

TITLE 10

LAND USE PLANNING AND ZONING

TITLE 10

LAND USE PLANNING AND ZONING

Chapters:

- 10.04** **Comprehensive Plan**
- 10.10** **Applying for Flood Insurance**
- 10.12** **Flood Hazard Zoning Ordinance**
- 10.18** **Zoning Jurisdictional Boundary Description**
- 10.20** **Zoning Ordinance**
- 10.22** **Building Fees, Zoning Fees and Certain Real Estate Development Fees**
- 10.24** **Subdivision Control Ordinance**

Chapter 10.04

COMPREHENSIVE PLAN

Sections:

- 10.04.001 Public Meeting**
- 10.04.002 Comments**
- 10.04.003 Indiana Code Compliance**
- 10.04.004 Town's Best Interest**
- 10.04.010 Adoption of Comprehensive Plan**

10.04.001 Public Meeting. The Advisory Plan Commission of Leavenworth, Indiana, did on September 4, 2007 hold a legally advertised public meeting to consider adoption of the attached Comprehensive Plan (Exhibit A) for the town. (Res. 2007-1, Whereas, Sept. 10, 2007)

10.04.002 Comments. The Plan Commission did consider said Comprehensive Plan until all comments and objections were heard. (Res. 2007-1, Whereas, Sept. 10, 2007)

10.04.003 Indiana Code Compliance. The Plan Commission found that the plan meets the requirements of Indiana Code 36-7-4-500, and that the adoption of this plan is found to be in the best interest of Leavenworth, Indiana. (Res. 2007-1, Whereas, Sept. 10, 2007)

10.04.004 Town's Best Interest. The Town Council finds that it is in the best interest of the Town to adopt said plan. (Res. 2007-1, Whereas, Sept. 10, 2007)

10.04.010 Adoption of Comprehensive Plan. The Town Council of Leavenworth, Indiana, hereby adopts Exhibit A, attached and made a part hereof, as the Comprehensive Plan of the Town of Leavenworth, Indiana. (Res. 2007-1, Sept. 10, 2007)

Chapter 10.10

APPLYING FOR FLOOD INSURANCE

Sections:

- 10.10.010 Assurance to enforce the National Flood Insurance Program Regulations**
- 10.10.020 Enforcing the National Flood Insurance Program Regulations**
- 10.10.030 Clerk-Treasurer to assist public with flood hazard information**
- 10.10.040 Town agrees to take official action as necessary to carry out the National Flood Insurance Program objectives**

10.10.010 Assurance to enforce the National Flood Insurance Program Regulations.

The Town of Leavenworth assures the Federal Insurance Administration that it will enact as necessary, and maintain in force in those areas having flood, mudslide (i.e., mudflow), or flood-related erosion hazards, adequate land use and control measures with effective enforcement provisions consistent with the criteria set forth in Section 1910 of the National Flood Insurance Program Regulations. (Ord. 2005-3, S10.10.010, Jan. 10, 2005) (Res. 1983-1, S1, Feb. 17, 1983)

10.10.020 Enforcing the National Flood Insurance Program Regulations. The Town of Leavenworth Planning Commission is vested with the responsibility, authority, and means to:

- (1) Assist the Zoning Administrator, at his/her request, in the determination of the limits of the area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards.
- (2) Provide such information as the Zoning Administrator may request concerning present uses and occupancy of the flood plain, mudslide (i.e., mudflow) or flood-related erosion areas.
- (3) Cooperate with Federal, State, and local agencies and private firms which undertake to study, survey, map, and identify flood plain, mudslide (i.e., mudflow), or flood-related erosion areas, and cooperate with neighboring communities with respect to management of adjoining flood plain, mudslide (i.e., mudflow) and/or flood-related erosion areas in order to prevent aggravation of existing hazards.
- (4) Submit on the anniversary date (February 17, 1983) of Leavenworth's initial eligibility an annual report to the Zoning Administrator, on the progress made during the past year within the community in the development and implementation of flood plain management measures.

