

TITLE 10

COMPREHENSIVE PLAN AND ZONING ORDINANCE

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Chapter 10.02

COMPREHENSIVE PLAN

Chapter 10.05

ZONING ORDINANCE

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10.05.010 TITLE. An ordinance of the Town of Dale, Indiana, regulating the location, height, bulk, number of stories and size of buildings and other structures, the percentage of lot which may be occupied, the sizes of yards, courts, and other open spaces, the density and distribution of population, and the uses of buildings, structures, and land for trade, industry, residence, recreation, agriculture, forestry, conservation, water supply, sanitation, protection against floods, public activities, and other purposes; creating districts for said purposes and establishing boundaries, defining certain terms used therein; providing for the method of administration and amendment; defining Powers and Duties of the Board of Zoning Appeals; providing penalties and remedies for violations; repealing conflicting ordinances, and for other purposes. (Ord. 1990-6, TITLE, June 4, 1990)

In pursuance of authority conferred by the Acts of 1947, Chapter 174, as amended, of the General Assembly of the State of Indiana, and for the purpose of promoting the health, safety, morals, convenience, order, prosperity and general welfare of the municipality; lessening the congestion in the streets; securing safety from fire, panic, and other dangers; providing adequate light and air; preventing overcrowding of land; avoiding undue concentration of population; and facilitating the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements, and shall be made with reasonable consideration, among other things, of the character of the district and its peculiar suitability for particular uses, and with the view to promoting desirable living conditions and the sustained stability of neighborhoods, protecting property against blight and depreciation, securing economy in governmental expenditures, conserving the values of buildings and encouraging the most appropriate use of land and other buildings and structures throughout the municipality all in accordance with a comprehensive plan, the Board of Trustees of the Town of Dale, Indiana hereby ordains and enacts into law the following articles and sections: (Ord. 1990-6, PREAMBLE AND ENACTMENT CLAUSE, June 4, 1990)

10.05.010.001 Short Title. This ordinance shall be known as the "Zoning Ordinance of the Town of Dale, Indiana." (Ord. 1990-6, S1.1, June 4, 1990)

10.05.010.002 Scope. It is not intended by this ordinance to repeal, abrogate, annul or interfere with existing provisions of other laws or ordinances, except those specifically or impliedly repealed by this ordinance, or with any private restrictions placed upon property by covenant, deed or other private agreement unless repugnant hereto. (Ord. 1990-6, S1.2, June 4, 1990)

10.05.010.003 Control. Where this ordinance imposes a greater restriction than is imposed or required by such rules, regulations or private restrictions, the provisions of this ordinance shall control. (Ord. 1990-6, S1.3, June 4, 1990)

10.05.020 DEFINITIONS.

10.05.020.001 General. When not inconsistent with the context, words in the present tense include the future tense, words used in the singular number include the plural number and words used in the plural number include the singular. "Map" means the "Zoning Map of the Town of Dale." The word "person" includes a firm, partnership, trust, company, association, organization, individual, co-partnership or corporation. The word "lot" includes the word "plot" or "parcel." The word "building" includes the word "structure." The word "used" or "occupied" as applied to any land or buildings shall be construed to include the words "intended, arranged, or designed to be used or occupied." The word "shall" is always mandatory and not merely directory. Terms not herein defined shall have the meaning customarily assigned to them. (Ord. 1990-6, June 4, 1990)

10.05.020.002 Specific terms. The following terms shall have the following meanings when used within or in reference to this ordinance:

- (1) ABANDONMENT - the cessation of activity in, or use of a dwelling structure, or lot, other than that which would normally occur on a seasonal basis, for a period of six (6) months or longer.
- (2) ABUTTING - having a property or district line in common, e.g., two lots are abutting if they have one or more property lines in common.
- (3) ACCELERATED SOIL EROSION - the increased lay of the land surface that occurs as a result of man's activities.
- (4) ACCESS - a way of approaching or entering a property. For purposes of this ordinance, all lots of record shall have access to a public street or highway or to a private street meeting public standards.
- (5) ACCESSORY STRUCTURE - a subordinate structure on the same premises with a main building, occupied or devoted to an accessory use. Where an accessory building is attached to a main building, such accessory building shall be considered part of the main building.
- (6) ACCESSORY USE - a use naturally and normally incidental and subordinate to, and devoted exclusively to the main use of the land or building.
- (7) ADULT BOOK STORE - an establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals, pictures or films depicting, describing, or relating to "specified sexual activities," or which are characterized by their emphasis on matter depicting, describing, or relating to "specified anatomical areas." In determining whether certain materials constitute a substantial or significant portion of the total stock in trade of an establishment, the following may be considered, together with all other relevant factors:

- A. if the materials in question are located or placed on the main traffic aisles or in close proximity to the public entrances or exits of the establishment, it shall indicate that the materials are a significant or substantial portion of the stock in trade.
 - B. if the general stock in trade of the establishment is available for observation and inspection by and/or sale to the general public while the material in question is available for inspection and observation by and for sale to only a limited segment of the public, it shall indicate that the materials are an insignificant and insubstantial portion of the total stock in trade.
 - C. if the material in question or its subject matter or the general subject emphasis of its product line is advertised to the general public by signs, posters or any other means (including, but not limited to, the name of the establishment), which are either visible from the exterior of the establishment or published for public consumption in the press or electronic media or billboards or hand fliers or any other means whatsoever, then it shall be presumed that the material in question constitutes a significant portion of the total stock in trade.
- (8) ADULT FOSTER CARE HOME – a private home licensed by the State Board of Public Health for care of sick, elderly or handicapped adults. A family home is, defined as having 1 to 6 adults; a group home 7 to 20.
 - (9) ADULT LIVE ENTERTAINMENT ESTABLISHMENT - an establishment which features topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers.
 - (10) ADULT THEATRE - an indoor or outdoor theater used for presenting by film, tape, or other means, material depicting, describing, or relating to "specified sexual activities" or which is characterized by its emphasis on matter depicting, describing, or relating to "specified anatomical areas" for observation by patrons therein.
 - (11) AGRICULTURE - the use of land for tilling of the soil, raising of tree or field crops, or animal husbandry, as a source of significant income.
 - (12) AIR RIGHT - the rights to the space above a property, for development.
 - (13) ALLEY - a public right-of-way, not more than 30 feet in width affording a secondary means of access to abutting property but not intended for general traffic circulation.
 - (14) ALTERATION OF BUILDING - a change in the supporting members of a building, an addition, diminution, change in use or conversion of a building or the removal of a building from one location to another.

- (15) APARTMENT HOUSE - a building used and/or arranged for rental occupancy, or cooperatively owned by its occupants, having three or more family units, and with a yard, compound, service, or utilities in common.
- (16) APPEALS - the process, as prescribed in the ordinance, for contesting a zoning interpretation made by the Zoning Administrator or decision made by the Planning and Zoning Commission.
- (17) ATTACHED - any structure or part of a structure immediately adjacent to another structure or part of a structure and fastened securely to same.
- (18) AUTOMOBILE REPAIR - a garage, building or area where repairs of motor vehicles or similar equipment are made for a fee.
- (19) AUTOMOBILE SALES AREA - an area used for the display, sales, rental and repair of new and used motor vehicles, boats, trailers, farm equipment and construction equipment.
- (20) AUTOMOBILE SERVICE STATION - a building used for the retail sale of fuel (stored only in underground tanks and to be dispensed from fixed equipment), lubricants, air, water, and other commodities designed for motor vehicles. Such an operation includes space and facilities for selling, installing, or adjusting tires, batteries, parts and accessories within a building provided that such repair and installation are of minor nature.
- (21) AUTOMOBILE STORAGE, DAMAGED - any storage of inoperable vehicles not incidental to a service garage.
- (22) AUTOMOBILE WASHING ESTABLISHMENT - a building or portion thereof, where automobiles are washed as a commercial enterprise.
- (23) BASEMENT - that portion of a building below the first floor joists, at least half of whose clear ceiling height is above the level of the adjacent ground (see Figure 1).
- (24) BED AND BREAKFAST OPERATIONS - a use which is subordinate to the principal use of a dwelling unit as a single family dwelling unit, or which comprises the principal use of a single family dwelling unit in which transient guests are provided a sleeping room and board in return for payment, and which does not provide separate cooking facilities for such guests.
- (25) BERM, OBSCURING - an earthen mound of definite height and location to serve as an obscuring device in carrying out the requirements of this ordinance.
- (26) BILLBOARD OR SIGNBOARD - any structure or portion thereof on which lettered, figured or pictorial matter is displayed for advertising purposes, not related to the premises or the nature of the business conducted

thereon or the products primarily sold or manufactured thereon. This definition shall not be held to include any sign used for official notices issued by a court or public body.

- (27) BLOCK - a property surrounded by streets, or abutting one side of a street and situated between the two nearest intersecting streets, or bounded by a combination of streets, waterways, parks, unplatted acreage, corporate boundary lines, or other natural or man-made, physical or artificial barrier to continual development.
- (28) BOARDS
 - A. Town - a council consisting of elected officials who conduct Town government.
 - B. Board of Appeals - a board consisting of five members, appointed under Title 36, Article 7-4-902 of the Indiana Code.
 - C. Planning/Zoning Commission - a commission of seven members appointed by the Town Council. One member of the Town Council shall be a Planning Commission member.
- (29) BOARDINGHOUSE - a dwelling where lodging or meals, or both, are furnished for compensation to three or more individuals on a prearranged basis for a definite period of time.
- (30) BUILDING - a structure erected on site, a mobile home or mobile home structure, a premanufactured or precut structure, above or below ground, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind.
- (31) BUILDABLE AREA - the space remaining on a lot or lots of record after the minimum setback and open space requirements have been complied with.
- (32) BUILDING HEIGHT - the vertical distance from the established grade of a building to the highest point of the roof. The ground level is measured at the wall line in the case of sloping terrain.
- (33) BUILDING LINE - a line formed by the face of the building, and for the purposes of this Ordinance, a minimum building line is the same as a front setback line (see Figure 2).
- (34) BUILDING, MAIN - a building which is used for the principal purpose of the lot on which it is situated.

- (35) CABIN - any building, tent or similar structure which is maintained, offered or used for dwelling or sleeping quarters for transients, or for temporary residence.
- (36) CERTIFICATION OF COMPLETION - a signed written statement by the Zoning Administrator or Building Inspector that specific construction has been inspected and found to comply with all applicable building and zoning codes.
- (37) CHILD CARE ORGANIZATION - a facility for the care of children under 18 years of age, as licensed and regulated by the State and the associated rules promulgated by the Board of Public Health. Such organizations shall be further defined as follows:
- A. "child care center" or "day care center" means a facility, other than a private residence, receiving more than six preschool or school age children for group care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. "Child care center" or "day care center" does not include a Sunday school conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.
 - B. "foster family home" is a private home in which one but not more than four minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.
 - C. "foster family group home" means a private home in which more than four but less than seven children, who are not related to an adult member of the household by blood, marriage or adoption, are provided care for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.
 - D. "family day care home" means a private home in which one but less than seven minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.

- E. "group day care home" means a private home in which more than six but not more than 12 children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four weeks during a calendar year.
- (38) CLINIC, DENTAL OR MEDICAL - a building in which a group of physicians, dentists or physicians and dentists and allied professional assistants are associated for the purpose of carrying out their profession. The clinic may include medical or dental laboratory.
- (39) CLUB - a nonprofit organization of persons for special purposes or for the conducting of social, athletic, scientific, artistic, political, or other similar endeavors.
- (40) COMMERCIAL - a term relating to the use of property in connection with the purchase, sale, or trading of goods or personal services or maintenance of service offices or recreation or amusement enterprise or garage/basement/porch/yard sales lasting more than 14 days during any 12 month period.
- (41) COMMERCIAL TREE FARM - the land and associated facilities and structures used in the raising, harvesting and selling of trees and shrubs that are intended to be either transplanted and used for landscaping or sold as Christmas trees.
- (42) CONDOMINIUM - the individual ownership of a unit or parcel of real property within a multi-unit parcel or structure located as a permitted use within a zoning classification and requirements of this ordinance.
- (43) CONVALESCENT OR NURSING HOME - a home, qualified for license under applicable Indiana Law, for the care of children, aged, or infirm.
- (44) CRITICAL AREA - land significantly or seriously affected by development.
- (45) DECK - a horizontal structure of a single elevation or varying elevations, commonly used as a floor attached or adjacent to the main building. A deck may be open or partially or completely covered by a roof and wall structure.
- (46) DENSITY - the intensity of development in any given area, measured by the number of dwelling units per acre.
- (47) DEVELOPMENT - the construction of a new building or other structure on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

- (48) DISH-TYPE SATELLITE SIGNAL-RECEIVING ANTENNAS - also referred to as "earth stations" or "ground stations" shall mean one, or a combination of two or more of the following:
- A. a signal-receiving device (antenna, dish antenna or dish-type antenna), the purpose of which is to receive communication or other signals from satellites in earth orbit and other extra-terrestrial sources.
 - B. a low-noise amplifier (LNA) which is situated at the focal point of the receiving component and the purpose of which is to magnify, store, transfer and/or transmit electronic or light signals.
 - C. a coaxial cable the purpose of which is to carry or transmit said signals to a receiver.
- Dish - shall mean that part of satellite signal receiving antenna characteristically shaped like a saucer or dish.
- (49) DISTRICT - a portion of Dale in which certain building and activities are permitted and in which certain regulations, in accordance with this ordinance, are applicable.
- (50) DRIVE-IN/DRIVE-RESTAURANT - a business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure, or to provide self-service and food carry-out for patrons.
- (51) DWELLING UNIT - a building or portion of a building which has sleeping, eating, and sanitary facilities and can accommodate one family, either permanently or transiently. In the case of buildings which are occupied in part, the portion occupied shall be considered a dwelling unit, provided it is in conformance with the criteria for dwellings. In no case shall a travel trailer, truck, bus, motor home, or other such portable structure be considered a dwelling unit.
- (52) DWELLING, SINGLE-FAMILY - a building containing not more than one dwelling unit designed for residential use, complying with the following standards.
- A. it complies with the minimum square footage requirements of this ordinance for the zone in which it is located.
 - B. it has a minimum width across any section of 12 feet and complies in all respects with the State Building Code, including minimum heights for habitable rooms.

- C. it is firmly attached to a permanent foundation, construction is on the site complying in all respects with the Indiana State Construction Code.
- D. it does not have exposed wheels, towing mechanism, undercarriage, or chassis.
- E. the dwelling is connected to a public sewer and water supply or to such private facilities approved by the local health department.
- F. the dwelling contains storage area either in the basement located under the dwelling, in an attic area, in closet areas or in a separate structure being of standard construction similar to or of better quality than the principal dwelling. Such storage shall be in addition to the space for the storage of automobiles and shall be equal to not less than 15 percent of the minimum square footage requirement of this ordinance for the lot in the zone in which the dwelling is located. In no case, however, shall more than two-hundred (200) square feet of storage area be required by this provision.
- G. the dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six inches on all sides, or alternatively with window sills and roof drainage systems concentrating roof drainage along the sides of the dwelling; with not less than two exterior doors with one being in the front of the dwelling and the other being either on the rear or side of the dwelling; contains permanently attached steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same. The compatibility of design and appearance shall be determined in the first instance by the Town Building Inspector upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the Zoning Board of Appeals within a period of 20 days from the receipt of notice of said Building Inspector's decision. Any determination of compatibility shall be based upon the standards set forth in the definition of "dwelling" as well as the character of residential development outside of mobile home parks within 2,000 feet of the subject dwelling where such area is at least 20 percent developed with dwellings or, where said area is not so developed, by the character of residential development outside of mobile home parks throughout the Town. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
- H. the dwelling contains no additions or rooms or other areas which are not constructed with similar materials and which are similar in appearance and which have similar quality of workmanship as the

original structure, including the above-described foundation and permanent attachment to the principal structure.

- I. the dwelling complies with all pertinent building and fire codes including, in the case of manufactured housing construction as contained in the United State Department of Housing and Urban Development (HUD) regulations, titled Mobile Home Construction and Safety Standards, effective June 15, 1976 as amended. (Ord. 2000-10, Nov. 21, 2000)
 - J. the foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the Ordinance of the Town pertaining to such parks.
- (53) DWELLING, TWO-FAMILY - a building containing not more than two (2) separate dwelling units designed for residential use and complying in all respects with the Indiana State Construction Code.
 - (54) DWELLING, MULTIPLE-FAMILY - a building containing three or more dwelling units designed for residential use and complying in all other respects with the Indiana State Construction Code.
 - (55) EASEMENT - any private or dedicated public way other than a street or alley, providing a secondary means of access to a property having a width of not less than twenty (20) feet.
 - (56) ERECTED - as used in this Ordinance, "erected" signifies the construction, alteration, reconstruction, or placement upon, to a piece of land, including the excavating, moving and filling of earth.
 - (57) EROSION - the process by which the ground surface is worn away by action of wind, water, gravity, or a combination thereof.
 - (58) ESSENTIAL SERVICES - The erection, construction, alteration or maintenance by public utilities or Town departments or commissions of underground or overhead gas, electrical, transmissions or distribution systems, collections, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, telephone exchange and/or repeater buildings, electric substations and substation buildings, gas regulator stations and regulator buildings and other similar equipment and accessories in connection therewith (but not including any buildings EXCEPT THOSE EXPRESSLY REFERRED TO HEREIN) reasonably necessary for the furnishing of adequate service by such public utilities or Town departments or commissions or for the public health or safety or general welfare.

- (59) EXCAVATION - the removal of rock, sand, or fill material below the average grade of the surrounding land and/or road grade, whichever is highest. This does not include alterations for farming or gardening purposes.
- (60) FABRICATION - manufacturing, excluding the refining or other initial processing of basic raw materials such as metal ores or rubber. Fabrication relates to stamping, cutting or otherwise shaping the processed materials into useful objects.
- (61) FAMILY - one or more persons customarily living together as a single housekeeping unit in a dwelling unit, as distinguished from a group occupying a hotel, club, boarding or lodging house, fraternity or sorority house or nursing home.
- (62) FENCE - a constructed barrier of wood, metal, stone, or any manufactured materials erected for the enclosure of yard areas.
- (63) FILLING - the depositing or dumping of any matter onto, or into, the ground (except for common household gardening and ground care) which alters the topography of the land.
- (64) FLOOD PLAIN - all areas adjoining a lake, stream, river, or creek or a channel which are subject to inundation at the highest known flood water level.
- (65) FLOOR AREA, RESIDENTIAL - the area of all floors computed by measuring the dimensions of the outside walls of a building excluding attic and basement floors, unenclosed porches and patios, terraces, breezeways, carports, verandas and garages.
- (66) FLOOR AREA, USEABLE - that area of a building used for or intended to be used for the sale of merchandise or services. Such floor area which is used for or intended to be used primarily for the storage or processing of merchandise which may include hallways, breezeways, stairways, and elevator shafts, or for utilities and sanitary facilities, shall be excluded from the computation of useable floor area (see Figure 3).
- (67) GARAGE, COMMERCIAL - any structure (except private, community or storage garages) available to the public and primarily used for the storage of, motor vehicles for remuneration, hire or sale, where any such vehicle or engine may also be repaired, rebuilt, or equipped to operate, and where vehicles may be greased, washed and waxed.
- (68) GARAGE, PRIVATE - an accessory building or portion of a main building used primarily for the storage of vehicles.

- (69) GRADE - for purposes of this ordinance, the level of the ground adjacent to the walls. In the case of lots with a sloping terrain, the grade shall be the average elevation of the ground adjacent to the walls.
- (70) GRADING - any stripping, excavating, filling, stockpiling, or any combination thereof; also the land in its excavated or filled condition.
- (71) GRADING PERMIT - the written authority issued by the Zoning Administrator or his agent permitting the grading, excavation or filling of land including drainage and soil erosion control.
- (72) GREENBELT - All land within 300 feet of waters edge.
- (73) GUEST HOUSE - separate structure or dwelling, on a residential parcel, used for sleeping and/or eating purposes by nonpaying friends, relatives or acquaintances of the resident or owner of the main structure.
- (74) HIGHWAY - a public thoroughfare or street, excluding alleys, but including federal, state and county roads and those appearing upon plats recorded in the office of the Register of Deeds and accepted for public maintenance.
- (75) HOME OCCUPATIONS - any profession or other occupation conducted in a residential district or dwelling which is clearly incidental and secondary to the use of the lot or dwelling and which conforms to the provisions of Section 10.05.030.028.
- (76) HOSPITAL - an institution providing health services primarily for in-patients and medical or surgical care of the sick and injured, including laboratories, out-patient departments, training facilities, central service facilities, and staff offices. Those institutions whose primary function is the care of the infirm or mentally ill are not considered hospitals.
- (77) HOTEL - a building occupied or used predominantly as a temporary abiding place by individuals or groups of individuals, with or without meals, and in which building there are more than five sleeping rooms, none which have cooking facilities.
- (78) INSTITUTIONAL OR PUBLIC USE - churches, schools teaching academic subjects, hospitals, convalescent or nursing homes, parks, civic centers, libraries and other public or quasi-public uses.
- (79) JUNK - for the purpose of this Ordinance, this term shall refer to any motor vehicles, machinery, appliances, products, or merchandise with parts missing, that render the object unusable, or scrap metals or materials that are damaged or deteriorated.
- (80) JUNK YARD OR SALVAGE YARD - a place, structure, or lot where junk, waste, discarded, salvaged, or similar materials including metals, wood, slush,

timber, glass, paper, rags, cloth, bagging, cordage, barrels, containers, etc., are bought, sold, disassembled, baled, exchanged or handled. Junk yards include auto wrecking yards, used lumber yards, house wrecking yards, and places or yards for use of salvaged house wrecking and structural steel materials and equipment. Pawn shops and establishments which sell, purchase or store used cars in working condition or need of minor repair, salvaged machinery, used furniture, radios, appliances, or similar household goods and the processing of used, discarded, or salvaged materials as part of manufacturing operations are not considered junk yards.

- (81) KENNEL, COMMERCIAL - any lot or premises used for the sale, boarding, breeding or treatment of dogs, cats, or other household pets.
- (82) KENNEL, PRIVATE - Any structure or land for the boarding of four or more dogs, cats or other household pets for the owner's use and enjoyment, and not for commercial breeding or sale.
- (83) LABORATORY -
 - A. medical or dental - a laboratory which provides analytical or diagnostic services to physicians and dentists. No fabrication is conducted on the premises except the custom fabrication of dentures or surgical supports.
 - B. experimental - a building or part of a building devoted to the testing and analysis of any product or animal.
- (84) LAND USE - a use of land which may result in an earth change including, but not limited to, subdivision, residential, commercial, industrial, recreational, or other development, private and public highway, road and street construction, drainage construction, logging operations, agricultural practices, and mining, and the natural, open space character of land.
- (85) LOADING/UNLOADING SPACE - an off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.
- (86) LOT - a parcel of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this ordinance. A lot may or may not be specifically designated as such on public records.
- (87) LOT, CORNER - a lot situated at the intersection of two (2) or more streets (see Figure 5).
- (88) LOT, INTERIOR - any lot other than a corner lot (see Figure 4)

- (89) LOT, ZONING - a single tract of land, located within a single block, which at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control.
- (90) LOT AREA - the total horizontal area included within lot lines. Where the front lot line is the centerline of a street or lies in part or in whole in the street area, the lot area shall not include that part of the lot in use or to be used as the street (see Figure 4).
- (91) LOT COVERAGE - the part or percent of the lot occupied by buildings including accessory buildings.
- (92) LOT DEPTH - the mean horizontal distance from the front street line to the rear lot line.
- (93) LOT LINE - the lines bounding a lot as defined herein.
- A. front lot line - in the case of an interior lot, is that line separating said lot from the street. In the case of a through lot, is that line separating said lot from either street.
 - B. rear lot line - that lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot line.
 - C. side lot line - any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.
- (94) LOT OF RECORD - a parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by Town or County Officials, and which actually exists as so shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.
- (95) LOT WIDTH - the mean horizontal distance between the side lines, measured at right angles to the side lot line. Where side lot lines are not parallel, the lot size shall be considered as the average of the width between such side lot lines.
- (96) MAJOR STREET (Primary Road) - a street or highway so designated on the major road plan of the Spencer County Master Plan which is designed and intended to carry heavy traffic volumes.

- (97) MINOR OR LOCAL STREET (Secondary Street) - a dedicated public way or recorded private street which affords access to abutting properties and is designed primarily to serve immediate neighborhood needs.
- (98) MOBILE HOME - a single-family dwelling designed for transportation after fabrication on street and highways on its own wheels or on 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 for assembly operations, location on permanent foundations, connection to utilities and the like. A mobile home is considered a dwelling unit and must conform to the requirements of a dwelling unit (for example, be structurally attached to a permanent foundation, retain at least two entrances/exits with attached porch and steps, retain a roof of appropriate slope for drainage and include a fascia).
- (99) MOBILE HOME PAD - that part of the mobile home site specifically designated for the placement of a mobile home.
- (100) MOBILE HOME PARK - any plot of ground upon which five or more mobile homes, occupied for dwelling or sleeping purposes on a continual or nonrecreational basis, are located.
- (101) MOBILE HOME SITE - a measured parcel of land within a mobile home park which is delineated by lot lines on a final development plan and which is intended for the placement of a mobile home and the exclusive use of the occupants of such mobile home.
- (102) MOBILE HOME SUBDIVISION - a mobile home park except that the mobile home lots are subdivided, surveyed, recorded, and sold.
- (103) MODULAR AND SECTIONAL HOME - a dwelling unit consisting of two (2) or more transportable factory-fabricated units designed to be assembled as a single residential structure on a foundation as required for a conventional residence.
- (104) MOTOR VEHICLE - any vehicle which is self-propelled.
- (105) NONCONFORMING STRUCTURE - a structure, or portion thereof existing at the time of the adoption of this ordinance, which is not in conformance with the standards of this ordinance.
- (106) NONCONFORMING USE - an activity existing at the time of the enactment of this ordinance, on a lot or lots of record and which is not in conformance with the use regulations for the zoning district in which it is located according to the Ordinance.
- (107) NUISANCE - is an offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeated

invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being or the generation of an excessive or concentrated movement of people or things such as: a) noise, b) dust, c) smoke, d) odor, e) glare, f) fumes, g) flashes, h) vibration, i) objectionable effluent, j) noise of a congregation of people, particularly at night, k) passing traffic, 1) invasion of street frontage by traffic generated from an adjacent land use which lacks sufficient parking and circulation facilities.

- (108) NURSERY, PLANT MATERIALS - any lot or structure used for the growing, harvesting, processing, storing, and/or selling of plants, shrubs, trees and flowers, including products used for gardening and landscaping, but not including fruit and vegetable sales.
- (109) NURSING HOME - an institution licensed by the State Department of Public Health for the cure of sick or elderly adults, generally having the capacity for at least ten patients.
- (110) OFF-STREET PARKING - a facility providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access to entrance and exit for the parking of more than three (3) vehicles.
- (111) OPEN AIR BUSINESS - open air business uses shall include the following:
 - A. retail sales of trees, shrubbery, plants, flowers, seed, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.
 - B. retail sales of fruits and vegetables.
 - C. tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving ranges, children's amusement park or similar recreational uses.
 - D. bicycle, trailer, motor vehicle, boats or home equipment sales, service or rental.
 - E. outdoor display and sale of garages, vacation homes, mobile and modular homes, swimming pools and similar uses.
 - F. other similar outdoor commercial activity.
- (112) PARKING AREA - an area used for the parking of motor vehicles for a fee or as an accommodation for clients, customers, residents, employees or the general public.

- (113) PARKING SPACE - an area of definite length and width, said area shall be exclusive of drives, aisles or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.
- (114) PATIO, PORCH - Roofed open area that, while may be glassed or screened, is usually attached to, or part of, and with direct access to or from a building.
- (115) PERSON - a legal entity or individual human being; "person" shall include an association, corporation, organization, partnership or a firm.
- (116) PETROLEUM BULK PLANT - an establishment for the storage of petroleum products in bulk and for distribution.
- (117) POOL, COMMERCIAL SWIMMING - an artificially constructed basin for holding water for use by paying customers or patrons of a commercial facility.
- (118) POOL, PRIVATE SWIMMING - an artificially constructed basin for holding water for private family use on a residential lot.
- (119) PRINCIPLE USE - the designation given to a legally defined parcel of land and based upon the primary activity occurring on such parcel.
- (120) PROCESSING - any operation changing the nature of material or materials such as the chemical composition or physical qualities. Does not include operations described as fabrication.
- (121) PUBLIC UTILITY - a person, firm, or corporation, municipal department, board or commission duly authorized to provide and providing, under federal, state or municipal regulations to the general public any of the following: water, gas, steam, electricity, telephone, telegraph, waste disposal, communication, or transportation.
- (122) RADIO AND TELEVISION ANTENNA - a signal receiving or transmitting device, the purpose of which is to receive or transmit radio or television signals.
- (123) RECREATION UNIT - includes:
 - A. travel trailer - a vehicular structure mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by vehicle; primarily designed and constructed to provide temporary living quarters for recreational, travel use.
 - B. camping trailer - a vehicular structure mounted on wheels and constructed with collapsible partial side walls of fabric, plastic or other pliable materials which fold for towing by another vehicle and

unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

- C. motor home - a vehicular structure built on a self-propelled motor vehicle chassis, primarily designed to provide temporary living quarters for recreational, camping, or travel use.
 - D. truck camper - a portable structure designed to be loaded on to or affixed to, the bed or chassis of a truck, constructed to provide temporary living quarters for recreational, camping, or travel use.
- (124) RESORT - a parcel of land which may contain cabins and/or rooms with or without kitchen facilities, used primarily for vacation and/or recreational activity, and which may or may not contain a small commercial grocery, sporting goods or gasoline service outlet.
- (125) RESTAURANT - a business located in a building where, in consideration of the payment of money, meals are habitually prepared, sold and served to persons for consumption on or off the premises, having suitable kitchen facilities connected therewith, containing conveniences for cooking and assortment of foods which may be required for ordinary meals, and deriving the major portion of its receipts from the sale of food and complying with state and federal health regulations.
- (126) RIGHT-OF-WAY LINE - the boundary of a dedicated street or highway.
- (127) ROADSIDE STAND - a structure temporarily operated for the purpose of selling produce primarily raised or produced on the premises where situated, and its use shall not make a commercial district, nor shall its use be deemed a commercial activity.
- (128) ROOF - The outside cover of a structure or building including the roofing and all the materials and construction necessary to maintain the cover upon its walls or other support.
- (129) ROOM - for the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room or bedroom, equal to at least eight (80) square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways and storage. Plans presented showing 1, 2 or 3 bedroom units and including a "den," "library," or other extra room shall count such extra room as a bedroom for the purpose of computing density.
- (130) ROOMING HOUSE - a building, or part of a building, other than a hotel, motel, or motor court, where sleeping facilities are provided and meals may be served regularly for remuneration. A bed and breakfast facility may be considered a rooming house.

- (131) SANITARY LANDFILL - a facility in which refuse is deposited and buried. A sanitary landfill must be licensed for operation by the Indiana Department of Natural Resources.
- (132) SEASONAL BUSINESS - a retail business or service business that is not normally used as a business for more than eight (8) months or less during any one calendar year.
- (133) SEASONAL RESIDENCE - a dwelling unit not normally the permanent residence of the occupant(s) and normally used as a dwelling unit for not more than eight (8) months during any 365 day period. (Ord. 2000-10, Nov. 21, 2000)
- (134) SETBACK - the minimum required horizontal distance measured from the front, side, or rear lot line, whichever is applicable, of a lot of record for purposes of determining the minimum amount of open space surrounding the main structure on that lot.
- (135) SIGN - any device designed to inform the general public or attract the attention of persons. The following shall not be considered commercial signs for purposes of this ordinance:
- A. signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, names of occupants of premises.
 - B. flags and insignia of any government, except when displayed in connection with commercial promotions.
 - C. legal notices, identification, informational or directional signs erected or required by governmental bodies.
 - D. integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.
 - E. signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
- (136) SIGN, OFF-SITE - a sign relating to matter which is off the premises in question.
- (137) SIGN, ON-SITE - a commercial sign relating in its subject matter to the premises on which it is located, or to activities, products, services, or accommodation of the immediate area.
- (138) SINGLE OWNERSHIP - ownership by one person or by two or more persons jointly, as tenants by the entirety, or as tenants in common, of a separate or real property not adjacent to land in the same ownership.

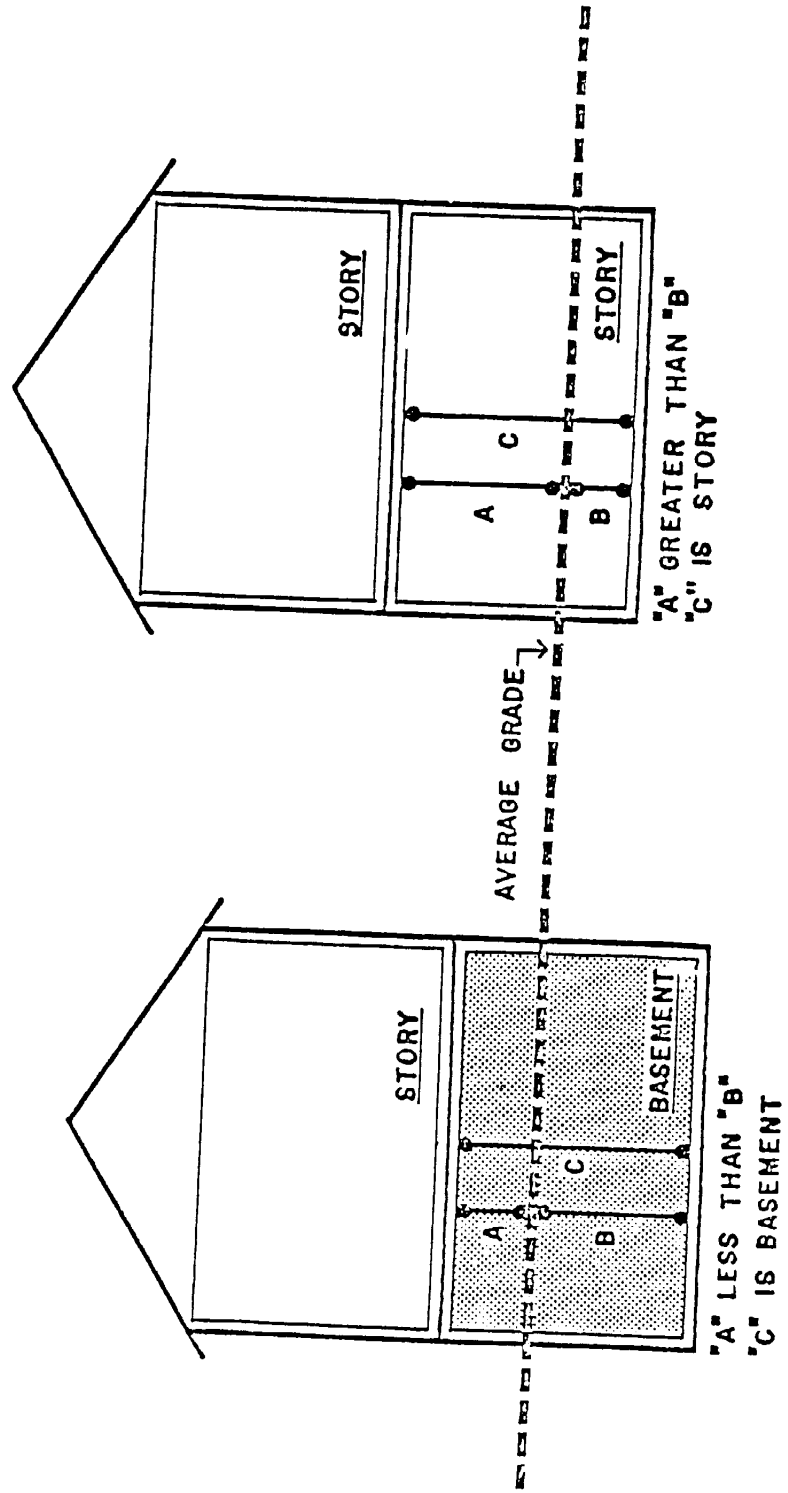
- (139) SITE PLAN - a reproducible scale drawing which shows the location and dimensions of all intended and existing buildings, structures, parking, loading facilities, streets, driveways, yard space, signs, drainage facilities and other items that may be required in Section 10.05.110.
- (140) SPECIAL USE PERMIT - a permit issued after a review and/or hearing to a person or persons intending to undertake the operation of an activity upon land or within a structure and for those uses not specifically mentioned in this ordinance which possess unique characteristics and are found to be not injurious to the health, safety, convenience and general welfare of the Town's inhabitants and the district in which the use is to be located. Special use permits may be granted when the specified standards for those uses, as stated in this Ordinance, have been met.
- (141) STABLE, COMMERCIAL - building in which any horses are kept for hire or sale.
- (142) STABLE, PRIVATE - a building for housing domestic animals, other than dogs, cats, or similar small animals, when not conducted as a business and solely for the personal use of the residents of the premise or owner of the property.
- (143) STORY - that portion of a building included between the upper surface of any floor and the upper surface of the floor immediately above, except that the top story shall be that portion of a building included between the upper surface of the uppermost floor and the ceiling or roof immediately above. A basement shall be considered a full story only if fifty (50%) percent or more of the vertical distance between the basement floor and the basement ceiling is above the ground level from which the height of the building is measured.
- (144) STORY, HALF - an uppermost story lying between the top part of a full story and a sloping roof, provided said floor area does not exceed one half (1/2) of the full story, contains at least 160 square feet and has a minimum floor to ceiling clearance of 7 feet, 6 inches.
- (145) STREET - a publicly dedicated right-of-way which affords general traffic circulation and access to abutting property, but does not include alleys.
- (146) STREET, PRIVATE - an irrevocable easement running with the land to one or more owners of adjacent properties which provides access to those adjacent properties and which is not dedicated for general public use.
- (147) STRIPPING - any activity which removes or significantly disturbs the vegetative surface cover including clearing and grubbing operations.
- (148) STRUCTURE - anything constructed or erected on the ground or which is attached to something located on the ground. Structures include buildings,

radio and TV towers, mobile homes, sheds and permanent signs, and exclude vehicles, sidewalks, and paving.

