

**TITLE 11**

**COMPREHENSIVE PLAN, ZONING ORDINANCE  
& SUBDIVISION REGULATIONS**

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& SUBDIVISION REGULATIONS**

**Chapters:**

- 11.02**            **Comprehensive Plan**
- 11.04**            **Zoning Ordinance and Subdivision Regulations**
- 11.38**            **Establishing Lots 15 and 16 of the Santa Claus Industrial Park  
as an Economic Development Project and Approving Real  
Estate Option Agreement**

## Chapter 11.02

### COMPREHENSIVE PLAN

#### Sections:

#### 11.02.010 Adoption

**11.02.010 Adoption.** The Town of Santa Claus Comprehensive Plan was prepared by Snell Environmental Group, Inc. Indianapolis, Indiana in March 1994. Resolution 1995-03 adopted this Comprehensive Plan. A Copy of the Comprehensive Plan is available at the Town Hall. (Resolution 1995-03, January 30, 1995)

## Chapter 11.04

### ZONING ORDINANCE AND SUBDIVISION REGULATIONS

#### Sections:

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#### 11.04.010 General Provisions.

(1) Preamble

An ordinance restating and amending the Zoning Ordinance for Santa Claus, Indiana, and providing for the administration, enforcement, and amendment in accordance with the provisions of Indiana law and for the repeal of all ordinances in conflict herewith.

Whereas, Indiana law empowers the Town to enact a zoning ordinance and to provide for its administration, enforcement, amendment, and

Whereas, the Town adopted a Comprehensive Plan by Resolution 1995-03 on January 30, 1995; and,

Whereas, the Town thereafter adopted the “Zoning Ordinance of Santa Claus, Indiana” by its Ordinance 1995-05 on April 20, 1995, which Zoning Ordinance has been amended from time to time since its adoption; and,

Whereas, the Town Council deem it necessary for the purpose of promoting the health, safety, or general welfare of the citizens of Santa Claus, to repeal, restate and replace the Zoning Ordinance of Santa Claus, Indiana, as enacted by Ordinance 1995-05; and,

Whereas, the Town Council, pursuant to the provisions of Indiana law, appointed a Advisory Plan Commission to recommend the boundaries of various original districts and appropriate regulations to be enforced therein at the time of the adoption of the Zoning Ordinance; and

Whereas, the Plan Commission has divided the Town into districts and has prepared regulations pertaining to such districts in accordance with a Comprehensive Plan so that adequate light, air, convenience of access, and safety from fire, flood, and other danger may be secured; that congestion in the public streets may be lessened or avoided; that property values may be preserved, that the public health, safety, comfort, conveniences, and general welfare may be promoted; and

Whereas, the Plan Commission has given reasonable consideration to the character of the districts and their peculiar suitability for particular uses, with a view to preserving the value of buildings and encouraging the most appropriate use of land throughout the Town; and

Whereas, the Plan Commission has given due public notice of hearings relating to zoning districts, regulations, and restrictions, and has held such public hearings; and

Whereas, the Zoning Maps established pursuant to Zoning Ordinance 1995-05 are altered and amended by this Ordinance, due to prior re-zoning actions and annexation of territory into the Town; and,

Whereas, all requirements of I.C. §§36-7-4-600 et seq. have been met in the adoption of this Ordinance.

Now, therefore, be it ordained by the Town Council of Santa Claus, Indiana: (Ord. 2006-04, S1.1, June 12, 2006) (Ord. 1995-05, S1.1, April 20, 1995)

(2) Title, Interpretation, and Enactment

- A. Title. This Ordinance shall be known and may be cited as the "Zoning Ordinance of Santa Claus, Indiana".
- B. Provisions of Ordinance Declared to be Minimum Requirements. In their interpretation and application, the provisions of this Ordinance will be held to the minimum requirements adopted for the promotion of the public health, safety, and/or general welfare. Wherever the

requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or Restrictive Covenants, conflict with this Ordinance, the most restrictive, or that imposing the higher standards, will govern.

C. Severability. Should any section, subsection, paragraph, subparagraph, clause, word, or provision of this Ordinance is declared by the court to be unconstitutional or invalid, such decision will not affect the validity of the Ordinance as a whole or any part thereof other than the part so declare to be unconstitutional or invalid.

D. Repeal of Zoning Ordinance. The text and zoning maps of Ordinance 1995-05, as amended, are hereby repealed upon the enactment and effectiveness of Ordinance 2006-04. (Ord. 2006-04, S1.2, June 12, 2006) (Ord. 1995-05, S1.2, April 20, 1995)

(3) Purpose. The purpose of this Ordinance is to encourage the most appropriate use of land and to plan for a logical and orderly growth pattern in Santa Claus; make adequate provision for transportation, water, sewage, schools, parks, and other public and commercial facilities and services; preserve property values; preserve and improve the present health, safety, and welfare of the citizens of Santa Claus through the provision of adequate light, air, convenience of access, and safety from flood, fire, and other hazards.

The regulations established by this Ordinance for each district will be minimum regulations and will apply uniformly to each class or kind of Structure or land. Buildings, Structures, or land must be used, occupied, erected, constructed, reconstructed, moved, or altered in conformity with the applicable regulations in the Ordinance. Yards or lots will not be reduced in dimension or area below the minimum requirements established in this Ordinance, and yards or Lots created after the effective date of this Ordinance must meet the minimum requirements prescribed herein. (Ord. 2006-04, S1.3, June 12, 2006) (Ord. 1995-05, S1.3, April 20, 1995)

(4) Zone Maps

A. Establishment of Zone Maps. The zone maps adopted with this Ordinance are hereby declared to be the Official Zone Maps and Zoning Districts of Santa Claus, Indiana. Said maps designate the respective zoning districts in accordance with this Ordinance.

B. Zone Maps Included. The following Maps are specifically identified and become a part of this Ordinance:

1. Town Boundary Map (Appendix A, Map 1);

2. North Section Zoning District Map (Appendix A, Map 2);
  3. South Section Zoning District Map (Appendix A, Map 3);
- C. Determination and Interpretation of District Boundaries
1. In determining the boundaries of districts, and establishing the provisions applicable to each district, due and careful consideration has been given to existing conditions, the character of Buildings erected in each district, the most desirable use for which the land in each district may be adapted, and the conservation of property values throughout the areas of Santa Claus, Indiana under the Town Council's jurisdiction.
  2. Where uncertainty exists as to the exact boundaries of any district as shown on the zone Map, the following rules will apply:
    - (a) In unsubdivided areas, the exact location of the boundary will be determined by use of the scale of the official aerial Maps prepared by the County Auditor.
    - (b) Where a zoning district boundary divides a lot, the Commission may extend the boundaries of a zoning district to a Lot boundary, provided such extension will not exceed four hundred (400) feet.
    - (c) In the case of further uncertainty, the Commission will interpret the intent of the zone Map as to the location of the boundary in question.
- D. Procedure relating to vacated areas. Whenever any Street, place, Alley, public way, Railroad Right-of-Way, waterway, or other similar area is vacated by proper authority, the districts adjoining each side of such Street, Alley, public way, Railroad Right-of-Way, or similar area will be extended automatically to the center of such vacation and all areas included in the vacation will then and thenceforth be subject to all appropriate provisions of the extended districts. In the event of a partial vacation, the adjoining district, or district nearest the portion vacated, will be extended automatically to include all of the vacated area.
- E. Zoning of Streets, Alleys, Public Ways and Railroad Rights-of-Way. All Streets, Alleys, public ways and Railroad Right-of-way, if not otherwise specifically designated, will be deemed to be in the same district as the property immediately abutting upon these Alleys, Streets, public ways, and Railroad Rights-of-Way. If the center line

of a Street, Alley, public ways, or Railroad Right-of-Way serves as a district boundary, the zoning of those areas, unless otherwise specifically designated, will be deemed to be the same as that of the abutting property up to that center line. (Ord. 2006-04, S1.4, June 12, 2006) (Ord. 1995-05, S1.4, April 20, 1995)

#### **11.04.020 Definitions.**

In this Ordinance, words used in the present tense include the future, the singular includes the plural and the plural the singular. The work “used” includes “designed” or “intended to be used”. The word “will” is mandatory and not optional. Unless otherwise specified, all distances will be measured horizontally, in any direction. The following terms, unless contrary meaning is required by the context or is specifically prescribed, will have the following meanings:

- (1) Accessory Building and Use. A subordinate Structure, the use of which is incidental to that of the dominant use of the principal Building or land. Where a substantial part of the wall of an Accessory Building is a part of the wall of the main Building or where an Accessory Building is attached to the main Building in a substantial manner as by a roof, such Accessory Building will be counted as part of the main Building.

An Accessory Building or use includes, but is not limited to:

- A. A children’s playhouse, garden house or private greenhouse;
- B. A garage, shed, yard barn or building for domestic storage;
- C. Incinerators incidental to residential use;
- D. Storage of merchandise normally carried in stock on the same Lot with any retail service of business use, unless that storage is prohibited by district regulations;
- E. A nonpaying guest house or rooms for guests within an “Accessory Building”, if those facilities are used for the occasional housing of guests of occupants of the principal Building and not for permanent occupancy by others as housekeeping units;
- F. Servants’ quarters if part of an accessory garage and used solely for occupancy by a servant or household employee of the occupants of the principal Dwelling and the Family of that servant or employee;
- G. Off-street Motor Vehicle Parking Area, and loading and unloading facilities;
- H. Carports;

- I. Boat houses, if not more than ten (ten) feet high as measured from the normal water level;
  - J. Swimming pools, if private and being incidental to use by the Owner and guests; and
  - K. Public utility communication, electric, gas, water and sewer lines, their supports and incidental equipment.
- (2) Administrator. The officer appointed by and/ or delegated the responsibility for the administration of these regulations by the Town Council. This term shall be construed to include those staff members working under the direction of the Administrator in the exercise of his responsibilities in regard to the processing of this Ordinance,
  - (3) Adult Entertainment Establishment. Any business defined as a “Sexually Oriented Business within the meaning and definition of Spencer County Ordinance Number 2005-11, as it may be amended.
  - (4) Advertising Device or Devices. A sign, which directs attention to a business, commodity, service or entertainment not exclusively related to the premises where such Sign is located or to which it is affixed.
  - (5) Air Pollution. The presence in the outdoor atmosphere of one or more air contaminants in quantity sufficient to be harmful to human, plant, or animal life, or to property.
  - (6) Alley. A public or private vehicular Right-of-Way, other than a Street, road, crosswalk, or Easement, which normally affords a secondary means of access for the special accommodation of the abutting property.
  - (7) Alteration. Any change, addition or modification in construction, or any change in the structural members of a Building, such as load-bearing walls, columns, beams or girders.
  - (8) Animal Hospital. A Building, Lot, Structure or enclosure or portion thereof designed or used for the care, observation or treatment of domestic animals; operated by or the treatment therein is under the direct supervision of a veterinarian licensed to practice by the State of Indiana.
  - (9) Apartment. One (1) or more rooms including sleeping, living, lavatory and principal kitchen facilities designed as a unit for occupancy by only one (1) Family.
  - (10) Applicant. The Owner of land proposed to be subdivided or his/her agent or his/her legal representative.

- (11) Arterial. Either a Primary Arterial or a Secondary Arterial, as defined in this section.
- (12) Bed & Breakfast. A residential Building, or portion thereof, other than a Motel, Apartment Hotel or Motel, containing lodging rooms for accommodation of Persons who are not members of the resident's Family and where lodging or meals, or both, are provided for definite periods and for compensation.
- (13) Block. A tract of land bounded by Streets, boundary lines, public owned lands, institutionally owned lands, Railroads Rights-of-Way, rivers and lakes, similar natural or man-made boundaries, and lines of demarcation.
- (14) Board. The Board of Zoning Appeals of the Town of Santa Claus.
- (15) Bond. Any form of security, including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the Commission. All Bonds shall be approved by the Commission wherever a Bond is required by this Ordinance.
- (16) Building. Any Structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or chattel. When any portion thereof is completely separated from every other portion thereof by a division wall without openings then each such portion shall be deemed to be a separate Building. At no time shall this definition be construed to include Mobile Homes.
- A. Building or Structure, Conforming. Any Building or Structure which complies with all the regulations of this Ordinance or of any amendment hereto governing the zoning district in which such Building or Structure is located; and, is designed or intended for a conforming use.
- B. Building, Detached. A Building having no part wall in common with another Building.
- C. Building, Nonconforming. A legally-existing Building which fails to comply with the regulations set forth in this Ordinance applicable to the district in which this Building is located.
- D. Building, Semi-detached. A Building having one party wall in common with an adjacent Building.
- E. Building, Height of. The vertical distance measured from the adjoining Street centerline grade at a point opposite the center of the principal Frontage of the Building to the highest point of ceiling of the top Story in the case of a flat roof; to the deck line of a mansard roof; and to the mean height level between the eaves and ridge of a

gable, hip or gambrel roof. Where Buildings are set back from the Street line, the height of the Building may be measured from the average elevation of the finished Lot grade at the front of the Building.

- (17) Building Code. That ordinance or group of ordinances establishing and controlling the standards for constructing Buildings, utilities, mechanical equipment and all forms of Structures and permanent installations and related matters, within the Town.
- (18) Building Line. The perimeter of the Foundation of the Building including enclosed porches and vestibules.
- (19) Building Permit. A certificate issued by the Building Permit Official of a Governing Body permitting a Person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any Building or Structure within its jurisdiction, or cause the same to be done.
- (20) Campground. An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, and which is primarily used for recreational purposes and retains an open air or natural character.
- (21) Cemetery. Land used for the burial of the dead and dedicated for such purposes, including columbaria, mausoleums and mortuaries when operated in conjunction with and within the boundary of such Cemetery.
- (22) Clinic - Medical or Dental. A Building or portion thereof, the Principal Use of which is for medical or dental study and/ or treatment and in which the services of at least two (2) professionals in the medical or dental fields of practice are provided.
- (23) Club or Lodge - Private. A private association of persons, who are bona fide members paying dues, which owns, hires or Leases a Building, or portion thereof; the use of such premises being restricted to members and their guests.
- (24) Collector Street. A Roadway which has wider Right-of-Way and Roadway widths, and which is a prime entrance or circulating Street, with the primary function of distributing and collecting traffic to and from minor local Streets.
- (25) Commission. The Town of Santa Claus, Indiana Advisory Plan Commission.
- (26) Comprehensive Plan. Inclusive physical, social and economic plans and policies in graphic and verbal statement forms for the development of the Town, prepared and adopted by the Council, and including any part of such plan and/ or policies separately adopted and any amendments to such plan and/ or policies, or parts thereof.

- (27) Condominium. The division of Building(s) and the related land into horizontal property interests meeting the requirements of and controlled by I.C. §§32-25-1-1, et. seq..
- (28) Confined Feeding Operations. A “Confined Feeding Operation” as defined by I.C. §§13-11-2-40, as amended, or regulations adopted thereunder.
- (29) Construction Plan. The Maps or drawings accompanying a Plat and showing the specific location and design of improvements to be installed in accordance with the requirements of this Ordinance as a condition of the approval of the Plat.
- (30) Council. The Town Council of the Town of Santa Claus, Indiana.
- (31) County Auditor. The County Official empowered to examine and settle all accounts and demands that are chargeable against the County and not otherwise provided for by statute.
- (32) County Recorder. The County Official empowered to record and file land description plats.
- (33) Court. An open unoccupied space on the same Lot with a Building or group of Buildings and bounded on three or more sides by such Building or Buildings. The width of any Court is its least horizontal dimension measured between opposite walls. The length of any Court is its greatest horizontal dimension measured at right angles to its width.
- (34) Cul-de-sac. A minor local Street with a single outlet, which is permanently terminated by a vehicle turnaround.
- (35) Curb Level. The level of the established curb in front of a Building measured at the center of such front. Where no Curb Level has been established, the pavement elevation at the Street center line similarly measured, or the mean elevation of the finished Lot Grade immediately adjacent to a Building shall be considered the “Curb Level”.
- (36) Day Care Facility. A facility, other than a Day Care Home, for the care of school-aged children or pre-school aged children during all or part of the day of a commercial nature which provides essential personal care, protection, supervision or training of school aged children or pre-school aged children. A day care facility shall not be considered a Home Occupation.
- (37) Day Care Home. A Dwelling used for the care of children, including relatives of the resident, during all or part of the day, of a commercial nature, of a type commonly called “day nurseries” etc., which provide essential personal care, protection and supervision of pre-school or school-age children. A “Day Care Home” shall be considered a Home Occupation.

- (38) Developer. Any Person engaged in developing or improving a Lot or group of Lots or Structures thereon for use or occupancy.
- (39) Development. Any improvement or change to property brought about by human activity, including but not limited to, Buildings and other Structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.
- (40) Development Plan. A specific plan for the Development of real property that:
- A. Requires approval by a plan commission under the 1400 series of I.C. §36-7-4;
  - B. Includes a Site Plan;
  - C. Satisfies the development requirements specified in the zoning ordinance regulating the Development; and,
  - D. Contains the plan documentation and supporting information required by ordinance.
- (41) Drives, Private. Vehicular Streets and Driveways, paved or unpaved, which are wholly within private property except where they intersect with Streets.
- (42) Driveway. A Right-of-Way which provides egress or ingress to a residential Dwelling Unit.
- (43) Dwelling. A Structure or Building or portion thereof, used exclusively for residential occupancy, including One-Family and Multiple-Family Dwellings, but not including Hotels, Motels, lodging or boarding houses or tourist homes.
- (44) Dwelling, Single-Family. A Building used for occupancy by one family.
- (45) Dwelling, Two Family. A Building used for occupancy by two Families living independently of each other.
- (46) Dwelling, Multiple-Family. A Building or portion thereof, used for occupancy by three or more families living independently of each other
- (47) Dwelling, Row. A Building having a party wall on each side in common with an adjoining Building unless it is situated as the outermost Building; in the latter case it will have a party wall on one side only.
- (48) Dwelling Unit. A Dwelling or portion of a Two-Family, Multi-Family or Row Dwelling used by one Family for cooking, living, and sleeping purposes.