- (5) Upon occurrence, notify the Zoning Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that all Flood Hazard Boundary Maps and Flood Insurance Rate Maps accurately represent the community's boundaries, include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished flood plain management regulatory authority. (Ord. 2005-3, S10.10.020, Jan. 10, 2005) (Res. 1983-1, S2, Feb. 17, 1983)

10.10.030 Clerk-Treasurer to assist public with flood hazard information. Appoints Leavenworth Clerk-Treasurer to maintain for public inspection and to furnish upon request, for the determination of applicable flood insurance risk premium rates within all areas having special flood hazards identified on a Flood Hazard Boundary Map or Flood Insurance Rate Map, any certificates of flood-proofing, and information on the elevation (in relation to mean sea level) of the level of the lowest habitable floor (including basement if habitable) of all new or substantially improved structures, and include whether or not such structures contain a basement, and if the structure has been floodproofed the elevation (in relation to mean sea level) to which the structure was floodproofed. (Res. 1983-1, S3, Feb. 17, 1983)

10.10.040 Town agrees to take official action as necessary to carry out the National Flood Insurance Program objectives. Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the program. (Res. 1983-1, S4, Feb. 17, 1983)

Chapter 10.12

FLOOD HAZARD ZONING ORDINANCE

Sections:

- 10.12.010 Statutory authorization
- 10.12.020 Statement of purpose
- 10.12.030 Definitions
- 10.12.040 Duties of the Administrator
- 10.12.050 Regulatory Flood Elevation
- 10.12.060 Improvement Location Permit
- 10.12.070 Preventing increased damages
- 10.12.080 Protecting buildings
- 10.12.090 Other development requirements
- 10.12.100 Variances
- 10.12.110 Disclaimer of Liability
- 10.12.120 Violations
- 10.12.130 Abrogation and greater restrictions
- 10.12.140 Separability

10.12.010 Statutory authorization. The Indiana Legislature granted the power to local units of government (IC 36-7-4) to control land use within their jurisdictions in order to accomplish the following. (Ord. 2000-3, S1, Apr. 10, 2000) (Ord. 1995-4, S1, Sept. 12, 1995)

10.12.020 Statement of purpose. The purpose of this ordinance is to guide development in the flood hazard areas in order to reduce the potential for loss of life and property, reduce the potential for health and safety hazards, and to reduce the potential for extraordinary public expenditures for flood protection and relief. Under the authority granted to local units of government to control land use within their jurisdiction, which includes taking into account the effects of flooding, the Town Council hereby adopts the following floodplain management regulations in order to accomplish the following:

- (1) To prevent unwise developments from increasing flood or drainage hazards to others;
- (2) To protect new buildings and major improvements to buildings from flood damage;
- (3) To protect human life and health from the hazards of flooding;
- (4) To lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations;

- (5) To maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas; and
- (6) To make federally subsidized flood insurance available for structures and their contents in the Town by fulfilling the requirements of the National Flood Insurance Program. (Ord. 2005-3, S10.12.020, Jan. 10, 2005) (Ord. 2000-3, S2, Apr. 10, 2000) (Ord. 1995-4, S2, Sept. 12, 1995)

10.12.030 Definitions. For the purpose of this ordinance, the following definitions are adopted:

- (1) Building - see "structure."
- (2) Development - any man-made change to improved or unimproved real estate including but not limited to:
 - A. Construction, reconstruction, or placement of a building or any addition to a building;
 - B. Installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
 - C. Installing utilities, erection of walls and fences, construction of roads, or similar projects;
 - D. Construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
 - E. Mining, dredging, filling, grading, excavation, or drilling operations.
 - F. Construction and/or reconstruction of bridges or culverts;
 - G. Storage of materials; or
 - H. Any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent buildings.

- (3) Existing manufactured home park or subdivision - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of

streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations initially adopted by the Town.

- (4) Expansion to an existing manufactured home park or subdivision-means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- (5) FBFM - Flood Boundary and Floodway Map.
- (6) FEMA - Federal Emergency Management Agency.
- (7) FHBM - Flood Hazard Boundary Map.
- (8) FIRM - Flood Insurance Rate Map.
- (9) Flood - a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.
- (10) Floodplain - the channel proper and the areas adjoining any wetland, lake or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the floodway fringe districts.
- (11) Flood Protection Grade or the "FPG" - the elevation of the regulatory flood plus two feet at any given location in the SFHA.
- (12) Floodway - the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonable required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.
- (13) Floodway fringe - those portions of the floodplain lying outside the floodway.
- (14) Letter of Map Amendment (LOMA) - An amendment to the currently effective FEMA map that establishes that a property is not located in a Special Flood Hazard Area (SFHA). A LOMA is only issued by FEMA.
- (15) Letter of Map Revision (LOMR) - An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