- (149) TEMPORARY BUILDING OR USE - a structure or use permitted by the Zoning Administrator, to exist during periods of construction of the main building or for special events, but not to exceed six (6) months duration.
- (150) TOURIST HOME - any dwelling used or designed in such a manner that certain rooms in excess of those used by the family, and which can be occupied as part of a dwelling unit, are rented for compensation to the traveling public. Bed and breakfast facilities are considered tourist homes.
- (151) TRAVEL TRAILER - A one family unit, or office, of vehicle portable design on a chassis and designed to be moved from one place to another and to be used without a permanent foundation. A travel trailer is also distinguished from a mobile home, as defined in this ordinance, in that it does not meet the minimal standards identified in the definition of DWELLING, SINGLE-FAMILY. The provisions for a travel trailer are specified in Section 10.05.030.016.
- (152) USE - the lawful purpose for which land or premises, including the structures thereon, is designed, arranged, or intended or for which it is rented, leased, occupied, or maintained.
- (153) USE, SPECIAL OR CONDITIONAL - a use, permitted within certain zoning districts, of such a nature that the public has reserved the right to approve its exact location, subject to conditions stated in the ordinance and to any special conditions imposed by the Town Planning and Zoning Commission to protect the use by right of other properties in the Town.
- (154) USE, BY RIGHT - any use which is listed as a use by right in any given zoning district in this ordinance. Uses by right are not required to show need for their location.
- (155) USE, TRANSITIONAL - A use of land or structure located or permitted to be located on certain lots abutting a zoning boundary line, in the more restricted of the two (2) zoning districts on either side of such a boundary line.
- (156) VARIANCE - a modification of the literal provisions of the zoning ordinance granted when strict enforcement of the zoning ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted. The crucial points of variance are (a) undue hardship, (b) unique circumstances, and (c) applying to property. A variance is not justified unless all three elements are present in the case. A variance is not an exception.

- (157) VEHICLES - All Terrain Vehicles (A.T.V.)/Off-Road Vehicles (O.R.V.) - motorized recreational vehicles (excluding four-wheel drive passenger vehicles/pickups) designed and intended for recreational off-road use. Such vehicles include, but are not limited to three and four wheel motorized bikes, dirt bikes, snowmobiles, as well as watercraft, including jet-skis and hovercraft.
- (158) WALL, OBSCURING - a structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this ordinance.
- (159) WATERWAYS - All bodies of water, natural or artificial (except drainage ditches).
- (160) YARD - an unoccupied open space on the same lot with a building or building group lying between the front, rear or side wall of a building and the nearest lot line, and the specific minor uses or structures allowed in such open space under the provisions of this ordinance.
- (161) YARD, CORNER SIDE - a side yard which faces a public street.
- (162) YARD, FRONT - a yard extending the full width of the lot on which a building is located and situated between the front lot line and a line parallel thereto and passing through the nearest point of the building (see Figure 6).
- (163) YARD, INTERIOR SIDE - a side yard located immediately adjacent to another zoning lot or to an alley or easement separating such side yard from another zoning lot.
- (164) YARD, REAR - a yard extending the full width of the lot on which a building is situated and located between the rear lot line and a line parallel thereto and passing through the nearest point of the building (see Figure 6).
- (165) YARD, SIDE - a yard on the same lot as a building situated between the side lot line and line parallel thereto and passing through nearest point of the building, and extending from the front yard to the rear yard (see Figure 6).
- (166) YARD, WATERFRONT - a yard, any part of which abuts on a lake, stream or any other natural or artificial watercourse. (Ord. 2000-10, Nov. 21, 2000) (Ord. 1990-6, S2.2, June 4, 1990)

FIGURE 1



BASEMENT AND STORY

FIGURE 2

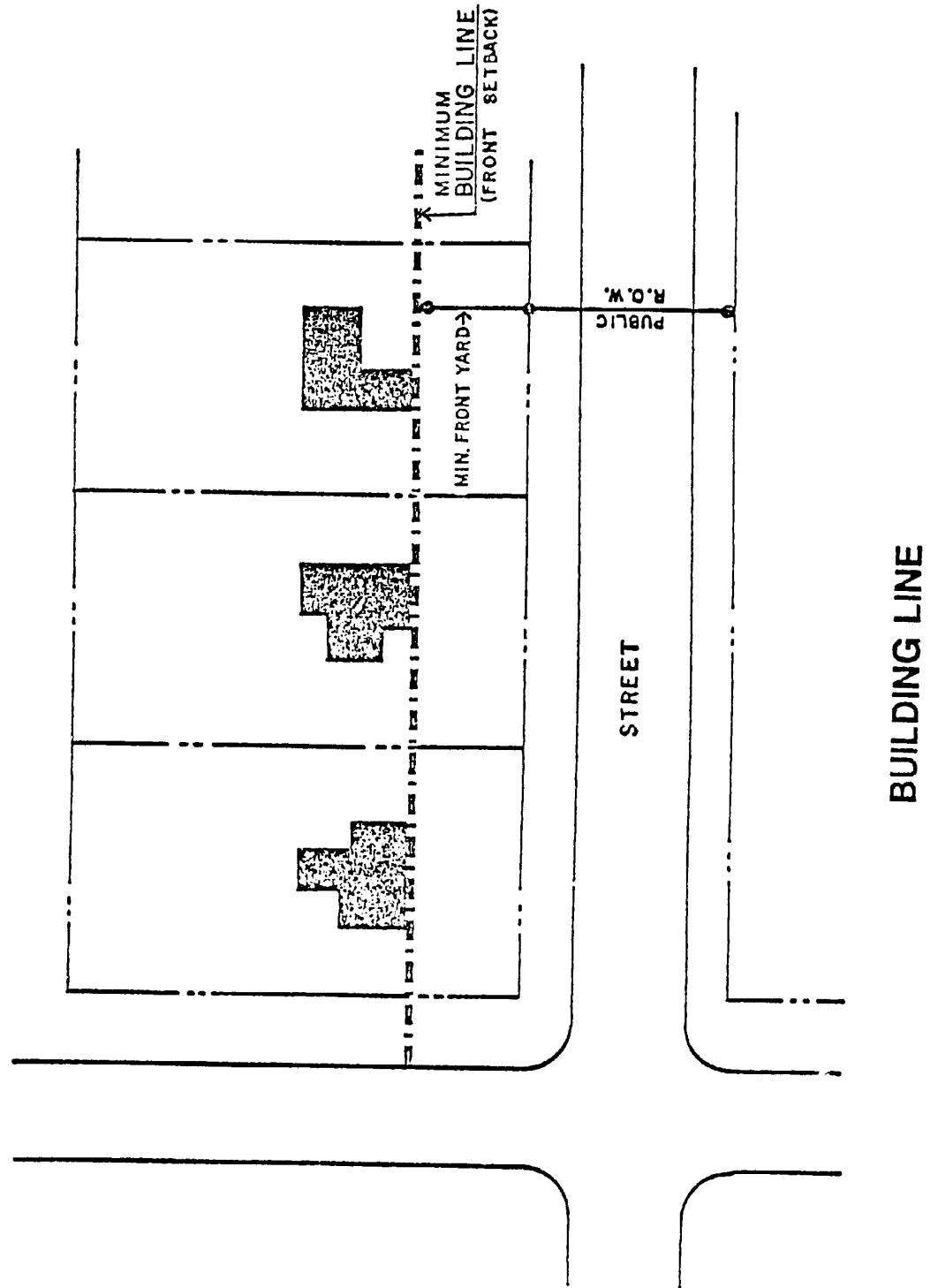


FIGURE 3

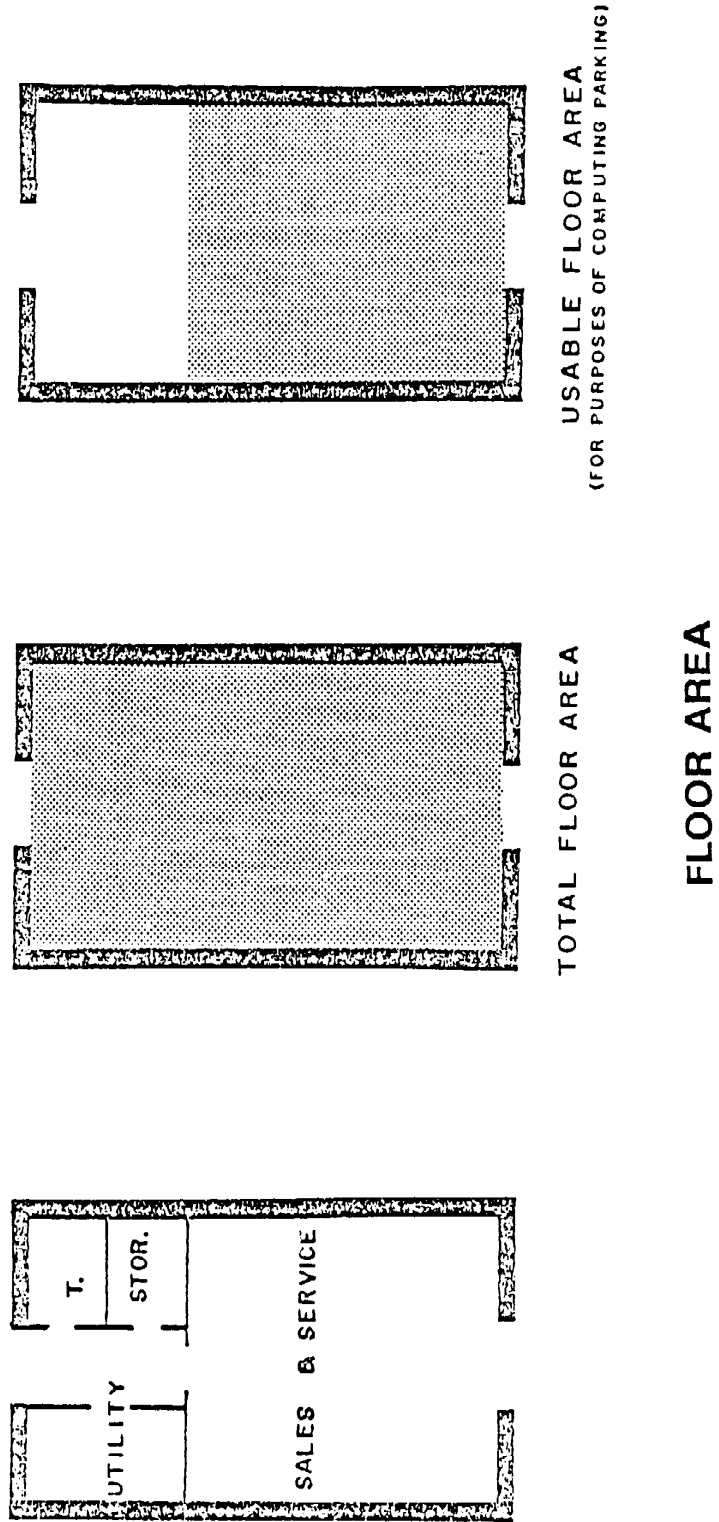
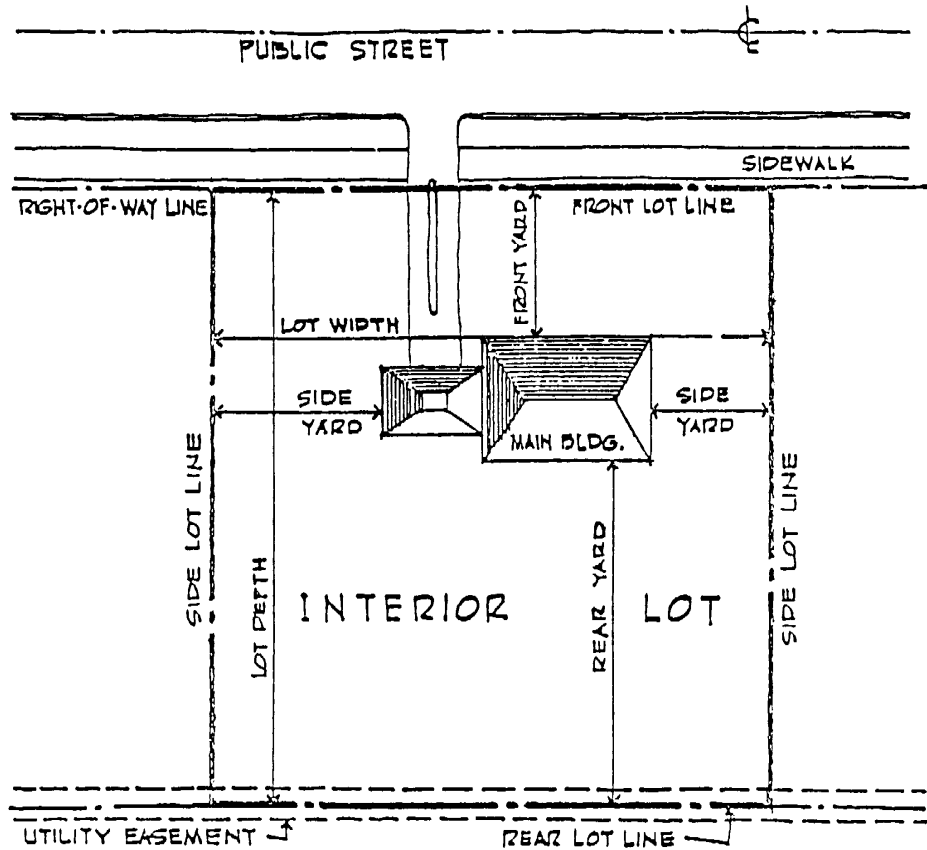


FIGURE 4



LOT AREA = TOTAL HORIZONTAL AREA

LOT COVERAGE = PERCENT OF LOT OCCUPIED BY BUILDING

LOTS AND AREAS

FIGURE 5

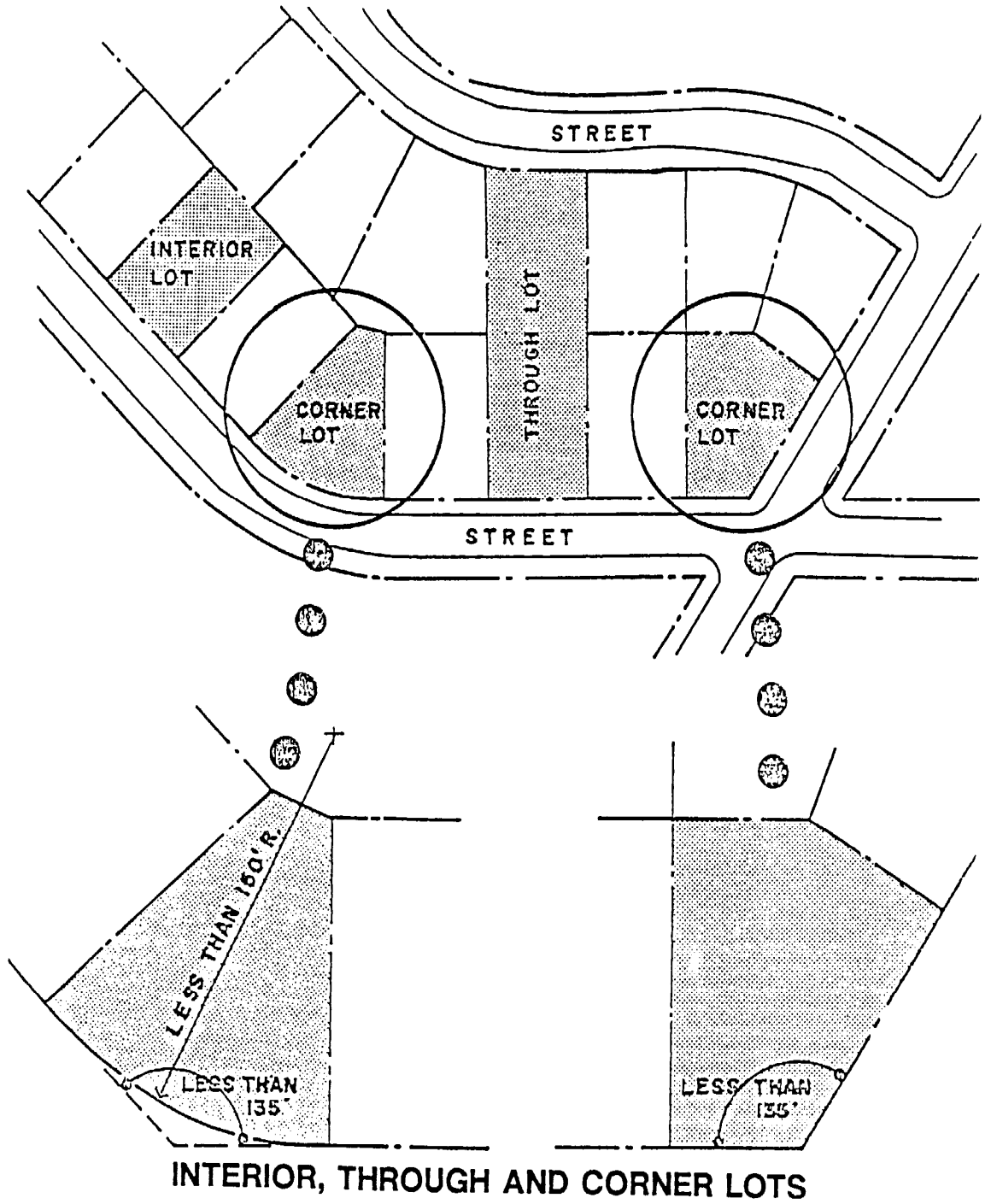
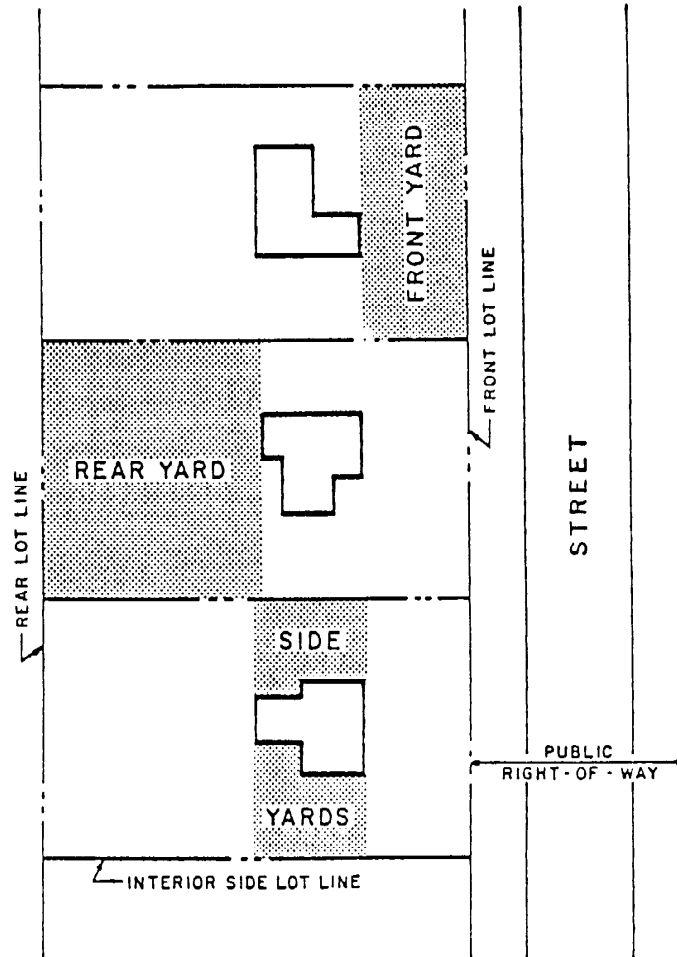


FIGURE 6



YARDS

10.05.030 GENERAL PROVISIONS

10.05.030.001 The effect of zoning. In order to carry out the intent of this ordinance, hereinafter no use or activity on a piece of land, shall be allowed or maintained, no building or structure or part thereof shall be allowed to be used, constructed, remodeled, altered, or moved upon any property unless it is in conformance with the provisions and intent of the specific zoning district in which it is located.

- (1) If any activity use, building, structure, or part thereof, is placed upon a piece of property in direct conflict with the intent and provisions of the ordinance, such activity, use, building or structure shall be declared a nuisance and may be required to be vacated, dismantled, abated, or cease operations by any legal means necessary and such use, activity, building or structure shall not be allowed to function until it is brought into conformance with this ordinance.
- (2) In the event a use, activity, building or structure is existing or under construction at the time of the effective date of this Ordinance or is commenced within 60 days of the effective date of this Ordinance, and is not in conformance with the provisions of the zoning district in which it is located, such use, activity, building or structure shall be considered a legal nonconforming use and be allowed to remain as such for construction to be completed, providing said construction is not discontinued for a continuous period in excess of sixty (60) days and does not require more than two years from the effective date of this ordinance for completion. (Ord. 1990-6, S3.1, June 4, 1990)

10.05.030.002 Restoration of unsafe buildings. Nothing in this ordinance shall prevent the strengthening of a lawful, conforming building or structure, or point thereof, which has been declared unsafe by the Zoning Administrator, building official, or public health inspector, nor the requirement to adhere to the lawful orders of such officials. Such strengthening or restoration is subject to the provisions of Section 10.05.210.002 and 10.05.240.002. (Ord. 1993-3, S3.2, Feb. 1, 1993) (Ord. 1990-6, S3.2, June 4, 1990)

10.05.030.003 Required area or space. No lot, yard, parking area or other space shall be so divided, altered or reduced as to make it less than the minimum required under this Ordinance. If already less than the minimum required, it shall not be further divided or reduced, nor shall any yard required for a principal building be included as part of a yard required under this ordinance for any other building. (Ord. 1990-6, S3.3., June 4, 1990)

10.05.030.004 Accessory buildings and structures. For the purposes of maintaining orderliness, aesthetic and property values, especially in residential areas, the following provisions are intended to regulate the location and character of accessory structures normally incidental to permitted principal uses. The following regulations are therefore intended to pertain to all accessory buildings and all accessory structures other than buildings, including but not limited to playground equipment, children's play houses, sports courts, swimming pools, pet accommodations, radio and television antennas and similar structures. In any zoning district an accessory building or structure may be erected from the

permitted principal building or an integral part of the permitted principal building. In addition, the following general standards shall apply to all accessory structures.

- (1) Except as otherwise permitted in this ordinance, accessory buildings shall be subject to the following regulations:
 - A. Where the accessory building is attached to the principal building, it shall be subject to and must conform to all regulations of this ordinance applicable to such principal buildings and to local building, electrical and plumbing codes and any other codes deemed necessary
 - B. Except in the B-2 district, accessory buildings or structures may not be erected in front of the principal building or in any required front yard. However, such accessory building or structure may be constructed in front of the principal building if the principal building is at least 200 feet from the front property line and no closer than 20 feet from the nearest side property line. An accessory building or structure may be constructed on the side of the principal building provided the accessory building or structure is no closer than 5 feet from the nearest side property line.
 - C. Any accessory building may occupy not more than 10 percent of a required rear yard and, in addition, not more than 25 percent of any nonrequired rear yard, provided that in no instance shall that total accessory building floor area exceed the ground floor area of the main building. This requirement shall not apply to normal farm buildings.
 - D. In residential districts any accessory building or structure shall be located in the rear or side yard of the lot, except when attached to the principal building, or under conditions applicable to (B) above. The rear yard here defined as the space on a lot or parcel lying between the principal building or group of principal buildings and the rear lot or property line. In the row housing or apartment developments, parking garages or covered bays may be exempted from this requirement subject to approval by the Zoning Administrator.
 - E. No detached accessory building shall be located closer than 10 feet to any main building or any street right-of-way line, nor shall it be located closer than 5 feet to any side or rear lot line, except where the rear lot line is coterminous with any alley line this may be reduced to 2 feet. Accessory buildings shall be considered attached to the principal building when the area between the two is wholly or partially covered by a continuous breezeway, portico or similar architectural device.
 - F. No detached accessory building in a residential district shall exceed 20 feet in height.

- G. When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard setback line required on the lot in the rear of such corner lot (see Figure 7).
 - H. On a waterfront lot, an accessory building shall not be erected or maintained within 30 feet of the waters edge, except a pump house or a boathouse not exceeding eight feet in height. (Ord. 1990-6, S3.4:1, June 4, 1990)
- (2) Accessory structures other than buildings.
- A. Dish-type satellite signal receiving antennas, television antennas and radio antennas shall be allowed in all districts, subject to the following restrictions:
 1. No satellite signal receiving dish antenna, television antenna or radio antenna shall be constructed or located in the front yard of residential premises, unless concurrence by the building inspector that existing trees or other obstacles existing within the side or rear yards prohibits adequate reception of signals.
 2. A satellite receiving antenna, television antenna, or radio antenna shall not be located within five (5) feet of the side, rear or front lot lines (if placed in the front yard in a residential zone due to conditions identified in paragraph 1).
 3. A satellite receiving dish antenna, television antenna or radio antenna may be placed upon the roof of the principal building on the property, but shall not be mounted upon appurtenances such as chimneys, trees, poles or spires. Such antennas may be placed upon accessory buildings.
 4. A satellite receiving antenna in a residential zone shall not exceed a height of more than five (5) feet above the roof upon which it is mounted and a roof-mounted receiving antenna dish shall not exceed three (3) feet in diameter.
 5. A satellite receiving antenna shall not exceed a height of twelve (12) feet above grade, television and radio antennas shall not exceed a height of twenty (20) feet above the roof ridge line for roof-mounted antennas. Any antennas of any kind that exceed a total height of forty (40) feet above ground level must be placed in any other zone. (Ord. 2000-10, Nov. 21, 2000)

6. All structural supports shall be of industry recommended materials.
 7. Wiring between a ground mounted satellite receiving antenna and a receiver shall be placed at least below the ground within rigid conduit and comply with state and local codes.
 8. Above-ground wiring for roof mounted antennas, must be located at least twelve (12) feet above-ground grade.
 9. Such satellite receiving antenna, television or radio receiving antenna shall be designed to withstand a wind force of seventy-five (75) miles per hour without the use of supporting guy wires and eighty-five (85) miles per hour with the use of supporting guy wires.
 10. Any driving motor shall be limited to 110V maximum power design and be encased in protective guards.
 11. A satellite receiving antenna must be bonded to a grounding rod. (Ord. 1990-6, S3.4:2)
- (3) Swimming Pools: prior to the issuance of a building permit for the construction of an outdoor swimming pool in any zoning district with a diameter exceeding 24 feet or an area exceeding 200 square feet, the following provisions must be satisfied.
- A. An application for a permit shall include the name of the owner, accompanied by a complete and detailed set of plans and specifications of the swimming pool which shall include a lot plan showing the dimensions and site location of the pool plus nearby buildings, fences, gates, septic tanks, tile fields, public utilities and easements. The application for a below ground pool shall be accompanied by plans and specifications to scale of the pool walls, slope, bottom, walkway, diving boards, type and rating of auxiliary equipment, piping and valve layout. Any other information affecting construction and safety features deemed necessary by the Town or the County Health Department shall also be submitted.
 - B. No portion of the swimming pool or associated structures shall be permitted to encroach upon any easement or right-of-way which has been granted for public utility use.
 - C. Minimum side yard setback shall comply with required side yard spaces specified for the zoning district wherein the pool is located. Furthermore, the pool fence must not be built within the required front yard or required corner lot side yard. Rear or side yard setback

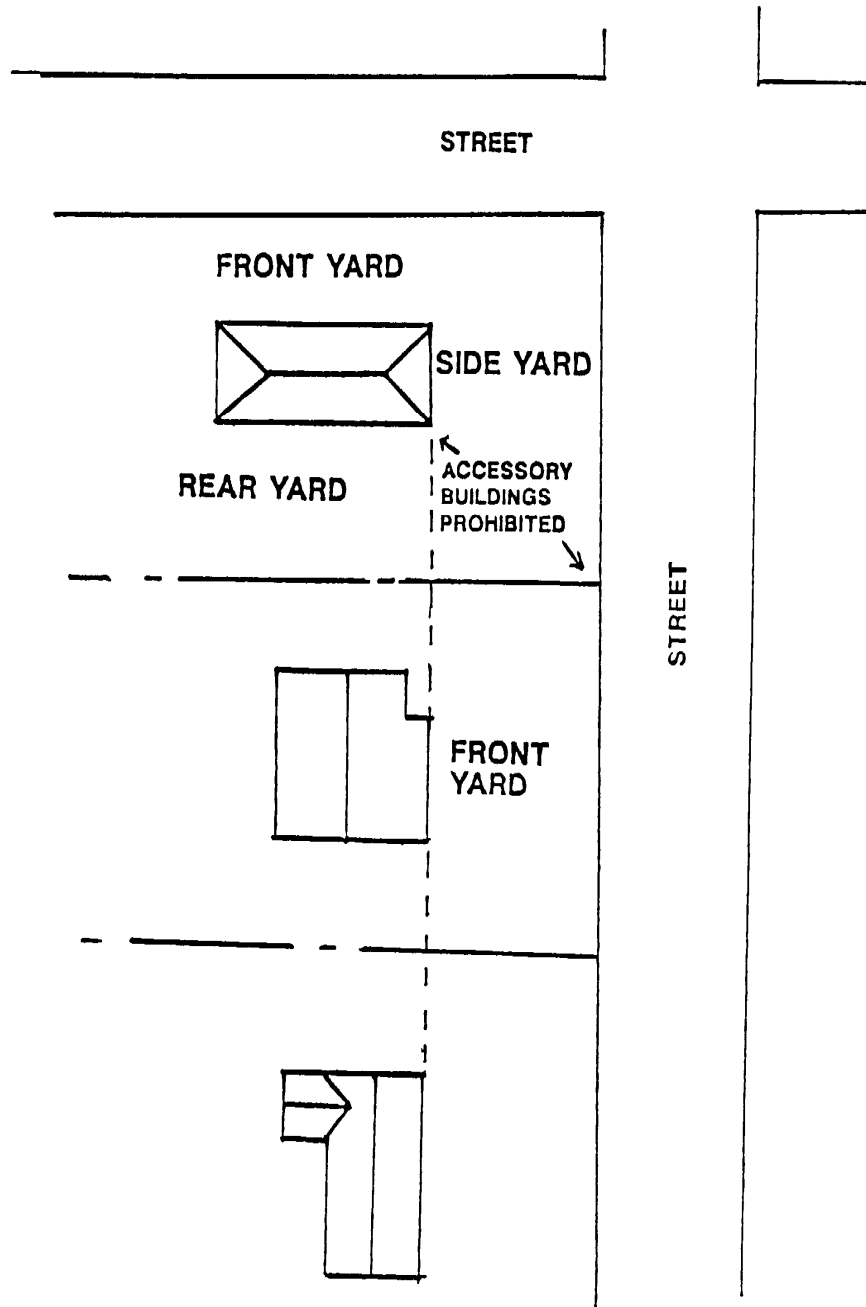
shall not be less than 10 feet between the pool outside wall and the side or rear property line, or less than five feet between pool wall and any building on the lot.