- (49) Easement. A quantity of land set aside over or under which a liberty, privilege, or advantage in land is dedicated and is distinct from ownership of the land or is granted either to the public, a particular Person, or a combination of both.
- (50) Educational Institution. Pre-primary, primary or grade, public, parochial or private school, high school, preparatory school or academy, public or founded or owned or conducted by or under the sponsorship of a religious or charitable organization; private preparatory school or academy furnishing courses of instruction substantially equivalent to the courses offered by public high schools for preparation of admission to college or universities which award B.A. or B.S. degrees; junior college, college or university, public or founded or conducted by or under the sponsorship of a religious or charitable organization, or private when not conducted as a commercial enterprise for the profit of individual owners or stock holders. This definition shall not be deemed to include Trade or Business School as defined in this Section.
- (51) Escrow. A deposit of cash with the Commission in lieu of an amount required on a performance or maintenance Bond. Such Escrow funds shall be held by the Town Clerk Treasurer.
- (52) Family. One or more persons living as a single housekeeping unit, as distinguished from a group occupying a Hotel, Club or Lodge, fraternity or sorority house. A "Family" shall be deemed to include necessary servants.
- (53) Final Plat. See Plat, Final.
- (54) Final Approval. The stage of applications for formal Plan Commission approval of a Final Plat of a Subdivision. The construction of which has been completed or substantially completed which, if approved and signed by the designated officials may be submitted to the County Recorder for filing.
- (55) Floor Area (For Determining Floor Area Ratio.) The sum of the gross horizontal areas of the several floors of the Building measured from the exterior faces of the exterior walls or from the center line of walls separating two (2) Buildings. The "Floor Area" of a Building shall include basement floor area when more than one-half (1/2) of the basement height is above the finished Lot grade level at the front of the Building, interior balconies and mezzanines, and enclosed porches, and floor area devoted to Accessory Uses. However, any space devoted to Off-street Parking Area or loading shall not be included in the "Floor Area."
- (56) Frontage. That side of a Lot abutting on a Street or way and ordinarily regarded as the front of the Lot. Lots shall not be considered to front on stub ends of Streets and in the case of Corner Lots will be considered to front on both intersecting Streets.

- A. Frontage (of a Block). Means all of the property abutting a Street or the space between a Building and the Street.
  - B. Frontage (of a Lot). All the property of such Lot fronting on a Street, as measured between Side Lot Lines.
- (57) Front Lot Line. See (77) A Lot Line, front.
- (58) Front Yard. A Yard, as defined herein, encompassing the horizontal space between the nearest Foundation of a Building to the Right-of-Way line and that Right-of-Way line, extending to the side lines of the Lot, and measured as the shortest distance from that Foundation to the Right-of-Way line. The Front Yard of a Corner Lot shall be that yard abutting the Street upon which the Lot has its least Frontage.
- (59) Governing Body. The body of the relevant local government having the power to adopt ordinances.
- (60) Grade. The slope of a Street, or other public way, specified in percentage (%) terms.
- (61) Health Department and Health Officer. The agency and/or person designated to administer health regulations within the Town.
- (62) Home Occupation. Any use customarily conducted entirely within a Dwelling and carried on by the occupants thereof, which use is incidental and secondary to the use of the Dwelling for Dwelling purposes and does not change the character thereof, and in connection with which there is no commodity sold upon the premises except that which is produced by such Home Occupation, and not more than two (2) persons are engaged in such occupation
- (63) Hospital. An institution operated by, or where treatment is given under direct supervision of a physician licensed to practice by the State of Indiana.
- (64) Hotel. A Building or portion thereof used for the more or less temporary occupancy of individuals who are lodged with or without meals.
- (65) Improvement Location Permit. A permit issued by the Town of Santa Claus, stating that the proposed erection, construction, enlargement, Alteration, or moving of a Building or Structure referred to therein complies with the provisions of this Ordinance.
- (66) Indiana Code. Any and all acts duly passed by the General Assembly of the State of Indiana and enacted into law, as they now exist and as they may be re-codified, amended, altered, or restated, at any time and from time to time.

- (67) Industry, Heavy. Manufacturing, processing, assembling, storing, testing and similar industrial uses which are generally major operations and extensive in character; require large sites, open storage and service areas, extensive services and facilities, ready access to regional transportation; and normally generate some nuisances such as smoke, noise, vibration, dust, glare, Air Pollution and water pollution.
- (68) Industry, Light. Manufacturing or other industrial uses which are usually controlled operations; relatively clean, quiet and free of objectionable or hazardous elements such as smoke, noise, odor or dust; operating and storing within enclosed Structures; and generating little industrial traffic and no nuisances.
- (69) Interested Parties. Those parties who are the Owners of properties adjoining or adjacent to a proposed Subdivision as shown on the Sketch Plan.
- (70) Junk Yard, Including Automobile Wrecking and Storage. Any Lot, Building, Structure, enclosure, premises, or parts thereof used for the storage, keeping or abandonment of any worn out, cast off, or discarded or abandoned articles, material, vehicle, one or more automobile(s), and machinery or parts thereof, which is ready for destruction or Sale or has been collected or stored for salvage or conversion to some use, including scrap metal, paper, wood, cordage or other waste or discarded materials, articles, vehicles, one or more automobile(s) that are inoperable or incapable of movement by their own locomotion or power, or vehicles or automobile(s) without a valid current State registration and license plate issued to said vehicle or automobile(s) and to the occupant, owner, purchaser, lessor, lessee or tenant of any Lot, Building, or Structure therein or thereon situated.
- (71) Kennel. A Lot, Building, Structure, enclosure, or premises whereon or wherein three (3) or more dogs or cats are maintained, boarded, bred, kept, or cared for, in return for remuneration, or are kept for the purpose of Sale, or are groomed, trained, or handled, for others.
- (72) Landscaping. Any trees, shrubs, walls, fences, berms or related landscape features required under this Ordinance on private Lots for the visual enhancement and definition of Frontage along public Rights-of-Way.
- (73) Lodging House. See "Bed & Breakfast."
- (74) Lot. A Parcel of land defined by metes and bounds or boundary lines in a recorded deed or on a recorded Plat. In determining lot area, no part thereof within the limits of the proposed Street Rights-of-Way shall be included.
- (75) Lot, Corner. A Lot abutting two (2) or more Streets at their intersection.

- (76) Lot, Front. That part of a Lot adjacent to and parallel with a Street. The front of a Corner Lot shall be the part of the Lot adjacent to the shorter of the two abutting Street segments.
- (77) Lot Lines. Lines bounding a Lot, as hereinafter described:
- A. Lot Line Front. With respect to the relationship between Line, property and the Street this means:
1. For an interior or Through Lot, means the line marking the boundary between the Lot and the abutting Street; and,
  2. For a Corner Lot, means the line marking the boundary between the Lot and the shorter of the two abutting Street segments, unless the Zoning Administrator approves an alternative Front Lot Line, at the time of application for the Improvement Location Permit.
- B. Lot Line, Rear. The Lot Line generally opposite and parallel to the Front Lot Line, except in a "Through Lot." If a Rear Lot Line is less than ten (10) feet long or the Lot comes to a point at the rear, said Rear Lot Line is assumed to be a line at least ten (10) feet long, lying wholly within the Lot, parallel to the front Street line or, if the front Street line is curved, parallel to the chord of the arc of said front Street line.
- C. Lot Line, Side. Any lines separating two (2) Lots other than Front or Rear Lot Lines.
- (78) Lot, Through. A Lot having Frontage on two (2) parallel Streets, which is not a Corner Lot.
- (79) Lot Width. The distance parallel to the front of a Building erected or to be erected, measured between Side Lot Lines at the Building line.
- (80) Low Density. Those residential zoning districts in which the density is equal or less than one (1) Dwelling unit per forty thousand (40,000) square feet.
- (81) Major Street. A collector or Arterial Street.
- (82) Map. A representation of a part or the whole of the earth's surface, in signs and symbols, on a plane surface, at an established scale, with a method of orientation indicated.
- (83) Marker. A stake, pipe, rod, nail, or any other object which is not intended to be a permanent point for record purposes.

- (84) Canopy. A roof-like Structure of a permanent nature which projects from the wall of a Building.
- (85) Master Plan. See "Comprehensive Plan."
- (86) Medium Density. Those residential zoning districts in which the density is between ten thousand (10,000) and forty thousand (40,000) square feet per Dwelling unit.
- (87) Mineral Extraction. Mining, quarrying and removal of earth materials.
- (88) Model Home. A Dwelling unit used initially for display purposes which typifies the kind of units that will be constructed in a Subdivision.
- (89) Monument. A physical Structure which marks the location of a corner or other survey point.
- (90) Motel. A permanent Building or group of Buildings containing rooms without cooking facilities, which are used, rented or hired out for the more or less temporary occupancy of overnight guests.
- (91) Motor Vehicle. Automobiles, trucks, tractors, trailers, semi-trailers, airplanes, buses and farm implements, whether self propelled or designed to be pulled, pushed or carried by another Motor Vehicle.
- (92) Net Buildable. The portion of a Lot that can be developed with Buildings, septic system and water well,
- (93) Net Site Area. The entire land area within the boundaries of a site, including the area of any existing Streets, Alleys, or Rights-of-Way which are included in the legal description of the site.
- (94) Nonconforming Use. A legally existing use of land or Building which fails to comply with the regulations set forth in this Ordinance applicable to the district in which such use is located.
- (95) Nursery, Plant Materials. Land, Buildings, Structures or the combination thereof for the storage, cultivation or transplanting of live trees, shrubs, or plants offered for retail Sale on the premises including products used for gardening and Landscaping.
- (96) Off-Site. Any premises not located within the area of the property to be subdivided, whether or not in the Same Ownership of the Applicant for Subdivision approval.
- (97) Official Map. The Map or Maps established by the Town pursuant to law showing the existing and proposed Streets, highways, parks, drainage systems and Setback lines theretofore laid out, adopted and established by law, and

any amendments or additions thereto adopted by the Town or additions thereto resulting from the approval of Subdivision Plats by the Commission and the subsequent recordation of such approved Plats.

- (98) Ordinance. Any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal of any Ordinance.
- (99) Owner. Any Person having a legal or equitable interest of record in real property.
- (100) Parcel. A part or portion of land having a legal description formally set forth in an instrument of conveyance in order to make possible its identification.
- (101) Parking Area, Public. An open area, other than a Street, used for the temporary parking of more than four (4) automobiles and available for public use, whether free, for compensation, or as accommodation for clients or customers.
- (102) Parking Space (Off-Street). The provision of parking spaces which are not located on any public Right-of-Way.
- (103) Pedestrian Way. A Right-of-Way across or within a Block designated for pedestrian use.
- (104) Person. A corporation, firm, partnership, association, organization or any other group acting as a unit, as well as a natural person.
- (105) Planned Unit Development (PUD). A Development of land that is under unified control and is planned and developed as a whole in a single Development operation or programmed series of Development stages, meeting the requirements of I.C. §36-7-4-1500 et seq..
- (106) Plat. A Map indicating the Subdivision or Re-Subdivision of land filed or intended to be filed for record with the County Recorder.
- (107) Plat, Final. The Map, drawing, or plan described in this Ordinance of a Subdivision and any accompanying material submitted to the Commission for secondary approval, and which if approved and signed by the designated officials, is intended to be submitted to the County Recorder for recording.
- (108) Plat, Preliminary. The preliminary drawing or drawings, described in this Ordinance, indicating the proposed manner or layout of the Subdivision to be submitted to the Commission for approval.
- (109) Plat, Sketch. A rough sketch by the Developer of the proposed Subdivision and presented to the Commission prior to submission of the Subdivision for Primary Approval.

- (110) Primary Approval. An initial approval (or approval with conditions imposed) granted to a Subdivision by the Commission after having determined in a public hearing that the Subdivision complies with the standards prescribed in this Ordinance.
- (111) Primary Arterial. A Street intended to move through-traffic to and from such major attractions as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas, and similar traffic generators within the county; and/or as a route for traffic between communities.
- (112) Principal Use Building. A Building in which the principal use of the Lot or Parcel is conducted. Standards recognized by the Indiana Administrative Building Council shall be used to determine whether a given Structure constitutes one or more Building in cases where ambiguities exist.
- (113) Private Water. A water supply system which is not constructed, installed, maintained, operated or owned by a municipality, taxing district established for that purpose, or a utility under the jurisdiction of the Indiana Utility Regulatory Commission.
- (114) Public Agency. An agency or government department acting under the aegis of and representing an elected or appointed council, commission, or other policy-making or advisory body of federal, state or local government to whom it is responsible.
- (115) Public Improvement. Any drainage ditch, Street, highway, parkway, Sidewalk, pedestrian-way, or other facility for which the local government may ultimately, assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established,
- (116) Public Sewer. A sewage disposal system which is constructed, installed, maintained, operated and owned by a municipality or taxing district established for that purpose.
- (117) Public Street. A Street established or dedicated for public use.
- (118) Public Utility. A firm, corporation, municipal department or board duly authorized to furnish or furnishing under regulation to the public; electricity, gas, steam, communication (including CATV), transportation, drainage, sewer, water or other similar products or services.
- (119) Public Water. A water supply system which is constructed, installed, maintained, operated and owned by a municipality taxing district established for that purpose, or a utility under the jurisdiction of the Indiana Utility Regulatory Commission.

- (120) Railroad Right-of-Way. A strip of land with tracks and auxiliary facilities for track operation, but not including depots, loading platforms, stations, train sheds, warehouses, car shops, car yards, locomotive shops or water towers.
- (121) Recreational Vehicle, or "RV." A temporary Dwelling for travel, recreation and vacation use, including, but not limited to:
- A. Motor Homes: A self-propelled vehicle with a Dwelling constructed as an integral part of the vehicle, or so altered.
  - B. Pick-up Coach: A Structure designed to be mounted on a truck chassis or cut-down car.
  - C. Travel/Camping Trailer: A vehicle or other portable Structure that is designed to be moved on the highway and designed or used as a Dwelling.
- (122) Recreational Vehicle (RV) Park. Any Lot of land upon which two or more recreational vehicles sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.
- (123) Recycling Center. A facility that is not a junk yard and in which recoverable resources, such as newspapers, glassware, and metal cans, are collected, stored, flattened, crushed, or bundled, essentially by hand and within a completely-enclosed Building.
- (124) Recycling Collection Point. An incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources, but where no processing of such items would be allowed.
- (125) Recycling Plant. A facility that is not a Junk Yard and in which recoverable resources such as newspapers, magazines, books and other paper products, glass, metal cans and other products are recycled, reprocessed, and treated to return such products to a condition in which they may again be used for production.
- (126) Registered Land Surveyor. A land surveyor licensed and registered or permitted to practice in the State of Indiana through reciprocity.
- (127) Registered Professional Engineer. An engineer licensed and registered in the State of Indiana or permitted to practice in the State of Indiana through reciprocity.
- (128) Re-plat. A change in a Map of an approved or recorded Plat if such change affects any Street layout on such Map or area reserved thereon for public use,

or any Lot Line; or if it affects any Map or plan legally recorded prior to the adoption of any regulations controlling Subdivisions.

- (129) Restrictive Covenants. Limitations of various kinds on the usage of Lots or Parcels of land within a Subdivision which are proposed by the Subdivider, and, in the case of public health, safety and welfare by the Commission, that are recorded with the Plat and run with the land.
- (130) Re-Subdivision. A change in a Map of an approved or recorded Plat if such change affects any Street layout on such Map or area reserved thereon for public use, or any Lot Line, or Setback; or if it affects any Map or plan legally recorded prior to the adoption of any regulations controlling Subdivision.
- (131) Right-of-Way. A strip of land occupied or intended to be occupied by a Street, crosswalk, railroad, Roadway, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, Shade Trees or for another special use. The usage of the term "Right-of-Way" for land platting purposes shall mean that every Right-of-Way hereafter established and shown on a Final Plat is to be separate and distinct from the Lots or Parcels adjoining such Right-of-Way and not included within the dimensions or areas of such Lots or Parcels. Right-of-Way intended for Streets, crosswalks, water mains, sanitary sewers, storm drains, Shade Trees or any other use involving maintenance by a Public Agency shall be dedicated to public use by the maker of the Plat on which such Right-of-Way is established.
- (132) Roadside Stand. A Structure for the display and Sale of products, with no space for customers within the Structure itself.
- (133) Roadway. That portion of the Street designated for vehicular use.
- (134) Sale or Lease. Any immediate or future transfer of ownership, or any possessor interest in land, including contract of sale, Lease, devise, intestate succession, or transfer, of an interest in a Subdivision or part thereof, whether by metes and bounds, deed, contract, Plat, Map, Lease, devise, intestate succession, or other written instrument.
- (135) Salvage Yard. An establishment engaged in processing of scrap iron and/ or other metals to be sold.
- (136) Same Ownership. Ownership by the same Person; or ownership by different Persons, in which a stockholder, partner, or associate, or a member of his/her Family owns an interest in each corporation, firm, partnership, entity, or unincorporated association.
- (137) Sanitary Landfill. The disposal of Solid Waste by the trench and cover method or fill and borrow method.