- (16) Lowest Floor - means the lowest of the following:
- A. The top of the lowest floor of a building;
 - B. The top of the basement floor;
 - C. The top of the garage floor, if the garage is the lowest level of the building;
 - D. The top of the first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings; or
 - E. The top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless:
 1. the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square inch for every one (1) square foot of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade.
 2. such enclosed space shall be usable for the parking of vehicles and building access.
- (17) Manufactured home - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."
- (18) New manufactured home park or subdivision - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations initially adopted by the Town.
- (19) Recreational vehicle - means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

- (20) Regulatory Flood - means the flood having a one percent probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Section 10.12.050 of this Chapter. The "Regulatory Flood" is also known by the term "Base Flood."
- (21) SFHA or Special Flood Hazard Area - means those lands within the jurisdiction of the Town that are subject to inundation by the regulatory flood. The SFHAs of the Town are generally identified as such on the Flood Insurance Rate Map of the Town prepared by the Federal Emergency Management Agency and dated August 1, 1983. The SFHAs of those parts of unincorporated Crawford County that are within the extraterritorial jurisdiction of the Town or that may be annexed into the Town are generally identified as such on the Flood Insurance Rate Map prepared for Crawford County by the Federal Emergency Management Agency and dated January 17, 1986.
- (22) Structure - means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.
- (23) Substantial Improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure". (Ord. 2005-3, S10.12.030, Jan. 10, 2005) (Ord. 2000-3, S3, Apr. 10, 2000) (Ord. 1995-4, S3, Sept. 12, 1995)

10.12.040 Duties of the Administrator. Zoning Administrator shall implement this ordinance and hereafter be referred to as the Zoning Administrator. The Zoning Administrator for the Town is appointed to review all development and subdivision proposals to ensure compliance with this ordinance, including but not limited to the following duties:

- (1) Ensure that all development activities within the SFHAs of the jurisdiction of the Town meet the requirements of this ordinance.
- (2) Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques.

- (3) Ensure that construction authorization has been granted by the Indiana Natural Resources Commission for all development projects subject to Section 10.12.070 of this Chapter, and maintain a record of such authorization (either copy of actual permit, letter of recommendation or floodplain analysis and regulatory assessment).
- (4) Maintain a record of the "as-built" elevation of the top of the lowest floor (including basement) of new and/or substantially improved buildings constructed in the SFHA. Inspect before, during and after construction.
- (5) Maintain a record of the engineer's certificate and the "as-built" floodproofed elevation of all buildings subject to Section 10.12.080 of this Chapter.
- (6) Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this ordinance. Submit reports as required for the National Flood Insurance Program.
- (7) Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and floodplain analysis and regulatory assessment, letters of recommendation, federal permit documents, and "as-built" elevation and floodproofing data for all building constructed subject to this ordinance.
- (8) Notify adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA. (Ord. 2005-3, S10.12.040, Jan. 10, 2005) (Ord. 2000-3, S4, Apr. 10, 2000) (Ord. 1995-4, S4, Sept. 12, 1995)

10.12.050 Regulatory flood elevation. This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Department of Natural Resources for review and approval.

- (1) The regulatory flood elevation and floodway limits for the SFHAs of Ohio River shall be as delineated on the 100 year flood profiles in the Flood Insurance Study of the Town dated February 1983 and the corresponding FIRM dated August 1, 1983 prepared by the Federal Emergency Management Agency.
- (2) The regulatory flood elevation for each SFHA delineated as an "AH Zone" or "AO Zone" shall be that elevation (or depth) delineated on the Flood Insurance Rate Map of the Town.

- (3) The regulatory flood elevation for each of the remaining SFHAs delineated as an "A Zone" on the Flood Insurance Rate Map of the Town shall be according to the best data available as provided by the Department of Natural Resources.
- (4) The regulatory flood elevation and floodway limits for the SFHAs of those parts of unincorporated Crawford County that are within the extraterritorial jurisdiction of the Town or that may be annexed into the Town shall be as delineated on the 100 year flood profiles in the Flood Insurance Study of Crawford County dated January 17, 1986, and the corresponding FBFM dated January 17, 1986 prepared by the Federal Emergency Management Agency.
- (5) If the SFHA is delineated as "AH Zone or AO Zone," the elevation (or depth) will be delineated on the County Flood Insurance Rate Map. If the SFHA is delineated as "Zone A" on the County Flood Insurance Rate Map, the regulatory flood elevation shall be according to the best data available as provided by the Department of Natural Resources. (Ord. 2005-3, S10.12.050, Jan. 10, 2005) (Ord. 2000-3, S5, Apr. 10, 2000) (Ord. 1995-4, S5, Sept. 12, 1995)