- D. All swimming pools shall be completely enclosed by a chainlink fence or a fence of comparable safety not less than six feet nor more than eight feet in height, and set at a distance of not less than six feet from the outside perimeter of the pool wall, except for swimming pools above grade (i.e. portable) which have a side wall with a smooth surface of not less than four feet in height and with all means of access being secured raised and/or locked to prevent unauthorized use. Except, that if a building is located on a lot not leaving any means of public access, a fence shall not be required on any such side. All openings in any such fence or building shall be equipped with a self-closing, self-latching gate or door which shall be securely locked with a tamper-proof lock when the pool is not in use, provided, that if the entire premises is enclosed by fence or wall, the said fence requirement may be waived by zoning officer, after due inspection and approval.
- E. All electrical installations or wiring in connection with below-ground swimming pools shall conform to the provisions of the National Electrical Code or equivalent. If service drop conductors or other utility wires cross under or over the proposed pool area, the applicant shall make satisfactory arrangements with the utility involved for the relocation thereof before a permit shall be issued for the construction of the swimming pool.
- F. All commercial pools shall be operated in conformance with all county and state regulations, subject to annual review.
- G. The pool drain shall be constructed in a manner approved by the County Building Inspector. No pools shall drain into public or private sanitary sewer or septic systems. All drain connections shall be approved by the Building Inspector before final approval is given.
- H. Before a permit shall be issued, the plans and specifications shall be approved by the Town Zoning Administrator and Building Inspector and before any swimming pool shall be used, a final inspection and approval must be obtained from the Building Inspector. The Building Inspector shall have the right at any reasonable hour to inspect any swimming pool for the purpose of determining that all provisions of this Ordinance are fulfilled and complied with. (Ord. 2000-10, Nov. 21, 2000) (Ord. 1990-6, S3.4:3, June 4, 1990)

10.05.030.005 Dumping of materials.

- (1) Dumping of waste, junk, etc. - the use of land or water resources for the storage, collection, or accumulation of used construction materials, or for the dumping or disposal of scrap iron, metal, lumber, rubber, plastic refuse, junk, slag, ash in the process of industrial manufacturing or in the performance of normal household or farming activities on the same lot or parcel on which the premises are located) shall not be permitted, except in such cases where a temporary permit is obtained from the zoning administrator, upon approval of the Town Council, after a public hearing. Such permit shall not exceed one (1) year from the date of issuance and may be renewed on an annual basis only after a public hearing is held and approval granted by the Town Council. This provision does not apply to the storage of firewood for normal household use. (Ord. 1990-6, S3.5:1, June 4, 1990)
- (2) An appropriate bond and agreement shall be required of the applicant to insure compliance with the directives set forth by the Town Council. Such dumping or disposal shall not negatively affect the water table, cause pollution of stagnant or running water in any area of the Town, or attract rodents, vectors or other nuisances, so as to create health or safety problems to the natural environment and the inhabitants of the Town. Nor shall the natural terrain be altered in any fashion to create safety or health hazards at the expiration date of the permit, or substantially alter the character of the land so as to make it unusable for the uses for which it was originally zoned. (Ord. 1990-6, S3.5:2, June 4, 1990)
- (3) Dumping of soil, sand and clay materials – the extensive dumping of soil, sand, clay or similar materials shall not be allowed on any lot or parcel without approval of the Planning Commission and subject to the requirements set forth by said board. (Ord. 1990-6, S3.5:3, June 4, 1990)
- (4) Dumping of materials and/or nuclear wastes shall not be allowed within Dale. (Ord. 1990-6, S3.5:4, June 4, 1990)

FIGURE 7



**ACCESSORY BUILDINGS
PROHIBITED IN SIDE YARD OF CORNER LOT**

10.05.030.006 Excavation of holes. The construction, maintenance, or existence of unprotected or unbarricaded holes, pits, wells, building pads, or similar excavations which cause, or are likely to cause a danger to life, health, and safety to the general public shall be prohibited. This section shall not, however, prevent any excavation which is required for the construction, remodeling, or expansion of structures, or for industrial or farming operations, provided appropriate precautionary measures, such as the placement of warning signs, fences, etc., have been placed on the premises. Nothing in this section shall apply to bodies of water, ditches, streams, or other major natural resources created or existing by the authority of the State of Indiana, Spencer County, the Town of Dale or other units of government. The extraction of sand, gravel, or other minerals for commercial purposes shall be prohibited. (Ord. 1990-6, S3.6, June 4, 1990)

10.05.030.007 Existing platted lots. Where an existing platted lot has an area of not less than 80 percent of its zoning district requirement and where such lot can provide the side and front yard requirements of its zone, the permitted uses of the district shall be allowed. An existing platted lot, in single ownership, of less than 80 percent of its zoning district requirements may also be utilized for such permitted uses, and for such purpose the required side yards may be reduced by the same percentage the area of such lot bears to its zone district requirements provided that no side yard provision may be reduced to less than 5 feet and that offstreet parking is provided. Where 2 or more adjacent lots are in single ownership and where such lots individually contain less than 80 percent of the zoning district requirements, such lots shall be utilized only in complete conformance with the zoning district's unreduced minimum requirements. In the event three or fewer adjacent lots are in single ownership and the Board of Zoning Appeals shall find that there is no practical possibility of obtaining additional land, it may permit their use as separate lots having less than the required lot area if it shall determine that they can be so used without adversely affecting the character of the neighborhood; provided, however, that no side yard provision may be reduced to less than 5 feet and that offstreet parking is provided. (Ord. 1990-6, S3.7, June 4, 1990)

10.05.030.008 Building heights

- (1) All Districts. No building shall exceed 35 feet in height, except those buildings located in the General Industrial District. (Ord. 1990-6, S3.8:1, June 4, 1990)
- (2) Exceptions to Height Limits. Governmentally owned structures, churches, parapet walls not exceeding three (3) feet in height, belfries, cupolas, domes, chimneys, smokestacks, flagpoles, radio towers, masts and aerials, television antenna, ornamental towers, monuments, transmission towers, cooling towers and necessary mechanical appurtenances, silos and other farm-related structures (except dwellings) are excepted from required height limitations unless otherwise specified in this ordinance. (Ord. 1990-6, S3.8:2, June 4, 1990)

10.05.030.009 Basis of determining yard and setback requirements. The required front yard shall be measured at a right angle from the right-of-way line to the nearest foundation or building wall of the building or structure; provided that where an existing setback line has

been established by existing buildings occupying 50 percent or more of the frontage within the same block or where unplatted within 300 feet of the proposed building, such established setback shall apply. A lot having a side yard line adjacent to any zoning boundary line of a more restricted district shall have a side yard not less than the minimum width required for the adjoining side yard for the more restricted district. (Ord. 1990-6, S3.9, June 4, 1990)

10.05.030.010 Fences, walls and hedges. Notwithstanding other provisions in this ordinance, fences, walls or hedges may be permitted on any property provided that no fence, wall or hedge shall exceed a height of 10 feet, and shall be no closer than 3 feet from the front property line or road right-of-way. No fence shall be electrified or electrical in nature. (Ord. 2001-9, S2, Aug. 6, 2001) (Ord. 1990-6, S3.10, June 4, 1990)

- (1) Vision Clearance on Corner Lots. On any corner lot in any Residential District, no sign, structure or plantings higher than three and one-half (3-1/2) feet above, established curb grade, except trees with a minimum clearance of eight (8) feet from the ground to the lowest branch, shall be erected or maintained within a line connecting points on the street lot lines twenty (20) feet distant from the corner. (Ord. 1990-6, S3.10:1, June 4, 1990)

10.05.030.011 Greenbelts and protective screening.

- (1) On corner lots, no plantings shall be established or maintained which obstructs the view of vehicular traffic in any direction. Such unobstructed corner shall mean a triangular area formed by the street property lines of two intersecting streets and a line connecting them 20 feet from the point of intersection. In the case of a rounded street corner, such measurements shall be from the street lines extended to form an intersection. Plantings within this area may attain a height of up to 30 inches. (Ord. 1990-6, S3.11:1, June 4, 1990)
- (2) In instances where a nonresidential structure in a nonresidential district is located adjacent to a residential district, the Planning/Zoning Commission may require the owner of the nonresidential property to provide a greenbelt at least 5 feet wide. Such greenbelt shall consist of plants, shrubbery, or trees, of which height shall be determined by the Planning Commission, but in no instance shall the height of such natural plantings be less than 12 feet in the case of trees or 6 feet in the case of plants or shrubs. In addition, all planting within this area shall be maintained in an orderly and healthy condition, neat in appearance. (Ord. 1990-6, S3.11:2, June 4, 1990)
- (3) Outdoor storage in Commercial and Industrial Districts (temporary or permanent), when abutting residentially-zoned or developed premises, shall be screened with a six (6) foot solid fence or wall and/or evergreen plantings, the ultimate height of which will reach at least six (6) feet. (Ord. 1990-6, S3.11:3, June 4, 1990)
- (4) The plans for required protective screening shall be submitted to the zoning administrator for his approval or recommendations as to suitability and

arrangement of planting material. Any limbs, shrubs, or bushes which extend into the property of an adjoining residential property owner may be trimmed back by said residential property owner. (Ord. 1990-6, S3.11:4, June 4, 1990)

10.05.030.012 Essential public services. The erection, construction, alterations, and maintenance of facilities considered to be essential to serve the general public shall be exempt from the regulations set forth in the Ordinance and shall be permitted in any Use District, except those considered by the zoning administrator or Planning Commission to be a danger to the health, safety or welfare of the general public. (Ord. 1990-6, S3.12, June 4, 1990)

10.05.030.013 Reversion of rezoned area. In the case of land which has been approved for a zoning change, construction on such parcel must begin within a period of one year from approval of such zone change. If construction does not commence within this period, the Planning Commission may initiate a rezoning for the purpose of returning the land to the previous zoning designation, or to another designation. The process for returning the land to its previous zoning designation must be in compliance with the amendment process as provided in this ordinance. (Ord. 1990-6, S3.13, June 4, 1990)

10.05.030.014 Transitional zoning.

- (1) A residential lot with its side yard adjacent to a parcel in a Commercial or Industrial District, not separated from such district by a street, and not extending more than 200 feet from said Commercial or Industrial District, may be utilized according to the regulations of the next less restrictive Residential District for new residential structures. This transitional lot may be used for professional offices of doctors, lawyers, architects and the like. (Ord. 1990-6, S3.14:1, June 4, 1990)
- (2) Approval for a nonresidential use on a transitional lot shall require a detailed site plan and an architectural rendering of all structures to be located on the parcel to be submitted to the zoning administrator. In addition, approval must meet the following conditions:
 - A. The yard setbacks shall conform to the requirements of the abutting nonresidential district.
 - B. Adequate parking and access shall be provided.
 - C. The proposed structures shall have a residential appearance in keeping with the character of the adjacent Residential District. (Ord. 1990-6, S3.14:2, June 4, 1990)

10.05.030.015 Travel trailers/motor homes. Travel trailers and motor homes may be allowed in campgrounds, travel trailer parks, or on individual lots of record, for a continuous period not to exceed 14 days within any 60 day period. Any travel trailer or motor home

used for a period exceeding 14 days, but not exceeding 90 days, must obtain a special use permit. (Ord. 1990-6, S3.15, June 4, 1990)

- (1) A travel trailer/motor home, or other recreational vehicle may be stored or placed within the driveway of a residential dwelling structure, provided the view from and to the residential structure is not substantially obstructed. A travel trailer, motor home or other similar recreational vehicle stored or placed within a front yard, shall be located no closer than ten (10) feet from any dwelling or structure, no closer than fifteen (15) feet from the side lot line and no closer than 25 feet from the front lot line. (Ord. 1990-6, S3.15:1, June 4, 1990)

10.05.030.016 Illegal dwellings.

- (1) The use of the basement of a partially built or planned building as a residence or dwelling unit is prohibited in all zones. The use of a basement more than four (4) feet below grade in a completed building for sleeping quarters or a dwelling unit is prohibited unless there are two means of direct access to the outside. Further provided, that where one wall is entirely above grade level of the yard adjacent to said wall and access or egress of the out-of-doors is provided through said wall, the structure is not a basement dwelling. Garages or accessory buildings shall not be occupied for dwelling purposes. (Ord. 1990-6, S3.16:1, June 4, 1990)
- (2) No structure without adequate sanitary facilities or otherwise structurally incomplete shall be issued a permit of occupancy by the building inspector. (Ord. 1990-6, S3.16:2, June 4, 1990)

10.05.030.017 Voting place. Nothing in this ordinance shall be so construed as to interfere with the temporary use of any dwelling or property as a voting place in an authorized public election. (Ord. 1990-6, S3.17, June 4, 1990)

10.05.030.018 Principal use. No lot may contain more than one principal (main) structure or use, excepting groups of apartment buildings, offices, retail business buildings, or other groups of buildings the Planning Commission considers to be principal structures or uses. (Ord. 1990-6, S3.18, June 4, 1990)

10.05.030.019 Street access. Any lot of record created after the effective date of this Ordinance shall have access to a public street right-of-way, except as may be provided for otherwise in a Planned Unit Development or Planned Industrial Development designed in accordance with the applicable provisions of the ordinance. (Ord. 1990-6, S3.19, June 4, 1990)

10.05.030.020 Trash containers. Outside trash containers except those used for emergency or temporary service, shall be permitted in the B-1, B-2 and I Districts and on property occupied by multiple-family housing of four or more units provided that they comply with the following requirements. Emergency or temporary containers may be

allowed on premises for a period not to exceed one (1) week, unless an extension is granted by the Zoning Administrator. (Ord. 1990-6, S3.20, June 4, 1990)

- (1) Adequate vehicular access shall be provided to such containers for truck pickup either via a public alley or vehicular access aisle which does not conflict with the use of off-street parking areas or entrances to or exits from principal buildings nearby. (Ord. 1990-6, S3.20:1, June 4, 1990)
- (2) The trash container(s), the screening wall or fence and the surrounding ground area shall be maintained in a neat and orderly appearance, free from rubbish, waste paper or other debris. This maintenance shall be the responsibility of the owner of the premises on which the containers are placed. (Ord. 1990-6, S3.20:2, June 4, 1990)
- (3) There shall be compliance with all town, county and state health ordinances and statutes. (Ord. 1990-6, S3.20:3, June 4, 1990)

10.05.030.021 Storage of junk and dismantled vehicles.

- (1) No person, firm, or corporation shall park, store or place upon any right-of-way or public property or upon any private premises within the Town any motor vehicle unless the same is wholly contained within a fully enclosed building except for the following:
 - A. Duly licensed and operable vehicles with all main components attached.
 - B. Vehicles or trailers that are temporarily inoperable and have all main components attached, which may remain upon such private property for a period not to exceed thirty (30) days.
 - C. Not more than one (1) vehicle in fully operating condition that has been redesigned or reconstructed for a purpose other than it was manufactured, provided that no building or garage is located upon the premises upon which the same could be parked or stored.
 - D. Any operable vehicle intended and actually utilized for agriculture purposes.
 - E. Motor vehicles, with missing components, which are brought or towed into an automotive service establishment for repair. (Ord. 1990-6, S3.21:1, June 4, 1990)
- (2) No repairing, modifying, or operations shall be allowed upon any vehicle for a period in excess of 72 hours, except within fully enclosed buildings, (and) will not constitute a nuisance or annoyance to adjoining property owners or occupants. Any such work within any 72-hour period heretofore allowed shall not, however, consist of any major repair, redesigning, modifying, or

dismantling work but only such occasional minor work as may infrequently be required to maintain a vehicle in normal operating condition. (Ord. 1990-6, S3.21:2, June 4, 1990)

- (3) In the event the foregoing regulations create any special or peculiar hardship beyond the control of a particular violator, the Zoning Administrator is hereby given the authority to grant permission to an applicant to operate contrary to the provisions hereto for a limited period of time not to exceed fourteen (14) days. (Ord. 1990-6, S3.21:3, June 4, 1990)

10.05.030.022 Buildings to be moved. The moving of a building to a new location shall be considered as the erection of a new building and all provisions, regulations or requirements relative to the erection of a new building shall apply. (Ord. 1990-6, S3.22, June 4, 1990)

10.05.030.023 Buildings to be razed. No building shall be razed until a permit has been obtained from the Building Inspector who may be authorized to require a performance guarantee in an amount equal to 120 percent of the estimated cost for the razing. The guarantee shall be conditioned on the applicant completing the razing with such reasonable period as shall be prescribed in the permit and complying with such reasonable regulations as to health and safety as the Building Inspector may reasonable require and this Ordinance may, from time to time, prescribe, including filling of excavations and proper termination of utility connections. (Ord. 1990-6, S3.23, June 4, 1990)

10.05.030.024 Buildings and structures, temporary. Mobile homes, mobile offices, tents or other movable or erected structures intended for temporary use or occupancy incidental to construction work, or special events shall be situated or erected upon land or premises within the jurisdiction limits and used according to the following provisions. (Ord. 1990-6, S3.24, June 4, 1990)

- (1) Permits for temporary construction trailers, sheds and offices shall be issued by the Building Inspector according to the following criteria:
 - A. No temporary permit may be issued prior to the issuance of a building permit. Temporary permits shall expire when the building permit expires.
 - B. A temporary structure shall be located on the same site as the construction.
 - C. A temporary structure shall be located on the site such that:
 1. On and off-site traffic hazards are minimized.
 2. The aesthetic impacts are reasonably minimized.
 3. It is not closer than five (5) feet to any property line.

4. All applicable safety, health and fire codes are met.
- D. No final inspection shall be issued until all temporary structures have been removed from the site.
 - E. Where alternate on-site locations are available, no temporary structure shall be located next to developed residences. (Ord. 1990-6, S3.24:1, June 4, 1990)
- (2) Permits for temporary structures such as tents used in conjunction with special short-term outdoor events shall be issued by the Building Inspector upon approval of Zoning Administrator according to the following criteria:
 - A. On and off-site traffic hazards are minimized.
 - B. The structure shall be anchored according to manufacturer's specifications and the Town is indemnified by the property owner against all property damage or personal injury that may result from potential hazards caused by the erection and placement or failure of the structure.
 - C. The structure will be in place for less than 72 hours, unless granted an extension.
 - D. The event is a public service event or an event sponsored by an existing business located on or adjacent to the parcel on which the structure is to be located and that the merchandise, services or goods displayed within the structure are of the variety normally offered by an existing business.
 - (3) Permits for the temporary replacement of mobile homes for occupancy on property at which a principal dwelling has been damaged or destroyed by fire, wind, flood or Act of God may be issued by the Building Inspector upon approval by the Zoning Administrator according to the following criteria:
 - A. Sufficient domestic water supply and toilet facilities are provided.
 - B. All construction and all plumbing, electrical apparatus and insulation within the mobile home shall be of a type and quality conforming to or exceeding the "Mobile Home Construction and Safety Standards", as promulgated by the United States Department of Housing and Urban Development, (24 CFR 3280), as amended. All dwellings shall meet or exceed all applicable roof snow load and strength requirements. All plumbing and electrical connections shall meet BOCA requirements.

- C. The mobile home shall be located to conform to all locational requirements otherwise applicable to accessory buildings in the applicable zoning district except that it may be placed in the front yard, no closer than 30 feet from the front property line.
 - D. The permit shall specify that the mobile home is temporary and that the permit shall expire after a reasonable specific time.
 - E. An occupancy permit for a rehabilitated or reconstructed dwelling unit damaged or destroyed by such causes that warrant the issuance of a permit for a temporary mobile home for occupancy shall not be issued until it has been removed or an approved performance guarantee for its removal is deposited with the Town Clerk. (Ord. 1990-6, S3.24:3, June 4, 1990)
- (4) Other Temporary Structures not permitted or regulated above or by other provisions of this Ordinance may be permitted by the Planning and Zoning Commission. Such temporary structure shall set forth the purposes of the construction. The Planning and Zoning Commission shall determine whether such structure is intended as a temporary building and that its use thereof shall be terminated at a specified time. The application shall not be granted if the structure is not served with a sufficient and healthful water supply and toilet facilities. The temporary structure shall be so constructed and maintained that it shall conform to the minimum requirements for safety, health, and general public welfare and for the prevention of fire hazards as provided by the terms of this Ordinance or any other ordinance of the Town, not in conflict herewith for such districts in which the temporary structure shall be located. The temporary building shall not be injurious to the value of the surrounding property or neighborhood. (Ord. 1990-6, S3.24:4, June 4, 1990)

10.05.030.025 Outdoor lighting. Outdoor lighting located on private owned property shall be so arranged that it will not shine directly on nearby dwellings or interfere with the vision of traffic. (Ord. 1990-6, S3.25, June 4, 1990)

10.05.030.026 Home occupations.

- (1) No more than 25 percent of the gross floor area of the dwelling unit shall be utilized. (Ord. 1990-6, S3.26:1, June 4, 1990)
- (2) The activities and facilities associated with the home occupation shall not change the residential character of the property or the immediate neighborhood and shall not endanger the health, safety and welfare of any other person or household living in the general or immediate area by reason of noise, glare, noxious odors, electrical interference, unsanitary conditions, excessive traffic, fire hazards and/or other such negative impacts. (Ord. 1990-6, S3.26:2, June 4, 1990)

- (3) No home occupation shall require outdoor storage of equipment, machinery or signs not customary in a residential location. (Ord. 1990-6, S3.26:3, June 4, 1990)
- (4) No more than one nonilluminated nameplate, not larger than four (4) square feet in area, containing the name and occupation of the resident, will be allowed. (Ord. 1990-6, S3.26:4, June 4, 1990)
- (5) A home occupation that will attract an average of more than two customer vehicles at all times during operating hours, shall provide off-street parking facilities in accordance with Section 10.05.220. The parking requirements associated with the use or activity in Section 10.05.220 most similar to the home occupation shall be applied. (Ord. 1990-6, S3.26:5, June 4, 1990)
- (6) No home occupation shall be conducted in any accessory building or garage that is not attached to the principal building. (Ord. 1990-6, S3.26:6, June 4, 1990)
- (7) Any such home occupation shall be subject to annual inspection by the Zoning Administrator of the Town and may be terminated by order of such Administrator whenever the same fails to comply with the Zoning Ordinance. (Ord. 1990-6, S3.26:7, June 4, 1990)
- (8) The Planning/Zoning Commission shall have authority to determine whether or not a proposed use complies with the Zoning Ordinance and is within the spirit of the same to ensure the compatibility of any use with the character of the Zoning Ordinance in which the same is located and that the health, safety and general welfare of the neighborhood will not thereby be impaired. (Ord. 1990-6, S3.26:8, June 4, 1990)

10.05.030.027 Unlawful use not authorized. Nothing in the Ordinance or any amendment shall be interpreted as authorization for or approval of the continuance of the unlawful use of a structure, land or premises on the effective date of this Ordinance or any amendment. (Ord. 1990-6, S3.27, June 4, 1990)

10.05.030.028 Registration of property. The description of and the deed for every parcel of land shall be required to be on record with Spencer County Recorder, prior to the authorization of any use of the lot or parcel of land by the Town. (Ord. 1990-6, S3.28, June 4, 1990)

10.05.030.029 Extent of regulations. These general provisions shall apply to all zoning districts except as otherwise noted. (Ord. 1990-6, S3.29, June 4, 1990)

10.05.040 MAPPING/ZONING DISTRICTS

10.05.040.001 Mapped zoning districts. For the purpose of this ordinance, the following zoning districts shall be established in the Town of Dale:

- R Low and Medium Density Residential
 - M Multi-Family Residential
 - B-1 General Commercial
 - B-2 Highway Commercial
 - I General Industrial
 - GB Green Belt
- (Ord. 1990-6, S4.1, June 4, 1990)

10.05.040.002 Definition of boundaries.

- (1) The location and boundaries of these zoning districts are established on a map titled the "Town of Dale Zoning Map" which is hereby adopted as a part of this Ordinance. The official Zoning Map shall be located in the office of the Zoning Administrator and shall be the final authority in any dispute concerning district boundaries. The official map shall be kept up to date and any amendments to the Ordinance involving the official map shall become legal only after such changes are noted and portrayed on said map. (Ord. 1990-6, S4.2:1, June 4, 1990)
- (2) The official Zoning Map, including legally adopted amendments, is hereby adopted by reference and declared to be a part of this Ordinance shall be designated as such by the signature of the zoning administrator and attested to by the Town Clerk. (Ord. 1990-6, S4.2:2, June 4, 1990)
- (3) Where uncertainty exists as to the exact district boundaries, the following shall prevail:
 - A. Where boundary lines are indicated as approximately following streets, alleys, railroads, or highways, the centerlines of said streets, alleys, railroads, or highways shall be considered to be exact boundary lines.
 - B. Boundaries indicated as approximately following lot lines shall be considered to follow said lot lines.
 - C. Boundaries indicated as following the shorelines of lakes shall be considered as following such shoreline. In the case of streams, such boundaries shall be considered to follow the centerline of the stream. Where shorelines of lakes have changed, the boundary line shall be construed as following the contour of the new shoreline and in the case of change in the course of a stream, the boundary shall be considered as the centerline of the new course.

- D. Where the application of the aforementioned rules leave a reasonable doubt as to the exact location of a district boundary, the provisions of the more restrictive district shall govern the entire parcel in question, unless determined otherwise by the Board of Appeals upon recommendation by the Zoning Administrator. (Ord. 1990-6, S4.2:3, June 4, 1990)

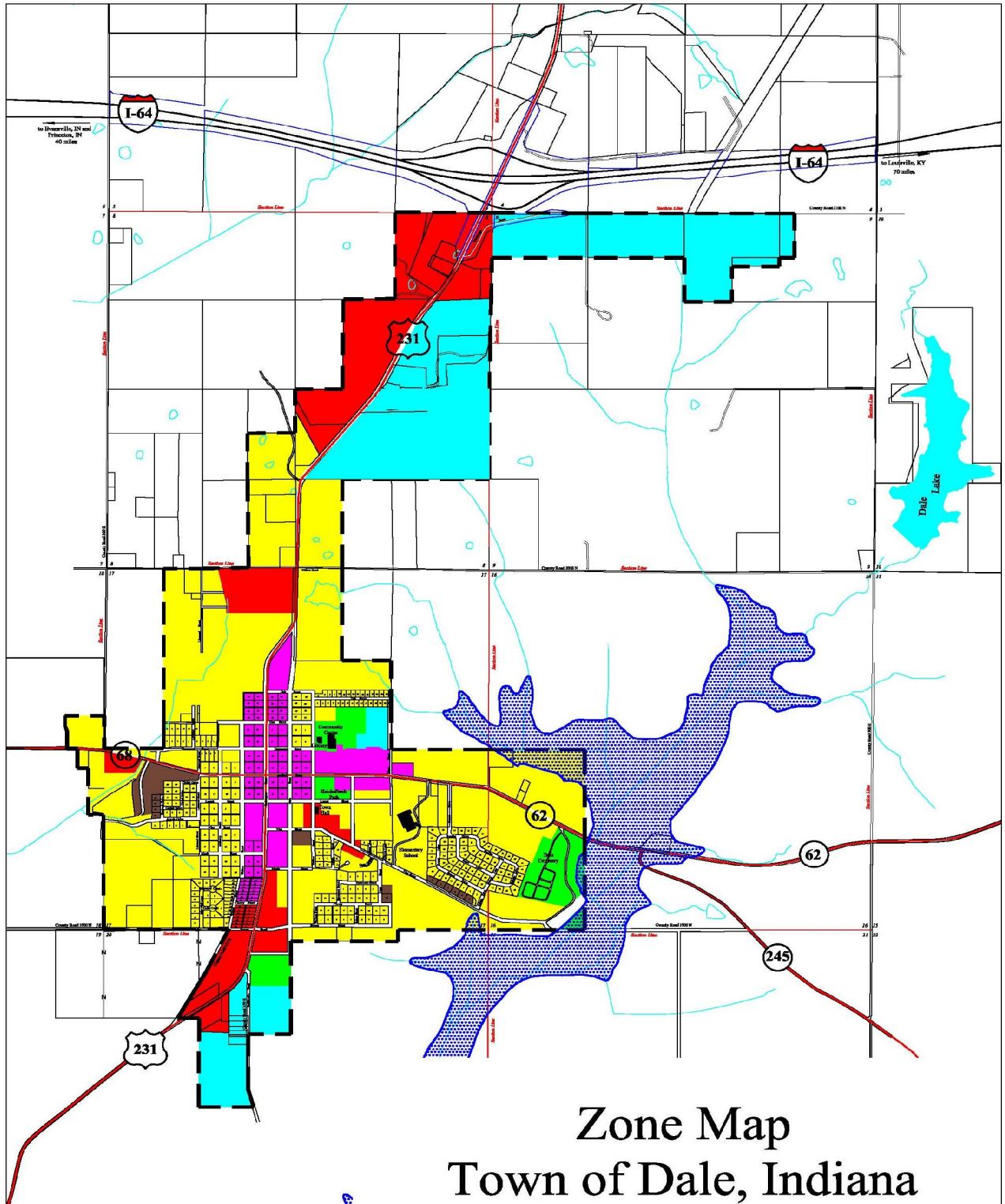
10.05.040.003 Zoning of vacated areas. Whenever any street, alley, highway, or other public right-of-way within the Town shall have been abandoned by official government action and when such right-of-way lands attach to and become part of the land adjoining said right-of-way, such right-of-way property shall automatically acquire, and be subject to, the provisions of the zoning district of the abutting property. In the case of an abandoned right-of-way which also serves as a district boundary, the centerline of such abandoned right-of-way shall remain the boundary line and the lands on either side of said centerline shall become attached to their respective adjoining properties. (Ord. 1990-6, S4.3, June 4, 1990)

10.05.040.004 Zoning of fill areas. Whenever, after appropriate permits are obtained, any fill material is placed in any lake or stream so as to create a usable or buildable space, such fill area shall take on the zoning district and accompanying provisions of the land abutting said fill area. No use on any lake or stream shall be allowed which does not conform to the Ordinance provisions on the property from which said use emanates. No fill material shall be placed in any lake or stream within the Town unless appropriate permits are obtained from the Indiana Department of Natural Resources. (Ord. 1990-6, S4.4, June 4, 1990)

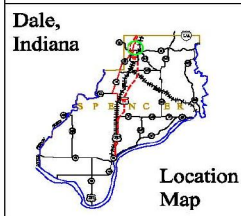
10.05.040.005 Zoning district changes. When district boundaries change, any nonconforming use or structure may be continued subject to all other applicable provisions of the Ordinance pertaining to nonconforming uses and structures. (Ord. 1990-6, S4.5, June 4, 1990)

10.05.040.006 Uses permitted by right. Permitted uses are recognized as uses of land and buildings in certain districts which are harmonious with other such uses which may lawfully exist within the same district. A permitted use is subject to the schedule of regulations, permit, and site plan requirements found elsewhere in this Ordinance, but otherwise considered to be a lawful use not requiring special or extraordinary controls or conditions. (Ord. 1990-6, S4.6, June 4, 1990)

10.05.040.007 Uses allowed by special permit. The uses listed in this Ordinance as allowed by special permit are recognized as possessing characteristics of such unique and special nature (relative to location, design, size, public utilities needs, and other similar characteristics) as necessitating individual standards and conditions in order to safeguard the general health, safety and welfare of the community. The standards to which each use allowed by special permit must conform before approval for a zoning or building permit can be granted are identified in Section 10.05.120 - Site Development Requirements. Unless otherwise specified, a special use must conform at least to the minimum height, bulk and setback requirements of the district in which it is located. (Ord. 1990-6, S4.7, June 4, 1990)



Zone Map Town of Dale, Indiana

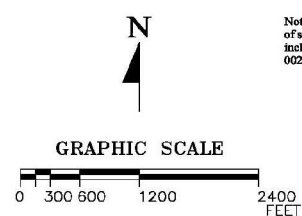


LEGEND
Map Features

Platted Lot	
Corporation Line	
Interstate	
U.S. Highway	
State Road	
Railroad	
Waterway	
Section Line	

LEGEND
Zoning Districts

Low & Medium Density Residential	R
Multi-Family Residential	M
General Commercial	B-1
Highway Commercial	B-2
General Industrial	I
Cowbalt	CH
Flood Plain	



Note: This map represents the platted lot dimensions and right-of-ways of streets, roads and alleys. This map reflects revisions up to and including Ordinance 2000-17. The Flood Insurance Rate Map 180237 0025 A, effective May 1, 1978 was used to delineate the flood plain.

INDIANA'S REGIONAL PLANNING COMMISSION		
<small>1111 East 10th Street, Indianapolis, IN 46202-1011 Phone: (317) 644-1000 Fax: (317) 644-1011 WWW.INDRPLANNING.COM</small>		
Title: Town of Dale Zone Map	Prepared by: J.W. & L.G.	Reviewed by: NAME
Revisions:		Original: 5-4-2000
Directory: N:\C:\Data\Specimen\Map\Chas\Chas\Chas 2		
© Copyright 2000 Indiana's Regional Planning Commission		

10.05.050 R – LOW AND MEDIUM DENSITY RESIDENTIAL DISTRICT

10.05.050.001 Statement of purpose. This district is intended to provide a rural residential environment, in keeping with the general character of the Town of Dale. The low density mixture of uses permitted in this zone is designed to minimize any negative impacts such development may have on the Town's natural environment. (Ord. 1990-6, S5.1, June 4, 1990)

10.05.050.002 Permitted uses.

- (1) Detached single-family dwellings
- (2) Two family dwellings
- (3) Public Parks
- (4) Foster care facilities (family) - (see 10.05.120.003(7)) (Ord. 1990-6, S5.2, June 4, 1990)

10.05.050.003 Uses allowed by special permit. (See Section 10.05.130 for Procedure)

- (1) Golf Courses, country clubs, golf driving ranges - (see 10.05.120.003(14))
- (2) Private, noncommercial outdoor recreation camps - (see 10.05.120.003 (17))
- (3) Home occupations - (see Sec. 10.05.030.026)
- (4) Temporary buildings or trailer incidental to construction activities - (see 10.05.030.024(4))
- (5) Churches - (see 10.05.120.003(2))
- (6) Planned Unit Development subject to conditions set forth in Section 10.05.190
- (7) Convalescent homes - (see 10.05.120.003(12))
- (8) Private clubs - (see 10.05.120.003(21))
- (9) Mobile home parks subject to conditions set forth in Section 10.05.140
- (10) Mobile homes on individual building lots - (see 10.05.120.003(42))
- (11) Nurseries for children - (See 10.05.120.003(6))
- (12) Inns, boarding and lodging houses containing not more than six separate units, Bed and Breakfast operations

- (13) Travel trailers, subject to Section 10.05.030.150
- (14) Accessory uses and structures - (See Sec. 10.05.030.040)
- (15) Essential public utility service buildings, or gas or electric regulator stations or buildings - (see Sec. 10.05.030.120) (Ord. 1990-6, S5.3, June 4, 1990)

10.05.040.004 Regulations. (A composite Schedule of Regulations for all districts is identified in Section 10.05.130)

- (1) Minimum Lot Size for Single-Family or Two-Family Residential Unit.
 - A. If served by a public or other approved community sewer and water system: 7,200 Sq. Ft.
 - B. If served by an individual well and septic tank: 38,000 Sq. Ft. (Ord. 1990-6, S5.4:1, June 4, 1990)
- (2) Minimum Lot Width for Single-Family or Two-Family Residential Unit.
 - A. If served by a public or other approved community sewer and water system or sewer system only: 75 Ft.
 - B. If served by an individual well and septic tank: 150 Ft. (Ord. 1990-6, S5.4:2, June 4, 1990)
- (3) Maximum Height of Structure: 35 Ft. (Ord. 1990-6, S5.4:3, June 4, 1990)
- (4) Minimum Yard Setbacks for Single-Family or Two-Family Residential Unit.
 - A. Front yard: 30 Ft.
 - B. Side Yard: 10 Ft. each side
 - C. Rear Yard: 30 Ft.
 - D. On a corner lot, both street frontage sides shall be subject to all applicable front yard provisions of this ordinance. (Ord. 1990-13, S5.4:4, Dec. 3, 1990) (Ord. 1990-6, S5.4:4, 1990)
- (5) Minimum Floor Area per Dwelling Unit: 760 Sq. Ft. Minimum Dimension on length or width of unit: 20 feet. (Ord. 1991-4, S5.4:5, March 4, 1991) (Ord. 1990-6, S5.4:5, June 4, 1990)
- (6) For regulations for all other permitted and special uses allowed within the R-District, refer to the standards for the specific use in Article 10.05.120. (Ord. 1990-6, S5.4:6, June 4, 1990)

10.05.050.005 Common items to consider prior to construction/demolition/remodeling/restoration/storage. Prior to initiating excavation, construction, remodeling, etc., a zoning permit must be applied for and approved. This procedure is identified in Section 10.05.230.