- (138) Screening/Buffering. A Structure erected or vegetation planted which initially or eventually is of sufficient height and or density for concealing an area from view and/or deadening sound.
- (139) Secondary Arterial. A Street intended to collect and distribute traffic in a manner similar to Primary Arterials, except that these Streets service minor traffic generating areas such as community-commercial areas, primary and secondary education plants, Hospitals, major recreational areas, churches, and offices, and/or designated to carry traffic from Collector Streets to the system of Primary Arterials.
- (140) Setback. A line parallel to and equidistant from the relevant Lot Line between which no Buildings or Structures may be erected.
- (141) Shade Tree. A tree in a public place, special Easement, or Right-of-Way adjoining a Street.
- (142) Sidewalk. That portion of the Street Right-of-Way designated for pedestrian use.
- (143) Sign. A name, identification, description, display or illustration which is affixed to, or represented directly or indirectly upon a Building, Structure or piece of land and which directs attention to an object, product, place, activity, Person, institution, organization or business. A "Sign" shall not include:
- A. The display of official court or public office notices;
  - B. The flag emblem, or insignia of a nation, political unit, school or religious group; or,
  - C. A display located completely within an enclosed Building, except those located behind window areas intended to be viewed from outside the Building.
- (144) Sign, Flashing. An illuminated Sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such Sign is in use. A revolving, illuminated Sign shall be considered to be a "Flashing Sign."
- (145) Sign, Gross Area of. The entire area within a single continuous perimeter enclosing the extreme limits of such Sign and in no case passing through or between any adjacent elements of same.
- (146) Sign, Nameplate. Non-illuminated Sign flush with the front of the Building indicating the name or address of a Building, or the name of an occupant thereof and the practice of a permitted occupation therein.
- (147) Sign, Off-Premises. See Section 11.04.020(4) (Advertising Devices)

- (148) Sign, On-Premises. A Sign which directs attention to a business, commodity, service or entertainment related to the premises where such Sign is located or to which it is affixed.
- (149) Site Plan. A drawing which shows size and location of all existing and proposed Buildings, all adjacent Streets and highways the size of all entrances and exits from the land and a legal description of the land.
- (150) Sketch Plan. The initially-submitted graphic representation of a proposed major Subdivision, drawn to approximate scale, either superimposed upon a print of a topographic survey, or presented in any other suitable graphic medium or form acceptable to the Commission; and, in the case of a minor Subdivision, the drawing or drawings indicating the proposed manner of layout of the Subdivision meeting the conditions of this Ordinance to be submitted to the Commission for Primary Approval.
- (151) Soil Survey. The National Cooperative Soil Survey prepared by the United States Department of Agriculture.
- (152) Solid Waste. Any garbage, refuse, sludge from a waste treatment plant, sludge from a water supply treatment plant, sludge from an Air Pollution control facility, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining or agricultural operations or from community activities. The term "Solid Waste" does not include domestic sewage, irrigation return flows, or industrial discharges that are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act Amendments; source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954; manures or crop residues returned to the soil at the point of generation as fertilizers or soil conditioners as part of total farm operation; or, vegetative matter at composting facilities registered under I.C. §13-20-10.
- (153) Story. That portion of a Building included between the upper surface of any floor and the upper surface of the floor next above or any portion of a Building used for human occupancy between the topmost floor and the roof. A basement shall not be counted as a "Story" unless more than one-half (1/2) of the basement height is above grade level at the front of the Building.
- (154) Street. A Right-of-Way, other than an Alley, usually affording the principal means of access to abutting property. A Street may be designed as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive, or other appropriate name. The Arterial Thoroughfares and primary and secondary Streets are designated on the Thoroughfare Map of the Comprehensive Plan. For the purpose of this Ordinance, Streets shall be classified as follows:
- A. Arterial Thoroughfares. This type of facility serves mainly to move through traffic. Indiana and U.S. marked routes as well as some

county Roadways and important intra-city Streets are considered under this classification. Where a highway is a non-limited access route, these facilities also perform a secondary function of providing direct access to abutting land and thus interconnect principal traffic generators.

- B. Primary (Major) Routes. These facilities serve to connect cities with each other as well as link smaller Towns or settlements with the Arterial Thoroughfares system. Primary routes provide access to abutting land and generally serve all principal traffic generators.
- C. Secondary (Connector) Roads. These facilities serve intra-city movements of traffic, such as that moving between a Subdivision and a Major Street. The principal difference between the connector road and Streets or roads of higher classification is the length of trip each principally serves. They are intended to supply the abutting property with the same degree of land service as the local Street, while at the same time serving larger volumes of traffic.
- D. Local (Residential) Street. A Street, the sole function of which is to provide access to the immediately adjacent property. Local access Streets are intended to carry low volumes of traffic.
- E. Marginal Access Street. A Street designed to connect not more than two (2) Streets, and which normally parallels an Arterial Thoroughfare, or a primary or secondary Street, and is not separated from the said thoroughfare or Street by a Lot or tier or Lots, and which is specifically so designed and approved as such on the Plat of the Subdivision.
- F. Right-of-Way Width. The distance between property lines measured at right angles to the center line of the Street.
- G. Classification. For the purpose of providing for the Development of the Streets in the Town, and for their future improvements, reconstruction, realignment, and necessary widening, including provision for curbs and Sidewalks, each existing Street, and those located on approval and filed Plats, have been designated on the Official Map of the Town or Thoroughfare Plan and classified therein. The classification of each Street is based upon its location in the respective zoning districts of the Town and its present and estimated future traffic volume and its relative importance and function as specified in the Comprehensive Plan and/or its Thoroughfare Plan component. The required improvements shall be measured as set forth for each Street classification on the Official Map.

- (155) Structure. Anything constructed, erected, or placed, which requires location on the ground or attachment to something having a location on the ground. Devices used for the support of wires and appurtenances supplying Public Utility services shall not be considered as "Structures" under this Ordinance.
- (156) Subdivider. Any Person who, having proprietary interest in land, causes it, directly or indirectly, to be divided into a Subdivision; or, directly or indirectly sells, Leases, or develops, or offers to sell, Lease, or develop, or advertise for Sale, Lease or Development, any interest, Lot, Parcel site, unit, or Plat in a Subdivision; or, engages directly, or through an agent, in the business of selling leasing, developing, or offering for Sale, Lease or Development of a Subdivision of any interest, Lot, Parcel, site, unit or Plat in a Subdivision; or, is directly or indirectly controlled by, or under direct, or indirect common control with any of the foregoing.
- (157) Subdivision. The division of a Parcel of land into two (2) or more Lots, Parcels, sites, units, Plats, or interests for the purpose of offer, Sale, Lease, or Development, either on the installment plan or upon any and all other plans, terms and conditions, including Re-Subdivision. "Subdivision" includes any division of a Parcel of land by devise, intestacy, Lease, Map, Plat, or other recorded instrument. The following kinds of division of existing Parcels of land are herein called "Exempt Divisions:"
- A. A division of land into two (2) or more tracts of which all tracts are at least three (3) acres in size;
  - B. A division of land for the transfer of a tract or tracts to correct errors in an existing legal description, provided that no additional Building sites other than for Accessory Buildings are created by the division;
  - C. A division of land for federal, state or local government to acquire Street Right-of-Way;
  - D. A division of land for the transfer of a tract or tract between adjoining Lots provided that no additional Principal Use Building sites are created by the division.
  - E. A division of land into Cemetery plots for the purpose of burial of corpses.
- (158) Tavern. A Building where liquors are sold to be consumed on the premises and where entertainment may or may not be provided, including bars and cocktail lounges.
- (159) Technical Advisory Committee. A committee established to provide technical services to the Commission in the administration of this Ordinance.

- (160) Terrace or Deck. A Platform, which for the purpose of this Ordinance is located adjacent to one (1) or more faces of the principal Structure and which is constructed above the average level of the adjoining ground.
- (161) Terrain Classifications. Shall be as follows:
- A. Ordinary - cross slope range 0 - 8%
  - B. Rolling - cross slope range 8.1% - 15%
  - C. Hilly - cross slope range over 15%
- (162) Town. The Town of Santa Claus, Indiana.
- (163) Trade or Business School. Secretarial school or college; business school or college when not public and not owned or conducted by or under the sponsorship of a religious or charitable organization; school conducted as commercial enterprise for teaching instrumental music, dancing, barbering or hair dressing; or for teaching industrial skills in which machinery is employed as a means of instruction. This definition shall not be deemed to include "Educational Institution."
- (164) Use (of Property). The purpose or activity for which the land or Building thereon is designed, arranged or intended or for which it is occupied or maintained. (Includes any manner of performance of activity or operation with respect to the performance standards or this Ordinance.)
- A. Use, Open. The use of a Lot with or without a Building or Dwelling, with a ground Floor Area equal to five percent (5%) or less of the area of the Lot.
  - B. Use, Permitted. A use which may be lawfully established in a particular district or districts conforming with all requirements, regulations and performance standards, if any, of such district.
  - C. Use, Principal. The main use of land or Buildings as distinguished from a subordinate or accessory use.
  - D. Use, Special. Those uses of land which are not essentially incompatible with the uses permitted in a zoning district, but possess characteristics or location qualities which require individual review and restriction.
- (165) Variance. A minimum departure from the strict application of the specific requirements of this Ordinance granted by the Board in accordance with the terms of this Ordinance for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of

privileges commonly enjoyed by other properties in the same vicinity or district.

(166) Waste.

- A. Industrial Solid: Generally consists of such materials as wastewater treatment sludge (wastes with most of the water removed; semi-liquid), agricultural wastes, plastics, oil, paint, metal, coal ash and is managed on-site in landfills, surface impoundments, land application units, and waste piles and/or to Off-Site land facilities, discharged to wastewater treatment plants and to surface waters.
- B. Hazardous: Regulated by the Resources Conservation and Recovery Act (RCRA, 1976) and its amendments, is any waste that is "corrosive, ignitable, reactive or toxic," or poses a substantial threat to human health and environment when improperly managed.
- C. Municipal Solid: The refuse discarded by households, institutions and commercial establishments (as distinct from hazardous waste and sludge), and is disposed of in landfills, by incineration, is composted, recycled or re-used.
- D. Wastewater: The effluent from industrial facilities, oil and gas operations, mining, agricultural run-off, municipalities, small businesses and households.
- E. Yard: Plant clippings, pruning and other discarded materials from yards and gardens.

(167) Waste Disposal Facility. A landfill, composting facility, incinerator, transfer station, or any similar use. This definition excludes salvaging, storage, or processing of scrap, metal, paper, cloth, or other material and excludes "Junk Yards."

(168) Yard. An open, unoccupied, unobstructed space on the same Lot with a principal Building or Structure.

- A. Yard, Front. A yard extending across the full width of the Lot, the depth of which shall be the least distance between the Front Lot Line and the front of the main Building.
- B. Yard, Rear. A yard extending across the full width of the Lot between the rearmost main Building and the Rear Lot Line, the depth of which shall be the least distance between the Rear Lot Line and the rear of such main Building.
- C. Yard, Side. A yard between the main Building and the Side Lot Line, extending from the Front Yard or Front Lot Line where no Front Yard is required, to the rear yard. The width of the required side yard

shall be measured horizontally and perpendicularly from the nearest point of the Side Lot Line toward the nearest part of the main Building.

- (169) Zoning Administrator. The officer designated and authorized by the Council of Santa Claus to enforce this Ordinance.
- (170) Zoning District(s). A section or sections of the jurisdiction of the Town of Santa Claus, Indiana Zoning Ordinance for which the regulations and requirements governing use, Lot and bulk of Buildings and premises are uniform.
- (171) Zoning Ordinance. That Town Ordinance setting forth the regulations controlling the use of land in the unincorporated areas in those jurisdictions within and without the Town not controlling land use through their own zoning ordinances. (Ord. 2006-04, S2.0, June 12, 2006) (Ord. 1995-05, S2.0, Apr. 20, 1995)

#### **11.04.021 Buildings and Uses Affected by Zoning.**

- (1) No Building, Dwelling, or Structure, or part thereof, shall hereafter commence to be erected, moved, altered or used unless in conformity with the regulations of this Ordinance or Unless Erection Has Been Started Prior to the Enactment of this Ordinance. (Ord. 2006-04, S2.1, June 12, 2006)
- (2) Continuance of Nonconforming Buildings or Uses.
  - A. Nonconforming Buildings or Structures.
    - 1. Maintenance Permitted. A nonconforming Structure lawfully existing upon the effective date of this Ordinance may be maintained.
    - 2. Repairs and Alterations. Repairs and Alterations may be made to a nonconforming Building or Structure, provided that no enlargement shall be made.
    - 3. Additions, Enlargements or Moving.
      - (a) A Structure nonconforming as to use, height, yard requirements or Lot area per Dwelling unit shall not be added to or enlarged in any manner unless such Structure, including such addition or enlargement, is made to conform to the use, height, yard, and area requirements of the zone in which it is located.
      - (b) No nonconforming Building or Structure shall be moved in whole or in part to any other location on

the Lot unless every portion of such Building or Structure is made to conform to all the regulations of this Ordinance for the zone in which it is relocated.

- (B) Nonconforming Use of Buildings or Structures.
1. Continuation and Change of Use. Except as otherwise provided in this Ordinance:
    - (a) The Nonconforming Use of a Building or Structure, lawfully existing at the time this Ordinance became effective, may be continued.
    - (b) The Nonconforming Use of a Building or Structure may be changed only to a use of the same or more restricted classification. (a use of the current zoning classification in which the Building or Structure is located upon)
  2. Limited Expansion of Nonconforming Uses
    - (a) A Nonconforming Use on a part of a Lot shall not be expanded or extended into any other portion of such Lot.
    - (b) A Nonconforming Use of a Building or Structure designed for such use may be expanded up to fifteen percent (15%) of the area nonconforming at the time of passage of this Ordinance. (Ord. 2006-04, S2.2, June 12, 2006)
- (3) Nonconforming Variance Permitted. The Board may authorize, upon appeals in specific cases, such variance from the terms of this Section as will not be contrary to the public interest, where, owing to a special condition, a literal enforcement of the provisions of this Section will result in unnecessary hardship, and so that the spirit of this Section shall be observed and substantial justice done; provided, however, that no action shall be taken or decision made except after public hearing. (Ord. 2006-04, S2.3, June 12, 2006)
- (4) Amortization of Nonconforming Uses or Buildings.
- A. Discontinuance. Whenever a Nonconforming Use has been discontinued for a period of twelve (12) months, such use shall not thereafter be re-established, and any future use shall be in conformity with this Ordinance, except as otherwise permitted in this Section B.

- B. Discontinuance of Seasonal Trade. Whenever a Nonconforming Use dependent on seasonal trade has been discontinued for a period of fourteen (14) months, such use shall not thereafter be established and any future use shall be in conformity with this Ordinance.
  - C. Damaged Building. No Building damaged by fire or other causes to the extent that it is seventy-five percent (75%) or greater destroyed shall be repaired or rebuilt except to conform with this Ordinance. (Ord. 2006-04, S2.4, June 12, 2006)
- (5) Nonconformance Due to Reclassification. The provisions of Sections 11.04.021(3) and (4) shall apply to Buildings, Structures and uses which hereafter become nonconforming due to any reclassification of zones under this Ordinance, or any subsequent change in this Ordinance, and any time periods specified for discontinuance of Nonconforming Uses shall be measured from the date of such reclassification or change. (Ord. 2006-04, S2.5, June 12, 2006)
- (6) General Use Provisions.
- A. Conformance and Permits Required. No Building or Structure shall be erected, reconstructed, enlarged or moved for any use other than that which is permitted in the zone in which such Building, Structure or land is located, nor shall any Building, Structure or land be used for any other use than is permitted in the zone in which it is located.
  - B. Zone Group Classification. Whenever the terms "FP Zone, A Zone, C Zone, I Zone, AM Zone, R Zone, PUD Zone" are used, they shall be deemed to refer to all zones containing the same letters in their names; e.g. R Zone shall include the R-1, R-2, and R-3 zones.
  - C. Temporary Buildings and Structures. Temporary Structures and Buildings incidental to construction work are permitted, but must be removed upon completion of the construction, Permits may be issued for temporary Structures or land uses such as carnivals, revival meetings, seasonal Sales, or emergencies, upon review by the Commission. Temporary Structures and uses must:
    1. Terminate at a specific time;
    2. Not cause traffic problems;
    3. Provide adequate parking within one thousand four hundred (1,400) feet of the proposed site;
    4. Direct outdoor lighting away from adjoining residential areas; and,

5. Not affect neighboring uses. Fences, hedges, Driveways, curbs, retaining walls, mail boxes, lamp posts, bird baths, and benches are permitted in any Lot, provided they do not violate any other requirements of this Ordinance. (Ord. 2006-04, S2.6, June 12, 2006)

- (7) Off-street Parking and Loading Provisions. All required spaces for residential Structures shall be located on the same Parcel with the residential use.

Parking spaces for commercial, industrial, or institutional uses shall be located within seven hundred (700) feet from the Principal Use. Parking spaces for Apartments, dormitories, or similar residential uses shall be located within three hundred (300) feet from the Principal Use.