10.12.060 Improvement Location Permit. No person, firm, corporation, or governmental body not exempted by state law shall commence any "development" in the SFHA without first obtaining an Improvement Location Permit from the Zoning Administrator. The Zoning Administrator shall not issue an Improvement Location Permit if the proposed "development" does not meet the requirements of this ordinance.

- (1) The application for an Improvement Location Permit shall be accompanied by the following:
 - A. A description of the proposed development.
 - B. Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams.
 - C. A legal description of the property site.
 - D. A site development plan showing existing and proposed development locations and existing and proposed land grades.
 - E. Elevation of the top of the lowest floor (including basement) of all proposed development. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD) or North American Vertical Datum (NAVD). In either case the conversion formula should be included.
- (2) Upon receipt of an application for an Improvement Location Permit, the Zoning Administrator shall determine if the site is located within an

identified floodway, floodway fringe or within the floodplain where the limits of the floodway have not yet been determined.

- A. If the site is in an identified floodway the Zoning Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources and apply for a permit for construction in a floodway.

Under the provisions of IC 14-28-1 a permit from the Natural Resources Commission is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the building.

No action shall be taken by the Zoning Administrator until a permit has been issued by the Natural Resources Commission granting approval for construction in the floodway. Once a permit has been issued by the Natural Resources Commission, the Zoning Administrator may issue the local Improvement Location Permit, provided the provisions contained in Sections 10.12.070 and 10.12.080 of this Chapter have been met. The Improvement Location Permit cannot be less restrictive than the permit issued by the Natural Resources Commission.

- B. If the site is located in an identified floodway fringe, then the Zoning Administrator may issue the local Improvement Location Permit provided the provisions contained in Sections 10.12.070 and 10.12.080 of this Chapter have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the Flood Protection Grade (FPG).
- C. If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Zoning Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources for review and comment

No action shall be taken by the Zoning Administrator until either a permit for construction in the floodway or a floodplain analysis and regulatory assessment citing the 100 year flood elevation and the recommended Flood Protection Grade has been received from the Department of Natural Resources.

Once the Zoning Administrator has received the proper permit or floodplain analysis and regulatory assessment approving the proposed development, an Improvement Location Permit may be issued

provided the conditions of the Improvement Location Permit are not less restrictive than the conditions received from Natural Resources and the provisions contained in Sections 10.12.070 and 10.12.080 of this Chapter have been met.

- D. If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Zoning Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodway fringe and 100 year elevation for the site.

Upon receipt, the Zoning Administrator may issue the local Improvement Location Permit provided the provisions contained in Sections 10.12.070 and 10.12.080 of this Chapter have been met. (Ord. 2005-3, S10.12.060, Jan. 10, 2005) (Ord. 2000-3, S6, Apr. 10, 2000) (Ord. 1995-4, S6, Sept. 12, 1995)

10.12.070 Preventing increased damages. No development in the SFHA shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety.

- (1) Within the floodway identified on the Flood Boundary and Floodway Map, the Flood Insurance Rate Map, or engineering analysis as provided in Section 10.12.060(2)D., the following standards shall apply:
 - A. No development shall be allowed which acting alone or in combination with existing or future development, will cause any increase in the elevation of the regulatory flood; and
 - B. For all projects involving channel modifications or fill (including levees) the Town shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.
- (2) Within all SFHAs identified as A Zones (no 100 year flood elevation and/or floodway/floodway fringe delineation has been provided) the following standard shall apply:
 - A. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood elevation more than one-tenth (0.1) of one foot and will not increase flood damages or potential flood damages.
- (3) Public Health Standards in all SFHAs
 - A. No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids,

pollutants, or other hazardous or toxic materials below the Flood Protection Grade, unless such materials are stored in a floodproofed storage tank or building constructed according to the requirements of Section 10.12.080 of this Chapter.

- B. New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above ground openings are located above the FPG, or those which are located below the FPG are watertight. (Ord. 2000-3, S7, Apr. 10, 2000) (Ord. 1995-4, S7, Sept. 12, 1995)

10.12.080 Protecting buildings. In addition to the damage prevention requirements of Section 10.12.070, all buildings to be located in the SFHA shall be protected from flood damage below the FPG.