- (1) Existing platted lots - (see Sec. 10.05.030.007)
- (2) Registration of property - (see Sec. 10.05.030.028)
- (3) Grading permits - (see Sec. 10.05.180.004)
- (4) Excavation of Holes - (see Sec. 10.05.030.006)
- (5) Illegal dwellings - (see Sec. 10.05.030.016)
- (6) Principle use - (see Sec. 10.05.030.018)
- (7) Street access - (see Sec. 10.05.030.019)
- (8) Buildings to be moved or razed - (see Sec. 10.05.030.022; 10.05.030.023)
- (9) Temporary buildings and structures - (see Sec. 10.05.030.024)
- (10) Restoration of unsafe buildings -(see Sec. 10.05.030.002)
- (11) Accessory buildings and structures - (see Sec. 10.05.030.004)
- (12) Fences, walls, hedges - (see Sec. 10.05.030.010)
- (13) Greenbelts and protective screenings - (see Sec. 10.05.030.011)
- (14) Transitional use (residential lot adjacent to commercial or industrial zone - Sec. 10.05.030.014)
- (15) Outdoor lighting - (see Sec. 10.05.030.025)
- (16) Storage of junk and dismantled vehicles - (see Sec. 10.05.030.021)
- (17) Dumping of materials - (see Sec. 10.05.030.005)
- (18) Travel trailers/motor homes - (see Sec. 10.05.030.015)
- (19) Off-street parking - (see Section 10.05.150) (Ord. 1990-6, S5.5, June 4, 1990)

10.05.060 M – MULTIPLE-FAMILY RESIDENTIAL

10.05.060.001 Statement of purpose. This district is composed of certain high density residential areas with regulations that are designed to protect the essential characteristics of

the district and encourage, insofar as compatible with the intensity of land use, a good environment for family life, and to prohibit all activities of a commercial nature except certain enumerated and controlled "home occupations." To these ends the district is protected against encroachment of general commercial and industrial uses, yet permitting high concentration of residential use consistent with high land valuation. All residential types of structures including institutions are permitted but the predominant structural types will be multifamily apartment dwellings. Also, churches, meeting places for organizations and certain public facilities which serve the residents of the district are permitted. (Ord. 1990-6, S6.1, June 4, 1990)

10.05.060.002 Permitted uses.

- (1) Dwellings, multiple-family.
- (2) Conversion of one and/or two-family residences into multiple-family dwelling units, provided these conform with the lot areas and yard requirements.
- (3) Accessory buildings and structures customarily incidental to any of the foregoing.
- (4) Temporary buildings and structures used during construction. (Ord. 1990-6, S6.2, June 4, 1990)

10.05.060.003 Uses allowed by special permit.

- (1) Churches - (see 10.05.120.003(2)).
- (2) Hospitals, sanitariums and charitable institutions for human care, not including those for penal purposes - (see 10.05.120.003(8)).
- (3) Institutions (headquarters for religious, philanthropic and charitable), provided that such organizations occupy buildings existing at the date of adoption of this Ordinance Code - (see 10.05.120.003(32)).
- (4) Park and/or playground.
- (5) Schools; elementary, secondary and college levels for academic instruction. (see 10.05.120.003(32))
- (6) Private clubs, lodges and meeting places for other organizations, not including any use that is customarily conducted as a gainful business. (see 10.05.120.003(21))
- (7) Private nursing homes, convalescent homes for the aged with four (4) or more persons. (see 10.05.120.003(12))

- (8) Nursery schools and child care centers, group day care homes. (see 10.05.120.003(6))
- (9) Essential public utility service buildings, gas or electric regulator stations or buildings. (see Sec. 10.05.120.003(12))
- (10) Accessory buildings incidental to the main building.
- (11) Temporary structures used during construction. (Ord. 1990-6, S6.3, June 4, 1990)

10.05.060.004 Regulations. (A composite Schedule of Regulations for all districts is identified in Section 10.05.130).

- (1) Minimum Lot Size for each Multiple-Family Dwelling Unit:
 - A. Efficiency or one bedroom unit: 3,000 Sq. Ft. of land area.
 - B. Two bedroom unit: 4,200 Sq. Ft. of land area.
 - C. Three bedroom unit: 5,100 Sq. Ft. of land area.
 - D. Four + bedroom unit: 5,700 Sq. Ft. of land area. (Ord. 1990-6, S6.4:1, June 4, 1990)
- (2) Minimum Lot Width for a Multiple-Family Building - 100 Ft. (Ord. 1990-6, S6.4:2, June 4, 1990)
- (3) Maximum Height of Structure: 35 Ft. (Ord. 1990-6, S6.4:2, June 4, 1990)
- (4) Minimum Yard Setbacks:
 - A. Front yard - 30 Ft.
 - B. Side Yard - 20 Ft. each side
 - C. Rear Yard - 30 Ft. each side
 - D. On a corner lot, both street frontage sides shall be subject to all applicable front yard provisions of this ordinance. (Ord. 1990-13, S6.4:4, Dec. 3, 1990) (Ord. 1990-6, S6.4:4, June 4, 1990)
- (5) Minimum Floor Area for each Dwelling Unit.
 - A. Efficiency: 350 Sq. Ft.
 - B. One bedroom apartment: 500 Sq. Ft.

C. Two bedroom apartment: 700 Sq. Ft.

D. Three bedroom apartment: 800 Sq. Ft.

Plus 80 Sq. Ft. for each additional bedroom. (Ord. 1990-6, S6.4:5, June 4, 1990)

- (6) For regulations for all other permitted and special uses allowed in the M-District, refer to standards for the specific use in Section 10.05.120. (Ord. 1990-6, S6.4:6, June 4, 1990)

10.05.060.005 Common items to consider prior to construction/demolition/remodeling/restoration/storage. Prior to initiating excavation, construction, remodeling, etc., a zoning permit must be applied for and approved. This procedure is identified in Section 10.05.230.

- (1) Existing platted lots - (see Sec. 10.05.030.007)
- (2) Registration of property - (see Sec. 10.05.030.028)
- (3) Grading permits - (see Sec. 10.05.180.004)
- (4) Excavation of Holes - (see Sec. 10.05.030.006)
- (5) Illegal dwellings - (see Sec. 10.05.030.016)
- (6) Principle use - (see Sec. 10.05.030.018)
- (7) Street access - (see Sec. 10.05.030.019)
- (8) Buildings to be moved or razed - (see Sec. 10.05.030.022; 10.05.030.023)
- (9) Temporary buildings and structures - (see Sec. 10.05.030.024)
- (10) Restoration of unsafe building - (see Sec. 10.05.030.002)
- (11) Accessory buildings and structures - (see Sec. 10.05.030.004)
- (12) Fences, walls, hedges - (see Sec. 10.05.030.010)
- (13) Greenbelts and protective screenings - (see Sec. 10.05.030.011)
- (14) Transitional use (residential lot adjacent to commercial or industrial zone - Sec. 10.05.030.014)
- (15) Outdoor lighting - (see Sec. 10.05.030.025)
- (16) Dumping of materials - (see Sec. 10.05.030.005)

- (17) Off-street parking - (see Section 10.05.150)
- (18) Advertising signs and billboards - (see Section 10.05.160)
- (19) Trash containers - (see Sec. 10.05.030.020) (Ord. 1990-6, S6.5, June 4, 1990)

10.05.070 B-1 - GENERAL COMMERCIAL DISTRICT

10.05.070.001 Statement of purpose. This district is intended to provide for the construction or continued use of land for general community-wide commercial and service uses and to provide for orderly development and concentration of such uses to satisfy the needs of the overall community. All permitted uses and uses allowed by special permit are subject to site plan review as defined in Section 10.05.130. (Ord. 1990-6, S7.1, June 4, 1990)

10.05.070.002 Permitted uses.

- (1) Retail and service commercial establishments, including but not limited to:
 - A. Bakery or bakery goods stores - (see 10.05.120.003(36))
 - B. Barbers, beauty shops - (see 10.05.120.003(36))
 - C. Dance, music, voice studios - (see 10.05.120.003(36))
 - D. Physical fitness, martial arts studios - (see 10.05.120.003(36))
 - E. Florists -(see 10.05.120.003(36))
 - F. Food stores, delicatessens - (see 10.05.120.003(36))
 - G. Hardware stores - (see 10.05.120.003(36))
 - H. Laundromats - (see 10.05.120.003(36))
 - I. Prescription pharmacies, opticians, other similar professions - (see 10.05.120.003(36))
 - J. Reducing salons - (see 10.05.120.003(36))
 - K. Restaurants, bars, taverns, ice cream parlors - (see 10.05.120.003(36))
 - L. Drive-in, drive-thru restaurants/fast food establishments - (see 10.05.120.003(5))
 - M. Tanning studios, salons - (see 10.05.120.003(36))
 - N. Electrical equipment sales and service - (see (10.05.120.003(36))

- (2) Banks, savings and loans, credit unions - (see 10.05.120.003(24))
- (3) Business colleges, trade schools - (see 10.05.120.003(32))
- (4) Vehicle wash establishments (automatic and self service) - (see 10.05.120.003(15))
- (5) Churches - (see 10.05.120.003(2))
- (6) Private clubs, fraternal meeting halls, lodges
- (7) Hospitals - (see 10.05.120.003(8))
- (8) Hotels - (see 10.05.120.003(4))
- (9) Motels - (see 10.05.120.003(4))
- (10) Movie theatres - (see 10.05.120.003(36))
- (11) Government administration and storage buildings - (see 10.05.120.003(32))
- (12) Offices - (see 10.05.140.003(36))
- (13) Parking lots, garages - (see Section 10.05.150)
- (14) Service Stations - (see 10.05.120.003(11))
- (15) Theatres, auditoriums for live performances - (see 10.05.120.003(32); 10.05.120.003(36))
- (16) Public utilities - (see Sec. 10.05.030.012)
- (17) Travel terminals - (see 10.05.120.003(32); 10.05.120.003(36))
- (18) Indoor amusement including bowling alleys, skating rinks and similar facilities - (see 10.05.120.003(36))
- (19) Accessory buildings and uses customarily incidental to any of the foregoing, including swimming pool and dish-type satellite receiving antenna subject to the provisions of Section 10.05.030, Section 10.05.030.004(2), but not including any manufacturing or treatment activities
- (20) Temporary buildings and structures used during construction, subject to the limitation of Section 10.05.030.026.
- (21) All signs not requiring permits as provided for in Section 10.05.160. (Ord. 1990-6, S7.2, June 4, 1990)

10.05.070.003 Uses allowed by special permit.

- (1) Adult bookstore - (see 10.05.120.003(30))
- (2) Adult live entertainment establishments - (see 10.05.120.003(30))
- (3) Commercial cleaning plants - (see 10.05.120.003(36))
- (4) Laboratories
- (5) Mortuaries
- (6) Adult theatre - (see 10.05.120.003(30))
- (7) Veterinarian - (see 10.05.120.003(13) - 10.05.120.003(20))
- (8) Accessory buildings and uses customarily incident to any of the foregoing, not including any manufacturing or treatment activities
- (9) Essential public service buildings; gas or electric regulator stations or buildings; public, utility or privately owned dams - (see Sec. 10.05.030.012) (Ord. 1990-6, S7.3, June 4, 1990)

10.05.070.004 Regulations. (A Composite Schedule of Regulations for all Districts is identified in Section 10.05.130)

- (1) There are no minimum lot sizes for structures in the B-1 General Commercial District. All proposed uses are subject to site plan review. (Ord. 1990-6, S7.4:1, June 4, 1990)
- (2) The minimum lot width for a structure in the B-1 General Commercial District is 60 Ft. (Ord. 1990-6, S7.4:2, June 4, 1990)
- (3) The maximum height of a building in this district shall be 45 Ft. (Ord. 1990-6, S7.4:3, June 4, 1990)
- (4) The minimum yard setback in the B-1 General Commercial District shall be 20 Ft. for the rear yard. There are no front or side yard setback requirements. (Ord. 1990-6, S7.4:4, June 4, 1990)
- (5) The minimum floor area for buildings in the B-1 General Commercial District shall be four hundred (400) square feet. (Ord. 2000-10, Nov. 21, 2000) (Ord. 1990-6, S7.4:5, June 4, 1990)
- (6) For regulations for all other permitted and special uses allowed in the B-1 District, refer to the standards for the specific use in Section 10.05.120. (Ord. 1990-6, S7.4:6, June 4, 1990)

10.05.070.005 Common items to consider prior to construction/demolition/remodeling/restoration/storage. Prior to initiating excavation, construction, remodeling, etc., a zoning permit must be applied for and approved. This procedure is identified in Section 10.05.230.

- (1) Existing platted lots - (see Sec. 10.05.030.007)
- (2) Registration of property - (see Sec. 10.05.030.028)
- (3) Grading permits - (see Sec. 10.05.180.004)
- (4) Excavation of Holes - (see Sec. 10.05.030.006)
- (5) Illegal dwellings - (see Sec. 10.05.030.016)
- (6) Principle use - (see Sec. 10.05.030.018)
- (7) Street access - (see Sec. 10.05.030.019)
- (8) Buildings to be moved or razed - (see Sec. 10.05.030.022; 10.05.030.023)
- (9) Temporary buildings and structures - (see Sec. 10.05.030.024)
- (10) Restoration of unsafe buildings - (see Sec. 10.05.030.002)
- (11) Accessory buildings and structures - (see Sec. 10.05.030.004)
- (12) Fences, walls, hedges - (see Sec. 10.05.030.010)
- (13) Greenbelts and protective screenings - (see Sec. 10.05.030.011)
- (14) Transitional use (residential lot adjacent to commercial or industrial zone - Sec. 10.05.030.014)
- (15) Outdoor lighting - (see Sec. 10.05.030.025)
- (16) Dumping of materials - (see Sec. 10.05.030.005)
- (17) Off-street parking - (see Section 10.05.150)
- (18) Advertising signs and billboards - (see Section 10.05.160)
- (19) Trash containers - (see Sec. 10.05.030.020) (Ord. 1990-6, S7.5, June 4, 1990)

10.05.080 B-2 - HIGHWAY COMMERCIAL DISTRICT

10.05.080.001 Statement of purpose. This zone is designated to establish an area for those businesses which are highly dependent upon, and associated with, vehicular traffic. The uses allowed in this district are intended to complement the uses allowed in the B-1 General Commercial District. (Ord. 1990-6, S8.1, June 4, 1990)

10.05.080.002 Permitted uses.

- (1) All uses allowed by right in the B-1 General Commercial District.
- (2) Banks, saving and loans, credit unions, business colleges, trade schools, wholesale stores and distributors
- (3) Swimming pools as provided for in 10.05.030, Section 10.05.030.004(3).
- (4) Advertising signs and billboards as provided for in Section 10.05.160. (Ord. 1990-6, S8.2, June 4, 1990)

10.05.080.003 Uses allowed by special permit.

- (1) Single-family residences - (see 10.05.120.003(38)).
- (2) Two-family residences - (see 10.05.120.003(38)).
- (3) Outdoor amusement facilities - (see 10.05.120.003(22)).
- (4) Temporary buildings or trailers used during construction.
- (5) Essential public service buildings; gas or electric regulator stations or buildings; public, utility or privately owned dams. (Ord. 1990-6, S8.3, June 4, 1990)

10.05.080.004 Regulations. (A composite Schedule of Regulations for all Districts is identified in 10.05.130). (Ord. 1990-6, S8.4, June 4, 1990)

- (1) There are no minimum lot sizes for structures in the B-2 Highway Commercial District. All proposed uses are subject to site plan review. (Ord. 1990-6, S8.4:1, June 4, 1990)
- (2) The minimum lot width for a structure in the B-2 Highway Commercial District is 100 Ft. (Ord. 1990-6, S8.4:2, June 4, 1990)
- (3) The maximum height of a building in this District shall be 35 Ft. (Ord. 1990-6, S8.4:3, June 4, 1990)
- (4) The minimum front yard setback in this District is 30 Ft.; the minimum rear yard setback is 30 Ft.; the minimum side yard setback is 20 Ft. on each side

(see Section 10.05.130.001(1)D for additional requirements). (Ord. 1990-6, S8.4:4, June 4, 1990)

- (5) The minimum floor area requirement per building in the District is 960 SF. (Ord. 1990-6, S8.4:5, June 4, 1990)
- (6) For regulations for all other permitted and special uses allowed in the B-2 District, refer to the standards for the specific use in 10.05.120. (Ord. 1990-6, S8.4:6, June 4, 1990)

10.05.080.005 Common items to consider prior to construction/demolition/remodeling/restoration/storage. Prior to initiating excavation, construction, remodeling, etc., a zoning permit must be applied for and approved. This procedure is identified in 10.05.230.

- (1) Existing platted lots - (see Sec. 10.05.030.007)
- (2) Registration of property - (see Sec. 10.05.030.028)
- (3) Grading permits - (see Sec. 10.05.180.004)
- (4) Excavation of Holes - (see Sec. 10.05.030.006)
- (5) Illegal dwellings - (see Sec. 10.05.030.016)
- (6) Principle use - (see Sec. 10.05.030.018)
- (7) Street access - (see Sec. 10.05.030.019)
- (8) Buildings to be moved or razed - (see Sec. 10.05.030.022; 10.05.030.023)
- (9) Temporary buildings and structures - (see Sec. 10.05.030.024)
- (10) Restoration of unsafe buildings - (see Sec. 10.05.030.002)
- (11) Accessory buildings and structures - (see Sec. 10.05.030.004)
- (12) Fences, walls, hedges - (see Sec. 10.05.030.010)
- (13) Greenbelts and protective screenings - (see Sec. 10.05.030.011)
- (14) Transitional use (residential lot adjacent to commercial or industrial zone - Sec. 10.05.030.014)
- (15) Outdoor lighting - (see Sec. 10.05.030.025)
- (16) Dumping of materials - (see Sec. 10.05.030.005)

- (17) Off-street parking - (see 10.05.150)
- (18) Advertising signs and billboards - (see 10.05.160)
- (19) Trash containers - (see Sec. 10.05.030.020) (Ord. 1990-6, S8.5, June 4, 1990)

10.05.090 I - GENERAL INDUSTRIAL DISTRICT

10.05.090.001 Statement of purpose. This district is designed for industrial sites occupied by manufacturing and fabrication plants, laboratories, distribution warehouses and similar uses. The I - General Industrial District encompasses those areas in Dale where many of the current industrial operations are located as well as areas identified in the Town's Future Land Use Plan for future industrial uses. (Ord. 1990-6, S9.1, June 4, 1990)

10.05.090.002 Permitted uses.

- (1) The manufacturing, compounding, processing packaging, treatment, fabrication of such products as: bakery goods, candy, ceramics, cosmetics, clothing, electrical and electronic equipment, jewelry, instruments, optical goods, pharmaceuticals, toiletries, food products, hardware, cutlery, pottery and wood.
- (2) Research, experimental, or testing laboratories.
- (3) Assembly of electrical appliances, electronic instruments or precision devices, radios, phonographs, musical instruments, toys, novelties, sporting goods and photographic equipment.
- (4) Printing, lithographic, blue-printing and similar uses.
- (5) Tool, die, gauge, metal polishing and machine shops.
- (6) Warehousing and material distribution centers and contractors establishments.
- (7) Accessory uses and buildings.
- (8) Junk yards, provided such are entirely enclosed within a building or within an eight (8) foot obscuring wall and when located in the interior of the district so that no property line shall form the exterior boundary of the I-1 General Industrial District.
- (9) Automobile repair, A.T.V./O.R.V. repair, body repair and undercoating shops when completely enclosed.
- (10) Glass products.

- (11) Essential public service buildings; gas or electric regulator stations; public, utility or privately owned dams.
- (12) Any other use which shall be determined by Planning and Zoning Commission, to be of the same general character as the above permitted uses.
- (13) Accessory buildings and uses customarily incidental.
- (14) Advertising signs and billboards as provided for in 10.05.160. (Ord. 1990-6, S9.2, June 4, 1990)

10.05.090.003 Uses allowed by special permit.

- (1) The manufacturing, compounding, assembling, or treatment of articles of merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fibre, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stones, shell, textiles, tobacco, wood (except planing mills), sheet metal, wax and wire.
- (2) Heating and electric power generating plants.
- (3) Fabrication of log homes and structures.
- (4) Metal plating, buffing and polishing.
- (5) Concrete batch plants.
- (6) Sand, gravel and limestone and processing.
- (7) Cement or clay products manufacturing.
- (8) Glass products.
- (9) Petroleum refining and the manufacturing of petroleum products used in construction, such as paving and roofing materials and similar adhesives.
- (10) Slaughter houses - (see 10.05.120.003(33)).
- (11) Solid waste recycling/recovery facilities - (see 10.05.120.003(34)).
- (12) A complex or development of a multiple number of "permitted" or designated "special exception" uses which do not comply with all conditions and limitations pertinent thereto but which still comply with the spirit of this Ordinance with the approval of the Zoning/Planning Commission under the procedure and standards specified in the Ordinance for special exception uses. (Ord. 1990-6, S9.3, June 4, 1990)

10.05.090.004 Required conditions for uses allowed by special permit.

- (1) A development plan for the proposed use shall be submitted to the Planning/Zoning Commission for its review and the Planning/Zoning Commission shall approve the same if it satisfies the requirements of this Section.
- (2) Off-street parking, immediate and planned, shall be shown on the Development Plan and be provided at the ratio of one (1) parking space for each 1,000 square feet of gross floor area or any fraction thereof. Space reserved for parking of automobiles and trucks may be deducted from the gross area computation.
- (3) Site plans shall first be approved as specified in 10.05.110.
- (4) Noise, odor, dust and other similar nuisances resulting from operations on-site shall be subject to the requirements of 10.05.120.003(23).
- (5) The minimum size of any individual lot shall be five (5) acres, and the minimum width of such parcel shall be 300 feet, unless the Planning/Zoning Commission determines the lot size should be larger due to significant adverse impacts upon adjoining properties.
- (6) Building setbacks measured from the lot line shall be as follows:
 - A. Front: A front yard of at least fifty (50) feet is required which shall be landscaped with grass and approved plant material. A drive, but no parking, shall be allowed in this area.
 - B. Rear: A rear yard of at least one hundred (100) feet shall be required.
 - C. Side: A side yard of at least fifty (50) feet shall be required; however, a common wall may be utilized for adjacent lots if the orientation of the side yard is observed on the side opposite the common wall. A side yard which adjoins a side street shall be controlled as a front yard.

A side yard which adjoins a residence zone shall be a minimum of one hundred (100) feet, twenty (20) feet of which shall be a greenbelt.
- (9) The maximum height of any building shall be forty-five (45) feet.
- (10) Those uses identified in Section 10.05.090.003 shall contain a greenbelt or natural vegetation strip at least five (5) feet wide along the perimeter of the parcel. (Ord. 1990-6, S9.4, June 4, 1990)

10.05.090.005 Regulations. (A composite Schedule of Regulations for all Districts is identified in 10.05.130).

- (1) The minimum lot size for a building in the I - General Industrial District is one (1) acre; except for those uses allowed by special permit, in which case the minimum lot size shall be five (5) acres (see Sec. 10.05.090.005). (Ord. 2000-10, Nov. 21, 2000) (Ord. 1990-6, S9.5:1, June 4, 1990)
- (2) There is no minimum lot width required in this District. (Ord. 2000-10, Nov. 21, 2000) (Ord. 1990-6, S9.5:2, June 4, 1990)
- (3) The maximum height of a building in this District shall be 40 Ft. (Ord. 2000-10, Nov. 21, 2000) (Ord. 1990-6, S9.5:3, June 4, 1990)
- (4)
 - A. The minimum front yard setback in this District is forty (40) Ft. except for uses allowed by special permit (see Sec. 10.05.090.005).
 - B. The minimum side yard setback shall be thirty (30) Ft. on each side except for uses allowed by special permit (see Sec. 10.05.090.005).
 - C. The minimum rear yard setback shall be forty (40) Ft. except for uses allowed by special permit (see Sec. 10.05.090.005). (Ord. 2000-10, Nov. 21, 2000) (Ord. 1990-6, S9.5:4, June 4, 1990)
- (5) There is no required minimum floor area for each building in this District. (Ord. 2000-10, Nov. 21, 2000) (Ord. 1990-6, S9.5:5, June 4, 1990)
- (6) For regulations for all other permitted and special uses allowed in the B-2 District, refer to the standards for the specific use in 10.05.120. (Ord. 2000-10, Nov. 21, 2000) (Ord. 1990-6, S9.5:6, June 4, 1990)

10.05.090.006 Common items to consider prior to construction/demolition/remodeling/restoration/storage. Prior to initiating excavation, construction, remodeling, etc., a zoning permit must be applied for and approved. This procedure is identified in 10.05.090.230.

- (1) Existing platted lots - (see Sec. 10.05.030.007)
- (2) Registration of property - (see Sec. 10.05.030.028)
- (3) Grading permits - (see Sec. 10.05.180.004)
- (4) Excavation of Holes - (see Sec. 10.05.030.006)
- (5) Illegal dwellings - (see Sec. 10.05.030.016)
- (6) Principle use - (see Sec. 10.05.030.018)
- (7) Street access - (see Sec. 10.05.030.019)

- (8) Buildings to be moved or razed - (see Sec. 10.05.030.022; 10.05.030.023)
- (9) Temporary buildings and structures - (see Sec. 10.05.030.024)
- (10) Restoration of unsafe buildings - (see Sec. 10.05.030.002)
- (11) Accessory buildings and structures - (see Sec. 10.05.030.004)
- (12) Fences, walls, hedges - (see Sec. 10.05.030.010)
- (13) Greenbelts and protective screenings - (see Sec. 10.05.030.011)
- (14) Transitional use (residential lot adjacent to commercial or industrial zone - Sec. 10.05.030.014)
- (15) Outdoor lighting - (see Sec. 10.05.030.025)
- (16) Dumping of materials - (see Sec. 10.05.030.005)
- (17) Off-street parking - (see 10.05.150)
- (18) Advertising signs and billboards - (see 10.05.160)
- (19) Trash containers - (see Sec. 10.05.030.020) (Ord. 1990-6, S9.6, June 4, 1990)

10.05.100 GB - GREEN BELT DISTRICT

10.05.100.001 Statement of purpose. The intent of this district is to provide an adequate buffer between incompatible land uses and to preserve and protect the quality of all waterways in the Town of Dale and prevent further deterioration thereof. The Green Belt Zone is 50 feet from the water's edge of all streams. No structures shall be allowed within the Greenbelt Zone abutting streams. (Ord. 1990-6, S10.1, June 4, 1990)

10.05.100.002 Permitted uses.

- (1) Parks and playgrounds.
 - A. Golf courses - (see 10.05.120.003(14)).
 - B. Adequate screening or plantings shall be provided in accordance with Section 10.05.030.011.
 - C. off-street parking in accordance with 10.05.150 shall be provided.
- (2) The following uses are allowed in all Green Belt Districts not abutting a stream:

- A. Minimum lot size shall be one acre.
 - B. Single-family residences.
 - C. One guest house per each primary residence.
- (3) Guest houses permitted as follows:
- A. On lots containing a minimum 87,120 square feet with a minimum width of 200 feet at any point a guest house with a minimum floor area of 480 square feet may be constructed to the rear of the principal building.
 - B. The yard and area requirements of the Green Belt (GB) District must be met, however, the side yards between the principle structure and the guest house may be reduced to 15 feet for each dwelling unit, in no case shall the aggregate side yard dimension be less than 30 feet. No such guest house shall be used as a year-round residence.
- (4) Unattached accessory buildings and structures
- A. Said structure shall be no more than 30 feet in height.
 - B. Said accessory building shall not be located closer to a side or back line than that allowed for a principal building.
 - C. A detached accessory building any portion of which is located on the side of the main building, shall not be less than 10 feet from such principal building and not nearer to the side lot line than the width of the side yard required on the lot for the main building and shall maintain a waterfront set back equal to or greater than that of the main building.
 - D. A detached accessory building, and any portion of which is located to the rear of the main building shall be located not nearer than ten (10) feet to such building.
 - E. A detached accessory building may not serve as a living area.
- (5) Any other uses of land in the Green Belt Zone, that are compatible with the characteristics of the zone, may be permitted upon issuance of a special use permit in accordance with the provisions of 10.05.170. (Ord. 1990-6, S10.2, June 4, 1990)

10.05.100.003 Area regulation. No building or structure nor the enlargement of any building or structure shall hereafter be erected unless the following yards, lot area and building coverage requirements are provided and maintained in connection with such building, structure or enlargement. (Ord. 1990-6, S10.3, June 4, 1990)

- (1) The minimum lot size shall contain 217,800 square feet. The minimum lot width shall be 400 feet. (Ord. 1990-6, S10.4:1, June 4, 1990)
- (2) No building shall be constructed closer than 50 feet from the water's edge, or 150 feet from the front or rear property line. The front yard shall be considered as that part of any lot nearer the water. (Ord. 1990-6, S10.4:2, June 4, 1990)
- (3) Side yards shall be at least 50 feet. (Ord. 1990-6, S10.4:3, June 4, 1990)
- (4) Each dwelling unit, excluding guest houses, in this zone shall have a minimum first floor area of 960 square feet. Floor space shall be measured on the outside perimeter exclusive of breezeway and garage. (Ord. 1990-6, S10.4:4, June 4, 1990)
- (5) Native Vegetation Strip - A strip 50 feet wide from the water's edge shall be maintained in its natural state. Trees, shrubs and grass may be planted to protect the bank from eroding and to improve the aesthetic quality of the area. Trees and shrubs in a space 30 feet in length may be trimmed and pruned for a view of the water. (Ord. 1990-6, S10.4:5, June 4, 1990)
- (6) Floor Areas and Grade Level - No dwelling shall be constructed on lands which are subject to flooding or on land where a minimum of four (4) feet between finish grade level and high groundwater cannot be met. Filling to bring to grade level will not be permitted. (Ord. 1990-6, S10.4:6, June 4, 1990)
- (7) Sanitary Waste Systems - Disposal fields and septic tanks shall not be allowed within a Greenbelt District bordering a stream or tributary. Disposal fields and septic tanks in all other Greenbelt areas shall conform to the regulations of the Town of Dale in placement and design. (Ord. 1990-6, S10.4:7, June 4, 1990)
- (8) Subsoil Drainage Systems
 - A. No septic or disposal field shall be nearer than 100 feet to any subsoil drainage system. Subsoil drainage systems (footing drains) shall not empty directly into the waterways.
 - B. No solid absorption systems shall be nearer than 200 feet to any subsoil drainage system (footing drains) emptying directly into the waterways. (Ord. 1990-6, S10.4:8, June 4, 1990)
- (9) Use of pesticides, herbicides and fertilizers. Because of the potentially adverse effects on waterfront vegetation, fish wildlife and water quality from improper use of pesticides, herbicides and fertilizers, their use on lands within the Green Belt area bordering streams or tributaries is strongly

discouraged except when utilized in accord with the advice and supervision of qualified specialists. (Ord. 1990-6, S10.4:9, June 4, 1990)

10.05.110 SITE PLAN REVIEW PROCEDURE

10.05.110.001 Statement of purpose. The proper development of a community requires that various uses within any district be as compatible as possible. There are, however, certain types of activities and structures which, because of size and the amount of traffic generated or attracted under normal use, lend themselves to potential conflict with surrounding uses. It is the responsibility of the Town of Dale Zoning Commission to provide procedures to ensure the Town develops in accordance with the general intent of this Ordinance. (Ord. 1990-6, S11.1, June 4, 1990)

10.05.110.002 Circumstances requiring a site plan. Site plans are subject to review for the following uses:

- (1) All uses permitted by special approval in all zoning districts listed in this Ordinance. (Ord. 1990-6, S11.2(1), June 4, 1990)
- (2) All Planned Unit Developments (for specific requirements, see 10.05.190). (Ord. 1990-6, S11.2(2), June 4, 1990)
- (3) Uses and structures permitted by right, in certain zoning districts, when such development is comprised of special characteristics that local officials feel necessitate a site plan. These uses and structures are:
 - A. Drive-in Restaurants
 - B. Foster Care Facilities
 - C. Open-Air Businesses
 - D. Automobile Service Stations and Repair Garages
 - E. Hospitals
 - F. Motel or Motor Courts
 - G. Churches
 - H. Vehicle Wash Establishments
 - I. All Uses Permitted in the M – Multiple-Family Residential District
 - J. All Uses Permitted in the I - General Industrial District
 - K. All Uses Permitted in the B-1 General Commercial District and B-2 Highway Commercial District (Ord. 1990-6, S11.2(3), June 4, 1990)

- (4) All site plans associated with a special use permit application must be reviewed by the Town of Dale Planning and Zoning Commission in accordance with the standards defined in 10.05.120, and in the case of a PUD, in accordance with the standards defined in 10.05.190. (Ord. 1990-6, S11.2(4), June 4, 1990)
- (5) All other improvements requiring excavation, construction and/or expansion of any structure without the review and approval of the Town of Dale Zoning Commission shall adhere to the procedural requirements for application and approval of a zoning permit, as defined in 10.05.230. (Ord. 1990-6, S11.2(5), June 4, 1990)

10.05.110.003 Site plan data required. Each site plan submitted shall contain the following information, unless specifically waived, in whole or in part, by the Zoning Commission:

- (1) The date, north arrow, scale and name of individual or firm responsible for preparing said plan. The scale must be at least 1 inch = 20 feet for parcels under three (3) acres and not less than 1 inch = 50 feet for parcels three (3) acres or more. (Ord. 1990-6, S11.3(1), June 4, 1990)
- (2) The boundary lines of the property, to include all dimensions and legal description. (Ord. 1990-6, S11.3(2), June 4, 1990)
- (3) The location of all structures on the site, including proposed drives, walkways, signs, exterior lighting, parking (showing the dimensions of a typical parking area), loading and unloading areas, common use areas and recreational areas and facilities. (Ord. 1990-6, S11.3(3), June 4, 1990)
- (4) The location and widths of all abutting rights-of-way. (Ord. 1990-6, S11.3(4), June 4, 1990)
- (5) The location of unusual environmental features, such as streams, wetlands, shorelands, etc. (Ord. 1990-6, S11.3(5), June 4, 1990)
- (6) The location and identification of all existing structures within a two hundred (200) foot radius of the site. (Ord. 1990-6, S11.3(6), June 4, 1990)
- (7) The name and address of the applicant or developer, including the names and addresses of any officers of a corporation or a partnership. (Ord. 1990-6, S11.3(7), June 4, 1990)
- (8) The existing zoning district in which the site is located and, in the case of a request for a zoning change, the classification of the proposed new district. (Ord. 1990-6, S11.3(8), June 4, 1990)
- (9) The location of all existing and proposed landscaping as well as all existing and proposed fences or walls. (Ord. 1990-6, S11.3(9), June 4, 1990)

- (10) A locational sketch of the proposed use or structure. (Ord. 1990-6, S11.3(10), June 4, 1990)
- (11) The type, location and size of all utilities existing and proposed for the site. (Ord. 1990-6, S11.3(11), June 4, 1990)
- (12) The location, size and slope of all subsurface drainage facilities. (Ord. 1990-6, S11.3(12), June 4, 1990)
- (13) A summary schedule and views should be affixed to site plans for proposed structures in applicable residential and commercial districts, giving the following information:
 - A. The number of dwelling units proposed, by type, including a typical floor plan for each type of unit.
 - B. The residential area of the proposed units in square feet, as well as area dimensions of driveways and staging areas.
 - C. Typical elevation drawings of the front and rear of each building. (Ord. 1990-6, S11.3(13), June 4, 1990)
- (14) For multiple-family and mobile home developments, the contour intervals of the topography of the existing and finished site shall be shown, where the existing slope on any part of the building site is 10 percent or greater. Such contour shall be shown at height intervals of five feet. (Ord. 1990-6, S11.3(14), June 4, 1990)

10.05.110.004 Submittal and approval.

- (1) All site plans, required as stated within this Article, shall be submitted by the petitioner (property owner or designated agent) to the office of the Zoning Administrator in ten (10) copies. Upon receipt of the application and plans, the Zoning Administrator shall record the date of the receipt thereof and transmit seven (7) copies to the chairman of the Zoning Commission; one copy to the Town Building Inspector and one copy to the Town clerk. A hearing shall be scheduled by the chairman of the Zoning Commission for a review of the application and plans as well as the recommendations of the Town Building Inspector and Zoning Inspector with regard thereto. Members of the Zoning Commission shall be delivered copies of the same prior to the hearing for their preliminary information and study. The hearing shall be scheduled within not more than 45 days following the date of the receipt of the plans and application to the Town Zoning Administrator. The applicant shall be notified of the date, time and place of the hearing on his application not less than three days prior to such date. (Ord. 1990-6, S11.4:1, June 4, 1990)

