area Per Zone Lot

**40** Total Square Feet of Sign Area Per Zone Lot pertaining to products for sale upon the premises or services rendered thereon.

Number, Dimension and Location of Individual Signs by Zoning District

Freestanding Sign

**1** Permitted Per Zone Lot

**40 (square feet)** Maximum Sign Area Allowed

**8 (feet)** Maximum Sign Height Allowed



**2 (feet from edge of ROW)** Required Sign Setback  
Building Sign  
**20 (square feet)** Maximum Building Area Covered  
Institutional\*

***(RS) Residential Suburban***

Maximum Total Sign Area Per Zone Lot  
**25** Total Square Feet of Sign Area Per Zone Lot pertaining to products for sale upon the premises or services rendered thereon.  
Number, Dimension, and Location of Individual Signs by Zoning District  
Freestanding Sign  
**1** Permitted Per Zone Lot  
**25 (sq. feet)** Maximum Sign Area Allowed  
**5 (feet)** Maximum Sign Height Allowed  
**2 (feet from edge of ROW)** Required Sign Setback  
Building Sign  
**10 (sq. feet)** Maximum Building Area Covered  
Institutional\*

***(R1) Low Density, Single-Family***

Maximum Total Sign Area Per Zone Lot  
**8** Total Square Feet of Sign Area Per Zone Lot  
Number, Dimension and Location of Individual Signs by Zoning District  
Freestanding Sign  
**1** Permitted Per Zone Lot  
**8 (square feet)** Maximum Sign Area Allowed  
**4 (feet)** Maximum Sign Height Allowed  
**2 (feet from edge of ROW)** Required Sign Setback  
Institutional\*

***(R2) Medium Density, Single-Family***

Maximum Total Sign Area Per Zone Lot  
**8** Total Square Feet of Sign Area Per Zone Lot  
Number, Dimension and Location of Individual Signs by Zoning District  
Freestanding Sign  
**1** Permitted Per Zone Lot  
**8 (square feet)** Maximum Sign Area Allowed  
**4 (feet)** Maximum Sign Height Allowed  
**2 (feet from edge of ROW)** Required Sign Setback  
Institutional\*

***(R3) Low Density, Single- and Multi-Family***

Maximum Total Sign Area Per Zone Lot

**8** Total Square Feet of Sign Area Per Zone Lot

Number, Dimension and Location of Individual Signs by Zoning District

Freestanding Sign

**1** Permitted Per Zone Lot**8 (sq. feet)** Maximum Sign Area Allowed**4 (feet)** Maximum Sign Height Allowed**2 (feet from edge of ROW)** Required Sign Setback

Institutional\*

***(R4) Medium Density, Single- and Multi-Family***

Maximum Total Sign Area Per Zone Lot

**10** Total Square Feet of Sign Area Per Zone Lot

Number, Dimension and Location of Individual Signs by Zoning District

Freestanding Sign

**1** Permitted Per Zone Lot**10 (sq. feet)** Maximum Sign Area Allowed**5 (feet)** Maximum Sign Height Allowed**2 (feet from edge of ROW)** Required Sign Setback

Building Sign

**4 (square feet)** Maximum Building Area Covered

Institutional\*

***(R5) High Density, Single- and Multi-Family***

Maximum Total Sign Area Per Zone Lot

**10** Total Square Feet of Sign Area Per Zone Lot

Number, Dimension and Location of Individual Signs by Zoning District

Freestanding Sign

**1** Permitted Per Zone Lot**10 (sq. feet)** Maximum Sign Area Allowed**5 (feet)** Maximum Sign Height Allowed**2 (feet from edge of ROW)** Required Sign Setback

Building Sign

**4 (sq. feet)** Maximum Building Area Covered

Institutional\*

***(PB) Professional Business***

Maximum Total Sign Area Per Zone Lot

**100** Total Square Feet of Sign Area Per Zone Lot

Number, Dimension and Location of Individual Signs by Zoning District

Freestanding Sign

**1 per 200 feet** Permitted Per Feet of Street Frontage

**60 (square feet)** Maximum Sign Area Allowed

**15 (feet)** Maximum Sign Height Allowed

**5 (feet from edge of ROW)** Required Sign Setback

Building Sign

**10% (percentage)** Maximum Building Wall Area Covered

Institutional\*

***(NC) Neighborhood Convenience***

Maximum Total Sign Area Per Zone Lot

**100** Total Square Feet of Sign Area Per Zone Lot

Number, Dimension and Location of Individual Signs by Zoning District

Freestanding Sign

**1 per 200 feet** Permitted Per Feet of Street Frontage

**60 (square feet)** Maximum Sign Area Allowed

**15 (feet)** Maximum Sign Height Allowed

**5 (feet from edge of ROW)** Required Sign Setback

Building Sign

**10% (percentage)** Maximum Building Wall Area Covered

Institutional\*

***(LB) Local Business***

Maximum Total Sign Area Per Zone Lot

**100** Total Square Feet of Sign Area Per Zone

Lot Number, Dimension and Location of Individual Signs by Zoning District

Freestanding Sign

**1 per 200 feet** Permitted Per Feet of Street Frontage

**60 (square feet)** Maximum Sign Area Allowed

**15 (feet)** Maximum Sign Height Allowed

**5 (feet from edge of ROW)** Required Sign Setback

Building Sign

**10% (percentage)** Maximum Building Wall Area Covered

Billboard\*

Institutional\*

**(CC) Central Core**

Maximum Total Sign Area Per Zone Lot

**150** Total Square Feet of Sign Area Per Zone

Lot Number, Dimension and Location of Individual Signs by Zoning District

Freestanding Sign

**1 per 100 feet** Permitted Per Feet of Street Frontage

**100 (square feet)** Maximum Sign Area Allowed

**20 (feet)** Maximum Sign Height Allowed

**5 (feet from edge of street)** Required Sign Setback

Building Sign

**10% (percentage)** Maximum Building Wall Area Covered

Institutional\*

**(GB) General Business**

Maximum Total Sign Area Per Zone Lot

**500** Total Square Feet of Sign Area Per Zone

Lot Number, Dimension and Location of Individual Signs by Zoning District

Freestanding Sign

**1 per 200 feet** Permitted Per Feet of Street Frontage

**300 (square feet)** Maximum Sign Area Allowed

**40 (feet)** Maximum Sign Height Allowed

**5 (feet from edge of ROW)** Required Sign Setback

Building Sign

**15% (percentage)** Maximum Building Wall Area Covered

Billboard\*

Institutional\*

**(II) Light Industry**

Maximum Total Sign Area Per Zone Lot

**480** Total Square Feet of Sign Area Per Zone Lot

Number, Dimension and Location of Individual Signs by Zoning District

Freestanding Sign

**1 per 200 feet** Permitted Per Feet of Street Frontage

**300 (square feet)** Maximum Sign Area Allowed

**40 (feet)** Maximum Sign Height Allowed

**10 (feet from edge of street)** Required Sign Setback

Building Sign

**5% (percentage)** Maximum Building Wall Area Covered

Billboard\*

Institutional\*

**(12) General Industry**

Maximum Total Sign Area Per Zone Lot

**500** Total Square Feet of Sign Area Per Zone Lot

Number, Dimension and Location of Individual Signs by Zoning District

Freestanding Sign

**1 per 400 feet** Permitted Per Feet of Street Frontage

**300 (square feet)** Maximum Sign Area Allowed

**40 (feet)** Maximum Sign Height Allowed

**10 (feet from edge of street)** Required Sign Setback

Building Sign

**5% (percentage)** Maximum Building Wall Area Covered

Billboard\*

Institutional\*

**(13) Heavy Industry**

Maximum Total Sign Area Per Zone Lot

**500** Total Square Feet of Sign Area Per Zone Lot

Number, Dimension and Location of Individual Signs by Zoning District

Freestanding Sign

**1 per 800 feet** Permitted Per Feet of Street Frontage

**300 (square feet)** Maximum Sign Area Allowed

**40 (feet)** Maximum Sign Height Allowed

**10 (feet from edge of street)** Required Sign Setback

Building Sign

**5% (percentage)** Maximum Building Wall Area Covered

Billboard\*

Institutional\*

(4) \*Institutional use signs have a specific set of requirements that allow for a more liberal placement than the zoning district in which the use is located may allow. A sign for an institutional use is allowed in any zoning district in which the institutional use is legally located. The following requirements for signs for an institutional use are as follows:

<i>Permit Required</i>	<i>Permit not Required</i>
Freestanding, other	Freestanding incidental
Characteristics, changeable copy	Building marker
Characteristics, internal illumination	Building, identification

**Grant County - Land Usage**

Characteristics, external illumination	Building, incidental
	Building, suspended
	Building, wall
	Miscellaneous, flag

Size: 20 square feet or the zoning district’s underlying requirements, (whichever is greater) and a maximum height of six feet

(5) \*Billboard signs have a specific set of requirements. Text Chart A and Tables § 153.270(A), (B), (C) and (D) detail in which zoning district billboards are allowed. The following requirements for billboard signs are as follows:

(a) A billboard sign shall have a maximum height of 35 feet above grade level to the top of the sign face and a maximum length of 60 feet.

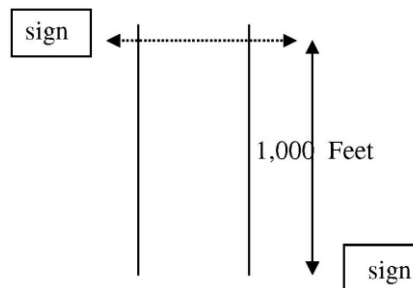
(b) A billboard sign shall have a minimum clearance of 15 feet from the ground level to the bottom of the sign face.

(c) The face area of a billboard sign may not exceed 360 square feet, excluding the base or apron, trim supports, and other structural elements. Temporary embellishments shall not exceed 5% of the sign face area. Signs on established interstate highways may be 672 square feet.

(d) Billboard signs may contain no more than two signs per facing, the maximum area of each sign face shall be 360 square feet or 672 square feet on established interstate highways.

(e) No billboard sign may be established within 1,000 horizontal, linear feet of any other billboard sign, measured along both sides of the street or highway to which the sign is oriented. The minimum distance between billboard signs shall be measured from signpost to sign post, with an imaginary line being drawn across to form an “L” when measuring signs on opposite sides of a street, Diagram § 153.271 below.

**Diagram § 153.271**



(f) All billboards shall be placed ten feet from the edge of the ROW. Measured from the leading edge of sign.

(g) All billboards shall be of steel or metal monopole construction, with buried electrical lines from power source to sign, and shall be maintained in good condition for the duration of the sign's placement.

(Ord. 2-2000, passed 3-13-2000, § 4.2)

### **§ 153.273 PERMITS REQUIRED.**

(A) If a sign requiring a permit under the provisions of this subchapter is to be placed, constructed, erected or modified on a lot, the owner of the lot shall secure a sign permit prior to the construction, placement, erection or modification of the sign in accordance with the requirements of § 153.276.

(B) No sign shall be erected in the public right-of-way, except in accordance with § 153.274 and the permit requirements of § 153.278.

(C) No sign permit of any kind shall be issued for an existing or proposed sign unless it is consistent with the requirements of this subchapter.

(D) Sign permits shall be issued for the duration of the sign. The permit will not expire or be revoked unless the sign is structurally altered or moved. If the sign is structurally altered or moved, then a new permit will need to be obtained.

(Ord. 2-2000, passed 3-13-2000, § 4.3)

### **§ 153.274 DESIGN, CONSTRUCTION AND MAINTENANCE.**

All signs shall be designed, constructed, and maintained in accordance with the following standards.

(A) All signs shall comply with applicable provisions of the Uniform Building Code, and the National Electrical Code, adopted by the Area Plan Commission, at all times.

(B) Except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this chapter, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building or another structure by direct attachment to a rigid wall, frame or structure.

(C) All signs shall be maintained in good structural condition, in compliance with all Building and Electrical Codes, and in conformance with this subchapter, at all times.

(Ord. 2-2000, passed 3-13-2000, § 4.4)

**§ 153.275 SIGNS IN THE PUBLIC RIGHT-OF-WAY.**

No sign shall be allowed in the public right-of-way, except for the following.

(A) Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic:

(1) Bus stop signs erected by a public transit company.

(2) Informational signs of a public utility regarding its poles, lines, pipes or facilities; and

(3) Awning, projecting and suspended signs projecting over a public right-of-way that are a minimum of eight feet in height above grade and are in conformity with the conditions of Tables § 153.270(A), (B), (C) and (D).

(B) Temporary signs for which a permit has been issued in accordance with § 153.278 shall be issued only for signs meeting the following requirements:

(1) Signs containing no commercial message; and

(2) Signs no more than two square feet in area.

(C) Emergency warning signs erected by a governmental agency, a public utility company or a contractor doing authorized or permitted work within the public right-of-way.

(D) Bench signs are subject to the local legislative body's jurisdictional area. Bench signs do not require a permit from the Area Plan Commission but shall not have wording that might tend to cause traffic confusion, such as "stop", "danger", "drive-in" or similar words.

(E) Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the county shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of the sign.

(Ord. 2-2000, passed 3-13-2000, § 4.5)

**§ 153.276 SIGNS EXEMPT FROM REGULATIONS UNDER THIS SUBCHAPTER.**

The following signs shall be exempt from regulation under this subchapter:

(A) Any public notice or warning required by a valid and applicable federal, state or local regulation.

(B) Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the lot line of the lot or parcel on which the sign is located.



(C) Works of art that do not include a commercial message; and

(D) Traffic control signs on private property, such as stop, yield and similar signs, the face of which meet Department of Transportation standards, and which contain no commercial message of any sort and does not interfere with a state or local transportation system.

(Ord. 2-2000, passed 3-13-2000, § 4.6)

**§ 153.277 GENERAL PERMIT PROCEDURES.**

Signs identified as “P” or “S” on Tables § 153.270(D) shall be erected, installed or created only in accordance with a duly issued and valid sign permit from the Area Plan Commission. The permits shall be issued only in accordance with the following requirements and procedures.

(A) All applications for sign permit of any kind shall be submitted to the Area Plan Office on an application form or in accordance with application specifications published by the Office.

(B) An application for construction, creation or installation of a new sign or for modification of an existing sign shall be accompanied by detailed drawings to show the dimensions, design, structure and location of each particular sign.

(C) The Area Plan Office shall cause an inspection for each permit for a new sign or for modification of an existing sign issued. If the construction is substantially complete, but not in full compliance with this subchapter and applicable codes, the Area Plan Office shall give the owner or applicant notice of the deficiencies and set a time frame from the date of inspection for the deficiencies to be corrected. If the deficiencies are not corrected by the date, the permit shall be void.

(D) Within seven days of the submission of a complete application for a sign permit, the Area Plan Commission shall either:

(1) Issue the sign permit, if the proposed sign(s) conforms in every respect with the requirements of this subchapter; or

(2) Deny the sign permit if the proposed sign(s) fails in any way to conform with the requirements of this subchapter.

(Ord. 2-2000, passed 3-13-2000, § 4.7)

**§ 153.278 TEMPORARY SIGN PERMITS (PRIVATE PROPERTY).**

Temporary signs on private property shall be allowed only upon the issuance of a temporary sign permit, which shall be subject to the following requirements.

(A) A temporary sign permit shall allow the use of a temporary sign for a maximum of one consecutive four-month period per calendar year. In the event of the business owner or type changing, a new temporary sign permit may be issued.

(B) A temporary sign shall be allowed only in districts, for which a letter “P” for “Temporary Signs” in Tables § 153.270(C) and (D) and subject to all of the requirements for temporary signs as noted therein. (Ord. 2-2000, passed 3-13-2000, § 4.8)

**§ 153.279 PERMITS FOR TEMPORARY PRIVATE SIGNS IN THE PUBLIC RIGHT-OF-WAY.**

Permits for temporary private signs in the public right-of-way shall be issued in accordance with the following conditions.

(A) The term of a permit shall be 60 consecutive days. No more than one permit for temporary sign shall be issued to any applicant for the same lot in any calendar year.

(B) Each sign erected under a permit shall contain an official stamp of the Area Plan Commission, authenticating the sign and giving the number of the permit and the date of issuance.

(C) The owner of the lot shall sign a statement binding the owner to remove the sign after 60 days of issuance of the permit. If the sign is not removed, the applicant is subject to at least a \$100 fine for the county or its designee to remove the sign.

(D) Election signs are exempt from any permit as by this subchapter, but may only be in place three months before each election and two weeks after each election. Any signs still in place before or after this time period may be removed by the County Area Plan Commission or its designee.

(E) All signs must have written permission of jurisdictional authority. (Ord. 2-2000, passed 3-13-2000, § 4.9)

### § 153.280 NONCONFORMING SIGNS AND SIGNS WITHOUT PERMITS.

Except as otherwise provided herein, the owner of any premises on which an existing sign is located that does not conform with the requirements of this subchapter or that has no valid sign permit, shall be obligated to remove the sign.

(A) A sign that would be permitted under this subchapter only with a sign permit, but which was in existence before 9-16-1974, is a legal nonconforming sign. The signs may remain; provided that, no action to move or structurally change the sign is taken. If the signs are moved or structurally altered, they must comply with all provisions of the most currently adopted ordinance.

(B) A sign that was legally in place before the date of the adoption of this subchapter (10-14-2002) is a legal sign. The signs may remain provided that no action to move or structurally change the sign is taken. If the signs are moved or structurally altered, they must comply with all provisions of the most currently adopted ordinance.

(Ord. 2-2000, passed 3-13-2000, § 4.10)

### § 153.281 VIOLATIONS.

(A) Any of the following shall be a violation of this subchapter and shall be subject to the enforcement remedies and penalties provided by this chapter or by state law:

(1) To install, create, erect or maintain any sign in a way that is inconsistent with any plan or permit governing a sign or the lot on which the sign is located;

(2) To install, create, erect or maintain any sign requiring a permit without the permit;

(3) To fail to remove any sign that is installed, created, erected or maintained in violation of this chapter; or

(4) To continue any such violation. Each such day of a continued violation shall be considered a separate violation when applying the penalty portions of this chapter.

(B) Each sign installed, created, erected or maintained in violation of this subchapter shall be considered a separate violation when applying the penalty portion of this chapter.

(Ord. 2-2000, passed 3-13-2000, § 4.11)

### 153.282 **Digital Display Signage (Signs thru Special Exception)**

#### 153.283 **Definition.**

- A. **Digital Display Signage.** A sign message that is made up of internally illuminated components that display an electronic image, which may or may not include text and can change the message periodically. Digital Displays may include but are not limited to television screens, holographic displays, programmable ink, LCD, LED, or plasma displays.

**Grant County - Land Usage**

153.284

**Purpose**

- A. Grant County finds that it is in the public interest to regulate the use and development of Digital Display Signage.

153.285

**Location**

- A. Digital Display Signage will be allowed by Special Exception only in PB (Professional Business), NC (Neighborhood Convenience), LB (Local Business), GB (General Business), and all Industrial Zones (I1, I2, I3).
- B. **Limitation.** There shall be One Digital Sign permitted per site. A minimum distance of 200 feet shall be required between digital signs.
- C. Digital Display Signs shall meet with standards set forth in this Ordinance per 153.272 “Text Chart A”, when allowed by special exception.

153.286

**Regulations**

- A. **Transitions.** Any change of message shall be completed immediately without pauses and all parts of the message shall change simultaneously.
- B. **Minimum Display Time.** Digital Display Signage messages or display shall remain static for no less than Eight Seconds.
- C. **Brightness & Legibility.**
- a. No Sign shall be of such intensity or brilliance as to impair the vision of a motor vehicle driver or to otherwise interfere with the driver’s operation of a motor vehicle.
  - b. No sign shall be of such intensity or brilliance that it interferes with the effectiveness of an official traffic-control sign, device, or signal.
  - c. Digital signs should be clear and easy to read, without excessive text, colors, graphics, or other features that reduce their legibility.
  - d. Digital signs shall utilize automatic dimming technology, as certified by the manufacturer, to adjust the brightness of the sign relative to ambient light so that at no time shall a sign exceed a brightness level of 0.2 footcandle above ambient light.
  - e. All digital signs shall contain a default mechanism that will cause the sign to revert immediately to black screen if the sign malfunctions.
  - f. Digital Signs shall have no sound or auditory components.

153.287

**Enforcement.**

- A. The Area Plan Executive Director or their agent shall have authority to require changes to any digital sign that, in the opinion of the Executive Director, is malfunctioning or operated in a manner that causes or creates excessive glare or intensity of light, visual interference, or blind spots. Such changes may include, but are not limited to, requiring that the digital sign be turned off, dimmed, fitted with shields to deflect light, removed, or other such changes as may be required to eliminate the condition. An applicant may appeal against the requirement, decision, or determination of the Executive Director or their agent in the manner prescribed by applicable Rules of the BZA per section 153.103 “Appeals” of the Areawide Zoning Ordinance.

153.288

**Nonconforming Legal**

- A. Existing Digital Display Signage shall be considered Legal Nonconforming at time of adoption of this ordinance.
- B. Existing Digital Display Signage shall conform with Section 153.286 “Regulations” of this ordinance.

***HOME OCCUPATIONS*****§ 153.295 GENERAL REQUIREMENTS.**

(A) No home occupation shall be permitted without prior issuance of a home occupation permit or home occupation conditional use permit.

(B) The total number of home occupations conducted within a dwelling unit is not limited, except that the cumulative impact of all home occupations conducted within the dwelling unit or on the premises thereof shall not be greater than the impact allowed for one home occupation.

(C) Conditional use permits granted by the Board of Zoning Appeals shall be temporary in nature, and shall be granted to a designated person who resides at a residential address. They are not transferrable from person to person or from address to address.

(D) Should a home occupation permit holder or conditional use permit holder die or move to a new location, the existing permit shall be automatically terminated. In the case of death, should a surviving spouse or child residing at the same address desire to continue the home occupation written notice to that effect shall be given to the Director of the Area Planning Commission who may authorize continuation of that permit without further hearing.

(E) Permits and conditional use permits, once granted, may be revoked by the Area Plan Office for cause after a hearing (for the revocation) by the Board of Zoning Appeals. Complaints seeking the revocation of the permit shall be filed with the Director of Area Plan may be initiated by the Area Plan Office or any two residents of the block (both sides of the street where the home occupation is being conducted.)

(F) The following uses by the nature of the investment or operation have a pronounced tendency once started to rapidly increase beyond the limits permitted for home occupations, thereby, impairing the use and value of a residentially zoned area for residential purposes and are more suited to commercial or industrial districts. Therefore, the uses specified below shall not be permitted, by any means or hearing, as Type I, II, or III home occupations.

- (1) Major auto repair;
- (2) Painting vehicles, trailers, or boats;
- (3) Funeral chapel or home;
- (4) Gift shops;
- (5) Medical or dental clinic;

(6) Rental business including, but not limited to, video, home entertainment, equipment, tools, etc.;

(7) Photo studios;

(8) Welding or machine shops;

(9) Warehousing and distribution; and

(10) Car sales.

(Ord. 2-2000, passed 3-13-2000, § 5.1)

### § 153.296 TYPE I HOME OCCUPATIONS.

(A) *Type I home occupation requirements.* The following are Type I home occupations;

(1) Obtain a home occupation permit from the Area Plan Office;

(2) Be operated entirely within the applicant's dwelling;

(3) The applicant must reside at the dwelling unit for which the home occupation permit is being requested;

(4) Use not more than 25% of the floor area of the dwelling unit used for human occupancy for the home occupation. The floor area may include a finished basement, a finished attic, and an attached garage;

(5) Not involve the use or storage of tractor trailers, semi-trucks, or heavy equipment such as construction equipment used in a business;

(6) Employ no more than one person in addition to those who are permanent residents of the dwelling unit in which the home occupation is conducted;

(7) The operation of any wholesale or retail business is prohibited unless it is conducted entirely by mail and does not involve the sale of merchandise on the premises (see division (A)(14) below for an exception to this rule;)

(8) Any manufacturing business or activity which produces noxious matter or perceptible noise beyond the lot line is prohibited;

(9) No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, or other restricted materials are used or stored on the site;

(10) No alteration of the residential appearance of the premises occurs, including creation of a separate entrance to the dwelling or utilization of an existing entrance exclusively for the business, unless required by law;

(11) No addition shall be put on the house for the purpose of the home occupation. An addition must be on a home for at least one year before home occupation is applied for, which considers the addition for square footage to meet the requirement for division (A)(4) above;

(12) No commercial telephone directory listing, radio, or television service, shall be used to advertise the location of a home occupation to the general public;

(13) Not more than one vehicle can be utilized in the business and no commercially licensed vehicles shall be utilized in the business;

(14) On the premises, retail or wholesale sales shall be prohibited except for the retail sales of products or goods produced or fabricated on the premises as a result of the home occupation, this supersedes division (A)(7) above (see division (A)(7));

(15) A freestanding sign no larger than three square feet in area;

(16) Parties for the purpose of selling merchandise or taking orders shall not be held more than two times each month at the location of the home occupation;

(17) A home occupation shall provide one additional off-street parking space. The required parking space may not be in the required front, side, or rear yard setbacks.

(18) A home occupation shall be carried on wholly within the principle building. No home occupation not any storage of any goods, materials, or products connected with a home occupation shall be allowed in any accessory building, garage (attached or detached), or outside.

(19) No materials, which decompose by detonation, shall be allowed in conjunction with a home occupation.

(20) No additional points of access to any street, road, or highway shall be permitted;

(21) On-site sales or training promotions shall not be permitted.

(B) *Administrative procedure.* The following is the administrative procedure:

(1) Submit the application to the Area Planning Office;

(2) A decision by the Area Planning Office shall be sent to the petitioner within five business days;

(3) The applicant will receive notification if the application will receive a home occupation permit, needs a home occupation conditional use permit, or is denied;

(4) There may be inspections by the Area Plan staff for permits issued for home occupations. The Director of Area Plan or his or her designee shall have the right at any time upon reasonable request to enter and inspect the premises covered by the permit for safety and compliance purposes. (Ord. 2-2000, passed 3-13-2000, § 5.2)

### § 153.297 TYPE II HOME OCCUPATIONS.

(A) *Type II home occupation requirements.* The following are Type III home occupations:

(1) Obtain a home occupation permit from the Area Plan Office.

(2) Be operated entirely within the applicant's dwelling or permitted accessory structure. The applicant must reside at the dwelling unit for which the home occupation permit is being requested.

(3) Use not more than 25% of the floor area of the dwelling unit (the floor area may include a finished basement, a finished attic, or an attached garage) used for human occupancy for the home occupation or no more than 1,500 square feet of an accessory building or garage;

(4) Have one, 6 square feet freestanding sign;

(5) Not involve the use or storage of tractor trailers, semi-trucks, or heavy equipment such as construction equipment used in a business;

(6) Employ no more than one person in addition to those who are permanent resident of the dwelling unit in which the home occupation is conducted;

(7) The operation of any wholesale or retail business, unless it is conducted entirely by mail and does not involve the sale, of merchandise on the premises, is prohibited (see division (A)(14) below for exceptions to this rule);

(8) Any manufacturing business or activity which produces noxious matter or perceptible noise beyond the lot line is prohibited;

(9) No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, or other restrictive materials are used or stored on the site;

(10) No alteration of the residential premises' appearance occurs, including the creation of a separate entrance to the dwelling or utilization of an existing entrance exclusively for the business, unless required by law;



(11) No addition shall be put on the house for the purpose of the home occupation. An addition must be on a home for at least one year before home occupation is applied for, which considers the addition for square footage or to meet the requirement of division (A)(4) above;

(12) No commercial telephone directory listing, radio, television service shall be used to advertise the location of a home occupation to the general public;

(13) Not more than one vehicle shall be utilized in the business and no commercially licensed vehicles shall be utilized in the business;

(14) On the premises, retail sales shall be prohibited except for the retail sales of products or goods produced or fabricated on the premises as a result of the home occupation (see division (A)(7) above;)

(15) Parties for the purpose of selling merchandise or taking orders shall not be held more than two times each month at the location of the home occupation;

(16) A home occupation shall provide one additional off-street parking space. Where a garage or accessory building is used, two additional off-street parking spaces shall be provided. The required parking space may not be in the required front, side or rear yard setbacks;

(17) A home occupation shall be carried on wholly within the principle building or permitted accessory building. No home occupation nor any storage of goods, materials, or products connected with a home occupation shall be allowed outside;

(18) No materials, which decompose by detonation, shall be allowed in conjunction with a home occupation;

(19) No additional points of access to any street, road, or highway shall be permitted, unless necessary to provide safe and proper access to the proposed use;

(20) On-site sales or training promotion shall not be permitted.

(B) *Administrative procedure.* The following is the administrative procedure:

(1) Submit the application to the Plan Area Office;

(2) The Area Plan Office shall within five business days notify the applicant of the decision;

(3) There may be inspections by the Area Plan staff for permits issued for home occupations. In addition, the Director of Area Plan or his or her designee shall have the right at any time upon reasonable request to enter and inspect the premises covered by the permit for safety and compliance purposes.

(Ord. 2-2000, passed 3-13-2000, § 5.3)

**§ 153.298 TYPE III HOME OCCUPATIONS.**

The following are Type III home occupation requirements;

(A) Obtain a home occupation conditional use permit from the Board of Zoning Appeals through a special exception;

(B) The applicant must reside at the dwelling unit for which the home occupation conditional use permit is being requested;

(C) No toxic, explosive, flammable, combustible, corrosive, etiologic, radioactive, or other restricted materials are used or stored on the site;

(D) No materials, which decompose by detonation, shall be allowed in conjunction with a home occupation;

(E) Additional requirements or conditions may be stipulated by the decision-making body as deemed necessary to assure that the home occupation will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood or to the general welfare of the county.

(Ord. 2-2000, passed 3-13-2000, § 5.4)

**§ 153.299 BUILDING TRADES.**

Persons engaged in building trades or similar fields, using their dwelling units or residential premises only as an office for business administration activities for work/jobs completed off the premises, may have more employees than the limitations set forth in §§ 153.296 and 153.297 above, if the following requirements are met:

(A) The employees are not employed on the premises;

(B) The employees do not come to the site at any time to receive instructions for the day, week, month, or year.

(C) The employees do not come to the site to do any administrative work for the business.

(Ord. 2-2000, passed 3-13-2000, § 5.5)

**§ 153.300 GARAGE SALES.**

Garage, yard, rummage, etc. sales are permitted without a home occupation permit or a home occupation conditional use permit provided they meet the following standards:

(A) The sales last no longer than three consecutive days per event;

(B) Events are held no longer than three times a year;

(C) Events are conducted on the owner's property. Multiple family sales are permitted if they are held on the property of one of the participants.

(Ord. 2-2000, passed 3-13-2000, § 5.6)

### **153.301 Short-Term Rental (Bed and Breakfast)**

A Short-Term Rental shall mean the rental of a single-family home, a dwelling unit in a single-family home, a dwelling unit in a two-family or multifamily dwelling or a dwelling unit in a condominium, cooperative, or time share. This rental shall be for terms of less than 30 days at a time through a short-term rental platform. The term includes a detached accessory structure, including a guest house, or other living quarters that are intended for human habitation, if the entire property is designated for a single-family residential use. The term does not include property that is used for any nonresidential use per IC 36-1-24-6.

#### **A) Bed & Breakfast (Owner Occupied)**

- 1) A short term rental of owner occupied short term rental property is a permitted residential use under any applicable zoning ordinance of a unit and may not be disallowed by any zoning ordinance (as defined in [IC 36-7-1-22](#)) in a zoning district or classification of a unit that permits residential use.

#### **B) Air Bed & Breakfast (Non- Owner Occupied)**

- 1) This section applies only to a short-term rental property that is not an owner-occupied short-term rental property.
- 2) **Air B&B's** shall be allowed by "Special Exception" in all zoning districts or classifications of a unit that permits residential use per IC 36-1-24-9
  - a) Air B&Bs shall be allowed by right in Business Districts (LB, CC, GB).
  - b) Denial of a special exception for the short term rental property may be appealed in accordance with [IC 36-7-4](#).

#### **C) Regulate, Prohibit, or Limit short term rentals.**

- 1) The Area Plan Commission reserves the right to enact regulations to prohibit or limit short term rentals for the following primary purposes per IC 36-1-24-10.
  - a) Protection of the public's health and safety
  - b) fire and building safety.
  - c) sanitation.
  - d) transportation.
  - e) traffic control; and
  - f) pollution control.
- 2) Residential use and zoning related to:
  - a) noise.
  - b) protection of welfare.
  - c) property maintenance; and
  - d) nuisance issues.
- 3) To limit or prohibit use of short-term rentals for the following purposes:

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- a) To house sex offenders.
- b) To operate a structured sober living home.
- c) To manufacture, exhibit, distribute, or sell illegal drugs, liquor, pornography, or obscenity.
- d) To operate an adult entertainment establishment (as defined in [IC 12-7-2-1.8](#)).
- 4) To limit or prohibit short term rentals located within the boundaries of a conservancy district established under [IC 14-33](#).
- 5) To provide the unit with an emergency contact for a short-term rental.
- 6) Enforcement shall be performed in the same manner as enforcement is applied to similar properties that are not short-term rentals.

**D) Permits & Application Requirements.** The Area Plan Commission shall require a permit for each single-family home, two-family home or multifamily dwelling, condominium, or time share that the owner rents in whole or in part as a short-time rental, per IC 36-1-24-11.

- 1) **Permit Fee.** The Fee shall be one-time, initial fee of \$150.00 per property.
  - a) Permits are valid for One (1) Year after the date the permit is issued.
  - b) Owners are responsible for updating any permit application changes.
  - c) Owners are responsible for yearly renewal of permit; Area Plan will e-mail reminder no less than 30 days prior to permit expiration. There shall be no cost for yearly permit renewal, per IC 36-1-24-13.
  - d) The issuance of a subsequent permit to an owner for the permitted property after the owner's previous permit has been revoked, shall again pay an initial \$150.00 permit fee, per IC 36-1-24-13.
- 2) **Revocation of a Permit.** If three (3) or more citations for ordinance violations are issued to an owner for a permitted property within a calendar year, the unit may revoke the permit for that permitted property for a period of not more than one (1) year after the date the permit is revoked. The unit shall provide notice and a hearing for revocation in accordance with the unit's ordinance, per IC 36-1-24-14.
- 3) **Permits are Not Transferable**
  - a) If an owner sells all or part of a permitted property, the permit may not be transferred to the new owner. The new owner must apply for a new permit, per IC 36-1-24-17.

***FLOODPLAIN MANAGEMENT*****§ 153.315 AUTHORITY.**

The following regulations hereby repeal and replace the previous flood control provisions. This subchapter shall be known and may be referenced as the Floodplain Management subchapter of the Grant County Area Wide Zoning Ordinance.  
(Ord. 7-2014, 11-12-2014)

**§ 153.316 SCOPE AND PURPOSE.**

(A) The Indiana Legislature has in I.C. 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Grant County Commissioners; the Town Boards of Van Buren, Upland, Matthews, Fairmount, Sweetser; and the City Council of Jonesboro (hereinafter noted as Grant County within this subchapter) do hereby adopt the following floodplain management

regulations.

*(B) Findings of fact.*

(1) The flood hazard areas of the county 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.

(2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, inadequately flood-proofed, or otherwise unprotected from flood damages.

*(C) Purpose.* It is the purpose of this subchapter 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:

(1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.

(4) Control filling, grading, dredging, and other development which may increase erosion or flood damage.

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters, or which may increase flood hazards to other lands.

(6) Make federally subsidized flood insurance available for structures and their contents in the county by fulfilling the requirements of the National Flood Insurance Program.

*(D) Objectives.* The objectives of this subchapter are:

(1) To protect human life and health.

(2) To minimize expenditure of public money for costly flood control projects.

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

(4) To minimize prolonged business interruptions.

(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains; and

(6) To 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 areas.

(Ord. 7-2014, passed 11-12-2014)

**§ 153.317 DEFINITIONS.**

Definitions for this subchapter are found in § 153.012. If there are two or more definitions listed, then the one that applies to this subchapter shall be clearly identified.  
(Ord. 7-2014, passed 11-12-2014)

**§ 153.318 ADMINISTRATION.**

(A) Grant County hereby appoints the Zoning Administrator to administer and implement the provisions of this subchapter and is herein referred to as the Floodplain Administrator.

(B) The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this subchapter. The Administrator is further authorized to render interpretations of this subchapter which are consistent with its spirit and purpose.

(C) The duties and responsibilities of the Floodplain Administrator shall include, but are not limited to, the following.

(1) Review all floodplain development permits to assure that the permit requirements of this subchapter have been satisfied.

(2) Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.

(3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to § 153.323(C) and (E)(1) of this subchapter and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).

(4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit.

(5) Maintain and track permit records involving additions and improvements to residences located in the floodway.

(6) 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.

(7) 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 flood-proofing data for all buildings constructed subject to this subchapter.

(8) 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.

(9) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(10) Review certified plans and specifications for compliance.

(11) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 153.320(B)(1).

(12) Verify and record the actual elevation to which any new or substantially improved structures have been flood-proofed in accordance with § 153.320(B)(1).  
(Ord. 7-2014, passed 11-12-2014)

#### **§ 153.319 REGULATORY FLOOD ELEVATION.**

(A) This subchapter shall apply to all SFHAs and known flood prone areas within the jurisdiction of the county.

(B) This subchapter's protection standard is the regulatory flood. The best available regulatory flood data is listed below.

(1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the county shall be as delineated on the 1% annual chance flood profiles in the flood insurance study of Grant County, Indiana and incorporated areas dated December 9, 2014 and the corresponding flood insurance rate map dated December 9, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.

(2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of Grant County, delineated as an "A Zone" on the Grant County, Indiana and incorporated areas flood insurance rate map dated December 9, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as 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 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 data available 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) No structure shall hereafter be located, extended, converted, or structurally altered within the SFHA without full compliance with the terms of this subchapter and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this subchapter and other applicable regulations.