- (1) This building protection requirement applies to the following situations:
 - A. Construction or placement of any new building having a floor area greater than 400 square feet;
 - B. Structural alterations made to:
 - 1. an existing (previously unaltered) building, the cost of which equals or exceeds 50% of the value of the pre-altered building (excluding the value of the land);
 - 2. any previously altered building;
 - C. Reconstruction or repairs made to a damaged building that are valued at or more than 50% of the market value of the building (excluding the value of the land) before damage occurred;
 - D. Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and
 - E. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
- (2) This building protection requirement may be met by one of the following methods. The Zoning Administrator shall maintain a record of compliance with these building protection standards as required in Section 10.12.040 of this Chapter.
 - A. A residential or nonresidential building may be constructed on a permanent land fill in accordance with the following:
 - 1. The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with the Standard Proctor Test method.

2. The fill should extend at least ten feet beyond the foundation of the building before sloping below the FPG.
 3. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
 4. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
 5. The top of the lowest floor including basements, (see definition of lowest floor in Section 10.12.030. Definitions) shall be at or above the FPG.
- B. A residential or nonresidential building may be elevated in accordance with the following:
1. The building or improvements shall be elevated on posts, piers, columns, extended walls, or other types of similar foundation provided:
 - (a) Walls of any enclosure below the elevated floor shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings (in addition to doorways and windows) having a total area of one (1) square inch for every one (1) square foot of enclosed area subject to flooding. The bottom of all such opening shall be no higher than one (1) foot above grade.
 - (b) Any enclosure below the elevated floor is used for storage of vehicles and building access.
 2. The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as buoyancy, current, waves, ice, and floating debris.
 3. All areas below the FPG shall be constructed of materials resistant to flood damage. The top of the lowest floor (including basement) and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

C. Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following anchoring requirements:

1. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site;

(a) outside a manufactured home park or subdivision;

(b) in a new manufactured home park or subdivision;

(c) in an expansion to an existing manufactured home park or subdivision; or

(d) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.

2. This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.

The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

D. Recreational vehicles placed on a site shall either:

1. be on the site for less than 180 consecutive days;

2. be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

3. meet the requirements for "manufactured homes" in Paragraph C of this Section.

- E. A non-residential building may be floodproofed to the FPG (in lieu of elevating) if done in accordance with the following:
 - 1. A Registered Professional Engineer shall certify that the building has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice.
 - 2. Floodproofing measures shall be operable without human intervention and without an outside source of electricity. (Ord. 2005-3, S10.12.080, Jan. 10, 2005) (Ord. 2000-3, S8, Apr. 10, 2000) (Ord. 1995-4, S8, Sept. 12, 1995)

10.12.090 Other development requirements.

- (1) The Zoning Administrator shall review all proposed subdivisions to determine whether the subdivision lies in a flood hazard area as defined elsewhere by ordinance. If the Zoning Administrator finds the subdivision to be so located, the Zoning Administrator shall forward plans and materials to the Indiana Department of Natural Resources for review and comment. The Zoning Administrator shall require appropriate changes and modifications in order to assure that:
 - A. it is consistent with the need to minimize flood damages;
 - B. all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
 - C. adequate drainage is provided so as to reduce exposure to flood hazards;
 - D. onsite waste disposal systems, if provided, will be so located and designed to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.
- (2) Developers shall record the 100 year flood elevation on all subdivision plats containing lands (identified elsewhere by this ordinance) within a flood hazard area prior to submitting the plats for approval by the Plan Commission.
- (3) All owners of manufactured home parks or subdivisions located within the SFHA identified as Zone A on the community's FHBM or FIRM shall develop an evacuation plan for those lots located in the SFHA and file it with the local Plan Commission and have it filed with and approved by the

appropriate community emergency management authorities. (Ord. 2000-3, S9, Apr. 10, 2000) (Ord. 1995-4, S9, Sept. 12, 1995)

10.12.100 Variances.

- (1) The Board of Zoning Appeals may consider issuing a variance to the terms and provisions of this ordinance provided the applicant demonstrates that:
 - A. There exists a good and sufficient cause for the requested variance;
 - B. The strict application of the terms of this ordinance will constitute an exceptional hardship to the applicant; and
 - C. The granting of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