- (2) Following the hearing, the Zoning Commission shall have the authority to approve, disapprove, modify or alter the proposed plans in accordance with the standards for site plan review included in this Ordinance as a basis for its decision. The Zoning Commission may either approve the plans contingent upon the required alterations or modifications, if any, or may require a further review after the same have been included in the proposed plans for the applicant. The decision of the Zoning Commission shall be made by said Commission within 90 days of the receipt of the application by the Zoning Administrator. (Ord. 1990-6, S11.4:2, June 4, 1990)
- (3) Any conditions or changes stipulated by the Zoning Commission shall be recorded in the minutes of the meeting and a copy of said conditions or changes given to the applicant and Zoning Administrator. An approved site plan request shall contain the signatures of the chairman of the Zoning Commission and the Zoning Administrator and dated with the date of approval. (Ord. 1990-6, S11.4:3, June 4, 1990)
- (4) Of the ten (10) copies of the site plan submitted by the applicant, one (1) copy/copies shall be kept on file by the Town clerk, one (1) copy/copies shall be kept on file by the Zoning Commission secretary, one (1) copy retained in the Zoning Administrator's office, one (1) copy retained in the Building Inspector's office and one (1) copy retained by the applicant. (Ord. 1990-6, S11.4:4, June 4, 1990)

10.05.110.005 Fees. Accompanying the request for approval of a site plan, a fee, to be determined by the Dale Town Council shall be submitted. Said fee is for the purpose of defraying administrative costs in processing the request for approval. Such fee may be used for reimbursing another party retained by the Town of Dale for expert consultation relative to the application. (Ord. 1990-6, S11.5, June 4, 1990)

10.05.110.006 Revocation.

- (1) If the Zoning Administrator shall find that the conditions and stipulations of an approved site plan are not being adhered to, the Zoning Commission shall give notice to the applicant of its intent to revoke the prior approval given to the site plan. Intent to revoke shall be made known to the applicant by a registered letter sent to the applicant and signed by the chairman of the Zoning Commission. Said letter shall be received by the applicant 30 days prior to the stated date of revocation and shall contain the reasons for revoking the site plan approval. (Ord. 1990-6, S11.6:1, June 4, 1990)
- (2) If the applicant notifies the Zoning Commission within 10 days of the receipt of the above letter of his or her intent to rectify the violation, the Zoning Commission, through official act, may defer the revocation. (Ord. 1990-6, S11.6:2, June 4, 1990)

10.05.110.007 Appeal. The decision of the Zoning Commission may be appealed by the property owner, applicant, or his or her designated agent to the Town of Dale Board of Zoning Appeals. Request for appeal may be made by written letter from the applicant to the chairman of the Board of Zoning Appeals within 10 days of disapproval, approvals by modification, or revocation of the site plan by the Zoning Commission. (Ord. 1990-6, S11.7, June 4, 1990)

10.05.120 SITE DEVELOPMENT REQUIREMENTS

10.05.120.001 Scope. Those Permitted Uses and Uses allowed by Special Permit enumerated in any zoning district, and if included below, shall be subject, to all the conditions and requirements of 10.05.120 and 10.05.020, as well as applicable provisions in 10.05.150 – Off-Street Parking and Loading and Unloading Requirements and 10.05.160 - Advertising Signs and Billboards. (Ord. 1990-6, S12.1, June 4, 1990)

10.05.120.002 General site review standards. The following standards shall be utilized by the Zoning Commission in reviewing all Site Plans in conjunction with the uses specified in Sections 10.05.140.003(1) through 10.05.140.003(38). These standards are intended to provide a frame of reference for the appellant in the preparation of Site Plans as well as for the reviewing authority in making judgment concerning them. These standards will not be regarded as inflexible requirements. They are not intended to discourage creativity, invention or innovation. (Ord. 1990-6, S12.2, June 4, 1990)

- (1) Dimensional Requirements: The dimensional arrangement of buildings and structures conforms to the required yards, setback and height restrictions of this Ordinance. (Ord. 1990-6, S12.2:1, June 4, 1990)
- (2) Building Arrangement: The proposed buildings and structures should have a harmonious relationship to the site terrain, landscaping, open space and the other buildings and structures, existing and proposed. The bulk, location and height of proposed buildings and structures as well as the general character of the development should minimize, any adverse effect to other private development in the surrounding area and should not impose undue burdens on the public facilities which can be avoided by modification in the Plan. (Ord. 1990-6, S12.2:2, June 4, 1990)
- (3) Attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties. If practical, storm water shall be removed from all roofs, canopies, and paved areas and carried away in an underground drainage system. Temporary onsite storage to reduce peak run-off from the site is encouraged. (Ord. 1990-6, S12.2:3, June 4, 1990)
- (4) Utility Services: Utility installations above ground shall be located so as to have a harmonious relationship to neighboring properties and the site. (Ord. 1990-6, S12.2:4, June 4, 1990)

- (5) Vehicular Access: The provisions for vehicular loading and unloading and parking, and for vehicular and pedestrian circulation on the site and onto adjacent public streets and ways shall not create hazards to safety nor impose a significant burden upon public facilities which could be avoided by modifications in the Plan. (Ord. 1990-6, S12.2:5, June 4, 1990)
- (6) Pedestrian Access: Pedestrian access should be provided between major activity areas, employment centers, service centers and residential areas. Pedestrian movement along the street right-of-way should not be hindered by rocks, boulders, fences or other obstructions. (Ord. 1990-6, S12.2:6, June 4, 1990)
- (7) Exterior Lighting: Exterior lighting shall not create undue hazards to motorists traveling on adjacent public streets nor damage the value and diminish the usability of adjacent properties. Lighting should be adequate for the safety of occupants or users of the site. (Ord. 1990-6, S12.2:7, June 4, 1990)
- (8) Landscaping: The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of neighboring developed areas. Plant materials should be used to enhance the appearance of the site, to screen unsightly or harsh elements, and to provide visual relief from large monotonous features such as parking lots. (Ord. 1990-6, S12.2:8, June 4, 1990)
- (9) Signs: The size, location, lighting and design of signs should be considered in relation to signs on adjacent sites and should be located and designed to avoid creating distraction and clutter. (Ord. 1990-6, S12.2:9, June 4, 1990)
- (10) Special Features: Storage areas, mechanical areas, service areas, truck loading areas, utility buildings and structures and similar features should be located and/or screened so as to be unobtrusive and not interfere with access to or circulation within the site or detract from the visual impression of the site. (Ord. 1990-6, S12.2:10, June 4, 1990)
- (11) Emergency Access: All buildings and structures are to be accessible to emergency vehicles. (Ord. 1990-6, S12.2:11, June 4, 1990)

10.05.120.003 Site review standards for specified uses.

- (1) Airports, Aircraft Landing Field
 - A. Privately owned and maintained noncommercial aircraft landing strips, more or less parallel to a public road, shall be set back from such road for a minimum distance of 100 feet. Where a privately owned landing strip is situated more or less perpendicular to a public

road, such landing strip shall be separated from said road by a distance of at least 300 feet.

- B. All privately owned and maintained aircraft landing strips shall be at least 1,000 feet from the nearest residential dwelling unit and at least 200 feet from all other buildings not designed as accessory structures for said aircraft landing field.
- C. All other aircraft landing fields or airports must conform to applicable federal and state regulations and be approved by appropriate federal and state agencies prior to submittal of a site plan to the Zoning Commission. (Ord. 1990-6, S12.3:1, June 4, 1990)

(2) Churches

- A. Minimum lot width of a new church building shall be 100 feet.
- B. Minimum lot area of a new church building shall be 1.0 acres.
- C. Off-street parking shall be provided in accordance with 10.05.150.
- D. The main building or space used for church functions shall be separate from the living quarters of the person or persons that function as minister and/or caretaker of the facility.
- E. Existing churches that do not meet requirements 1 and 2 above may not expand the principal church building by 10 percent. (Ord. 1990-6, S12.3:2, June 4, 1990)

(3) Drive-In Theatres

- A. Minimum lot size shall be five acres.
- B. The lot location shall be such that at least 10 percent of the property line abuts a paved county or state primary road and shall be at least 500 feet from any Residential District. All ingress and egress to the lot shall be directly onto said primary road.
- C. All points of entrance or exit shall be located no closer than 60 feet to any street or road intersection (as measured to the nearest intersection right-of-way line).
- D. Space shall be provided, on-premises, for five waiting vehicles to stand at the entrance to the facility.
- E. The theatre screen shall not be visible to a state or county primary road or any residential district. (Ord. 1990-6, S12.3:3, June 4, 1990)

- (4) Motel or Motor Court, Hotel
 - A. Each unit of commercial occupancy shall contain a minimum of 200 square feet of gross floor area.
 - B. When adjacent to a residential district, a masonry wall, six feet in height, shall be erected on the common property line. (Ord. 1990-6, S12.3:4, June 4, 1990)

- (5) Drive-In Restaurants
 - A. The main and accessory buildings shall be set back a minimum of 30 feet from any adjacent right-of-way line or residential property line.
 - B. A six foot high masonry obscuring wall shall be provided adjacent to any residential district. (Ord. 1990-6, S12.3:5, June 4, 1990)

- (6) Child Care Centers, Nursery Schools, Group Day Care Homes
 - A. Nursery schools and day nurseries for children of pre-school age shall provide a lot area of not less than 85 square feet for each child enrolled therein.
 - B. Nursery schools and day nurseries must conform to applicable federal and state regulations and be approved by appropriate agencies prior to submittal of a site plan to the Planning/Zoning Commission.
 - C. A minimum of 35 square feet of indoor play area shall be provided for each child. Play area shall be computed exclusive of hallways, bathrooms, reception and office areas, kitchens, storage areas and closets and areas used exclusively for rest or sleep.
 - D. For each child cared for, there shall be provided, equipped and maintained, on the premises, a minimum of 50 square feet of usable outdoor play area for each child outdoors at any one time (minimum total outdoor play area of 1,000 square feet per facility).
 - E. The outdoor play area shall be suitably fenced and screened by a heavily planted green belt from any abutting residential uses. (Ord. 1990-6, S12.3:6, June 4, 1990)

- (7) Foster Family Homes, Foster Family Group Homes, Family Day Care
 - A. Such uses shall be duly licensed by the State.
 - B. Buildings and lots so used shall conform to all state and local code requirements, except that such uses or structures shall be permitted in

buildings and lots which are nonconforming uses or structures as defined in this Ordinance. (Ord. 1990-6, S12.3:7, June 4, 1990)

- (8) Hospitals
 - A. Minimum lot area shall be two acres.
 - B. The lot location shall be such that at least 50 percent of the property line abuts a paved major street or road. The ingress and egress for off-street parking facilities for guests and patients shall be directly from said major street or road.
 - C. Minimum main and accessory building setback shall be 50 feet.
 - D. No power plant or laundry shall be located nearer than 200 feet to any adjacent residential district.
 - E. All hospitals must conform to applicable state regulations and be approved by appropriate agencies prior to submittal of a site plan to the Zoning Commission. (Ord. 1990-6, S12.3:8, June 4, 1990)

- (9) Open-Air Business (for requirements for outdoor-amusement facilities, refer to Section 10.05.120.003(22)).
 - A. Minimum lot area shall be 20,000 square feet.
 - B. Minimum lot width shall be 60 feet.
 - C. Lighting shall be installed in such a manner which will not create a traffic hazard on abutting streets or which will cause a glare or direct illumination to be cast onto adjacent properties, residential or otherwise.
 - D. In the case of car sales lots:
 - 1. All areas subject to vehicular use shall be paved with durable dust-free surfacing, with appropriate bumper guards where needed.
 - 2. Lighted parking areas, shall not create a nuisance for nearby properties. (Ord. 1990-6, S12.3:9, June 4, 1990)

- (10) Radio and Television Towers
 - A. The setbacks for each tower from adjacent rights-of-way and/or property lines shall be not less than one and one-half times the height of each tower above the ground.

- B. Unless specifically waived by the Planning Commission, an open weave wire fence eight feet in height shall be constructed on the boundary property line.
 - C. All towers must conform to applicable state regulations and be approved by appropriate agencies prior to submittal of a site plan to the Zoning Commission. (Ord. 1990-6, S12.3:10, June 4, 1990)
- (11) Automobile Service Stations and Repair Garages
- A. Minimum lot area shall be 10,000 square feet for an automobile service station or repair garage.
 - B. Minimum lot width shall be not less than 100 feet.
 - C. An automobile service station building shall be located not less than 50 feet from any right-of-way line and not less than 30 feet from any side or rear lot line abutting residentially zoned property.
 - D. Ingress and egress drives shall not be more than 15 feet in width.
 - E. No more than one curb opening shall be permitted for every 50 feet of frontage (or major fraction thereof) along any street.
 - F. No drive or curb opening shall be located nearer than 30 feet to any intersection or adjacent residential property line. No drive shall be located nearer than 30 feet, as measured along the property line, to any other drive on the premises. Curb cuts shall not be permitted where, in the opinion of the zoning officer, it may produce a safety hazard to adjacent pedestrian or vehicular traffic.
 - G. The entire lot, excluding the area occupied by a building, shall be hard-surfaced with concrete or a plant-mixed bituminous material except desirable landscaped areas which shall be separated from all paved areas by a low barrier or curb.
 - H. All lubrication equipment, motor vehicle washing equipment, hydraulic hoists and pits shall be enclosed entirely within a building. All gasoline pumps shall be located not less than 30 feet from any lot line, and shall be arranged so that motor vehicles shall not be supplied with gasoline or serviced while parked upon or overhanging any public sidewalk, street or right-of-way.
 - I. When adjoining residentially zoned property, a six foot masonry wall shall be erected and maintained along the connecting interior lot line, or if separated by an alley, then along the alley lot line. All masonry walls shall be protected by a fixed curb or similar barrier to prevent contact by vehicles. Such walls may be eliminated or gradually

stepped down in height within 20 feet of any right-of-way line, subject to approval by the zoning administrator.

- J. All outside storage areas for trash, used tires, auto parts and similar items shall be enclosed by an eight foot high masonry wall and shall comply with requirements for location of accessory buildings. Outside storage or parking of each disabled, wrecked, or partially dismantled vehicles shall not be permitted for a period exceeding three days.
- K. All exterior lighting, including signs, shall be erected and hooded so as to shield the glare of such lights from view by adjacent properties.
- L. In addition to the requirements of 10.05.160, only one (1) PORTABLE SIGN and one (1) POLE SIGN shall be permitted per premises per frontage street, and set back from any right-of-way at least twenty-five (25) feet and fifty (50) feet from any adjacent residential use. All related signs shall be on-premise signs.
- M. On a corner lot, both street frontage sides shall be subject to all applicable front yard provisions of this Ordinance. (Ord. 1990-6, S12.3:11, June 4, 1990)

(12) Convalescent Homes

- A. Minimum lot size shall be two acres.
- B. The lot location shall be such that at least 50 percent of the property line abuts a paved county primary road. The ingress and egress for off-street parking areas for guests and patients shall be directly from said county primary road.
- C. The main and accessory buildings shall be set back at least 30 feet from all property lines
- D. The facility shall be designed to provide a minimum of 1,500 square feet of open space for every bed used or intended to be used. This open space shall include landscaping and may include off-street parking areas, drive-ways, required yard setbacks and accessory uses.
- E. Convalescent homes must comply with all county and state regulations. (Ord. 1990-6, S12.3:12, June 4, 1990)

(13) Kennels

- A. All kennels shall be operated in conformance with all county and state regulations, permits being valid no longer than one year.

- B. For dog kennels, the minimum lot size shall be one-half acre for the first three dogs and an additional one-half acre for each five additional animals.
 - C. Buildings wherein animals are kept, animal runs, and/or exercise areas shall not be located nearer than 30 feet to any adjacent occupied dwelling or any adjacent building used by the public, and shall not be located in any required front, rear or side yard setback area.
 - D. All applicable off-street parking and sign regulations identified in 10.05.150 and 10.05.160 shall apply. (Ord. 1990-6, S12.3:13, June 4, 1990)
- (14) Golf Courses, Country Clubs
- A. Minimum lot size shall be 50 acres.
 - B. The main and accessory buildings shall be set back at least 50 feet from all property lines.
 - C. Appropriate planting and screening in accordance with Section 10.05.030.011(2) shall be provided where the golf course abuts a residential lot. (Ord. 1990-6, S12.3:14, June 4, 1990)
- (15) Vehicle Wash Establishments
- A. Minimum lot size shall be 25,000 square feet.
 - B. All washing activities must be carried on within a building.
 - C. Vacuuming activities must be at least 50 feet distance from any adjoining residential use.
 - D. The entrances and exits of the facility shall be from within the lot and not directly to or from an adjoining street or alley. A street or alley shall not be used as maneuvering or parking spaces for vehicles to be serviced by the subject facility. (Ord. 1990-6, S12.3:15, June 4, 1990)
- (16) Roadside Stand
- A. The gross floor area of the temporary building shall be not less than 100 square feet but not more than 500 square feet.
 - B. Suitable containers for rubbish shall be placed on the premises for public use.

- C. The temporary building shall be located 60 feet or more from the public road right-of-way. Its height shall be no more than one story.
- D. Off-street parking may be provided in the required front yard setback area, and shall be constructed in accordance with 10.05.150 except hard-surfacing shall not be required. (Ord. 1990-6, S12.3:16, June 4, 1990)

(17) Campgrounds, Travel Trailer Parks

- A. Minimum lot size shall be five acres. The lot shall provide direct vehicular access to a public street or road. The term "lot" shall mean the entire campground or travel trailer park. Each lot shall be provided with at least one public telephone.
- B. Appropriate vegetation and screening around the perimeter of the site shall be provided in accordance with Sections 10.05.030.011 and 10.05.120.002(8).
- C. Appropriate water and sanitary facilities must be provided on site. Each lot shall have facilities available for disposal of wastes from recreation vehicles.
- D. Adjacent private property shall be posted as such with "no trespassing" signs. (Ord. 1990-6, S12.3:17, June 4, 1990)

(18) Junk Yards

- A. Minimum lot size shall be three acres.
- B. The setback from the front property line to the area upon which junk materials are stored shall be not less than 60 feet and said area shall be screened from the roadway and from any adjoining residential or business uses by an obscuring fence 10 feet in height. Said fence to be kept uniformly painted, neat in appearance and shall not have any signs or symbols painted on it.
- C. All structures and fencing and used material storage yards shall be set back not less than 50 feet from any street or highway right-of-way.
- D. All roads, driveways, parking lots, and loading and unloading areas within any junk yard shall be paved, oiled, watered or chemically treated so as to limit for adjoining lots and public roads, the nuisance caused by wind-borne dust.
- E. All county and state requirements must be adhered to. (Ord. 1990-6, S12.3:18, June 4, 1990)

- (19) Nurseries for Plants and Flowers
- A. Minimum lot size shall be one acre.
 - B. The storage or materials display areas shall meet all the yard setback requirements applicable to any building in the district.
 - C. All loading/unloading activities and parking areas shall be off-street in conformance with 10.05.150.
 - D. The storage of soil, fertilizer or similarly loosely packaged materials shall be sufficiently contained to prevent any adverse affect upon adjacent properties. (Ord. 1990-6, S12.3:19, June 4, 1990)
- (20) Animal Hospitals
- A. Minimum lot area shall be one acre.
 - B. Outdoor kennels or similar 'holding' areas shall be at least 50 feet from any adjacent dwelling or any adjacent property used by the public and shall not be located in any required front, rear or side yard setback area.
 - C. Appropriate off-street parking and sign requirements as identified in 10.05.150 and 10.05.160 shall be met.
 - D. All used material shall be properly disposed of in appropriate on-site containers for transport to a licensed waste facility. Provisions must be made for disposal of animal wastes in conformance with local Health Department regulations.
 - E. Facilities and operation procedures must meet necessary licensing requirements.
 - F. All medical and surgical procedures must occur within a completed closed building. (Ord. 1990-6, S12.3:20, June 4, 1990)
- (21) Private Clubs and Lodges
- A. Minimum lot size shall be one (1) acre.
 - B. The main and accessory buildings shall be set back at least 30 feet from all property lines.
 - C. Adequate off-street parking, as identified in 10.05.150, shall be provided. (Ord. 1990-6, S12.3:21, June 4, 1990)

- (22) Outdoor Amusement facilities
- A. Minimum lot size shall be one acre.
 - B. A front yard setback of at least sixty (60) feet from the right-of-way line of any existing or proposed street must be maintained.
 - C. Adequate off-street parking in accordance with 10.05.150 shall be provided.
 - D. Ingress and egress points shall be located at least sixty (60) feet from the intersection of any two streets.
 - E. All lighting shall be shielded from adjacent residential districts.
 - F. A wall or fence of a minimum height of four foot, six inch (4' 6") must be provided around the perimeter of the site. (Ord. 1990-6, S12.3:22, June 4, 1990)

(23) Permitted Uses in the I - General Industrial District

- A. All uses and activities in the I - Industrial District shall conform to the following Performance Standards:
 - 1. Fire and Explosion Hazards. All activities shall be carried on only in buildings conforming to the Building Code and the operations shall be carried on in such a manner and with such precaution against fire and explosion hazards, as to produce no explosion hazards as determined by appropriate Indiana standards and regulations to a use on an adjacent property. Every factory or manufacturing building shall be equipped with fire extinguishers approved by the Town of Dale Fire Chief as being sufficient in view of the nature and extent of the fire risk.
 - 2. Atmospheric Pollution. There shall be no emission of smoke, atomic radiation, fumes, gas, dust, odors or other atmospheric pollutant which will disseminate beyond the lot in such a manner as to create a public nuisance, cause damage or inconvenience to other buildings or properties or imperil the health of animals or humans.
 - 3. Liquid or Solid Waste. No industrial operations shall directly discharge untreated industrial waste of any kind into any river, stream, reservoir, pond or lake. All methods of sewage and waste disposal shall conform to county and State Health Department regulations.

4. Vibration. There shall be no vibration which is discernable to the human sense of feeling beyond the lot lines of the property on which such use is conducted.
5. Noise. There shall be no noise emanating from the operation which will create a public nuisance or adversely affect surrounding areas.
6. Glare. There shall be no direct or sky-reflected glare which would be damaging to the human eye or cause a hazardous condition on a public street. (Ord. 1990-6, S12.3:23, June 4, 1990)

(24) Banks, Savings and Loan, Credit Unions (Drive-thru)

- A. Banks, savings and loan, credit unions, and other financial institutions with drive-thru facilities shall have a minimum lot size of 20,000 square feet, with a minimum lot width of 100 feet abutting the street right-of-way.
- B. The minimum setback of the main and accessory building from any street right-of-way from which ingress and egress to and from the facility is located shall be 30 feet.
- C. A drive-thru facility shall be located on the site to accommodate a minimum depth (column) of four vehicles at any one time.
- D. The right-of-way for vehicles using the drive-thru facility shall be separate from the required parking aisle.
- E. The area used for access to and from the drive-thru facility and for required off-street parking shall be paved with concrete or bituminous asphalt. (Ord. 1990-6, S12.3:24, June 4, 1990)

(25) Lumber Yards, Fabrication of Log Homes/Structures

- A. Minimum lot size shall be two (2) acres.
- B. The perimeter of the site used for storage, fabrication or assembly of materials shall be bounded by a chain link, wire or wood fence, concrete block or brick wall of a minimum height of five (5) feet.
- C. All required off-street parking spaces shall be paved with concrete or asphalt.
- D. Loading and unloading facilities shall be located at the rear or side of the main building or at other sites behind the main building.

- E. Sawdust, shavings and wood trailings shall be stored, in a designated area within the rear yard and shall be periodically removed or disposed of in a manner and frequency approved by the Zoning Commission. (Ord. 1990-6, S12.3:25, June 4, 1990)
- (26) Equipment Rental/Sales
- A. Minimum lot size shall be one (1) acre.
 - B. The area used for outdoor storage of equipment/materials shall be surrounded by a fence or wall of a minimum height of six (6) feet.
 - C. Required off-street parking areas shall be paved with concrete or asphalt.
 - D. All main and accessory structures shall be located no closer than fifty (50) feet from a residential district.
 - E. Adequate vehicular turning radius in the interior of the site (to accommodate a pickup truck or car and trailer) shall be provided. (Ord. 1990-6, S12.3:26, June 4, 1990)
- (27) Shops for Building Contractors
- A. Minimum lot size shall be 30,000 square feet.
 - B. Areas used for storage, milling and/or fabrication shall be surrounded by a fence or wall of a minimum height of six (6) feet and shall be located at the rear of the main building.
 - C. Vehicles and equipment used in construction shall be parked or stored in the rear, or on the side, of the main building.
 - D. The minimum distance between any structure or area on the premises in which construction or fabrication activity occurs as a function of the business shall be located no closer than seventy-five (75) feet from a residential district. (Ord. 1990-6, S12.3:27, June 4, 1990)
- (28) Tire Shops
- A. All processing, fabrication, retreading and similar activity shall occur within an enclosed building.
 - B. New, used and retread tires shall be stored in an enclosed building.
 - C. Off-street parking for customers shall be paved with concrete or asphalt. (Ord. 1990-6, S12.3:28, June 4, 1990)

- (29) Trailer Sales Yards
- A. Trailer sales yards shall adhere to the requirements of Section 10.05.120.003(9) Open-Air Businesses.
 - B. Area shall be surrounded by a fence or wall of a minimum height of six (6) feet. (Ord. 1990-6, S12.3:29, June 4, 1990)
- (30) Adult Book Store, Adult Live Entertainment Establishment, Adult Theatre
(Also See Ordinance 2006-2 - Chapter 4.30)
- A. The purpose and intent of requiring the following standards for adult bookstores and entertainment facilities is to prevent conditions that would presently or ultimately lead to blight and deterioration.
 - B. No adult bookstore or entertainment use shall be located within 1,000 feet of a church, school, public park, noncommercial public assembly facility or public office building.
 - C. The site shall not be adjacent to or within three hundred (300) feet of any residential area.
 - D. The site shall not be within 1,000 feet of any other adult entertainment use.
 - E. Window displays, signs, decorative or structural elements of buildings shall not include or convey specific examples of actual adult uses, are limited to a single sign and all such displays shall be part of specific approvals for the use/activity. Any alteration to the above media shall be approved by the Town Zoning Commission.
 - F. The site layout, setback, structures and overall appearance and function of the use shall be compatible with adjacent uses. (Ord. 1990-6, S12.3:30, June 4, 1990)
- (31) Agriculture Bulk Collection, Storage, Distribution
- A. Each principal agri-business use shall have frontage upon a thoroughfare having a primary or greater classification and access thereto.
 - B. The minimum lot area shall be 100,000 square feet (2.3 acres) and the minimum lot width shall be 300 feet.
 - C. Agriculture bulk collection, storage, distribution activities shall be located no closer than 500 feet from a residential district or an existing residence.

- D. A bulk collection, storage, distribution, and similar structure shall be located not less than 50 feet from any right-of-way line and not less than 50 from any side or rear property line.
 - E. The total coverage of all main and accessory buildings shall not exceed 30 percent of the lot on which they are located.
 - F. Noise or similar objectionable characteristics incidental to the activity shall not be discernible beyond 500 feet of the boundaries of the lot or premises.
 - G. Adequate off-street parking and loading/unloading facilities shall be provided in accordance with 10.05.150. (Ord. 1990-6, S12.3:31, June 4, 1990)
- (32) Schools, Civic Buildings, Post Office Fire Station and other similar public structure facilities
- A. Adequate off-street parking must be provided in accordance with the standards in 10.05.150.
 - B. Schools must provide adequate space for loading/unloading of students and temporary or permanent parking of buses.
 - C. The minimum setbacks for main and accessory school structures shall be fifty (50) feet.
 - D. The minimum distance between main and accessory school structures and residential property or residential districts shall be three hundred (300) feet.
 - E. Main and accessory structures associated with fire stations shall be located no closer than one hundred (100) feet from a residential district or residential property.
 - F. Adequate warning signs shall be provided at appropriate locations on both sides of the street on which emergency vehicles enter and exit. (Ord. 1990-6, S12.3:32, June 4, 1990)
- (33) Slaughter Houses; Meat Packing Plants
- A. Adequate off-street parking must be provided in accordance with the standards in 10.05.150.
 - B. All butchering and processing activities shall occur within a closed building or buildings on the site.

- C. All activities and processes shall occur only under appropriate licenses and permits, and all state, federal and local operating regulations and requirements shall apply.
- D. All buildings, holding pens, and other necessary structures shall be located no closer than 1,000 feet from a residence.
- E. Odors and noise associated with slaughter and/or meat packing operations shall not be detected beyond a distance of 100 feet outside the perimeter of the property on which the operation is located. (Ord. 1990-6, S12.3:33, June 4, 1990)

(34) Solid Waste Disposal Facilities

- A. No solid waste disposal facility shall be constructed within the Town of Dale unless all of the requirements and procedures of applicable State laws and regulations.
- B. In addition to the minimal requirements specified in applicable State laws and regulations, the following standards shall apply:
 1. The minimum site for solid waste transfer station shall be two (2) acres.
 2. The minimum setback distance for a transfer facility from the site perimeter shall be one hundred (100) feet.
 3. The minimum distance of a transfer facility from the nearest residence or occupied structure shall be two hundred (200) feet.
 4. The immediate perimeter of the transfer facility shall be screened from surrounding land uses by a solid fence or adequate vegetation of a minimum height of six (6) feet.
 5. The minimum site for a waste-to-energy facility shall be fifteen (15) acres.
 6. The minimum setback distance for a waste-to-energy plant from the perimeter (property lines) of the site shall be two hundred (200) feet.
 7. The minimum distance of a waste-to-energy facility from the nearest residence or occupied structure shall be five hundred (500) feet.
 8. The area in which refuse to be incinerated is stockpiled shall be located on the same property as the waste-to-energy unit

and cover a maximum area of one acre at the base with a maximum height of twenty-five (25) feet. Said storage area shall consist of a concrete floor engineered and constructed to withstand cracking and deterioration caused by movement and operation of heavy equipment. The perimeter of the concrete pad shall contain a concrete wall of a minimum height of six feet designed to contain and limit refuse within the designated storage area. The minimum distance from the perimeter of the solid waste stockpile to the property lines of the site on which the waste-to-energy facility is located shall be two hundred fifty (250) feet.

9. No more than three (3) days average volume of solid waste to be incinerated shall be stockpiled on the premises. Said stockpile shall be adequately screened from adjoining properties and public road rights-of-way by appropriate vegetation and/or man-made structure, so as to not be visible from outside the property boundaries.
10. Appropriate efforts will be made by the owner/operator of the waste-to-energy facility to control rodents and vectors. Such control will be specified and monitored by the Spencer County Health Department.
11. All solid waste operations shall be located on a primary road, as defined by the County of Spencer, for ingress and egress thereto or on a road which does not create traffic through an area developed primarily for residential purposes. Where necessary, the Town Council may require the applicant to construct and/or improve a road to accommodate the truck travel necessitated by the operations as a condition to such operations and for the purpose of routing traffic around residential areas and preventing the breaking up of existing road which are not "all weather" roads. (Ord. 1990-6, S12.3:34 June 4, 1990)

(35) Convenience Food Stores

- A. Adequate off-street parking and loading/unloading facilities must be provided in accordance with the standards in 10.05.150.
- B. Sign requirements as specified in 10.05.160 shall be adhered to.
- C. Adequate landscaping shall be provided within the front yard of the commercial establishment, where the building line is at least five (5) feet from the front lot line.

- D. The maximum area for display, storage and sale of goods shall not exceed 2,500 square feet.
 - E. Outdoor display of items for sale shall not exceed 50 square feet. (Ord. 1990-6, S12.3:35, June 4, 1990)
- (36) All Other Permitted Uses in the B-1 General Commercial District and B-2 Highway Commercial District Not Specified in This Article.
- A. Adequate off-street parking shall be provided in accordance with 10.05.150.
 - B. Signage requirements of 10.05.160 shall be adhered to.
 - C. Not more than three commercial establishments, separated by common walls, or separated by a maximum distance of twenty (20) feet between each building, may retain one common dumpster for solid waste. Such dumpster to be located within the rear yard of one of the establishments.
 - D. Adequate landscaping in accordance with Section 10.05.030.011 and 10.05.120.002(8) shall be provided within the front yard of the commercial establishment, where the building line is at least five (5) feet from the front lot line. (Ord. 1990-6, S12.3:36, June 4, 1990)
- (37) Travel Trailers/Motor Homes
- A. Travel trailers and motor homes may be allowed as special uses in campgrounds, travel trailer parks and on individual lots of record.
 - B. In the case of campgrounds and travel trailer parks, the requirements of Section 10.05.120.003(8) shall be met. Where travel trailers or motor homes are located on individual lots, the following requirements shall be met:
 1. No more than two (2) travel trailers/ motor homes shall be used or stored on a lot of record of one (1) acre or more and no more than one (1) travel trailer shall be allowed on a lot of record of less than (1) acre.
 2. A travel trailer/motor home may not be occupied for a continuous period of more than ninety (90) days during any 365 day period.
 3. The owner or occupant of the travel trailer/motor home must provide for adequate sanitation, which entails either transporting human wastes from a holding tank attached to the travel trailer/ motor home to a licensed dumping facility

or providing for on-site disposal after receiving approval from the Spencer County Health Department.

4. The travel trailer/motor home must have attached wheels and be capable of being transported without modifications.
5. Outdoor storage shall be secured and the exterior of the travel trailer/motor home, including windows, exterior paint, doors and other components shall be kept in good repair.
6. No more than one accessory storage building, not to exceed 50 percent of the square footage of the travel trailer(s)/motor home(s) shall be allowed on the lot of record. Such accessory building must be portable and shall not be permanently attached to the site.
7. No additions or attachments to the travel trailer/motor home shall be allowed.
8. A travel trailer/motor home may be allowed on a lot as a temporary dwelling during the construction of a permanent residence after issuance of a building permit by the Town Zoning Administration and must be removed from the premises after a permit of occupancy is issued. Appropriate water and sanitary facilities must be provided.
9. A travel trailer/motor home may be allowed on-site as a temporary office during the construction of a commercial or industrial structure and must be removed upon completion of such structure.
10. No travel trailer/motor home, or other recreational vehicle shall be stored or placed within the front yard of a residential dwelling, commercial, or industrial structure, unless the dwelling or main structure is set back at least one hundred (100) feet from the front property line. A travel trailer, motor home or other similar recreational vehicle stored or placed within a front yard with a minimum 100 foot setback or side yard, shall be located no closer than ten (10), feet from any dwelling or structure, no closer than fifteen (15) feet from the side lot line and no closer than 25 feet from the front lot line. (Ord. 1990-6, S12.3:37, June 4, 1990)

(38) Dwellings, Residential in the B-2 Highway Commercial District

- A. Residential dwellings may be allowed in the B-2 Highway Commercial District provided the following conditions are met:

1. If the dwelling unit is separated from the structure in which the commercial business is located, the dwelling unit shall be smaller in area than the structure containing the commercial business.
2. Off-street parking for residential use shall be separate from the required off-street parking for the commercial business identified in 10.05.150.
3. Residential dwellings shall be separated from schools, hospitals and accessory buildings, theatres, auditoriums, indoor amusement facilities and travel terminals by a minimum distance of two hundred forty (240) feet.
4. A residential dwelling may be located above, or attached to, the rear of the building in which the commercial business is conducted, provided that a separate outside entrance to the residence is used as the primary entrance to the dwelling. (Ord. 1990-6, S12.3:38, June 4, 1990)

(39) All Terrain Vehicle (A.T.V.) and Off-Road Vehicle (O.R.V.) Sales and Repair

- A. Minimum lot area (without a test track or test area) shall be 10,000 square feet.
- B. Off-street parking and sign standards as defined in 10.05.150 and 10.05.160 shall be adhered to.
- C. If a test tract or test area is located on the site, the minimum lot area shall be two (2) acres.
- D. No off-the-road or all terrain vehicle road tests shall occur off the property, unless a specific site has been designated and approved by the Planning/Zoning Commission.
- E. All repair and maintenance shall occur within a designated structure.
- F. The perimeter of the site, excluding the test tract or test area, shall contain a chain-link fence or wall of a minimum height of six (6) feet.
- G. All outside storage areas for trash, used tires, vehicle parts and similar items shall be enclosed by an eight (8) foot high masonry wall and shall comply with requirements for location of accessory buildings. Outside storage or parking of each disabled, wrecked, or partially dismantled vehicle shall not be permitted for a period exceeding three (3) days.