*(D) Discrepancy between mapped floodplain and actual ground elevations.*

(1) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles 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 elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

(E) In the interpretation and application of this subchapter 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.

(F) The degree of flood protection required by this subchapter 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 subchapter does not create any liability on the part of the county, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this subchapter or any administrative decision made lawfully thereunder.

(G) 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 subchapter. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code. All violations shall be punishable by a fine determined by § 153.999.

(1) A separate offense shall be deemed to occur for each day the violation continues to exist.

(2) The County Area Plan Department 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 county 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. 7-2014, passed 11-12-2014)

#### **§ 153.320 IMPROVEMENT LOCATION PERMIT.**

(A) A floodplain development permit shall be required in conformance with the provisions of this subchapter prior to the commencement of any development activities in areas of special flood hazard.

(B) *Permit procedures.* Application for a floodplain development permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following: plans in duplicate 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.

(1) *Application stage.*

(a) A description of the proposed development.

(b) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.

(c) A legal description of the property site.

(d) A site development plan showing existing and proposed development locations and existing and proposed land grades.

(e) Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. The elevation should be in NAVD 88 or NGVD.

(f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be flood-proofed; and

(g) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required, and any watercourse changes submitted to DNR for approval and then to FEMA as a letter of maprevision. (See § 153.318(C)(6) for additional information.)

(2) *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 a certification of the NAVD 88 or NGVD elevation of the lowest floor, as built. The certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. The Floodplain Administrator shall review the lowest floor elevation survey data submitted. The applicant shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make the corrections required hereby shall cause the issue a stop-work order for the project. Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk. Upon establishment of the flood-proofed elevation of a flood-proofed structure, it shall be the duty of the applicant to submit to the Floodplain Administrator a flood-proofing certificate. Certification shall be prepared by or under the direct supervision of a registered professional engineer and certified by same. The Floodplain Administrator shall review the flood-proofing certification submitted. The applicant shall correct any deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the flood-proofing certification or failure to make corrections required shall be caused to issue a stop-work order for the project.

(3) *Finished construction.* Upon completion of construction, an elevation certification which depicts the "as-built" lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a flood-proofing measure, flood-proofing certification is required to be submitted by the applicant to the Floodplain Administrator.

(Ord. 7-2014, passed 11-12-2014)

### **§ 153.321 PREVENTING INCREASED DAMAGES.**

In all SFHAs and known flood prone areas the following provisions are required.

(A) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(B) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

(C) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.

(D) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.

(E) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, 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. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other water-proofed service facilities may be located below the FPG.

(F) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood water into the system.

(G) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(H) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(I) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this subchapter shall meet the requirements of "new construction" as contained in this subchapter.

(Ord. 7-2014, passed 11-12-2014)

### **§ 153.322 PROTECTING BUILDINGS.**

In all SFHAs, the following provisions are required.

(A) In addition to the requirements of § 153.321(A), all 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 any structure having a floor area greater than 400 square feet.

(2) Addition or improvement made to any 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).

(3) 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.

(4) Installing a travel trailer or recreational vehicle on a site for more than 180 days; and

(5) Installing a manufactured home on a new site or a new manufactured home on an existing site. This subchapter does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.

(B) *Residential structures.* New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor, including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with the standards of § 153.322(D).

(C) *Non-residential structures.* New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be flood-proofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with the standards of § 153.322(D). Structures located in all "A Zones" may be flood-proofed in lieu of being elevated if done in accordance with the following.

(1) 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 official as set forth in § 153.318(C)(12).

(2) Flood-proofing measures shall be operable without human intervention and without an outside source of electricity.

(D) *Elevated structures.* New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG. Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:

(1) Provide a minimum of two openings located in a minimum of two 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 exterior grade or the interior grade immediately beneath each opening, whichever is higher;

(3) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of flood waters in both directions;

(4) Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator);

(5) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms; and

(6) The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.

(E) *Structures constructed on fill.* A residential or non-residential structure may be constructed on a permanent land fill in accordance with the following.

(1) The 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.

(2) The fill shall extend five feet beyond the foundation of the structure before sloping below the BFE.

(3) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three horizontal to one vertical.

(4) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

(5) The top of the lowest floor including basements shall be at or above the FPG.

(F) *Standards for manufactured homes and recreational vehicles.* Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements.

(1) These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.

(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 flood waters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in § 153.322(D).

(c) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

(2) These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:

(a) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be 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 flood waters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in § 153.322(D).

(c) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

(3) Recreational vehicles placed on a site shall either:

(a) Be on site for less than 180 days;

(b) Be fully licensed and ready for highway use (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

(c) Meet the requirements for "manufactured homes" as stated earlier in this section.

(G) *Accessory structures.* Relief to the elevation or dry flood-proofing standards may be granted for accessory structures. Such structures must meet the following standards:

- (1) Shall not be used for human habitation;
- (2) Shall be constructed of flood-resistant materials;
- (3) Shall be constructed and placed on the lot to offer the minimum resistance to the flow of flood waters;
- (4) Shall be firmly anchored to prevent flotation;
- (5) Service facilities such as electrical and heating equipment shall be elevated or flood-proofed to or above the FPG; and
- (6) Shall be designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in § 153.322(D).

(H) *Above-ground gas or liquid storage tanks.* All above-ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.  
(Ord. 7-2014, passed 11-12-2014)

### **§ 153.323 OTHER DEVELOPMENT REQUIREMENTS.**

(A) *Standards for subdivision proposals.*

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (4) 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.
- (5) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.



(6) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

(B) *Critical facility.* 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. Flood-proofing and scaling measures must be taken to ensure that toxic substances will not be displaced by or released into flood waters. Access routes elevated to or above the FPG will be provided to all critical facilities to the extent possible.

(C) *Standards for identified floodways.*

(1) Located within SFHAs, established in § 153.319(B), are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of flood waters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, 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 a permit for construction in a floodway. Under the provisions of 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, and the like, undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (I.C. 14-28-1-26 allows construction of a non-substantial addition/ improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)

(2) No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in §§ 153.321 through 153.323 of this subchapter have been met. The floodplain development permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

(3) No development shall be allowed, which acting alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse affect is defined as an increase in the elevation of the regulatory flood of at least

0.15-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.

(4) For all projects involving channel modifications or fill (including levees) the county shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 C.F.R. Part 65.12.

(D) *Standards for identified fringe.* If the site is located in an identified fringe, then the Floodplain Administrator may issue the local floodplain development permit provided the provisions contained in §§ 153.321 through 153.323 of this subchapter have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

(E) *Standards for SFHAs without established base flood elevation and/or floodways/fringes.*

(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 either a permit for construction in a floodway (including letters of authorization) 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 permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, 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 §§ 153.321 through 153.323 of this subchapter 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 §§ 153.321 through 153.323 of this subchapter have been met.

(3) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the regulatory flood more than 0.14 of one foot and shall not increase flood damages or potential flood damages.

(F) *Standards for flood prone areas.* All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per §§ 153.321 through 153.323.  
(Ord. 7-2014, passed 11-12-2014)

### § 153.324 VARIANCES.

(A) *Designation of Variance and Appeals Board.* The Grant County Area Board of Zoning Appeals (BZA) shall hear and decide appeals and requests for variances from requirements of this subchapter.

(B) *Duties of Variance and Appeals Board.* 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 subchapter. Any person aggrieved by the decision of the Board may appeal such decision to the Grant County Circuit Court.

(C) *Variance procedures.* In passing upon such applications, the Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this subchapter, and:

- (1) The danger to life and property due to flooding or erosion damage;
- (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (3) The importance of the services provided by the proposed facility to the community;
- (4) The necessity to the facility of a waterfront location, where applicable;
- (5) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (6) The compatibility of the proposed use with existing and anticipated development;
- (7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (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 of transport of the flood waters 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) Conditions for variances.*

(1) Variances shall only be issued when there is:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship;  
and

(c) 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 subchapters.

(2) No variance for a residential use within a floodway subject to § 153.323(C) or (E)(1) of this subchapter may be granted.

(3) Any variance granted in a floodway subject to § 153.323(C) or (E)(1) of this subchapter will require a permit from the Indiana Department of Natural Resources.

(4) Variances to the provisions for flood hazard reduction of § 153.322 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.

(5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(6) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

(7) 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 (See § 153.324(E).)

(8) 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. (See § 153.324(E).)

(E) *Variance notification.* Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the flood protection grade shall be given written notice over the signature of a community official that:

(1) The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

(2) Such construction below the flood protection grade increases risks to life and property.

(F) *Historic structure.* 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.

(G) *Special conditions.* Upon the consideration of the factors listed in this section, and the purposes of this subchapter, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this subchapter.  
(Ord. 7-2014, passed 11-12-2014)

#### **§ 153.325 DISCLAIMER OF LIABILITY.**

The degree of flood protection required by this subchapter 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 subchapter does not create any liability on the part of the community, the Department of Natural Resources or the state, for any flood damage that results from reliance on this subchapter or any administrative decision made lawfully thereunder.  
(Ord. 7-2014, passed 11-12-2014)

#### **§ 153.326 VIOLATIONS.**

(A) Failure to obtain an improvement location permit in the SFHA or failure to comply with the requirements of a permit or conditions of a variance shall be deemed to be a violation of this subchapter. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of this subchapter.

(B) A separate offense shall be deemed to occur for each day the violation continues to exist.

(C) The Area 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.

(D) Nothing herein shall prevent the Commission from taking other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible. (Ord. 7-2014, passed 11-12-2014)

**§ 153.327 ABROGATION AND GREATER RESTRICTIONS.**

This subchapter repeals and replaces other subchapters adopted to fulfill the requirements of the national flood insurance program. However, this subchapter does not repeal the original resolution or subchapter adopted to achieve eligibility in the program. Nor does this subchapter repeal, abrogate or impair existing easements, covenants, or deed restrictions. Where this subchapter and other subchapter easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions takes precedence. In addition, the Grant County Area Plan Commission shall assure that all national flood insurance program regulations (44 C.F.R. Part 60) as well as state laws and regulations regarding floodplain issues (312 I.A.C. 10, I.C. 14-28-1 and I.C. 14-28-3) are met. (Ord. 7-2014, passed 11-12-2014)

**§ 153.328 SEVERABILITY.**

If any section, clause, sentence, or phrase of this subchapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this subchapter. (Ord. 7-2014, passed 11-12-2014)

**§ 153.329 EFFECTIVE DATE.**

This subchapter shall be in full force and effect on December 9, 2014. (Ord. 7-2014, passed 11-12-2014)

**§ 153.330 RESTRICTIONS ALONG STREAMS**

No permanent structure may be erected within the 75 feet right-of-way of any county-maintained ditch, stream, or other water body without written consent of the drainage board per IC 36-9-27-33.

- A. Temporary structures may be placed upon or over the right-of-way without the written consent of the board but shall be removed immediately by the owner when so ordered by the drainage board or by the county surveyor.
- B. Trees, shrubs, and woody vegetation may not be planted in the right-of-way without the written consent of the drainage board, and trees and shrubs may be removed by the county surveyor, if necessary, for the proper operation or maintenance of the drain.

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- C. Crops grown on a right-of-way are at risk to the owner, and, if necessary, in the reconstruction or maintenance of the drain, may be damaged without liability on the part of the surveyor, the drainage board, or their representatives.
- D. A structure required for a public utility is allowed within the designated 75 feet.

The county surveyor, the drainage board, or an authorized representative of the surveyor or the drainage board acting under this chapter has the right of entry over and upon land lying within seventy-five (75) feet of any regulated drain. The seventy-five (75) foot limits shall be measured at right angles to:

1. the center line of any tiled drain; and
2. the top edge of each bank of an open drain as determined by the surveyor.

### 153.331 GRADING PERMIT.

Application for a grading permit shall be made to the Area Plan Office. Permit required for any project that will disrupt One (1) Acre or more of land within the Area Plan's Jurisdiction. This will require a "Rule 5" (Erosion Control Performance Certification) approval from USDA Soil & Water prior to issuance of a Grading Permit.

#### A. Permit Requirements (Site Plan)

1. Proposed maximum extent boundaries of the site.
2. Existing and proposed topography
3. Area to be disturbed, outlined with number of graded acres and percentage noted.
4. Average percentage of slope prior to development
5. Area left undisturbed with acreage, type of ground cover, and percentage.
6. Total impervious surface area.
7. Flood Plain, if located in Flood Plain, that area of project is following the Flood Plain Ordinance.
8. Drainage area and impervious surface area draining into proposed ponds.
9. Permanent watershed protection devices, including maintenance and access easements.
10. Grades, elevations, dimensions, and hydraulic calculations of stormwater network.
11. Any wetland based upon a delineation prepared in accordance with the applicable US Army Corps of Engineering requirements and guidelines, if applicable.

#### B. Permit Sequence. The order of permit issuance shall be as follows.

1. "Rule 5" (Erosion Control Performance Certification) from the USDA Soil & Water.
  - a. A grading permit may be issued in advance of other permits and plan approvals.
2. A Health Department permit to construct a septic system, if applicable
3. A Highway Department driveway cut permit, if applicable
4. Municipal Approval must be given prior to issuance of a permit, if applicable
5. A subdivision plat must be recorded, where applicable, before a permit for a structure or use can be issued.
6. Review of site plan shall run concurrently.

#### C. Grading Permit Expiration

1. A grading permit shall be valid for one year unless it is revoked by the Area Plan Commission.
  - a. The grading permit may be reissued for an additional six-month period, if adequately justified, by making a written request to the Area Plan Commission.
  - b. No permit fee will be required for re-issuance of a grading permit (if obtained before expiration); however, the applicable surety shall remain in effect.
  - c. If grading or protection of the site is not completed within 18 months, the person conducting the land disturbing activity shall be required to obtain a new grading permit, by following the same procedures whereby the original permit was issued.

- d. The grading permit must be posted in a prominent place on the site of the land-disturbing activity at all times that permit is in effect.

**§ 153.332 GRADING PERMIT EXEMPTIONS**

. The following land-disturbing activities are exempt from grading permit requirements:

- A. For the purpose of fighting fires.
- B. For the stockpiling of raw or processed sand, stone or gravel in material processing plants and storage yards; provided that, sediment control measures have been utilized to protect against off-site damage and other instances otherwise regulated through §§ 153.400 through 153.403.
- C. Areas that do not disturb one acre in surface area. In determining the area, lands under one or diverse ownership being developed as a unit shall be aggregated.
- D. Those undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to, forage and sod crops, grain and feed crops, tobacco, cotton and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats (including the breeding and grazing of any or all animals) bees and aviary products and fur animals.
- E. Those undertaken on forest land for the production and harvesting of timber and timber projects and which are conducted in accordance with Forest Practice Guidelines Related to Water Quality (best management practices);
- F. Mining activity undertaken by persons who are otherwise regulated by §§ 153.400 through 153.403 and other state and federal guidelines and regulations.



***MOBILE HOME STANDARDS*****§ 153.340 WHAT IS MY HOME.**

There is some confusion within the general public as to the distinction between mobile homes, manufactured homes, modular housing and recreational vehicles. The National Manufactured Home Construction and Safety Standards Act of 1974, being 42 U.S.C. §§ 5401 *et seq.*, and Title VI of the Housing and Community Development Act of 1974, being 42 U.S.C. §§ 5301 *et seq.*, provide the basis for the vocabulary used to determine one type of dwelling from another. Within the development community, both of these congressional actions are referred to as “The Act”.

(A) Mobile homes are structures which were built on, or prior to 6-15-1976, which is the official date of action established by The Act. By using the date as a distinguishing characteristic people are able to determine what construction standards were used when the dwelling was manufactured. Mobile homes were not constructed to a specific Building Code, but rather to the individual manufacturer’s criteria.

(1) Mobile homes were constructed on a permanent chassis which made them capable of being transported in one or more sections. They were designed to be used as a dwelling, with or without a permanent foundation, when connected to on-site utilities.

(2) The designation of mobile home does not include recreation vehicles, manufactured homes and modular housing buildings.

(B) (1) Manufactured homes are dwelling units that have been built after 6-15-1976. They are constructed to the requirements of the Department of Housing and Urban Development (HUD).

(2) Manufactured homes are fabricated either in whole or in large sections at a factory and are designed and constructed on a chassis for transportation to the site. They do not require substantial assembly on site other than connection to utilities and they are installed with or without a permanent foundation.

(C) (1) Modular housing, sometimes referred to as a factory-built building is constructed to the minimum standards of the Uniform Building Codes (UBC). This type of structure is considered equivalent to any dwelling or dwellings which required substantial assembly on site (i.e., site-built home).

(2) Modular home refers to any dwelling unit which is fabricated either in whole or in sections at a factory wherein the parts or modules are not constructed on a chassis.



(D) (1) Recreational vehicles are vehicular type units mounted on wheels with no more than 400 square feet of livable floor area on a frame not greater than 12 feet in width primarily designed for temporary living quarters and/or recreational use.

(2) This category also includes portable truck campers consisting of roof, floor and sides which are designed to be loaded onto, and unloaded from, the bed of a pickup truck.  
(Ord. 2-2000, passed 3-13-2000, § 7.1)

### **§ 153.341 CITY AND TOWNS.**

(A) No mobile home may be located in a city or town outside of a legally established mobile home park, unless otherwise provided in this section.

(B) Mobile homes may be temporarily occupied/placed as a single-family residence (as provided in Table § 153.186) in Jonesboro, Matthews and Sweetser if the following requirements are met:

(1) All other requirements of this subchapter are met;

(2) The permit is issued for one year;

(3) The mobile home is to be located on property on which a permanent traditional built residence is intended to be built within one year;

(a) A permit for the permanent home must be issued at same time as the temporary mobile home permit is issued; or

(b) Occupancy of the mobile home is restricted to property owner who is constructing the permanent residence.

(4) The mobile home is to be located on property on which an existing home was rendered uninhabitable by fire, wind or other casualty;

(5) The mobile home must be served with the same water supply and sewage facilities that are intended to serve the permanent residence;

(6) The mobile home shall remain on its wheels, not have a permanent perimeter masonry wall, and meet all other installation requirements for footers, tie-downs and skirting;

(7) The City Council of Jonesboro must approve the installation of the mobile home by resolution prior to issuance of the permit by the Area Plan Commission;

(8) The Town Board of Matthews must approve the installation of the mobile home by resolution prior to issuance of the permit by the Area Plan Commission; or

(9) The Town Council of Sweetser must approve the installation of the mobile home by resolution prior to issuance of the permit by the Area Plan Commission.  
(Ord. 2-2000, passed 3-13-2000, § 7.2)

#### § 153.342 UNINCORPORATED COUNTY.

(A) Mobile homes may be permanently occupied/placed as single-family residence (as provided in Table § 153.186) if the following requirements are met:

(1) All other requirements of this subchapter are met;

(2) A permanent perimeter masonry wall or foundation is installed to Building Code specifications; all manufacturer's and state requirements for installation shall be met;

(3) Footer, pillars and underpinnings shall be installed to Building Code specifications;

(4) Wheels and axles are removed; and

(5) All mobile homes and additions shall be as originally manufactured for use as a single-family residence. Any addition not manufactured at the factory and inspected by the state or structural change/modification must have plans stamped by a certified engineer with accompanying letter stating the addition or modification is structurally fine and will not jeopardize the integrity of the mobile home.

(B) Mobile homes may be temporarily occupied/placed as a single-family residence (as provided in Table § 153.186) if the following requirements are met:

(1) All other requirements of this subchapter are met;

(2) The permit is issued for one year; the permit may be renewed for one additional year only;

(3) The mobile home is to be located on property on which a permanent traditional built residence is intended to be built within one year:

(a) A permit for the permanent home must be issued at same time as the temporary mobile home permit is issued; and

(b) Occupancy of the mobile home is restricted to property owner who is constructing the permanent residence.

(4) The mobile home is to be located on property on which an existing home was rendered uninhabitable by fire, wind or other casualty;

(5) The mobile home must be served with the same water supply and sewage facilities that are intended to serve the permanent residence;

(6) The mobile home shall remain on its wheels, not have a permanent perimeter masonry wall, and meet all other installation requirements for footers, tie-downs and skirting.

(C) Mobile homes may be temporarily occupied/placed as a single-family residence (as provided in Table § 153.186) by a special exception if the following requirements are met:

(1) The Board of Zoning Appeals approves a special exception;

(2) All other requirements of this subchapter are met;

(3) The mobile home must be served with the same water supply and sewage facilities that are used for the existing residence;

(4) The mobile home can only be occupied by relatives or employees (employed on the premises of the home) of the owner of the property and occupant of the existing residence.

(Ord. 2-2000, passed 3-13-2000, § 7.3)

**§ 153.343 NONRESIDENTIAL.**

(A) Mobile homes, trailers or vans may be utilized as contractor's offices, watchperson's shelters or tool/equipment storage on the same site as the construction and for the duration of the permit or construction only (whichever is less).

(B) (1) Mobile homes may be stored in General Business, Industrial-2 and Industrial-3 Zoning Districts for a period of one year.

(2) Mobile homes that are displayed as being for sale and are part of an authorized, established mobile home or manufactured home sales lot may be stored for longer than one year, but no more than two years.

(Ord. 2-2000, passed 3-13-2000, § 7.4)

***MOBILE HOME PARKS*****§ 153.355 DELINEATION.**

In this subchapter, mobile home park and manufactured home park shall henceforth be referred to as “park”; mobile home and manufactured home shall be referred to as “home”; mobile home or manufactured home lot/site shall be referred to as “lot” or “site”.

(Ord. 2-2000, passed 3-13-2000, § 8.1))

**§ 153.356 MINIMUM REQUIREMENTS.**

(A) Each park to be constructed under the jurisdiction of this subchapter shall adhere to the minimum regulations as are required by I.C. 16-41-27-1 through 16-41-27-34, the State Board of Health regulations governing parks and all terms and provisions of this subchapter.

(B) No person shall construct or alter a park without first obtaining a permit for it. Each permit to construct and each permit to make alterations shall be prominently displayed in the office of the park or on the premises in a prominent location.

(C) No part of any park shall be used for nonresidential purposes, except those uses required for direct servicing and well-being of park residents or for the management and maintenance of the park. Laundry machines, for the exclusive use of park residents, shall be permitted and deemed not to be in violation of the restrictions of this subchapter.

(D) A park must be located on a site that is no less than five acres. If less than five acres, a variance must be approved by the Board of Zoning Appeals.

(E) Nothing contained in this section shall be deemed to prohibit the sale of a privately owned home situated on a stand and connected to pertinent utilities within a park, if that home and park were in existence before 3-1-1975.

(Ord. 2-2000, passed 3-13-2000, § 8.2)

**§ 153.357 APPLICATION FOR PERMIT.**

In order to obtain a permit to construct a new park or an alteration to an existing park, the applicant shall file with the Area Plan Office a written application setting forth the following:

(A) The full name and address of the owner or owners of the park;

(B) The location and legal description of the tract of land certified on a plat of a survey made by a registered land surveyor licensed in the state and drawn to a scale of not less than one inch equals 100 feet;

(C) A plot plan of the park drawn (on a scale of not less than one inch equals 100 feet), that shows the plans and specifications for any new buildings, any proposed alterations to the existing buildings, water supply facilities, garbage removal or holding, sewage or waste disposal facilities, streets, parks, playgrounds/recreational areas and the like. The plot plan shall contain, but is not limited to:

- (1) The date on which that plot plan was prepared;
- (2) An arrow indicating north; and
- (3) All mobile home lots shall be properly numbered on the plot plan.

(D) The application shall have plans and specifications for:

- (1) The discharge of waste, sewage, effluents and storm water run-off;
- (2) Elevations of general topography of the proposed park, with those elevations based on mean sea level datum as established by the U.S. Coast and Geodetic Survey; and
- (3) The grades of streets and any ditches in the proposed parks.

(E) A statement of fire fighting facilities, public or private, which are available to the proposed park; and

(F) An affidavit from the owner to the truth of the matters contained in the application.  
(Ord. 2-2000, passed 3-13-2000, § 8.3)

### **§ 153.358 ISSUING OF PERMITS.**

(A) The Ordinance Administrator shall issue a permit to construct or alter the proposed park following approval of the application by the County Area Plan Commission and the State Board of Health.

(B) No mobile home units shall be placed in the park until a certificate of occupancy has been issued for the park. If a permit to construct a park is issued, the applicant shall, upon completion of the park with all components, notify the Ordinance Administrator.

(1) The Ordinance Administrator shall inspect the park and shall issue a certification of occupancy if all work is completed and correct.

(2) If the entire project is not completed at the time of the request, a certificate of occupancy for the completed blocks in the park consisting of not less than five lots or 10% of the total lots proposed can be issued (whichever is greater).

(3) Additional certificates of occupancy shall be issued only for blocks contiguous to the original block. If the Ordinance Administrator refuses to issue a certificate of occupancy, he or she shall furnish a written statement citing the reason for the refusal.

(C) No change in any infrastructure or to the plot plan shall be made without first making a written application to the Ordinance Administrator and receiving a permit to do so.

(D) A permit to construct from the Area Plan Commission does not relieve the applicant from securing any other permit or from complying with any other county or state law.

(Ord. 2-2000, passed 3-13-2000, § 8.4)

### **§ 153.359 ENVIRONMENTAL AND OPEN SPACE.**

*(A) Soil and ground requirements.*

(1) Exposed ground surfaces in all parts of every park shall be paved or covered with stone screenings or other solid material or protected with vegetation that is capable of preventing soil erosion and the emanation of dust during dry weather.

(2) Where the topography has a slope of 25% or more, a rip wall, cribbing or other approved system of soil and slope stabilization shall be installed and maintained.

*(B) Physical hazards in parks.*

(1) Adequate protective barriers shall be provided and maintained where there is a slope in excess of 45 degrees or a change in elevation of six feet. Those barriers may include, but are not limited to, continuous shrubs or fences.

(2) Swimming pools shall be screened, fenced or secured when not in active use to prevent injury. Fencing or other artificial enclosure shall completely enclose the pool area.

(Ord. 2-2000, passed 3-13-2000, § 8.5)

### **§ 153.360 YARD, DISTANCE AND SCREENING REQUIREMENTS.**

(A) The minimum distance between home stands on the same side of a park drive shall be 20 feet.

(B) The minimum distance between home stands on opposite sides of a park drive shall be 60 feet.

(C) Every lot shall contain a minimum of 5,000 square feet, and have a minimum lot width of 50 feet.



(D) Roofed over patios, carports and individual storage facilities shall be included as part of the home in determining separation between homes.

(E) All homes shall have a minimum ground floor area of 720 square feet.

(F) All homes, if fronting upon a public road or street, and access to that mobile home lot is direct from that public road or street, shall be located at least 50 feet from the right-of-way line of that public road or street.

(G) All homes shall be a minimum distance of 20 feet from any park boundary.

(H) No individual home, including any accessory structure, shall be placed less than ten feet from the right-of-way of any park street, common parking area or any other common area accessible to park residents.

(I) All parks shall provide a buffer strip at least 15 feet wide along all property lines. Where effective visual barriers do not already exist along property lines, the buffer strip may be:

(1) Screening at least six feet high and consisting of a solid, compact growth of shrubbery, hedges, evergreens or other suitable planting sufficient to serve as an effective visual screen that is effective during all seasons of the year; and

(2) A fence of at least six feet in height in place of vegetation.

(J) Fences or freestanding walls shall be installed where necessary for screening purposes, such as around laundry yards, refuse collection points and play grounds.

(Ord. 2-2000, passed 3-13-2000, § 8.6)

**§ 153.361 RECREATION AREAS.**

(A) Recreation areas and facilities (examples include playgrounds, swimming pools and community buildings) shall be provided to meet the anticipated needs of the clientele the park is designed to serve.

(B) Not less than one-half acre per 20 units shall be devoted to designed and developed recreational facilities. The minimum lot width of a recreation area shall be 100 feet.

(Ord. 2-2000, passed 3-13-2000, § 8.7)

**§ 153.362 ACCESS REQUIREMENTS.**

(A) All multi-lane streets having on-street parking on one side shall have a minimum width of 32 feet. All multi-lane streets with no parking permitted shall have a minimum width of 25 feet. One-way streets with no parking shall have a minimum width of 15 feet.

(B) All entrance roads that exceed 25 feet in width shall follow the standard county cross-section. All streets must be hard surfaced regardless of width.

(C) Closed end streets shall be provided with a paved turning circle of at least 80 feet in diameter.

(D) A distance of at least 150 feet shall be maintained between centerlines of off-set intersection streets.

(E) Grades of all streets shall be sufficient to insure adequate surface drainage, but shall not be more than 8%. Short runs with a maximum grade of 12% may be permitted, if traffic safety is assured by appropriate paving, adequate leveling areas and avoidance of lateral curves.

(F) The Ordinance Administrator may, upon written request from the developer, permit a temporary gravel street, covered with an approved dust sealer for a period of six months from the date of the waiver.

(G) All streets within any park shall remain private. The owners of each park shall remain responsible for the maintenance of all streets within that park.

(H) (1) At least two parking spaces shall be provided for each mobile home lot. Parking bays shall provide convenient access to home spaces. On-street parking may not be utilized in meeting this requirement.

(2) The minimum standards for parking spaces shall be nine feet wide by 18 feet in length.

(I) In locations where pedestrian traffic is concentrated (i.e., park entrance, park office, community center, recreational areas and the like). Common walks should be through interior areas removed from the vicinity of public streets when possible.

(J) Individual walks to each home stand from a paved drive, driveway or parking space connecting to a drive shall be provided.

(K) All parks shall be furnished with sufficient electrical systems and lighting units at the owner's expense, so spaced and equipped with luminaries placed at mounting heights which will provide adequate levels of illumination for the safe movement of pedestrians and vehicles during the hours of darkness. (Ord. 2-2000, passed 3-13-2000, § 8.8)

**§ 153.363 WATER SUPPLY.**

Every park shall have a water supply capable of providing a sufficient supply of potable water under adequate pressure to supply facilities for homes, service buildings, drinking fountains and other accessory facilities, as required for the well-being of park residents and for park maintenance. These systems shall be designed, constructed and maintained in accordance with the rules and regulations promulgated by the State and County Boards of Health.

(Ord. 2-2000, passed 3-13-2000, § 8.9)

**§ 153.364 SEWAGE DISPOSAL.**

(A) All sewage and other water-carried wastes shall be disposed of into an adequate sewage system. All sewage systems shall be constructed in conformity with all applicable state or county laws, rules and regulations and with I.C. 36-9-40-1 *et seq.*

(B) Each mobile home site shall be provided with a sewer connection for the combined liquid waste outlet or outlets of each home. It shall be the duty of the owner or operator of that park to provide an approved type of water tight and odor tight connection and it shall be the duty of that owner or operator to make that connection and keep all occupied homes connected to that sewer system while located in a park. Sewer connections for all home sites shall not emit odors or be a breeding place for insects. No waste shall be allowed to fall on the ground from a home.

(Ord. 2-2000, passed 3-13-2000, § 8.10)

**§ 153.365 ELECTRICAL DISTRIBUTION SYSTEM.**

Every park shall contain an electrical wiring system consisting of approved wiring, fixtures, equipment and appurtenances that shall be installed and maintained in accordance with the applicable codes and regulations governing those systems. All parts of the park's electrical distribution system shall conform with approved standards for safety to life and property and accepted engineering practices.

(Ord. 2-2000, passed 3-13-2000, § 8.11)

**§ 153.366 ALTERATIONS AND OCCUPANCY.**

(A) All building, plumbing, heating, air-conditioning and electrical alterations shall be made in accordance with applicable state or county laws, rules or regulations.

(B) Occupancy of the home shall be limited to design capacity of the mobile home.

(Ord. 2-2000, passed 3-13-2000, § 8.12)

**§ 153.367 TEMPORARY USE.**

(A) (1) Nothing in this subchapter shall be construed to include any state park. The term *PARK* shall not be construed to include buildings, tents or other structures maintained by individuals or a company on their premises and used exclusively to temporarily house their own farm labor. The term does not include any military establishment of the United States or of the state; nor any park or state or county fairgrounds for a period during, immediately prior to or immediately subsequent to the holding of the fair, not to exceed three weeks in all.

(2) Neither should it include the area or premises on any farm upon which are harbored homes occupied by persons employed upon those farms for not more than 120 days in any calendar year in the production, harvesting or processing of agricultural or horticultural products produced on those farms.

(B) Nothing in this subchapter shall be deemed nor construed to apply to the establishment or continuance of any recreational park or campground wherein campers, travel campers or other occupied mobile recreational units may be harbored or kept so long as the occupancy of it is restricted to noncontinuous recreational purposes only.

(Ord. 2-2000, passed 3-13-2000, § 8.13)

**§ 153.368 INSPECTIONS.**

(A) The Ordinance Administrator shall enforce the provision of this subchapter.

(B) The Ordinance Administrator or his or her designee is hereby granted the power and authority to enter upon the premises of any park at any reasonable time to enforce this subchapter.

(Ord. 2-2000, passed 3-13-2000, § 8.14)

***AIR SPACE CONTROL AREA DISTRICTS*****§ 153.380 AIRPORT SURFACES AND AREAS.**

In order to carry out the provisions of this subchapter, there are created and established certain surfaces and areas which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces and conical surfaces as they apply to the Marion Airport. The surfaces are shown on Marion Municipal Airport Imaginary Surfaces Map, Airport Height Restrictions Map and Airport Noise Sensitive Area Map, consisting of three sheets, and dated May 10, 2010 which are attached to this subchapter and made a part hereof, following below this section. For height limitation, an area located in more than one of the following surfaces is considered to be only in the surface with the more restrictive height limitation. The various surfaces and areas are hereby established and defined as follows.

(A) *Utility Runway Visual Approach Surface.* The inner edge of this approach surface coincides with the width of the primary surface and is 500 feet wide. The approach surface expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(B) *Utility Runway Nonprecision Instrument Approach Surface.* The inner edge of this approach surface coincides with the width of the primary surface and is 500 feet wide. The approach surface expands outward uniformly to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(C) *Runway Larger than Utility Visual Approach Surface.* The inner edge of this approach surface coincides with the width of the primary surface and is 500 feet wide. The approach surface expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(D) *Runway Larger than Utility with a Visibility Minimum Greater than Three-Fourths Mile Nonprecision Instrument Approach Surface.* The inner edge of this approach surface coincides with the width of the primary surface and is 500 feet wide. The approach surface expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(E) *Runway Larger than Utility with a Visibility Minimum as Low as Three-Fourths Mile Nonprecision Instrument Approach Surface.* The inner edge of this approach surface coincides with the width of the primary surface and is 1,000 feet wide. The approach surface expands outwards uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(F) *Precision Instrument Runway Approach Surface.* The inner edge of this approach surface coincides with the width of the primary surface and is 1,000 feet wide. The approach surface expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerlines are the continuation of the centerline of the runway.

(G) *Heliport Approach Surface.* The inner edge of this approach surface coincides with the width of the primary surface and 100 feet wide. The approach surface expands outward uniformly to a width of 500 feet at a horizontal distance of 4,000 feet from the primary surface.

(H) *Transitional Zones.* Surface slope seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 859 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending the location where they intersect the conical surface. Where the precision instrument runway approach surface projects beyond the conical surface, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of an at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90-degree angles to the extended runway centerline.

(I) *Heliport Transitional Surface*. These surfaces extend outward from the sides of the primary surface and the heliport approach surfaces a horizontal distance of 250 feet from the primary surface and centerline and the heliport approach surface centerline.

(J) *Horizontal Surface*. The horizontal surface is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those areas. The horizontal surface does not include the approach and transitional surfaces.

(K) *Conical Surface*. The conical surface is established as the area that commences at the periphery of the horizontal surface and extends outward therefrom a horizontal distance of 4,000 feet.

(L) *Noise Sensitive Area*. An area lying 1,500 feet on either side of the centerline and the extended centerline of a runway for a distance of either one nautical mile from the boundaries of any public use airport.

(Ord. 2-2000, passed 3-13-2000, § 9.1; Ord. 10-2010, passed 10-12-2010)

AIRPORT ZONES



# Grant County - Land Usage





Grant County - Land Usage



**§ 153.381 HEIGHT AND USE LIMITATIONS.**

(A) Except as otherwise provided in this subchapter, no structure shall be erected, altered or maintained, and no tree shall be allowed to grow in any surface created by this subchapter to a height in excess of the applicable height limit herein established for the surface. The applicable height limitations are hereby established for each of the zoning questions as follows.

(1) *Utility Runway Visual Approach Surface.* Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

(2) *Utility Runway Nonprecision Instrument Approach Surface.* Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

(3) *Runway Larger Than Utility Visual Approach Surface.* Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

(4) *Runway Larger than Utility with a Visibility Minimum Greater than Three-Fourths Mile Nonprecision Instrument Approach Surface.* Slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

(5) *Precision Instrument Runway Approach Surface.* Slopes 50 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.

(6) *Heliport Approach Surface.* Slopes eight feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a distance of 4,000 feet along the heliport approach zone centerline.

(7) *Transitional Surfaces.* Slope seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 859 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface and extending the location where they intersect the conical surface. Where the precision instrument runway approach surface projects beyond the conical surface, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90-degree angles to the extended runway centerline.

(8) *Heliport Transitional Surfaces.* Slope two feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the heliport approach surfaces and extending a distance of 250 feet measured horizontally from and at 90-degree angles to the primary surface centerline and heliport approach surfaces and centerline.

(9) *Horizontal Surface.* Established at 150 feet above the airport elevation or at a height of 1,009 feet above mean sea level.

(10) *Conical Surfaces.* Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal surface and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

(11) *Excepted height limitations.* Nothing in this subchapter shall be construed as prohibiting the construction or maintenance of any structure, or growth of a tree to a height up to 50 feet above the surface of the land.