- (2) The Board of Zoning Appeals may issue a variance to the terms and provisions of this ordinance subject to the following standards and conditions:
 - A. No variance or exception for a residential use within a floodway subject to Section 10.12.070 (1) or (2) of this Ordinance may be granted.
 - B. Any variance or exception granted in a floodway subject to Section 10.12.070 (1) or (2) of this Ordinance will require a permit from Natural Resources.
 - C. Variances or exceptions to the Building Protection Standards of Section 10.12.080 may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
 - D. Variance or exception may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects;
 - E. All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and
 - F. The Board of Zoning Appeals shall issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased risks to life and property and could

require payment of increased flood insurance premiums. (Ord. 2000-3, S10, Apr. 10, 2000) (Ord. 1995-4, S10, Sept. 12, 1995)

10.12.110 Disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of the community, Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder. (Ord. 2000-3, S11, Apr. 10, 2000) (Ord. 1995-4, S11, Sept. 12, 1995)

10.12.120 Violations. Failure to obtain an Improvement Location Permit in the SFHA or failure to comply with the requirements of a permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the Town of Leavenworth. All violations shall be punishable by a fine not exceeding \$50.00.

- (1) A separate offense shall be deemed to occur for each day the violation continues to exist.
- (2) The Leavenworth Planning and Zoning Commission shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- (3) Nothing herein shall prevent the Town from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible. (Ord. 2000-3, S12, Apr. 10, 2000) (Ord. 1995-4, S12, Sept. 12, 1995)

10.12.130 Abrogation and greater restrictions. This Ordinance repeals and replaces other Ordinances adopted by the Town Council to fulfill the requirements of the National Flood Insurance Program, including: Ordinance 1995-4. However, this Ordinance does not repeal the original Resolution or Ordinance adopted to achieve eligibility in the Program. Nor does this Ordinance repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this Ordinance and other easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall take precedence. In addition, the Town Council shall assure that all National Flood Insurance Program regulations (44 CFR §60), as well as Indiana laws and regulations regarding floodplain issues (312 IAC 10, IC 14-28-1 and IC 14-28-3) are met. (Ord. 2005-3, S10.12.130, Jan. 10, 2005) (Ord. 2000-3, S13, Apr. 10, 2000) (Ord. 1995-4, S13, Sept. 12, 1995)

10.12.140 Separability. The provisions and Sections of this Ordinance shall be deemed separable and the invalidity of any portion of this Ordinance shall not affect the validity of the remainder. (Ord. 2005-3, S10.12.140, Jan. 10, 2005) (Ord. 2000-3, S14, Apr. 10, 2000) (Ord. 1995-4, S14, Sept. 12, 1995)

Chapter 10.18

ZONING JURISDICTIONAL BOUNDARY DESCRIPTION

Sections:

10.18.010 Boundary description

10.18.010 Boundary description.

LEAVENWORTH JURISDICTIONAL AREA

Boundary Description

Commencing at the northwest corner of Section 35-3S-1E, thence east to the southwest corner of the SE quarter of Section 26-3S-1E; thence north along the half section line, to the northwest corner of the SE quarter of Section 26-3S-1E; thence east along the north line of the SE quarter of Section 26-3S-1E to the west line of Section 25-3S-1E; thence north to the northwest corner of Section 25-3S-1E; thence east along the section line of the following Sections 25-3S-1E and 30-3S-2E; thence south along the west line of Section 29-3S-2E to the northwest corner of the southwest quarter of Section 29-3S-2E; thence east along the half section line of Section 29-3S-2E to the east line of Section 29-3S-2E; thence south along the east line to the southeast corner of the Section; thence east along the north line of Section 33-3S-2E to the northeast corner of the NW quarter of Section 33-3S-2E; thence south along the half section line to the southeast corner of the SW quarter of Section 33-3S-2E; thence south to the Blue River; thence meandering south along the Blue River to the Ohio River; thence northwesterly along the Ohio River to the south line of Section 2-4S-1E; thence west along the south line of Section 2-4S-1E to the southwest corner; thence north along the west line of Section 2-4S-1E and Section 35-3S-1E to the place of beginning. (Ord. 1989-10, Nov. 13, 1989)

Chapter 10.20

ZONING ORDINANCE

Sections:

- 10.20.001 Replacement Ordinance**
- 10.20.002 Public Meeting**
- 10.20.003 Consideration of Replacement Ordinance**
- 10.20.004 Indiana Code Compliance**
- 10.20.005 Town's Best Interest**
- 10.20.010 Adoption of Comprehensive Plan**

10.20.001 Replacement Ordinance. The replacement ordinance is enacted in accordance with Indiana State Law (Indiana Code 36-7-4-600 series) for the purpose of promoting the public health, safety, comfort, morals, convenience, and general welfare by establishing land use classifications, by dividing the Town into districts, imposing regulations, restrictions, and prohibitions on the use and occupancy of real property, by limiting the height, area, and bulk of buildings and other structures, by providing for yards and other open spaces around them, by establishing standards of performance and design, and by providing for the administration and enforcement thereof. (Ord. 2008-2, Whereas, July 14, 2008)

10.20.002 Public Meeting. The Advisory Plan Commission of Leavenworth, Indiana, did on June 2, 2008 hold a legally advertised public meeting to consider adoption of the attached replacement Zoning Ordinance (Exhibit A) for the town. (Ord. 2008-2, Whereas, July 14, 2008)

10.20.003 Consideration of Replacement Ordinance. The Plan Commission did consider said replacement Zoning Ordinance until all comments and objections were heard. (Ord. 2008-2, Whereas, July 14, 2008)

10.20.004 Indiana Code Compliance. The Plan Commission found that the replacement Zoning Ordinance meets the requirements of Indiana Code 36-7-4-600, and that the adoption of this replacement Zoning Ordinance is found to be in the best interest of Leavenworth, Indiana. (Ord. 2008-2, Whereas, July 14, 2008)

10.20.005 Town's Best Interest. The Town Council finds that it is in the best interest of the Town to adopt said replacement Zoning Ordinance. (Ord. 2008-2, Whereas, July 14, 2008)

10.20.010 Adoption of Zoning Ordinance. The Town Council of Leavenworth, Indiana, hereby adopts Exhibit A, attached and made a part hereof, as the replacement Zoning Ordinance of the Town of Leavenworth, Indiana. (Ord. 2008-2, July 14, 2008)

Chapter 10.22

BUILDING FEES, ZONING FEES, AND CERTAIN REAL ESTATE DEVELOPMENT FEES

Sections:

10.22.010 Structure Fees

10.22.020 Zoning Code Fees

10.22.010 Structure Fees. Whenever an owner of real estate desires to construct or desires to build a new structure within the zoning jurisdiction of the Town of Leavenworth, Indiana that applicant or its agent must pay the following fees:

- (1) Single Family Dwelling - \$60.00 plus \$.01 per square foot of the building.
- (2) Two Family Dwelling - \$120.00 plus \$.01 per square foot of the building.
- (3) Multifamily Dwelling, Apartment Buildings, Condominiums, Cooperative Buildings, Mobile Homes in parks or any other type of multifamily housing - each building is \$55.00 for the first unit and \$25.00 for each unit thereafter plus \$.01 per square foot for each building.
- (4) Industrial and Commercial Buildings.
 - A. Each separate building \$150.00 plus \$.01 per square foot.
 - B. Addition to each existing structure \$50.00 plus \$.01 per square foot for each foot of the new addition.
 - C. Off street parking lots (operated by any entity other than local government, state government, or federal government) \$50.00 plus \$2.00 per parking space.
- (5) Additions to existing one and two family dwellings - \$20.00 per room for up to three rooms; over three rooms it is \$60.00 plus \$.01 per square foot of the total area of the new addition.
- (6) Detached garages and carports - \$20.00 for one and two car garage with an additional \$5.00 charge for those detached garages and carports which have room for more than two cars. (Applies only when garage or carport is not constructed at the same time as principally permitted use.)
- (7) Accessory items:
 - A. Multipurpose structures such as yard barns (portable or stationary) - \$25.00