- H. The minimum allowable distance between the A.T.V./O.R.V. repair facility and the nearest adjacent residence shall be two hundred (200) feet. (Ord. 1990-6, S12.3:39, June 4, 1990)

(40) Bed and Breakfast Operation

- A. Bed and breakfast operations shall be confined to the single-family dwelling unit which is the principal dwelling unit on the property. The dwelling unit in which the bed and breakfast takes place shall be the principal residence of the operator, and said operator shall live on the premise when the bed and breakfast operation is active.
- B. No premises shall be utilized for a bed and breakfast operation unless two (2) exits to the outdoors from such premises and rooms utilized for sleeping shall have a minimum size of one hundred (100) square feet for two (2) occupants with an additional thirty (30) square feet for each additional occupant to a maximum of four (4) occupants per room. Each sleeping room used for the bed and breakfast operation shall have a separate smoke detector alarm. Lavatories and bathing facilities shall be available to all persons using any bed and breakfast operation.
- C. Parking provided for a bed and breakfast operation shall be in compliance with 10.05.150.
- D. Not more than twenty-five (25%) percent of the total floor area of the dwelling unit shall be used for bed and breakfast sleeping rooms.
- E. There shall be no separate cooking facilities used for the bed and breakfast stay.
- F. Signs identifying the bed and breakfast shall be permitted in accordance with 10.05.160. (Ord. 1990-6, S12.3:40, 1990)

(41) Inns, Boarding and Lodging Houses

- A. Each unit of occupancy shall contain a minimum of 120 square feet of floor area.
- B. Lavatory and bathing facilities shall be available on the same floor as the occupancy units, with no less than one lavatory and bathing facility for each three (3) occupancy units.
- C. Adequate parking as identified in 10.05.150 shall be provided.
- D. No cooking facilities shall be allowed within an occupancy unit unless approval is obtained from the County Building Inspector.

- E. Advertising signs shall be allowed according to 10.05.150. (Ord. 1990-6, S12.3:41, June 4, 1990)

(42) Mobile Homes

No mobile home will be allowed on a building lot outside of a mobile home park unless the following standards are met:

- A. (Repealed by Ord. 1991-4, March 4, 1991)
- B. The mobile home shall have been manufactured subsequent to 1976 H.U.D. Mobile Home Construction Standards.
- C. The mobile home shall conform as much as possible to the design/architecture of the site built homes in the neighborhood in which it is located (e.g. - a minimum roof pitch of 3/12; attached front porch with railings; at least two exits, preferably one on the side or rear of the unit, window shutters, etc.). The determination of the comparability of the mobile home to surrounding properties shall be made by the Town Planning/Zoning Commission.
- D. The mobile home shall be attached to a permanent foundation, and meet all setback, lot size and dwelling unit size requirements of the zoning district in which it is located. The underside of the mobile home must be enclosed with noncombustible material, sealing off the area between the bottom of the mobile home and the permanent foundation.
- E. The lot of record on which a mobile home is located outside of a mobile home park must be owned fee simple by the owner of the mobile home, or be in the process of being purchased by the owner of the mobile home under contractual arrangements. (Ord. 1992-5, Sept. 14, 1992) (Ord. 1991-4, March 4, 1991) (Ord. 1990-6, S12.3:42, June 4, 1990)

10.05.130 SCHEDULE OF REGULATIONS

Zoning Districts	Minimum Lot Size		Maximum Height of Structures In Feet	Minimum Yard Setbacks			Minimum Floor Area Per Dwelling Unit (A) (Sq. Ft.)
	Area	Width (ft.)		Front	Sides	Rear	
R - Low and Medium Density Residential	(B) 38,000 (C) 7,200	150 75	35	10 ft. 30 ft.	(each side)	30 ft.	760
M – Multi-Family Residential	(D)	100	35	(E) 30 ft.	(E) 20 ft.	(E) 30 ft.	(F)
B-1 General Commercial	---	60	45	0 ft.	0 ft.	20 ft.	---
B-2 Highway Commercial	---	100	35	(G) 30 ft.	20 ft.	30 ft.	960
I - General Industrial	(H) 1 acre		40	40 ft.	30 ft.	40 ft.	---
GB - Green Belt	1 acre		35	60 ft.	50 ft.	60 ft.	960

(Ord. 1990-6, Article XIII, Schedule of Regulations/Table, June 4, 1990)

(1) FOOTNOTES TO SCHEDULE OF REGULATIONS

- A. The minimum floor area per dwelling unit shall not include area of basements, utility rooms, breezeways, porches, or attached garages.
- B. If served by individual well and septic tank.
- C. If served by public or other approved community sewer and water system.
- D. Minimum land area required per multiple-family dwelling unit in the M - District shall be:

<u>Dwelling Unit Size</u>	<u>Land Area in Square Feet</u>
Efficiency or one bedroom unit	3,000
Two bedroom unit	4,200
Three bedroom unit	5,100
Four or more bedroom unit	5,700

- E. Minimum yard setback requirements between multiple dwellings, condominiums and duplexes and corresponding front, side and rear property lines shall conform to the requirements of Schedule of Regulations for the district in which such dwellings are located.
- F. The minimum required floor space for multiple-family dwelling unit shall be:

Efficiency	350 square feet
One bedroom apartment	500 square feet
Two bedroom apartment	700 square feet
Three bedroom apartment	800 square feet

Plus an additional eighty (80) square feet for each bedroom in excess of three bedrooms in any dwelling unit.
- G. The minimum required distance between separate unattached residential and business structures on the same lot of record in the B-2 District shall be twenty (20) feet. A breezeway or covered walkway (between the two structures may be constructed, but) shall not be considered an attachment for the purpose of regarding the two structures as a single structure.
- H. See Section 10.05.090.005 for minimum regulations for uses allowed by special permit in the I - General Industrial District. (Ord. 1990-6, S13.1:1, June 4, 1990)

10.05.140 MH - MOBILE HOME PARK REQUIREMENTS

10.05.140.001 Scope. Mobile home parks are allowed by special use permit in the R - District. The following requirements are intended to preserve the interests of alternate types of residential developments which should be permitted in every community and to protect the residents of any mobile home type development. The regulations applicable to mobile home parks are considered as minimum standards to be applied to all mobile home park developments in the Town. (Ord. 1990-6, S14.1, June 4, 1990)

10.05.140.002 Permitted uses. Permitted uses shall be limited to mobile home parks. Each mobile home within the Town of Dale shall be located within an approved mobile home park. (Ord. 1990-6, S14.2, June 4, 1990)

10.05.140.003 Regulations.

- (1) No mobile home park shall be so located or designed as to be in conflict with the requirements of this Ordinance, or all applicable requirements of the State of Indiana.
- (2) The minimum size for a mobile home lot shall be 5,000 square feet.

- (3) The minimum size of a mobile home park shall be three acres.
- (4) Access:
 - A. All mobile home parks shall have access to a concrete or asphaltic concrete paved arterial primary roads.
 - B. Convenient access to each mobile home site apron shall be provided by means of a minimum twelve (12) foot wide access route reserved to maneuver mobile homes into position and kept free from trees and other immovable obstructions.
 - C. All roadways and driveways shall be hard-surfaced and so constructed as to handle all anticipated peak loads, adequately drained and lighted for safety and ease of movement of vehicles. Minimum pavement width shall be twenty-four (24) feet for all roads without on-street parking, twenty-eight (28) feet with one lane of parking and thirty-eight (38) feet with two lanes of parking.
 - D. Public sidewalks meeting the specifications of the Town Zoning Administrator, may be provided on the street side of each mobile home site. All public walks, shall be at least four (4) feet in width. Shade trees may be planted in this unpaved area so formed and otherwise it shall be seeded or sodded and the grass maintained in a healthy condition. (Ord. 1990-6, S14.3:4, June 4, 1990)
- (5) Utilities and Other Services
 - A. All mobile home parks shall be served by an approved central water and sewerage system and shall meet all local and state requirements.
 - B. The plumbing connections to each mobile home site shall be constructed so that all lines are protected from freezing, from accidental bumping or from creating any nuisance or health hazard.
 - C. An adequate amount of running water shall be piped to individual mobile home sites in a manner that meets all applicable local and state requirements and shall be adequately protected from frost.
 - D. Storm drainage facilities shall be so constructed as to protect those that will reside in the mobile home park, as well as the property owners adjacent to the park. Such park facilities shall be of such capacity to ensure rapid drainage and prevent the accumulation of stagnant pools of water in or adjacent to the park.
 - E. All electric, telephone and other lines shall be from supply poles outside the park to each mobile home site underground with a three

(3) wire balanced one hundred and fifteen (115) to one hundred and twenty (120) volt supply.

- F. Any fuel oil and gas storage shall be centrally located in underground tanks, at a safe distance from any mobile home site. All fuel lines leading to mobile home sites shall be underground and so designed as to conform with the Town Building Code and any State code that is found to be applicable.
 - G. Facilities for the storage and disposal of trash and garbage in a sanitary manner shall be provided in each mobile home park. All refuse shall be stored in fly-tight, watertight, rodent-proof containers, which shall be located not more than one hundred and fifty (150) feet from any mobile home site. Containers shall be provided in sufficient number and capacity to properly store all refuse. Refuse collection stands shall be provided for all refuse containers. Such container stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration and to facilitate cleaning.
 - H. Street and yard lights, attached to standards approved by the Town, shall be provided in sufficient number and intensity to permit the safe movement of vehicles and pedestrians at night, and shall be effectively related to buildings, trees, walks, steps and ramps. Such lights shall be utilized at least during the period of one (1) hour after sundown to one (1) hour before sunrise.
 - I. All plumbing fixtures shall be connected to a central sanitary sewer or township approved facilities and shall meet the requirements of the County Health Department and the Health Department. (Ord. 1990-6, S14.3:5, June 4, 1990)
- (6) Pads, Mats or Platforms - Each mobile home site shall be provided with pads as required by State of Indiana statutes. The underside of the mobile home must be enclosed with noncombustible material, sealing off the area between the bottom of the mobile home and the permanent foundation or pad. (Ord. 1992-5, Sept. 14, 1992) (Ord. 1990-6, S14.3:6, June 4, 1990)
 - (7) A six foot greenbelt shall be provided along all exterior mobile home park boundary lines which do not abut a street or any other public right-of-way. A ten (10) foot greenbelt shall be maintained as a landscaped area unoccupied and unobstructed from the ground upward along all exterior mobile home park boundaries abutting a public right-of-way. (Ord. 1990-6, S14.3:7, June 4, 1990)

10.05.140.004 Permit application. The construction, alteration or extension of a mobile home park shall be conducted in accordance with all applicable state and local regulations and this Ordinance, and only after obtaining a permit for same as provided for in this

Article. In addition to the requirements set forth in 10.05.110 (Site Plan Review Procedure) of this Ordinance, a sketch plan shall accompany each permit application, in four copies, giving the following information plus any other related information requested by the Planning/Zoning Commission.

- (1) Site boundary line locations and dimensions, plus the area of the mobile home park site.
- (2) Number, location and size of each mobile home lot and all common open space areas.
- (3) For each mobile home lot, the size and type of mobile home permitted or expected to be situated thereon.
- (4) Location and dimensions of roadways, walkways and parking areas.
- (5) Location and function of all service and other permanent buildings.
- (6) Location and size of on-site and immediately adjacent natural features, including topography, wetlands, streams, lake, ponds, drains and woodlands, along with a narrative description of changes to these natural features that will be caused by the development described in the permit application.
- (7) Location, size and usage of all on-site and adjacent existing structures. (Ord. 1990-6, S14.4, June 4, 1990)

14.05.140.005 Public hearing. The Planning/Zoning Commission may require a public hearing, in which case notice shall be provided in accordance with normal practice to adjacent property owners. (Ord. 1990-6, S14.5, June 4, 1990)

14.05.140.006 Site plan. After the Planning/Zoning Commission has approved the sketch plan, and after the public hearing, if any, has been held the applicant shall submit a Site Plan as provided for in 10.05.110 of this Chapter. The Site Plan shall be submitted in four copies and shall also contain detailed sketches of typical roadway, walkway and apron layouts and cross-sections. If rezoning is involved, it is at this point that this matter should be acted upon. (Ord. 1990-6, S14.6, June 4, 1990)

14.05.140.007 Approval. The permit application for a mobile home park development requires the approval of the Planning and Zoning Commission and the Town Council. In reviewing the proposed development's acceptability, the following questions should be among those considered by both bodies prior to official action being taken. Appropriate state, county and local administrative and legislative personnel may be requested to participate in the review process.

- (1) Whether the proposed development is in accordance with the Comprehensive Development Plan.

- (2) Whether the proposed development meets all the design standards of this Ordinance and other applicable local codes, regulations or ordinances.
- (3) Whether the density characteristics of the proposed development are detrimental to adjacent properties and land uses.
- (4) Whether the proposed development can be reasonably expected to constitute a health hazard or public nuisance to adjacent properties because of inappropriate or inadequate sanitation and/or drainage facilities.
- (5) Whether the proposed development produces an extreme or undue demand on available fire and police protection services.
- (6) Whether the traffic characteristics of the proposed development can be expected to place an extreme or undue burden on the adjacent publicly available vehicular and/or pedestrian circulation facilities. (Ord. 1990-6, S14.7, June 4, 1990)

10.05.140.008. Periodic inspection. The Planning and Zoning Administrator and/or his authorized agent or agents are hereby granted the power and authority to enter upon the premises of any mobile home park at any time for the purpose of investigating or enforcing any provisions of this Ordinance or related local ordinances applicable to mobile home park operations. (Ord. 1990-6, S14.8, June 4, 1990)

10.05.150 OFF-STREET PARKING AND LOADING AND UNLOADING REQUIREMENTS

10.05.150.001 Off-street parking requirements. In all zoning districts, off-street parking requirements for the storage and parking of motor vehicles for the use of occupants, employees and patrons of the buildings hereafter erected, altered or extended after the effective date of this Ordinance, shall be provided as herein prescribed. Such space shall be maintained and shall not be encroached upon by buildings, structures, open air businesses or outdoor commercial recreation uses so long as said main building or structure remains, unless an equivalent number of such spaces are provided elsewhere in conformance with this Ordinance.

- (1) Number of Spaces - When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction up to and including 0.5 shall be disregarded, and fractions over 0.51 shall require one parking space. (Ord. 1990-6, S15.1:1, June 4, 1990)
- (2) Double Count - Loading space as required elsewhere in this Ordinance dealing with off-street loading requirements shall not be construed as also supplying off-street parking space. (Ord. 1990-6, S15.1:2, June 4, 1990)
- (3) Parking Locations -
 - A. The off-street parking facilities required for residential dwellings shall be located on the same lot or plot of ground as the dwellings they are

intended to serve, behind the front setback line; and shall consist of a parking strip, parking apron and/or garage. Parking in residential zones is permitted only as an accessory use.

- B. The off-street parking facilities required for all other uses shall be located on the lot or other lots within 500 feet for industrial districts and 300 feet for all other districts. Such distance to be measured along lines of public access to the property between the nearest point of the parking facility to the building to be served. (Ord. 1990-6, S15.1:3, June 4, 1990)
- (4) General Condition - In the case of a use not specifically mentioned, the requirements for off-street parking facilities for a use which is so mentioned, and which said use is similar, shall apply. (Ord. 1990-6, S15.1:4, June 4, 1990)
 - (5) Parking Duration - Except when land is used as storage space in direct connection with the business of a repair or service garage, a twenty-four (24) hour time limit for parking in nonresidential off-street parking areas shall prevail, and it shall be unlawful to permit the storage on any parking area in any district, of wrecked or junked cars. (Ord. 1990-6, S15.1:5, June 4, 1990)
 - (6) Parking Restriction - It shall be unlawful to park or store any motor vehicle on any private property without the expressed or implied consent of the owner, holder, occupant, lessee, agent or trustee of said private property. (Ord. 1990-6, S15.1:6, June 4, 1990)
 - (7) Existing Parking Lots – Off-street parking existing at the effective date of this Ordinance which serves an existing building or use shall not be reduced in size less than that required under the terms of this Ordinance. (Ord. 1990-6, S15.1:7, June 4, 1990)
 - (8) Joint Use -
 - A. Nothing in this section shall be construed to prevent collective provision of off-street parking facilities, for two or more buildings or uses. Provided collectively such facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the Table of Parking Requirements.
 - B. Parking spaces already provided to meet off-street parking requirements for theatres, stadiums, auditoriums, and other places of public assembly, stores, office buildings and industrial establishments, lying within 500 feet of a church as measured along lines of public access, and that are not normally used between the hours of 7 a.m. and 6 p.m. on Sundays, and that are made available for other parking, may be used to meet not more than 60 percent of the off-street parking requirements of a church.

10.05.150.002 General standards. All off-street parking lots providing space for more than four (4) vehicles located in commercial or industrial districts or for multiple-family residential units shall comply with the following development regulations prior to the issuance of any Certificate of Occupancy, except as specifically stated otherwise herein:

- (1) Plans for the development of any parking lot shall be submitted to the Town Zoning Administrator and must be approved by said Zoning Administrator prior to the start of construction. The construction of the entire parking lot shall be completed to the satisfaction of the Zoning Administrator before a Certificate of Occupancy may be issued. In the event that owing to inclement or cold weather conditions said parking lot cannot be improved, a six (6) month temporary Certificate of Occupancy can be issued by the Zoning Administrator provided a cash deposit or bank letter of credit is deposited with the Town treasurer equivalent to ten percent (10%) of the cost of construction of the parking lot, as determined by the Zoning Administrator, which deposit or bond shall be mandatorily forfeited if said parking lot is not fully completed within said six (6) month period. (Ord. 2000-10, Nov. 21, 2000) (Ord. 1990-6, S15.2:1, June 4, 1990)
- (2) Adequate points or means of ingress and egress shall be provided and shown in the plan submitted. (Ord. 1990-6, S15.2:2, June 4, 1990)
- (3) Such parking lots shall be hard-surfaced with chip and seal, concrete or plant-mixed bituminous material and maintained in a usable dustproof condition, and shall be graded and drained to dispose of surface water in accordance and conformance with the requirements of the Town of Dale Street Department. (Ord. 1990-6, S15.2:3, June 4, 1990)
- (4) Necessary curbs or other protection for the public and for the protection of adjoining properties and streets, shall be provided and maintained, as may be required by the Zoning Administrator. (Ord. 1990-6, S15.2:4, June 4, 1990)
- (5) Entrance to such areas shall be only from the adjoining street or alley right-of-way. (Ord. 1990-6, S15.2:5, June 4, 1990)
- (6) All illumination for or on such parking lots shall be deflected away from residential areas and shall be installed in such a manner as to allow the reduction of the amount of light after normal parking hours each day. (Ord. 1990-6, S15.2:6, June 4, 1990)
- (7) Parking areas shall be effectively screened on any side which adjoins premises situated in a residential zone by a screening of evergreen hedge or other natural landscaping. If owners of adjacent residential properties agree, the screening may be a solid, uniformly painted fence or wall. (Ord. 1990-6, S15.2:7, June 4, 1990)

- (8) Lot space requirements for the layout of the parking at various angles shall be in accordance with the following minimum regulations:

Parking Angle	Maneuvering Aisle Width	Parking Stall Width	Parking Stall Length	Total Width of Two Stalls of Parking Plus Maneuvering Aisle
0° (parallel parking)	12.0 ft.	8.5 ft.	24.0 ft.	29.0 ft. (one way) 32.0 ft. (two way)
Up to 53°	13.0 ft.	9.0 ft.	21.0 ft.	55.0 ft. (one way)
54° to 74°	18.0 ft.	9.0 ft.	22.0 ft.	62.0 ft. (one way)
75° to 90°	24.0 ft.	9.0 ft.	20.0 ft.	44.0 ft. (one way)

(Ord. 1990-6, S15.2:8, June 4, 1990)

- (9) The minimum parking space dimension for any development not provided for in the preceding paragraph shall be: (1) 9.0 feet in width, (2) 20.0 feet in length, and (3) 180.0 square feet in area. (Ord. 1990-6, S15.2:8, June 4, 1990)

Table of Parking Requirements

Where a proposed use is not specifically identified in this table, the requirements of any of the following uses most similar to the proposed use, by determination of the zoning administrator, shall apply.

<u>Use</u>	<u>Required No. of Parking Spaces</u>	<u>Per Each Unit of Measure as Follows</u>
a. Animal hospital and kennels	1 per	Four hundred (400) square feet of usable floor area <u>plus</u> Two (2) employees
b. Auditorium, theaters, and assembly halls	1 per	Three (3) seats based on maximum seating capacity in the main place of assembly therein, <u>plus</u> Two (2) employees
c. Auto repair garages, bump shops, service garages	2 per 1 per 1 per	Service stall, <u>plus</u> eight hundred (800) square feet of usable floor area, <u>plus</u> Two (2) employees
d. Auto salesrooms, wholesale stores, machinery sales, showrooms of a plumber, electrical, or other similar trade	1 per 1 per	One thousand (1,000) square feet of usable floor area, <u>plus</u> One (1) employee
e. Banks and post offices	1 per 1 per	Two hundred (200) square feet of usable floor area, <u>plus</u> One (1) employee
f. Barber shop	2 per	Barber
g. Beauty parlor	3 per	Beauty shop operator
h. Bowling alleys	6 per	Bowling lane
i. Business and professional offices	1 per	Two hundred (200) square feet of gross floor area
j. Carry-out restaurant	1 per	One hundred and twenty-five (125) square feet gross floor area with a minimum total of eight (8) parking spaces

<u>Use</u>	<u>Required No. of Parking Spaces</u>	<u>Per Each Unit of Measure as Follows</u>
k. Child care center, day care centers, nursery schools	1 per	Four hundred (400) square feet of usable floor area, <u>plus</u>
	1 per	Employee
l. Churches	1 per	Three (3) seats or six (6) feet of pews, based on maximum seating capacity in main unit of worship
m. Dance halls, exhibition halls, pool halls, and billiard parlors, and assembly halls without fixed seats	1 per	Two (2) persons allowed within the maximum occupancy load as established by local, County or State fire, health, or building codes
n. Drive-in bank	4 per	Teller window
o. Drive-in establishments (other than drive-in and carry out restaurants)	1 per	Two (2) employees
p. Elementary schools, junior high schools, trade schools	1 per	Teacher, employee and administrator in addition to the requirements of the auditorium or assembly hall exists, then one (1) space per classroom is required in addition to that for each teacher, employee or administrator in the school
q. Establishments (other than drive-in and carry out restaurants) for sale and consumption on the premises of beverages, food or refreshments (e.g., standard restaurants)	1 per	Seventy-five (75) square feet of gross floor area
r. Fast-food, drive-in restaurants	1 per	Thirty-five (35) square feet gross floor area
s. Filling station, automobile service station	2 per	Service stall, <u>plus</u>
	1 per	Employee
t. Furniture and appliance, household equipment repair shops, hardware stores, and similar stores	1 per	Eight hundred (800) square feet of usable floor area <u>plus</u>
	1 per	Two (2) employees

<u>Use</u>	<u>Required No. of Parking Spaces</u>	<u>Per Each Unit of Measure as Follows</u>
u. Golf course open to the public	5 per 1 per	Hole, <u>plus</u> Employee, <u>plus</u> the amount required for accessory uses
v. High schools	1 per 1 per 1 per	Teacher, <u>plus</u> Employee or administrator, <u>plus</u> , requirements of auditorium or assembly hall therein, <u>plus</u> Ten (10) students
w. Hospitals	1 per 1 per 1 per 1 per	Two (2) beds, <u>plus</u> Staff doctor, <u>plus</u> One thousand (1,000) square feet of patient surgery or treatment area, <u>plus</u> Two (2) employees
x. Industrial establishments	1 per 1 per 1 per	One and one-half (1 1/2) employees computed on the basis of the greatest no. of persons employed at any one period during the day or night, <u>or</u> Five hundred and fifty (550) square feet of usable floor area (whichever is greater)
aa. Laundromat, coin-operated dry-cleaning establishments	1 per	Washing and/or dry cleaning machine
bb. Libraries and museums	1 per	Five hundred (500) square feet gross floor area
cc. Medical clinic or dental clinic	1 per	Two hundred (200) square feet of gross floor area
dd. Miniature or Par 3 golf course	2 per 1 per	Hole, <u>plus</u> Employee
ee. Mobile home site	2 per	Mobile home site
ff. Mortuary establishments, funeral homes, and undertaking parlor	1 per	Fifty (50) square feet of floor area in the parlor area

<u>Use</u>	<u>Required No. of Parking Spaces</u>	<u>Per Each Unit of Measure as Follows</u>
gg. Motels, hotels, inns, boarding and lodging houses, bed and breakfast operations	1 per 1 per	Guest bedroom, <u>plus</u> One (1) employee, <u>plus</u> parking space as may be required for accessory uses
hh. Motor vehicle wash establishment (self-service)	3 per	Wash stall
ii. Motor vehicle wash establishment (other than self-service)	4 per	Maximum capacity as computed by dividing the linear dimension of the mechanical wash/dry operation by twenty (20) feet, <u>plus</u> one (1) employee
jj. Multiple-family dwelling	2 per	Dwelling unit
kk. Open air business uses including mobile home sales and used car sales lot	1 per	Each eight hundred (800) square feet of gross lot area used for open air sales or display, <u>plus</u> additional parking space for any structure utilized for retail sales computed in accordance with the requirements for retail stores (item nn, below)
ll. Private clubs, fraternities, dormitories	1 per	Three (3) members or lodgers allowed within the maximum occupancy load as established by local, State or County fire, health, or building codes
mm. Private tennis club, swim club, golf club, or similar use	1 per	Two (2) member families or individual members, <u>plus</u> the amount required for accessory uses
nn. Retail stores except as otherwise provided herein	1 per 1 per	One hundred and fifty (150) square feet of gross floor area, <u>plus</u> Two (2) employees
oo. Roadside stands (Ord. 1990-6, Table of Parking Requirements, June 4, 1990)	6 per	Establishment

10.05.160 ADVERTISING SIGNS AND BILLBOARDS

10.05.160.001 Scope. This article is intended to regulate and limit the construction or reconstruction of signs and billboards to protect the public peace, morals, health, safety and general welfare. Such signs will not, by reason of their size, location, construction, or manner of display, endanger life and limb, confuse or mislead traffic, obstruct vision necessary for vehicular and pedestrian traffic safety, or otherwise endanger public welfare, shall be permitted except as may be otherwise provided herein. (Ord. 2005-7, S1, Aug. 1, 2005) (Ord. 1990-6, S16.1, June 4, 1990)

10.05.160.002 Definitions. As used in this section, the following words shall have the meanings hereinafter set forth in this section.

- (1) **ABANDONED SIGN.** A sign structure that has ceased to be used, and the owner intends no longer to have used, for the display of sign copy, or as otherwise defined by state law.
- (2) **BANNER.** A flexible substrate on which copy or graphics may be displayed.
- (3) **BANNER SIGN.** A sign utilizing a banner as its display surface.
- (4) **CANOPY SIGN.** An identification sign attached to a marquee, canopy or awning projecting from and supported by the building.
- (5) **CHANGEABLE SIGN.** A sign with the capability of content change by means of manual or remote input, including signs which are electrically activated or manually activated.
- (6) **ILLUMINATED SIGNS.** A sign that provides artificial light directly (or through any transparent or translucent material) from a source of light connected with such sign, or a sign illuminated by a light so shielded that no direct rays from it are visible from any public right-of-way or from the abutting property.
- (7) **IDENTIFICATION SIGNS.** A sign that identifies the business, owner or resident and/or the street address and which sets forth no other advertisement.
- (8) **INSTITUTIONAL BULLETIN BOARD.** A sign containing a surface area upon which is displayed the name of a religious institution, school, library, community center or similar institution and the announcement of its institutional services or activities.
- (9) **MARQUEE SIGN.** See CANOPY SIGN.
- (10) **NONPERMANENT EVENT SIGNS.** Nonpermanent Event Signs include all temporary signs which advertises events such as local garage or yard sales, directional signs for social events, or other temporary signage of a similar

nature. Furthermore, nonpermanent event signs are designated by certain time period (usually the date of the event) which the sign is removed shortly after the event has occurred.

- (11) **OUTDOOR ADVERTISING SIGN.** A permanent sign erected, maintained or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.
- (12) **POLE SIGNS.** A sign supported by one or more uprights, poles or braces placed in or upon the ground surface and not attached to any building and having a sign area not more than 100 square feet on a side, and a clear space of at least 12 feet from the ground to the bottom of the sign.
- (13) **PORTABLE SIGNS.** A free-standing sign not permanently anchored or secured to either a building or the ground.
- (14) **REAL ESTATE SIGNS.** A sign located on premises containing land or buildings for sale, rent or lease, or buildings under construction and intended for sale, rent or lease. Altering such signs after sale, rent or lease is consummated to reflect that said real estate was sold, rented or leased by a particular individual, firm or corporation shall not be permitted.
- (15) **ROOF SIGNS.** Any sign erected, constructed and maintained wholly upon or over the roof of any building with the principal support on the roof structure.
- (16) **SIGN.** Any device visible from a public place that displays either commercial or noncommercial messages by the means of graphic representation of alphabetic or pictorial symbols or representations. Noncommercial flags or any flags displayed from flagpoles or staffs will not be considered signs.
- (17) **SUBDIVISION SIGNS.** A sign placed at the primary entrance to a subdivision, containing information only about the subdivision. This term also refers to signs at the primary entrance to a mobile home park. Such signs being without moving parts, not higher than 10 feet from the ground and no closer than 20 feet to any public right-of-way line.
- (18) **TEMPORARY SIGN.** A display, information sign, banner, or other advertising device with or without a structural frame and which is intended for a limited period of display, including seasonal produce sales, decorative displays for holidays or public demonstrations.
- (19) **WALL SIGN.** A sign which is attached directly to or painted upon a building wall and which does not extend more than 13 inches therefrom nor more than five feet above the roof line, with the exposed face of the sign in a

plane parallel to the building wall. (Ord. 2005-7, S2, Aug. 1, 2005) (Ord. 1990-6, S16.2, June 4, 1990)

10.05.160.003 Permit Procedure.

- (1) Application for a permit to construct or locate a sign, except for real estate signs and temporary signs, shall be obtained from the Town Zoning Administrator.
- (2) The applicant shall include the following information:
 - A. Name
 - B. Address
 - C. Telephone number of the landowner.
 - D. A map of the property at an appropriate scale to adequately describe the property in question containing the following:
 1. Location and type of existing structures on the site.
 2. Property boundaries.
 3. Location and types of structures or adjacent properties.
 4. Road rights-of-way.
 5. Entrances and exits onto the subject property.
 6. The proposed location of the sign(s).
 - E. An elevation drawing of the proposed sign(s) depicting its design, lettering, and other relevant information. The dimensions of the height, length, and width of the sign(s) and height between ground elevation and the bottom of the sign, shall be noted.
 - F. In the case of a wall sign, an elevation of the wall of the building on which the sign is to be placed, including a depiction of the wall sign at scale, shall be shown. The dimension of the building wall and the sign shall be depicted.
 - G. The proposed date of construction of the sign.
 - H. Other information or data as may be required by the Zoning Administrator or is deemed useful by the petitioner for describing or depicting the proposed sign(s).

- (3) The Date Planning and Zoning Commission shall approve, disapprove, or approve subject to specified conditions, the request for a permit, based upon the standards of this Article. When a permit is denied by the Dale Planning and Zoning Commission, the Commission written notice shall be given within seven (7) days to the applicant along with a brief statement of the reasons for denial. (Ord. 2005-7, S3, Aug. 1, 2005) (Ord. 1990-6, S16.3, June 4, 1990)

10.05.160.004 Measurement of Area of a Sign.

- (1) The entire area within a circle, triangle or parallelogram enclosing the extreme limits of writing, representation, emblem, or any figure of similar character, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed but including any sign tower.
- (2) Where a sign has two or more faces, the area of all faces shall be included in determining the area of a sign, except that where two such faces shall be placed back to back and are at no point more than two (2) feet from one another, the area of the sign shall be taken as the area of one face if the two faces are of equal area, or if the area of the larger face if the two faces are of unequal area.
- (3) In cases of a sphere, the total area of a sphere is divided by four for purposes of determining the maximum permitted sign area. (Ord. 2005-7, S4, Aug. 1, 2005) (Ord. 1990-6, S16.4, June 4, 1990)

10.05.160.005 Signs Permitted. Signs are permitted according to the District in which they are located or intended to be located. Certain types of signs are permitted in certain districts according to the following regulations.

- (1) **LOW AND MEDIUM RESIDENTIAL DISTRICTS.**
 - A. No more than 1 sign at any one time shall be permitted.
 - B. No sign shall be illuminated by other than continuous indirect white light, nor shall it contain any moving visible parts.
 - C. The following types of signs are permitted in the Low and Medium Residential Districts.
 1. **ON PREMISES ADVERTISING SIGN**, for principal uses other than dwellings, not exceeding 10 square feet in area and not located nearer to the front lot line than six feet from the required front yard setback nor located in the required side yard setback.

2. IDENTIFICATION SIGN, one per dwelling unit, not exceeding 144 square inches in area, and one per business, not exceeding eight square feet in area.
3. INSTITUTIONAL BULLETIN BOARD, one per public or semi-public institution, located on-premises, not exceeding 24 square feet in area, and set back at least 15 feet from the front lot line.
4. REAL ESTATE SIGN, one per premises or building and located on the same premises or building only while said real estate is actually on the market for sale, rent or lease; not exceeding 10 square feet in area and set back at least five feet from the front lot line.
5. SUBDIVISION SIGN, one per subdivision or mobile home park, continuously and properly maintained; not exceeding 30 square feet in area and set back at least 15 feet from any property or right-of-way line.
6. TEMPORARY SIGN, on-premises or off-premises sign advertising real estate in a subdivision being for sale, rent or lease, not exceeding 16 square feet in area and subject to approval by the Dale Planning and Zoning Commission for periods of up to six months subject to removal as long as the sign conforms to the conditions of approval and said real estate is actively on the market for sale, rent or lease. The number of off-premises signs shall be limited to that reasonably necessary to direct the public to the location of the development.

C. The following sign styles are generally approved for the Low and Medium Residential Districts.

1. MONUMENT/BLADE
2. MEDIUM PROFILE
3. CANOPY.

For any other type of sign, permission must be obtained in advance from the Planning and Zoning Commission.

(2) MOBILE HOME PARKS AND MULTI-FAMILY RESIDENTIAL DISTRICTS

- A. No sign shall be illuminated by other than continuous indirect white light, nor shall it contain any moving visible parts.

- B. The types of signs permitted in Mobile Home Parks and Multi-Residential Districts are identical to the types described in the Low and Medium Residential Districts.
- C. WALL SIGNS, one per housing development, indicating only the name of the housing development; not exceeding 16 square feet in area is allowed in Mobile Home Parks and Multi-Family Residential Districts.
- D. The following sign styles are generally approved for Mobile Home Parks and Multi-Residential Districts.
 - 1. MONUMENT/BLADE
 - 2. MEDIUM PROFILE
 - 3. CANOPY.

For any other type of sign, permission must be obtained in advance from the Planning and Zoning Commission.