(B) Except as otherwise provided in this subchapter, no person shall erect a structure used for a noise sensitive purpose within the noise sensitive area as defined by this subchapter and by I.C. 8-21-10, Regulation of Tall Structures.

(C) Except as otherwise provided in this subchapter, no person shall develop a landfill within 10,000 feet of any Marion Municipal Airport runway end, in accordance with 329 I.A.C. 10-16-1, Municipal Solid Waste Landfills, Location Restrictions.

(D) Except as otherwise provided in this chapter, uses that the FAA determines will increase the possibility of aircraft bird strikes such as ponds, waste disposal operations, wastewater treatment plants, certain agricultural applications and other uses that are considered wildlife attractants (as defined by FAA AC 150/5200-33B, Hazardous Wildlife Attractants Near Airports) shall be prohibited within the horizontal surface, unless specifically approved on the airport property by the FAA and are discouraged within five statute miles of a Marion Municipal Airport runway end.

(Ord. 2-2000, passed 3-13-2000, § 9.2; Ord. 10-2010, passed 10-12-2010)

### **§ 153.382 USE RESTRICTIONS.**

Notwithstanding any other provision of this subchapter, no use may be made of land within any zone, surface, or area established by this subchapter in a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of the pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport. (Ord. 2-2000, passed 3-13-2000, § 9.3; Ord. 10-2010, passed 10-12-2010)

**§ 153.383 NONCONFORMING USES.**

(A) *Regulations not retroactive.* The regulations prescribed by this subchapter shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this subchapter, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure; the construction or alteration of which was begun prior to the effective date of this subchapter and is diligently prosecuted.

(B) *Marking and lighting.* Notwithstanding the preceding provisions of this subchapter, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of markers and lights as shall be deemed necessary by the airport to indicate to the operators of aircraft in the vicinity of the airport the presence of the airport obstruction. The markers and lights shall be installed, operated and maintained at the expense of the airport.  
(Ord. 2-2000, passed 3-13-2000, § 9.4; Ord. 10-2010, passed 10-12-2010)

**§ 153.384 PERMITS.**

Except as specifically provided in division (A) of this section, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any surface hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall include evidence that a determination of no hazard to air navigation has been issued by the FAA per Federal Aviation Regulation (FAR) Part 77, Objects Affecting Navigable Airspace (and all amendments, revisions, or superseding laws) for the structure or demonstrate that notice to the FAA was not required. Each application shall also include evidence that a permit for the structure has been issued from the Indiana Department of Transportation per I.C. 8-21-10, Regulation of Tall Structures (and all amendments, revisions or superseding laws) or demonstrate that a permit from the Indiana Department of Transportation was not required. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If the determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this subchapter shall be granted unless a variance has been approved in accordance with § 153.387.

(A) In the area lying within the limits of the horizontal surface, conical surface and transition surface no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, the tree or structure would extend above the height limits prescribed for the surfaces.

(B) Nothing contained in any of the foregoing exception shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this subchapter, except as set forth in § 153.381(A)(11).  
(Ord. 2-2000, passed 3-13-2000, § 9.5; Ord. 10-2010, passed 10-12-2010)

**§ 153.385 EXISTING USES.**

(A) No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure or tree to become a greater hazard to air navigation than it was on the effective date of this subchapter or any amendments thereto or than it is when the application for a permit is made.

(B) Except as indicated, all applications for such a permit shall be granted.  
(Ord. 2-2000, passed 3-13-2000, § 9.6; Ord. 10-2010, passed 10-12-2010)

**§ 153.386 NONCONFORMING USES, ABANDONED OR DESTROYED.**

Whenever the Commission determines that a nonconforming tree or structure has been abandoned or more than 80% torn down, physically deteriorated or decayed, no permit shall be granted that would allow the structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

(Ord. 2-2000, passed 3-13-2000, § 9.7; Ord. 10-2010, passed 10-12-2010)

**§ 153.387 VARIANCES.**

(A) Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use of the property, not in accordance with the regulations prescribed in this subchapter, may apply to the Board of Zoning Appeals for a variance from the regulations.

(B) The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace.

(C) The variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship, relief granted will not be contrary to the public interest, will not create a hazard to air navigation, and will be in accordance with the spirit, purpose and intent of this subchapter.

(D) (1) Additionally, no application for variance to the requirements of this subchapter may be considered by the Board of Zoning Appeals unless a copy of the application has been furnished to the Marion Board of Aviation Commissioners for advice as to the aeronautical effects of the variance.

(2) If the Marion Board of Aviation Commissioners does not respond to the application within 21 days after receipt, the Board of Zoning Appeals may act on its own to grant or deny the application.  
(Ord. 2-2000, passed 3-13-2000, § 9.8; Ord. 10-2010, passed 10-12-2010)

**§ 153.388 OBSTRUCTION MARKING AND LIGHTING.**

Any permit or variance granted may, if the action is deemed advisable to effectuate the purpose of this subchapter and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate and maintain, at the owner's expense, the markings and lights as may be necessary. If deemed proper by the Board of Zoning Appeals, a condition to require the owner to permit the airport, at its own expense, to install, operate and maintain the necessary marking and lights may be enforced.

(Ord. 2-2000, passed 3-13-2000, § 9.9; Ord. 10-2010, passed 10-12-2010)

***MINERAL EXTRACTION*****§ 153.400 PURPOSE AND SCOPE.**

The County Area Plan Office recognizes that the extraction of minerals is essential to the continued economic well-being of the county and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety. The county also recognizes that surface minimizing takes place in diverse areas where the geologic, topographic, climatic, biological and social conditions are significantly different and that reclamation operations and specifications may vary accordingly.

(Ord. 2-2000, passed 3-13-2000, § 10.1)

**§ 153.401 PERMIT REQUIREMENTS AND EXCEPTIONS.**

Except as provided in this subchapter, no person shall conduct mining operations unless a permit, reclamation plan, and financial assurances for reclamation have first been approved by the County Area Plan Office. Any applicable exemption from these requirements does not automatically exempt a project or activity from the application of other regulations, ordinances or policies of the county. The provisions of this subchapter shall apply to all lands within jurisdiction of County Area Plan Commission, public and private except for:

(A) Excavations or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or other natural disaster;

(B) On-site excavation and on-site earthmoving activities which are an integral and necessary part of a construction project that are undertaken to prepare a site for construction of structures, landscaping or other land improvements, including the related excavation, grading, compaction or the creation of fill road cuts and embankments, whether or not surplus materials are exported from the site subject to the following conditions:

(1) All required permits for construction or related improvements have been approved in accordance with all applicable provisions of state and local law; and

(2) Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.

(C) Operation of a plant site used for mineral processed, including associated onsite structures, equipment, machines, tools or other materials, including the onsite stockpiling and onsite recovery of mined materials, subject to the following conditions:

(1) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by this subchapter; and

(2) None of the minerals being processed are being extracted on site.

(D) Prospecting for, or extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less.





(E) Mining operations that are required by federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.

(F) Emergency excavations or grading conducted by the Department of Natural Resources or Federal Emergency Management Agency for the purpose of averting, alleviating, repairing or restoring damage to property due to imminent or recent flood, disaster or other emergency.

(Ord. 2-2000, passed 3-13-2000, § 10.2)

### **§ 153.402 PROCESS.**

Applications for a site approval for mineral extractions operations, borrow pits and topsoil removal or land storage shall be made on forms provided by the County Area Plan Commission. The application shall be filed in accordance with this subchapter and procedures to be established by the Planning Director shall include:

(A) A map of existing conditions showing the land proposed to be included in the plant area and the land within 1,000 feet in all directions (plant area shall mean the territory planned for extraction of sand, gravel or other earth materials and the operational installation, if any, of the excavating, processing and distribution of the minerals). This shall show the boundaries of the plant area and existing conditions on the mapped land including:

- (1) Existing contours (with a contour interval appropriate to the site which accurately reflects the topographic condition);
- (2) Water bodies and drainage courses, depth of water table below existing terrain;
- (3) Estimate of depth and extent of deposit;
- (4) The present land use of adjoining lands;
- (5) The present zoning classification of subject and adjoining lands;
- (6) The setback requirements for subject;
- (7) All publicly owned lands;
- (8) Public rights-of-way and road types; and
- (9) Easements and railroad lines.

(B) A plan of operational areas showing:

- (1) Area proposed for excavation;
- (2) Area proposed for settling ponds and wash water outlets;
- (3) Area proposed for processing facilities and storage;
- (4) Area proposed for production facilities (if any) for resource-related industry; and
- (5) Area proposed for plant entrance, office, dispatcher headquarters, off-street parking and equipment storage.

(C) A plan of excavation showing:

- (1) Division of the area proposed for excavation into one or more excavation units which are to be excavated and rehabilitated in sequence. Estimated dates for the rehabilitation of the excavation units should be provided;
- (2) Methods to be used to minimize the effect of erosion by wind and water on the entire tract; and
- (3) Methods of screening the area of operations from view, such as planting screens or the use of earth mounds.

(D) All required environmental review forms and information prescribed by the Planning Director.

(E) A conceptual plan of the reclamation and reuse of the entire plant area following the extraction (see §§ 153.415 through 153.418 for reclamation requirements).

(F) A bond of surety satisfactory to the Board in the amount of \$500 per acre of area proposed to be excavated or \$2,000 whichever is more, which shall run to the legislative body of the county to insure the satisfactory completion of the rehabilitation shown in the plan of development following the extraction process.

(G) Within 30 days of acceptance of an application for a site approval for mining operations as complete, the County Area Plan Office shall notify the State Department of Natural Resources - Division of Conservation - of the filing of the applications. Whenever mining operations are proposed in the 100-year floodplain of any water body, then the Department of Natural Resources - Water Division - shall be contacted. If, within one mile upstream or downstream of any state highway bridge, then the State Department of Transportation shall be contacted.

(Ord. 2-2000, passed 3-13-2000, § 10.3)

**§ 153.403 SITE AND OPERATION REQUIREMENTS.**

(A) The finished slopes on the site must be so designed to not endanger the safety of workers or the public.

(1) No production from an open pit shall be permitted which creates a finished slope steeper than one and one-half feet horizontal to one foot vertical for the excavation of sand and gravel.

(2) (a) No production from an open pit shall be permitted which creates a finished slope steeper than one foot horizontal to one foot vertical for the excavation of products other than sand and gravel.

(b) Except that in locations where the soil or rock content is such that vertical cuts are proven to be safe, a vertical cut up to eight feet in depth from ground level with a shelf no less than 12 feet wide followed by a vertical cut thereafter of any depth shall be allowed.

(B) A screen or buffer will be required for all sites to ensure the integrity of the neighborhood is not violated if abutting AG-R5 and PB-LB. Prior to the commencement of any operations in a plant area or part thereof located within 500 feet of a developed residential area, public park or other institution, or public highway, a screening shall be constructed (shops, garages, warehouse, storage areas, offices, dwelling units and other areas which have not been excavated and are not used by the plant, need not be fenced) enclosing the plant area and shall incorporate:

(1) A woven wire fence, not capable of receiving a child's foot and being at least six feet in height or a planting of shrubs capable of producing a tight, practically impenetrable hedge. The bottom of the fence shall conform to the ground surface so as to prevent any opening between it and the ground surface that exceeds two inches.

(2) Gates shall be equipped with keyed locks and shall be kept locked at all times when the plant area operations are shut down or ceased. The fence, gates and locks shall be maintained in good condition.

(C) Ingress, egress and traffic safety:

(1) Access roads to any plant area shall be limited to two points;

(2) Access roads shall be constructed level with the pavement of any public street or highway:

(a) For a distance of not less than 40 feet; and

(b) The 40 feet must be improved and dust proof all seasons.

(D) Off-street parking shall be provided for all equipment and employees' cars.

(E) Drainage provisions to ensure post development run-off does not exceed pre-development run-off must be provided and the land shall be left with sufficient drainage provided to prevent water pockets or undue erosion. The grading and drainage shall be installed so as to not increase drainage at any one point.

(F) Water areas proposed as ponds or other water bodies in the plan of development should have a minimum depth at some level of not less than six feet measured from low water mark.

(G) Hours of operation for extraction and material processing activities shall be limited to the hours from 7:00 a.m. to 5:00 p.m., except in the following situations:

- (1) Where required by public authorities;
- (2) Where work requires a continuous flow of materials;
- (3) Where necessary due to public emergencies; and
- (4) Where any necessary and reasonable repairs to equipment are required.

(Ord. 2-2000, passed 3-13-2000, § 10.4)

### ***LAND RECLAMATION***

#### **§ 153.415 STANDARDS FOR RECLAMATION.**

(A) All reclamation plans shall comply with all provisions of local, state and federal regulations.

(B) The County Plan Commission may impose additional performance standards as developed either in review of individual projects or as warranted.

(C) Reclamation activities shall be initiated at the earliest possible time on those portions of the lands that will not be subject to further disturbance. Interim reclamation may also be required for lands that have been disturbed and that may be disturbed again in future operations. Reclamation may be done on an annual basis, in stages compatible with continuing operations, or on completion of all excavation, removal or fill, as approved by the County Area Plan Commission. Each phase of reclamation shall be specifically described in the Reclamation Plan and shall include:

- (1) The beginning and expected ending dates for each phase;
- (2) All reclamation activities required;

(3) Criteria for measuring completion of specific reclamation activities; and

(4) Estimated costs for completion of each phase of reclamation.

(Ord. 2-2000, passed 3-13-2000, § 11.1)

**§ 153.416 STATEMENT OF RESPONSIBILITY.**

(A) The person submitting the reclamation plan shall sign a statement accepting responsibility for reclaiming the land in accordance with the Reclamation Plan. The statement shall be kept by County Area Plan Commission in the operator's permanent record. Upon sale or transfer of the operation, the new operator shall submit a signed statement of responsibility to the Plan Commission for placement in the permanent record.

(B) It is the responsibility of the seller to ensure the buyer signs the document and provides to the Area Plan Commission.

(Ord. 2-2000, passed 3-13-2000, § 11.2)

**§ 153.417 PROCESS.**

(A) In cases where land is used for such purposes where the physical characteristics of the land are substantially changed as a result of the operation, a proposed plan of functional reuse of the land is required at the time of application for permits or petitions.

(B) A conceptual plan of the reclamation and reuse of the entire area following the extraction or ceasing of the operation shall be submitted to the County Plan Commission when application for the use is submitted and shall include:

(1) A proposed plan for landscape rehabilitation including grading, drainage, planting and similar appropriate installations;

(2) The proposed water area (if any) resulting from excavation; the water bodies to be reclaimed will be restored to a condition that is compatible with, and blends in with, the surrounding natural environment, topography and other resources;

(3) A proposed plan of functional reuse of the total area showing, diagrammatically, future locations of residential, commercial, industrial, public, semi-public and other land uses, if any, and the principal elements of a future traffic circulation system to service the area;

(4) Sufficient information shall be provided to determine the general characteristics of the proposed development such as population density ranges, types of commercial or industrial usage and kinds of public uses;

(5) The Reclamation Plan must show that the land will be restored to a usable condition which is readily adaptable for alternative land uses consistent with the Comprehensive Plan; and

(6) A bond with surety satisfactory to the county's legislative body shall be submitted to the Plan Commission before final approval can be given for any affected use.

(a) Cost estimates for the financial assurance shall be submitted to the Plan Commission for review and approval prior to the operator securing financial assurances.

(b) The amount of the financial assurance shall be based upon the estimated costs of reclamation stipulated in the approved reclamation plan, including any maintenance of reclaimed areas as may be required.

(c) The Reclamation Plan shall be based upon cost estimates that include, but may not be limited to, labor, equipment, materials, mobilization of equipment, administration and reasonable profit by a commercial operator other than the permittee.

(d) The bond shall run for the term of the operation, plus two years.  
(Ord. 2-2000, passed 3-13-2000, § 11.3)

#### **§ 153.418 APPLICABILITY.**

This chapter will apply to the following uses:

- (A) Mineral extraction (see §§ 153.400 through 153.403) and topsoil storage;
- (B) Automobile body shops with exterior storage;
- (C) Commercial sanitary landfills, garbage disposal facilities and transfer stations;
- (D) Establishments engaged in the dismantling of motor vehicles;
- (E) Junk yards;
- (F) Scrap processing or recycling yards;
- (G) Storage yards for disabled vehicles (commercial);
- (H) Anhydrous ammonia facility;
- (I) Auto body shop/painting;
- (J) Commercial facility for raising fowl and animals;

(K) Manufacturing and use of explosives; and

(L) Slaughterhouse.

(Ord. 2-2000, passed 3-13-2000, § 11.4)

***NONCONFORMING USES***

**§ 153.430 PURPOSE.**

(A) (1) This chapter has established separate districts and standards, each of which are appropriate for the uses and standards of that district.

(2) It is the purpose of this chapter to regulate those nonconforming uses, lots and structures which substantially and adversely affect the orderly development and taxable value of other conforming property in each district, and to specify those circumstances and conditions under which those nonconforming uses, lots or structures shall be permitted to exist with restrictions.

(B) Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied; and no building or structure or part thereof shall hereafter be erected, constructed, moved or altered; and no new lot shall be created, unless in conformity with all of the regulations herein specified for the district in which it is located.

(Ord. 2-2000, passed 3-13-2000, § 12.1)

**§ 153.431 APPLICABILITY.**

(A) (1) Uses, lots and structures existing lawfully prior to 12-14-1974, which by reason of this chapter are no longer conforming, shall be considered legally nonconforming and shall be subject to all regulations imposed hereafter.

(2) The lawful use of a lot, structure, or use existing in the Town of Matthews on 9-1-1996 may be continued.

(B) (1) Any nonconforming open use of land should have been discontinued on or before 12-15-1976.

(2) Uses in Matthews meeting the definition of a junk yard in this chapter may not be continued whether deemed legal or not, as per the Matthews ordinance in effect prior to 9-1-1996.

(C) Uses, lots and structures existing unlawfully prior to the effective date of this chapter, and which remain unlawful, shall be considered illegal and unless remedial action is taken shall cease to function or exist.

(D) Uses, lots and structures existing lawfully or unlawfully prior to the effective date of this chapter, which are made lawful as a result of the provisions of this chapter, shall be considered as conforming.

(E) Nothing herein contained shall require any change in the plans, construction or designated use of a building for which a building permit has been issued before the effective date of this chapter and the construction of which has been diligently prosecuted within 90 days of the date of the permit, and which the entire building shall be completed according to the plans within one year of the effective date of this chapter.

(F) This chapter applies in the same manner to a use, which may become a nonconforming use due to a later amendment to this chapter.

(Ord. 2-2000, passed 3-13-2000, § 12.2)

#### **§ 153.432 AUTHORITY TO CONTINUE LEGAL NONCONFORMING BUILDINGS, STRUCTURES AND USES.**

(A) Any legal nonconforming building, structure or use thereof, which existed at the time of the adoption of this chapter and which remains nonconforming, and any building, structure or use thereof which shall become nonconforming upon the adoption of this chapter or of any subsequent amendment thereto, may be continued only in accordance with the regulations which follow.

(1) Ordinary repairs and alterations may be made to a nonconforming building or structure; provided that, no structural alterations shall be made in or to the building or structure, except those required by law or to make the building or structure, and use thereof, conform to the regulations of the district in which it is located.

(2) A building in a residential district containing nonconforming residential uses may be repaired or altered to improve livability and health conditions; provided, no changes are made that would increase the number of dwelling units or the bulk of the building.

(B) A nonconforming building or structure, all or substantially all of which is designed or intended for a use not permitted in the district in which it is located, shall not be added to or enlarged in any manner unless the nonconforming building or structure, and use thereof, including all additions and enlargements thereto, is made to conform to all the regulations of the district in which it is located.



(C) No building or structure, which does not conform to all of the regulations of the district in which it is located, except those required by law, shall be moved in whole or in part to any other location unless every portion of the building or structure which is moved and the use thereof is made to conform to all regulations of the district into which it is moved.

(D) (1) A lot, building or structure, other than a single-family residential structure, in or on which a nonconforming use is discontinued for a period exceeding six months, or which is superseded by a conforming use, may not again be devoted to a nonconforming use, even if the owner has not intended to abandon the use.

(2) The Planning Board may, for good cause shown and upon application made before the expiration of the original six-month period, grant an extension of the period for up to six additional months.

(E) A residential structure in or on which a nonconforming residential use is discontinued for a period exceeding five years, or which is superseded by a conforming use, may not again be devoted to a nonconforming use, even if the owner has not intended to abandon the use.

(F) The nonconforming use of part of a building or structure, all or substantially all of which is designed or intended for a use not permitted in the district in which it is located, may be extended throughout the building or structure in which the use is presently located. Changes or structural alterations which increase the bulk of the building or structure, except those required by law, shall be made unless the changes or structural alterations and the use thereof conform to all the regulations of the district in which the building or structure is located.

(G) No accessory use shall be added to a lot which is nonconforming or to a lot containing a nonconforming building or structure.

(H) (1) A legally existing nonconforming use may be changed to another nonconforming use; provided that, the proposed use is equally or more appropriate to the district than the existing nonconforming use and the impact on adjacent properties is less adverse than the impact of the former use as determined by the Board of Zoning Appeals. The case shall be heard as an administrative appeal.

(2) The determination of appropriateness shall require written findings on the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or by products, fumes, odors or other nuisances likely to result from the substitution of use.

(I) The nonconforming use of a building or structure, all or substantially all of which is designed or intended for a use not permitted in the district in which it is located, may be changed to any other nonconforming use allowed within the same or a more restrictive zoning district that allows the existing nonconforming use as a permitted use with a change of use; change shall extend or otherwise modify any provisions made in this chapter for elimination of the nonconforming building or structure, and the use thereof. For the purpose of this chapter only, the AG district shall be considered the most restrictive and the I3 district the least restrictive district and so on.

(J) Whenever all or any part of a building or structure occupied by a nonconforming use is changed to or replaced by a use conforming to the provisions of this chapter and the district it is located in, it shall not thereafter be changed to a nonconforming use.

( Ord. 2-2000, passed 3-13-2000, § 12.3)

### **§ 153.433 NONCONFORMING STRUCTURES OR USE OF STRUCTURES.**

(A) Any nonconforming structure legally existing at the time of adoption or amendment of this chapter or any nonconforming structure created by extension of jurisdiction may be continued so long as it remains otherwise lawful, subject to the conditions contained in § 153.432(B) through (I).

(B) The lawfully existing nonconforming use of part or of all of a building or structure, all of the building or structure is designed or intended for a use permitted in the district in which it is located, may be continued subject to the following provisions.

(1) Repairs, alterations and structural changes may be made to a conforming building or structure occupied by a nonconforming use, all or substantially all of which is designed or intended for a use permitted in the district in which it is located; provided, the repairs, alterations or structural changes conform to the regulations of the district in which the building or structure is located.

(2) (a) If it is destroyed or damaged by fire or other casualty or natural incident to the extent that the cost of restoration to the condition in which it was before the occurrence shall exceed 50% of the cost of the restoration of the entire building new, except as required by law, shall not be restored, unless the building or structure and the use thereof shall conform to all the regulations.

(b) In the event of the damage or destruction, no repairs or reconstruction shall be made unless the restoration is started within one year from date of the partial destruction and is diligently prosecuted to completion with an approved permit.

(C) In the event of damage by fire or natural incident, a structure may be reconstructed with the same footprint (square feet) as long as no yard setbacks are less than those of the original nonconforming structure.

(D) A nonconforming building, nonconforming as to yard regulations only, may be added to or enlarged only if:

(1) The additions or enlargements meet the requirements of the district;

(2) The additions or enlargements will not encroach into any portion of any required yard to a greater extent than the existing building. No addition or enlargement may reduce the setback of a required yard to less than 50% of that required by the chapter for that district; and

(3) The additions or enlargements shall not exceed in height or length the height or length of that portion of the adjoining nonconforming building which extends into the same required yard.

(E) The addition of an open patio/deck that is less than 30 inches above grade or steps shall not constitute the expansion of a nonconforming structure.

(F) (1) The placing of a foundation below a lawfully existing nonconforming structure shall not constitute the expansion of the structure so long as the footprint of the structure is not increased.

(2) Construction or expansion of a foundation under an existing dwelling which expands/increases habitable space shall be considered an expansion and shall be subject to the provisions of this chapter.

(G) Except for single-family dwellings, a building or structure, nonconforming as to use, shall not be enlarged unless the nonconforming use is terminated.

(H) No nonconforming mobile home may be removed and replaced unless the new mobile home complies with all use and district requirements of this chapter.

(I) A building or structure which is nonconforming as to the requirements for off-street parking and or loading space shall not be enlarged, added to or altered unless off-street parking or loading space is provided to bring parking or loading space into conformance with the requirements of this chapter for both the addition and the original building or structure.

(Ord. 2-2000, passed 3-13-2000, § 12.4)

**§ 153.434 NONCONFORMING USE OF LAND.**

(A) Any nonconforming use legally existing at the time of adoption or amendment of this chapter, or any nonconforming use created by the extension of the jurisdiction, may be continued so long as it remains lawful subject to conditions provided in § 153.433(B).

(B) The nonconforming use of land shall be subject to the following conditions:

(1) No nonconforming use shall be changed to another nonconforming use, unless the use is determined to be of equal or less intensity. In determining whether a nonconforming use is of equal or less intensity, the Board of Zoning Appeals shall consider after application is made:

(a) Probable traffic of each use;

(b) Parking requirements of each use;

(c) Probable number of persons on the premises of use at a time of peak demand; and

(d) Off-site impacts of use, such as noise, glare, dust, vibration or smoke.

(2) No nonconforming use shall be enlarged, increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter, unless approved by the Board of Zoning Appeals. The number of dwelling units in a nonconforming residential use shall not be increased.

(3) If any nonconforming use of land ceases for any reason for a continuous period of more than six months, any subsequent use of land must be a permitted use in the district in which the land is located.

(4) The resuming of a nonconforming use of land shall not be permitted if the nonconforming use is superseded by a permitted use for any period of time.

(5) No building shall be erected upon any premises devoted to a nonconforming use, except in conformance with this chapter.

(6) No nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by the use at the effective date of the adoption or amendment of this chapter.

(7) A nonconforming use of land which is accessory to a nonconforming use of a building shall be discontinued at the same time the nonconforming use of the building is discontinued.

(8) The provision of required off-street parking for an existing nonconforming use shall not be considered an expansion of the use.

(9) No additional structures not conforming to the requirements of this chapter shall be erected in connection with the nonconforming use of land.

(C) Any junked motor vehicle made nonconforming by subsequent amendments to this chapter shall be discontinued within six months following the date of the amendment.

(Ord. 2-2000, passed 3-13-2000, § 12.5)

### **§ 153.435 NONCONFORMING LOTS.**

(A) Legal nonconforming lots, existing at the time of the adoption of this chapter, may be utilized for uses that are permitted in the zone in which the lot is located; provided that, the nonconforming lot complies with the following provisions:

(1) A nonconforming lot (existing prior to the effective date of this chapter) may be used for any permitted, special, temporary or accessory use allowed in the zone in which the lot is located; and

(2) The use of any nonconforming lot for a use permitted in the zone district in which the lot is located is subject to the site and structure provisions, and other requirements of that zone.

(B) (1) When a lot has an area or width which does not conform to the dimensional requirements of the district where located, if it complies with § 153.434(A), then the lot may be used for a use permitted in the district where located, provided the following are complied with, setback dimensions and other requirements, except area or width.

(2) In residential zones, only a single-family dwelling shall be permitted on the nonconforming lot, unless the zone district allows otherwise.

(3) Nothing contained herein exempts a lot from meeting the applicable provisions of the County Board of Health regulations.

(C) (1) When two or more adjoining and vacant lots with contiguous frontage are in one ownership and the lots individually have area or width which does not conform to the dimensional requirements of the district where located, but the lots were of record at the time of adoption of this chapter or any subsequent amendment which renders the lots nonconforming, the lots shall be considered as a single buildable lot or several buildable lots for any use permitted in the district where located; provided, the setback and all other requirements, not involving area or width, are complied with.

(2) Nothing contained herein exempts the contiguous lots considered as a single building lot or lots from meeting the applicable provisions of the County Board of Health.

(D) A lot of record reduced to less than the required area, width or setback dimension as the result of a condemnation or purchase by a local or state government agency shall become a nonconforming lot of record.

(Ord. 2-2000, passed 3-13-2000, § 12.6)

**§ 153.436 VESTED RIGHTS.**

Nonconforming use rights cannot arise by the mere filing of a notice of intent to build, an application for a building permit, or an application for required state permits and approval. The rights arise when the land owner has made a substantial start on construction of structures, or development of infrastructure improvements for town-approved subdivisions, prior to or within six months of the adoption or amendment of this chapter, or in the case of pending applications, when the review process on an application commences. The construction must be legal at the time it is commenced and the owner must be in possession of and in compliance with all validly issued federal, state and local permits.

(Ord. 2-2000, passed 3-13-2000, § 12.7)

***PLANNED UNIT DEVELOPMENT*****§ 153.450 SCOPE AND PURPOSE.**

(A) This subchapter constitutes the “Planned Unit Development District (PUD) Subchapter” of the County Areawide Zoning Ordinance, as specified in I.C. 36-7-4-1502 and I.C. 36-7-4-1506.

(B) The term “Commissioners” will be used hereafter to represent the Commissioners, Fairmount Town Council, Matthews Town Board, Upland Town Council, Jonesboro City Council, Sweetser Town Council, and Van Buren Town Council, whichever of these is the appropriate legislative body for a subject area. This terminology will apply to this subchapter only.

(C) Planned unit developments are formulated in order to encourage the flexibility in the development of land that may be necessary to permit adjustment to changing public and private needs; to foster the ability to provide development patterns which are more compatible with and effective in meeting the needs; to promote the more efficient use of land so as to preserve and enhance the natural characteristics and unique features of a property; to improve the design, character and quality of new development; to encourage integrated planning for the economical provisions of streets and utilities to reduce the burden by more efficient development; and to conserve the value of land.

(D) An intrinsic premise upon which the approval of a planned unit development must be conditioned, is that while greater density or more lenient siting requirements may be granted, the PUD should contain features not normally required of traditional developments. Inherent to realizing these objectives is continuous and in-depth scrutiny of the proposed PUD. To enable thorough analysis of a PUD, more information is demanded about the proposal than would be required if the development were being pursued under conventional zoning requirements.

(Ord. 2-2000, passed 3-13-2000, § 13.1)

**§ 153.451 STANDARDS.**

A planned unit development must follow the application and approval process as outlined in this subchapter. The PUD must also meet the following standards.

(A) A PUD must conform with the objectives of the County Comprehensive Plan.

(B) The site of the planned unit development must be under single ownership and/or unified control.

(C) The uses permitted in a PUD must be of a type and so located as to exercise no undue detrimental influence upon surrounding properties. In addition, the PUD shall not endanger the public health, welfare or safety.

(D) The net density of a planned unit development (either in dwelling units - for residential uses, or in floor area for other uses) shall generally correspond to the net density regulations imposed by the underlying zoning district. The net density of the PUD is not necessarily required to precisely correspond with the normal net density of the underlying zoning district, but can instead reflect the surrounding neighborhood's density with permission of the Board.

(E) The minimum horizontal distance between the buildings in a PUD shall be:

(1) Fifteen feet between single-family detached buildings;

(2) Thirty feet between buildings, other than single-family dwellings; and

(3) Buildings of more than 40 feet in height shall provide a setback from any property line at least equal to the height of the buildings.

(F) The required yards along the periphery of the PUD shall be at least equal in width or depth to that of the adjacent zoning district. The Plan Commission in reviewing a particular PUD may, upon ample evidence of exceptional design or construction features that are in strict compliance with the Building, Fire, Health and other application codes, lower the required yards along the periphery of the PUD from the standard required in the adjacent zoning district to the extent deemed appropriate.

(G) Adequate parking shall be provided and shall be in general conformance with the parking regulations provided for in this chapter unless changes are warranted by the particular characteristics of the proposed PUD.

(H) Adequate provisions shall be made to provide ingress and egress so designed as to minimize both internal and external traffic hazards and congestion.

(I) The provisions of Chapter 152 of this code of ordinances, as amended, shall be adhered to unless a waiver is granted by the Plan Commission.

(J) The PUD may depart from strict conformance with the required density, dimension, area, height, bulk, use or specific content regulations of this chapter to the extent specified in the preliminary plat and documents authorizing the PUD, if permission is given by the Plan Commission at the time of accepting the plat.

(Ord. 2-2000, passed 3-13-2000, § 13.2)

### **§ 153.452 PROCEDURE.**

(A) The unique character of a planned unit development requires their administrative processing as a special process in this chapter. Planned unit developments are more complex and of a significantly different character than other uses, therefore requiring the establishment herein of specific procedures.

The procedure, standards, objectives and purpose set forth in this subchapter, when in conflict with other provisions of this chapter as they may pertain to planned unit development and only planned unit developments, shall be superseding.

(B) All prospective applicants shall review copies of this chapter and Chapter 151 of this code of ordinances, which are available for inspection at the Area Plan Office, to determine the consistency of the proposal with the county's adopted planning rationale and whether or not the proposal is likely to be compatible with existing and anticipated land uses in the vicinity of the proposal. The PUD sections of this chapter shall be reviewed to ensure familiarity with the required PUD procedures. The applicant is required to sign a statement to the effect that the applicant has reviewed copies of this chapter and the Zoning Map of this chapter at the time the PUD application is submitted for approval.

(C) A three-step procedure is prescribed for a PUD, of which the first step is optional.

*(1) Conceptual plan procedure (optional).*

(a) If this optional procedure is elected, the petitioner is explicitly committing the subject property to a specific arrangement of land uses at a specific range of densities. In return, the petitioner is receiving - through rezoning for a PUD - a community commitment that, following conceptual plan approval, the petitioner can proceed to subsequent steps of the PUD procedure with reasonable assurance that if the agreed upon concept is carried forth, preliminary and final plat approval will be granted.

(b) Only proposals of at least 15 acres may pursue this optional step. If this procedure is not elected, the first step in the procedure is the "preliminary plat" stage.

(c) A request for approval of a conceptual plan shall be submitted to the Area Plan Office and subsequently shall be referred to the Plan Commission for public hearing, review and recommendation. The required procedure for review of the Plan shall be: submission of the items required of a conceptual plan petition as identified under § 153.453.

(d) The Plan Commission shall hold a public hearing on the application for a planned unit development conceptual plan in accord with the procedures established for subdivisions and rezonings in this chapter.

(e) Following the public hearing and review of the conceptual plan submission, the Plan Commission shall recommend approval, modification or disapproval of the conceptual plan and the reasons therefor. In its communication to the Commissioners, the Plan Commission shall set forth findings of fact in accordance with § 153.456, on which the recommendation is based and describing how the conceptual plan does or does not meet the standards and objectives stated in this chapter.

(f) 1. The Commissioners after receipt of the conceptual plan from the Plan Commission, shall approve, modify or deny the Plan within 60 days, unless an extension is approved in the form of a motion. In the case of approval or approval with modifications, the Commissioners shall pass an



ordinance approving the conceptual plan. The ordinance shall provide for a change in the official County Zoning Map indicating that the subject site is approved for a planned unit development. However, once these map changes are made, the petitioner must submit subsequent preliminary plat data in accordance with the schedule set forth in § 153.455. If same is not done, all map changes authorized by the Commissioners shall revert back to the original zoning designation affixed to the subject property, in accordance with § 153.455. The Commissioners may require the special conditions as they deem necessary to ensure conformance with the objectives and standards established in this chapter.

2. Approval of the conceptual plan shall constitute an interim zoning acceptance of the land use and density concepts specified therein, and shall indicate the general acceptance of the Commissioners to approve a “preliminary plat” that carries out, refines and implements the concepts expressed in the conceptual plan. The conceptual plan and a preliminary plat for the first stage or stages of a PUD may be filed and approved simultaneously.

(g) It is emphasized that no building or construction whatsoever may take place within the proposed PUD and no permits may be issued, until the final plan and accompanying data has been submitted, approved and recorded.

(2) *Preliminary plat procedure.*

(a) If the preliminary plat is submitted without the benefit of first completing the optional conceptual plan stage of the PUD procedure, a relatively detailed submission is required to assure the county that the proposed PUD substantially conforms to the objectives and standards expressed in this chapter. If a conceptual plat has already been submitted and approved, the submission of the preliminary plat either in stages or in total is expected to refine the originally approved concept.

(b) Any parcel of property may be eligible for consideration as a PUD using the preliminary plat procedure. However, each petitioner for preliminary plat approval should be aware that the objectives and standards for a PUD, as expressed in this chapter, must be clearly integrated into the PUD submission. Failure to do so will result in denial.

(c) A request for approval of a preliminary plat, as a step in the PUD procedure, shall be submitted to the Area Plan Office, which shall refer same to the Plan Commission for public hearing, review and recommendation. The required procedure for review of the preliminary plat shall be: submission of the items required of a preliminary plat petitioner as identified under § 153.453.

(d) The Plan Commission shall hold a public hearing on the application for a PUD preliminary plat in accord with the procedures established in the ordinance for public hearings. If a public hearing was held on a conceptual plan for the subject PUD, a second public hearing is required with the submission of the preliminary plat. The sophisticated submission required at the time of the preliminary plat hearing is significantly different from that required at the conceptual plat stage. In the first stage concepts are being reviewed, at the preliminary plat stage precise plans and designs are the subject of scrutiny.

(e) Following the public hearing and review of the preliminary plat submission, the Plan Commission shall recommend approval, modifications or denial of the preliminary plat, and the reasons therefor. In its communication to the Commissioners, the Plan Commission shall set forth findings of fact, in accordance with § 153.456, on which the recommendation is based and describing how the preliminary plat does or does not meet the standards and objectives stated in this chapter.