- B. Swimming Pools (includes in ground and above ground) - \$10.00 plus \$.01 per square foot of the square footage covered by the swimming pool including any concrete aprons and patio areas surrounding and/or adjacent the pool.
 - C. All permitted accessory uses in all residential districts and mixed use district except composting, off-street parking of recreational vehicles and off-street parking and loading - \$10.00.
 - D. All permitted accessory uses in commercial and industrial districts - \$25.00.
- (8) Demolition of Building Structures:
- A. Principal Buildings - \$25.00
 - B. Accessory Building - \$15.00
- (9) Temporary Permits
- A. Temporary Improvement Location Permit - \$50.00
 - B. Temporary Certificate of Occupancy - \$25.00
- (10) Moving or changing location of buildings:
- A. Principal Buildings - \$50.00
 - B. Accessory Buildings - \$20.00
- (11) Sign Permits - \$15.00
- (12) Sign Erections:
- A. Signs up to 4' X 8' (32' square) - \$10.00 per face of sign.
 - B. Signs or billboards with over 32' square each square footage of face is \$1.00 per square foot per face of sign or billboard.
 - C. Nonprojecting signs (minimum \$10.00) or \$.35 per square foot if the total calculated in this manner exceeds \$10.00.
- (13) Remodeling - This applies to a project which exceeds \$1000.00 in total costs excluding installation of central heating, air conditioning, major rewiring, major plumbing, etc. - \$20.00.
- (14) Certificate of occupancy fees:

- A. One and two family residences - \$25.00
- B. Multifamily residential - \$50.00
- C. Commercial and Industrial - \$75.00
- D. Conditional use - \$50.00
- E. Accessory use - \$2.00 (Ord. 2008-3, S1, Oct. 13, 2008)

10.22.020 Zoning Code Fees The following fees apply to those applicants who seek zoning amendments, zoning variances, conditional uses, and other approvals under the present zoning code as applicable to the Town of Leavenworth as follows:

- (1) Variance - \$250.00
- (2) Zoning Amendments including change of master plan, zoning classification, or change in zoning text - \$100.00; change of zoning map - \$250.00.
- (3) Change in development plan (which has been previously approved) - \$25.00; filing fee for original development plan - \$75.00.
- (4) Conditional Uses - \$250.00
- (5) Appeals from Administrator to Board of Zoning Appeals - \$100.00
- (6) Grading permits as required under Article 10.20.100.010 of the existing zoning code of the Town of Leavenworth:
 - A. Filing Fee - \$25.00 (in the event that an applicant fails to pay the required \$25.00 filing fee for a grading permit as required under the existing zoning code of the Town of Leavenworth, any enforcement action to compel the applicant to pay such filing fee shall require a fine in the sum not less than \$250.00 and not more than \$1000.00.) (Ord. 2008-3, S2, Oct. 13, 2008)

Chapter 10.24

SUBDIVISION CONTROL ORDINANCE

Sections:

- 10.24.001 Purpose**
- 10.24.002 Public Meeting**
- 10.24.003 Comments**
- 10.24.004 Indiana Code Requirements**
- 10.24.005 Town's Best Interest**
- 10.24.010 Adoption**

10.24.001 Purpose. The ordinance is enacted in accordance with Indiana State Law (Indiana Code 36-7-4-700 series) for the purpose of establishing control over the recording and division of lands, the development of lands, the control of land uses, the proper and legal description of side lands for the assessment of taxes, the recording of property purchased or sold, and for the health, welfare and enjoyment of properties by the current and future citizens of Leavenworth. (Ord. 2008-4, Whereas, Oct. 13, 2008)

10.24.002 Public Meeting. The Advisory Plan Commission of Leavenworth, Indiana, did on August 4, 2008 hold a legally advertised public meeting to consider adoption of the attached Subdivision Control Ordinance (Exhibit A) for the town. (Ord. 2008-4, Whereas, Oct. 13, 2008)

10.24.003 Comments. The Plan Commission did consider said Subdivision Control Ordinance until all comments and objections were heard. (Ord. 2008-4, Whereas, Oct. 13, 2008)

10.24.004 Indiana Code Requirements. The Plan Commission found that the Subdivision Control Ordinance meets the requirements of Indiana Code 36-7-4-700, and that the adoption of this Subdivision Control Ordinance is found to be in the best interest of Leavenworth, Indiana. (Ord. 2008-4, Whereas, Oct. 13, 2008)

10.24.005 Town's Best Interest. The Town Council finds that it is in the best interest of the Town to adopt said Subdivision Control Ordinance. (Ord. 2008-4, Whereas, Oct. 13, 2008)

10.24.010 Adoption. The Town Council of Leavenworth, Indiana, hereby adopts Exhibit A, attached and made a part hereof, as the Subdivision Control Ordinance of the Town of Leavenworth, Indiana. (Ord. 2008-4, S1, Oct. 13, 2008)