All Parking Spaces must be at least nine feet wide. Ninety degree, sixty degree, and forty-five degree Lots must be eighteen (18) feet long and parallel Parking Spaces must be twenty-three (23) feet long.

Two (2) or more non-residential uses may jointly provide and use Parking Spaces when their hours of operation do not overlap, and provided that a written agreement for such use is filed with the Commission.

When two or more uses are located within the same Building, Off-Street Parking Spaces shall equal the sum of the separate requirements for each use.

All required Off-Street parking shall be paved with bituminous, concrete, or other all-weather, dust proof surfacing and shall be provided with bumper guards or barrier curbs where needed. New commercial and industrial parking Lots may use stone or rock until base is settled, not to exceed three (3) years, providing the Lot is watered during use to minimize dust.

All open Off-Street parking shall be effectively-screened on each side adjoining or fronting on any residential zone. Walls, fences, or densely planted hedges between five (5) and eight (8) feet high are considered to be effective screens.

Every commercial, industrial, or public use requiring Off-Street loading shall provide berths. Off-Street loading berths shall not be located in a public Right-of-Way or in a Front Yard. Loading berths shall be at least twelve (12) feet wide and fifty (50) feet long.

A. Development Standards.

<b>USE</b>	<b>Off Street Space Required</b>
Bowling Alleys	Four (4) for each alley.
Churches	One (1) for each four (4) seats in main area.
Clubs	One (1) for every two hundred (200) square feet of Floor Area.
Combination of Uses on the Same Parcel	The sum total of the number required for each use as determined according to the requirements set out in this Ordinance.
Convalescent Homes & Nursing Homes	One (1) for each four (4) beds, plus a passenger loading area.
Dining Rooms, Taverns, Restaurants, and Night Clubs	One (1) for each 200 square feet.
Dormitories	One for every guest room
Dwellings	Two (2) for each Single-Family Dwelling; Three for each Two-Family Dwelling; One and one-half (1 1/2) for each Dwelling Unit in a Multiple-Family Dwelling
Fraternities & Sororities	One (1) for every two (2) members.
Hospitals & Clinics	One (1) for each doctor; plus one (1) for each three (3) regular employees; plus one (1) for each 200 square feet of gross Floor Area; plus an Off-Street passenger or patient unloading area.
Hotels	One (1) for each guest room
Industrial Uses (Permitted Uses)	One (1) for every six hundred (600) square feet of gross Floor Area; or one (1) for every two (2) employees on the largest shift whichever requires the greater number of spaces.
Industrial Uses (Special Exceptions)	Special uses will be determined by the Board according to use. But in no case, shall the required parking be less than for permitted uses.
Libraries, Museums, Art Galleries	One (1) for each four hundred (400) square feet of gross Floor Area.

Private Nurseries, Schools, Kindergartens, Children's Homes, Day Care Facility	One (1) for each regular employee, plus an off-Street passenger loading area.
Professional Offices	One (1) for each two hundred fifty (250) square feet of gross Floor Area.
Public Utilities and Other Service Facilities	One (1) for each five hundred (500) square feet of gross Floor Area; OR Two (2) each for three (3) regular employees, whichever is greater.
Retail Business	One (1) for each two hundred fifty (250) square feet of gross Floor Area.
Schools - Elementary & Jr High	Two (2) per classroom, plus an off-Street passenger loading zone.
Schools - High School	Ten (10) per classroom

(Ord. 2006-04, S2.7, June 12, 2006)

- (8) General Area Provisions. Except as hereinafter provided, no Building or Structure shall be erected on a Lot unless such Building, combined existing Structure plus additions, conforms with the area regulations of the zone in which it is located.
- A. Reduction of Lot Area. No Lot area shall be so reduced, diminished and maintained that the yards, other open space, or total Lot area shall be smaller than prescribed by this Ordinance, nor shall the density of population be increased in any manner except in conformity with the regulations herein established.
- B. Recorded Lots less than Minimum Area. Undeveloped Lots of record at the time of the enactment of this Ordinance which have less than the minimum area requirements for residential use may nevertheless be used for any use permitted therein, except that for Dwellings, the Lot must have a width of at least sixty (610) feet, and an area of at least seven thousand five hundred (7,500) square feet.
- C. Yards Apply to Only One Building. No required yard or other open space around an existing Building, or which is hereafter provided around any Building for the purpose of complying with the provision of this Ordinance, shall be considered as providing a yard or open space for any other Building; nor shall any yard or other required open space on any adjoining Lot be considered as providing a yard or open space on a Lot whereon a Building is to be erected.
- D. Corner Setback. At Street intersections of an angle less than sixty (60) degrees, shrubs or Structures over three and one-half (3 1/2) feet

high will not be placed between the intersections of the Street lines and ten (10) feet from the Building line.

- E. Front Yards On a Through Lot. At each end of a Through Lot there shall be a Front Yard of the depth required by this Ordinance for the zone in which each Street Frontage is located, and one of such Front Yards may serve as a required rear yard. (Ord. 2006-04, S2.8, June 12, 2006)
- (9) Special Exception - Specified Zones. Special exceptions are those uses of such an unusual nature that their operation may raise unique problems with respect to their impact upon neighboring property and public facilities.
- A. Procedure.
    - 1. Upon receipt of an application for special exception, the Zoning Administrator shall refer the application to the Board for public hearing.
    - 2. A copy of each application shall be referred concurrently to the Commission.
    - 3. The Commission may, without public hearing, review the application for special exception and report to the Board on any effect the application might have upon the Comprehensive Plan.
  - B. Findings. In order for a special exception to be granted, the Board must find in writing that:
    - 1. The establishment, maintenance, or operation of the special exception will not be injurious to the public health, safety, or general welfare of the community;
    - 2. The special exception will not affect the use and value of other property in the immediate area in a substantially adverse manner; and,
    - 3. The establishment of the special exception will be consistent with the character of the district (particularly that area immediately adjacent to the special exception) and the permitted land use.
  - C. Conditional Approval. The Board may impose conditions as part of its approval to protect the public health, and for reasons of safety, comfort and convenience.

- D. Developmental Standards of Special Exceptions. All special exceptions are subject to the development standards of this Ordinance, unless the Board in writing grants variances to the contrary.
- E. Written Statement of Findings.
1. The Board shall either direct the Zoning Administrator to issue an Improvement Location Permit for the special exception (with or without conditions) or reject the application.
  2. The findings of the Board and its order shall be in writing.
- F. Existing Use. An existing use which is listed here as a special exception and which is located in a district in which the special exception may be permitted at the time of enactment of this Ordinance is a conforming use, providing the use meets the minimum development standards set forth in the respective districts. Any expansion of the special exception involving the enlargement of Buildings, Structures, and land devoted to the use, shall be subject to the requirements and procedures described in this Ordinance.
- G. Delay. Any Person who is issued an Improvement Location Permit for a special exception must begin construction within nine (9) months after the permit is issued; complete the special exception within one (1) year after such construction is begun; and conform to the provisions of any restrictions or conditions which the Board imposed in conjunction with approval of the special exception by the Board and upon the basis of which the Improvement Location Permit was issued.
- H. Alteration, Change, Amendment, or Extension. The holder of an Improvement Location Permit for a special exception may apply to the Board at any time for an Alteration, change, amendment, or extension of the application or use upon which such permit was based.
1. Upon receipt of the application, the Board shall proceed as in the case of original application for a special exception.
  2. If the Board approves and orders the application or use changed, altered, amended, or extended, it shall notify the Zoning Administrator who shall issue an amended Improvement Location Permit.
  3. The Board may impose any additional reasonable requirements or conditions including, but not limited to,

establishing Building Setback lines and Lot sizes of a special exception use, if, in the Board's judgment, additional requirements or conditions are necessary for the protection of the public health, safety, comfort, and convenience.

- I. Uses Classified as Special Exceptions. The following uses or structural Alterations, which are classified as Special Exceptions, may be permitted or denied by the Board in the designated zoning districts in accordance with the procedures specified in this Ordinance:

Use	District
Abattoir (slaughterhouse) - commercial processing of animals, including commercial hatcheries and poultry processing plants	A
Adult Entertainment Establishment	I
Airports or landing fields	A&I
Archaeological sites, buildings, or properties	All
Auditorium, community center, stadium, armory, gymnasium, public Buildings, and other similar places for public events	C
Bed & Breakfast	A, R1, R2, & R3
Boarding or Lodging House	R3
Building material Sales (with no outside storage or display area)	C
Bus terminals	C & I
Camps and Campgrounds	A&F
Cement, lime and gypsum manufacturing, oil processing, refining, and manufacturing	I
Churches, synagogue, temples, convents, monasteries, theological schools, rectories, and parish house	R1, R2, C, I
Cement mixing, production of concrete blocks, cinder blocks and other similar building materials	I
Confined Feeding Operations	A
Correctional and penal institutions	I
Country Clubs	A
Crematories	C & I
Day Care Facility - See Nursery School	
Educational Institutions and Trade & Business Schools	C
Fat rendering; stick yards, slaughtering and allied food processing; leather curing and tanning	I
Feed stores	C
Fertilizer manufacturing	A
Fireworks, Sale or Exhibition	Am
Golf Courses	A & Am
Heliports	A
Hospitals or sanitariums, public or private	A
Hotels or Motels	C
Kennels	A
Lake Developments - recreational uses	A & Am

Livestock Sale or auction	A
Club or Lodge	A&R2
Manufacture and/ or distribution of commercial fertilizers and agricultural chemicals	A
Marina	A, Am & F
Clinic - Medical or Dental	C
Mini warehouse	C & I
Monument works and stone cutting	I
Mortuaries and funeral homes without crematorium	R2 & C
Nursery school or day school	C
Oil and gas exploration, pumping and temporary storage facilities	All
Park or playground	A & Am
Plumbing, electrical, heating, sheet metal, roofing showrooms and shops (with no outside storage or display of goods)	C
Public Utility power plants, transformer stations, filtration and sewage disposal plants, pumping stations, water reservoirs, and/or Railroad Rights-of-Way	I&C
Radio, facsimile, television, cellular telephone or similar towers	C, & Am
Recycling Collection Point	A, C & I
Recreation Vehicle park	All
Riding stables	A & Am
Roadside Stands	A & C
Rock crushing, grinding or mulling	A
Sand, gravel and aggregate extraction or processing	A & I
Sawmill	A
Stockyards-shipping, holding or sale of animals	A
Storage or use of explosive materials	I
Salvage Yards, Junk Yards, Recycling Centers, Recycling Plants and Sanitary Landfills	I
Public swimming pools	A & C
Taverns	C
Tennis or swimming clinics	A & Am
Trucking terminals	I
Veterinary clinics, including Animal Hospitals	A & C

(Ord. 2006-04, S2.9, June 12, 2006)

- (10) Waste Disposal Facility, Salvage Yard, Junk Yard, Recycling Center, Recycling Plant and Sanitary Landfill Standards. These requirements are established to provide minimum suitable standards for handling and disposal of wastes and other similar uses on land in Santa Claus. The Town recognizes that disposal and processing of waste is an essential function in the community and that the specific requirements of such an operation will vary with the nature of the operation and its location. The intent of these standards is to allow needed flexibility in the siting, Development and operation of such facilities and to establish regulations which are necessary to promote the public health, safety and general welfare of the community.

- A. Procedure For Designating Facilities. Application of operation of a facility shall be made to the Board for a special exception. The application shall include the following materials:
1. Evidence that the property proposed for designation is publicly-owned or Leased or is under option for purchase or Lease by a qualified public entity.
  2. Legal description of the property included in the request.
  3. Drawing indicating existing features of the site and property within one half (1/2) mile of the site, including significant vegetation, water features, topography, soil characteristics, flood hazard areas, drainage, Structures, land uses, zoning and any other pertinent features.
  4. Site Plan showing the details of the proposed Development, including proposed Structures, fill area and maximum heights of fill, borrow areas, access Drives, Parking Areas, Screening and/or Buffering and any other similar information the Town deems pertinent to the request.
  5. Proposed hours of operation. The Board shall hold a public hearing on the request and shall grant, deny or grant the request with additional conditions. Such hearing shall be conducted in accordance with I.C. §36-7-4 and with the Board's Rules of Procedure.
- B. If a facility is approved by the Board, the property may be developed for said use only in accordance with the approved plan for the site. Any material changes to said plan must be approved by the Board.
- C. In the event that a Parcel approved as a facility is not actively developed for a consecutive period of two (2) years, such approval shall be null and void and the zoning district shall govern the Development of the property. However, the Board may grant extensions to the approval period, provided the date of expiration of such extension is established.
- D. No construction of any facility may be commenced until all required permits are obtained, including but not limited to any and all permits which may be required by any federal, state, or local environmental or health agency or official and an Improvement Location Permit. Construction includes any grading, filling, excavation, structural Alterations or other similar activity. Any such activity which is required in order to obtain needed permits, such as soil boring, is excluded from this provision.

- E. The facility is restricted to lands used for handling and disposal of wastes.
- F. The property proposed for the facility shall be large enough to accommodate the use and any accessory or ancillary activities, including parking, loading, Landscaping, offices, storage Building and utilities.
- G. All facilities shall have adequate access and adequate Street Frontage. The Board may require on-site and/or Off-Site improvements to infrastructure in order to ensure safe and proper access to the facility. In making this determination, the Board shall consider the types, sizes and numbers of vehicles which are expected to use the facility.
- H. All facilities shall be adequately screened and buffered from neighboring land uses. Screening may consist of berms, Landscaping, fencing or a combination thereof. Outdoor storage may not exceed the height of the screen. The Board may require minimum separation distances between the facility and adjacent land uses.
- I. The Board shall impose such requirements as are necessary to reasonably mitigate adverse effects of facilities. Such requirements include but are not limited to height limitations, dust control, erosion control, noise control and limitations on the hours of operation.
- J. Signs associated with the facility shall comply with the provisions of this Ordinance, unless the Board approves specific variances to those regulations as part of the approval of the special exception.
- K. The Board may require financial guarantees of performance running to the Town in order to provide assurance that the facility will be completed and comply in conformance with the approved plan.
- L. The Board may impose such other conditions as are appropriate and deemed necessary for consistency with the spirit and intent of this Ordinance. (Ord. 2006-04, S2.10, June 12, 2006)

(11) Confined Feeding Operations Standards.

- A. Purpose. This section is adopted for the protection of farming interest and to promote and protect the public health, safety and welfare by regulating confined animal feeding operations. It is intended to protect property values, and minimize conflicts between farmers and rural residential uses while enhancing and protecting the physical and scenic appearance of Santa Claus as outlined in the Comprehensive Plan.

- B. Development Standards. All Confined Feeding Operations must conform to I.C. §§1-3-18-10-1 et seq., and any and all rules, regulations or other policies thereunder. All non-farm residential uses and Confined Feeding Operations must also meet the following standards:
1. All Structures and confined Lots designed to house or contain livestock shall be set back nine hundred (900) feet from any Dwelling except that of the confined feeding operator.
  2. All Structures and confined Lots designed to house or contain livestock shall be set back nine hundred (900) feet from any church, business, school, recreational area (public or private) public Buildings and nine hundred (900) feet from any area zoned residential.
  3. All Structures shall be Setback one hundred and fifty (150) feet from a public Roadway Right-of-Way.
  4. If the waste handling facility of an operation is an open earthen pit, the Setback distance shall be increased to:
    - (a) 2,000 feet in 1. above.
    - (b) 2,000 and 2,500 feet respectively in 2. and no less than two hundred (200) feet in 3 above.
  5. No new church, business, school recreational area (public or private or public Building may be constructed or operated within nine hundred (900) feet of an existing or granted (permit or otherwise) confined livestock or poultry feeding operation. (Ord. 2006-04, S2.11, June 12, 2006)
- (12) Recreational Vehicle Parks. In any district in which Recreational Vehicle Parks are permitted, the following specific minimum requirements shall apply:
- A. Recreational Vehicle Parks shall have direct access to a public highway or Roadway with sufficient Frontage for the proper construction of safe entrances and exits.
  - B. Conditions of soil, groundwater level, drainage, geologic Structure and topography shall not create hazards to the park site or to the health and safety of occupants, nor shall the site be subject to the hazards of objectionable smoke, odor or noise, or the possibility of subsidence, sudden flooding or severe erosion.

- C. The density of a park shall not exceed fifteen (15) recreational vehicle spaces for each acre of gross site area.
- D. The minimum area of a Recreational Vehicle Park shall be five (5) acres.
- E. Recreational vehicles and Structures shall comply with the required minimum Setback and yard provisions of this Ordinance.
- F. Where the boundary line of a Recreational Vehicle Park coincides with that of a residential district other than along a thoroughfare or Alley, a yard separation of at least twenty-five (25) feet in width shall be required.
- G. One (1) or more recreation areas with total area of at least eight percent (8%) of the gross park area shall be provided in each Recreational Vehicle Park. Streets, Parking Areas and park service facility areas shall not be included in the required recreational area.
- H. Food stores, restaurants, sporting good stores, Laundromats, dry-cleaning pickup stations and similar convenience and service shops may be permitted in Recreational Vehicle Parks containing fifty (50) or more spaces provided that shops and the Parking Area required by their use shall not occupy more than ten (10) percent of the total park area. The shops shall be primarily for the use of park occupants. (Ord. 2006-04, S2.12, June 12, 2006)

(13) Mineral Extraction Standards.