(f) The Commissioners, after receipt of the preliminary plat from the Plan Commission, shall approve, modify or deny the plat within 60 days, unless an extension is granted. In the case of approval or approval with modification, the Commissioners shall authorize Area Plan to sign the plat. If the preliminary plat is the first submission made as part of the PUD procedure, the county shall pass an ordinance for a change in the Official County Zoning Map indicating that the subject site is approved for a PUD.

1. The petitioner must submit subsequent final plat data in accordance with the schedule set forth in § 153.455. If same is not done, all map changes authorized by the Commissioners shall revert back to the original zoning designation affixed to the subject property.

2. It is emphasized that no building or construction, excluding public improvements, may take place within the proposed PUD and no permits may be issued, until the final plat and accompanying data have been submitted, approved and recorded.

3. Permits shall be issued pursuant to the processing, approval and recording of each separate stage of the overall final plat.

4. Approval of a preliminary PUD plat shall not constitute approval of the final plat. Rather, it shall be deemed an expression of approval to the layout submitted on the preliminary plat and as a guide for the preparation of the final plat.

5. The preliminary plat and final plats may be filed and approved simultaneously.

(3) *Final plat.*

(a) The purpose of the final plat is to designate with particularity the land subdivided into conventional lots as well as the division of other lands into common open space and building sites. The final plat shall be recorded.

(b) The final plat shall be submitted as a PUD plat and shall conform substantially to the preliminary plat as approved and may be submitted in stages with each stage reflecting the approved preliminary plat. The required procedure for approval of a final plat shall be:

1. Submission of the items required of a final plat petitioner as identified under § 153.453;

2. The Plan Commission shall review the final plat within 60 days after the application is approved. A public hearing is not required. After review of the final plat, the Plan Commission shall within 30 days, unless an extension is requested, recommend approval or denial and provide the reasons therefor to the Commissioners;

3. The Commissioners, after receipt of the final plat from the Plan Commission, shall approve or deny the final plat within a period of 60 days, unless an extension is granted in the form of a motion. In the case of approval, the Commissioners shall authorize Area Plan to sign the final plat;

4. Permits are issued only after the final planned unit development plat and any required supporting data have been recorded with the County Recorder of Deeds and shall be issued in full conformance with the planned unit development; and

5. Proof of the recording of the final plat shall be provided to the Area Plan Office. (Ord. 2-2000, passed 3-13-2000, § 13.3)

#### **§ 153.453 SUBMISSION REQUIREMENTS.**

(A) Conceptual plan stage (optional), at the time application is made for conceptual plan approval, the following items must be submitted to the Office of the Zoning Administrator:

(1) A written application for a planned unit development on forms supplied by the Area Plan Office;

(2) A fee established by the county that is suitable to cover costs incurred by the county for review of the specific proposal. If special planning, engineering, architectural or other consultants must be retained by the county for review of the proposed PUD, the petitioner shall be so notified, and all costs for the consultants expended by the county - not covered by the filing fee - shall be reimbursed by the petitioner;

(3) A state of present and proposed ownership of all land within the development;

(4) A legal description of the subject site;

(5) At the time of the public hearing on the conceptual plan, five copies of all subsequent listed information shall be submitted (with the exception of nonreproducible exhibits). Failure to submit any of the required information without a specific written waiver from the Plan Commission, shall constitute grounds for dismissal of the PUD petition;

(6) Waiver of specific submission elements may be requested of the Plan Commission, in writing, at the time the PUD conceptual plan application is made. The Plan Commission will decide upon the waiver request at its next regularly scheduled meeting;

(7) A drawing of the PUD shall be prepared at a scale that provides for a clear understanding of the way in which the property is intended to be developed. The Plan shall indicate the concept of the development with refinements to indicate the overall land use pattern, general circulation system, open space or park system and major features of the development. This section does not require a detailed site plan of buildings, walks and the like. The Plan shall include:

- (a) Boundary lines and dimensions of the subject site;
- (b) Existing and proposed easements, general location and purpose;
- (c) Streets on, adjacent or proposed for the tract, including all rights-of-way and pavement widths;
- (d) Land use patterns proposed for the subject site; and
- (e) Map data, name of development, name of site planner, north point, scale, date of preparation and the like.

(8) A list of pertinent site data, including:

- (a) Description and quantity of land uses;
- (b) Acreage of site;
- (c) Number of dwelling units proposed and densities;
- (d) Area of industrial, commercial, institutional, recreational and circulation land uses proposed; and
- (e) Bedroom mixes.

(9) A statement indicating how the proposed PUD corresponds to and complies with objectives for PUD as previously stated in this chapter;

(10) Development schedule indicating:

- (a) Phases in which project will be built with emphasis on area, density, use and public facilities such as open space to be developed with each stage;
- (b) Overall design of each stage shall be shown on the plat and through supporting graphic material;
- (c) Approximate dates for commencing and completion of each stage; and

(d) If different land use types are to be included within the PUD, the schedule must include the mix of uses anticipated to be built in each stage.

(11) Data identifying existing natural and environmental site conditions:

(a) A topographic map, underlying the concept plan at a minimum of one-foot contour intervals;

(b) Information from the most current source specified by the Area Plan Office indicating the location and extent of the regulatory floodplain;

(c) Information from the most current U.S. Department of Agriculture, *Soil Conservation Service Soils Catalog* indicating the location and species of soils. If the information is not available, soil borings may be submitted;

(d) Location and extent of existing vegetation; and

(e) A depiction of existing surface drainage patterns and proposed retention and detention areas.

(12) Statement indicating that sanitary sewer, storm sewer and water are directly available to the site, or if well and septic systems are proposed, a statement from a licensed professional engineer and approved by the local Health Department indicating that the proposed development can be suitably served by the systems:

(a) For the purpose of this subchapter, utilities shall be considered to be “not directly available” if located more than 500 feet from the boundaries of the subject site. This provision shall apply to the extension of sanitary sewer, storm sewer and water utilities only;

(b) A study providing information on the existing road network, and adjunct vehicle volumes, and the effect the proposed PUD will have on the existing road network; and

(c) If traffic or roadway improvements external to the subject site are anticipated as a result of the proposed development, the petitioner shall submit a statement indicating the nature and extent of those contemplated improvements. Included in the statement shall be information pertaining to what proportion of the external traffic and roadway improvements made necessary as a result of the PUD, the developer will pay for. All internal traffic and roadway improvements associated with the PUD shall be paid for by the developer.

(B) At the time the application is made for preliminary plat approval, the following items must be submitted to the Area Plan Office.

(1) If the preliminary plat is the first PUD submission to be made, all items listed in § 153.453 shall be required to be submitted at the preliminary plat stage.

(2) If conceptual plat approval has been granted:

(a) A letter submitted by the owner(s) or his, her or their agent indicating the intent to file a preliminary plat as soon as a public hearing can be scheduled by the Plan Commission. The letter shall serve as a preliminary plat application.

(b) A preliminary plat filing fee, established by the county to cover costs incurred by the county for review of the specific proposal. If special planning, engineering, architectural or other consultants must be attained by the county for review of the proposed PUD, the petitioner shall be so notified and all costs for the consultants expended by the county - not covered by the filing fee - shall be reimbursed by the petitioner.

(c) At the time of the public hearing on the preliminary plat five copies of all subsequent listed information shall be submitted (with the exception of the nonreproducible exhibits). Failure to submit any of the required information, without a specific written waiver from the Planning Commission, shall constitute grounds for dismissal of the PUD petition.

(d) Waiver of specific submission elements may be requested of the Planning Commission, in writing, at the time the PUD preliminary plat application is made. The Planning Commission will decide upon the waiver request at its next regularly scheduled meeting; the petitioner will be notified of the decision and the public hearing will then be scheduled. Specific grounds for waiver must be stated by the petitioner.

(e) The preliminary plat submission shall include the following:

1. All items listed § 153.453(A) shall be required to be submitted at the preliminary plat stage, if the preliminary plat is the first PUD submission to be made. If conceptual plan approval has been granted, these items need not be resubmitted.

2. A drawing of the PUD shall be prepared at a scale that provides for a clear understanding of features and intent and shall show such designations as proposed streets (public and private), all buildings and their use, common open space, recreation facilities, parking areas, service areas and other facilities to indicate the character of the proposed development. The submission may be composed of one or more sheets, and must include:

- a. Boundary lines and dimensions of the subject site;
- b. Existing and proposed easements, general purpose and width;
- c. Streets on, adjacent or proposed for the tract including all ROWs and pavement widths;
- d. Utility extensions of water lines, sanitary sewers and storm sewers;

- e. Land use designations for the subject site;
- f. Retention and detention areas;
- g. Residential lots (average lot size and minimum lot size shall be specified);
- h. General location, purpose and height, in feet or stories of each building other than single-family residences; and
- i. Map data - name of development, name of site planner, north point, scale, date of preparation.

(3) (a) Topography of property within 250 feet of the subject site, at a minimum of five-foot contour intervals, with natural drainage patterns indicated and with the subject site's topography and drainage patterns depicted; and

(b) The location, size and invert elevation of adjacent, or the closest sanitary sewer, storm sewer and water main, as well as documentation of these facilities points of origin.

(4) A written statement comparing the relative benefits that will accrue to the community as a result of this site being developed under PUD provisions as opposed to the conventional zoning. Specific mention should be made of open space, natural features and architectural design. This statement supplements the objectives statement that may be required with the submission of the conceptual plan or the preliminary plat.

(C) At the time the final plat is filed with the Plan Commission for review and recommendation, the following items must be submitted:

(1) A final PUD plat (two Mylars and two bond copies), suitable for recording with the County Recorder of Deeds. The purpose of the final plat is to designate with particularity the land subdivided into conventional lots as well as the division of other land into common open areas and building areas. The final plat shall include:

(a) An accurate legal description of the entire area under development within the planned development;

(b) If lands which are a subject of the PUD final plat are to be subdivided, then a subdivision plat is required to be submitted for approval and then recorded;

(c) An accurate legal description of each separate non-subdivided use area, including common open space;

(d) Designation of the location of the building pads, areas, setback lines or setback standards for all buildings to be constructed;

(e) Certificates, seals and signatures required for the dedication of lands and recording the document; and

(f) Tabulation of separate use areas, including land area, number of buildings, number of dwelling units and dwelling units per acre.

(2) All common open space shall be either conveyed to a municipal or public corporation, conveyed to a not-for-profit corporation, or an entity established for the purpose of benefitting the owners and residents of the PUD (any of which shall be retained by the developer with legally binding guarantees, in a form approved by the County Attorney, verifying that the common open space will permanently be preserved as open area). All land conveyed to a not-for-profit corporation or like entity shall be subject to the right of the corporation to impose a legally enforceable lien for maintenance and improvement of the common open space.

(3) Final plans, with all required detail, shall be submitted that include:

(a) Engineering plans showing how the site is to be serviced with sewer, water, well and/or septic systems (as agreed to during the preliminary plat stage);

(b) Lighting plans;

(c) Drainage and storm water retention and detention plans;

(d) Road plans, including curbs and gutters, on-site/off-site signals, acceleration, deceleration lanes and the like;

(e) Sidewalk, paths and cycle trails; and

(f) Landscape plans showing the type and location of plant material, berms and other aesthetic treatments.

(4) All on-site and/or off-site public facilities and improvements made necessary as a result of the PUD shall be either constructed in advance of the approval of the final plat or a subdivider's bond or approved letters of credit posted to guarantee construction of the required improvements shall be submitted.

(a) The subdivider's bond or approved letter of credit, payable to the county, shall be sufficient to cover the full cost of improvements, plus 10%.

(b) Detailed construction plans shall be submitted for all public facilities to be built.



(c) The deposit shall be a guarantee of the satisfactory performance of the facilities constructed within the PUD and shall be held by the county for a period of 12 months from the date of acceptance of the facilities by the county. After 12 months, the deposit shall be refunded if no defects have developed, or if any defects have developed, then the balance of the deposit shall be refunded after reimbursement for amounts expended in correcting defective facilities.

(5) Detailed plans shall be submitted for the design, construction or installation of site amenities including buildings, landscaping, lakes and other site improvements.

(6) A final construction schedule shall be submitted for that portion of the PUD for which approval is being requested.

(7) Final agreements, provisions or covenants which will govern the use, maintenance and continued protection of the PUD shall be approved by the county and recorded at the same time as the final PUD plat.

(Ord. 2-2000, passed 3-13-2000, § 13.4)

#### **§ 153.454 CHANGES IN THE PUD.**

The PUD shall be developed only in accordance to the approved and recorded final plat and all supporting data. The recorded final plat and supporting data together with all recorded amendments shall be binding on the applicants, their successors, grantees and assignees and shall limit and control the use of premises and location of structures in the PUD project as set forth therein.

*(A) Major changes.*

(1) Changes which alter the concept or intent of the PUD including increases in density, changes in the height of buildings, reductions of proposed open space, changes in the development schedule, changes in road standards or changes in the final governing agreements, provisions or covenants, may be approved only by submission and reconsideration of a new preliminary and final PUD plat with supporting data that follows the preliminary or final plat procedure. If the major changes alter data or evidence submitted during the conceptual plan or preliminary plat stage, then the resubmission must begin at the preliminary plat stage. If only final plat evidence or data is altered as a result of the major change, then the resubmission shall begin at the final plat stage.

(2) If major changes are proposed, a new public hearing shall be required during resubmission of the preliminary or final plat.

(3) All changes to the “original” final plat shall be recorded with the County Recorder of Deeds as amendments to the final plat or reflected in the recording of a new “corrected” final plat.

(B) *Minor changes.* The county may, in accordance with procedures established in their rules, approve minor changes in the PUD which do not change the concept or intent of the development. Minor changes shall be any change not defined as a major change.

(Ord. 2-2000, passed 3-13-2000, § 13.5)

#### **§ 153.455 REVOCATION AND EXTENSION.**

A planned unit development shall become null and void and the subject property shall thereupon be rezoned to the most appropriate district classification, as deemed suitable by the county, acting upon the recommendation of the Plan Commission, in any case where the PUD has:

(A) Received conceptual plan approval and where the preliminary plat of the PUD, or the first phase of the preliminary plat if construction is to take place in phases, has not been submitted for approval within one year after the date of approval of the conceptual plan;

(B) Received preliminary plat approval and where the final plat of the PUD, or its first phase of the final plat if construction is to take place in phases, has not been submitted for approval within six months after the date of approval of the preliminary plat;

(C) Received final plat approval and where the construction of the PUD, as authorized by the issuance of a building permit, has not begun within one year after the date of approval of the final plat dealing with the construction; and

(D) Further, if construction of a PUD falls more than one year behind the building schedule filed with the final plat of the PUD the Plan Commission acting upon the recommendation of the Office shall either extend the schedule or initiate action to revoke the PUD special use. A one-year extension in the building schedule may be granted by the Plan Commission acting upon the recommendation of the Office.

(Ord. 2-2000, passed 3-13-2000, § 13.6)

#### **§ 153.456 FINDINGS OF FACT.**

The Plan Commission shall, after the public hearing, set forth to the Commissioners the reasons for the recommendation, and shall set forth with what respects the proposal would be or would not be in the public interest, including, but not limited to, findings of fact on the following:

(A) In what respects the proposed plan is/is not consistent with the stated purpose of the PUD regulations and with the objectives stated in § 153.450;

(B) The extent to which the proposed plan meets/does not meet the standards of the PUD regulations as set forth in § 153.451;

(C) The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including, but not limited to, density, dimension, area, bulk and use, and the reasons why the departures are deemed to be/not to be in the public interest.

(D) The method by which the proposed plan makes adequate provisions for public services, provides adequate control over vehicular traffic, provides for and protects designated common open space, and furthers the amenities of light and air, recreation and visual enjoyment; and

(E) The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood.

(Ord. 2-2000, passed 3-13-2000, § 13.7)

**§ 153.457 CONDITIONS AND GUARANTEES.**

(A) Prior to the granting of any PUD, the Plan Commission may recommend, and the Commissioners may stipulate, conditions and restrictions upon the establishment, location, design, layout, height, density, construction, maintenance, aesthetics, operation, and other elements of the PUD as deemed necessary for the protection of the public interest, improvement of the development and protection of the adjacent area.

(B) In all cases in which PUDs are granted, the county may require evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection with the approval of the PUDs will be complied with.

(Ord. 2-2000, passed 3-13-2000, § 13.8)

***PERMITS***

**§ 153.470 APPLICABILITY.**

(A) No person shall erect, construct, reconstruct, alter, or change the use of any building or structure, unless otherwise provided for in this chapter, without first obtaining an improvement location permit and building permit.

(B) A change in the topography, grading, configuration of land on site, unless otherwise provided for in this chapter, requires a grading permit.

(C) The filing fee for a permit shall be an amount set forth in the fee schedule adopted by the Commission, and at the end of this chapter in Appendix A: Area Plan Fee Schedule.

(D) The provisions of this chapter are supplemental to and do not abrogate the powers extended to agencies, bureaus, departments, commissions, divisions or officials of the state or federal governments by state or federal statutes.

(Ord. 2-2000, passed 3-13-2000, § 16.1; Ord. 5-2018, passed 6-4-2018) Penalty, see § 153.999

#### **§ 153.471 BUILDING LOT DETERMINATIONS.**

(A) No person shall use any parcel for a use which is required by this code to comply with the minimum lot area requirements of the zoning district in which it is located, nor shall any building permit for the parcel be issued, unless the parcel is determined to be a building lot by the Director.

(B) The Director shall not determine a parcel to be a building lot for a principal use if that parcel has been occupied as or designated as a building lot for any other principal use unless the parcel has been expressly approved for multiple principal uses.

(C) The Director shall not designate a portion of a parcel as a building lot unless the Director determines that the remainder of the parcel also meets all requirements necessary for designation as a building lot.

(Ord. 2-2000, passed 3-13-2000, § 16.2) Penalty, see § 153.999

#### **§ 153.472 PERMIT EXEMPTIONS.**

The following are exempt from permit requirements:

(A) Swimming pools that are under three feet, six inches in height, from ground level;

(B) Concrete/asphalt drives, walks, curbs, patios or courts 30 inches or less in height from ground level;

(C) Open (no roof) decks or patios that are 30 inches or less in height from ground level. Railing may be added that is at least 80% open;

(D) Facilities of a public utilities or an electric or telephone membership corporation (except buildings for wireless communication towers or the towers), residential antennas and satellites;

(E) Accessory building 120 square feet or less;

(F) Fences and retaining walls less than six feet, trees, shrubs, flowers, plants and hedges that are not an ordinance requirement for buffering or screening;

(G) Bird baths/houses, name plates, lamp posts and mail boxes;

(H) Parking spaces that are for a single-family dwelling unit and are being utilized as such.

(I) Federal or state-owned buildings (must still get state building permit);

(J) Renovations not involving structural alterations, mechanical or egress are exempt. Siding, replacement windows and doors (as long as openings do not change), cabinets, walls and door coverings and landscape work independent of new construction are exempt in all cases as long as there are no associated structural alterations.

#### **§ 153.474 SIGN PERMIT EXEMPTIONS.**

No sign permit shall be required for signs exempted by §§ 153.270 through 153.281.  
(Ord. 2-2000, passed 3-13-2000, § 16.5)

#### **§ 153.475 PERMIT APPLICATIONS.**

(A) Unless otherwise specified, all applications for permits under this chapter shall be submitted by the owner of the property or an agent of the owner to the Area Plan Office. The Area Plan Commission may require reasonable proof of a person's authority as agent, from any person submitting an application as an agent.

(B) An application for any permit under this chapter shall be submitted in a form, number of copies and format as required by the Office, with the fees as required.

(C) The Office may waive submission of required elements of information when the information is otherwise readily available or is not necessary to review the application. The Office may refuse to process an incomplete application.

(D) All applications for permits shall be submitted, reviewed, and processed in accordance with the requirements of this chapter.

(E) A copy of required plans or information submitted with the application shall be returned to the applicant after the Office has marked the copy either approved or denied.

(F) A permit for a structure or use, for which a State or County Health Department permit/authorization to construct a new sewage disposal system is required, shall not be issued until the permit or authorization to construct has been issued by the State or County Health Department.

(G) A permit for any structure or use, for which a State or County Highway/Transportation Department permit/authorization to construct a roadway cut is required, shall not be issued until the permit or authorization to construct has been issued by the State or County Highway/Transportation Department.

(H) A permit for any structure or use, for which a municipal construction authorization (town approval) is required, shall not be issued until the authorization has been issued.

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(I) A permit for any structure or use, for which a grading permit is required, shall not be issued until the permit has been issued.

(J) A permit for any structure or use, for which a design release/permit by the State Building Commissioner and the State Fire Marshal (pursuant to I.C. 22-15-3-1) is required, shall not be issued until the permit has been issued.

(K) A building permit, pool permit, or sign permit cannot be issued unless an improvement location permit has been issued (roofing permits do not require ILPs unless in conjunction with a new structure).

(L) A permit shall not be issued unless the proposed construction, reconstruction, alteration or use fully conforms to all applicable provisions of this chapter.  
(Ord. 2-2000, passed 3-13-2000, § 16.6)

**§ 153.478 FEES.**

(A) The Plan Commission may establish a schedule of fees, charges and expenses, and a collection procedure, for building permits, sign permits, use/location permits, special exceptions, grading permits, variances, waivers, appeals and other matters pertaining to this chapter.

(B) No permit, certificate, variance and the like shall be issued unless or until the costs, charges, fees or expenses, have been paid in full, nor shall an action be taken before the administrative board(s) until charges and fees have been paid in full.

(C) Where work for which a permit is required has been started or proceeded with prior to the issuance of a permit, for the work, then a construction without permit fee will be charged as designated in the fee schedule. Payment of the fees shall not relieve any person from fully complying with the requirements of adopted codes or ordinances in the execution of the work, from any other penalties prescribed.

(Ord. 2-2000, passed 3-13-2000, § 16.9)

**§ 153.479 PERMIT APPEALS.**

Any owner or occupant who has been denied a permit may appeal the denial by giving notice of appeal in writing to the Board of Zoning Appeals within 15 days of the denial, in accordance with §§ 153.070 through 153.081.

(Ord. 2-2000, passed 3-13-2000, § 16.10)

**§ 153.480 INSPECTIONS AND INVESTIGATIONS.**

(A) An officer of the Area Plan Commission shall have the right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the Area Plan Commission at any reasonable hour (I.C. 36-7-2-3) for the purposes of inspection, determination of plan compliance or other enforcement action.

(B) The Area Plan Office shall have the power to conduct an investigation as it may reasonably deem necessary to carry out the duties as prescribed in this chapter, and for this purpose to enter at reasonable times upon any public or private property, for the purpose of investigating and inspecting the sites of any complaints or alleged violations of this chapter.

(C) The Office or its agent shall also have the power to require written statements, certificates and certifications or the filing of reports under oath, with respect to pertinent questions relating to complaints or alleged violations of this chapter.

(Ord. 2-2000, passed 3-13-2000, § 16.11)

### § 153.481 PERMIT EXPIRATION.

(A) *Location, building, sign, pool or use permit.*

(1) If work has not begun within one year from the date of issuance thereof, the permit shall be void and a new permit, consistent with all provisions of this chapter, shall be required. For the purposes of this chapter, construction shall be deemed to have begun at the time of completion of an approved foundation inspection.

(2) If after two years of the date of issuance, the work is not completed, the permit shall immediately expire. No work authorized by any permit that has expired shall thereafter be performed until a new permit has been secured.

(B) *Time constraints on permits for mobile homes, manufactured homes and swimming pools.*

(1) All work must be completed, and a certificate of occupancy (§ 153.482) approved within six months of the issuance of the permit. Section 153.480(B) supersedes division (A) of the section.

(2) If, after six months of the date of issuance, the work is not completed, the permit shall immediately expire. No work authorized by a permit that has expired shall thereafter be performed until a new permit has been secured.

(C) *Condemnation.* Construction that has started, but is not completed, and on which a permit has expired, and a new permit is not granted, shall be subject to condemnation as provided for by §§ 153.145 through 153.166.

(D) *Posting.* A permit must be posted in a prominent place on the site at all times it is in effect.

(E) *Revocation.* Any permit, once approved, may be revoked if there has been an alteration of the site, structure, changes to the proposed facility or document falsification causing revocation of the permit.

(F) *Extension.* An extension may be granted for up to six months for a permit if requested at least three weeks before expiration of the permit.

(Ord. 2-2000, passed 3-13-2000, § 16.12)

**§ 153.483 CERTIFICATE OF OCCUPANCY REQUIREMENTS.**

(A) No structure shall be occupied, or its use changed until a certificate of occupancy (COO) is issued by the Area Plan Commission. This certificate shall state that the building and/or proposed use thereof complies with the provisions of this chapter.

(B) A COO shall be applied for concurrently with the application for a permit.

(C) A COO shall be issued as soon as practical after completion of construction or alterations of the structure after:

(1) Inspection by the Building Inspector to determine compliance with all applicable provisions of this chapter.

(2) Issuance of an operations permit for a septic system by the County or State Health Department or other approved sanitary disposal method; and

(3) Compliance with all applicable provisions related to Health, Building and Fire Codes. (Ord. 2-2000, passed 3-13-2000, § 16.4)

**§ 153.484 TEMPORARY CERTIFICATE OF OCCUPANCY.**

(A) A temporary certificate of occupancy may be for a time period as the Building Inspector deems it appropriate to complete the work, but not to exceed six months.

(B) A surety will be posted at an amount sufficient to ensure that the missing elements specified in the plan will be accomplished within the period of the temporary certificate of occupancy.

(C) If the work is not completed within the period of the temporary certificate of occupancy, the Building Inspector shall notify the owner. The owner shall cease use of the building and land immediately and shall not resume the use until a certificate of occupancy has been issued. Failure to cease use shall subject the owner or operator to civil penalties and other enforcement actions available under this chapter.

(D) An operations permit for a septic system from the County or State Health Department, or other approved sanitary disposal method, must be issued prior to temporary occupancy. (Ord. 2-2000, passed 3-13-2000, § 16.15)



**§ 153.485 AGREEMENT AND SECURITY FOR CERTIFICATES OF OCCUPANCY.**

(A) In lieu of requiring the completion, installation and dedication of all improvements prior to issuance of the COO, the Area Plan Commission may enter into an agreement with the developer whereby the owner shall complete all required improvements. Once the agreement is signed by the developer and the security required herein is provided, the COO may be issued, if all other requirements of this chapter are met. To secure this agreement, the developer shall provide any or a combination of the following guarantees to cover the cost of the uncompleted improvements.

(B) (1) The developer shall obtain a surety bond from a surety bonding company authorized to issue the bonds.

(2) The bond shall be payable to the County Commissioners and shall be in an amount equal to the entire estimated cost plus 10%, as approved by the Area Plan Commission, of installing all uncompleted improvements.

(C) (1) The developer shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash face value, in an escrow with a financial institution. The amount of deposit shall be equal to the entire estimated cost plus 10%, as approved by the Area Plan Commission, of installing all uncompleted improvements.

(2) If cash or other instrument is deposited in escrow with a financial institution as provided above, then the developer shall file with the Area Plan Commission an agreement between the financial institution and himself or herself guaranteeing the following.

(a) The escrow account shall be held in trust until released by the Area Plan Commission and may not be used or pledged by the developer in any other matter during the term of the escrow.

(b) In case of a failure on the part of the developer to complete the improvements, the financial institution shall, upon notification by the Area Plan Commission, immediately pay the funds deemed necessary by the Area Plan Commission to complete the improvements up to the full balance of the escrow account, or deliver to the Area Plan Commission any other instruments fully endorsed or otherwise made payable in full to the County Commissioners.

(D) The duration of a financial guarantee shall be of a reasonable period to allow for completion and acceptance of improvements. In no case shall the duration of the financial guarantee for improvements exceed one year.

(E) All developments whose improvements are not completed and accepted within 14 days prior to the expiration of the financial guarantee, shall be considered to be in default. The guarantee may be extended with the consent of the Area Plan Commission, if the extension takes place prior to default.

(F) Upon default, the surety bonding company or the financial institution holding the escrow account shall, if requested by the Area Plan Commission, pay all or any portion of the bond or escrow fund to the County Commissioners up to the amount deemed necessary by the Area Plan Commission to complete the improvements. Upon payment, the Area Plan Commission shall expend the funds for improvements. The County Commissioners shall return any funds not spent in completing the improvements. Default on a project does not release the developer from liability and responsibility for completion of the improvements.

(G) The Area Plan Commission may release a portion or all of any security posted as the improvements are completed and approved by the Area Plan Commission.  
(Ord. 2-2000, passed 3-13-2000, § 16.16)

### **§ 153.486 SITE PLAN APPLICABILITY.**

#### *(A) Requirements.*

(1) Site plans submitted for developments, or additions to existing developments with 20,000 square feet or more of gross floor area, or for open uses of land or expansions of open uses of land involving two acres or more should be approved by Technical Review Committee.

(2) Site plans shall contain all applicable information listed in Appendix B of this chapter.

#### *(B) Site plan approval.*

(1) No permit shall be issued until a detailed site plan has been approved.

(2) The site plan shall be approved when it meets all requirements of this chapter or proper variances are obtained.

(3) To lessen the time required to obtain all necessary approvals, the site plan approval process may run concurrently with building plan review, an application for a grading permit or other applications for approvals required for a particular project.

(4) If the site plan is approved, the applicant may proceed with other requirements necessary to obtain a permit.

(5) If the Technical Review Committee denies the site plan, reasons for the denial shall be stated in writing and the site plan may be revised and resubmitted. The Technical Review Committee shall take action within 30 days of reviewing the site plan. If the site plan is denied or granted conditional approval or if no action is taken within 30 days by the Technical Review Committee, the applicant may appeal the site plan to the Plan Commission. An appeal must be made within 15 days after denial, conditional approval or lack of action by the Technical Review Committee.

(6) If a site plan is appealed to the Plan Commission, it shall be scheduled, subject to filing deadlines, to be reviewed at the next regularly scheduled meeting. If the site plan is denied, granted conditional approval or if no action is taken by the Plan Commission, the applicant may appeal the site plan to the governing body within 15 days after Plan Commission action.

(7) If the site plan is granted conditional approval by the Area Plan Commission, Technical Review Committee, Plan Commission or governing body the applicant shall revise and resubmit the site plan. The Area Plan Commission shall review the revised site plan. If it meets all the approval conditions and is otherwise substantially unaltered, the APC shall signify on the plan the change from conditional approval to approval. If the site plan is not revised within 60 days or the applicant notifies the Area Plan Commission that he or she is unwilling to revise the site plan, it shall be deemed denied.

(Ord. 2-2000, passed 3-13-2000, § 16.17)

#### **§ 153.487 TEMPORARY CESSATION ON ISSUANCE OF PERMITS.**

(A) Provided that, the Plan Commission has specifically determined that condition required the action and have so authorized in a public meeting, the Area Plan Commission shall not issue any building permit for the proposed construction, reconstruction, alteration or use which would be in violation of any proposed amendment to the ordinance (text or maps) which is pending before the Plan Commission, from time of first public notice of the consideration until final disposition by the legislative body, but in no event longer than six months from the time of first public notice.

(B) In accordance with the Area Plan Commission's authority to propose and consider meaningful zoning regulation amendments without risking the establishment of contrary structures or uses through the issuance of building permits during the limited period when regulations are considered, no public hearing or prior notice shall be required for the Plan Commission to authorize a temporary building permit cessation pursuant to the preceding division (A).

(Ord. 2-2000, passed 3-13-2000, § 16.18)

#### **§ 153.488 PERMITS IN PLATTED SUBDIVISIONS.**

The Director is authorized to withhold or demand the withholding of the issuance of any permit under this chapter sought or requested for property for which a final plat has not been approved and recorded, or which is the subject of a violation of the final plat approval, including any plat note or restriction or any commitment of record in the county's final plat approval file.

(Ord. 2-2000, passed 3-13-2000, § 16.19)

**LANDSCAPING AND SCREENING**

**§ 153.500 USER GUIDE.**

The landscape category is either A, B, C, D or E. This subchapter establishes the requirements for each landscape category and the minimum landscaping requirements for all uses. The authorized use chart will define what landscape category is applied to each use.

<b>TABLE § 153.500</b>					
<b>Street Frontage</b>			<b>Interior Lot Lines (1)</b>		
<b>Category</b>	<b>Type</b>	<b>Width</b>	<b>Abutting Zone</b>	<b>Type</b>	<b>Width</b>
A	III	Minimum setback depth	All	III	5 feet or width of setback
B	III	10 feet or distance between lot line and building (whichever is less)	Residential (2)	II or I	15 feet 10 feet
			Others	III	5 feet or distance between lot line and building
C	III	10 feet or distance between lot line and building (whichever is less)	Residential (2)	I	25 feet
			Commercial (3)	II	10 feet
			Industrial (4)	III	5 feet
D	III	20 feet or distance between lot line and building	Residential (2)	I	25 feet
			Commercial (3)	II	10 feet
			Industrial (4)	III	5 feet
E	IV	(5)	All zones	IV	(5)
F	III	15 feet minimum setback	Residential (2)	I	6 feet
			Others	III	4 feet

**NOTES TO TABLE:**

1. Interior lot lines lot, which do not abut an alley.
2. AG through R5.
3. PB through GB.
4. I1 through I3.
5. See § 153.505.

(Ord. 2-2000, passed 3-13-2000, § 19.1)

**§ 153.501 PURPOSE.**

The purpose of this subchapter is to enhance compatibility between land uses and zones; screen undesirable views which have a blighting effect upon adjoining streets and properties; provide a visual buffer and physical separation between land uses of varying intensities on abutting properties; minimize the impacts of noise, light and glare; temper the extremes of microclimates; provide privacy; reduce dust; reduce the visual monotony of large expanses of paved parking lots; implement, the policies of the Comprehensive Plan; reduce storm water runoff and pollution of surface waters, reduce erosion and sedimentation; conserve energy; aid in regulating vehicle circulation; and retain existing natural vegetation and protect and preserve urban wildlife habitat to the extent feasible.

(Ord. 2-2000, passed 3-13-2000, § 19.2)

**§ 153.502 APPLICATION.**

The Area Plan Office shall review and may approve, disapprove or approve with modification all site/landscape plans for all uses and developments which are required to provide landscaping in accordance with the requirements of individual zones and the provisions of this subchapter. This subchapter shall apply under the following circumstances.

(A) All new uses shall provide landscaping in accordance with the requirements of this subchapter when the use standards table indicates a particular landscape category applies to that use, or when a particular landscape category and or additional specific landscaping requirements are imposed as part of a discretionary permit review process.

(B) The requirements of this subchapter shall apply to remodeling or expansion of existing uses when the value of the new construction or alteration occurring within a two-year period is equal to or greater than 35% of the assessed value of the existing structure. Where conformance with this chapter would create a nonconformity of parking standards or would conflict with the location of existing structures on the lot, the Director shall determine how the code is to be applied. In determining/deciding which of the landscaping requirements to adjust, listed in order of highest importance:

- (1) Compliance with street frontage landscaping standards;
- (2) Compliance with perimeter landscaping standards;
- (3) Compliance with internal area of parking lot standards; and
- (4) Compliance with other landscaping standards of this chapter.

(C) When the use of a structure or lot changes to another use which does not involve expansion or remodeling as provided in § 153.129, the use need not provide additional landscaping except under the following circumstances:

(1) Additional off-street parking is required, in which case the landscaping required by § 153.506 shall be required for all new parking spaces or parking facilities provided;

(2) The use is subject to review process II, III, IV or V, in which case the review authority shall establish the minimum landscape requirements for the specific use; and

(3) The previous use did not comply with the requirements of the landscaping regulations in effect at the time it was established, in which case the new use shall comply with the requirements in effect at the time of establishment of the previous use. If the location of existing buildings prevents conformance with the requirements of this subchapter, the Director shall determine how the code is to be applied.

(D) Where there is a difference in the standards listed in this subchapter and the specific requirements listed in individual zones, the more substantial requirements shall be required. The Director may permit alternative landscaping, as provided in § 153.505, when the overall site development plan proposed provides equivalent or better results than required by this code.

(Ord. 2-2000, passed 3-13-2000, § 19.3)

#### **§ 153.503 LOCATION OF LANDSCAPING.**

Landscaping shall be located where indicated by Table § 153.500. Where required landscape width exceeds the required setback, the landscape width may be reduced to the minimum setback width if the landscape type is increased to the next higher standard (i.e., Type III to Type II) except that where Type III landscaping is required along street frontages, it need not be increased to Type II landscape standards.

(Ord. 2-2000, passed 3-13-2000, § 19.4)

#### **§ 153.504 LANDSCAPING TYPE REQUIREMENTS.**

(A) *Type I, visual screen.* Type I landscaping is intended to provide a very dense sight barrier to significantly separate uses and zoning districts. It shall generally consist of a mix of predominantly evergreen plantings, including living trees, shrubs and ground covers. The choice and spacing of

plantings shall be such that they will form a dense hedge sufficient to obscure sight through the screen within three years after planting. Where a sight obscuring fence is required, chain-link fencing with slats shall not be considered to be sight obscuring. Type I landscaping shall consist of the following.

(1) A minimum of two staggered rows of evergreen trees planted along the entire length of the required buffer. Trees shall be chosen and spaced so as to form an effective visual screen which creates a solid sight-obscuring barrier within three years of planting. Trees shall be a minimum of three feet high at the time of planting.

(2) When a nonresidential use abuts a residential use in a residential zone and Type I landscaping is required between uses, Type I landscaping shall include a solid wood fence or masonry wall, or combination of wood and masonry, six feet in height (unless otherwise specified in the chapter) and located along the property line between the residential and nonresidential use.

(3) The entire width of the required buffer shall be landscaped. The remaining area which is not planted with the sight-obscuring barrier shall be planted with shrubs and ground cover. Shrubs shall be a minimum of 24 inches high at the time of planting. Shrubs and ground cover shall be planted to attain a coverage of 90% of the planting area within three years.