(3) GENERAL COMMERCIAL DISTRICT

- A. The following types of signs are permitted in the General Commercial District.
- B. The types of signs permitted in the Low and Medium and Multi-Residential Districts are also allowed in the General Commercial district.
- C. No sign shall project beyond a wall or architectural feature by more than 12 inches, nor project above or beyond the highest point of the roof or parapet.
- D. In addition to the signs in the Residential districts, the following signs are allowed in the General Commercial District:
 - 1. ADVERTISING SIGN
 - 2. CANOPY SIGN
 - 3. WALL SIGN
 - 4. ROOF SIGN
 - 5. PORTABLE SIGN (less than 20 square feet in area)

6. POLE SIGN (less than 20 feet in height)

- E. No business shall have a total of more than three signs facing upon any one street, providing the total sign area for all signs permitted shall not exceed 15 percent of the area of the face of the building to which they are attached or stand in front of and set back from the front lot line at least 10 feet, except as provided for elsewhere in this Ordinance.
- F. Portable advertising signs shall not be allowed on public sidewalks or within public rights-of-way within any district.

(4) HIGHWAY COMMERCIAL DISTRICT

- A. No signs shall be located nearer the front lot line or side lot line than one third of the required building setback.
- B. The following sign types are permitted in the Highway Commercial District.
- C. All types of signs in the Residential District and the General Commercial district are permitted in the Highway Commercial District.
- D. In addition to the above signs, PROJECTING SIGNS are permitted in the Highway Commercial District.
- E. OUTDOOR ADVERTISING SIGNS (BILLBOARDS), where the erection or maintenance of same will not unreasonably affect the proper use of adjoining property, at least 20 feet from any right-of-way line; not exceeding a sign area of 10 feet in height and 15 feet in length, and subject to Board of Appeals approval for periods up to thirty six (36) months.
- F. Signs within business, commercial or industrial areas, as defined in Indiana legislation pertaining to the Federal Highway Beautification Act of 1965, bordering interstate highways, freeways or primary highways as defined in said legislation shall be regulated and controlled by the provisions of such Statute, notwithstanding the provisions of the within Zoning Ordinance.

(5) INDUSTRIAL DISTRICT (GENERAL AND PLANNED). Signs in the Industrial District shall conform to the regulations of the Highway Commercial District.

(6) SPECIAL SIGN REGULATIONS FOR SPECIFIC TYPES OF SIGNS.

- A. Nonpermanent Event Signs.

1. Nonpermanent Event Signs do not need to apply for a permit.
2. All Nonpermanent Event Signs must be removed within 48 hours after the event has taken place.
3. The Zoning Administrator may issue a fine for not removing a Nonpermanent Event Sign 72 hours after the listed event has finished. The fine shall be the lowest amount allowable by sanction. Each day the sign remains in violation of this Ordinance shall constitute as a separate offence. The maximum fine that can be delivered for separate sanctions on one nonpermanent sign shall be one hundred (\$100) dollars and the costs for the removal and disposal of the sign if applicable.
4. Nonpermanent Event Signs shall follow any rule in the Ordinance that pertains to safety and traffic visibility. (Ord. 2005-7, S5, Aug. 1, 2005) (Ord. 1990-6, S16.5, June 4, 1990)

10.05.160.006 Signs Prohibited. A sign not expressly permitted by this Ordinance is prohibited unless allowed by special exception by the Planning and Zoning Commission. (Ord. 2005-7, S6, Aug. 1, 2005) (Ord. 1990-6, S16.6, June 4, 1990)

10.05.160.007 Illumination.

- (1) There shall be no flashing, oscillating or intermittent, red, blue, or green illumination of any sign located in the line of vision of a traffic control device or interfering with safe vision along any roadway, especially at intersections,
- (2) All illuminated signs shall be designed and located to prevent the light therefrom from being cast upon adjoining residences and shall be located at least one hundred and fifty (150) feet from any residential use.
- (3) The illumination of any sign shall not be detrimental or annoying to surrounding property nor constitute a safety hazard, as determined by the Dale Planning and Zoning Commission or the Zoning Administrator working on the Commission's behalf.
- (4) The above restrictions also apply to portable signs. (Ord. 2005-7, S7, Aug. 1, 2005) (Ord. 1990-6, S16.7, June 4, 1990)

10.05.160.008 Construction and Maintenance

- (1) The construction of any sign shall be such that it will withstand all wind and vibration forces which can be normally expected to occur in the vicinity.

- (2) All signs shall be properly maintained and shall not be allowed to become unsightly through disrepair or action of the elements.
- (3) No advertising sign or billboard permit shall be issued until the building and zoning inspector(s) are satisfied the sign to be constructed complies with the provisions of this Ordinance and will be constructed in a safe, sturdy and durable manner with proper bracing anchorage and foundation.
- (4) A sign shall not be erected or installed until a permit is first obtained from the Town Zoning Administrator and from the Town Building Inspector.
- (5) **NONCONFORMING SIGNS.** Any sign legally existing at the time of passage of this Ordinance that does not conform in use, location, height or size with the regulations of the zone in which such sign is located, shall be considered a legal nonconforming sign and shall be permitted to continue in such status until such time as it is either abandoned or removed by its owner, subject to the following limitations:
 - A. Structural alterations, enlargement or re-erectments are permissible only where such alterations will not increase the nonconformity of the sign.
 - B. Any legal nonconforming sign shall be removed or rebuilt without increasing the existing height or area if it is damaged, or removed if allowed to deteriorate to the extent that the cost of replacement or restoration exceeds 50 percent of the replacement cost of the sign as determined by the Dale Planning and Zoning Commission.
 - C. Signs that comply with either Item A. or B. in this section need not be permitted. (Ord. 2005-7, S8, Aug. 1, 2005) (Ord. 1990-6, S16.8, June 4, 1990)

10.05.160.009 Obsolete Sign Copy. Any sign copy that no longer advertises or identifies a use conducted on the property on which said sign is erected must have the sign copy covered or removed within 30 days after written notification from the Zoning Administrator or the Dale Planning and Zoning Commission; and upon failure to comply with such notice, the Zoning Administrator is hereby authorized with the Dale Planning and Zoning Commission's approval to cause removal of such sign copy, and any expense incident thereto shall be paid by the owner of the building, structure, or ground on which the sign is located. (Ord. 2005-7, S9, Aug. 1, 2005)

10.05.160.010 Height and Overhang. No sign otherwise permitted shall exceed the maximum height limitations of the Zoning District in which it is located. (Ord. 2005-7, S10, Aug. 1, 2005) (Ord. 1990-6, S16.10, June 4, 1990)

10.05.160.011 Board of Appeals. The Zoning Board of Appeals may, upon application by a property owner, modify the specifications of this Article where no good purpose would be

served by strict compliance with same. (Ord. 2005-7, S11, Aug. 1, 2005) (Ord. 1990-6, S16.10, June 4, 1990)

10.05.160.012 Directional Signs. All directional signs for orientation of the general public, when erected by the Town, County, or State, shall be permitted in all Districts. (Ord. 2005-7, S12, Aug. 1, 2005) (Ord. 1990-6, S16.11, June 4, 1990)

10.05.170 SPECIAL USE PERMITS

10.05.170.001 Purpose. In order to make this ordinance a flexible zoning control and still afford protection of property values and orderly and compatible development of property within the Town, the Planning/Zoning Commission, in addition to its other functions, is authorized to approve the establishment of certain uses designated as Special Uses within the various zoning classifications set forth in the Ordinance.

Such Special Uses have been selected because of the unique characteristic of the use which, in the particular zone involved, under certain physical circumstances and without proper control and limitations, might cause it to be incompatible with the other uses permitted in such zoning district and accordingly detrimental thereto.

With this in mind, such Special Uses are not permitted to be engaged in within the particular zone in which they are listed unless and until the Zoning/Planning Commission, in its absolute discretion, is satisfied that the same, under the conditions, controls, limitations, circumstances and safeguards proposed therefor, and imposed by said Commission, would be compatible with the other uses expressly permitted within said district, with the natural environment and the capacities of public services and facilities affected by the land use; would not, in any manner, be detrimental or injurious thereto; would not, in any manner, be detrimental or injurious to the use or development of adjacent properties to the occupants thereof or to the general neighborhood; would promote the public health, safety, morals and general welfare of the community; would encourage the use of lands in accordance with their character and adaptability; and that the standards required by the Commission for the allowance of such Special Use can and will, in its judgment, be met at all times by the applicant. (Ord. 1990-6, S17.1, June 4, 1990)

10.05.170.002 Special procedure. The following steps shall be taken by the applicant, zoning officials and review body when considering a proposed Special Use:

- (1) All applications for Special Use Permits shall be filed with the Town Zoning Administrator and shall include the required site plan, fee and any other pertinent information upon which the applicant intends to rely for a Special Use Permit.
- (2) The Zoning Administrator shall, after preliminary review, forward the complete application for a Special Use Permit to the Planning and Zoning Commission for review. (Ord. 1990-6, S17.2:2, June 4, 1990)

- (3) The Town Planning and Zoning Commission shall review the site plan according to the standards set forth in 10.05.120 and review the proposed special approval use according to standards set forth in this article.
- A. In the case a discretionary decision must be made, the Town Planning and Zoning Commission shall give a public notice in a newspaper of general circulation of official receipt of an application for a special land use permit which:
1. Describes the nature of the special land use request.
 2. Indicates the property in question.
 3. States the time and place where the special land use request will be considered.
 4. Indicates when and where written comments will be received concerning the request.
 5. Indicates that a public hearing on the proposed special approval use may be requested by any property owner or the occupant of any structure located within 300 feet of the boundary of the property being considered.
- B. This notice shall also be mailed or delivered to property owners and occupants within 300 feet of the property in question. Those notices shall be made between five and 15 days prior to the date on which the application is to be considered. An affidavit of mailing or delivery of notice shall be maintained by the Town Clerk. (Ord. 1990-6, S17.2:3, June 4, 1990)
- (4) Following such hearing, said Commission shall either grant or deny a permit for such Special Use and shall state its reasons for its decision in the matter. All conditions, limitations and requirements upon which any such permit is granted shall be specified in detail by said Commission in its decision and shall be filed with the Zoning Administrator. (Any discretionary conditions, limitations or requirements upon which approval is based shall be reasonable and designed to protect natural resources, the health, safety and welfare and the social and economic well-being of the owners and occupants of the land in question, of the area adjacent thereto and of the community as a whole; constitute a valid exercise of the police power and be related to the purposes which are effected by the proposed use or activity, be consistent with the intent and purpose of the Zoning Ordinance; designed to ensure compatibility with adjacent uses of land and the natural environment; and designed to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by land use or activity.)

- A. The Commission shall have the right to limit the duration of a Special Use where the same is of a temporary nature and may reserve the right of annual review of compliance with the conditions and limitations imposed upon such use. Any use failing to comply with such conditions and limitations may be terminated by action of said board after a hearing upon application of any aggrieved party.
- B. The plot plan and specifications and all conditions, limitations and requirements imposed by the Zoning Commission shall be recorded with the Town and shall be incorporated as a part of the Special Land Use Permit. Violations of any of these at any time shall cause revocation of said permit and said special exception use shall cease to be a lawful use.
- C. Any property which is the subject of a special permit which has not been used for a period of six months (without just cause being shown which is beyond the control of the owner and which is acceptable to the zoning board) for the purposes for which such special exception was granted shall thereafter be required to be used for only permissible uses set forth in the particular zoning classification and the permit for such special approval uses shall thereupon terminate.
- D. To ensure compliance with the Zoning Ordinance and any conditions, limitations or requirements imposed by the Planning/Zoning Commission as necessary to protect natural resources or the health, safety and welfare of the residents of the Town and future users or inhabitants of the proposed project or project area, the Zoning Commission may require a cash deposit, certified check or irrevocable bank letter of credit or surety bond covering the estimated cost of furnishing such condition, limitation or requirement conditioned upon the faithful completion of the required improvement. Such security shall be deposited with the Town clerk at the time of the issuance of the permit authorizing the commencement of such construction or activity. Where the improvement required will take more than six months to be completed, the Planning/Zoning Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses. (Ord. 1990-6, S17.2:4, June 4, 1990)

10.05.170.003 Appeal. The decision of the Planning Commission may be appealed by the property owner or his or her designated agent to the Town Zoning Board of Appeals, or adjacent property owner within 300 feet of the property in question. Request for appeal may be made by written letter to the Chairman of the Zoning Board of Appeals within ten (10) days of disapproval, approvals by modification, or revocation of the Special Use Permit by the Planning/Zoning Commission. (Ord. 1990-6, S17.3, June 4, 1990)

10.05.180 GRADING AND SOIL EROSION CONTROL

10.05.180.001 Purpose. The purpose of this Article is to prevent soil erosion and sedimentation from occurring as a result of nonagricultural development within the Town by requiring proper provisions for water disposal and the protection of soil surfaces during and after construction, in order to promote the safety, public health and general welfare of the community.

- (1) All grading plans and specifications including extensions of previously approved plans shall include provisions for erosion and sediment control in accordance with applicable soil erosion and sediment control standards. Copies of said standards shall be available for inspection in the Office of the Town Clerk and the Zoning Administrator. (Ord. 1990-6, S18.1:1, June 4, 1990)

10.05.180.002 Compliance with 10.05.110 requiring site plan. No site plan shall be approved under 10.05.110 of this Chapter unless said site plan shall include soil erosion and sediment control measures consistent with the requirements of 10.05.180. (Ord. 1990-6, S18.2, June 4, 1990)

10.05.180.003 Compliance with 10.05.240.005 requiring Certificate of Occupancy. No certificate of occupancy for any building shall be issued under Section 10.05.240.005 of this Chapter unless the applicant for said certificate shall have obtained a certification of compliance indicating compliance with all grading plans and specifications and completion of permanent soil erosion control measures from the Town Zoning Administrator. (Ord. 1990-6, S18.3, June 4, 1990)

10.05.180.004 Permit. A separate application shall be required for each grading permit. Single-family or two-family dwellings, mobile homes and agricultural buildings, in addition to logging, plowing or tilling of land for agricultural purposes shall be excepted from acquiring a grading permit, except as required under appropriate state and federal laws and regulations. Plans, specifications and timing schedules shall be submitted with each application for a grading permit. The plans and specifications accompanying the grading permit application shall contain the following data. (Ord. 1990-6, S18.4, June 4, 1990)

- (1) A vicinity sketch at the scale of 1 inch = 200 feet indicating the site location as well as the adjacent properties within 1,000 feet of the site boundaries. (Ord. 1990-6, S18.4:1, June 4, 1990)
- (2) A boundary line survey of the site on which the work is to be performed. (Ord. 1990-6, S18.4:2, June 4, 1990)
- (3) A plan of the site at a scale of 1 inch = 20 feet showing:
 - A. Name, address, and telephone number of the land owner, developer and petitioner.

- B. A timing schedule indicating the anticipated starting and completion dates of the development's construction sequence and the time of exposure of each area prior to the completion of effective erosion and sediment control measures.
- C. A certified statement of the quantity of excavation and fill involved.
- D. Existing and proposed topography at contour intervals of five feet.
- E. The location of any structure or natural feature on the site, on the land adjacent to the site, and within 500 feet of the site boundary line.
- F. Location of any proposed additional structures or development on the site.
- G. Elevations, dimensions, location, extent and the slope of all proposed grading.
- H. Plans of all drainage provisions, retaining walls, cribbing, planting, erosion control measures, or other temporary or permanent soil erosion control measures to be constructed in connection with the proposed work together with a map showing the drainage area of land tributary to the site and estimated runoff of the area served by any drains.
- I. Other information or data as may be required by the Zoning Administrator. (Ord. 1990-6, S18.4:3, June 4, 1990)

10.05.180.005 Fees. At the time of filing an application for a grading permit, a filing fee to be set by the Town Council shall be paid to the Town Treasurer. (Ord. 1990-6, S18.5, June 4, 1990)

10.05.180.006 Denial of permit. Grading permits shall not be issued where:

- (1) The proposed work would cause hazards to the public safety and welfare.
- (2) The work as proposed by the applicant will damage any public or private property or interfere with any existing drainage course in such a manner as to cause damage to any adjacent property or result in the deposition of debris or sediment on any public way or into any waterway or create an unreasonable hazard to persons or property.
- (3) The land area for which the grading is proposed is subject to geological hazard to the extent that no reasonable amount of corrective work can eliminate or sufficiently reduce settlement, slope instability, or any other such hazard. (Ord. 1990-6, S18.6, June 4, 1990)

10.05.180.007 General requirements.

- (1) Any earth changes shall be conducted in such a manner so as to effectively reduce accelerated soil erosion and resulting sedimentation. (Ord. 1990-6, S18.7:1, June 4, 1990)
- (2) All persons engaged in earth changes shall design, implement, and maintain acceptable soil erosion and sedimentation control measures, in conformance with all applicable Indiana laws pertaining to soil erosion and sedimentation control, which effectively reduce accelerated soil erosion. (Ord. 1990-6, S18.7:2, June 4, 1990)
- (3) All earth changes shall be designed, constructed and completed in such a manner so that the exposed area of any disturbed land shall be limited to the shortest possible period of time. (Ord. 1990-6, S18.7:3, June 4, 1990)
- (4) Sediment caused by accelerated soil erosion shall be removed from runoff water before it leaves the site of the earth change. (Ord. 1990-6, S18.7:4, June 4, 1990)
- (5) Any temporary or permanent facility designed and constructed for the conveyance of water around, through, or from the earth change area shall be designed to limit the water flow to a nonerosive velocity. (Ord. 1990-6, S18.7:5, June 4, 1990)
- (6) Temporary soil erosion control facilities shall be removed and earth change areas graded and stabilized with permanent soil erosion control measures pursuant to approved standards and specifications as prescribed by the Indiana Department of Natural Resources rules. (Ord. 1990-6, S18.7:6, June 4, 1990)
- (7) Permanent soil erosion control measures for all slopes, channels, ditches, or any disturbed land area shall be completed within 30 calendar days after final grading or the final earth change has been completed. When it is not possible to permanently stabilize a disturbed area after an earth change has been completed or where significant earth change activity ceases, temporary soil erosion control measures shall be implemented within 10 calendar days. All temporary soil erosion control measures shall be maintained until permanent soil erosion control measures are implemented. (Ord. 1990-6, S18.7:7, June 4, 1990)

10.05.180.008 Maintenance requirements. Persons carrying out soil erosion and sediment control measures under this section, and all subsequent owners of property concerning which such measures have been taken, shall maintain all permanent erosion control measures, retaining walls, structures, planting and other protective devices. (Ord. 1990-6, S18.8, June 4, 1990)

10.05.190 PLANNED UNIT DEVELOPMENT

10.05.190.001 Purpose. The purpose of a PUD is to permit and encourage design flexibility within the existing R, B-2 and I zones for the uses allowed within those zones. It has the potential of promoting a diversity of types and location of buildings and structures, allowing a more efficient use of land for circulation, open space and utilities. It also is intended to minimize adverse environmental impacts by providing greater harmony with the existing physical characteristics of the area. The provisions of 10.05.190 are not intended as a device for ignoring the Zoning Ordinance or the planning upon which it has been based. To that end, provisions of 10.05.190 are intended to result in land use development substantially consistent with the underlying zoning, with modifications and departures from generally applicable requirements made in appropriate, fair and consistent decision making. A Planned Unit Development must comply with 10.05.190. (Ord. 1990-6, S19.1, June 4, 1990)

10.05.190.002 Special use permit. A planned unit development shall be recognized as a special use and controlled by the procedures and requirements identified in Section 10.05.170 for acquiring approval as a special use. Control of such development shall be the responsibility of the Town Planning/Zoning Commission. (Ord. 1990-6, S19.2, June 4, 1990)

10.05.190.003 Demonstration of applicability. The proposed Planned Unit Development must demonstrate that:

- (1) Granting of the Planned Unit Development will result in a recognizable and substantial benefit to the ultimate users of the project and to the community, where such benefit would otherwise be unfeasible or unlikely to be achieved. (Ord. 1990-6, S19.3:1, June 4, 1990)
- (2) In relation to underlying zoning, the proposed type and density of use shall not result in a material increase in the need for public services, facilities and utilities unless such increases are paid for by the developer and/or property owner of the Planned Unit Development. (Ord. 1990-6, S19.3:2, June 4, 1990)
- (3) The proposed development shall be compatible with the Town Land Use Plan and shall be consistent with the intent and spirit of 10.05.190. (Ord. 1990-6, S19.3:3, June 4, 1990)
- (4) In relation to underlying zoning, the proposed development shall not result in an unreasonable negative economic impact upon surrounding properties. (Ord. 1990-6, S19.3:4, June 4, 1990)
- (5) The proposed development shall be under single ownership or control such that there is a single person or entity having responsibility for completing the project in conformity with this Ordinance. This provision shall not prohibit a transfer of ownership or control, upon due notice to the Zoning Administrator of the Town. (Ord. 1990-6, S19.3:5, June 4, 1990)

10.05.190.004 Procedures for application approval. The procedures for application and approval of a PUD permit shall include one or more informal pre-application conferences between the applicant and the Zoning Administrator and the Planning/Zoning Commission in which the applicant informs the Zoning Administrator and the Planning/Zoning Commission of his or her general intentions. After presentation and discussion of the concept plan, a preliminary development plan shall be filed with the Planning/Zoning Commission for purposes of obtaining a special use permit during which time a public hearing will be scheduled commensurate with the criteria set forth in 10.05.170. Following the public hearing the Planning/Zoning Commission will submit its recommendations to the Town Council, which will approve, disapprove or approve with modifications these recommendations during its next public meeting. (Ord. 1990-6, S19.4, June 4, 1990)

10.05.190.005 General requirements for planned unit developments. Any application for a special use permit must meet the following conditions to qualify for consideration as PUD.

- (1) Minimum area: The minimum area required to qualify for a PUD special use permit shall not be less than five (5) contiguous acres of land. (Ord. 1990-6, S19.5:1, June 4, 1990)
- (2) Location: PUDs shall be allowed only within the R and B-2 zones and providing the applicant can demonstrate that the proposed character of development will meet the objectives of the concept of Planned Unit Development. (Ord. 1990-6, S19.5:2, June 4, 1990)
- (3) Utilities: Water, sanitary sewage and storm drainage facilities shall be provided as part of the site development. If possible, all electric and phone transmission wires shall be placed underground. (Ord. 1990-6, S19.5:3, June 4, 1990)
- (4) Approval: Approval by the Planning/Zoning Commission of a preliminary plan, detailed site plan and final plan must be obtained. The Town Council will grant final approval. (Ord. 1990-6, S19.5:4, June 4, 1990)

10.05.190.006 Permitted uses. No structure or part thereof shall be erected, altered, or used and no land shall be used except for the following regardless of the zoning district in which the same is located.

- (1) Residential Use
 - A. Single-family detached dwelling, excluding mobile homes
 - B. Two-family dwellings
 - C. Apartments
 - D. Townhouses

- E. Other multi-family dwellings (Ord. 1990-6, S19.6:1, June 4, 1990)
- (2) Commercial uses designed and intended to serve the convenience needs of the people residing in the PUD.
- A. In residential zoning districts, nonresidential uses may be permitted to the extent the applicant demonstrates by expert analysis and the Planning/Zoning Commission finds at its discretion that the nonresidential uses shall principally serve the persons residing in the residential units in the project.
 - B. Nonresidential uses including parking and vehicle traffic ways shall be separated and buffered from residential units in a manner consistent with good land and community planning principles. (Ord. 1990-6, S19.6:2, June 4, 1990)
- (3) Accessory and associated uses designed and intended to serve the convenience needs of the people residing in the PUD.
- A. Private garages
 - B. Storage sheds
 - C. Recreational play areas
 - D. Churches (Ord. 1990-6, S19.6:3, June 4, 1990)
- (4) Planned Commercial Development to serve the general public. (Ord. 1990-6, S19.6:4, June 4, 1990)
- (5) Planned Industrial Development. (Ord. 1990-6, S19.6:5, June 4, 1990)

10.05.190.007 Concept plan requirements. The applicant shall submit, during the pre-application conference, a concept plan including types and placement of residential, commercial or industrial structures; utilities and public facilities, such as schools, fire departments, recreational facilities; minimum lot sizes; densities; environmental treatment; pedestrian and auto circulation, if applicable; the conformity of the proposed development with surrounding uses; financing of the project; and all other information the Planning/Zoning Commission and Zoning Administrator may require to gain a satisfactory understanding of the proposed development. Approval of Concept Plan shall not constitute approval of the preliminary plan but shall be deemed an expression of approval of the layout as a guide to the preparation of the preliminary plan. (Ord. 1990-6, S19.7, June 4, 1990)

10.05.190.008 Preliminary plan requirements. Following the presentation of, and any deliberation pertinent to, the concept plan, the applicant shall submit a preliminary plan. The procedures for submission and approval of the preliminary plan shall follow those outlined in 10.05.170 of this Chapter. The preliminary plan is specifically intended to include enough detail for administrative and legislative analysis for approval or denial of a

special use permit. The preliminary plan must be more detailed than the concept plan and contain the information required of a site plan in 10.05.110. It should also include:

- (1) A written document giving the legal description of the property as indicated in the deed of ownership; a statement of the objectives of the planned development, including physical, social and economic concepts; a schedule of development, including phasing of residential, public and commercial areas; and future selling and/or leasing intentions and accompanying management techniques. (Ord. 1990-6, S19.8:1, June 4, 1990)
- (2) Graphic presentation including a base map with topographic identification (using 5 feet contour intervals) and important environmental features, including water bodies, vegetation (type and size) and soils. Additional maps shall contain proposed lot lines, location and floor area, dimensions of buildings, areas to be dedicated for public use, existing and proposed pedestrian and vehicular circulation, off-street parking, layout of proposed and existing utility systems, general landscape plans, information pertinent to the identification of areas adjacent to the proposed development, and general description of the architectural and landscape elements within 300 feet of the planned development. (Ord. 1990-6, S19.8:2, June 4, 1990)
- (3) Additional written information shall be contained in the preliminary plan, including tabulation of land area ratios, a comprehensive market analysis, environmental impact statements, and any contract and deeds of indenture between the developer and home buyer. (Ord. 1990-6, S19.8:3, June 4, 1990)

10.05.190.009 Procedures for final plan. Once the preliminary plan has been submitted to the Town Planning/Zoning Commission and the special use permit approved, with or without recommended modifications and stipulations, the applicant must, within a period of six (6) months to one year, present a final development plan to the Town Planning/Zoning Commission, which shall review it within 30 days of receipt. The final plan shall not contain any modification which would substantially alter the character of the development from that approved in the preliminary plan.

- (1) The final plan shall not deviate substantially from the approved preliminary plan if the following conditions have been met:
 - A. The final plan does not violate the content of the Ordinance;
 - B. Land reserved for open space (common and usable) has not been reduced by more than 10 percent;
 - C. The total building coverage has not increased by more than 10 percent. (Ord. 1990-6, S19.9:1, June 4, 1990)
- (2) The final plan shall include site plans applicable to legal recording criteria and engineering drawings. Drawings and plans presented in general fashion in

the preliminary stage shall be presented in detailed character in the final plan. (Ord. 1990-6, S19.9:2, June 4, 1990)

- (3) Any modifications not included in the preliminary plan must be reviewed by the Planning Commission and legal documents, such as easement agreements, the final draft of articles of incorporation, and any indentures, as well as dedications, shall be submitted by the applicant. (Ord. 1990-6, S19.9:3, June 4, 1990)
- (4) The final development plan shall be reviewed by the Planning/Zoning Commission which shall then approve the final plan, disapprove it, or approve it with modifications. No public hearing is necessary, and if approval is given by the Planning/Zoning Commission, the Town Council shall accept and record site maps and plans, dedicated streets, properties, and open spaces, rights-of-way, and any additional dedications within the development. (Ord. 1990-6, S19.9:4, June 4, 1990)
- (5) If the plan is disapproved by the Planning and Zoning Commission, reasons for the denial shall become part of the public record as well as presented to the developer in written form. (Ord. 1990-6, S19.9:5, June 4, 1990)

10.05.190.010 Bond requirement. A performance bond or bank letter of credit conditioned upon construction and development in accordance with the approved plans shall be required by the Town Planning/Zoning Commission to be filed with the Town Building Department at the time of application for a building permit where the development is to be completed in phases over a period of years in such amounts and for such periods as in the discretion of said Planning/Zoning Commission appears adequate to ensure compliance with the approved plans. Such a bond or letter of credit may also be required as security for the completion of any particular improvements upon which Planning/Zoning Commission approval is conditioned for the protection of natural resources or the health, safety and welfare of the residents of the Town and future users or inhabitants of the proposed project area, including roadways, lighting, utilities, sidewalks, screening and drainage. Where a cash deposit is made in lieu of a bond or letter of credit, the Planning/Zoning Commission shall provide for a rebate of the same in reasonable proportion to the ratio of the work completed and for which the deposit has been required, provided that the amount remaining on deposit still provides reasonable security for the completion of the unfinished improvements germane to the deposit. (Ord. 1990-6, S19.10, June 4, 1990)

10.05.190.011 Design requirements. Within the Planned Unit Development approved under this section, the requirements hereinafter set forth shall apply in lieu of any conflicting regulations set forth in the district in which the development is located:

- (1) Number of Dwelling Units Permitted with Residential P.U.D: The maximum number of dwelling units permitted within the project shall be determined by dividing the net PUD area by the minimum residential lot area per dwelling unit required by the district in which the project is located. In

the event the project lies in more than one zoning district, the number of dwelling units shall be computed for each district separately. (Ord. 1990-6, S19.11:1, June 4, 1990)

- (2) Lot Area Requirements: The minimum lot area shall not be reduced by any permitted use more than 10 percent below that required in the district in which the project is located. (Ord. 1990-6, S19.11:2, June 4, 1990)
- (3) Setback and Yards: The minimum setback and yard or open space requirements for buildings and structures may be reduced or increased at the discretion of the Planning/Zoning Commission to avoid unnecessary disruption of the environment where reasonably equivalent open space is provided elsewhere upon the site. (Ord. 1990-6, S19.11:3, June 4, 1990)
- (4) Minimum Lot Frontage and Width: The minimum lot frontage and width for any lot designated for a single-family dwelling, commercial, or industrial building may be reduced 10 percent below the requirements of the district in which the PUD is located. (Ord. 1990-6, S19.11:4, June 4, 1990)
- (5) Open Space: The PUD approach is an efficient "tool" in preserving and enhancing open spaces, particularly recreational areas, within residential developments. Open space shall be distinguished as private (for personal or family or business use) common (for use by all homeowners or businesses in the PUD) and public (open to all members of the general public). (Ord. 1990-6, S19.11:5, June 4, 1990)
- (6) Amount of Open Space Required: Within every PUD there shall be planned and set aside permanently as part of the total development an amount of open space equal to not less than the aggregate accumulation of lot size reduction below the minimum lot area for the development as a whole. Before accepting the open space as meeting the requirements of this provision, the Planning/Zoning Commission must find the land thus designated to be:
 - A. Sufficient in size, suitably located, with adequate access, and
 - B. That evidence is given that satisfactory arrangements will be made for the maintenance of such designated land to relieve the Town of future maintenance thereof. (Ord. 1990-6, S19.11:6, June 4, 1990)
- (7) Arrangement of Open Space: All required open space within a PUD shall be arranged so as to provide access and benefit to the maximum number of lots and/or dwelling units, or businesses. Separate tracts of open space shall have adequate access from at least one point along a public or private street. (Ord. 1990-6, S19.11:7, June 4, 1990)
- (8) Natural Resources and Features: The development shall be designed to incorporate and promote the preservation of natural resources and natural

features. Natural resources and natural features may not be impaired or destroyed unless it is in the public interest to do so. The removal or extraction of sand, gravel, soil, rock, minerals and similar natural resources or the reshaping, enlarging, straightening, damming or diminution of lakes, waterways, ponds or other bodies of water may only be permitted when such action will prepare or render the premises suitable for an ultimate use permitted under the terms of 10.05.190. In determining whether such action is in the public interest, the benefit which would reasonably be expected shall be balanced against the reasonably foreseeable detriments of the activity. The extent to which the proposal is able to replace or ameliorate impaired or lost resources and features shall be considered in making this determination. (Ord. 1990-6, S19.11:8, June 4, 1990)

- (9) Traffic circulation. Internal circulation systems and points of ingress and egress with external traffic flow must be coordinated within the PUD and in relation to the community as a whole. These systems should promote safety, convenience, easy access, separation of vehicles from pedestrians, and enhance the overall physical design of the PUD. Vehicular circulation systems in PUD's shall not be connected with external streets to encourage through traffic. Emergency access and safety standards shall be adhered to. (Ord. 1990-6, S19.11:9, June 4, 1990)
- (10) Private streets. If the PUD is proposed to have private streets the Planning/Zoning Commission may require that the private streets be developed to the minimum design, construction, inspection, approval and maintenance requirements of the Spencer County Road Commission. All private streets can deviate from existing public street standards if, upon recommendation by the Fire Chief and Town Engineer, the Planning/Zoning Commission authorizes such modifications within the PUD and health, safety and welfare requirements are met. (Ord. 1990-6, S19.11:10, June 4, 1990)
- (11) Parking standards. The following minimum parking requirements shall be adhered to:
 - A. for each dwelling unit, there shall be off-street parking spaces consisting of not less than 300 square feet each;
 - B. parking areas shall be arranged so as to prevent through traffic to other parking areas;
 - C. parking areas shall be screened from adjacent roads, structures, and traffic arteries with hedges, dense planting, earth berms, changes in grade or walls;
 - D. no more than 12 parking spaces shall be permitted in a continuous row without being interrupted by landscaping;

- E. no more than 120 parking spaces shall be accommodated in any single parking area;
 - F. all streets and any off-street loading area shall be paved, and the design thereof approved by the Planning/Zoning Commission; all areas shall be marked so as to provide for orderly and safe loading, parking and storage;
 - G. all parking shall adequately be graded and drained to dispose of all surface water without erosion, flooding, or other inconveniences.
 - H. All off-street parking requirements for the Table of Parking Requirements in 10.05.150 shall be adhered to. (Ord. 1990-6, S19.11:11, June 4, 1990)
- (12) Perimeter treatment. To provide adequate separation between the PUD and the surrounding community, a minimum 15 feet buffer zone shall be established on the perimeter of the development, in which no structures are to be located and adequate screening and landscaping or protection by natural features will be established. In those cases where, because of natural topography, this screening and landscaping requirements cannot be met, and adequate privacy and separation is not possible, the Planning and Zoning Commission may require structures on the perimeter to be set back in accordance with the requirements established for the zoning district in which the PUD is located. Those structures within this category shall be adequately screened or landscaped. (Ord. 1990-6, S19.11:12, June 4, 1990)

10.05.190.012 General standards. The following general building and site standards shall be used in the determination of structural siting on lots to allow flexibility in design. Reduction of space requirements is based upon standards set forth in the existing R, B-2 and I zones.