- A. Purpose. The purpose of these standards are to provide minimum standards for the mining, excavation, processing and storing of mineral resources. These standards are designed to ensure that these resources are properly managed and that all land on which Mineral Extraction has occurred will be left in such condition, so as to not create a hazard or nuisance which either immediately or in the future affects the health, safety or general welfare of the community. No mining shall be started until the Commission has made a written determination and approval with respect to the conditions under which such operations shall be conducted. The Commission shall investigate the area to be developed, as well as the surrounding area, in order to determine the conditions to be prescribed so as to protect surrounding property.
- B. Development Standards.
  - 1. All applications for said uses shall be accompanied by a Map or Plat showing the area proposed to be included in the extraction or removal of material; and a final grading plan

which shows the existing ground elevations of the site and the land immediately adjacent thereto, the location and elevation of all bounding Streets or rounds, and the final elevations of the site at the termination of the operation with respect to the elevations of the immediately adjacent land and bounding Streets or Roadways.

2. Unless the Commission specifies otherwise, the areas exposed by said operation shall not have a final cut slope of steeper than three (3) feet horizontal to one (1) foot vertical distance and shall be left suitable for Development purposes in accordance with the final grading plan approved by the Commission.
3. Unless otherwise permitted by the Commission, temporary operating cut slopes steeper than one (1) foot horizontal to one (1) foot vertical shall in no case be brought closer to an exterior property line, Right-of-Way line of any Street, Roadway, way, or Alley, as existing or as proposed in the Master Plan than fifty (50) feet where a sight screen is provided or seventy-five (75) feet in the case where no provision is made for Screening.
4. Explosives shall be used only between sunup and sundown except in case of an emergency.
5. All Buildings, Structures or equipment involved in extraction shall be entirely removed from the property within one (1) year after the expiration of the permit.
6. Dikes or other barriers and drainage Structures shall be provided, to prevent silting of natural channels or storm drains in the area surrounding said uses.
7. Where required by the Commission:
  - (a) Final cut slopes shall be treated to prevent erosion;
  - (b) Topsoil shall be replaced on such slopes to support vegetation;
  - (c) Ground cover shall be planted within twelve (12) months after a cut slope is excavated to its final position;
  - (d) Ground cover shall be maintained for a period of time sufficient to provide vegetation of a density that will prevent erosion.

8. Where required, suitable plant material shall be placed and maintained to screen slopes from public view. There shall be no open storage of discarded machinery, trash or junk which would present an unsightly appearance.
9. Mining operations shall be conducted so as to keep dust and noise to a minimum, and access Roadways shall be maintained as dust-free surfaces from the Public Street to within one hundred (100) feet of the loading point within the mine when adjacent properties are used or zoned Residential.
10. Vehicles carrying materials from mines shall be loaded in such manner as to prevent spilling dirt, rock, gravel, sand or other materials of mineral nature while in transit upon Roadways and highways.
11. Excavations which may penetrate near or into a useable water-bearing stratum shall be conducted in such a manner that any such stratum so approached or encountered will not be subject to pollution or contamination either during mining operations or subsequent to the abandonment of said mine.
12. All Federal, State and local laws, rules and regulations and requirements pertaining to mining and environmental protection, and the additional requirements of this Ordinance hereafter listed, are hereby adopted as the requirements and standards which shall govern mining activities conducted in the Town.
13. All applications of a mining special exception permit shall be made in writing to the Commission and shall contain the following data:
  - (a) Name of the Owner, common address, and legal description of the property;
  - (b) Zoning classification of the property;
  - (c) An accurate Map showing the property for which the special exception is requested;
  - (d) Consent by the title Owner of the property to inclusion in the application as evidenced by a notarized instrument or an affidavit by the Applicant indicating consent has been obtained from title Owner;

- (e) Name and address of the entity conducting the mining operation including that of any subcontractor(s); and,
  - (f) Copy of the application(s) filed with, and permits received from, the appropriate Federal and State authorities.
14. Any portion of any Roadway from or within a mine operation which lies within one hundred (100) yards of any Dwelling shall be treated to control dust.
  15. No mining operations shall discharge across its permit or Lease boundaries, whichever is greater, air pollutants in such concentration where such pollutants exceed the Air Pollution standards imposed by the Environmental Protection Agency or appropriate State Agency.
  16. No surface mining, blasting or use of explosive charges shall be permitted within one hundred (100) feet of any public Roadway, water or sewer Easement or line, or transmission line, without written consent of applicable county, municipality or other public body. The intent of this paragraph is not to deny the recovery of minerals at closer distance to said facilities, but to insure that the operator has made satisfactory financial commitments and guarantees to the public Owner should the operator's actions or lack thereof result in damage to said facility.
  17. Mining operations which may penetrate near or into a water bearing stratum being used shall be conducted in such a manner that any such stratum so approached or encountered will not be subject to diminution or contamination, unless the user is provided with an acceptable alternate source by the operator.
  18. The mine operator shall replace, within a reasonable time, water supplies, whether from cisterns, ponds, lakes or wells, adversely impacted by contamination, diminution, or interruption proximately resulting from the operation.
  19. Any Applicant proposing to use any portion of Town Roadway(s) to transport its minerals shall secure the approval of the Council of its transportation plan and Map for hauling in compliance with any Town Road Ordinances prior to approval of a Special Exception Permit, and shall post any required Bonds and/or Escrow funds prior to commencing actual hauling operations.

20. Every operator of a mine in the Town, before commencing operations, shall be insured for damages which may result from or be caused by said operation. All holders of Santa Claus Special Exception Mining Permits shall at all times have on file in the office of the Town Clerk-Treasurer current proof of such insurance as may be required, by the Commission.
  21. Mining generally is a limited duration use, and once such use is terminated, the site, excluding any constructed water impoundments, shall revert to its original classification unless re-zoned in accordance with established procedures. The area or areas considered to be part of a mining facility shall be those areas of land from which overburden is to be removed and upon which overburden is to be deposited an all other lands affected by the operation. New Roadways or the improvement or use of existing Roadways, other than public Roadways, to gain access and to haul minerals shall be included in lands affected.
  22. Non-compliance or violation of any part of this Ordinance may be grounds for termination of any permit issued in accordance with same.
  23. An operator or Person whose Santa Claus Special Exception Mining Permit has been revoked, suspended or terminated shall not be eligible to have another permit, or to have any suspended permit(s) reinstated, until the operator shall have compliance with all the requirements in respect to all permits issued to the operator by the Town. (Ord. 2006-04, S2.13, June 12, 2006)
- (14) Like Use Determination. Due to the fact that uses of property are diverse, the Town recognizes that all possible proposed future uses of property desired by Owners may not be exhaustively listed in this Ordinance. Any use not specifically listed as a Permitted Use or as a Special Exception for any District in this Ordinance shall be classified and permitted only in accordance with this section, and shall be subject to the following procedures and determination.
- A. Prior to commencing any use, the Owner, other proposed user, or his agent, shall submit to the Administrator a request for a Like Use Determination, which states:
    1. The name of the applicant.
    2. The address of the property at which such use is proposed.

3. The Owner of the property, if other than the applicant.
  4. A specific description of the proposed use, including but not limited to, the products to be sold or services to be rendered, hours of operation, number of employees and other information deemed relevant by the Administrator.
  5. The Zoning District(s) in which the applicant believes such Use to be appropriate, and the Permitted Uses or Special Exceptions to which the proposed Use is most similar.
- B. Upon receipt of a request for a Like Use Determination, the Administrator shall refer such request to Commission, along with the Administrator's recommendation of the Zoning District(s) under which the Administrator believe such Use should be placed.
  - C. Within thirty (30) days following receipt of a request for a Like Use Determination, the Commission shall determine in writing the Zoning District(s) into which the proposed Use should be classified, and if such Use should be classified as a Permitted Use or Special Exception in such District(s).
  - D. Following receipt of the Commission's determination, the Applicant shall apply for a Special Exception as provided in this Ordinance, if the Commission has determined that the proposed Use shall be considered a Special Exception. (Ord. 2006-04, S2.14, June 12, 2006)

**11.04.030 Establishment of Zones.** For the purposes of this Ordinance, the incorporated area of the Town is hereby divided into nine (9) Zones and/or districts as follows:

DISTRICT	DISTRICT DESIGNATION
Flood plain	FP
Agriculture	A
Residential - Very Low Density	R1
Residential - Low Density	R2
Residential - Medium Density	R3
Commercial - General & Convenience	C
Amusement Park	Am
Industrial	I
Planned Unit Development	PUD

(Ord. 2006-04, S3.0, June 12, 2006) (Ord. 1995-05, S3.0, Apr. 20, 1995)

- (1) Zone and District Boundaries. Unless otherwise indicated, the zone boundary lines are land lines, the center lines of Streets, parkways, Alleys or Railroad Rights-of-Way, or such lines extended. Other lines within Blocks are rear or Side Lot Lines, or such lines extended.

Where the physical layout existing on the ground varies from the layout as shown on the zoning Map, the Zoning Administrator shall interpret said Map according to the reasonable intent of this Ordinance. (Ord. 2006-04, S3.1, June 12, 2006)

#### **11.04.040 Flood Plain District.**

- (1) Statutory Authorization. The Indiana Legislature granted the power to local units of government (I.C. §36-7-4) to control land use within their jurisdictions in order to accomplish the following.
- (2) 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 hereby adopts the following floodplain management regulations in order to accomplish the following:
  - A. To prevent unwise Developments from increasing flood or drainage hazards to others;
  - B. To protect new Buildings and major improvements to Buildings from flood damage;
  - C. To protect human life and health from the hazards of flooding;
  - D. 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;
  - E. To maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas; and,
  - F. 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.
- (3) Definitions. For the purpose of this Ordinance, the following definitions are adopted:
  - A. Building. See "Structure."
  - B. Development. Any man-made change to improved or unimproved real estate including but not limited to:
    1. Construction, reconstruction, or placement of a Building or any addition to a Building;

2. Installing a manufactured home on a site, preparing a site for a manufactured home or installing recreational vehicle on a site for more than 180 days;
3. Installing utilities, erection of walls and fences, construction of roads, or similar projects;
4. Construction of flood control Structures such as levees, dikes, dams, channel improvements, etc.;
5. Mining, dredging, filling, grading, excavation, or drilling operations;
6. Construction and/or reconstruction of bridges or culverts;
7. Storage of materials; or,
8. Any other activity that might change the direction, height, or velocity of flood or surface waters.

"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.

- C. Existing manufactured home park or Subdivision. A manufactured home park or Subdivision for which the construction of facilities for servicing the Lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of Streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of this Ordinance.
- D. Expansion to an existing manufactured home park or Subdivision. The preparation of additional sites by the construction of facilities for servicing the Lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of Streets, and either final site grading or the pouring of concrete pads).
- E. FBFM. Flood Boundary and Floodway Map.
- F. FEMA. Federal Emergency Management Agency.
- G. FHBM. Flood Hazard Boundary Map.
- H. FIRM. Flood Insurance Rate Map.

- I. 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.
- J. 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.
- K. Flood Protection Grade or the "FPG". The elevation of the regulatory flood plus two (2) feet at any given location in the SFHA.
- L. Floodway. The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.
- M. Floodway fringe. Those portions of the floodplain lying outside the floodway.
- N. 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.
- O. 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.
- P. Lowest Floor. The lowest of the following:
  - 1. The top of the lowest floor of a Building;
  - 2. The top of the basement floor;
  - 3. The top of the garage floor, if the garage is the lowest level of the Building;
  - 4. The top of the first floor of Buildings elevated on pilings or constructed on a crawl space with permanent openings; or,
  - 5. 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:
    - (a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for

the entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) 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.

- (b) Such enclosed space shall be usable for the parking of vehicles and Building access.

- Q. Manufactured home. A Structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent Foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."
- R. New manufactured home park or Subdivision. A manufactured home park or Subdivision for which the construction of facilities for servicing the Lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of Streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this Ordinance.
- S. Recreational vehicle. A vehicle which is (1) built on a single chassis; (2) four hundred (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.
- T. Regulatory Flood. 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 Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Section 11.04.040(5) of this Section. The "Regulatory Flood" is also known by the term "Base Flood".
- U. SFHA or Special Flood Hazard Area. Those lands within the jurisdictions 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.
- V. Structure. 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 one hundred and eighty (180) days.

W. Substantial Improvement. Any reconstruction, rehabilitation, addition, or other improvement of a Structure, the cost of which equals or exceeds fifty percent (50%) 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 "historic Structure."

(4) Duties of the Administrator. The Zoning Administrator shall implement this Ordinance and hereafter be referred to as the Floodplain Administrator. The Floodplain 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:

- A. Ensure that all Development activities within the SFHAs of the jurisdiction of the Town meet the requirements of this Ordinance.
- B. Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques.
- C. Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all Development projects subject to Section 11.04.040(7) of this Section, and maintain a record of such authorization (either copy of actual permit, letter of recommendation, or floodplain analysis and regulatory assessment).
- D. 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.
- E. Maintain a record of the engineer's certificate and the "as-built" floodproofed elevation of all Buildings subject to Section 11.04.040(8).
- F. 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.

- G. Maintain for public inspection and furnish upon request regulatory flood data, SFHA Maps, LOMAs, LOMRs, copies of DNR permits and floodplain analysis and regulatory assessment, federal permit documents, and "as-built" elevation and floodproofing data for all Building constructed subject to this Ordinance.
  - H. 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.
- (5) 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.
- A. The regulatory flood elevation and floodway limits for any SFHAs shall be as delineated on the 100 year flood profiles in the FBFM/FIRM, as it exists at the time of the adoption of this Ordinance and may be amended at any time and from time to time prepared by the Federal Emergency Management Agency.
  - B. The regulatory flood elevation for each SFHA delineated as an "FP Zone" shall be that elevation (or depth) delineated on the Flood Insurance Rate Map of the Town.
  - C. The regulatory flood elevation and floodway limits 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.
  - D. The regulatory flood elevation and floodway limits for the SFHAs of those parts of unincorporated Spencer County that are within the extraterritorial jurisdiction of the Town shall be as delineated on the 100 year flood profiles in the FBFM/ FIRM, as it exists at the time of the adoption of this Ordinance and may be amended at any time and from time to time prepared by the Federal Emergency Management Agency.
  - E. If the SFHA is delineated as "FP Zone," the elevation (or depth) will be delineated on the County Flood Insurance Rate Map. If the SFHA is delineated as "A Zone" on the County Flood Insurance Rate Map, the regulatory flood elevation and floodway limits shall be according to the best available data as provided by the Department of Natural Resources.

- (6) 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 Floodplain Administrator. The Floodplain Administrator shall not issue an Improvement Location Permit if the proposed "Development" does not meet the requirements of this Ordinance.
- A. The application for an Improvement Location Permit shall be accompanied by the following:
1. A description of the proposed Development.
  2. Location of the proposed Development sufficient to accurately locate property and Structure in relation to existing roads and streams.
  3. A legal description of the property site.
  4. A site Development Plan showing existing and proposed Development locations and existing and proposed land Grades.
  5. 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.
- B. Upon receipt of an application for an Improvement Location Permit, the Floodplain 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.
1. If the site is in an identified floodway the Floodplain Administrator shall require the Applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of I.C. §14-28-1, a permit from the Department of Natural Resources is required prior to the issuance of a local Building Permit for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the Building.

No action shall be taken by the Floodplain Administrator until a permit has been issued by the Department of Natural Resources granting approval for construction in the floodway. Once a permit has been issued by the Department of Natural Resources, the Floodplain Administrator may issue the local Improvement Location Permit, provided the provisions contained in Sections 11.04.040(7) and 11.04.040(8) of this Section have been met. The Improvement Location Permit cannot be less restrictive than the permit issued by the Department of Natural Resources.

2. If the site is located in an identified floodway fringe, then the Floodplain Administrator may issue the local Improvement Location Permit provided the provisions contained in Sections 11.04.040(7) and 11.04.040(8) of this Section 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).
3. 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 Floodplain 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 Floodplain 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 Floodplain 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 the Department of Natural Resources and the provisions contained in Sections 11.04.040(7) and 11.04.040(8) of this Section have been met.

4. 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 Floodplain Administrator shall require the Applicant to provide an engineering analysis showing the

limits of the floodway, floodway fringe and 100 year elevation for the site. Upon receipt, the Floodplain Administrator may issue the local Improvement Location Permit, provided the provisions contained in Sections 11.04.040(7) and 11.04.040(8) of this Section have been met.

- (7) 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.
- A. Within the floodway identified on the Flood Boundary and Floodway Map, the Flood Insurance Rate Map, or engineering analysis, the following standards shall apply:
1. 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,
  2. For all projects involving channel modifications or fill (including levees) the Town shall submit the data and request that FEMA revise the regulatory flood data.
- B. 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: 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.
- C. Public Health Standards in all SFHAs.
1. 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 11.04.040(8) of this Section.
  2. 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.
- (8) Protecting Buildings. In addition to the damage prevention requirements of Section 11.04.040(7), all Buildings to be located in the SFHA shall be protected from flood damage below the FPG.