(4) Lawns may be used to cover up to 75% of the landscape area which is not used for the sight obscuring.

(B) *Type II, see-through buffer.* Type II landscaping is intended to create a visual separation between uses and zones. Type II landscaping shall consist of:

(1) A mix of evergreen and deciduous trees, with no more than 30% being deciduous a minimum of six feet in height, and planted at intervals no greater than 20 feet on center; and

(2) A mix of evergreen and deciduous shrubs, with no more than 30% being deciduous, a minimum of 24 inches high at the time of planting, planted at a density of five per 100 square feet of planting area, together with other living ground cover planted to attain a coverage of 90% within three years of planting.

(C) *Type III, ornamental effects landscaping.* Type III landscaping is intended to provide a visual separation of uses from streets and visual separation of compatible uses so as to soften the appearance of the development from public streets and soften the appearance of parking areas, buildings and other improvements. Type III landscaping shall consist of:

(1) Canopy-type of deciduous trees or spreading evergreen trees planted in wells or strips with a mix of living evergreen and deciduous ground covers and low shrubs. Up to 100% of the trees may be deciduous. Deciduous trees shall have a minimum trunk diameter of one inch and a minimum height of four feet at the time of planting. Evergreen trees shall have a minimum height of three feet at the time of planting. Trees shall be spaced at intervals no greater than 30 feet on center;

(2) Shrubs and living ground cover shall be chosen and planted to attain a coverage of 90% within three years of planting. Shrubs shall be minimum of 24 inches high at the time of planting and shall be planted at a density of five shrubs per 100 square feet of that portion of the landscape area which is not planted in lawn. Lawn may be used for up to 75% of the required ground cover;

(3) Landscaping located within public rights-of-way shall be lawn, unless otherwise dictated or written permission from entity governing right-of-way is given; and

(4) Irrigation systems shall not be located within a public right-of-way unless approved by the entity governing the right-of-way.

(D) *Type IV, soil stabilizing vegetation/landscaping.* Type IV landscaping is intended to provide a soil stability, prevent erosion and prevent sedimentation to off-site properties and improvements. Type IV landscaping shall consist of lawn, other living ground cover, shrubs and trees with a root structure which stabilizes soil where necessary to prevent erosion and sedimentation. Type IV landscaping may include other organic and or inorganic soil stabilizing materials such as rockeries, retaining walls or other similar slope and soil stabilization devices.

(E) *Pedestrian walkways.* Pedestrian walkways shall be permitted to cross required landscape areas. (Ord. 2-2000, passed 3-13-2000, § 19.5)

### **§ 153.505 LANDSCAPE CATEGORIES, APPLICATION.**

(A) Table § 153.500 established the type and width of landscaping required along property lines for the landscape category for a specific use in each individual zone. This table establishes the minimum requirements for each landscape category. However, additional standards may be required in individual zones or for uses being reviewed under Processes III, IV and V, when necessary to enhance compatibility between zones and uses. Where a minimum width of landscaping is specified, the actual width of the planting area shall be measured. Curbs, paving or other protective or boundary marking devices shall not be included in the measurement of landscape width.

(B) Application of Type IV landscaping shall be used in the following circumstances:

(1) All uses which are indicated as requiring Landscape Category E in the use standards tables of individual zones; and

(2) All interior portions of lots which are not developed with buildings, parking area and uses and which are not regulated by §§ 153.504, 153.506 and 153.507 or by other more specific landscape regulations contained in this chapter.

(Ord. 2-2000, passed 3-13-2000, § 19.6)



**§ 153.506 MODIFICATION OF LANDSCAPING REQUIREMENTS.**

The Director may authorize a reduced width of planting or waive some of the landscaping requirements in the following instances:

(A) Where the requirement of this subchapter would require more than 15% of the site area (excluding parking lots) to be landscaped, the Director may modify the requirements so that not more than 15% of the site area (excluding parking lots) must be landscaped. The Director may require more intensive landscaping if the reduction in the required planting area would reduce the effectiveness of the landscaping to a point where the intent of the landscape type cannot be satisfied;

(B) When the inclusion of existing vegetation on the site would result in landscaping equivalent to or better than the requirements of this subchapter in achieving the intent of the required landscape type;

(C) When existing conditions on or adjacent to the site, including, but not limited to, differences in elevation, existing vegetation, location of buildings or utilities would render the requirements of this section ineffective;

(D) When Type I visual screening is required an applicant may request to use plantings that can be expected to form a healthy sight-obscuring evergreen hedge within three years in lieu of two rows of trees. In reviewing a request for modification, the Director shall consider the applicant's request in light of the intent of Type I landscaping and the nature of the use or development which is being screened;

(E) When the applicant proposes an alternative method of landscaping that would achieve the intent and purpose of the landscaping required in this subchapter and which the Director determines to provide superior quality through the use of native vegetation existing on site, preservation of groves of trees, preservation of wetlands and/or wildlife habitat, increasing perimeter landscape width in strategic locations, providing unique focal points of interest or through other means;

(F) When development will occur in phases and development of subsequent phases will result in removal of landscaping required by this subchapter;

(G) In approving a request for a modification of landscaping requirements, the Director shall issue finding upon which the approval is based. The Director may attach conditions to any approval of a request for modification of landscaping requirements if necessary to assure that the intent of the landscape type and any modification thereof is maintained. Any appeal of the Director's decision approving or disapproving a request to modify landscaping requirements is subject to the appeals in §§ 153.095 through 153.105; and/or

(H) When the subject property abuts a railroad right-of-way developed with rail facilities, the Director may modify the landscaping requirements for that portion of the property abutting the railroad right-of-way if the modification will not reduce the compatibility between the subject property and other properties in the vicinity.

(Ord. 2-2000, passed 3-13-2000, § 19.7)

**§ 153.507 OUTDOOR DISPLAY AND OFF-STREET PARKING LANDSCAPE REQUIREMENTS.**

The following requirements shall apply to landscaping of all off-street parking, outdoor automobile sales and outdoor display areas. The purpose of this section is to provide visual relief along the street frontage of outdoor display and off-street parking areas.

(A) Parking areas, automobiles sales lots and other outdoor display areas which front on a street right-of-way shall provide a ten-foot wide landscaped area along the entire street frontage, except for driveways, planted to Type III standards.

(B) The property owner may apply for permission for up to one-half of the landscaping area to be placed within public right-of-way provided that the minimum width of the planting areas is at least ten feet. The landscaping on right-of-way shall be consistent with the entity's street tree program when applicable.

(C) Plantings used to satisfy the requirements of § 153.506(A) may be placed on street right-of-way if the property owner provides the municipality or county with a written release of liability in a form which is acceptable, for damages which may be incurred to the landscape area by public use of the right-of-way and the landscape area is maintained by the property owner.

(D) The following amounts of landscaping shall be provided in the internal area of parking lots and outdoor sales and display areas, exclusive of the landscaping required to be provided along street frontages and along other lot lines by § 153.506(A).

(1) If a site contains a total of ten or fewer parking spaces or not more than 2,000 square feet of parking and maneuvering area, no landscaping is required in the internal area of parking lots.

(2) If the parking area contains more than ten, but not more than 50, parking spaces, at least five square feet of landscape development must be provided as described in this section for each parking stall proposed.

(3) If the parking area contains more than 50, but less than 100 parking spaces, at least 15 square feet of landscape development must be provided as described in this section for each parking stall proposed.

(4) If the parking area contains more than 100 parking spaces, at least 20 square feet of landscape development must be provided as described in this section for each parking stall installed.

(E) Landscaping of the planting areas located in the interior of parking lots and outdoor display areas, as required by this section, shall conform to the following standards.

(1) No required landscape area shall be less than 64 square feet in area or five feet in width.

(2) There shall be one tree, a minimum of four feet high at the time of planting, planted for each 100 square feet of landscape area or fraction thereof. Up to 50% of the trees may be deciduous.

(3) Ground cover shall be provided in the required landscape areas. Ground cover shall be selected and planted so as to withstand foot traffic and provide 90% coverage within three years of planting.

(4) No parking stall shall be located more than 50 feet from an internal landscape area.

(5) Vegetation planted at aisle ends and lane intersections shall be planted and maintained to prevent the obstruction of driver visibility.

(6) When off-street parking is located within a parking structure, other than a carport, or within an enclosed garage, the landscaping required by this section need not be provided for the parking spaces contained within the structures. When off-street parking is provided under a carport, the landscaping required in the internal area of parking lots by this section shall be provided.

(7) The landscape requirement may be reduced to five feet in width and planted with Type II landscaping if a six-foot high screening fence constructed of wood, masonry or a combination of wood and masonry is erected on the property line between the residential zone and the outdoor display area of off-street parking facility, except in situations where a greater landscape width and more substantial landscape is required. Where outdoor display areas and off-street parking facilities for office, commercial or industrial uses abut residential zones, they shall be separated by a ten-foot wide landscape strip planted with Type I landscaping.

(8) Where off-street facilities for multiple-family uses are located adjacent to single-family zones (AG - R3) they shall be separated therefrom by a 15-foot wide strip landscaped to Type II standards. The landscape strip may be reduced to ten feet if a six-foot high solid screening fence constructed of wood, masonry or combination of wood and masonry is erected on the property line between the multiple-family use and the single-family uses.

(9) All planting areas bordering driveways and parking areas shall be protected by curbing, wheel stops or other similar protective devices. The protective devices shall be shown on landscape plans. (Ord. 2-2000, passed 3-13-2000, § 19.8)

**§ 153.508 LANDSCAPING ADJACENT TO FREEWAYS.**

Where perimeter landscaping is required by this subchapter for specific uses, and the lot upon which the use is proposed abuts the right-of-way of Interstate 69, S.R. 9, S.R.15, S.R.18 or S.R.37, a landscape strip shall be planted to Type III standards, unless the use is otherwise required to provide more substantial landscaping by other sections of this subchapter.

(Ord. 2-2000, passed 3-13-2000, § 19.9)

**§ 153.509 LANDSCAPING PLAN REQUIREMENTS.**

(A) The applicant shall submit three sets of landscape plans for review by the Area Plan Commission. The landscape plan may be incorporated into the site development plan or provided separately. No permit which is subject to the requirements of this subchapter shall be issued until the landscape plan for the use has been approved by the Area Plan Commission.

(B) The landscape plan shall be drawn to a scale, which is appropriate, to accurately depict the following information:

(1) The species names of all plants proposed to be used;

(2) The number, size and spacing of all proposed plants and the height of trees and shrubs at the time of planting;

(3) The lot area of the lot required to be landscaped;

(4) The area of the lot proposed to be landscaped;

(5) Location and dimensions of planting areas;

(6) Details of any required berms or fences; and

(7) The location of any proposed or required pedestrian walkways.

(Ord. 2-2000, passed 3-13-2000, § 19.10)

**§ 153.510 GENERAL LANDSCAPE REQUIREMENTS.**

The following standards shall apply to all areas which are required to be landscaped by this subchapter.

(A) Deciduous trees shall have a trunk diameter of at least two inches, measured at six inches above the ground, and shall be a minimum of four feet in height at the time of planting.

(B) Evergreen trees shall be at least three feet high at the time of planting.

(C) Nonflowering shrubs shall be at least a two-gallon size and at least 24 inches high at the time of planting.

(D) (1) Ground cover includes low-growing, living plant materials such as perennials, grass, ivy and similar plants.

(2) For purposes of this subchapter, chipped wood, bark, similar mulching materials or nonliving artificial plant materials are not acceptable substitutes for required ground cover.

(E) In order to accomplish 90% coverage of bare soil by ground cover within three years, spacing for ground cover shall be as follows:

(1) Two and one-half inch pots: 12 inches on center;

(2) Four-inch pots: 18 inches on center;

(3) One-gallon pots: 24 inches on center;

(4) Alternative spacing of particular species may be approved by the Director, if documentation concerning the effectiveness of the ground cover is submitted with the landscape plan; and

(5) All plant materials, sizes and characteristics shall be in accordance with the current American Association of Nurserymen standards.

(Ord. 2-2000, passed 3-13-2000, § 19.11)

#### **§ 153.511 INSTALLATION AND SECURITY REQUIREMENTS.**

(A) Landscaping required pursuant to this subchapter shall be installed in accordance with the approved landscape plan prior to the issuance of a certificate of occupancy. An applicant may request a temporary certificate of occupancy. If a temporary certificate is issued, all required landscaping shall be installed within six months after issuance of the temporary certificate of occupancy. The Area Plan Office shall require a performance assurance device prior to issuing a temporary certificate of occupancy.

(B) Prior to issuance of a final certificate of occupancy, the Area Plan Commission shall verify that the landscaping is installed in accordance with the approved landscape plan.

(C) (1) If installation of the required landscaping or screening is not completed within the period specified, the security may be used by the Area Plan Commission to contract for completion of the installation.

(2) Upon completion of the installation, any portion of the remaining security shall be returned or any additional incurred costs will be billed to the developer/owner.

(D) (1) The Area Plan Commission shall perform the final landscape and screening inspection prior to any security being returned.

(2) Any portion of the landscaping not installed properly shall cause the certificate of occupancy to be withheld or revoked.

(Ord. 2-2000, passed 3-13-2000, § 19.12)

#### **§ 153.512 MAINTENANCE AND ENFORCEMENT.**

All landscape areas required by this subchapter shall be maintained in accordance with the following standards.

(A) All landscaping shall be maintained with respect to pruning, trimming, moving, watering, insect control, fertilizing or other requirements to create a healthy growing condition, attractive appearance and to maintain the purpose of the landscape type.

(B) Dead, diseased, stolen, vandalized or damaged plants shall be replaced within three months (unless the season prohibits), with the plants indicated on the approved landscape plan.

(C) All landscaped areas shall be maintained reasonably free of weeds and trash.

(D) All required landscaping, which is located within a right-of-way, shall be maintained by the owner of the property.

(Ord. 2-2000, passed 3-13-2000, § 19.13)

#### ***ANIMAL FEEDING OPERATIONS***

#### **§ 153.525 SCOPE AND PURPOSE.**

(A) The County Plan Commission recognizes that agriculture was the foundation of the county and is essential to the continued economic well being of the county. It understands that, with ever improving technology and market trends, the agricultural industry has evolved. To minimize adverse effects and to protect the public health and safety consideration should be given to the many branches of the agricultural industry and their effect on the environment. The Plan Commission recognizes that the county has many diverse areas where the geologic, topographic, climatic, biological and social conditions are significantly different and specifications for animal feeding operations may vary depending on these conditions.

(B) Animal feeding operation development plan review is hereby established in order to encourage the flexibility in the development of land that may be necessary to permit adjustments to changing public and private needs; to foster the ability to provide development patterns which are more compatible with and effective in meeting the needs; to promote the more efficient use of land so as to preserve and enhance the natural characteristics and unique features of a property; to improve the design, character and quality of new development; to encourage integrated planning for the economical provision of streets/roads/infrastructures and other utilities to reduce the burden by more efficient development; and to conserve the value of land.

(Ord. 2-2000, passed 3-13-2000, § 27.1)

### § 153.526 DELINEATION.

In this subchapter only:

(A) The term *LEGISLATIVE BODIES* will be used hereafter to represent the County Commissioners, Fairmount Town Council, Matthews Town Board, and Upland Town Council, Jonesboro City Council, Sweetser Town Council and Van Buren Town Council. This terminology will apply to this subchapter only.

(B) Waste management systems shall be considered structures.

(C) All measurements for separation distances shall be from the closest edge of any structure (excluding fences, silos, structures less than 200 square feet and vehicle fuel storage tanks and apparatus) of the feeding operation to the closest edge of the structure designated; or the boundary of the corporate limits of a city or town, public park, sensitive area, public water supply surface intake structure or 100-year floodplain.

(D) The regulations in this subchapter are in addition to the promulgated rules from State Department of Environmental Management (IDEM), Environmental Protection Agency (EPA) or any other agency or board designated at the federal, state or local level to monitor or regulate animal feeding operations either directly or indirectly. Any revisions to the state or federal rules shall be accepted in these regulations, without an amendment and while printed revisions are updated. In the case of conflicting requirements, the more restrictive requirement will prevail. The revised rules shall be placed on file, within 180 days, in the Area Plan Office and all participating governmental offices.

(Ord. 2-2000, passed 3-13-2000, § 27.2; Ord. 7-2006, passed 1-28-2006)

**§ 153.527 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The following definitions are adopted when referring to confined feeding operations and concentrated feeding operations.

***ANIMAL FEEDING OPERATIONS.*** A confined feeding lot or facility, other than an aquatic animal production facility, where all these conditions are met:

(1) Animals, other than aquatic animals, have been, are or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period;

(2) Crops, vegetation, forage growth or post harvest residues are not sustained in the normal growing season over at least 50% of the lot or facility; and

(3) Have at least the number of animals designated by the Indiana Department of Environmental Management (IDEM) for confined feeding operations.

***CONCENTRATED ANIMAL FEEDING OPERATION.*** Any confined feeding of at least:

(1) Cattle or cow/calf pairs: 1,000;

(2) Mature dairy cattle: 700;

(3) Veal calves: 1,000;

(4) Swine (weighing over 55 pounds): 2,500;

(5) Swine (weighing less than 55 pounds): 10,000;

(6) Horses: 500;

(7) Sheep or lambs: 10,000;

(8) Turkeys: 55,000;

(9) Laying hens or broilers (liquid manure handling system): 30,000;

(10) Chickens other than laying hens (other than a liquid manure handling system): 125,000;

(11) Laying hens (other than a liquid manure handling system): 82,000; and

(12) Ducks (other than a liquid manure handling system): 30,000.



***CONFINED FEEDING.***

(1) The confined feeding of animals for food, fur or pleasure purposes in lots, pens, ponds, sheds or building where:

(a) Animals are confined, fed and maintained for at least 45 days during any 12-month period; and

(b) Ground cover or vegetation is not sustained over at least 50% of the animal confinement area.

(2) The term does not include the following:

(a) A livestock market where animals are assembled from at least two sources to be publicly auctioned or privately sold on a commission basis and that is under state or federal supervision; and/or

(b) A livestock sale barn or auction market where animals are kept for not more than ten days.

(327 I.A.C. 16-2-4)

***CONFINED FEEDING OPERATION.***

(1) An animal feeding operation of at least:

(a) Three hundred cattle;

(b) Six hundred swine or sheep; and/or

(c) Thirty thousand fowl.

(2) ***ANIMAL FEEDING OPERATION***, electing to be subject to I.C.13-18-10, that causes a violation of:

(a) Water pollution control laws;

(b) Any rules of the Water Pollution Control Board; and

(c) I.C. 13-18-10.

(327 I.A.C. 16-2-5)

***DEVELOPMENT REQUIREMENTS.*** Development standards, plus any additional requirements specified in this subchapter which must be satisfied in connection with the approvals of a development plan.

**DEVELOPMENT STANDARDS.** Area, bulk, height and other applicable regulations of a zoning district contained in this chapter which govern the physical development of real estate.

**FILTER STRIP.** A relatively uniform and maintained vegetated area used for collection sediment and cleansing run-off.  
(327 I.A.C. 16-2-12)

**FOOD PROCESSING OPERATION.** A commercial establishment under and subject to the licensing, inspection and permitting regulations of the United States Food and Drug Administration (including, but not limited to, the regulations relating to manufacturing, packing or holding human food contained 21 C.F.R. part 110) where food is manufactured or packaged for human consumption at another establishment or place.

**GEOMEMBRANE.** Specialized plastic sheeting used as a liner to create a barrier between waste and the environment.

**GROUND WATER.** The accumulations of underground water, natural or artificial, public and private or parts thereof, which are wholly or partially within, flow through or border upon the state, but excluding human-made underground storage or conveyance structures.  
(327 I.A.C. 16-2-16)

**INCORPORATION.** The mixing of liquid or solid manure, with the surface soil using standard agricultural practices, such as tillage.  
(327 I.A.C. 16-2-19)

**INJECTION.** The placement of liquid manure beneath the surface of the soil in the crop root zone using equipment specifically designed for this purpose.  
(327 I.A.C. 16-2-20)

**LEGISLATIVE BODY.** Encompasses County Commissioners, Van Buren Town Council, Upland Town Council, Matthews Town Board, Fairmount Town Council, Jonesboro City Council and Sweetser Town Council.

**LINER, GEOSYNTHETIC CLAY.** High performance environmental liner comprised of geosynthetic carrier components bonded to a layer of low permeability volclay sodium bentonite.

**LINER SYSTEMS, COMPOSITE.** Consists of a geomembrane in combination with a clay liner.

**LINER SYSTEMS, DOUBLE.** Consists of either two single liners, two composite liners or a single and composite liner.

**LINER SYSTEMS, SINGLE.** Consist of a clay liner, a geosynthetic clay liner, a geomembrane or concrete for a pit.

**MANURE.** Any liquid or solid animal excreta or any used bedding, litter or contaminated runoff.  
(327 I.A.C. 16-2-22)

**MANURE APPLICATION.** The placement of liquid or solid manure by:

- (1) Spraying or spreading onto the land surface;
- (2) Injection below the land surface; and/or
- (3) Incorporation into the soil.

(327 I.A.C. 16-2-23)

**MUNSELL SOIL COLOR CHART.** As amended from time to time, an industry standard reference book used to classify soils based upon color and other factors.

**ODOR ABATEMENT STRATEGIES.** Include, but are not limited to, one or more of the following: biofiltration of exhaust air, vertically-directed exhaust (high chimney or fan assist), soybean oil spray for dust control, electrostatic precipitation, ozonation, anaerobic digesters, diet manipulation, manure drying methods, reducing manure loading rates for lagoon, aerating the surface of a lagoon, windbreak walls, odor absorbing trees around perimeter of lagoon, loading lagoon frequently and uniformly rather than intermittently, reducing the surface area of lagoon by having a greater depth, permeable floating covers (biocover or geotextile membrane) for manure storage or lagoon, impermeable floating plastic covers, lightweight roofs over solid manure storage structures, composting, solids separation, bottom loading lagoons or other proven strategies, designs or technologies that reduce odor.

**OWNER/OPERATOR.** The person who owns the waster management systems at the confined feeding operation, who owns the livestock at the confined feeding operation and who applies for or has received an approval pursuant to this subchapter or in direction or responsible charge or control of one or more confined feeding operations or land application activity. This also includes contractors responsible for activities described in 327 I.A.C. 16-1-1(a) at the confined feeding operation.  
(327 I.A.C. 16-2-29)

**POND, HOLDING.** A small pond designed for short-term collection and storage of feedlot runoff. Manure solids, unless in extremely small amounts should be kept out. When pumped down, such a facility should be emptied completely and cleaned out.

**PUBLIC WATER.** The public water supply as defined under state law.

**PUBLIC WATER SUPPLY SURFACE INTAKE STRUCTURE.** Any structure used for the purpose of providing water through a public water supply system.  
(327 I.A.C. 16-2-31)

**SEASONAL HIGH WATER TABLE.** The upper limit of soil saturated with water for periods long enough for anaerobic conditions to affect soil color.

***SENSITIVE AREA.*** A site where conditions pose a specific water quality threat to one or more of the following:

- (1) Aquifers used as a source of drinking water;
- (2) Public water supply wells;
- (3) Wellhead protection areas;
- (4) Drinking water supply reservoirs; and
- (5) Areas requiring special protection such as:
  - (a) Wetlands, except for wetlands constructed for manure management;
  - (b) Karst terrain;
  - (c) The critical habitat of an endangered species; or
  - (d) Natural areas, including:
    1. Parks;
    2. Natural preserves, as regulated under I.C. 14-31;
    3. Historic sites, as defined herein; and
    4. Public lands, as defined in I.C. 14-38-1-5.

(327 I.A.C. 16-2-34)

***SPRAY IRRIGATION.*** The application of manure or waster liquid on the land through a stationary or mobile sprinkler type system.

(327 I.A.C. 16-2-36)

***STAGING.*** The temporary placement of manure in a pile at the site where the manure will be land applied.

(327 I.A.C. 16-2-37)

***SURFACE APPLICATION.*** The placement of manure by spraying or spreading onto the land surface.

(327 I.A.C. 16-2-38)

***SURFACE WATER.*** Water present on the surface of the earth, including streams, lakes, ponds, rivers, swamps, marshes or wetlands.  
(327 I.A.C. 16-2-39)

***VEGETATIVE MANAGEMENT SYSTEM.*** An area with vegetation designed to accept contaminated runoff or waste liquid after settling for the purpose of treatment or infiltration into the soil.  
(327 I.A.C. 16 -2-41)

***WASTE LIQUID.*** Liquid to be handled as manure that is generated at the confined feeding operation, including excess drinking water, clean-up water, contaminated livestock truck or trailer wash water, milking parlor wash water, milk house wash water, egg wash water, silage leachate or runoff that threatens water quality standards.  
(327 I.A.C. 16-2-42)

***WASTE MANAGEMENT SYSTEM.*** Any method of managing manure or waste liquid at the confined feeding operation including manure storage structures, manure transfer systems, manure treatment systems (such as a constructed wetland, vegetative management system, a wastewater treatment system under a national pollutant discharge elimination system permit or other system approved by the Commission), feedlots, confinement buildings or waster liquid handling storage and treatment systems.  
(327 I.A.C. 16-2-44)  
(Ord. 2-2000, passed 3-13-2000, § 27.3; Ord. 7-2006, passed 1-28-2006)

#### **§ 153.528 ANIMAL FEEDING OPERATION DEVELOPMENT REVIEW.**

It is hereby acknowledged that animal feeding operation land uses, while generally appropriate in agricultural zoning districts have characteristics and location impacts which may have a detrimental effect upon other land uses. An animal feeding operation development plan review is created for agricultural zoning districts.  
(Ord. 2-2000, passed 3-13-2000, § 27.4; Ord. 7-2006, passed 1-28-2006)

#### **§ 153.529 DEVELOPMENT PLAN.**

The development plan review shall include consideration of (for the area to be developed which includes all buildings, waste management systems, silage storage and monitoring wells):

(A) Topography and other natural site features, including streams, waterways and underground aquifers;

(B) Location of all known orphaned and abandoned oil and natural gas wells;

(C) Compatibility of the proposed use and the site design with the district and adjoining areas in which the use is proposed to be located;

- (D) Proximity of the site to incorporated areas, residential uses or other sensitive areas;
- (E) Screening or buffering of adjacent properties by either existing vegetation or other proposed means;
- (F) Driveway locations and street access;
- (G) On-site and off-site accommodations for vehicular circulation patterns;
- (H) Amount, location and design of parking areas and loading areas;
- (I) Availability and adequacy of roads and other infrastructure;
- (J) A copy of the Manure Management Plan as submitted to the State Department of Environmental Management during the State Confined Feeding Regulation Program permitting process; and
- (K) A copy of an animal disposal plan which shall indicate, to the Plan Commission's satisfaction, all steps that will be taken to assure that animal disposal is properly undertaken.  
(Ord. 2-2000, passed 3-13-2000, § 27.5; Ord. 7-2006, passed 1-28-2006)

***Editor's note:***

*See IDEM - CFO Guidance Manual for assistance.*

**§ 153.530 DEVELOPMENT REQUIREMENTS AND DEVELOPMENT STANDARDS.**

An animal feeding operation must follow the procedure for development as outlined in § 153.531. The AFO must also meet the following requirements and standards.

- (A) The site of the AFO must be under single ownership and/or unified control.
- (B) The AFO must be so located as to exercise no undue detrimental influence upon surrounding properties which can be ensured if all requirements are met. In addition, the AFO shall not endanger the public welfare or safety.
- (C) An animal feeding operation, which includes the waste management system, must have a separation distance of at least:
  - (1) Two miles from a food processing operation;
  - (2) One thousand three hundred and twenty feet from any corporate boundary of any city or town in the county;
  - (3) One mile from a public or private school (home school or temporary school locations do not apply);

(4) One thousand three hundred and twenty feet from a residence, except for residences which are located on the land within the AFO;

(5) One thousand three hundred and twenty feet from a public park or building owned by a government entity open to the public at least 120 consecutive days a year;

(6) One thousand three hundred and twenty feet from a public water supply well or public water supply surface intake structure; and

(7) Fifty feet from a 100-year floodplain boundary.

(D) No use for which a separation requirement has been established shall locate within the perimeter distances set forth above unless they sign a notice of agricultural activity (located in Appendix C) and agree to not remonstrate against or otherwise complain about any aspect of the AFO which is in compliance with this chapter.

(E) The Plan Commission may waive the separation distances from residences for an AFO during the development plan review if the petitioner has notarized affidavits from all adjacent property owners stating their endorsement of the decrease in separation distance.

(F) Adequate provision shall be made to provide ingress and egress so designed as to minimize both internal and external traffic hazards and congestion.

(G) No structures of an AFO shall be located within 200 feet from the property lines and public road rights-of-way.

(H) Manure storage for open lagoons of at least 180 days with two feet of freeboard and storage for a 25-year, 24-hour storm event, excluding holding ponds.

(I) Landscaping shall be placed in conformance with §§ 153.500 through 153.512.

(J) List of water well logs (on file with the State Department of Natural Resources) within a 1,000-foot radius of the waste management system and the location of those wells.

(K) Complete subsurface geological study of the area on which the structures and monitoring wells will be located, including information on soils; groundwater sampling and analysis; hydrology; geology of the land areas used for the manure storage or treatment facility; and a digital magnetic survey.

(L) An insect and rodent control plan must be submitted. The content of an insect and rodent control plan should include how the farm will address, inspect and maintain its individual records. It should include a narrative description of pest management; standard operating procedures for actions to

minimize insects and rodents; methods of monitoring and procedures for record keeping; and describe management controls such as inspecting regularly for water leaks, managing moisture levels in manure and monitoring manure stockpiles.

(Ord. 2-2000, passed 3-13-2000, § 27.6; Ord. 7-2006, passed 11-28-2006) Penalty, see § 153.999

### **§ 153.531 PROCEDURE FOR DEVELOPMENT.**

(A) The unique character of an animal feeding operation requires its administrative processing as a special process in this subchapter. The procedure, standards, objectives and purpose set forth in this subchapter, when in conflict with other provisions of this subchapter as they may pertain to AFOs and only AFOs shall be superseding.

(B) All prospective applicants shall review copies of this subchapter, which is available for inspection at the Area Plan Office to determine the consistency of the proposal with the county's adopted planning rationale and whether or not the proposal is likely to be compatible with existing and anticipated lands uses in the vicinity of the proposal. The AFO section of this chapter shall be reviewed to ensure familiarity with the required AFO procedures.

(1) The applicant is required to sign a statement to the effect that the applicant has reviewed copies of this subchapter and the zoning maps of this subchapter at the time the AFO application is submitted for approval.

(2) Preliminary development plan:

(a) A request for approval of a preliminary development plan shall be submitted to the Area Plan Office, which shall refer the same to the Plan Commission for public hearing, review and approval. The required procedure for review of the preliminary development plan shall be: submission of the items required of a preliminary development plan petitioner, as identified in the submission requirements and the development requirements of this chapter.

(b) The Plan Commission shall hold a public hearing on the application for an AFO development plan in accord with the procedures established in the ordinance for public hearings.

(c) Following the public hearing and review of the preliminary development plan submission, the Plan Commission shall approve, approve with conditions or deny the preliminary development plan and state the reason therefor.

(d) Approval of a preliminary development plan shall not constitute approval of the final development plan. Rather, it shall be deemed an expression of approval to the layout submitted on the preliminary development plan.



(C) Final development plan:

(1) The purpose of the final plan is to designate with particularity the layout of the animal feeding operation. The final development plan shall be recorded.

(2) The final development plan shall conform substantially to the preliminary development plan as approved. The required procedure for approval of a final development plan shall be:

(a) Submission of the items required of a final development plan as identified in the submission requirements section;

(b) A public hearing is not required;

(c) The Plan Commission must approve, approve with conditions or deny; and

(d) Permits will be issued only after the final development plan approval and recording.

(D) Improvement location and building permits:

(1) All required permits must be obtained before construction of an AFO is commenced;

(2) All requirements in this chapter must be met for an improvement location permit and building permit;

(3) Any applicant(s) who have or had ownership in an animal feeding operation during the past five years shall not have any outstanding unresolved violations with the State Department of Environmental Management or any other corresponding or comparable local, state or federal regulatory agency. All outstanding violations must be resolved before a permit from the county will be issued. The applicant shall submit a signed affidavit stating that there are no outstanding violations;

(4) A site plan and set of construction drawings must be submitted with the following information:

(a) Location of staging of manure or waste;

(b) Location and detailed cross sections for construction of filter strips;

(c) Detailed cross sections for construction of waste management system;

(d) Location of adjacent property owners with addresses;

(e) Building sizes and locations (proposed and existing);

(f) Boundary lines and dimensions of property;

- (g) Separation distances;
  - (h) Landscaping, type and location;
  - (i) Existing and proposed easements, generous purpose width;
  - (j) Streets on, adjacent or proposed for the tract including all rights-of-way and pavement widths;
  - (k) General location, purpose and height, in feet or stories of each building other than single-family residences; and
- (l) Topography of the property and within 250 feet of the subject site at a minimum of five-foot contour intervals, with natural drainage patterns indicated.

(5) All development requirements and development standards shall be met and the required documentation must accompany an application; and

(6) The applicant shall submit a construction completion affidavit stating that the waste management system has been constructed and will operate in accordance to the standards set forth in this chapter and be in compliance with all applicable IDEM standards, before a certificate of occupancy will be granted for an AFO.

(Ord. 2-2000, passed 3-13-2000, § 27.7; Ord. 7-2006, passed 11-28-2006)

#### **§ 153.532 LAGOON AND PIT INSTALLATION.**

(A) The installation of the lagoon and pit must be inspected by a licensed engineer approved by the Plan Commission. The selection of the engineer may be deferred to the petitioner or the number of inspections may be waived by the Plan Commission at the Development Plan Review if the petitioner can demonstrate satisfactorily to the Plan Commission that the intent of these requirements will not be jeopardized.

(B) (1) The type of liner shall be based upon the subsurface geological survey of the site.

(a) If the bottom of the excavated lagoon is at or lower than the perched seasonal high water table, orphaned and abandoned oil or natural gas wells [all located wells must be plugged to current State Department of Natural Resources (or its equivalent) standards] are located under the lagoon, and the soils in the lagoon are highly permeable as determined by the Munsell Soil Color Chart, then a double liner system shall be required.

(b) If the bottom of the excavated lagoon is at or lower than the perched seasonal high water table, orphaned and abandoned oil or natural gas wells [all located wells must be plugged to current State Department of Natural Resources (or its equivalent) standards] are located under the lagoon or the soils in the lagoon are highly permeable as determined by the Munsell Soil Color Chart, then a composite liner system shall be required.

(c) If other natural or human-made conditions exist at the location of lagoon that would result in a detrimental threat to the environment, then the Plan Commission with the development plan review may determine the type of liner best suited to the site and conditions.

(d) If divisions (B)(1)(a), (b) or (c) above do not apply, then a liner system as defined by the State Department of Environmental Management or its equivalent shall be required.

(2) Inspections shall be conducted by a licensed engineer, who is approved by the Plan Commission.

(a) The lagoon must be inspected once excavation is completed but before the liner is installed.

1. If orphaned and abandoned wells are located at the site then documentation from the engineer must be submitted, to the Plan Commission, that verifies they are properly plugged at the time of closure or to current state standards.

2. If, during excavation, an orphaned and abandoned well is found or believed to be found, then all construction must cease until the engineer can survey the site to determine if other orphaned or abandoned wells exist which must be plugged and whether the type of liner must be changed.

(b) The lagoon must be inspected no less than two times, but not more than three times, during the installation of the liner.

(c) The lagoon must be inspected when installation of the liner is completed including a compaction test.

(C) (1) The liner of the pit shall be based upon the subsurface geological survey of the site.

(a) The liner shall be sealed from the inside of the pit and not the outside.

(b) The liner shall be installed to the State Department of Environmental Management standards or its equivalent.

(2) Inspections shall be conducted by a licensed engineer, who is approved by the Plan Commission.

(a) The pit must be inspected once excavation is completed, but before the concrete is poured.

1. If orphaned and abandoned wells are located at the site, then documentation from the engineer must be submitted, to the Plan Commission, that verifies they are properly plugged at the time of closure or to current state standards.

2. If, during excavation, an orphaned and abandoned well is found or believed to be found, then all construction must cease until the engineer can survey the site to determine if other orphaned or abandoned wells exist which must be plugged and whether the type of liner must be changed.

(b) The pit must be inspected once the forms and reinforcement are in place, but before the liner is installed.

(c) The pit must be inspected when installation of the liner is completed.  
(Ord. 2-2000, passed 3-13-2000, § 27.8; Ord. 7-2006, passed 11-28-2006)

### **§ 153.533 MONITORING WELLS.**

(A) Monitoring wells shall be used to test subsurface water for nitrites, nitrates and coliform bacteria using surface water standards and shall be to the free flowing water level.

(B) The number of wells and placement shall be determined by a geologist and based upon the subsurface geological survey of the site.

(C) The monitoring wells shall have samples taken by and be tested by a certified laboratory with monetary compensation requirements to be the AFO petitioner. The results shall be sent to the County Health Department and County Area Plan Commission.

(1) A baseline test shall be taken before an AFO begins operation. Hydrogen sulfide levels shall be determined with the baseline testing, but not with additional testing requirements, unless problems with hydrogen sulfide levels are found and then testing for hydrogen sulfide may be required by the Plan Commission.

(2) Quarterly testing shall be done for the first year after the commencing of the AFO operation.

(3) Bi-annual testing shall be done for the second year after the commencing of the AFO operation. If a test result shows unacceptable levels of nitrites, nitrates or coliform bacteria using surface water standards that are proven to be a result of the AFO, then quarterly testing shall be completed until one year of acceptable tests results are completed.