- (1) Building spacing: When the building is designed including adequate window space, there may be a reduction in the spacing of buildings. Those residences which have no windows or windows at higher levels and have adequate light and ventilation from other areas of the room, may decrease building spacing. Residences incorporating effective utility space in side yards shall be eligible for reduced separation between houses. Where building configurations incorporate the above criteria, and have unusual shapes, the spacing of structures may be reduced. Zero lot line configurations may be allowed if these requirements are met and may be allowed for commercial and industrial businesses. (Ord. 1990-6, S19.12:1, June 4, 1990)
- (2) Front yard requirements: In those areas where street design reduces traffic flow, adequate screening or landscaping is provided, the residence is facing onto a common open space, or interior room design minimizes use of the

front yard, front yard requirements may be reduced. (Ord. 1990-6, S19.12:2, June 4, 1990)

- (3) Lot width requirements: Those lots which have an awkward configuration, yet allow adequate light and ventilation between structures, may reduce their lot width requirements while maintaining adequate light, ventilation, and access. (Ord. 1990-6, S19.12:3, June 4, 1990)
- (4) Building heights: The maximum building height of a structure in the PUD shall conform to the requirements of the zone in which the PUD is located. (Ord. 1990-6, S19.12:4, June 4, 1990)

10.05.190.013 Revocation. In any case where the construction on the PUD has not commenced within one year from the date of approval, the special exception use permit shall be null and void. (Ord. 1990-6, S19.13, June 4, 1990)

10.05.190.014 Effect of approval. After a detailed site plan has been approved and construction of any part thereof commenced, no other type of development will be permitted on the site without further approval thereof by the Planning/Zoning Commission after proceedings conducted as in the original application. This limitation shall apply to successive owners. (Ord. 1990-6, S19.14, June 4, 1990)

10.05.200 NONCONFORMITIES

10.05.200.001 Purpose. It is the purpose of 10.05.200 to provide regulations governing buildings, structures and uses of parcels, lots, buildings and structures which were legal before this Ordinance was adopted or amended, including legal nonconforming uses, buildings and structures that would be prohibited, regulated or restricted. It is the intent of 10.05.200 to permit these buildings and structures and uses of parcels, lots, buildings and structures, herein referred to as nonconformities, to remain until they are discontinued or removed. These nonconformities are declared by this Ordinance to be incompatible with the buildings and structures, and uses of parcel, lots, buildings and structures permitted by this Ordinance in certain districts. The regulations continued in 10.05.200 are designed to ensure that such uses will be properly regulated so as to result in a minimum of disharmony between themselves and the districts in which they are located. (Ord. 1990-6, S20.1, June 4, 1990)

10.05.200.002 All nonconforming use of parcels and lots. Where, on the date of adoption or amendment of this Ordinance, a lawful use of a parcel or lot exists, but is no longer permissible under the provisions of this Ordinance, such principal use may be continued so long as it remains otherwise lawful subject to the following provisions:

- (1) All nonconforming uses shall be maintained in good condition. (Ord. 1990-6, S20.2:1, June 4, 1990)
- (2) Nonconforming uses shall not be expanded or increased in intensity of use. For the purposes of this Section increases in the intensity of use shall include, but shall not be limited to, such activities as the addition of one or more

dwelling units, the provision of additional manufacturing or selling area, or the addition of facilities which would allow the establishment of another use or other uses. (Ord. 1990-6, S20.2:2, June 4, 1990)

- (3) Nonconforming uses shall not be reestablished after discontinued use and for abatement of use for a period of 180 consecutive days. (Ord. 1990-6, S20.2:3, June 4, 1990)

10.05.200.003 Nonconforming structures and buildings. Nonconforming structures shall not be altered or expanded without the prior approval of the Planning and Zoning Commission, except that structural alterations or extensions which do not add to the bulk of structure or increase the intensity of use of the structure shall not require prior approval of the Planning/Zoning Commission. (Ord. 1990-6, S20.3, June 4, 1990)

10.05.200.004 Reestablishment. Nonconforming structures shall not be reestablished in their nonconforming condition in any zoning district after damage or destruction of the nonconforming structure if the estimated expense of reconstruction exceeds 80 percent of the appraised replacement cost of the entire building or structure exclusive of foundations. In cases where such cost does exceed 80 percent, the nonconforming structure shall not be replaced unless it shall comply with the provisions of this Ordinance, except that if such building or structure is nonconforming due only to its having an insufficient setback or due to its being located on a site having a size, width or both, less than prescribed in the applicable sections of this Ordinance, it may be replaced if it complies with other regulations of this Ordinance. The estimated expense of reconstruction shall be determined by the Town Zoning Administrator. Persons aggrieved by the determination of estimated replacement cost by the Zoning Administrator may appeal such determination to the Board of Appeals. (Ord. 1990-6, S20.4, June 4, 1990)

10.05.200.005 Nonconforming lots of record. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings or structures may be permitted on any single lot of record at the effective date of adoption or amendment of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership as of the date of adoption of this Ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements, not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. (Ord. 1990-6, S20.5, June 4, 1990)

10.05.210 DANGEROUS OR ABANDONED BUILDINGS

10.05.210.001 Unlawful conduct. It is unlawful for any owner or agent thereof to keep or maintain any dwelling or part thereof which is a dangerous building as defined in Section 10.05.210.002. (Ord. 1990-6, S21.1, June 4, 1990)

10.05.210.002 Definition. As used herein, "dangerous building" means any building or structure which has any of the following defects or is in any of the following conditions:

- (1) Whenever any portion has been damaged by fire, wind, flood, or by any other cause in such a manner that the structural strength or stability is appreciably less than it was before such catastrophe and is less than the minimum requirements of the Town Building Code for a new building or similar structure, purpose or location.
- (2) Whenever any portion has settled to such an extent that walls or other structural portions have materially less resistance to winds than is required in the case of new construction by the Town Building Code.
- (3) Whenever the building or structure or any part, because of dilapidation, deterioration, decay, faulty construction, or because of the removal or movement of some portion of the ground necessary for the purpose of supporting such building or portion thereof.
- (4) Whenever for any reason whatsoever the building or structure or any portion is manifestly unsafe for the purpose for which it is used.
- (5) Whenever any dwelling becomes vacant, dilapidated and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers. (Ord. 1990-6, S21.2, June 4, 1990)

10.05.210.003 Notice: contents; hearing officer; filing of notice with officer; service.

- (1) Whenever the Town Zoning Administrator determines that the whole or any part of any building or structure is a dangerous building as defined herein, the Town Zoning Administrator shall issue a notice of the dangerous and unsafe condition. (Ord. 1990-6, S21.3:1, June 4, 1990)
- (2) Such notice shall be directed to each owner of or party in interest in the building in whose name the property appears on the last local tax assessment records. (Ord. 1990-6, S21.3:2, June 4, 1990)
- (3) All notices shall be in writing and shall be served upon the person to whom are directly personally, or in lieu of personal service may be mailed by certified mail - return receipt requested addressed to such owner or party in interest at the address shown on the tax records, at least 10 days before the date of the hearing described in the notice. A copy thereof shall be posted upon a conspicuous part of the building or structure. (Ord. 1990-6, S21.3:3, June 4, 1990)
- (4) The Town Zoning Administrator shall file a copy of the notice of the dangerous and unsafe condition with the Planning/Zoning Commission. (Ord. 1990-6, S21.3:4, June 4, 1990)
- (5) The notice shall specify the time and place of a hearing to be held before the Planning/Zoning Commission on the condition of the building or structure, at which time and place the person to whom the notice is directed shall have

the opportunity to show cause why the building or structure should not be ordered to be demolished or otherwise made safe. (Ord. 1990-6, S21.3:5, June 4, 1990)

10.05.210.004 Hearing; testimony; decision; order; nonappearance or noncompliance; review; order to show cause; costs.

- (1) The Planning/Zoning Commission shall take testimony of, the Town Zoning Administrator, the owner of the property, and any interested party or other witness. The Planning/Zoning Commission shall render its decision either closing the proceedings or ordering the building to be demolished or otherwise made safe. (Ord. 1990-6, S21.4:1, June 4, 1990)
- (2) If it is determined by the Planning/Zoning Commission that the building or structure should be demolished or otherwise made safe, it shall so order, fixing a time in the order for the owner or party in interest to comply therewith. (Ord. 1990-6, S21.4:2, June 4, 1990)
- (3) If the owner or party in interest fails to appear or neglects or refuses to comply with the order, the Planning/Zoning Commission shall file a report of its findings and a copy of its order with the Town Council and request that the necessary action be taken to demolish or otherwise make safe the building or structure. A copy of the findings and order of the Planning/Zoning Commission shall be served on the owner or party in interest in the manner prescribed in Section 10.05.210.003. (Ord. 1990-6, S21.4:3, June 4, 1990)
- (4) The Town Council shall fix a date for hearing, reviewing the findings and order of the Planning/Zoning Commission, and shall give notice to the owner or party in interest in the manner prescribed in Section 10.05.220.003 at the time and place of the hearing. At the hearing the owner or party in interest shall be given the opportunity to show cause why the building should not be demolished or otherwise made safe and the Town Council shall either approve, disapprove or modify the order for the demolition or making safe of the building or structure. (Ord. 1990-6, S21.4:4, June 4, 1990)
- (5) The cost of the demolition or making the building safe shall be a lien against the real property and shall be reported to the assessing officer of the Town who shall assess the cost against the property on which the building or structure is located. (Ord. 1990-6, S21.4:5, June 4, 1990)
- (6) The owner or party in interest in whose name the property appears upon the last local tax assessment records shall be notified of the amount of such cost by first class mail at the address shown on the records. If he fails to pay the same within 30 days after mailing by the assessor of the notice of the amount thereof, the assessor shall add the same to the next tax roll of the Town and the same shall be collected in the same manner in all respects as provided by

law for the collection of taxes by the Town. (Ord. 1990-6, S21.4:6, June 4, 1990)

10.05.210.005 Judicial review. An owner or party in interest aggrieved by any final decision or order of the Town Council may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within 20 days from the date of the decision. (Ord. 1990-6, S21.5, June 4, 1990)

10.05.210.006 Statutory authority. This Chapter is promulgated pursuant to Title 36, Article 7 of the Planning and Zoning Statutes of Indiana, as amended. (Ord. 1990-6, S21.6, June 4, 1990)

10.05.220 BOARD OF ZONING APPEALS

10.05.220.001 Authority. There is hereby established a Board of Zoning Appeals, the membership, powers and duties of which are described in Title 36, Article 7-4-900 of the Indiana Code. The Board of Appeals shall perform its duties and exercise its powers as provided in the above Act in such a way that the objectives of this Ordinance shall be observed, the public health, safety and welfare assured and justice served. (Ord. 1990-6, S22.1, June 4, 1990)

10.05.220.002 Board membership. The Town of Dale Board of Zoning Appeals shall consist of the following five members:

- (1) Three citizen members (one being a member of the Dale Planning/Zoning Commission) appointed by the President of the Town Council.
- (2) One citizen member (who is not a member of the Dale Planning/Zoning Commission) appointed by the Town Council.
- (3) One citizen member (who is a member of the Planning/ Zoning Commission other than the member appointed under 1.) appointed by the Planning/Zoning Commission. (Ord. 1990-6, S22:2, June 4, 1990)

10.05.220.003 Expenses. The total amount allowed the Board of Appeals in one (1) year as per them or as expenses actually incurred in the discharge of its duties shall not exceed a reasonable sum, which sum shall be appropriated annually in advance by the Town Council.

- (1) Effective January 1, 1999, the Town of Dale shall pay each member of the Planing and Zoning Commission and each member of the Board of Zoning Appeals, the sum of Twenty-five dollars (\$25.00) per meeting attended, provided there is a quorum to conduct business at said meeting. (Ord. 1990-15, 1990) (Ord. 1990-6, S22.3, June 4, 1990)

10.05.220.004 Terms of office. Upon establishment of the Board of Zoning Appeals, the members shall initially be supported as follows:

- (1) One (1) member for a term of one (1) year.

- (2) One (1) member for a term of two (2) years.
- (3) One (1) member for a term of three (3) years.
- (4) Two (2) members for a term of four (4) years.

When an initial term of office expires, each new appointment will be for a term of four (4) years.

A successor shall be appointed not more than one (1) month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term. Members of the Board of Zoning Appeals may be removed by the Town Council for nonperformance of duty or misconduct in office, upon written charges and after a public hearing. A member shall disqualify himself from any vote in which he has a conflict of interest. Failure to do so shall constitute misconduct in office. In addition, the Town Council may appoint an alternate citizen member to participate with the Board of Zoning Appeals in any hearing or decision in which a regular member has disqualified himself or has been disqualified. (Ord. 1990-6, S22:4, June 4, 1990)

10.05.220.005 Required hearing. The Board of Zoning Appeals shall hear and decide all matters properly referred to the Board, or upon which the Board is required to act, under any Ordinance adopted pursuant to Title 36, Article 7 of the Planning and Zoning Statutes of Indiana, as amended. The Board of Appeals shall not conduct business unless a majority of the members of the Board are present. (Ord. 1990-6, S22.5, June 4, 1990)

10.05.220.006 Majority vote. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the appellant on any matter upon which they are required to pass under any such ordinance, or to effect any variation in such Ordinance. If a member of the Board is absent, the appellant shall be given the option of postponing the hearing until a full Board is present. (Ord. 1990-6, S22:6, June 4, 1990)

10.05.220.007 Board meeting. The Board of Zoning Appeals shall not conduct business unless a majority of members are present. Meeting of the Board of Appeals shall be held at the call of the chairman, and at other such times and places as the Board of Appeals may determine. All meetings shall be open to the public. The Board of Zoning Appeals shall keep minutes of all its proceedings and shall keep records of its findings, proceedings at hearings and other official actions, all of which shall be immediately filed in the office of the Town clerk, and shall be a public record. The Board of Zoning Appeals shall adopt its own rules of procedure for meetings. (Ord. 1990-6, S22:7, June 4, 1990)

10.05.220.008 Appeal. The Board of Zoning Appeals shall, when called upon, act upon all questions as they arise in the administration of this Zoning Ordinance including interpretation of the Town zoning map. Such an appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the county or state. It shall hear and decide appeals from and review any order, requirements, decisions or determination

made by the administrative official and/or Planning and Zoning Commission charged with enforcement of any ordinance adopted pursuant to the provisions of Title 36, Article 7 of the Planning and Zoning Laws of Indiana, as amended. (Ord. 1990-6, S22.8, June 4, 1990)

- (1) Ground for Appeal: The grounds for any such determination shall be stated in the records of the Board's proceedings. (Ord. 1990-6, S22.8:1, June 4, 1990)
- (2) Time of Appeals: An appeal shall be taken within such time as shall be prescribed by the Board of Appeals by general rule, by filing with the Zoning Administrator and with the Board of Zoning Appeals a notice of appeals specifying the grounds thereof. The Zoning Administrator from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. (Ord. 1990-6, S22.8:2, June 4, 1990)
- (3) Stays: An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Zoning Appeals after the notice of appeal shall have been filed with the Zoning Administrator, that by reason of facts stated in the certificate, a stay would cause imminent peril of life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by the Circuit Court on application, on notice to the Zoning Administrator and on due cause shown. (Ord. 1990-6, S22.8:3, June 4, 1990)
- (4) Time, Notices, Appearance: Upon the filing of any appeal or other matter of which the Board has jurisdiction, the Board shall hold a public hearing on such matters not earlier than 15 days after the date of such filing. Any party may appear at the hearing in person or may be represented by an agent or attorney.
 - A. Public notice in accordance with IC 5-3-1-2 and IC 5-3-1-4 and due notice to interested parties shall be given at least ten (10) days before the date set for the hearing.
 - B. The party taking the appeal, or applying for the exception, use or variance, may be required to assume the cost of public notice and due notice to interested parties. At the hearing, each party may appear in person, by agent, or by attorney.
 - C. The Board shall, by rule, determine who are interested parties, how notice is to be given to them, and who is required to give the notice.
 - D. The staff (as defined in the Zoning Ordinance), if any, may appear before the Board at the hearing and present evidence in support of or in opposition to the granting of a variance or the determination of any other matter.

- E. Other persons may appear and present relevant evidence.
- F. A person may not communicate with any member of the Board before the hearing with intent to influence the member's action on a matter pending before the Board. Not less than five (5) days before the hearing, however, the staff (as defined in the Zoning Ordinance), if any, may file with the Board a written statement setting forth any facts for opinions relating to the matter.
- G. The Board may require any party adverse to any pending petition to enter a written appearance specifying the party's name and address. If the written appearance is entered more than four (4) days before the hearing, the Board may also require the petitioner to furnish each adverse party with a copy of the petition and a plot plan of the property involved. [IC 36-7-4-920, as added by Acts 1981, P.L. 309, and 23; 1981, P.L. 310 and 50; 1982, P.L. 212 and 6; P.L. 357-1983 and 17]
- H. The Board shall render a decision within 60 days after the hearing thereon and notify the applicant of its decision. (Ord. 1990-6, S22.8:4, June 4, 1990)

10.05.220.009 Powers of the board. In deciding upon matters referred to, or upon which it is required to act under this Ordinance, the Board of Appeals shall, after public notice (which shall be posted at the Town Hall) and hearing, take into consideration the public health, safety and general welfare, and apply appropriate conditions and safeguards in conformity with the general purpose and intent of this Ordinance. The Board of Appeals may revise or affirm, wholly or in part, or may modify the order, requirement, decision or determination as in its opinion ought to be made in a particular case, and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken and may issue, or direct the issuance of, a permit. (Ord. 1990-6, S22.9, June 4, 1990)

10.05.220.010 Granting of variances. Where there are practical difficulties or unnecessary hardships deterring the carrying out of strict interpretation of this Ordinance, the Board of Appeals shall have the powers, in passing of appeals, to vary or modify any of the rules, regulations or provisions of this Ordinance, by granting variances, provided that any variation granted from this Ordinance:

- Will not be contrary to public interest.
- Will not permit the establishment within a district of any use which is not permitted by right within that district.
- Will not cause a substantially adverse effect upon property values.
- Will relate only to the property under the control of the appellant.

- Will not jeopardize the preservation of a substantial right, so that the spirit of this Ordinance shall be observed, public safety secured and substantial justice done.
 - Will not adversely affect the intent of this Ordinance.
 - Will not impair the adequate supply of air and light to any adjacent property.
 - Will not increase the hazards from fire, flood or other natural or man-made dangers.
 - Will not increase traffic congestion.
 - Will not produce nuisance conditions to occupants of nearby premises, whether by reason of dust, noise, fumes, odors, vibration, smoke or excessive light.
 - Will not otherwise impair the public health, safety and general welfare of the residents of the Town of Dale.
 - Will not set a precedent that would be contrary to this Ordinance. (Ord. 1990-6, S22.10, June 4, 1990)
- (1) The Board of Appeals, in hearing and deciding appeals, shall have the authority to:
- A. Permit the erection and use of a building or an addition to an existing building, or a public service corporation or for public utility purposes, in any zoning district to a greater height or of a larger area than the district requirements herein established.
 - B. Permit the modification of the off-street motor vehicle parking space as loading space requirements where, in the particular instance, such modification will not be inconsistent with the purpose and intent of such requirements, after recommendation from the Planning and Zoning Commission.
 - C. Permit such modification of the height, lot area, yard setback, floor area and lot width regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape and size, or so located with relation to surrounding development or physical characteristics, that it cannot other-wise be appropriately improved without such modification, provided that modification of lot area regulations shall be permitted only in instances where the nature of the soils and drainage is such that there is sufficient area for safe water supply and sanitary disposal of waste.

- D. Permit the modification of site plan review standards, as may be established in this ordinance, where physical hardship and unusual circumstances peculiar to the property in question exist. (Ord. 1990-6, S22.10:1, June 4, 1990)

10.05.220.011 Approval periods. No order of the Board of Zoning Appeals permitting the erection of a building shall be valid for a period longer than one year, unless a building permit for such erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit. No order of the Board of Zoning Appeals permitting a use of a building or premises shall be valid for a period longer than one year unless such use is established within the said period; provided, however, that such order shall continue in force and effect, if a permit for said erection or alteration has been obtained, and said work is started and proceeds to completion in accordance with said permit. (Ord. 1990-6, S22.11, June 4, 1990)

10.05.220.012 Final action on appeals. The decision of the Board of Zoning Appeals shall not be final, and any person aggrieved by any such decision shall have the right to petition to the Circuit or Superior Court in questions of law and fact. (Ord. 1990-6, S22.12, June 4, 1990)

10.05.220.013 Fees. The Town Council may from time to time prescribe and amend by resolution a reasonable schedule of fees to be charge to applicants for appeals to the Board of Zoning Appeals. At the time the notice for appeal is filed, said fee shall be paid to the Town Clerk to be credited to the General Revenue Fund. (Ord. 1990-6, S22.13, June 4, 1990)

10.05.230 PROCEDURE FOR APPLICATION AND APPROVAL OF ZONING PERMIT

10.05.230.001 Procedure of application. Before excavation or construction, or expansion of any structure or initiation of any use regulated by this Ordinance can occur, the owner or designated agent shall submit an application for a zoning permit to the Town Zoning Administrator. A fee set at the discretion of the Town Council to defray the costs of administration and inspections shall accompany any plans or applications, as indicated in 10.05.230.002.

- (1) The applicant shall obtain and complete appropriate application form(s) and submit the completed form(s) in triplicate to the Zoning Administrator along with a legible site map of the subject property (not necessarily drawn to scale). One copy of the application shall be returned to the applicant by the Zoning Administrator, after such copy shall have been marked either as approved or disapproved and attested to same by the Zoning Administrator's signature on such copy. The original shall be retained by the Zoning Administrator, maintained on file and available to the public for inspection upon request during normal business hours, and one copy of the application, similarly marked, shall be given to the Building Inspector and maintained in the Building Inspector's file. (Ord. 1990-6, S23.1:1, June 4, 1990)

- (2) The site map shall include the following:
- A. A drawing of the lot lines of the property and an outline of the proposed structure and its approximate location on the property.
 - B. The location and names of abutting road rights-of-way.
 - C. The location of existing structures on the property, including detached garages and accessory buildings.
 - D. The location and identification of existing structures within a 100 foot radius of the proposed structure.
 - E. The location of unique or unusual natural resources, such as lakes or streams within a 100 foot radius of the proposed structure.
 - F. The dimensions of the property boundaries.
 - G. The dimensions of the setback of the proposed structure from the front, side and rear lot lines.
 - H. The approximate size of the proposed structure or the total size of the structure if the proposed improvement is an attached addition to the existing structure (in sq. ft).
 - I. The signature of the applicant or agent and date of the application submittal. (Ord. 1990-6, S23.1:2, June 4, 1990)

10.05.230.002 Fees for improvement permits, use variances and zoning variances.

- (1) That the fees charged for application for an Improvement Permit shall be as follows:

<u>Project Cost</u>	<u>Fee</u>
\$1,000 up to: \$25,000	\$25.00
\$30,000	\$28.00
\$35,000	\$31.00
\$40,000	\$34.00
\$45,000	\$37.00
\$50,000	\$40.00
\$55,000	\$43.00
\$60,000	\$46.00
\$65,000	\$49.00
\$70,000	\$52.00
\$75,000	\$55.00
\$80,000	\$58.00
\$85,000	\$61.00
\$90,000	\$64.00
\$95,000	\$67.00
\$100,000	\$70.00

Add .60 per thousand to a maximum of \$1,000

A penalty of 100% of the fee schedule shall be assessed in any instance when construction has started prior to obtaining a permit.

(Res. 2000-1, S1, May 1, 2000) (Res. 1995-3, S1, Aug. 7, 1995)

- (1) That the fee charged for a Use Variance shall be Fifty Dollars (\$50.00). (Res. 2000-1, S2, May 1, 2000) (Res. 1995-3, S2, Aug. 7, 1995)
- (3) That the fee charged for a Zoning Variance shall be Thirty-five Dollars (\$35.00). (Res. 2000-1, S3, May 1, 2000) (Res. 1995-3, S3, Aug. 7, 1995)

10.05.230.003 Approval of application.

- (1) The Zoning Administrator shall review the entire application and site plan. If the proposed use is a permitted use within the district in which it is to be located, and the use and dimensional requirements of this Ordinance have been met, the Zoning Administrator shall issue a permit within three days of receipt of the application. In all cases in which the Zoning Administrator shall refuse to issue a permit, such refusal shall be stated in writing with the cause and reasons for said refusal. (Ord. 1990-6, S23.2:1, June 4, 1990)
- (2) All zoning permit applications for uses that require a special approval, Planned Unit Developments, Planned Industrial Development, and uses and

structures permitted by right that require a more formal site plan review, shall conform to the procedures and requirements of 10.05.110. Upon approval, or approval subject to conditions of the application by the Planning Commission (for special use permits and Planned Unit Developments) or by the Zoning Administrator (for permitted uses), the applicant may apply for a building permit from the Town Building Inspector. The zoning permit shall be submitted with other information as required by the Town Building Inspector for a building permit. (Ord. 1990-6, S23.2:2, June 4, 1990)

10.05.240 ADMINISTRATION AND ENFORCEMENT

10.05.240.001 Enforcement. The provisions of this Ordinance shall be administered by the Town Zoning Administrator, who shall be appointed by the Town Planning/Zoning Commission, subject to conditions and at such rates of compensation as the Dale Town Council shall determine. The Zoning Administrator may be assisted by any other Town employees and officials as he may delegate, with approval of the Town Planning/Zoning Commission, to enforce the provisions of this Ordinance. The duty of enforcement thereof shall rest with such administrative officials as shall be authorized therein by law, and such administrative officials shall for the purpose of the Ordinance have the power of public officers. (Ord. 2000-2, S24.1, May 1, 2000) (Ord. 1990-6, S24.1, June 4, 1990)

- (1) If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, the Zoning Administrator shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with, or to prevent violation of, its provisions. (Ord. 1990-6, S24.1:1, June 4, 1990)
- (2) The notice sent to the owner and operator of the violation will state he has 14 days to diligently correct said violation. (Ord. 1990-6, S24.1:2, June 4, 1990)
- (3) If the violation continues after 14 days, the Zoning Administrator will send a Notice of Show-Cause Hearing to the violator. The show-cause notice advises the person maintaining the violation that he/she will be given an opportunity at a hearing of the Board of Zoning Appeals to "show-cause" why the zoning ordinance should not be enforced with respect to the alleged violation. The decision of the Board of Zoning Appeals is presumed to be final, except a person having an interest affected by the zoning ordinance may appeal to circuit or superior court. (Ord. 1990-6, S24.1:3, June 4, 1990)

10.05.240.002 Zoning permits. No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefor, issued by the Zoning Administrator. No permit shall be issued except in strict conformity with the provisions of this Ordinance, unless the Zoning Administrator receives a written order from the Board of

Zoning Appeals. No business shall be established without a permit issued by the Zoning Administrator. Furthermore, upon issuance of a notice by the Zoning Administrator to make safe or demolish a building or structure, pursuant to 10.05.210, a permit is required prior to making any improvements to correct the violation. (Ord. 1993-3, S24.2, Feb. 1, 1993) (Ord. 1990-6, S24.2, June 4, 1990)

- (1) The Zoning Administrator shall have the power to issue permits and to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance. It shall be unlawful for the Zoning Administrator to approve any plans or any permits for any excavation or construction until such plans have been inspected in detail and found to be in conformity with this Ordinance. (Ord. 1990-6, S24.2:1, June 4, 1990)
- (2) In all cases when the Zoning Officer shall refuse to issue a permit, he shall state such refusal in writing with the cause and reasons for refusal. (Ord. 1990-6, S24.2:2, June 4, 1990)

10.05.240.003 Expiration of zoning permit.

- (1) If the work described in any permit has not begun within 180 days from the date of issuance thereof, said permit shall expire; it shall be cancelled by the Zoning Administrator and written notice thereof shall be given to the persons affected. (Ord. 1990-6, S24.3:1, June 4, 1990)
- (2) If the work described in any permit has not been substantially completed within one year of the date of issuance thereof, said permit shall expire and be cancelled by the Zoning Administrator, and written notice thereof shall be given to the persons affected, together with notice that future work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained. (Ord. 1990-6, S24.3:2, June 4, 1990)

10.05.240.004 Conformance with approved plans. Permits issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Section 10.05.250, subsection 10.05.250.003. (Ord. 1990-6, S24.4, June 4, 1990)

10.05.240.005 Certificates of occupancy. It shall be unlawful to use or permit the use of any land, building, or structure for which a permit is required, and to use or permit to be used any building or structure hereafter altered, extended, erected, repaired, or moved, until a Certificate of Occupancy signed by the Zoning Administrator and Town Building Inspector shall have been issued to the applicant for the permit in effect stating that the provisions of this Ordinance and of the building requirements of the Town have been complied with.

- (1) Temporary certificates. Certificates of Temporary Occupancy may be issued for a part of a building or structure prior to the occupancy of the entire

building or structure, provided that such Certificate of Temporary Occupancy shall not remain in force more than 180 days, nor more than 90 days after the building or structure is fully completed and ready for occupancy; and provided further, that such portions of the building or structure are in conformity with the provisions of this Ordinance. (Ord. 1990-6, S24.5:1, June 4, 1990)

- (2) Records of certificates. A record of all Certificates of Occupancy shall be kept in the office of the Zoning Administrator (or Building Inspector) and copies of such Certificates of Occupancy shall be furnished upon request to a person or persons having a proprietary or tenancy interest in the property involved. (Ord. 1990-6, S24.5:2, June 4, 1990)
- (3) Certificates for accessory buildings to dwellings. Accessory buildings or structures to dwellings shall not require a separate Certificate of Occupancy, but rather, may be included in the Certificate of Occupancy for the principal dwelling, building or structure on the same lot when such accessory buildings or structures are completed at the same time as the principal use. (Ord. 1990-6, S24.5:3, June 4, 1990)
- (4) Application for certificates. Certificates of Occupancy shall be issued by the Building Inspector and signed by the Zoning Administrator within three days after notification of completion of the building, if it is found that the building or structure, or part thereof, and the use of the land is in accordance with the provisions of this Ordinance. If such Certificate of Occupancy is refused for cause, the applicant shall be notified of such refusal and the cause thereof within the aforesaid three day period. (Ord. 1990-6, S24.5:4, June 4, 1990)

10.05.240.006 Final inspection. The recipient of any permit for the erection, construction, alteration, repair or moving of any building, structure, or part thereof, shall notify the Town Building Inspector immediately upon the completion of the work authorized by such permit, for a final inspection. (Ord. 1990-6, S24.6, June 4, 1990)

10.05.240.007 Notice and appeal. All Building Inspector and Zoning Administrator decisions concerning the issuance, revocation or suspension of Building Permits and Certificates of Occupancy pursuant to this Ordinance shall be stated in a written notice to the permit applicant. Any decision of the Building Inspector or Zoning Administrator with regards to this Ordinance may be appealed to the Board of Zoning Appeals. (Ord. 1990-6, S24.7, June 4, 1990)

10.05.250 INTERPRETATION, SEVERABILITY, PENALTIES, AMENDMENTS, RIGHTS, AND REMEDIES, GENERAL RESPONSIBILITY, AND ENACTMENT AND EFFECTIVE DATE

10.05.250.001 Interpretation. In the interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare. Where this Ordinance imposes a greater restriction than is required by existing ordinances or by rules,

regulations or permits, the provisions of this Ordinance shall control. Nothing in this ordinance shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare. (Ord. 1990-6, S25.1, June 4, 1990)

10.05.250.002 Severability. This Ordinance and the various parts, sections, subsections, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby. (Ord. 1990-6, S25.2, June 4, 1990)

10.05.250.003 Violation – penalty.

- (1) Any person, firm or corporation, including, but not by way of limitation, builders and contractors who shall violate, neglect, or refuse to comply with or who resists the enforcement of any of the provisions of this Ordinance or conditions of the Board of Zoning Appeals or Town Council adopted pursuant thereto, or conviction thereof, shall be punished by a fine not to exceed 500 dollars and costs of prosecution. Each day that a violation is permitted to exist shall constitute a separate offense. (Ord. 1990-6, S25.3:1, June 4, 1990)
- (2) The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Ordinance. Uses of land, and dwellings, buildings, or structures, including tents, trailer coaches and mobile homes, used, erected, altered, razed, or converted in violation of any provision of this Ordinance, are hereby declared to be a nuisance per se. The court may order such nuisance abated and the owner and/or agent in charge of such dwelling, building, structure, tent, trailer coach, mobile home, or land may be adjudged guilty of maintaining a nuisance per se, and same may be abated by order of any court of competent jurisdiction. (Ord. 1990-6, S25.3:2, June 4, 1990)

10.05.250.004 Amendment to this Ordinance. The Town Council is authorized and empowered to cause this Ordinance to be amended, supplemented or changed, pursuant to the authority and according to the procedures set forth in Title 36, Article 7 of the Indiana Code, as amended. Proposals for amendments may be initiated by the Town Council, the Planning and Zoning Commission or by petition of one or more property owners in the Town of Dale affected by such proposed amendment. (Ord. 1990-6, S25.4, June 4, 1990)

10.05.250.005 Rights and remedies. The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law. (Ord. 1990-6, S25.5, June 4, 1990)

10.05.250.006 General responsibility. The Town Council or its duly authorized representative is hereby charged with the duty of enforcing this Ordinance, and said Council

is hereby empowered to begin and pursue any and all necessary and appropriate actions and/or proceedings in the Circuit Court, or any other court having jurisdiction to restrain and/or prevent any noncompliance with, or violation of, any of the provisions of this Ordinance, and to correct, remedy and/or abate such noncompliance or violation. And, it is further provided that any person aggrieved or adversely affected by such a noncompliance or violation, may institute suit and/or join the Town Council in such a suit to abate the same. (Ord. 1990-6, S25.6, June 4, 1990)

10.05.250.007 Enactment and effective date. The foregoing Zoning Ordinance, Zoning Maps were adopted at a meeting of the Dale Town Council, on June 4, 1990, after approval of the same by the Town Planning and Zoning Commission following a public hearing on _____198_, and on _____, 198_. Said Ordinance was ordered published in a newspaper having general circulation in the Town of Dale, Spencer County, Indiana and shall become effective immediately upon the date of such publication. (Ord. 1990-6, S25.7, June 4, 1990)

Chapter 10.30

MOBILE HOME REGULATIONS

Sections:

- 10.30.010 Ownership/Lot size/Placement/Permit**
- 10.30.020 Gas pipes and hook-up**
- 10.30.030 Plumbing**
- 10.30.040 Electric**
- 10.30.050 Sewer**
- 10.30.060 Fee for permit/Inspection**
- 10.30.070 Penalty for violation**

10.30.010 Ownership/Lot size/Placement/Permit. All mobile homes that are located in the Town of Dale, Indiana must apply to this zoning ordinance. When a mobile home is placed on a single lot, the mobile home shall be owned by the lot owner only, except in mobile home parks and only one home to a lot. Said lots shall not be less than the minimum size of 100 feet by 70 feet. All homes must be placed in accordance with the set back lines, which are 30 feet from the street easement and 15 feet from adjoining property lines. All homes shall, be under-pinned at the time said home is placed on the respective lot. If the mobile is removed for a period of Six (6) months, the permit cannot be transferred to another location or party. Any future use of such land, or change in use shall be in conformity with the provisions of the District in which said land is located. This does not apply to mobile home parks. (Ord. 1975-2, S1, March 3, 1975)

10.30.020 Gas pipes and hook-up. Gas pipes and hook-up shall comply to the rules of the National Fire Protection Association No. 54, State and Town codes. (Ord. 1975-2, S2, March 3, 1975)

10.30.030 Plumbing. Plumbing shall comply to the rules of the Uniform Plumbing Code, State and Town codes. (Ord. 1975-2, S3, March 3, 1975)

10.30.040 Electric. Electric shall comply to the rules of the National Electrical Code and Town codes. Also all present mobile homes shall be re-inspected to determine if the mobile home is grounded to main service. (Ord. 1975-2, S4, March 3, 1975)

10.30.050 Sewer. Sewer shall comply to the rules of the State and Town codes. (Ord. 1975-2, S5, March 3, 1975)

10.30.060 Fee for permit/Inspection. All mobile homes that are to be located in the Town of Dale shall acquire a permit to locate such mobile home. The fee shall be \$20.00. Such fee cannot be changed except by majority vote of Town Board. An inspection by the designated official shall be made on all mobile homes that are located in the Town of Dale

for gas, electric, water and sewer before any person shall occupy same. The permit will be issued by the Town Inspector or Town Clerk. (Ord. 1975-2, S6, March 3, 1975)

10.30.070 Penalty for violation. Any person violating any of the provisions of this mobile home code, failing to conform to any of the provisions of this code, or failing to obey or execute any order issued by the Town Board pursuant to the mobile home code, shall be fined not less than \$10.00 or more than \$300.00. Where such violation is of a continuing nature, such person violates any such provisions, fails to conform to any order or fails to comply with any of the provisions of the mobile home shall be deemed a separate offense. (Ord. 1975-2, S7, March 3, 1975)