- A. This Building protection requirement applies to the following situations:
1. Construction or placement of any new Building having a Floor Area greater than four hundred (400) square feet;
  2. Structural Alterations made to:
    - (a) An existing (previously unaltered) Building, the cost of which equals or exceeds fifty percent (50%) of the value of the pre-altered Building (excluding the value of the land);
    - (b) Any previously altered Building;
  3. Reconstruction or repairs made to a damaged Building that are valued at or more than fifty percent (50%) of the market value of the Building (excluding the value of the land) before damage occurred;
  4. 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,
  5. Installing a travel trailer or recreational vehicle on a site for more than one hundred and eighty (180) days.
- B. This Building protection requirement may be met by one of the following methods. The Floodplain Administrator shall maintain a record of compliance with these Building protection standards as required in Section 11.04.040(4).
- C. 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 one (1) foot deep before compacting to ninety-five percent (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 three horizontal to one vertical (3:1).

4. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
5. The top of the lowest floor including basements shall be at or above the FPG.

D. 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.

E. Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than one hundred and eighty (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 floatation, 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 thirty-six (36) inches in height above Grade and be securely anchored to an adequately anchored Foundation system to resist flotation, collapse, and lateral movement.

F. Recreational vehicles placed on a site shall either:

- 1. Be on the site for less than one hundred and eighty (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 E. of this section.

G. 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.

(9) Other Development Requirements.

- A. The Floodplain Administrator shall review all proposed Subdivisions to determine whether the Subdivision lies in a flood hazard area as defined elsewhere by ordinance. If the Floodplain Administrator finds the Subdivision to be so located, the Floodplain Administrator shall forward plans and materials to the Indiana Department of Natural Resources for review and comment. The Floodplain Administrator shall require appropriate changes and modifications in order to assure that:
  1. It is consistent with the need to minimize flood damages;
  2. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
  3. Adequate drainage is provided so as to reduce exposure to flood hazards;
  4. 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.
- B. 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 Commission.
- C. 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 Commission and have it filed with and approved by the appropriate community emergency management authorities.

(10) Variances.

- A. The Board may consider issuing a variance to the terms and provisions of this Ordinance provided the Applicant demonstrates that:
  1. There exists a good and sufficient cause for the requested variance;

2. The strict application of the terms of this Ordinance will constitute an exceptional hardship to the Applicant, and,
  3. 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.
- B. The Board may issue a variance to the terms and provisions of this Ordinance subject to the following standards and conditions:
1. No variance or exception for a residential use within a floodway subject to Section 11.04.040(7) (a) or (b) of this Section may be granted.
  2. Any variance or exception granted in a floodway subject to Section 11.04.040(7) (a) or (b) of this Section will require a permit from the Department of Natural Resources.
  3. Variances or exceptions to the Building Protection Standards of Section 11.04.040(8) 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.
  4. Variances or exceptions 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;
  5. 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,
  6. The Board 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.
- (11) 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 Town, the Department of Natural Resources, or the State of Indiana, for any flood

damage that results from reliance on this Ordinance or any administrative decision made hereunder.

- (12) 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 this Ordinance. All violations shall be punishable by a fine as provided in this Ordinance.
  - A. A separate offense shall be deemed to occur for each day the violation continues to exist.
  - B. The Administrator or 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.
  - C. 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.
- (13) Abrogation and Greater Restrictions. This Ordinance repeals and replaces other ordinances adopted by the Council to fulfill the requirements of the National Flood Insurance Program. 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, Restrictive Covenants, or deed restrictions. Where this Ordinance and other ordinance Easements, Restrictive Covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall take precedence. In addition, the 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, I.C. §14-28-1 and I.C. §14-28-3) are met. (Ord. 2006-04, S4.0, June 12, 2006) (Ord. 1995-05, S3.1, Apr. 20, 1995)

**11.04.041 Reserved.** (Ord. 2006-04, S4.1, June 12, 2006)

**11.04.042 A - Agriculture District.**

- (1) Purpose. This district is established to permit the full range of agricultural activities as well as certain planned large Lot residential Development with Development standards, which protect the full range of agricultural uses as determined by the Commission, and other uses customarily conducted in agricultural areas.
- (2) Permitted Uses.
  - A. Single-Family Dwellings

- B. Farms and farm Buildings
- C. Cemeteries
- D. Public parks
- E. Field crop farm
- F. Truck crop farm
- G. Animal husbandry
- H. Stables
- I. Forestry
- J. Nursery or greenhouse
- K. Grazing
- L. Public Utilities
- M. Feed stores, excluding the milling or grinding of any feed for commercial purposes
- N. Spreading or injecting animal wastes
- O. Fertilizer storage

(3) Permitted Accessory Uses and Structures.

- A. Accessory Buildings as related to Agriculture or Single-Family Dwellings.
- B. Home Occupation.

(4) Prohibited Uses. Confined Feeding Operations and Kennels shall be allowed by special exception only.

(5) Development Standards.

- A. The minimum Parcel size for all uses in the A district shall be three (3) acres. The maximum density for residential uses shall be one (1) Dwelling for each three (3) acres.
- B. Minimum Lot Frontage on Roadways and Lot Width at Building line shall be three hundred fifty (350) feet.
- C. Any portion of a pond or a pond dam shall be Setback a minimum of fifteen (15) feet from any property line
- D. Minimum Setback lines:
  - 1. Front Yard:

- (a) All Lots fronting:
  - i. Freeways: Two hundred (200) feet
  - ii. Arterials: Eighty (80) feet
  - iii. Major & Minor Collectors: Sixty (60) feet
  - iv. Other Streets or Roadways: Fifty (50) feet
  
- 2. Side Yard:
  - (a) Thirty (30) Feet
  
- 3. Rear Yard:
  - (a) Thirty (30) feet
  
- E. Maximum Building Height: Thirty-five (35) feet, excepting farm structures, which shall not be limited in height.
  
- F. No abandoned, junked, inoperable or derelict vehicles, machinery, farm machinery, equipment or miscellaneous scrap or Building debris may be stored in Front Yards. (Ord. 2006-04, S4.2, June 12, 2006) (Ord. 1995-05, S3.2, Apr. 20, 1995)

**11.04.043 R-1 Very Low Density Residential District.**

- (1) Purpose. The purpose of this district is to provide areas of very Low Density, suburban residential Development with particular emphasis on promoting residential Subdivision Development.
  
- (2) Permitted Uses.
  - A. Single-Family Dwellings
  - B. Accessory Buildings
  - C. Temporary Buildings for use during construction period
  - D. Public, parochial, or private schools
  - E. Churches
  - F. Municipal parks, playgrounds, and clubhouses
  - G. Fire stations
  - H. Parking Lots, when fulfilling parking requirements for a use
  - I. Model Home
  - J. Home Occupation

(3) Development Standards.

- A. Minimum Lot size shall be one and one-half (1.5) Net Buildable acres for individual Lots.
- B. Lots less than one and one-half (1.5) Net Buildable acres may be permitted in an approved Subdivision under the Subdivision Ordinance, if such Lots are equal to or greater than twenty thousand (20,000) square feet for a Single-Family Dwelling and thirty thousand (30,000) square feet for Two-Family Dwellings.
- C. Minimum Lot Frontage on Streets and other public Roadways:  
Single-Family Dwellings: One Hundred Feet (100), except that such frontage may be sixty (60) feet on a Cul-de-sac  
Two-Family Dwellings: One hundred twenty (120) feet, except that such frontage may be seventy (70) feet on a Cul-de-sac.
- D. Minimum Setback lines:
  - 1. Front Yard:
    - (a) Single-Family or Two-Family Dwellings in Subdivision: Fifty (50) feet.
    - (b) All lots outside Subdivisions fronting:
      - i. Freeways: Two hundred (200) feet.
      - ii. Arterials: One hundred twenty (120) feet.
      - iii. Major & Minor Collectors: Eighty (80) feet.
      - iv. Other Streets or Roadways: Sixty (60) feet.
  - 2. Side Yard:
    - (a) Single-Family or Two-Family Dwellings in Subdivision: Fifteen (15) feet, except Corner Lots, which shall be Fifty (50) feet.
    - (b) All other Lots: Twenty-five (25) feet.
  - 3. Rear Yard:
    - (a) Single-Family Dwellings in Subdivision: Thirty (30) feet.

- (b) Two-Family Dwellings in Subdivision: Forty (40) feet.
  - (c) All other lots: Thirty (30) feet.
- E. Minimum square footage (exclusive of open porches, Terraces, and garages):
  - 1. Single-Family Dwellings:
    - (a) Single story: One thousand, one hundred (1,100) square feet.
    - (b) Two-story: One thousand, eight hundred (1,800) square feet.
  - 2. Two Family Dwellings:
    - (a) One thousand (1,000) square feet per unit.
- F. Off-Street parking shall be provided in accordance with the requirements of section 11.04.021(7) of this Ordinance.
- G. No abandoned, junked, inoperable or derelict vehicles, machinery, farm machinery, equipment or miscellaneous scrap or Building debris may be stored in yards.
- H. Any portion of a pond or pond dam shall be Setback not less than fifteen (15) feet from any property line. (Ord. 2006-04, S4.3, June 12, 2006) (Ord. 1995-05, S3.3, Apr. 20, 1995)

**11.04.044 R-2 Low Density Residential District.**

- (1) Purpose. The purpose of this district is to provide areas of Low Density, suburban residential Development with particular emphasis on promoting residential Subdivision Development.
- (2) Permitted Uses.
  - A. Single-Family Dwellings
  - B. Two-Family Dwellings
  - C. Accessory Buildings
  - D. Temporary Buildings for use during construction period
  - E. Public, parochial, or private schools
  - F. Churches

- G. Municipal parks, playgrounds, and clubhouses
- H. Fire stations
- I. Parking Lots, when fulfilling parking requirements for a use
- J. Model Home
- K. Home Occupation

(3) Development Standards.

- A. Minimum Lot size shall be ten thousand (10,000) square feet for Single-Family Lots, Two-Family Lots shall be fifteen thousand (15,000) square feet.
- B. Minimum Lot Frontage from Street and other public Roadways:
  - 1. Single-Family Dwellings: Fifty (50) feet.
  - 2. Two-Family Dwellings: Seventy-five (75) feet.
- C. Minimum Setback lines:
  - 1. Front Yard: Twenty five (25) feet.
  - 2. Side Yards:
    - (a) Five (5) feet for Single-Family Dwellings, except Corner Lots when (50) foot Front Yard Setback will apply also to side yards on Roadways.
    - (b) Ten (10) feet for Two-Family Dwellings.
  - 3. Rear Yards:
    - (a) Ten (10) feet for Single-Family Dwellings.
    - (b) Fifteen (15) feet for Two-Family Dwellings.
- D. Minimum Setbacks on any side of Lot abutting freeways and Arterials, all Lots:
  - 1. Freeways: Fifty (50) feet
  - 2. Arterials: Thirty-five (35) feet
- E. Minimum square footage (exclusive of open porches, Terraces, and garages):

1. Single-Family:
    - (a) Single story: One thousand, one hundred (1,100) square feet.
    - (b) Two-story: One thousand, eight hundred (1,800) square feet.
  2. Two Family Dwellings:
    - (a) One thousand (1,000) square feet per unit.
- F. Off-Street parking shall be provided in accordance with the requirements of Section 11.04.021(7) of this Ordinance.
- G. No abandoned, junked, inoperable or derelict vehicles, machinery, farm machinery, equipment or miscellaneous scrap or Building debris may be stored in yards.
- H. Any portion of a pond or pond dam shall be Setback not less than fifteen (15) feet from any property line. (Ord. 2006-04, S4.4, June 12, 2006) (Ord. 1995-05, S3.4, Apr. 20, 1995)

**11.04.045 R-3 Medium Density Residential District.**

- (1) Purpose. The purpose of this district is to provide areas of Medium Density, suburban residential Development with particular emphasis on promoting residential Subdivision Development.
- (2) Permitted Uses.
  - A. Single-Family Dwellings
  - B. Two-Family Dwellings
  - C. Multi-Family Dwellings
  - D. Accessory Buildings
  - E. Temporary Buildings for use during construction period
  - F. Public, parochial, or private schools
  - G. Churches
  - H. Municipal parks, playgrounds, and clubhouses
  - I. Fire stations
  - J. Parking Lots, when fulfilling parking requirements for a use
  - K. Model Home
  - L. Home Occupation
- (3) Development Standards.
  - A. Minimum Lot size shall be five thousand (5,000) square feet.

- B. Minimum Lot Frontage from Streets and other public Roadways:
  - 1. Fifty (50) feet for Single-Family Dwelling
  - 2. Seventy-five (75) feet for Two-Family Dwellings
- C. Minimum Setback lines:
  - 1. Front Yard: Twenty (20) feet.
  - 2. Side Yards: Five (5) feet except for Corner Lots when fifteen (15) feet is required adjacent to Streets.
  - 3. Rear Yards: Ten (10) feet, except that twenty-five (25) feet if adjacent to Streets.
- D. Minimum Setbacks on any side of Lot abutting freeways and Arterials:
  - 1. Freeways: Thirty (30) feet.
  - 2. Arterials: Twenty-five (25) feet.
- E. Buildings or Structures or parts thereof shall not be erected, altered, or placed so as to cover more than forty-five percent (45%) of the Lot.
- F. Minimum square footage (exclusive of open porches, Terraces, and garages):
  - 1. Single-Family:
    - (a) Single story: One thousand, one hundred (1,100) square feet.
    - (b) Two-story: One thousand, eight hundred (1,800) square feet.
  - 2. Two Family Dwellings:
    - (a) One thousand (1,000) square feet per unit
- G. Off Street parking shall be provided in accordance with the requirements of Section 11.04.021(7) of this Ordinance.
- H. No abandoned, junked, inoperable or derelict vehicles, machinery, farm machinery, equipment or miscellaneous scrap or Building debris may be stored in yards.

- I. Any portion of a pond or pond dam shall be Setback not less than fifteen (15) feet from any property line (Ord. 2006-04, S4.5, June 12, 2006) (Ord. 1995-05, S3.5, Apr. 20, 1995).

**11.04.046 C - Commercial District.**

- (1) Purpose. Businesses located in the C District require locations on or near major Arterials and their intersections. Commercial businesses serve the day-to-day needs of the neighborhood, and supply the more permanent and durable needs of the whole community.
- (2) Permitted Uses.
  - A. Administrative, executive and clerical services.
  - B. Animal and veterinary clinics
  - C. Apparel Stores
  - D. Auction, excluding the Sale of livestock.
  - E. Automotive repair, parts or body shops
  - F. Bakeries
  - G. Banks or financial services
  - H. Beauty Salons and barbershops
  - I. Bowling Alleys
  - J. Carry out stores, Liquor stores
  - K. Cemeteries
  - L. Churches (Temples, Mosques, and Synagogues)
  - M. Department and discount stores
  - N. Dressmaking and tailoring businesses
  - O. Drug Stores
  - P. Dry cleaning plants
  - Q. Feed stores, excluding the milling or grinding of any feed
  - R. Fitness Centers
  - S. Florist shops
  - T. Food Service Establishments with or without drive through facility
  - U. Furniture and appliance stores
  - V. Garden, Greenhouse and related stores
  - W. Gas stations and food marts

- X. Gift Variety & Souvenir Stores
- Y. Groceries
- Z. Hardware stores
- AA. Hospitals, Medical and dental Clinics and other Healthcare facilities
- BB. Lawn and garden services
- CC. Major supermarkets
- DD. Mini-warehouses and storage
- EE. Motels, Hotels and other lodging establishments
- FF. Movie theaters
- GG. Museums
- HH. Offices
- II. Photograph shops
- JJ. Pool and billiard halls
- KK. Printing shops and newspaper plants
- LL. Radio stations, Television stations & other related
- MM. Self service Laundromats
- NN. Undertaking establishments
- OO. Used / new car Sales and service

(3) Prohibited Uses.

- A. Any business which causes offensive noise, vibrations, odor, dust, smoke, or gas.
- B. Salvage Yards, Junk Yards, Recycling Centers and Recycling Plants
- C. Adult Entertainment Establishments
- D. Outside storage of inoperable, derelict, wrecked, or wheelless Motor Vehicles.

(4) Development Standards.

- A. Minimum Lot area: Ten thousand (10,000) square feet.
- B. Minimum Lot Frontage on Street: Fifty (50) feet.
- C. Minimum Setback lines:

1. Front Yard: Fifty (50) feet.
  2. Side Yard:
    - (a) For side yards adjoining a Roadway or Street: Not less than thirty (30) feet.
    - (b) For side yards abutting a residential area: One hundred (100) feet.
    - (c) For all other side yards: Fifteen (15) feet.
  3. Rear Yard: Fifteen (15) feet, unless the rear yard abuts a Residential zone, in which case the rear yard Setback shall be one hundred (100) feet.
- D. Minimum Setback on any side of Lot abutting freeway and Arterials shall be one hundred (100) feet.
  - E. Maximum Building height: Thirty-five (35) feet.
  - F. Minimum ground level square footage required: None; however, not more than eighty percent (80%) of the total area of any Lot or any Development on multiple Lots shall be occupied by Buildings, Roadways, Parking Areas, storage, drainage facilities, and other Accessory Uses.
  - G. Off-Street and/or private parking and loading and unloading berths shall be provided in accordance with the provisions of Section 11.04.021(7).
  - H. No abandoned, junked, inoperable or derelict vehicles, machinery, farm machinery, equipment or miscellaneous scrap or Building debris may be stored in yards.
  - I. Any portion of a pond or pond dam shall be Setback, not less than fifteen (15) feet from any property line. (Ord. 2006-04, S4.6, June 12, 2006) (Ord. 1995-05, S3.6, S3.7, Apr. 20, 1995)

**11.04.047 AM-Amusement Park District.**

- (1) Purpose. The purpose of the AM district is to provide for alternative land Developments where a variety of amusement uses are planned and developed as a whole. Amusements are attractions that entertain visitors from within and outside the local community.