(4) Annual testing shall be done from the start of the third year after the commencing of the AFO operation until permanent closure of the facility. If a test result shows unacceptable levels of nitrites, nitrates or coliform bacteria using surface water standards that are proven to be a result of the AFO, then quarterly testing shall be completed until one year of acceptable tests results are completed. (Ord. 2-2000, passed 3-13-2000, § 27.9; Ord. 7-2006, passed 11-28-2006)

#### **§ 153.534 CHANGES IN THE DEVELOPMENT PLAN.**

(A) The AFO shall be developed only in accordance to the approved and recorded development plan and all supporting data. The recorded development plan and supporting data together with all recorded amendments shall be binding on the applicants, their successors, grantees and assignees and shall limit and control the use of premises and location of structures in the AFO project as set forth therein.

(B) (1) Changes which alter the concept or intent of the AFO including addition of buildings, expansion of silage and other feed storage areas, modifications to the waste management system or changes in the final governing agreements, provision or covenants may be approved only by submission and reconsideration of a new preliminary and final development plan with supporting data that follows the outlined procedure for review and approval.

(2) A new public hearing shall be required during resubmission of the preliminary or final development plan.

(3) All changes to the original development plan shall be recorded with the County Recorder as amendments to the final development plan.

(C) The Plan Commission may, in accordance with the procedure established in its rules, approve minor changes in the AFO which do not change the concept or intent of the development. Minor changes shall be any change not defined as a major change and shall include replacing structures with structures with the same footprint (all improvement location permits and building permits are still required). (Ord. 2-2000, passed 3-13-2000, § 27.10; Ord. 7-2006, passed 11-28-2006)

**§ 153.535 REVOCATION AND EXTENSION.**

(A) An animal feeding operation shall become null and void and the subject property shall thereupon be rezoned to the most appropriate district classification, as deemed suitable by the legislative body, acting upon the recommendation of the Plan Commission in any case where the AFO has:

(1) Received preliminary development plan approval and the final development plan has not been submitted for approval within six months after the date of approval of the preliminary development plan; and

(2) Received final development plan approval and where the construction of the AFO, as authorized by the issuance of an improvement location permit and building permit, has not begun within one year after the date of approval of the final plat dealing with the construction.

(B) Extensions, with cause, will be reviewed by the Area Plan Commission and may be granted for no more than six months.

(Ord. 2-2000, passed 3-13-2000, § 27.11; Ord. 7-2006, passed 11-28-2006)

**§ 153.536 CONDITIONS AND GUARANTEES.**

(A) Prior to the granting of any AFO the Plan Commission may recommend, and the legislative body may stipulate, such conditions and restriction upon the establishment, location, design, layout, height, density, conduction, maintenance, aesthetics, operation and other elements of the AFO as deemed necessary for the protection of the public interest, improvement of the development and protection of the adjacent area. In all cases in which AFOs are granted, the legislative body may require evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection with the approval of the AFOs will be complied with.

(B) The Plan Commission may permit or require the owner of a lot or parcel to make a written commitment concerning the use or development of land in connection with its approval of a development plan. The commitments may include, but are not limited to:

(1) Specific operational controls or specifications;

(2) Posting of a bond or other written assurance that guarantees the timely completion of a public improvement required by the proposed development;

(3) The applicant will provide proof of liability coverage, or post a bond or other written assurance in a form acceptable to the County Area Plan Commission Attorney. The applicant shall reasonably estimate and fully obtain sufficient liability insurance coverage for spill remediation or a judgment for damages across any lot line or parcel boundary; and

(4) Utilizing odor abatement strategies appropriate to the type of AFO (species and operation design), the location of the AFO and the surrounding area.

(C) By permitting or requiring commitments, the Plan Commission shall not be obligated to approve or deny a request for a development plan.

(D) If a development plan which permitted or required commitments is granted by the Plan Commission, the commitments shall be signed by the owner of the lot or parcel, notarized and recorded in the Office of the County Recorder within five business days of the grant and prior to the issuance of any permits to establish the land use.

(E) Commitments shall be binding on the owner or the lot or parcel and on subsequent owners or other persons acquiring an interest in the lot or parcel.

(F) Commitments established pursuant to this section may be modified or terminated by a decision of the Plan Commission made at a public hearing for which notice was provided in the same manner as for the initial public hearing on the development plan, and any additional notices as may be required by the terms of the commitments.

(Ord. 2-2000, passed 3-13-2000, § 27.12; Ord. 7-2006, passed 11-28-2006)

#### **§ 153.537 FINDINGS OF FACT.**

A development plan authorized by this subchapter may only be granted by the Plan Commission upon making a written determination and adopting appropriate findings of fact, based upon the evidence presented at a public hearing, that:

(A) The proposed use will not be injurious to the public health, safety, or general welfare.

(B) The proposed use will not injure or adversely affect the use or value of the adjacent area or cause injury to any property or business therein.

(C) The proposed use will not cause imminent peril to life or property.

(D) The proposed use will be consistent with the character of the primary agriculture district in which it is located, and the land use authorized therein.

(E) The proposed use will be in compliance with all applicable development requirements set forth in this chapter; and

(F) The proposed use is compatible with the recommendations of the County Comprehensive Plan. (Ord. 2-2000, passed 3-13-2000, § 27.13; Ord. 7-2006, passed 11-28-2006)

***WIND ENERGY CONVERSION SYSTEMS (WECS) SITING REGULATIONS*****§ 153.550 PURPOSE.**

The purposes of this subchapter are to:

(A) Assure that any development and production of wind-generated electricity within the jurisdiction of the County Area Plan Commission is safe and effective;

(B) Facilitate economic opportunities for local residents while protecting residential areas from potential adverse impact of wind turbine generators;

(C) Avoid potential damage to adjacent property from the failure of wind turbine generators or towers; and

(D) Promote the supply of wind energy in support of the state's alternative energy sources potential and other economic development tools.

(Ord. 2-2000, passed 3-13-2000, § 28.1; Ord. 9-2008, passed 12-16-2008)

**§ 153.551 FINDINGS AND INTENT.**

(A) The County Area Plan Commission finds that wind energy over the county is an abundant, renewable and nonpolluting energy resource and that its conversion to electricity will reduce our citizens' dependence on nonrenewable energy resources and decrease the air and water pollution that results from the use of conventional energy sources.

(B) The County Area Plan Commission also finds that wind energy systems enhance the reliability and power quality of the power grid, reduce peak power demands and helps diversify the county and state's energy supply portfolio.

(C) It is the intent of these wind energy conversion systems (WECS) siting regulations to provide equal opportunity and access by property owners to a shared natural resource in a regulatory framework for the construction and operation of WECS within County Area Plan Commission jurisdiction, subject to reasonable restrictions these regulations are intended to preserve the health and safety of the public. (Ord. 2-2000, passed 3-13-2000, § 28.2; Ord. 9-2008, passed 12-16-2008)



**§ 153.552 APPLICABILITY.**

The provisions of this subchapter are applicable to all zone districts and govern the siting of WECS and substations that generate electricity to be sold to wholesale or retail markets or that generate electricity for public and private use.

(Ord. 2-2000, passed 3-13-2000, § 28.3; Ord. 9-2008, passed 12-16-2008)

**§ 153.553 PROHIBITION.**

No applicant shall construct, operate or locate within County Area Plan Commission jurisdiction, a wind energy conversion system (WECS) without having fully complied with the provisions of this subchapter.

(Ord. 2-2000, passed 3-13-2000, § 28.4; Ord. 9-2008, passed 12-16-2008) Penalty, see § 153.999

**§ 153.554 CONFLICT WITH OTHER REGULATIONS.**

(A) Nothing in this subchapter is intended to preempt other applicable state and federal laws or regulations, including compliance with all Federal Communications Commission and Federal Aviation Administration rules and regulations, and shall comply with the notification requirements of the FAA.

(B) Nor are they intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law.

(C) In the event that any provision of these regulations imposes restrictions different from any other ordinance, rule, regulation, statute or provision of law, the provisions that are more restrictive or that imposes higher standards shall govern.

(Ord. 2-2000, passed 3-13-2000, § 28.5; Ord. 9-2008, passed 12-16-2008)

**§ 153.555 DEFINITIONS.**

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

***AGGREGATED WECS PROJECTS.***

(1) Those which are developed and operated in a coordinated fashion, but which may have multiple entities separately owning one or more of the individual WECS projects within the larger (aggregate) project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity, but are also included as part of the aggregated WECS project. The ***AGGREGATED WECS PROJECT AREA*** is mapped by an approved external outer boundary line.

(2) In determining setback requirements for a WECS project area, internal property title lines are excluded when contiguous individual properties are planned and developed under unified control or ownership as part of an individual WECS project. Any premises not located within the approved boundary limits of an individual WECS project area; and not delineated as part of an aggregated WECS project, whether or not in the same ownership or control; is considered off-site or out of the individual WECS project area. (See § 153.559.)

***LARGE WIND ENERGY CONVERSION SYSTEM (“LARGE WECS”).*** A utility size wind energy system which has a nameplate power rated capacity of more than 100 KW of peak generation capacity, consisting of one or more wind turbines or other devices and their related or supporting facilities that produce electric power from wind and are:

- (1) Connected to a common switching station; or
- (2) Constructed, maintained or operated as a contiguous group of devices.

***NON-WECS.*** A building-mounted wind system that has a nameplate capacity (manufacturer’s rating) of ten kilowatts or less, and projects no more than 15 feet above the highest point of the roof shall not be considered a wind energy conversion system and may exceed zone district height requirements by no more than 15 feet.

***SMALL WIND ENERGY CONVERSION SYSTEM (“SMALL WECS”).*** A wind energy conversion system consisting of one or more wind turbine, a tower and associated control or conversion electronics, which has a nameplate power rated capacity of not more than 100 KW or less of peak generation capacity and which is intended to primarily reduce on-site consumption of utility power or consumption on an adjacent lot when more than one lot is held in common ownership.  
(Ord. 2-2000, passed 3-13-2000, § 28.6; Ord. 9-2008, passed 12-16-2008)

#### **§ 153.556 LOCATION.**

(A) All WECS are “non-building accessory structures” allowed by right in all zones districts; governed by this subchapter and applicable codes. WECS buildings are building accessory structures.

(B) A transfer of ownership of an adjacent lot, held in combination and under common ownership at the time of WECS installation, shall include a grant of easement equal to the required off-site setback encroachment; approved, signed and sealed by the Executive Director; and recorded with the County Recorder’s Office to run with the deed.

(Ord. 2-2000, passed 3-13-2000, § 28.7; Ord. 9-2008, passed 12-16-2008)

**§ 153.557 HEIGHT.**

(A) There is no limitation on height, except those height limitations imposed by FAA rules and regulations or the total height multiplier.

(B) The total height multiplier and placement of the turbines shall be relative to site specific setback requirements. (See § 153.559.)  
 (Ord. 2-2000, passed 3-13-2000, § 28.8; Ord. 9-2008, passed 12-16-2008)

**§ 153.558 HORIZONTAL EXTENSION.**

The furthest horizontal extension of a WECS (including guy wires) shall not extend into a required setback of the zoning district, except in an approved off-site perimeter setback encroachment easement or be closer than ten feet to any primary structure, or right-of-way easement for any above-ground telephone, electrical transmission or distribution lines.  
 (Ord. 2-2000, passed 3-13-2000, § 28.9; Ord. 9-2008, passed 12-16-2008)

**§ 153.559 SETBACK REQUIREMENTS.**

Minimum setback distances for wind energy conversion systems and meteorological structures:

<i>Distance from a...</i>	<i>Minimum Setback Distance</i>
All county road right-of-way, measured from the center point of the tower to the leading edge of the right-of-way	Each (“WECS”) wind turbine generator or meteorological structure shall be set back 1.1 times the length of wind tower at the highest point reached by the rotor blade
WECS project boundary perimeter, measured from the center point of the tower to the utmost boundary of the individual WECS project area	Each (“WECS”) wind turbine generator or meteorological structure shall be set back from the project perimeter property boundaries of the installation site a distance equal to a multiple of 1.1 times the length of wind tower A; the highest point reached by the rotor blade
Within proximity of I-69 right-of-way or Mississinewa River floodplain	No (“Large WECS”) wind turbine generator or meteorological structure within 3,320 feet of interstate rights-of-way or Mississinewa River floodplain

(Ord. 2-2000, passed 3-13-2000, § 28.10; Ord. 9-2008, passed 12-16-2008)

**§ 153.560 WECS PROJECT BOUNDARY PERIMETER SETBACK ENCROACHMENTS.**

(A) The WECS project boundary perimeter setback or height multiplier may not vary, except as herein provided.

(B) The property owner of a small WECS must use at least two-thirds of the power generated by the WECS in his or her home or business located on site to justify a height which requires an increase in the project boundary perimeter setback creating a WECS project boundary perimeter setback encroachment on an abutting property. At the written request of the Executive Director, the property owner receiving site plan approval shall provide a verified report of electricity generated and electricity sold from the small WECS.

(C) The Executive Director has the authority to issue a minor variance (§§ 153.095 through 153.105) and to allow this perimeter setback encroachment to be legally established across private property lines by easement or deed restriction.

(D) The owners of the adjoining or neighboring real property, in which the encroachment is mutually agreed, shall grant an easement or deed restriction to allow the project boundary perimeter setback encroachment for the period of time that the use shall exist and the grantor shall hold the grantee harmless to the extent agreed to or allowed by law.

(E) All WECS project boundary perimeter setback encroachment agreements shall contain an affidavit of any condition, covenant and/or deed restriction, legally describing the off-site project boundary perimeter setback easement, to run with the land unless released by a recorded document approved, signed and sealed by the Executive Director at the time of any WECS decommissioning. Off-site WECS project perimeter setback encroachment agreements must be recorded with the County Recorder's Office prior to zoning clearance and permit issuance.

(Ord. 2-2000, passed 3-13-2000, § 28.11; Ord. 9-2008, passed 12-16-2008)

**§ 153.561 SAFETY DESIGN AND INSTALLATION STANDARDS.**

(A) *Safety design and installation standards.* Equipment type:

(1) *Turbines.* All turbines shall be constructed of new, commercially available equipment. With the recommendation of a professional engineer; used, experimental or prototype equipment still in testing, may be approved by the Executive Director.

(2) *Meteorological structures.* Meteorological structures shall be installed as per manufacturer's specifications.

(B) *Industry standards and other regulations.*

(1) All WECS shall conform to applicable industry standards, as well as all local, state and federal regulations.

(2) An applicant shall submit certificate(s) of design compliance that wind turbine manufacturers have obtained from Underwriters Laboratories, Det Norske Veritas, Germanische Lloyd Wind Energie or an equivalent third party.

(C) *Controls and brakes.*

(1) *Braking system.* All WECS shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip and other similar systems) and mechanical brakes. Stall regulation shall not be considered a sufficient braking system for over speed protection.

(2) *Operation mode.* All mechanical brakes shall be operated in a fail-safe mode.

(D) *Electrical components.*

(1) *Standards.* All electrical components of all WECS shall conform to applicable local, state and national codes and any relevant national and international standards.

(2) *Collection cables.* All electrical collection cables between each WECS shall be located underground except where impracticable, for example, crossing an open ditch or field tile system.

(3) *Transmission lines.* All transmission lines that are buried should be at a depth consistent with or greater than local utility and telecommunication underground line standards; or as negotiated with the land owner or the land owner's designee until the same reach the property line or a substation adjacent to the property line.

(E) *Color and finish.* In addition to all applicable FAA requirements, the following shall also apply: wind turbines and towers. All wind turbines and towers that are part of WECS shall be white, grey or another nonobtrusive color.

(F) *Blades.* All blades shall be white, grey or another nonobtrusive color. Blades may be black in order to facilitate deicing.

(G) *Warnings.* Towers, transformers and substations: For all large WECS, a sign or signs shall be posted on the tower, transformer and substation warning of high voltage. Signs with emergency contact information shall also be posted on the turbine or at another suitable point.

(H) *Guy wires and anchor points.* For all guyed towers, one of the following warning mechanisms shall be used for each anchor point:

(1) Visible or reflective objects; and

(2) Visible and reflective objects, such as flags, plastic sleeves, reflectors or tape placed on the anchor points of guy wires and along the innermost guy wires up to eight feet above the ground.

(I) *Visible fencing.* Visible fencing not less than four feet in height installed around anchor points of guy wires.

(J) *Small WECS.* The following notices shall be clearly visible on all small WECS towers and accessory facilities.

(1) "No Trespassing" signs shall be attached to any perimeter fence.

(2) "Danger" signs shall be posted at the height of five feet on WECS towers and accessory structures.

(3) A sign shall be posted on the tower showing an emergency telephone number.

(4) The manual electrical and/or overspeed shutdown disconnect switch(es) shall be clearly labeled.

(K) *Meteorological towers.* Consideration shall be given to paint aviation warnings on all meteorological structures.

(L) *Climb prevention.* All large WECS tower designs shall include features to deter climbing or be protected by anti-climbing devices such as:

(1) Fences with locking portals at least six feet in height;

(2) Anti-climbing devices 15 feet vertically from the base of the WECS tower; or

(3) Locked WECS tower doors.

(M) *Blade clearance.* The minimum distance between the finished grade and any protruding blades(s) utilized on all WECS shall be 25 feet, as measured at the lowest point of the arc of the blades.

(N) *Lighting.* No WECS tower shall be illuminated unless required by a state or federal agency, such as the FAA. Accessory building security and driveway lighting are permitted.

(O) *Intensity and frequency.* All lighting, including lighting intensity and frequency of strobe, shall adhere to, but not exceed, requirements established by Federal Aviation Administration permits and regulations.

(P) *Shielding.*

(1) Except with respect to lighting required by the FAA, tower site lighting may require shielding so that no glare extends substantially beyond any WECS structure. Light levels from any WECS associated source shall not exceed five lucas at the lot line of any residential dwelling outside of the individual WECS project area.

(2) A photometric plan certified by a professional engineer shall be submitted with the improvement location permit application if a nonresidential WECS tower site abuts a residential zone lot.

(Q) *Materials handling, storage and disposal.*

(1) *Solid wastes.* All solid wastes whether generated from supplies, equipment, parts, packaging, operation or maintenance of the facility, including old parts and equipment related to the construction, operation and/or maintenance of any WECS shall be removed from the site promptly and disposed of in accordance with all federal, state and local laws.

(2) *Hazardous materials.* ALL hazardous materials or waste related to the construction, operation and/or maintenance of any WECS shall be handled, stored, transported and disposed of in accordance with all applicable local, state and federal laws.

(Ord. 2-2000, passed 3-13-2000, § 28.12; Ord. 9-2008, passed 12-16-2008)

#### **§ 153.562 OTHER APPLICABLE STANDARDS.**

(A) *Guyed wire anchors.* No guyed wire anchors shall be allowed within any required road right-of-way setback.

(B) *Sewer and water.* All WECS facilities shall comply with the existing septic and well regulations as required by the County Health Department and/or the State Department of Public Health.

(C) *Noise and vibration.* The noise level of WECS shall be no greater than 60 decibels measured from the nearest dwelling unit in a straight line from the nearest corner of the structure. This level may only be exceeded during short-term events such as utility outages and/or severe wind storms. All other noise and vibration levels shall be in compliance with all county, state and federal regulations.

(D) *Utility interconnection.* The WECS, if interconnected to a utility system, shall meet the requirements for interconnection and operate as prescribed by the applicable regulations of the electrical utility, as amended from time to time.

(E) *Signage.*

(1) In addition to complying with §§ 153.270 through 153.281, the following signage regulations and standards shall also apply.

(2) In the event that one of the following regulations or standards conflicts with another sign regulation or standard prescribed by this chapter, the most restrictive regulation or standard shall apply.

(a) Surface area: no sign shall exceed 16 square feet in surface area.

(b) Height: no sign shall exceed eight feet in height.

(c) Manufacturer's or owner's company name and/or logo: the manufacturer's or owner's company name and/or logo shall be placed upon the compartment containing the electrical equipment.

(d) Development signs: no more than two identification signs relating to the development shall be located on the project site.

(e) Other signs and logos: no other advertising signs or logos shall be placed or painted on any WECS.

(F) *Communications and feeder lines.* To wit, all communications and feeder lines installed as part of any WECS shall be buried underground, except where impracticable.

(G) *Other appurtenances.* No appurtenances other than those associated with the wind turbine construction, operations, maintenance and decommissioning/removal shall be connected to any wind tower, except with expressed, unless permission by the County Area Plan Commission Executive Director.

(Ord. 2-2000, passed 3-13-2000, § 28.13; Ord. 9-2008, passed 12-16-2008)

**§ 153.563 OPERATION AND MAINTENANCE.**

(A) *Physical modifications.*

(1) In general, any physical modification to any WECS that alters the mechanical load, mechanical load path or major electrical components shall require recertification by a professional engineer.

(2) Like kind replacements shall not require recertification. Therefore, prior to making any physical modification, the owner or operator shall confer with the County Area Plan Commission Executive Director to determine whether the physical modification requires recertification.



(B) *Interference.*

(1) No WECS shall be constructed so as to interfere with any public or public serving utility microwave transmissions.

(2) The applicant, owner and/or operator shall minimize and if necessary mitigate interference with electromagnetic communications, such as radio, telephone, microwaves or television signals caused by any WECS.

(3) In addition, the applicant, owner and/or operator shall comply with the following.

(a) *Preconstruction.* The applicant shall complete a communications study prior to construction so as to minimize interference with any public telecommunication or public serving utility microwave transmissions.

(b) *Postconstruction.* If, after construction of the WECS, the owner or operator receives a written complaint related to interference with the broadcast of residential television, telecommunication, communication or microwave transmissions, the owner or operator shall take reasonable steps to mitigate the interference. Interference with private telecommunications systems such as GPS shall be between the company and the complainant.

(c) *Failure to remedy a complaint.*

1. If an agreement to remedy a known interference is not remedied within 180 days, appropriate action will be taken, which shall result in requiring the WECS to become inactive.

2. This does not apply to interference with private telecommunications systems.

(C) *Declaration of a public nuisance.*

(1) The owner of a WECS must take reasonable steps as are necessary to plan, prevent, mitigate and eliminate any potential or known nuisance.

(2) If a professional engineer certifies a nuisance as directly attributable to the tower or turbine, the installation shall be shut down and the blades remain stationary until the conditions causing the nuisance are mitigated or eliminated.

(3) Any WECS thereof declared to be unsafe by the County Building Inspector by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, damage or abandonment is hereby declared to be a common nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the approved decommissioning plan.

(Ord. 2-2000, passed 3-13-2000, § 28.14; Ord. 9-2008, passed 12-16-2008)

**§ 153.564 DECOMMISSIONING PLAN.**

Prior to receiving an improvement location permit or building permit for siting approval under this chapter, the County Area Plan Commission Executive Director and the applicant, owner and/or operator shall formulate a decommissioning plan outlining the anticipated means and cost of removing a WECS at the end of its serviceable life or upon becoming a discontinued or abandoned use to ensure that the WECS is properly decommissioned. A decommissioning plan shall include, at a minimum, language to the following.

(A) *Assurance.* Written assurance shall be provided to County Area Plan Commission Executive Director that the facilities will be properly decommissioned upon the project life or in the event that the facility is abandoned.

(B) *Cost estimates.*

(1) The applicant shall provide a contractor cost estimate for demolition and removal of the WECS facility.

(2) The cost estimates shall be made by a competent party: such as a professional engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning WECS.

(C) *Financial assurance.*

(1) Applicant will provide financial assurance in an amount at least equal to the demolition and removal contractor cost estimate, through the use of a bond, letter of credit or other security acceptable to the county, for the cost of decommissioning each tower and related improvements constructed under the permit.

(2) The security will be released when each tower is properly decommissioned as determined by the County Area Plan Commission.

(D) *Discontinuation and abandonment.*

(1) *Discontinuation.* All WECS shall be considered a discontinued use after one year without energy production; unless a plan is developed and submitted to the County Area Plan Commission Executive Director outlining the steps and schedule for relining the WECS to service.

(2) *Abandonment by the owner or operator.* In the event of abandonment by the owner or operator, the applicant will provide an affidavit to the County Area Plan Commission representing that all easements for wind turbines shall contain terms that provide financial assurance, including access to the salvage value of the equipment, for the property owners to ensure that facilities are properly decommissioned within one year of expiration or earlier termination of the project.

(E) *Removal.* An applicant's obligations shall include removal of all physical material pertaining to the project improvements to no less than a depth of four feet below ground level within 365 days of the discontinuation or abandonment of the facility, and restoration of the project area to as near as practicable the condition of the site immediately before construction of the improvements by the owner or by the County Area Plan Commission at the owner's expense.

(F) *Written notices.*

(1) Prior to implementation of the existing procedures for the resolution of the defaults, the County Area Plan Commission shall first provide written notice to the owner and/or operator, setting forth the alleged default.

(2) The written notice shall provide the owner and/or operator a reasonable time period not to exceed 60 days, for good faith negotiations to resolve the alleged default(s).

(G) *Costs incurred by the County Area Plan Commission.*

(1) If the County Area Plan Commission removes a tower and appurtenant facilities, it shall sell the salvage to defray the costs of removal.

(2) By approval, the permittee or grantor grants a license to County Area Plan Commission to enter the property to remove a tower pursuant to the terms of an approved decommissioning plan.

(3) Facilities, such as access roads and outbuildings, deemed necessary and/or useful by the property owner after decommissioning shall remain upon the recording of a mutually agreed "letter of understanding" between the property owner and the County Area Plan Commission.

(Ord. 2-2000, passed 3-13-2000, § 28.15; Ord. 9-2008, passed 12-16-2008)

### **§ 153.565 LIABILITY INSURANCE.**

The owner or operator of any WECS will provide proof of liability coverage; shall maintain a current general liability policy covering bodily injury and property damage; and may be required to name the County Area Plan Commission as an additional insured with dollar amount limits per occurrence, in the aggregate, and a deductible, which is suitable and in a form acceptable to the County Area Plan Commission Attorney.

(Ord. 2-2000, passed 3-13-2000, § 28.16; Ord. 9-2008, passed 12-16-2008)

**§ 153.566 APPLICATION PROCEDURES.**

Permits and variances shall be applied for and reviewed under the procedures established by this chapter, except that the application for WECS improvement location/building permit shall also include the following information.

(A) *Applications for all wind energy conversion systems.* An application for all WECS shall include the following information:

(1) Contact information of project applicant. The name(s), address(es) and phone number(s) of the applicant(s): as well as a description of the applicant's business structure and overall role in the proposed project;

(2) Contact information of current project owner. The name(s), address(es) and phone number(s) of the owner(s), as well as a description of the owner's business structure and overall role in the proposed project, including documentation of land ownership or legal control of the property on which the WECS is proposed to be located;

(3) Contact information of project operator. The name(s), address(es) and phone number(s) of the operator(s), as well as a description of the operator's business structure and overall role in the proposed project;

(4) Legal description. The legal description, address and general location of the project;

(5) Project description. A WECS project description, including to the extent possible, information on each wind turbine proposed; including:

- (a) Number;
- (b) Type;
- (c) Name plate generating capacity;
- (d) Tower height;
- (e) Rotor diameter;
- (f) Total height;
- (g) Anchor base;
- (h) The means of interconnecting with the electrical grid;
- (i) The potential equipment manufacturer(s); and

(j) All related accessory structures.

(6) A site layout plan. A site layout plan including distances and drawn to scale and certified by a registered land surveyor. (See Appendix B for site plan requirements.)

(7) Engineering certification:

(a) For all WECS, the manufacturer's engineer or another qualified registered professional engineer shall certify, as part of the building permit application that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions; and

(b) An engineering analysis of the tower showing compliance with the applicable regulations and certified by a licensed professional engineer shall also be submitted. The analysis shall be accompanied by standard drawings of the wind turbine structure, including the tower, base and footings.

(8) Proof of correspondence and cooperation with wildlife agencies. For the purposes of preventing harm to migratory birds and in compliance with the Migratory Bird Treaty Act, being 16 U.S.C. §§ 703 *et seq.*, the applicant shall provide written documentation that he or she is in direct correspondence and cooperation with the U.S. Fish and Wildlife Service and the State Department of Natural Resources.

(B) *Applications for small wind energy conversion systems.* In addition to the application requirements listed in § 153.566, applications for small WECS shall also include the following information.

(1) *Demonstration of energy need.* The production of energy shall not exceed the needs of the use on the tract. The applicant(s) shall demonstrate how much energy is needed and how the proposed size and number of WECS fulfill this need. Net-metering shall be allowed, however, no energy shall be sold for profit.

(2) *Statement of FAA compliance.* A statement of compliance with all applicable FAA rules and regulations, including any necessary approvals for installations within close proximity to an airport, a copy of the FAA's response to a submitted notice of proposed construction or alteration (FAA Form 7460-1) shall be submitted to the County Area Plan Commission at the time of application.

(3) *Utility notification.*

(a) No WECS shall be installed until evidence has been given that the local utility company has been informed of the customer's intent to install an interconnected customer-owned generator.

(b) Off-grid systems shall be exempt from this requirement. No public utility easement encroachment by a WECS is allowed without vacation and/or consent of the affected utility company.

(4) *Compliance with State Electrical Code.* Provide a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the State Electrical Code. This information is frequently supplied by the manufacturer.

(C) *Applications for large wind energy conversion systems.* In addition to the application requirements listed in § 153.566, applications for large WECS shall also include the following information: a site layout plan with distances drawn to scale illustrating the following:

- (1) Property lines, including identification of adjoining properties;
- (2) The latitude and longitude of each individual wind turbine;
- (3) Dimensional representation of the structural components of the tower construction including the base and footings;
- (4) WECS access roads;
- (5) Substations;
- (6) Electrical cabling;
- (7) Ancillary equipment;
- (8) Primary structures within one-quarter mile of all proposed WECS;
- (9) Required setback lines;
- (10) Location of all public roads which abut or traverse the proposed site;
- (11) The location of all above-ground utility lines within a distance of two times the height of any proposed large WECS structure;
- (12) The location of any historic or heritage sites as recognized by the Division of Historic Preservation and Archeology of the State Department of Natural Resources, within one mile of a proposed large WECS;
- (13) The location of any wetlands based upon a delineation plan prepared in accordance with the applicable U.S. Army Corps of Engineers requirements and guidelines, within one mile of a proposed large WECS; and
- (14) Any other item reasonably requested by the County Area Plan Commission.

(D) *Topographic map.* A U.S.G.S. topographical map, or map with similar data, of the property and the surrounding area, including any other large WECS within a ten-foot distance, but no less than a one-quarter mile radius from the proposed project site, with contours of not more than five-foot intervals.

(E) *Noise contour map of the project area based upon manufacturer specifications.*

(1) Location of all known existing large WECS within one mile of the proposed large WECS, including a description of the potential impacts on the WECS and wind resources on adjacent properties; and

(2) Copy of the communications study.

(F) *Aggregated project applications.* Aggregated projects shall jointly submit a site plan under a single improvement location permit application.

(G) *Fees.* See Appendix A of this chapter.

(H) *Permits.*

(1) All WECS, as prescribed by §§ 153.470 through 153.488.

(2) Aggregated projects shall jointly submit a site development plan under a single improvement location permit application.

(3) Aggregated WECS projects; structural permits will be issued separately for each individual WECS installation.

(Ord. 2-2000, passed 3-13-2000, § 28.17; Ord. 9-2008, passed 12-16-2008)

### **§ 153.567 PRECONSTRUCTION REQUIREMENTS.**

Prior to the issuance of any building permit, the following shall be submitted to and reviewed by the County Area Plan Commission, who shall certify that the following are in compliance with all applicable regulations.

(A) *FAA permit application.*

(1) *Decommissioning plan.* A decommissioning plan, as prescribed by this subchapter; and

(2) *Erosion Control and Storm Water Management Plan.* An erosion control and storm water management plan developed with reference to and consultation with the County Soil and Water Conservation District or State Department of Environmental Management, including applicable Rule 5, Compliance.

(B) *Utility plan.*

(1) A utility plan drawn to the same scale as the site plan illustrating the location of all underground utility lines associated with the WECS site;

(2) Provide a copy of the Final Site Layout Plan illustrating the final location of all that is required in the preliminary site layout plan, as approved by the landowner;

(3) Avoidance and mitigation of damages to public infrastructure;

(4) For the purpose of transporting a large WECS or substation parts and/or equipment for construction, operation or maintenance of a large WECS or substation, shall comply with the following preconstruction requirements;

(5) Identification of roads and services. Identify all roads and services, to the extent that any proposed routes that will be used for construction and maintenance purposes shall be identified. If the route includes a public road, it shall be approved by the County Highway Department and the County Sheriff's Department; and

(6) Preconstruction survey, the applicant shall conduct a preconstruction baseline survey acceptable to the County Highway Superintendent to determine existing road conditions for assessing potential future damage. The survey shall include photographs and a written agreement to document the condition of the public facility and the repair including intersection reconfiguration/reconstruction on public and private property.

(Ord. 2-2000, passed 3-13-2000, § 28.18; Ord. 9-2008, passed 12-16-2008)

**§ 153.568 LARGE WECS CONSTRUCTION REQUIREMENTS.**

During construction of large WECS, the applicant shall demonstrate that the following requirements are being met.

(A) *Dust control.* Reasonable dust control measures shall be required during construction.

(B) *Drainage.* Reasonable storm water best management practices as required by the approved Erosion Control and Storm Water Management Plan.

(Ord. 2-2000, passed 3-13-2000, § 28.19; Ord. 9-2008, passed 12-16-2008)



**§ 153.569 LARGE WECS POSTCONSTRUCTION REQUIREMENTS.**

(A) *General.* During postconstruction of a large WECS, the applicant shall comply with the following provisions.

(1) *Road repairs.*

(a) Any road damage caused by the construction of project equipment, the installation of the same or the removal of the same, shall be repaired to the condition as shown in the approved preconstruction baseline survey.

(b) The Superintendent may choose to require either remediation of road repair upon completion of the project or is authorized to collect fees for oversized load permits.

(c) Further, a corporate surety bond in an amount to be fixed by a professional engineer may be required by the Superintendent to ensure to the county that future repairs are completed to the satisfaction of the unit of local government.

(d) The cost of bonding is to be paid by the applicant.

(2) *As built plans requirement.*

(a) Where upon completion of all development, the exact measurements of the location of utilities and structures erected during the development are necessary for public record and shall therefor be recorded.

(b) The applicant, owner or operator shall submit a copy of the final construction plans (as built plans), as amended, to the County Building Inspector with the exact measurements thereon shown.

(c) The County Building Inspector, after being satisfied that the measurements are substantially the same as indicated on the originally approved final plan(s), shall approve, date and sign the construction plans for the project, which the applicant, owner or operator shall then record.

(B) *Change in ownership.*

(1) Prior to a transfer or release of any bond held by the county, it is the responsibility of the owner or operator listed in the application to inform the County Area Plan Commission Executive Director of all changes in ownership and operation, including the sale or transfer of ownership or, operation. Failure to do so may cause a forfeiture, reduction or delay of the release of any bond held by the county.

(2) Each change in ownership shall signify a new bonding requirement. The new bond shall continue with the development until decommissioned or a change in ownership.

(3) The county may enforce the provisions of any bond with a penalty, where compliance with the provisions of this section or any other applicable law, ordinance or regulation has not occurred. (Ord. 2-2000, passed 3-13-2000, § 28.20; Ord. 9-2008, passed 12-16-2008)

### ***WIRELESS FACILITIES***

#### **§ 153.580 TITLE.**

These regulations shall officially be known, cited and referred to as the “Wireless Telecommunication Facility Regulations of Grant County” (hereinafter “these regulations”). (Ord. 2-2000, passed 3-13-2000, § 29.1.1)

#### **§ 153.581 PURPOSES.**

In order to protect the public health, safety and general welfare of the community, while accommodating the communication needs of residents and business these regulations are necessary in order to:

(A) Facilitate the provision of wireless telecommunication services to the residents and business of the county;

(B) Minimize adverse visual effects of towers through careful design and siting standards;

(C) Encourage the location of towers in nonresidential areas through performance standards and incentives;

(D) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and

(E) Provide mechanisms for the mitigation of tower proliferation through tower sharing requirements for all new tower applicants and those existing towers that are physically capable of sharing. (Ord. 2-2000, passed 3-13-2000, § 29.1.2)

**§ 153.582 AUTHORITY.**

The County Area Plan Commission (hereinafter “APC”) is vested with the authority to review, approve, conditionally approve and disapprove applications for wireless communication facilities, including sketch, preliminary and final plans.

(Ord. 2-2000, passed 3-13-2000, § 29.1.3)

**§ 153.583 JURISDICTION.**

(A) These regulations apply to all wireless communication facilities, as defined in § 153.588, located within the jurisdiction of the County Area Plan Commission as provided by law. APC jurisdiction includes the Towns of Fairmount, Matthews, Sweetser, Upland and Van Buren; the City of Jonesboro; and all of the unincorporated county.

(B) No wireless communications facility may be constructed within the jurisdiction without an approved and signed permit from the Area Plan Commission.

(Ord. 2-2000, passed 3-13-2000, § 29.1.4)

**§ 153.584 ENACTMENT.**

In order that wireless communications facilities may be constructed in accordance to these purposes and policies, these regulations shall be in full force and in effect in the manner provided by law. All applications for wireless communication facility sitings pending on the effective date of these regulations shall be reviewed under these regulations.

(Ord. 2-2000, passed 3-13-2000, § 29.1.5)

**§ 153.585 INTERPRETATION, CONFLICT AND SEPARABILITY.**

(A) *Interpretation.* In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the protection of public health, safety and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.

(B) *Conflict.* These regulations are not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law except as provided in these regulations. Where any provision of these regulations imposes restrictions different from any other ordinance, rule or regulation, statute or other provision of law, the provision, which is more restrictive or imposes higher standards shall control.

(C) *Separability*. If any part or provision of these regulations or the application of these regulations to any service provider or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which the judgment shall be rendered and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other service providers or circumstances. The County Area Plan Commission hereby declares that it would have enacted the remainder of these regulations even without any part, provision or application which is judged to be invalid.  
(Ord. 2-2000, passed 3-13-2000, § 29.1.6)

### § 153.586 AMENDMENTS.

For the purpose of protecting the public health, safety and general welfare, the County Area Plan Commission may from time to time propose amendments to these regulations which shall be approved or disapproved by the appropriate Town Council, City Council or County Board of Commissioners at a public meeting following public notice. Realizing that communication technologies are evolving and changing quickly, future innovations may reduce the impacts of individual facilities and render portions of these regulations obsolete. Therefore, periodic review and revision of these regulations will be necessary.  
(Ord. 2-2000, passed 3-13-2000, § 29.1.7)

### § 153.587 PUBLIC PURPOSE.

Regulations of the siting of wireless communication facilities is an exercise of valid police power delegated by the state and as stipulated in the Federal Telecommunications Act of 1996. The developer has the duty of compliance with reasonable conditions laid down by the County Area Plan Commission.  
(Ord. 2-2000, passed 3-13-2000, § 29.1.8)

### § 153.588 DEFINITIONS.

(A) (1) For the purpose of these regulations, certain abbreviations, terms and words shall be used, interpreted and defined as set forth in this subchapter.

(2) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense and words used in the plural indicate the singular.

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

**ACT.** The Communications Act of 1934, as it has been amended from time to time, including the Telecommunications Act of 1996, and shall include future amendments to the Communications Act of 1934, being 47 U.S.C. §§ 151 *et seq.*

**AFFILIATE.** When used in relation to an operator, another person who directly or indirectly owns controls, is owned or controlled by, or is under common ownership or common control with the operator, or an operator's principal partners, shareholders or owners of some other ownership interest; and when used in relation to the Area Plan Commission, any agency, board, authority or political subdivision affiliated with the Area Plan Commission or other person in which the Area Plan Commission has legal or financial interest.

**ALTERNATIVE TOWER STRUCTURE.** Human-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers (see also **STEALTH FACILITY**).

**ANALOG TECHNOLOGY.** Replicates and amplifies voice messages as they are carried from the transmitting antenna to the receiving antenna.

**ANTENNA.** Any exterior apparatus designed for telephonic, radio or television communications through sending and/or receiving or electromagnetic waves.

**ANTENNA HEIGHT.** The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the **ANTENNA HEIGHT**.

**ANTENNA SUPPORT STRUCTURE.** Any pole, telescoping mast, tower tripod or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic waves.

**APPLICANT.** A person who applies for a wireless facility siting. An **APPLICANT** can be the owner of the property or someone who is representing the owner, such as a builder, developer, optional purchaser, consultant or architect.

**BROADCAST.** To transmit information over the airwaves to two or more receiving devices simultaneously. Information can be transmitted over local television or radio stations, satellite systems or wireless data communications networks.

**CELL SITE.** A tract or parcel of land that contains a cellular communication antenna, its support structure, accessory building(s), parking and may include other uses associated with ancillary and cellular communications transmission.

**CELLULAR SERVICE.** A telecommunications service that permits customers to use wireless, mobile telephones to connect, via low-power radio transmission sites called cell sites, either to the public switched network or to other mobile cellular phones.

**CELLULAR TELECOMMUNICATIONS.** A commercial low-power mobile radio service licensed by the Federal Communications Commission (FCC) to providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area.

**CELLULAR TELECOMMUNICATIONS FACILITY.** A facility that consists of the equipment and structures involved in receiving telecommunication or radio signals from mobile radio communications sources and transmitting those signals to a central switching computer, which connects the mobile unit with the land-based telephone lines.

**CO-LOCATION.** Locating wireless communications equipment from more than one provider on a single site.

**COMMON CARRIER.** An entity licensed by the FCC or a state agency to supply local and/or long distance telecommunications services to the general public at established and stated prices.

**COMMUNICATION TOWER.** A guyed, monopole or self-supporting tower, constructed as a freestanding structure or in association with a building, other permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone or similar forms of electronic communication.

**COMMUNICATIONS FACILITY.** A land use facility supporting antennas and microwave dishes that sends and/or receives radio frequency signals. **COMMUNICATIONS FACILITIES** include structures or towers and accessory buildings.

**COMMUNICATIONS TRANSMISSION SYSTEM** or **COMMUNICATIONS SYSTEM.** A wired communication transmission system, open video system, wireless communications transmission system regulated by these regulations.

**COMPREHENSIVE OR MASTER PLAN.** The current adopted plan of the County Area Plan Commission.

**COWs.** Cells on “Wheels”. See **TEMPORARY WIRELESS COMMUNICATION FACILITY.**

**DIGITAL TECHNOLOGY.** Converts voice and data messages into digits that represent sound intensities at specific points of time and data content.

**DIRECTIONAL ANTENNA.** An antenna or array of antennas designed to concentrate a radio signal in a particular area.

**DISH ANTENNA.** A dish-shaped antenna used to link communications sites together by wireless transmission of voice or data. Also called **MICROWAVE ANTENNA** or **MICROWAVE DISH ANTENNA.**

**ESMR.** Enhanced specialized mobile radio.

**FAA.** Federal Aviation Administration.

**FCC.** Federal Communications Commission.

**FREQUENCY.** The number of cycles completed each second by a sound wave, measured in hertz (Hz).

**GOVERNING AUTHORITY.** The governing authority of the County Area Plan Commission.

**GRADE.** The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the structure and the property line or, when the property line is more than five feet from the structure, between the structure and a line five feet from the structure.

**GUYED TOWER.** A communication tower that is supported, in whole or part, by guy wires and ground anchors.

**LATTICE TOWER.** A guyed or self-supporting three- or four-sided, open, steel frame structure used to support telecommunications equipment.

**LICENSE.** The rights and obligations extended by the Area Plan Commission to an operator to own, construct, maintain and operate its system within the jurisdiction of the Area Plan Commission for the sole purpose of providing services to persons or areas outside the jurisdiction.

**MHZ.** Megahertz or 1,000,000 Hz.

**MICRO-CELL.** A low-power mobile radio service telecommunications facility used to provide increased capacity in high-call demand areas to improve coverage in areas of weak coverage.

**MICROWAVE.** Electromagnetic radiation with frequencies higher than 1,000 MHZ; highly directional signal used to transmit radio frequencies from point-to-point at a relatively low power level.

**MICROWAVE ANTENNA.** A dish-like antenna manufactured in many sizes and shapes used to link communication sites together by wireless transmission of voice or data.

**MONOPOLE TOWER.** A communication tower consisting of a single pole constructed without guy wires and ground anchors.

**OMNIDIRECTIONAL ANTENNA.** An antenna that is equally effective in all direction and whose size varies with the frequency and gain for which it was designed.

**OWNER.** The owner of the title to real property or the contract purchaser of real property of record, as shown on the latest assessment records in the office of the Assessor. **OWNER** also includes a deedholder or contract purchaser whose name does not appear in the latest assessment records, but who presents to the municipality a copy of a deed or contract of sale showing date, book and page of recording.

**PERSONAL COMMUNICATIONS SERVICES** or **PCS.** Digital wireless telephone technology such as portable phones, pagers, faxes and computers. The mobile technology promises to allow each consumer the same telephone number wherever he or she goes. Also known as **PERSONAL COMMUNICATION NETWORK (PCN).**

**PREEXISTING TOWERS AND ANTENNAS.** Any tower or antenna for which a permit has been issued prior to the effective date of these regulations and is exempt from the requirements of these regulations and is exempt from the requirements of these regulations so long as the tower or antennas are not modified or changed.

**PUBLIC PROPERTY.** Any real property, easement, air space or other interest in real estate, including a street, owned by or controlled by the County Area Plan Commission or any other governmental unit.

**ROOF AND/OR BUILDING MOUNT FACILITY.** A low power mobile radio service telecommunications facility in which antennas are mounted to an existing structure on the roof (including rooftop appurtenances) or building face.

**SCENIC VIEW.** A scenic view is a view that may be framed, wide angle or panoramic and may include natural and/or manmade structures and activities. A **SCENIC VIEW** may be from a stationary viewpoint or be seen as one travels along a roadway, waterway or path. A **VIEW** may be to a far away object, such as a mountain, or of a nearby object.

**SELF-SUPPORT TOWER.** A communication tower that is constructed without guy wires and ground anchors.

**SPECTRUM.** Relating to any transmissions or reception of electromagnetic waves.

**STEALTH FACILITY.** Any communications facility which is designed to blend into the surrounding environment. Examples of **STEALTH FACILITIES** may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, and antenna structures designed to look like light poles. (See also **ALTERNATIVE TOWER STRUCTURE.**)

**SYSTEM.** The communications transmission system operated by a service provider in the jurisdiction of the County Area Plan Commission.



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

**TEMPORARY WIRELESS COMMUNICATION FACILITY.** Any tower, pole, antenna and the like designed for use while a permanent wireless facility is under construction or for a special event or conference where a majority of people attending are wireless users.

**TOWER.** Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers or monopole towers. The term includes, but is not limited to, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers and alternative tower structures.

**WHIP ANTENNA.** An antenna that transmits signals in 360 degrees. **WHIP ANTENNAS** are typically cylindrical in shape and are less than six inches in diameter and measure up to 18 feet in height. Also are called **OMNIDIRECTIONAL, STICK OR PIPE ANTENNAS.**

**WIRELESS COMMUNICATION FACILITY.** An all-encompassing definition; any towers, poles, antennas, or other structures intended for use in connection with transmission or receipt of radio or television signals or any other spectrum-based transmissions/receptions.

**VIEW CORRIDOR.** A three-dimensional area extending out from a viewpoint. The width of the **VIEW CORRIDOR** depends on the focus of the view. The focus of the view may be a single object, such as a mountain, which would result in a narrow corridor, or a group of objects, such as a downtown skyline, which would result in a wide corridor. Panoramic views have very wide corridors and may include a 360-degree perspective. Although the **VIEW CORRIDOR** extends from the viewpoint to the focus of the view, the mapped portion of the corridor extends from the viewpoint and is based on the area where base zone heights must be limited in order to protect the view.  
(Ord. 2-2000, passed 3-13-2000, § 29.2)

#### **§ 153.589 GENERAL APPLICATION PROCEDURE.**

The submission of applications for wireless communications facilities shall follow the same procedure as detailed in this chapter.  
(Ord. 2-2000, passed 3-13-2000, § 29.3.1)

**§ 153.590 ADDITIONAL APPLICATION PROCEDURES.**

In addition to the information required elsewhere in this chapter, development applications and approval for wireless communications facilities shall include the following supplemental information:

(A) A report from a qualified and licensed professional engineer which:

- (1) Describes the tower height and design including a cross section, latitude, longitude and elevation;
- (2) Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distance between antennas;
- (3) Describes the tower's capacity, including the number and type of antennas it can accommodate;
- (4) Documents what steps the applicant will take to avoid interference with established public safety telecommunications;
- (5) Includes an engineer's stamp and registration number; and
- (6) Includes other information necessary to evaluate the request.

(B) For all commercial wireless telecommunication service towers, a letter of intent committing the tower/owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

(C) Before the issuance of a building permit, the following supplemental information shall be submitted:

- (1) A copy of the FAA's response to the submitted notice of proposed construction or alteration (FAA Form 7460-1) shall be submitted to the Area Plan Commission;
- (2) Proof of compliance with applicable FCC regulations; and
- (3) A report from a qualified and licensed professional engineer which demonstrates the tower's compliance with structural and electrical standards.

(D) At the time of the first annual declaration of operation (§ 153.601), the applicant shall provide the Area Plan Commission Office with an as built survey from a registered land surveyor verifying the coordinates, height and site plan of the wireless facility.  
(Ord. 2-2000, passed 3-13-2000, § 29.3.2)

**§ 153.591 SITE PLAN REQUIREMENTS.**

In addition to the site plan requirements found elsewhere in this chapter, site plans for wireless communications facilities shall include the following supplemental information:

(A) Location and approximate size and height of all buildings and structures within 500 feet adjacent to the proposed wireless communication facility;

(B) Site plan of the entire development, indicating all improvements including landscaping and screening;

(C) Elevations showing all facades, indicating exterior materials and color of the tower(s) on the proposed site; and

(D) Plans shall be drawn at the scale of one inch equals 50 feet.  
(Ord. 2-2000, passed 3-13-2000, § 29.3.3)

**§ 153.592 GENERAL APPROVAL STANDARDS.**

Generally, approval of a wireless communications facility can be achieved if the following items are met:

(A) The location of the proposed tower is compatible with the County Master Plan and this chapter;

(B) All efforts to locate on an existing tower have not been successful or legally/physically possible;

(C) The submitted site plan complies with the performance criteria set in these regulations;

(D) The proposed facility/tower will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district or major view corridor;

(E) The lowest six feet of the facility/tower shall be visually screened by trees, large shrubs, solid walls or fences and/or nearby buildings;

(F) The height and mass of the facility/tower does not exceed that which is essential for its intended use and public safety;

(G) The owner of the wireless communication facility has agreed to permit other persons/cellular providers to attach cellular antenna or other communications apparatus that do not interfere with the primary purpose of the facility;

(H) There exists no other existing facility/tower that can reasonably serve the needs of the owner of the proposed new facility/tower;

(I) The proposed facility/tower is not constructed in such a manner as to result in needless height, mass and guy-wire supports;

(J) The color of the proposed facility/tower will be of a light tone or color (except where required otherwise by the FAA) as to minimize the visual impact and that the tower will have a security fence around the tower base or the lot where the tower is located; and

(K) The facility/tower is in compliance with any other applicable local, state or federal regulations. (Ord. 2-2000, passed 3-13-2000, § 29.3.4)

### **§ 153.593 CO-LOCATION REQUIREMENTS.**

All commercial wireless telecommunication towers erected, constructed or located within the municipality shall comply with the following requirements.

(A) A proposal for a new commercial wireless telecommunication service tower shall not be approved unless the Area Plan Commission Office or a technical consultant finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a two-mile search radius (one-mile search radius for towers under 200 feet in height, one-half mile search radius for towers under 100 feet in height) of the proposed tower due to one or more of the following reasons:

(1) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost;

(2) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost;

(3) Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer; and

(4) Other unforeseen reasons that make it unreasonable to locate the planned telecommunications equipment upon an existing or approved tower or building.

(B) Any proposed commercial wireless telecommunication service tower shall be designed, structurally and electrically, and in all respects to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 200 feet in height or for at least one additional user if the tower is over 100 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights. (Ord. 2-2000, passed 3-13-2000, § 29.4.1)

#### **§ 153.594 TOWER AND ANTENNA DESIGN REQUIREMENTS.**

Proposed or modified towers and antennas shall meet the following design requirements. Towers and antennas shall be designed to blend into the surrounding environment using monopole design when possible and through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration. (Ord. 2-2000, passed 3-13-2000, § 29.4.2)

#### **§ 153.595 TOWER HEIGHT.**

The maximum tower height permitted is calculated by applying the following.

(A) If the tower is designed to accommodate only one service provider, the maximum height shall be 100 feet from grade.

(B) If the tower is designed to accommodate two service providers, the maximum height shall be 200 feet from grade.

(C) If the tower is designed to accommodate more than two service providers, the maximum height shall be 350 feet from grade. (Ord. 2-2000, passed 3-13-2000, § 29.4.3)

#### **§ 153.596 ACCESSORY UTILITY BUILDINGS.**

All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of this chapter. (Ord. 2-2000, passed 3-13-2000, § 29.4.4)

**§ 153.597 TOWER LIGHTING.**

Towers shall not be illuminated by artificial means and shall not display strobe lights unless the Federal Aviation Administration or other federal or state authority for a particular tower specifically requires the lighting.

(Ord. 2-2000, passed 3-13-2000, § 29.4.5)

**§ 153.598 ANTENNAS MOUNTED ON STRUCTURES, ROOFS, WALLS AND EXISTING TOWERS.**

The placement of wireless telecommunication antennas on roofs, walls and existing towers may be approved by the County Area Plan Commission; provided, the antennas meet the requirements of these regulations, after submittal of:

(A) A final site and building plan as specified by §§ 153.589 through 153.592; and

(B) A report prepared by a qualified and licensed professional engineer indicating the existing structure or tower's suitability to accept the antenna, and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings and the precise point of attachment shall be indicated.

(Ord. 2-2000, passed 3-13-2000, § 29.4.6)

**§ 153.599 TEMPORARY WIRELESS COMMUNICATIONS FACILITIES.**

Any facility designed for temporary use (as defined in § 153.588) is subject to the following.

(A) Use of a temporary facility is allowed only if the owner has received a temporary use permit from the County Area Plan Commission.

(B) Temporary wireless facilities are permitted for use of no longer than 30 days for use while constructing permanent facilities and no longer than five days for use during a special event.

(C) The maximum height of a temporary wireless facility is 50 feet from grade.

(D) Temporary facilities are subject to all applicable portions of these regulations, excluding §§ 153.590 and 153.591.

(Ord. 2-2000, passed 3-13-2000, § 29.4.7)

**§ 153.600 INTERFERENCE WITH PUBLIC SAFETY TELECOMMUNICATIONS.**

No new or existing telecommunications service interferes with public safety telecommunications. All applications for new service shall be accompanied by an intermodulation study, which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the Area Plan Commission at least ten calendar days in advance of the changes to allow time to monitor interference levels during the testing process.

(Ord. 2-2000, passed 3-13-2000, § 29.4.8)

**§ 153.601 ABANDONED OR UNUSED PORTIONS OF TOWERS.**

(A) Abandoned or unused towers or portions of towers shall be removed as follows. The owner of a wireless facility shall annually (in January) file a declaration with the Area Plan Commission Office as to the continuing operation of every wireless carrier installed on the facility subject to these regulations. Each carrier shall be illustrated by its height on the facility. Failure to do so shall be determined to mean the facility is no longer in use and considered abandoned, thus subject to the following.

(B) All abandoned or unused towers and associated facilities shall be removed within 180 days of the cessation of operations at the site unless the Area Plan Commission approves a time extension. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities upon cessation of operations at the site shall be submitted at the time of application. If the applicant does not remove the facility, then it is the responsibility of the property owner.

(C) Unused portions of towers above a manufactured connection shall be removed within 180 days of the time of antenna relocation, according to the terms of this division (B). The replacement of portions of a tower previously removed requires the issuance of a new wireless facility permit.

(Ord. 2-2000, passed 3-13-2000, § 29.4.9)

**§ 153.602 SIGNS AND ADVERTISING.**

The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

(Ord. 2-2000, passed 3-13-2000, § 29.4.10) Penalty, see § 153.999

**§ 153.603 ZONING DISTRICT DESCRIPTION.**

(A) *Agricultural District (AG)*. The AG District is established in recognition of agriculture as the predominant and basic use of land throughout much of the county and for the conservation thereof.

(B) *Residential Suburban (RS)*. This Single-Family District has been established principally to include lands that are generally characterized by two or more of the following conditions: substantial differences in topographic relief; extensive tree cover; heavy, mucky or easily erodable soils; unusual drainage characteristics; outside areas of utility development; or are currently being developed in a distinctive pattern not adaptable to the customary manner of subdividing land for residential purposes.

(C) *Residential 1 (R1)*. This is a Single-Family, Low-Density Residential District. The minimum lot size and building area are less than the RS District. R1 Districts usually include new and developing single-family neighborhoods and subdivisions.

(D) *Residential 2 (R2)*. This district is primarily a Medium-Density Single-Family District. The R2 requirements as to minimum lots and ground floor area of buildings are less than those specified for RS and R1. This district frequently applies to existing residential neighborhoods and comparable expansion thereof.

(E) *Residential 3 (R3)*. This district is established to include areas of relatively low-density two-family and multiple-family residences permitted on a density of use basis, with the minimum lot size being increased for more than one family in a building. Single-family residences are also permitted in a density basis somewhat higher than R2 Districts.

(F) *Residential 4 (R4)*. This is a medium-density residential with single-, two-family and multiple-family residences permitted.

(G) *Residential 5 (R5)*. This is a relatively high-density residential district with all types of residential development permitted.

(H) *Professional Business (PB)*. This district is established as a buffer, generally between commercial and residential districts permitting selected professional and business uses having limited contact with the public.

(I) *Local Business (LB)*. This district is designed and located in neighborhoods to accommodate the primary and service needs of the locality. Although limited in area occupied, the district is important to the economic welfare of the community in placing "convenience" and "impulse" goods shops close to the consumer.

(J) *Central Business (CB)*. This district is established to include areas that are intended to serve as the Central Business District for urban places.



(K) *Central Core (CC)*. This is a special district, applicable to the central core of the downtown. It is established to provide for the special needs of this area, by waiving certain requirements in regard to parking, sign regulations and the like which are necessary in other commercial districts.

(L) *General Business (GB)*. This is a general business district providing for all types of business and service uses including warehouse and storage facilities as well as some light industrial operations.

(M) *Industrial 1 (I1)*. This district incorporates many of the existing industrial developments and provides for their expansion. Generally, the permitted uses will include only those where all of the operations, including the storage or material, are confined within a building and the performance characteristics are compatible with uses permitted in neighboring districts.

(N) *Industrial 2 (I2)*. This district is provided for general industrial operations utilizing both enclosed and unenclosed space for storage, fabricating and manufacturing.

(O) *Industrial 3 (I3)*. This district is established to provide for general industrial operations in the processing of raw materials for the production of basic commodities.

(P) *Airport Zone (AZ)*. The AZ District is established to be applied to the city's Municipal Airport. Certain commercial and industrial operations may be permitted by special exception.

(Q) *Mobile Home Park District (MH)*. This district is established to provide for mobile home parks with exclusive occupancy by mobile homes as residences.  
(Ord. 2-2000, passed 3-13-2000, § 29.5.1)

**§ 153.604 WIRELESS FACILITY SITING STANDARDS-ZONING.**

(A) New commercial wireless communications towers are a permitted use in the following districts, subject to § 153.606:

- (1) General business;
- (2) Industrial 1;
- (3) Industrial 2; and
- (4) Industrial 3.

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(B) New commercial wireless communications towers are allowed only as a special exception, requiring the approval of the Board of Zoning Appeals, in the following districts subject to § 153.606:

- (1) Agriculture;
- (2) Residential Suburban;
- (3) Residential 3;
- (4) Residential 4;
- (5) Residential 5;
- (6) Mobile home park;
- (7) Central Core;
- (8) Central Business;
- (9) Professional Business;
- (10) Local Business; and
- (11) Planned Unit Development (PI, PC, PR).

(C) New commercial wireless communications towers are not allowed in the following districts:

- (1) Residential 1;
- (2) Residential 2; and
- (3) Airport Zone.

(D) Noncommercial wireless facilities (amateur radio antennas) are subject to § 153.605. (Ord. 2-2000, passed 3-13-2000, § 29.5.2)

**§ 153.605 NONCOMMERCIAL WIRELESS FACILITY (AMATEUR RADIO ANTENNAS) STANDARDS.**

(A) Towers supporting amateur radio antennas and conforming to all applicable provisions of these regulations shall be allowed only in the rear yard of residentially zoned parcels.

(B) In accordance with the Federal Communications Commission’s preemptive ruling PRB1, towers erected for the primary purpose of supporting amateur radio antennas may exceed 30 feet in height; provided that, a determination is made by the Area Plan Commission that the proposed tower height is technically necessary to successfully engage in amateur radio communications.

(Ord. 2-2000, passed 3-13-2000, § 29.5.3)

**§ 153.606 COMMERCIAL WIRELESS FACILITY PERFORMANCE CRITERIA.**

	<i>RI, R2, AZ</i>	<i>AG, RS, R3, R4, R5, MH, CC, CB, PB, LB, PI, PC, PR</i>	<i>GB, II, I2, I3</i>
Antenna to be affixed to a new (proposed) ground tower	Not allowed	Special exception	Maximum tower height: see § 153.595; setbacks: the greater distance of the following:
			1. Tower height + 10 feet from the street R/W or site boundaries
			2. Twice the tower height from residential property lines
Antenna to be affixed to an existing building without a roof tower	1. Antenna may be placed on the facade or roof of conforming building or structures without regard to height or setback of the building	1. Antenna may be placed on the facade or roof of conforming building or structures without regard to height or setback of the building	1. Antenna may be placed on the facade or roof of conforming building or structures without regard to height or setback of the building
	2. Antenna support structures will be considered to be roof towers if the height of the structure exceeds 10 feet above permitted height of the building	2. Antenna support structures will be considered to be roof towers if the height of the structure exceeds 10 feet above permitted height of the building	2. Antenna support structures will be considered to be roof towers if the height of the structure exceeds 10 feet above permitted height of the building

**Grant County - Land Usage**

	<i>RI, R2, AZ</i>	<i>AG, RS, R3, R4, R5, MH, CC, CB, PB, LB, PI, PC, PR</i>	<i>GB, II, I2, I3</i>
Antenna to be placed to a new (proposed) roof tower	Not allowed	Special exception	Roof towers may be placed on the roof of a conforming building using either of the following to determine tower height and setback:
			1. Tower height above the roof may be as high as the setback distance to the nearest roof edge
			2. The heights allowable for a ground tower may be used for a roof tower if the required setbacks for a ground tower are met
Antenna to be added to an existing approved ground tower:	Allowed if the following conditions are met:	Allowed if the following conditions are met:	Allowed if the following conditions are met:
	1. The tower height is not increased	1. The tower height is not increased	1. The tower height is not increased
	2. No ancillary features are added to the tower other than antenna, required safety hardware and ancillary equipment buildings	2. No ancillary features are added to the tower other than antenna, required safety hardware and ancillary equipment buildings	2. No ancillary features are added to the tower other than antenna, required safety hardware and ancillary equipment buildings
	3. All conditions of the previous tower approval have been satisfied	3. All conditions of the previous tower approval have been satisfied	3. All conditions of the previous tower approval have been satisfied
Antenna to be added to a nonconforming tower	Subject to zoning requirements concerning nonconforming structures	Subject to zoning requirements concerning nonconforming structures	Subject to zoning requirements concerning nonconforming structures
Accessory structures (equipment building and the like)	Subject to all requirements of appropriate zones (i.e., bulk, setback and the like)	Subject to all requirements of appropriate zones (i.e., bulk, setback and the like)	Subject to all requirements of appropriate zones (i.e., bulk, setback and the like)

(Ord. 2-2000, passed 3-13-2000, § 29.5.4)

## Solar Ordinance for Solar Energy Systems (SES)

### 153.700 Scope

- A. This Ordinance applies to all Solar Energy System installations in Grant County

### 153.701 Purpose

- A. Grant County finds that it is in the public interest to regulate the use and development of solar energy systems. Grant County supports the use of solar energy collection systems and the regulations found in the Ordinance are not intended to severely limit the placement of solar energy systems.
- B. To assure that the development and production of solar-generated electricity in Grant County, Indiana, is safe and effective.
- C. To provide a uniform and comprehensive set of standards for the installation and use of any Residential Solar Energy Systems (RSES) or Solar Farm Energy Systems (SFES), both major & minor.
- D. To develop standards for solar generated energy, utilize natural resources, and ecologically sound energy sources, support Indiana's alternative energy sources potential and other such economic development tools.

### 153.702 Intent

- A. The intention of the Solar Energy System (SES) Ordinance is to provide a regulatory scheme for the development, construction, and operation of SESs in Grant County, Indiana, to establish reasonable guidelines and standards on the development, construction, operation, rehabilitation, decommissioning, and restoration of a SES, and to preserve the health, safety, and general welfare of Grant County residents and the general public.

**153.703 DEFINITIONS:** The following words and terms shall, for the purpose of this Section and used elsewhere in this Ordinance, have the meaning shown herein.

**Adjacent.** lying near, close; contiguous; adjoining; neighboring.

**Adjoining.** being in contact at some point or line; contiguous; bordering.

**Accessory Building/Structure.** A subordinate structure, the use of which is incidental to that of the dominant use of the principal building or land.

**Accessory Use.** A use customarily incidental and subordinate to the primary use or building and located on the same lot therewith. A use which dominates the primary use or building in area, extent, or purpose shall not be considered an accessory use.

**Applicant.** The entity or person who submits to the County, an application for the siting of any SES or Substation or thereafter operates or owns a SES.

**Area Plan Commission (APC).** A multiple jurisdictional Plan Commission established under the Area Plan Law, as defined in the I.C. 36-7-4-102 as amended, herein the Area Plan Commission (APC)

**Battery Back-Up.** A battery system that stores electrical energy from a SES, making the electricity available for future use. Battery Back-Up systems are common in Off-Grid Systems and Hybrid Systems.

**Electricity Generation (aka production, output).** The amount of electric energy produced by

transforming other forms of energy, commonly expressed in kilowatt-hours (kWh) or megawatt-hours (MWh).

**Electrical Equipment.** Any device associated with a SES, such as an outdoor electrical unit/control box, that transfers the energy from the SES to the intended on-site structure.

**Improvement Location Permit (ILP).** A certificate issued by the Area Plan Commission permitting a person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, or convert any building or structure within its jurisdiction, or cause the same to be done.

**Indiana Residential Code (InRC) -** Part of the International Residential Code (IRC), the InRC sets buildings standards for residential structures and is based off the International Residential Code (IRC)

**Inverter.** A device that converts the direct current (DC) electricity produced by a solar photovoltaic system to useable alternating current (AC).

**Ground Mount Solar Energy System.** A solar energy system that is directly installed into the ground and is not attached or affixed to an existing structure.

**Megawatt (MW).** Equal to 1000 Kilowatts; a measure of the use of electrical power.

**Minor Solar Farm Energy System (SFES Minor).** A commercial facility, on a parcel(s) of One (1) acre up to 10 acres that converts sunlight to electricity, whether by photovoltaics concentrating solar thermal devices, or various experimental technologies for on-site or off-site use.

**Major Solar Farm Energy System (SFES Major).** A commercial facility, on a parcel(s) of 10 acres or more that converts sunlight to electricity, whether by photovoltaics concentrating solar thermal devices, or various experimental technologies for on-site or off-site use with the primary purpose of selling wholesale or retail generated electricity.

**Maximum Extent Boundary.** A maximum land area of work as defined within a project's Development Plan.

**National Electric Code (NEC).** Sets standards and best practices for wiring and electrical systems.

**Photovoltaic (PV) System.** A solar energy system that produces electricity using semiconductor devices, called photovoltaic cells, which generate electricity when exposed to sunlight. A PV system may be roof-mounted, ground-mounted, or pole-mounted.

**Primary Structure.** Means, for each property, the structure that one or more people occupy most of the time on that property for either business or personal reasons. Primary Structure includes structures such as residences, commercial buildings, hospitals, and day care facilities. Primary Structure excludes structures such as hunting sheds, storage sheds, pool houses, unattached garages, and barns.

**Operator.** The entity responsible for the day-to-day operation and maintenance of the SFES, including any third-party subcontractors.

**Owner.** The entity or entities with an equity interest in the SES, including their respective successors and assigns. Owner does not mean the property owner from whom land is leased for locating the SFES (unless the property owner has an equity interest in the SFES); or any person holding a security interest in the SFES solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the SFES within one year of such event.

**Racking.** Solar energy systems are attached securely and anchored to structural sections of the roof-mounted or pole-mounted systems. Specially designed metal plates called flashings prevent leaks and are placed under shingles and over bolts to create a watertight seal.

**Residential Solar Energy System (RSES).** Any device or combination of devices or elements which rely upon direct sunlight as an energy source including but not limited to any substance or

device which collects sunlight for generating electricity primarily for use on-site. However, the energy output may be delivered to a power grid to offset the cost of energy on-site. RSEs are only considered RSEs if installed on One (1) Acre or less and would include Commercial installations. **Right-of-Way (ROW).** A strip of land occupied or intended to be occupied by a street, pedestrian-way, crosswalk, railroad, electric transmission line or gas pipeline, water main, sanitary or storm sewer main, special landscaping or for another special use. The usage of the term RIGHT-OF-WAY, for land platting purposes, shall mean that every right-of-way hereafter established and shown on a final plat is to separate and distinct from the lots or parcels adjoining the right-of-way and not included within the dimensions or areas of the lots or parcels. RIGHTS-OF-WAY intended for streets, crosswalks, water mains, sanitary sewers, storm drains, screening or special landscaping or any other use involving maintenance by a public agency shall be dedicated to public use by the subdivider on whose plat the right-of-way is established.

**Roof-Mount System (aka rooftop mounted, building mounted).** A solar energy system consisting of solar panels are installed directly on the roof of a home, commercial building, and/or an accessory structure, such as a garage, pergola, and/or shed. Solar panels are mounted and secured using racking systems specifically designed to minimize the impact on the roof and prevent any leaks or structural damage. Roof-mount systems shall be installed according to InRC Section R324.

**Screening (for Solar Farms).** Densely planted (or having equivalent natural growth) with blooming shrubs or trees at least four feet high at the time of planting, of a type that will form a year-round dense screen at least six feet high. Earth berms may be incorporated as part of screening measures where appropriate.

**Solar Access.** The ability of one property to continue to receive sunlight across property lines without obstruction from another's property (buildings, foliage, or other impediment).

**Solar Array.** Multiple solar panels combined to create one system.

**Solar Collector.** A solar PV cell, panel, array, or solar thermal collector device, that relies upon solar radiation as an energy source for the generation electricity or transfer of stored heat.

**Solar Development District (SDD).** A Zoning District for which a SDD Ordinance must be adopted to designate specified land classification, within which all sites are subject to a unified group of use and site development regulations set forth in the Solar Ordinance. SDD Overlay would generally be set for the "Maximum Extent Boundary".

**Solar Easement.** An easement recorded pursuant to Chapter IC 32-23-4, obtained for the purpose of insuring exposure of a solar energy device or a passive solar energy system to the direct rays of the sun. Solar easements are to follow the State requirements of Recording (IC 32-23-2-5).

**Solar Energy.** Radiant energy received from the sun can be collected in the form of heat or light by a solar collector.

**Solar Energy System (SES).** The components and subsystems required to convert solar energy into electric or thermal energy are suitable for use. The area of system includes all the land inside the perimeter of the system, which extends to any fencing.

**Solar Farm Energy System Project Area.** A SFES project area may be comprised of a single parcel of land or two or more contiguous parcels of land providing their inclusion in the developmental plan & with written agreements where applicable.

**Solar Glare.** The potential for solar panels to reflect sunlight, with intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

**Solar Panel (or module).** A device for the direct conversion of sunlight into useable solar energy

(including electricity or heat).

**Solar Photovoltaic (PV) System.** A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells, which generate electricity when exposed to sunlight. A PV system may be roof-mounted, ground-mounted, or pole mounted.

**Waiver Agreement.** An agreement to modify a standard required in this Article which is entered into by and between the landowner burdened by lessening the standard required by this Article and the applicant requesting the modification of the standard required by this Article. An agreement to modify a standard required by this Article, or a “waiver agreement”, is permissible only when a waiver of such standard is specifically authorized by this Article. In order to be valid, a “waiver agreement” must: (1) Be in writing; (2) Specifically state that the document is a waiver agreement; (3) Briefly describe the standard or requirement which is being modified; (4) Briefly describe the standard agreed upon by the parties to the waiver agreement; (5) Be executed in a manner free from coercion or duress; (6) Be executed by both parties to the waiver agreement; (7) Be subject to the approval of the Executive Director; and (8) be filed and recorded thru the Area Plan Office.

#### **153.704 RESIDENTIAL SOLAR ENERGY SYSTEM (RSES):**

- A. **RSES Purpose & Standards.** The purpose of these regulations is to provide a uniform and comprehensive set of standards for the installation and use of RSESs designed for on-site home, farm, and small commercial use that are used primarily to reduce on-site consumption of utility power. The intent of these regulations is to protect public health, safety, and community welfare without unduly restricting the development of RSESs.
- B. **Residential Solar Energy System (RSES) Defined.** Any device or combination of devices or elements which rely upon direct sunlight as an energy source including but not limited to any substance or device which collects sunlight for generating electricity primarily for use on-site. However, the energy output may be delivered to a power grid to offset the cost of energy on-site. RSESs are only considered RSESs if installed on One (1) Acre or less and would include Commercial installations.
- C. **Permitted Use.** A RSES shall be considered an accessory use to a principal permitted use in all zoned districts of the County that are covered by this Ordinance. The RSES shall primarily provide power for on-site use by the owner. However, the energy output may be delivered to a power grid to offset the cost of energy on-site (Net Metering).
- D. **Permitting.** Before an Improvement Location Permit (ILP) is issued, the following shall be submitted to the Area Plan Commission for review including, but not limited to:
  1. **Site plan showing:**
    - a) Name, address, and phone number of the property owner.
    - b) Property lines; all structures; septic field; setback lines.
    - c) Location of all solar panels and associated equipment.
    - d) Name, address, and phone number of the contractor/engineer.
  2. **Confirmation** that the local electric utility has been informed of the customer’s intent to install a RSES.
  3. **Confirmation** that the site plan has been submitted to the local fire protection district
- E. **Approved Solar Components.** All RSES components must have an Underwriters laboratory (UL) listing or approved equivalent.
- F. **Building Codes.** All county, state, and national construction codes shall be followed (reference InRC R324, as amended)



- G. **Glare.** The RSES shall be designed and located to prevent glare toward any inhabited buildings or adjacent properties as well as adjacent highways or right-of-ways.
- H. **Revocation.** The ILP/ Building Permit shall be revoked if the RSES, whether new or pre-existing, is moved or otherwise altered, either intentionally or by natural forces, in a manner which causes the RSES not to be in conformity with this Ordinance.