Uses in this district are generally major operations and extensive in character, and require large sites, open storage and service areas, access to regional

transportation or Roadways, and generate nuisances such as excessive traffic and noise. They should be located away from residential uses.

(2) Permitted Uses.

- A. Theme Parks
- B. Amusement Parks
- C. Miniature Golf Courses
- D. Mechanical & Non Mechanical Amusement Devices
- E. Water park rides and attractions including but not limited to:
  - 1. Water slides
  - 2. Wave pools
  - 3. Kids activity areas
  - 4. Swimming pools
  - 5. Go-Cart Tracks
  - 6. Theaters
  - 7. Restaurants
  - 8. Catering Facilities
  - 9. Picnic Shelters
  - 10. Skill Games
  - 11. Gift Shops
  - 12. Hotels
  - 13. Motel
  - 14. RV Parks
  - 15. Campgrounds
  - 16. Offices for otherwise permitted uses
  - 17. Maintenance Facilities for otherwise permitted uses
  - 18. Service Facilities for otherwise permitted uses
  - 19. Storage Facilities for otherwise permitted uses

(3) Prohibited Uses.

- A. Any business which causes offensive noise, vibration, odor, dust, smoke, or gas.
- B. Salvage Yards, Junk Yards, Recycling Centers and Recycling Plants.

- C. Outside storage of inoperable, derelict, wrecked or wheelless Motor Vehicles.
  - D. Adult Entertainment Establishments.
- (4) Development Standards. An Amusement Development shall conform to the following:
- A. The number of Buildings, rides, attractions shall not exceed the number approved by the Commission on the Master Plan unless a density increase is approved by the Commission.
  - B. Only land uses that are approved on the Master Plan may be permitted within a Development.
  - C. Up to ten percent (10%) of the gross land area, excluding parking, may be used for non-recreational uses, provided that the Commission finds that the uses are necessary or desirable and are appropriate with respect to the primary purpose of the Development.
  - D. Each Development shall have open space. Open space may include Street Right-of-Ways, Driveways, which directly serve recreational areas. At least ten percent (10%) of the gross land area shall be allocated for parks, open space, woodlands or green spaces.
  - E. All utilities, including communication and electric systems, shall be placed underground within the limits of the Development, or effectively screened. What constitutes effective Screening shall be determined by the Commission.
  - F. The Development Plan shall include a common water supply and distribution system which shall meet the approval of the Commission and the Health Department, Health Officer, and/or any other State or local governmental entity or officer with jurisdiction over such water supply and distribution system.
  - G. All materials or products shall be kept within enclosed fencing or Buildings. Storage of materials within the enclosure shall not exceed the height of wall, fence, or vegetative screen. The total area devoted to outside storage shall not exceed twenty-five percent (25%) of the total gross area of the enclosed Structure.
  - H. Where a front, side, or rear yard abuts a Residential or Commercial zone, a continuous hedge row of shrubbery or evergreen trees shall be provided along or within twenty (20) feet of the zone Lot Line. Such Screening shall be at least six (6) feet high at time of planting or

construction. Shrubs or trees must be spaced to block view year round.

- I. Minimum Lot area: Ten thousand (10,000) square feet. Building coverage shall not exceed fifty percent (50%) of the Lot area
- J. Minimum Lot Frontage on Roadway or Street: Fifty (50) feet
- K. Minimum Setback lines:
  - 1. Front Yard: Fifty (50) feet.
  - 2. Side yard:
    - (a) For side yards adjoining a Street: Not less than thirty (30) feet.
    - (b) For side yards abutting a Residential Zone: One hundred (100) feet.
    - (c) For all other side yards: Fifteen (15) feet.
  - 3. Rear yards:
    - (a) For rear yards abutting a Residential Zone: One hundred (100) feet.
    - (b) For all other rear yards: Fifteen (15) feet.
- L. Minimum Setback on any side of Lot abutting freeway and Arterials: One hundred (100) feet.
- M. Maximum Building Height: Fifty (50) feet.
- N. Maximum Ride or Attraction Height: Two hundred (200) feet with Setback of not less than two hundred (200) feet.
- O. Parking shall be provided such that parking is provided in designated off-Street parking for all guests at all time. (Ord. 2006-04, S4.7, June 12, 2006) (Ord. 1995-05, S3.8, Apr. 20, 1995)

**11.04.048 PUD-Planned Unit Development District.**

- (1) Purpose. The purpose of the Planned Unit Development (PUD) district is to provide for alternative land Developments where a variety of residential, commercial, or industrial uses are planned and developed as a whole.
- (2) Description. A PUD shall conform to the following:
  - A. The number of Dwelling Units erected shall not exceed the number approved by the Commission on the Master Plan unless a density increase is approved by the Commission.

- B. Only land uses that are approved on the Master Plan may be permitted within a PUD.
  - C. Up to ten percent (10%) of the gross land area in a residential PUD may be used for commercial, industrial, and non-recreation public uses, provided that the Commission finds that the uses are necessary or desirable and are appropriate with respect to the primary purpose of residential Development.
  - D. Each PUD shall have common open space. Common open space may include Street Right-of-Ways, Driveways, and parking Lots which directly serve recreational areas. At least ten percent (10%) of the gross land area in a PUD shall be allocated for parks, open space and recreational purposes.
  - E. All utilities, including communication and electric systems, shall be placed underground within the limits of the Development, or effectively screened. What constitutes effective Screening shall be determined by the Commission.
  - F. The Development Plan shall include a common water supply and distribution system which shall meet the approval of the Commission and applicable Federal, State, or Local agencies or offices with jurisdiction.
  - G. The Development Plan shall include a sanitary sewer system connected to a Public Sewer system, if available within a reasonable distance from the project, or it shall provide for a central collection and treatment system in accordance with the requirements of both the Commission and applicable Federal, State, or Local agencies or offices with jurisdiction.
  - H. The plan of the project shall provide for the integrated and harmonious design of Buildings in the commercial and industrial areas and the Parcels shall be developed in park-like surroundings. The Parcels shall be landscaped, and woodlands used to screen lighting, Parking Areas and loading areas from adjacent residential areas.
- (3) Procedure for Approval of a PUD. Generally, the procedure for Subdivision Plat approval as outlined in this Ordinance shall be followed with these exceptions:
- A. The Applicant shall submit a preliminary Site Plan in triplicate to the Commission which includes, but is not restricted to, the following information:
    - 1. Location and boundaries of tract to be developed, showing the general layout of Streets and the existing and proposed land uses of all areas.

2. Tentative placement of all improvements on the site, showing how recommendations of this Ordinance have been used.
  3. General proposals on densities for residential and other uses. To allow for sufficient flexibility, the Commission may allow minor shifts in use locations and densities, provided that the general overall plan is adhered to.
  4. The proposed schedule for Development of the site.
- B. The Commission shall give notice of acceptance or rejection of the proposal within ninety (90) days. Reasons for rejection along with suggestions for revisions shall be given in writing. The Developer may resubmit plans after the suggested corrections or additions are made.
- (4) Development Standards.
- A. A planned residential or residential/ commercial Development must comprise an area of at least ten (10) acres.
  - B. A planned office Development must comprise an area of at least two (2) acres.
  - C. A planned commercial Development must comprise at least four (4) acres.
  - D. A planned manufacturing Development must comprise an area of at least four (4) acres.
  - E. All minimum ground Floor Area requirements, Lot area requirements, front, side, and rear yard requirements, and height of Building requirements are the same as those in the district in which the PUD is to be located.
  - F. No abandoned, junked, inoperable or derelict vehicles, machinery, farm machinery, equipment or miscellaneous scrap or Building debris may be stored within PUD boundaries. (Ord. 2006-04, S4.8, June 12, 2006) (Ord. 1995-05, S3.10, Apr. 20, 1995)

**11.04.049 I-Industrial District.**

- (1) Purpose. Uses located in this District encompass Light and Heavy industrial activities.
- (2) Permitted Uses.
  - A. Detached or attached offices for employees or guests of the facility

- B. Farm Buildings and Structures
- C. Public and private utilities
- D. Mass transportation terminals
- E. Recreation areas for the convenience and use of employees
- F. Radio, television and other communication towers
- G. Assembly operations for pre-manufactured parts
- H. Canning, bottling, processing and/or packaging of food
- I. Light manufacturing
- J. Warehouse and distribution operations
- K. Machine, welding and tool and die shops
- L. Animal and veterinary clinics
- M. Construction and trucking contractor operations
- N. Adult Entertainment Establishments

(3) Development Standards.

- A. Minimum Lot area: One (1) acre.
- B. Minimum Lot Frontage on Street: Two hundred (200) feet.
- C. Minimum Setback lines:
  - 1. Front Yard: Fifty (50) feet.
  - 2. Rear and Side Yards: Twenty (20) feet, unless the rear yard abuts a residential zone, in which case the side and/or rear yard Setback shall be one hundred (100) feet.
- D. Minimum Setback on any side of Lot abutting freeway and Arterials shall be one hundred (100) feet.
- E. Maximum Building height: Twenty-five (25) feet.
- F. Minimum ground level square footage required: None; however, not more than fifty percent (50%) of the total area of any Lot or any Development on multiple Lots shall be occupied by Buildings, storage, and other Accessory Uses.
- G. Off-Street and/ or private parking and loading and unloading berths shall be provided in accordance with the provisions of Section 11.04.021(7).

- H. No abandoned, junked, inoperable or derelict vehicles, machinery, farm machinery, equipment or miscellaneous scrap or Building debris may be stored in yards.
- I. All materials or products shall be kept within enclosed fencing or Buildings. Storage of materials within the enclosure shall not exceed the height of wall, fence, or vegetative screen. The total area devoted to outside storage shall not exceed twenty-five percent (25%) of the total gross area of the enclosed Structure.
- J. Where a front, side, or rear yard abuts a Dwelling, residential, or commercial zone, a continuous hedge row of shrubbery or evergreen trees shall be provided along or within twenty (20) feet of the zone Lot Line. Such Screening shall be at least six (6) feet high at time of planting or construction. Shrubs or trees must be spaced to block view year round.
- K. Because industrial Developments present unique circumstances that may be unsightly, dangerous, noisy, or otherwise constitute a nuisance or by offensive to public health, safety or welfare, additional commitments may be required by the Commission dependent upon the characteristics of a proposed use.
- L. Any portion of a pond or pond dam shall be Setback not less than fifteen (15) feet from any property line. (Ord. 2006-04, S4.9, June 12, 2006) (Ord. 1995-05, S3.9, Apr. 20, 1995)

**11.04.050 Exceptions and Modifications.**

(1) HEIGHT.

- A. Three (3) Story Buildings in Two (2) Story Zones. In the zones limiting height to two (2) stories not to exceed thirty-five (35) feet, any permitted Structure maybe increased in height to three (3) stories not to exceed forty-five (45) feet, provided the required side yards are increased an additional one (1) foot for each three (3) feet such Structure exceeds twenty-five (25) feet.
- B. Through Lots (one hundred fifty (150) feet or less in depth). On Through Lots one hundred fifty (150) feet or less in depth, the height of a Building may be measured from the adjoining Curb Level on either Street.
- C. Through Lots (more than one hundred fifty (150) feet in depth). On Through Lots more than one hundred fifty (150) feet in depth, the height regulations and basis of height measurements for the Street permitting the greater height shall apply to a depth of not more than one hundred fifty (1150) feet from that Street.

- D. Structures Permitted Above Height Limit. Penthouses or roof Structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the Building, fire or parapet walls, skylights, television aerials, steeples, roof signs, flagpoles, chimneys, smokestacks, wireless masts, water tanks, grain elevators, silos, gas containers, material hoppers, or similar Structures may be erected above the height limits herein prescribed; but no penthouse or roof Structure or any space above the height limit shall be allowed for the purpose of providing additional floor space for residential, business or industrial use. (Ord. 2006-04, S5.1, June 12, 2006)

(2) AREA AND YARDS.

- A. Yard Regulations Modified. Where the yard regulations cannot reasonably be complied with or their application determined on Lots of peculiar shape, location or topography, such regulations may be modified or determine by the Board.
- B. Front Yard (between projecting Buildings). Where a Lot is situated between two (2) Lots, each of which has a main Building which projects beyond the Front Yard line established by this Ordinance, and was so maintained when this Ordinance became effective, the Front Yard requirement on such Lot may be the average of the Front Yards of said existing Buildings, provided, however, the Front Yard of such Lot shall not be less than ten (10) feet.
- C. Front Yard (adjoining projecting Building). Where a Lot adjoins only one (1) Lot having a main Building which projects beyond the ordinance established Front Yard line and has been so maintained since this Ordinance became effective, the Front Yard requirement on such Lot may be the average of the Front Yard of the existing Building and the established Front Yard line, provided, however, the Front Yard of such Lot shall be not less than ten (10) feet.
- D. Side Yards Waived. For the purpose of side yard regulations, the following Dwellings with common party walls shall be considered as one (1) Building occupying one (1) Lot: Semi-detached Dwellings, Row Dwellings, and group Dwellings.
- E. Front and Side Yards Waived. The front and side yards may be waived for Dwellings, Hotels, and Lodging Houses erected above the ground floor of a Building when said ground floor is designed and used exclusively for business and/or industrial purposes.
- F. Rear Yard Accessory Building. An Accessory Building, not exceeding twenty (20) feet in height may occupy not more than thirty

percent (30%) of the area of a required rear yard providing it is no less than five (5) feet from any side or Rear Lot Line.

G. Through Lot Considered as Two (2) Lots. Where a Through Lot has a depth of two hundred (200) feet or more, and an area of twenty thousand (20,000) square feet or more, said Lot may be assumed to be two (2) Lots with the rear line of each approximately equidistant from the Front Lot Lines, provided all area requirements are complied with.

H. Projection into Yards.

1. Porte Cochère. A porte cochère may be permitted over a Driveway in a side yard, provided such Structure is not more than one (1) Story in height and twenty (20) feet in length, and is entirely open on at least two sides, except for the necessary supporting columns and customary architectural features provided, however, such porte cochère does not extend to within five (5) feet of a Side Lot Line.

2. Cornice, Sill or Chimney. A cornice, sill, Canopy or other similar architectural feature (not including bay window or other vertical projection) may extend or project into a required front, side or rear yard not more than two (2) feet, provided the width of such side yard is not reduced to less than three (3) feet.

3. Fire Escape. A fire escape may extend or project into any required front, side or rear yard not more than four (4) feet.

4. Open Stairway and balcony. An open, unenclosed stairway or balcony, not covered by a roof or Canopy, may extend or project into a required rear yard, and such balcony may extend into a required Front Yard not more than thirty (30) inches.

5. Fence or Wall. A fence, lattice-work screen or wall in connection with residential use, not more than six (6) feet in height, but not to extend into the required Front Yard, or a hedge or thick growth of shrubs, maintained so as not to exceed four (4) feet in height may be located in any required front or side yard except for corner Setbacks as required in this Ordinance.

6. Landscape Feature. A landscape feature, such as trees, shrubs, flowers or plants, shall be permitted in any required front side or rear yard, provided it does not violate the

provisions of this Ordinance. (Ord. 2006-04, S5.2, June 12, 2006)

#### **11.04.060 Signs & Advertising Devices.**

- (1) Improvement Location Permit. After the enactment of this Ordinance it shall be deemed unlawful to erect, place, attach or structurally alter any Sign or Advertising Device in Santa Claus, Indiana, unless and until an Improvement Location Permit has been issued (except for those items listed in Section 11.04.060 (2)). Upon the issuance of said permit the advertising company or its agent may erect, place, attach or structurally alter said advertising device only if the device shall be in conformity with all sections of this Part 11.04.060. (Ord. 2006-04, S6.1, June 12, 2006)
  
- (2) Signs & Advertising Devices for which Improvement Location Permits are not required. Improvement Location Permits shall not be required for the following:
  - A. A name plate not exceeding four (4) square feet, house or address notations.
  - B. Devices pertaining to the sale of the property on which it is located and not exceeding twelve (12) square feet.
  - C. A device pertaining to a home occupation or sale of farm produce providing it does not exceed twelve (12) square feet and that it is limited to the advertising of items crafted or grown on the premises and that it is located not more than five hundred (500) feet from the actual premises on which the product is being sold, providing that said device shall be in conformity with all other provisions of this Part 11.04.060.
  - D. All signs necessary for convenience and safety established by the Federal, State, County or Town Highway, Street or Utility Departments.
  - E. All Signs that are not visible from a public way or from neighboring properties shall be excepted from the requirements of this Part 11.04.060, except that if they later do become visible, the owner shall apply for an Improvement Location Permit within 30 days of the change in status.
  - F. A notice of change of zoning as established by the Commission.
  - G. Devices of a temporary nature, advertising or giving direction to an official, special event. All such devices shall be removed within twenty four (24) hours after they become no longer applicable. (Ord. 2006-04, S6.2, June 12, 2006)

- (3) Area and Location. Yard restrictions established in other sections of this Ordinance do not apply to Signs and Advertising Devices except where direct reference is made to said devices, and the restrictions as established in this Part 11.04.060 shall apply in all other cases. The size and location of all Signs and Advertising Devices shall comply with the provisions of this Part 11.04.060.
- A. Churches, Temples, Mosques, Synagogues, Schools, and Institutions. All churches; temples; Mosques, synagogues; public or parochial, primary or secondary schools; and all institutions shall be permitted one, but not more than one, freestanding, Sign not to exceed twenty-four (24) square feet. In the event the Church, Temple, Synagogue, School, or Institution faces more than one street, one advertising device per street may be permitted on the building's site. All such devices shall be located not less than fifteen (15) feet behind the front or side lot line, except where affixed to the wall of the building and not extending over the sidewalk.
- B. A & R Zones. This section specifies what Signs and Advertising Devices shall or shall not be granted improvement Location Permits in the A & R Zones.
1. Home Occupation. Unlighted Name Plates or Signs, not to exceed eight (8) square feet in area, are permitted. The required front setback shall be not less than fifteen (15) feet from the front and/or side property lines.
  2. Permanent. No more than one Sign, not exceeding twenty (20) square feet in area for multiple dwellings, is permitted provided that such device shall be located not less than fifteen (15) feet from the front and side property lines.
  3. All Advertising Devices are prohibited in R Zones, except as specified in Subsection 11.04.060(3)A. of this Section.
  4. Official signs of government agencies are permitted.
- C. C, I, & AM Zones. This section specifies what Signs and Advertising Devices shall or shall not be granted improvement Location Permits in the C, I, and AM Zones. In any C, I, or AM Zone, a Sign may be permitted provided that when same is located within seventy-five (75) feet of an R zone or residentially-used area boundary line, it shall be affixed to or be a part of a building, not extend over any street line nor project above the roof line, and shall pertain only to a use conducted within the building. The size shall be limited to three (3) square feet of area to each lineal front foot of the building displaying such device.