### **153.705 Residential Solar Energy System (RSES) Types & Requirements**

#### **A. Roof Mounted and Wall Mounted (RSES)**

1. A roof mounted or wall mounted RSES may be located on a principal or accessory building.
2. Roof-mounted solar panels installed on a building or structure with a sloped roof shall not project vertically more than the height requirements for the district in which they are located. The panels shall not be located within three (3) feet of any peak, eave, or valley of the roof to maintain pathways of accessibility and egress.
3. Wall mounted RSES shall comply with the setbacks for principal and accessory structures in the underlying zoning districts.
4. RSES shall be located only on rear or side-facing roofs/structure as viewed from any adjoining street unless the applicant demonstrates to the Area Plan Executive Director or their Agent that, due to solar access limitations, no location exists other than the street-facing roof/structure, where the solar energy system can perform effectively.
5. For roof and wall mounted systems, the applicant shall provide evidence that the plans comply with the Indiana Residential Code (InRC) Section R324 and/or manufacturer specifications, whichever is more restrictive.
6. For Roof Mounted RSES: Prior to installation, a certificate/stamp from a licensed engineer is required stating the structure is capable of holding the additional load imposed on the structure.

#### **B. Ground Mounted (RSES)**

1. Setback
  - a. The minimum yard setbacks from side and rear property lines shall be equivalent to the accessory structure setbacks in the zoning district.
  - b. Freestanding solar panels shall only be permitted in the rear and side yard, except for the following exception:
    - i. The Board of Zoning Appeals (BZA) may authorize, thru Variance, the installation of a ground mounted RSES in front of the principal building, outside the required front yard setback, if the applicant demonstrates that, due to solar access limitations, no location exists on the property other than the front yard where the solar panel can perform effectively.
  - c. Shall not be greater than twenty (20) feet at the maximum tilt of the solar panel(s) in any zoning district.
2. Ground-mounted RSES shall not be placed within any legal easement or right-of-way location, or be placed within any storm water conveyance system, or in any other manner that would alter or impede storm water runoff from collecting in a constructed

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storm water conveyance system except permission is granted in writing by the County Surveyor and/or County Drainage Board, and owner of right-of-way or easement.

**153.706 Electrical Components (Safety & Standards)**

- A. Electrical components of all RSES shall conform to applicable Local, State, and Federal building & safety codes including Indiana Residential Code and/or Indiana Electrical Code.
- B. All RSES equipment to be used must have an Underwriters Laboratory (UL) listing or approved equivalent.
- C. All on-site utility, transmission lines, and plumbing shall be placed underground to the extent feasible.
- D. When solar storage batteries are included as part of the solar energy collector system, they must be placed in a secure container or enclosure and installed and maintained as required by applicable law or manufacturer specifications.
- E. The RSES must be properly maintained and be kept free from all hazards, including but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety, or general welfare. In the event of a violation of any of the foregoing provisions, the Area Plan Director or their Agents shall give written notice specifying the violation to the owner of the RSES to conform or to remove the RSES. Said RSES can be declared a public nuisance if not repaired in 30 days.
- F. Any physical modification to any RSES or a part thereof which materially alters the mechanical load, mechanical load path, or major electrical components shall require re-permitting. Like-kind replacements shall not require re-permitting, unless required by a regulatory authority. Prior to making any material physical modification, other than a like-kind modification, the owner or operator of such RSES shall confer with the Area Plan Commission.

**153.707 Determination of Executive Director**

- A. The Executive Director of the Area Plan Commission (APC) shall determine, should minor variances from the requirements set forth in Sections 153.705 be requested, which requirements shall be complied with by the applicant, owner, or operator prior to issuance of an Improvement Location Permit/Building Permit for a RSES. The Executive Director may require additional, reasonable submittals from time to time. The Executive Director may, upon proper agenda notice, assign any question, general or as to a specific RSES application, for discussion and/or instruction from the BZA. An applicant for a RSES may appeal the requirement, decision, or determination of the Executive Director in the manner prescribed by applicable Rules of the BZA, the Zoning Ordinance and statute(s).

**153.708 Solar Farm Energy Systems (SFES Minor & SFES Major)****153.709 Solar Farm Energy System (SFES) Purpose & Standards.**

- A. To consider the unique needs of solar farm energy systems and to provide for the most efficient use of this type of renewable energy system.

- B. To protect the character of residential neighborhoods and commercial corridors, as well as to ensure that solar farm energy systems are placed and constructed in such a way that is harmonious and beneficial to agricultural property.
- C. To provide a uniform and comprehensive set of standards for the installation and use of Solar Farm Energy Systems designed for commercial energy production.
- D. To protect the public health, safety, and general welfare without unduly restricting the development of Solar Farm Energy Systems.

### **153.710 “Solar Development District” Overlay**

This section establishes “Solar Development Districts” for Major Solar Farm Energy Systems (Major SFES). Specifically, it creates an Overlay Zone that lies on top of an existing zoning district(s) and is intended to apply an additional layer of design standards to all areas within a defined overlay boundary (maximum extent boundary) beyond those of the underlying zoning district in which it is created. The purpose of this district is to apply a unique set of standards to a specified area without having to amend all other relevant sections of the zoning code. Major Solar Farm Energy Systems may cover parts of several existing zone districts or only a portion of a single zone. This overlay district does not regulate Residential Solar Energy Systems (RSES) or Minor Solar Farm Energy Systems (Minor SFES).

### **153.711 “Solar Development District” Overlay Application and Approval Process**

#### **A. Zone Map Amendment**

1. A “Solar Development District” Overlay District is reviewed and may be adopted as with any other zone map amendment request per IC 36-7-4-608
  2. “Solar Development District” Application may run concurrent with a Solar Projects Development Plan.
  3. Application shall include all Parcels within the “Solar Development District”.
  4. Application shall include “Maximum Extent Boundaries” (Overlay Boundaries) of the proposed Solar Development District.
  5. If a Development Plan is not approved after a period of 3 years from the date the properties were approved to be part of the Overlay District, the properties shall be removed from the Overlay District.
  6. If, within 2 years from the expiration of a Development Plan, a new Development Plan is not approved, the properties shall be removed from the Overlay District.
- B. Permitted and Special Uses of the underlying zoning district shall continue in effect, except as may be modified by this Overlay District.

### **153.712 Solar Farm Energy System (SFES) Development Plan Application & Review**

This Section governs the siting of any solar farm energy system (SFES) designed for commercial energy production and to assure that any development and production of solar generated electricity in Grant County is safe and effective by providing a regulatory scheme for the construction and operation of any SFES in Grant County.

Prior to the construction of any SFES, the applicant, owner, or operator shall be required to complete the following process:

#### **A. Application:**

The applicant, owner, and/or operator shall submit an application for a Development Plan review along with a description; including names, address, and contact information of the applicant, owner, and operator including their respective business structures; along

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with, but not be limited to the following.

1. **Summary Statement & Site Description:** A SFES project summary shall include, but not be limited to:
    - a. A general description of the project including its approximate generating capacity. (by MW)
    - b. The general location of the project.
    - c. Proposed type of SFES to be used and the potential equipment manufacturer. All SFES components shall have an Underwriters Laboratory (UL) listing or approved equivalent.
    - d. Approximate number of panels, site locations, and spacing of solar panels/arrays to be installed.
  2. The names, addresses, phone numbers and/or contact information for all property owners with the SFES proposed on their properties.
  3. **Site Plan: A detailed plan,** at a measurable scale, of all the improvements to be placed on the site(s). Site plan(s) must include:
    - a. The proposed Solar Development District location on the SFES showing the projected maximum extent boundaries of the site.
    - b. The location of all proposed SFES structures including substations.
    - c. Property lines, including identification of adjoining properties.
    - d. Location of all primary structures located in adjacent properties, within quarter (1/4) mile.
    - e. Public roads
    - f. Planned location of underground or overhead electric lines.
    - g. Flood Plain, if located in Flood Plain, that area of project is following the Flood Plain Ordinance (Reference Section 153.315)
    - h. Any wetlands based upon a delineation prepared in accordance with the applicable US Army Corps of Engineer requirements and guidelines.
    - i. The location of any FAA registered airport within one (1) mile of the proposed SFES boundary.
  4. **A Topographic Map** of the project site and the surrounding area which shall encompass an area at least a quarter (1/4) mile radius from the proposed project site with contours of not more than five (5) feet intervals.
  5. **Fencing & Landscaping/Buffer/Screening Plan** (Reference Section 153.716)
  6. **Road Use Agreement Plan** (Reference Section 153.719)
  7. **Decommissioning Plan Agreement** (Reference Section 153.718)
  8. **Health Department Approval** (Reference Section 153.713)
  9. **Proof of Liability Insurance Plan** (Reference Section 153.721)
  10. **Approved Drainage Plan** (Reference Section 153.713)
  11. **Erosion Control Plan (Rule 5):**
    - a. Temporary erosion and sediment control both during and after construction.
    - b. Permanent drainage and erosion control measures to prevent damage to local roads or adjacent areas and to prevent sediment laden run-off into waterways.
- B. Application Filing Fee:** The fee applicable to the application shall be payable to the Area Plan Office at the time of submission of the application. The Application fee shall be used to defray the costs associated with the Application, including professional fees and expenses.

Application Filing fee shall be determined through the Area Wide Zoning Ordinance, Appendix A: Area Plan Fee Schedule per IC 36-7-4-411.

- C. **Area Plan Office and Review:** The Area Plan Executive Director & Zoning Administrator shall review the Development Plan & proposed Solar Development District, including all supporting information. When the proposed Development Plan & Solar Development District is in compliance with the requirements of the Solar Ordinance, the Development Plan Application & proposed Solar Development District shall be forwarded to the APC for Public Hearing, Review, and Recommendation.
1. The Area Plan Office may seek review from the Technical Advisory Committee prior to submitting the Development Plan Application to the Area Plan Commission.
- D. **Public Hearing Notification:** Notification for the scheduled public hearing regarding the Development Plan & proposed Solar Development District shall be completed consistent with the requirements of the Rules of Procedures of the Area Plan Commission along with the requirements of IC 5-3-1 (Open Door Law) for publication.
- E. **Area Plan Commission Review and Recommendation:** The APC, in a public hearing, shall review the development plan & proposed Solar Development District. Following the public hearing and review, the APC shall put forth a recommendation to the County Commissioners (Legislative Body);
1. The APC shall confirm the completion of the SFES Development Plan Application & proposed Solar Development District.
  2. The APC may ask the applicant for additional materials or testimony.
  3. The APC Recommendation to the Commissioners shall be: Favorable Recommendation, Unfavorable Recommendation, or No Recommendation.
- F. **Findings of Fact (IC 36-7-4-1406):** The Area Plan Executive Director shall prepare, and sign written findings of facts documenting the action taken by the APC.
- G. **The Commissioners (Legislative Body) Review & Decision:** After receipt of the SFES Development Plan & Solar Development District recommendations from the APC, the Commissioners shall review then approve, modify, or deny the SFES Application.
1. The Commissioners may ask for modification of the SFES Application, Application would be sent back to the APC for review & revision prior to being re-visited by the Commissioners for approval.
  2. The Commissioners may ask that Application be sent to the Board of Zoning Appeals for any modification that would require a variance from the established ordinance prior to approval.
  3. The Commissioners shall be responsible for all Legal Contracts, such as but not limited to the Decommissioning Plan, Road Use Agreement, Liability Insurance, and Economic Development Agreements.
- H. **County Council.** The County Council will be responsible for all Tax Abatement Requests. These requests shall be made prior to beginning the development process.
- I. **Findings of Fact (IC 36-7-4):** The Commissioners (Legislative Body) shall prepare, and sign written findings of facts documenting the action taken.
- J. **All Tax Abatement** requests shall go through the Grant County Council prior to the application process.

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- K. **Permits:** Prior to any construction activity, the applicant, owner, and/or operator shall be required to obtain the appropriate Improvement Location Permits (ILP) and any other required permits specified by this Ordinance through the Area Plan Office.

### 153.713 Revisions to Solar Farm Energy System (SFES) Development Plan

Any revisions to an approved Development Plan shall require approval prior to the issuance of any Improvement Location Permits. The proposed revisions along with all required supporting information shall be submitted to the Executive Director for review. The Executive Director may approve minor revisions per 153.712 (A), If the Executive Director determines that the revisions require APC re-approval, the revisions will be forwarded to the APC for review. If the APC determines that a public hearing is necessary, notification for the public hearing will be consistent with the requirements of the Rules & Procedures of the APC. The review shall be in compliance with the requirements of IC 36-7-4-1405 as amended.

- A. Minor revisions consist of changes located within the maximum extent boundary of the SFES.
- B. All Revisions that exceed the maximum extent boundary of the SFES will be forwarded for review by the APC, review shall be in a Public Hearing.
- C. Any Revision that would require a variance from the established ordinance shall be sent to the Board of Zoning Appeals.

### 153.714 Requirements for Improvement Location Permit (ILP)

- A. **Application:** The Application shall include, but not be limited to the following:

1. A plot plan showing the following:
  - a. The location of all SFES structures and substations
  - b. Location, number and spacing of solar panels
  - c. Location of fencing and buffer/screening areas
  - d. Property lines, setbacks, and any existing easements
  - e. Location of access roads and access points
  - f. The location of all above ground and underground utility lines associated with the site
  - g. The location of ancillary equipment and transmission lines
  - h. Field tile or private drain locations, if known
  - i. Existing and/or abandoned Wells and Septic Fields, if known
  - j. Floodplain location, if any.

- B. **Additional Information Requirements:** The following may be submitted one time for the entire project but must be submitted prior to the issuance of any Improvement Location Permits.

1. **Approved Emergency Plan / Fire Safety Plan.** An Emergency / Fire Safety Plan must be approved by the local fire departments and meet the following requirements:
  - a. The site and emergency plan shall be submitted to the local fire protection districts and/or department(s) whose jurisdiction is included in whole or in part within the SFES project area.
  - b. Any specialized training necessary will be provided at the operator's expense.
  - c. Knox boxes and keys shall be provided at locked entrances for emergency personnel access.

- d. The names and phone numbers for the electric utility provider and the site operator along with the facilities 911 address and GPS coordinates shall be provided as part of the emergency plan.
2. **Approved Drainage Plan.** A drainage plan for construction and operation must be approved by the Grant County Drainage Board prior to issuance of any permits.
  - a. Except as otherwise allowed by IC 36-7-4-1109 (development approval), all damages to private or public waterways, drainage ditches, field tiles, or other drainage related infrastructure caused by the construction, installation, or maintenance of a SFES must be completely repaired by the project owner to near original condition so as to not impede the natural flow of water. All repairs must be completed within a reasonable period of time and:
    1. To the satisfaction of the Grant County Drainage Board and;
    2. As stated in an applicable lease or another agreement with the landowner; subject to applicable federal, state, and local drainage laws and regulations.
3. **An Erosion Control Plan (Rule 5)** must be approved by the Grant County Soil & Water Conservation District regarding IDEM Rule 5 requirements prior to issuance of any permits.
4. **Health Department Approval:** the applicant, owner, and/or operator must comply with existing septic and well regulations as required by the Grant County Health Department and the Indiana Department of Public Health prior to the issuance of any applicable Improvement Location Permits.
5. Any other information is required by the Executive Director for the proper enforcement of this Ordinance.

**C. Permit Fees:**

1. Prior to the issuance of any Improvement Location Permits (ILP) for the SFES project, the applicant, owner and/or operator shall pay the required permit fee per Appendix A: Area Plan Fee Schedule.

**D. Other Structures.** Any other structure associated with the project, outside of the original developmental plan, shall require a separate Improvement Location Permit & Permit Fee required per Appendix A: Area Plan Fee Schedule.

**153.715 Solar Farm Energy Systems (SFES) Setbacks**

**A. Setbacks (both SFES Major & SFES Minor)**

1. A minimum **three hundred (300) foot setback** shall be maintained from any non-participating dwelling to any solar farm structures/equipment, not including security fencing, if applicable.
  - a. A minimum of **one hundred (100) foot setbacks** shall be maintained from any participating dwelling.
  - b. When the solar facilities for a single project encompass multiple parcels, there is no required setback from a property line for the internal property lines in the project.
2. A minimum **fifty (50) foot setback**, which will include all screening, buffering, and other native vegetation, shall be maintained from the solar farm structures/equipment to any non-participating owner's adjoining property line which is a perimeter boundary line for the projected area.

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3. A minimum **fifty (50) foot setbacks** shall be maintained from the solar farm structures/equipment to the road right-of-way line including all state & county roads.
  4. A minimum **fifty (50) foot setbacks** shall be maintained for any ingress/egress road from any adjoining, non-participating property line or landowner.
- B. Setbacks will be measured from Solar Energy Equipment, including Substations, but do not include security fence or distribution poles/wires.
1. Security fencing and distribution poles/wires may be located within the setbacks but may not be located in the right-of-way.
- C. Setbacks may be reduced with a written waiver agreement from all involved property owners per waiver agreement as defined in definitions.
1. Setbacks from right-of-ways shall be maintained & not reduced, regardless of waiver.

### 153.716 Solar Farm Energy System (SFES) Site & Landscape Requirements

#### A. Buffers and Landscaping/Ground Cover

1. A minimum **25' wide** buffer zone, containing native plants including trees, shrubs, and pollinators, shall be maintained. If there is no existing vegetation or if the existing vegetation is inadequate to serve as a screen, native plants shall be planted to create the visual screen.
2. Buffering shall be found along the road frontage and perimeters along adjacent non-participating properties that contain residential dwellings.
3. Topsoils shall not be removed during development unless part of a remediation effort.
4. Perennial vegetation shall be planted and maintained to prevent erosion, manage run off, and build soil. Seeds should include a mix of grasses and forbs (flowering, non-grassy herbaceous plants), when feasible, native to the region.
5. Maintenance practices should be consistent with recommendations made by qualified natural resource professionals such as those from the department of natural resources, county soil and water conservation service, or natural resource conservation service.
6. **Landscape plan**, prepared by a professional landscape architect, will provide an assessment form or score card to ensure that proposed landscape plan meets or exceeds accepted pollinator and habitat standards. The **Purdue University 2020 Solar Site Pollinator Habitat Planning Scorecard** or similar third party solar-pollinator scorecards designed for Midwestern eco-systems, soils, and habitats will be acceptable.

#### B. Screening

1. The landscape plan shall outline all proposed screening for the project. Emphasis will be placed on screening around the Non-Participating Structures, both Residential & Commercial.
  - Densely planted (or having equivalent natural growth) with blooming shrubs or trees at least four feet high at the time of planting, of a type that will form a year-round dense screen at least six feet high. Earth berms may be incorporated as part of screening measures where appropriate.
  - Areas adjacent to Non-Participating Property Lines, both Residential & Commercial, which do not have structures present, will not be required to be screened.

#### C. Height



1. The Height of the solar collector and any mounts shall not exceed 20' when oriented at maximum tilt.

**D. Fencing**

1. All SFES systems equipment, panels and structures shall be fully enclosed and secured by a fence with a minimum height of 6 feet and must setback a minimum of 50' feet from any property line.
2. Fences must be equipped with a minimum of one gate and a locking mechanism on the primary access side.

**E. Glare minimization**

1. All Solar Panels must be constructed to minimize glare or reflection onto adjacent properties and adjacent roadways and must not interfere with traffic, including air traffic, or create a safety hazard.

**F. Interference:**

1. If during/ after construction of the SFES, the owner and/or operator receives a written complaint related to interference with any local broadcast residential television, telecommunication, communication, microwave transmissions and/or glare, the SFES owner and/or operator shall take reasonable steps to respond to minimize the complaint.

**G. Noise**

1. Sound attributable to the solar farm shall not exceed an hourly average sound level of sixty (60) A-weighted decibels as modeled at the property line adjacent to a dwelling or residence zone.

**H. Concurrent Uses**

1. Nothing will prevent a solar farm from coinciding with agricultural uses including but not limited to grazing of livestock or apiculture (beekeeping) per IC 36-1-28-1

**I. Power and Communication Lines**

1. Power and Communication lines installed on the solar farm project sites that connect panel rows to inverters must be buried underground. Power lines between the solar farm project and the electric utility transmission system may be overhead.

**J. Signage**

1. No signs other than appropriate warning signs, or standard manufacturer's, operator's, or installer's identification signage, shall be displayed.
2. All Ingress/Egress roads to a SFES shall have posted an address road sign indicating the assigned address for that location.

**K. Lighting**

1. If lighting is provided at the project, lighting shall be shielded and downcast such that the light does not spill on to the adjacent parcel and/or residence and/or primary structure.

**L. Outdoor Storage**

1. Only the outdoor storage of materials, vehicles and equipment that directly support the operation and maintenance of the solar farm shall be allowed.

**M. Construction Bond**

1. The applicant shall post a bond in a form acceptable to Grant County in the sum of One Million Dollars (\$1,000,000) for each contiguous SFES location proposed to be

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constructed during the project. The purpose of the bond shall be to secure and guarantee the completion of the project according to the standards of this Ordinance and to secure and cover any damage to county infrastructure which may be uncured. Upon completion and approval of the project by the Area Plan Director or their agents and after a period of one year from the date of completion, said bond shall be released.

#### **153.717 SFES Operation, Maintenance, and Inspections**

##### **A. Maintenance Plan.**

1. The ILP applicant shall submit a plan for the operation and maintenance of the SFES & Facility, which shall include measures for maintaining safe access to the Facility as well as general procedures for operation and maintenance of the installation.

##### **B. Maintenance, Repair, or Replacement of Facility**

1. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to emergency response officials.
2. Any Retrofit, replacement, or refurbishment of equipment shall adhere to all applicable local, state, and federal requirements.
3. Any physical modification to the SFES that alters the mechanical load, mechanical load path, or major electrical components shall require a proper building permit. Like-kind replacements shall not require re-certification.

##### **C. Inspections**

1. The APC and their agents shall have the right, at any reasonable time and with sufficient prior notice, to accompany the owner and/or operator and/or his agent, on the premises where a SFES has been constructed, to inspect all parts of said SFES installation and to require that repairs or alterations be made.

#### **153.718 Declaration of a Public Nuisance**

- A. Any SFES thereof declared to be unsafe by the APC by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is hereby declared to be a public nuisance and shall be given 365 days to be abated by repair, rehabilitation, demolition or removal in accordance with the approved Decommissioning Plan Agreement. Nothing in this Ordinance is intended to preempt any other applicable state and federal laws and regulations.

1. **Waiver.** In the instance that an unavoidable Act of God inhibits, damages, or destroys part of, or the majority of the SFES, the three hundred sixty-five (365) day public nuisance removal timeline will be waived so long as the SFES owner and/or SFES operator provides a Rehabilitation Plan to remedy the damage and said plan is submitted to, and approved by the APC. Said plan must be submitted to the APC within sixty (60) days of the date the damage was incurred, or a time determined reasonable by the APC.

#### **153.719 SFES Decommissioning Plan Agreement**

- A. Prior to receiving construction approval for the SFES project, the applicant, owner and/or operator must provide proof of a signed Decommissioning Plan Agreement between the Grant County Commissioners and the applicant, owner and/or operator. The Decommissioning Plan is to ensure that the SFES facilities are properly decommissioned upon the end of the project

life or facility abandonment. The Decommissioning Plan shall include, but not be limited to, the following:

1. Assurance that the facilities are properly decommissioned upon the end of the project life or facility abandonment. The applicant, owner and/or operator's obligations with respect to decommissioning shall include removal of all physical material pertaining to the project improvements to a depth of 48" beneath the soil surface, and restoration of the area occupied by the project improvements to the same or better condition that existed immediately before construction of such improvements.
2. Prior to issuance of a Improvement Location Permit, the applicant, owner and/or operator shall provide a contractor/engineer cost estimate for demolition and removal of the SFES facility and will provide financial assurance, taking into consideration any salvage or recycling value, in an amount at least equal to said demolition and removal contractor cost estimate, through the use of a bond, letter of credit or other security acceptable to the Area Plan Commission, the cost of decommissioning the solar field(s) under the building permit, which security shall be released when said solar field(s) is properly decommissioned as determined by the Area Plan Commission.
3. The Financial assurance shall automatically renew each year or have no expiration. The decommissioning plan and financial assurance will be updated by the Owner of the SFES Facility every five (5) years and adjusted as necessary to ensure sufficient funds are available to decommission the project over its life.
4. In the event of abandonment by the owner and/or operator, the applicant will provide an affidavit to the Area Plan Executive Director representing that all easements for the solar field(s) shall contain terms that provide financial assurance, including access to the salvage or recycling value of the equipment, for the property owners to ensure that facilities are properly decommissioned within twelve (12) months of expiration or earlier termination of the project.
5. The applicant, owner, and/or operator's failure to comply with, or make reasonable progress in getting into compliance with any of the above provisions shall constitute a default under this Ordinance.
6. Prior to implementation of the existing procedures for the resolution of each default, the Area Plan Commission shall first provide written notice to the owner and operator, setting forth the alleged default. Such written notice shall provide the owner and operator with a reasonable time period, not to exceed 60 days, for good faith negotiations to resolve the alleged default.
7. If the Area Plan Commission determines, in its discretion, that the parties cannot resolve the alleged default within the good faith negotiation period, the existing county solar ordinance provisions addressing the resolution of such default shall govern.
8. If the Owner or operator of the solar facility fails to remove the installation in accordance with the agreement or within the proposed date of decommissioning, the Area Plan Commission shall send forth a recommendation to the

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Commissioners for collection of the surety and with approval, direct the staff to hire a third party to enter the property to physically remove the installation.

#### **153.720 SFES Road Use Agreement.**

**A.** Prior to the use of any county road for the purpose of transporting parts and/or equipment for construction, operation, or maintenance of the SFES or substation, the applicant, owner and/or operator must provide proof of a signed road use agreement between the applicant, owner, and/or operator and Grant County with approval through the Grant County Commissioners. The Road Use Agreement must include, but not be limited to the following:

- 1. Identification of all such public roads.** Any proposed routes that will be used for construction and maintenance purposes shall be identified. If the route includes a public road, it must be approved by the Grant County Highway Superintendent. The Grant County Highway Superintendent shall conduct a pre-construction baseline survey to determine existing road conditions for assessing potential future damage.
- 2.** Any road damage caused by the construction of the SFES project equipment, the installation of the same, or the removal of same, must be repaired to the satisfaction of the Grant County Highway Superintendent. The Grant County Highway Superintendent may choose to require either remediation of road damage upon completion of the project or is authorized to collect fees for oversized load permits. Further, a corporate surety bond in an amount to be fixed by a professional engineer may be required by Grant County with approval from the County Commissioners to ensure that future repairs are completed to the satisfaction of the County. The cost of bonding is to be paid by the applicant, owner, and/or operator.
- 3.** If an engineering/consulting firm is required for approval for oversized load permits, SFES shall pay any and all costs of the required firm of the Grant County Highway Department Superintendent's choosing.
- 4.** Newly constructed SFES access roads may not impede the flow of water and shall comply with the Grant County Drainage Ordinance and Drainage Plan Agreement.
- 5.** No part of the SFES including, but not limited to above ground transmission lines and poles or below ground transmission lines shall be constructed and/or placed in any County Road right-of-way or dedicated easement without prior written approval from the Grant County Highway Superintendent. Detailed drawings of plans including poles and underground services must be provided.
- 6.** If a Right-of-Way or personal property survey is needed, SFES shall pay the cost of such survey.

#### **153.721 Indemnification**

**A.** The applicant, owner and/or operator of the SFES project shall defend, indemnify, and hold harmless Grant County and its officials from and against any and all claims, demands, losses, suites, causes of action, damages, injuries, costs, expenses, and liability whatsoever, including attorney's fees, without limitation, arising out of acts or omissions of the applicant, owner and/or operator associated with the construction and/or operations of the SFES project.

#### **153.722 Liability Insurance**

**A.** The owner or operator of the SFES shall maintain general comprehensive liability insurance coverage naming Grant County as an additional party insured with a company and under terms approved by the Grant County Commissioners with combined limits for bodily injury and

property damage in the aggregate amount of \$5 million per occurrence with a commercially reasonable deductible approved by the Grant County Commissioners.

**153.723 Change in Ownership**

- A. It is the responsibility of the owner and/or operator listed in the application to inform the Area Plan Commission of all changes in ownership and operation during the life of the SFES project, including the sale or transfer of ownership and/or operation.

**153.724 Economic Development Agreement**

- A. Due to the complexity of large-scale alternative energy projects, the county requires an Economic Development Agreement or other appropriate instruments to address the taxing, land use, property assessment, as well as other issues related to such a project. The county is required to ensure the prevention of large tax shifts that may otherwise be incurred by the taxpayers of the county and more particularly of those taxing units upon which the project resides due to any reduction in tax base caused by these said projects. Therefore, in cooperation with all parties, an agreement shall be established that allows for an acceptable solution for the proper taxation of said SFES. Any agreement drafted and/ or implemented shall be developed in conjunction with and be approved by the Grant County Board of Commissioners, while all Abatement & TIF requests shall be presented, as required to the Grant County Council for approval.

**§ 153.999 PENALTY.**

(A) (1) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(2) Any person who violates any provision of this chapter shall be subject to assessment of a civil penalty in the amount of \$500 for the first violation; \$1,000 for the second violation; \$2,000 for the third and succeeding violations thereafter.

(B) Any subdivider, or agent of a subdivider, who transfers legal or equitable title or sells any divided land before a final plat for the land has been approved by the Area Plan Commission and filed for recording in the office of the Recorder is guilty of a violation of Chapter 152 of this code of ordinances and shall be punished by a fine of not more than \$2,000, nor less than \$500, for each parcel of or interest in the land which is sold or where the legal or equitable title to the land is transferred.

(C) (1) The enforcement of §§ 153.580 through 153.606 shall be the responsibility of the Area Plan Commission.

(2) The Area Plan Commission reserves the right to hire a private technical consultant to review individual applications for wireless facilities at the cost of the applicant.

(3) Any person who violates these regulations shall be subject to a fine of not more than \$575; the fine pursuant to the provisions of I.C. 36-7-4-1000. (Ord. 2-2000, passed 3-13-2000, § 29.1.9)

***Cross-reference:***

*Civil penalties; assessments and procedures, see § 153.056*

*Subdivision regulation enforcement, see § 153.059*



## APPENDIX A: AREA PLAN FEE SCHEDULE

<i>Improvement Location Permit and Building</i>	
<b>Residential</b>	
Accessory buildings	
0-120	No permit required
Over 120	\$.10 per square foot of floor area, minimum of \$25 (maximum \$250)
Additions	\$40 base fee plus \$.10 per square foot of floor area (maximum \$150)
Interior remodel	\$75
Bed & Breakfast Initial Fee (One Time Only)	\$150
Manufactured housing	\$100
New home or relocation	\$150
Non-WECS (residential)	\$40 base fee
Pools	
Above-ground pool	\$40
In-ground pool	\$65
Roofing	\$25
Small WECS and meteorological structures	\$100 base fee, plus \$0.10 per linear tower foot
Two-family and multi-family dwellings	\$150 per unit
Temporary power pole/meter/panel upgrade	\$25
Pond Permit (Less than One Acre)	\$100
Grading Permit (Rule 5, Artificial Lake, One Acre or more)	\$100
<b>Agriculture, commercial and industrial</b>	
Accessory building and additions	\$.10 per square foot of floor area, minimum of \$125
Cell tower	\$250
Cell tower co-locate	\$125
ILP agriculture, commercial, industrial	\$65
Interior remodel	\$95 base fee, plus \$.10 per square foot of floor area
New building (includes AFO primary building)	\$250 base fee, plus \$.10 per square foot of floor area



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<i>Improvement Location Permit and Building</i>	
Non-WECS (commercial)	\$125
Parking structure	\$10 per parking space
Roofing	\$45
Signs	\$.75 per square foot of area per visible face, minimum of \$45
WECS and meteorological structures	\$250, plus \$0.10 per linear tower foot
<b>Institutional</b>	
Churches, institutions and educational and the like	\$150 base fee plus \$.10 per square foot of floor area. Additions, accessory structures and interior remodels should follow commercial and industrial fees respectively
<b>Fees and fines</b>	
Early bird fine (start of construction prior to permit issuance)	2 times the cost of the permit issued
Failure to call for inspection	\$50 per occurrence, maximum \$200
Re-inspection	\$65 residential/\$190 other, per additional inspections
Variance fine (variance required because construction did not occur as per approved site plan)	5 times the cost of the approved building permit, in addition to the cost of the variance
Occupy structure or pool before certificate of occupancy (COO) is issued	\$200
<b>Petitions</b>	
Appeals	\$95
Customary home occupation/change of use and substitution	\$20
Exempts	\$20
Major subdivision	\$190 base fee, plus \$5 per lot
Minor subdivision	\$125 base fee, plus \$5 per lot
Rezoning	\$100
Special exception	\$100
Variance	\$100

<i>Improvement Location Permit and Building</i>	
<b>Miscellaneous costs</b>	
11 x 17 color sheet maps	\$15 per sheet*
24 x 36 color sheet maps	\$25 per sheet*
AWZO	\$35 or cost of printing
Building Codes (§§ 153.145—153.166)	\$10 or cost of printing
Comprehensive Plan (Chapter 151)	\$20 or cost of printing
Contractor registration	\$30
Copies	\$0.10 per sheet
Subdivision Ordinance (Chapter 152)	\$20 or cost of printing
Unincorporated township maps	\$50 per sheet*
Wireless Ordinance (§§ 153.580—153.606)	\$10 or cost of printing
<p><b>NOTES TO TABLE:</b>                      * Governmental cost is at a 50% discount                      1. Fee and fine schedule effective July 1, 2018.                      2. Fee and fine schedule to be reviewed every five years, with fees to increase at the same percentage as the county’s assessed valuation over that same period, with the caveat that fees will remain the same should the county’s assessed valuation decrease during that five-year cycle.</p>	

(Ord. 5-2018, passed 6-4-2018)

**Solar Energy System Fees**

<u>Type</u>	<u>Size</u>	<u>Permit Fees</u>	<u>Application Filing Fees</u>
<b>Residential</b>	<b>Up to 1 Acre</b>	<b>\$100.00</b>	<b>N/A</b>
<b>Minor Commercial</b>	<b>1 Acre to 10 Acres</b>	<b>\$1,000</b>	<b>\$5,000</b>
<b>Major Commercial</b>	<b>10 Acres or more</b>	<b>\$1000/Megawatt</b>	<b>\$10,000</b>

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**APPENDIX B: SITE PLAN REQUIREMENTS ADDRESSING STANDARDS  
ABSTRACT ZONING DIAGRAMS**

**Section A2.1 - Information Common to All Sheets of All Plans**

1. Title block containing: name, address and phone number of owner/contractor/developer;
2. North arrow and orientation;
3. Boundaries accurately represented and showing dimensions;
4. Watercourses, ponds, lakes or wetlands on or directly adjacent to site;
5. Name and location of any street, road or alley;
6. Location, dimensions and type of all existing and proposed easements;
7. Location and elevation of 100-year floodplain, if known;
8. Location and dimensions of all existing buildings and proposed buildings; and
9. Distance of all existing and proposed buildings from all property lines.

**Section A2.2 - Grading Plan (as in §§ 153.470—153.488)**

1. Size of total tract;
2. Existing and proposed topography;
3. Area to be disturbed, outlined with number of graded acres and percentage noted;
4. Average percentage of slope prior to development;
5. Area left undisturbed with acreage, type of ground cover and percentage;
6. Total impervious surface area;
7. Distances to nearest floodway;
8. Drainage area and impervious surface area draining into proposed ponds;
9. Permanent watershed protection devices, including maintenance and access easements;

10. Grades, elevations, dimensions and hydraulic calculations of storm water network;
11. Soil types; and
12. Engineering certificate when required by §§ 153.470 through 153.488.

**Section A2.3 - Landscaping Plan (as in §§ 153.500—153.512)**

1. Land use of project and adjoining properties;
2. Existing and proposed topography;
3. Location and dimensions of all walls, berms, fences and/or parking lot planting islands;
4. Location, species, size, number, spacing and height of all required trees and shrubs; and
5. All other requirements as listed in §§ 153.500 through 153.512.

**Section A2.4 - Detail Sheet (if needed)**

1. Typical parking space angle and size;
2. Handicap sign detail;
3. Sign detail;
4. Dimensions and locations of all parking facilities, drives, loading, areas and the like where applicable;
5. Plans and profiles; and
6. Other information as needed.

**APPENDIX C: NOTICE OF AGRICULTURAL ACTIVITY**

**TO: ALL APPLICANTS FOR LOCATION IMPROVEMENT PERMITS FOR HOMES IN AGRICULTURAL ZONED AREAS OF GRANT COUNTY, INDIANA**

This notice is given to you because of your application for a location improvement permit to build or move a home into an area of Grant County that is zoned for agriculture.

The purpose of this notice is to assure you are aware that all agricultural operations are allowed in this area. Agricultural activity may include, but is not limited to, grazing of livestock, confined feeding of livestock, application of animal manure to land, application of pesticides to fields and growing crops, creation of dust from field operations and noise from livestock and machinery operations at all hours.

Single-family dwellings are permitted uses of land in an Agricultural Zone, and this is not restricted to farm families. However, people who choose to live in these areas must understand that agricultural operations may be occurring nearby.

You must also understand that Indiana has a “right to farm” law that protects farm operations from unwarranted nuisance suits by neighbors who move next to an existing farm operation. Farm operations do not constitute a nuisance so long as they are not negligently maintained, do not endanger human health and do not cause bodily injury to third parties.

By signing this notice form you verify that you have received it, read it and understand it. You are not giving up the right to seek redress for negligence by individuals associated with a farm operation or by other residents of the area.

MY SIGNATURE CERTIFIES THAT I HAVE RECEIVED THIS NOTICE; I HAVE READ IT AND UNDERSTAND IT

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

Street Address \_\_\_\_\_

Date \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

Permit Number \_\_\_\_\_