1. No free standing Advertising Device shall have an advertising area exceeding three hundred twenty (320) square feet in area.
2. No flashing Advertising Device shall be located within three hundred (300) feet of any residential district.

D. A or FP Zone. This section specifies what Signs and Advertising Devices shall or shall not be granted Improvement Location Permits in the A & FP Zones.

1. All Advertising Device shall comply with the front yard requirements as specified in this ordinance.
2. All Advertising Devices shall be a minimum of three hundred (300) feet from a line projected perpendicular across the highway from a dwelling, church, synagogue, temple, school or public institution.
3. All Advertising Devices shall be a minimum of four hundred (400) feet from any dwelling or land platted, divided, or zoned residential use, school, church, temple, synagogue, park or place of public assembly.
4. All Advertising Devices shall be a minimum of one hundred (100) feet from any and all side property lines, when such property line is a division line of property ownership.
5. All Advertising Devices shall be a minimum of two hundred (200) feet from railroad or a crossroad intersections, "T" roads or highway entrances, bridges or a stretches of highway that are specified as being hazardous by the State, County, or Town, turns in the highway or entering lanes or roadways, and the curves of a curved highway. (Ord. 2006-04, S6.3, June 12, 2006)

(4) General Provisions for All Signs & Advertising Devices.

- A. All Signs and Advertising Devices shall be constructed or maintained in a presentable manner for the life of the device.
- B. Any nonconforming Sign or Advertising Device that is or becomes in a derelict or objectionable condition shall be removed from the premises by the owner of said device. Said condition shall exist when device is determined to be in excess of thirty percent (30%) destroyed by acts of God or man. Said determination shall be made by the Zoning Administrator.

- C. Any nonconforming Advertising Device, lawfully existing upon the effective date of this ordinance shall be discontinued on or before ten (10) years after the effective date of this ordinance, in which case such prior date of discontinuance shall apply, unless in the meantime it is determined to be or is made conforming to this Section.
- D. Advertising Devices may not contain more than one sign per facing, nor more than two sides per said device. Advertising devices which show more than one sign on a single facing by alternating from one sign to the next & so on are permitted.
- E. Any device that is deemed a traffic hazard for reason of obstructing the view of an approaching roadway or intersection, railroad, school playground or park pedestrian crosswalk or any other situation that may endanger health and welfare of any pedestrian or occupant of any vehicle shall not be permitted.
- F. Any device shall be a minimum of one thousand three hundred twenty (1,320) feet from another device located on the same side of a two-lane Federal, State, County or Town roadway. Where located in a commercial zone, there shall be a separation requirement of two hundred (200) feet. Where located in an industrial zone there shall be a separation requirement of one hundred (100) feet.
- G. For the purposes of Section 11.04.060.(4)F., a series of 1 to 6 Advertising Devices, each having an area of no greater than six (6) square feet and spaced at least one hundred (100) feet apart, which are designed to be read in sequence to convey a single message, shall be considered as one Advertising Device. (Ord. 2006-04, S6.4, June 12, 2006)

**11.04.070 Re-Zoning.** The Commission may re-zone, in whole or in part, in accordance with I.C. §§36-7-4-600 et seq. Individual Property Owners desiring to re-zone their own property may apply to the Commission in accordance with this Section.

- (1) Application. An Owner or the Council may request in writing that the Commission to consider a proposal to re-zone a specific geographic area. An Owner may propose re-zoning by completing the appropriate application and filing it with the Commission at least thirty (30) days prior to its next regularly-scheduled meeting.
- (2) Publication & Notification of Citizens and Affected/Adjacent Property Owners. The Commission shall give notice of the hearing by publication under I.C. §5-3-1. The notice must state:
  - A. The time and place of the hearing;

- B. The geographic areas (or zoning districts in a specified geographic area) to which the proposal applies;
- C. A summary of the subject matter contained in the proposal (not the entire text); or, a description of the proposed change in the zone Maps;
- D. The place where a copy of the proposal is on file for examination before the hearing; and,
- E. That written objections and oral comments regarding the proposal will be considered.

The Commission shall also provide due notice to Interested Parties at least ten (10) days before the date set for the hearing, or as otherwise required by Indiana law.

- (3) Public Hearings, Written & Verbal Comments. On receiving or initiating the proposal, the Commission shall, within sixty (60) days, hold a public hearing. Within ten (10) business days after the Commission determines its recommendation, if any, the Commission shall certify, in writing, the proposal to the Council.

In preparing and considering proposals, the Commission shall pay reasonable regard to:

- A. The Comprehensive Plan;
- B. Current conditions and the character of current Structures and uses in each district;
- C. The most desirable use for which the land in each district is adapted;
- D. The conservation of property values throughout the jurisdiction; and,
- E. Responsible Development and growth.

- (4) Commission Recommendation to Council. The proposal may be certified in writing with a favorable recommendation, an unfavorable recommendation, or no recommendation from the Commission to the Council.

- (5) Council: Publication & Notification. After the Commission presents a favorable, unfavorable, or no recommendation to the Council, the Council shall at the first regular meeting of the Council after the proposal is certified (or at any subsequent meeting within a ninety (90) day period following such certification), adopt, reject, or amend the proposal. The Council shall give

notice of its intention to consider the proposal at that meeting. The notice must state:

- A. The time and place of the hearing;
- B. The geographic areas (or zoning districts in a specified geographic area) to which the proposal applies;
- C. A summary of the subject matter contained in the proposal (not the entire text); or, a description of the proposed change in the zone Maps;
- D. The place where a copy of the proposal is on file for examination before the hearing;
- E. That written objections and oral comments regarding the proposal will be considered;

The Council shall also provide for due notice to Interested Parties at least ten (10) days before the date set for the hearing.

- (6) Council: Public Hearings, Written & Verbal Comments. On receiving a favorable, unfavorable, or no recommendation from the Commission, if the Council does not adopt or reject the proposal at its first scheduled meeting following the certification, the Council shall, within sixty (60) days, hold a public hearing.

In considering proposals, the Council shall pay reasonable regard to:

- A. The Comprehensive Plan;
- B. Current conditions and the character of current Structures and uses in each district;
- C. The most desirable use for which the land in each district is adapted;
- D. The conservation of property values throughout the jurisdiction; and,
- E. Responsible Development and growth.

- (7) Actions in case of rejection or amendment. If the Council rejects or amends the proposal, it shall be returned to the Commission for its consideration, with a written statement of the reasons for the rejection or amendment. The Commission has forty-five (45) days in which to consider the rejection or amendment and report to the Council as follows:

- A. If the Commission approves the amendment or fails to act within the forty-five (45) day period, the Ordinance stands as passed by the Council as of the date of the filing of the Commission's report of approval with the Council or the end of the forty-five (45) day period.
- B. If the Commission disapproves the rejection or amendment, the action of the Council on the original rejection or amendment stands only if confirmed by another vote of the Council within forty-five (45) days after the Commission certifies its disapproval. (Ord. 2006-04, S7.0, June 12, 2006)

**10.04.080 Adult Entertainment Establishments.** Prior to the opening or operation of an Adult Entertainment Establishment, the Owner or other operator of such Adult Entertainment Establishment shall comply with any and all requirements of Spencer County Ordinance Number 2005-11, which are incorporated herein by reference. In the application and procedures of such provisions, the "Administrator" shall be the Administrator as defined in this Ordinance, and the Santa Claus Town Council shall be the appropriate panel for review. Any and all references in such Ordinance to "Board of Commissioners" shall be deemed to and shall refer to the Council, and any and all references in such Ordinance to "County" or "Spencer County" shall be deemed to and shall refer to the "Town". (Ord. 2006-04, S8.0, June 12, 2006)

**11.04.090 Reserved.** (Ord. 2006-04, S9.0, June 12, 2006)

**11.04.100** (1) **Subdivision Regulations.** This section is adopted for the purpose of ensuring that the Subdivision of real estate in Town is conducted in an orderly and efficient manner. (Ord. 2006-04, S10.1, June 12, 2006)

(2) Authority. These regulations are authorized by and adopted pursuant to Indiana Code, the 700 Series of I.C.§36-7-4 - Subdivision Control, and all amendments and supplements thereto. (Ord. 2006-04, S10.2, June 12, 2006) (Ord. 1995-05, S1.2 Subd, Apr. 20, 1995)

(3) Policy.

A. It is hereby declared to be the policy of the Town to consider the Subdivision of land and the subsequent Development of the subdivided Plat as subject to the Comprehensive Plan and related policies such as those embodied in the Zoning Ordinance for the orderly and efficient Development of the Town.

B. Land to be subdivided shall be of such a character that it can be developed without peril to health or peril from flood, fire or other menace, and land shall not be subdivided until having access to available existing public facilities and until improvements and proper provision have been made for drainage, water, sewerage, other necessary new Public Improvements such as schools, parks, recreation facilities, and transportation facilities adequate for serving the Subdivision. Private wells and septic systems in lieu of Public Water and sewer facilities are allowable where permitted under the Zoning Ordinance and approved by the Town and Spencer County Board of Health, the State Board of Health; or other Federal, State or local governmental entity or official with jurisdiction.

C. Both existing and proposed public facilities serving the Subdivision shall be properly related and conform to the official Comprehensive Plan, related policies and implementation programs including the Official Maps, Thoroughfare Plan and this Zoning Ordinance. (Ord. 2006-04, S10.3, June 12, 2006) (Ord. 1995-05, S1.3 Subd, Apr. 20, 1995)

(4) Purpose.

A. To regulate the subdividing and Platting of land.

B. To protect and provide for the public health, safety, and general welfare of the Town.

C. To guide the future Development and renewal of the Town in accordance with the Comprehensive Plan and related policies.

D. To provide for the safety, comfort, and soundness of the built environment and related open spaces.

- E. To protect the compatibility, character, economic stability and orderliness of all Development through reasonable design standards.
  - F. To guide public and private policy and action to provide adequate and efficient public and private facilities, the most aesthetically pleasing and beneficial interrelationship between land uses, conserve natural resources such as natural beauty, woodlands, open spaces, and energy both during and after Development. (Ord. 2006-04, S10.4, June 12, 2006) (Ord. 1995-05, S1.4 Subd, Apr. 20, 1995)
- (5) Jurisdiction. No Improvement Location Permit shall be issued for any Parcel or Plat of land which was created by Subdivision after the effective date of, and not conforming with, the provisions of this Ordinance. The excavation of land or construction of any public or private improvements in a Subdivision shall not take place or be commenced except in conformity with the regulations contained herein and in conformity with construction standards adopted by the Town. (Ord. 2006-04, S10.5, June 12, 2006) (Ord. 1995-05, S1.5 Subd, Apr. 20, 1995)
- (6) Enactment. In order that land may be subdivided in accordance with these purposes and policies, these Subdivision regulations are hereby adopted. (Ord. 2006-04, S10.6, June 12, 2006) (Ord. 1995-05, S1.6 Subd, Apr. 20, 1995)
- (7) Interpretation, Conflict, and Separability.
- A. In their interpretation and application, the provisions, of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.
  - B. Conflict with Public and Private Provisions. The regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule of regulation, statute, or other provision of law. Where any provision of these regulations impose restrictions different from those imposed by any other provision of these regulations or any ordinance, rule or regulations, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control. (Ord. 2006-04, S10.7, June 12, 2006) (Ord. 1995-05, S1.7 Subd, Apr. 20, 1995)
- (8) Saving Provision. These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing Subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any Person, firm, or corporation, or as waiving any right of the Town under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any Person, firm, or corporation, by lawful action of the Town except as shall be expressly provided for in this

Ordinance. (Ord. 2006-04, S10.8, June 12, 2006) (Ord. 1995-05, S1.8 Subd, Apr. 20, 1995)

- (9) Amendments. For the purpose of providing for the public health, safety, and general welfare, the Council, on recommendation of the Commission, may from time to time amend the provisions imposed by these Subdivision regulations, public hearings on all proposed amendments shall be held by the Commission and Council. (Ord. 2006-04, S10.9, June 12, 2006) (Ord. 1995-05, S1.9 Subd, Apr. 20, 1995)
- (10) Conditions. Regulations of the Subdivision of land and the attachment of reasonable conditions to land Subdivision is an exercise of valid police power delegated to the Town. The Developer has the duty of compliance with reasonable conditions laid down by the Commission for design, dedication, improvement, and restrictive use of land in order to conform to the physical and economical Development of the Town and to the safety and general welfare of the future Lot Owners in the Subdivision. (Ord. 2006-04, S10.10, June 12, 2006) (Ord. 1995-05, S1.10 Subd, Apr. 20, 1995)
- (11) Re-Subdivision of Land (Re-plat).
  - A. Procedure for Re-Subdivision. For any change in a Map of an approved or recorded Subdivision Plat, if such change affects any Street layout, Easements shown on such Map, or area reserved thereon for public use, or the addition of any Lots or if it affects any Map or plan legally reached prior to the adoption of any regulations controlling Subdivisions, such Parcel shall be approved by the Commission by the same procedure, rules, and regulations as for a Subdivision.
  - B. Procedure for recorded Parcels where future Re-Subdivision is anticipated. Whenever an existing Parcel of land is proposed to be subdivided and the Subdivision Plat shows one or more Lots containing more than one (1) acre of land and there are indications that such Lots will eventually be re-subdivided into smaller building sites, the commission may require that such Parcel of land allow for the future opening of Streets and the ultimate extension of adjacent Streets. Easements providing for the future opening and extension of such Streets may be made a requirement of the Plat. (Ord. 2006-04, S10.11, June 12, 2006) (Ord. 1995-05, S1.11 Subd, Apr. 20, 1995)
- (12) Vacation of Plats. Any recorded Plat or part of any recorded Plat may be vacated only in accordance with I.C. §§36-7-3-10, et seq., as amended. (Ord. 2006-04, S10.12, June 12, 2006) (Ord. 1995-05, S1.12 Subd, Apr. 20, 1995)
- (13) Variances. All variances to this Ordinance shall be under the jurisdiction of the Commission.

- A. General. Where the Commission finds that extraordinary hardships peculiar to the site proposed for Development or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to these Subdivision regulations so that substantial justice may be done and the public interest secured, provided that such variances shall not have the effect of nullifying the intent and purpose of these regulations; and further provided the Commission shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:
1. The granting of the variance will not be detrimental to the public safety, health, or welfare or injuries to other nearby property;
  2. The conditions upon which the request for a variance is based are unique to the property for which variance is sought and are not applicable to other or all property within or outside of a particular Subdivision;
  3. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the Owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations were carried out;
  4. The variance will not in any manner contravene the provisions of the Zoning Ordinance or Comprehensive Plan, as interpreted by the Commission and the Zoning Administrator.
- B. Conditions. In approving variances, the Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.
- C. Procedures. A petition for any such variance shall be submitted in writing on the appropriate form by the Subdivider at the time when the Preliminary Plat is filed for the consideration of the Commission. The petitioner shall state fully the grounds for the application and all of the facts relied upon by the petitioner. (Ord. 2006-04, S10.13, June 12, 2006) (Ord. 1995-05, S1.13 Subd, Apr. 20, 1995)

(14) Enforcement, Violation, and Penalties.

- A. General.

1. The Administrator shall have the duty to enforce these regulations and to bring any violations or lack of compliance, to the attention of the Commission.
  2. No Owner, or agent of the Owner, of any Parcel of land located in a proposed Subdivision shall transfer or sell any such Parcel before a Plat of such Subdivision has been approved by the Commission, in accordance with the provisions of these regulations and filed for recording with the County Recorder.
  3. The division of any Lot or any Parcel of land into a Subdivision, as defined in this Ordinance, by the use of metes and bounds description for the purpose of Sale, or transfer, or Lease resulting in the creation of more than two new Building sites of less than three (3) acres shall not be permitted, unless inconformity with all of the requirements of this Ordinance.
  4. Except for model house, no Improvement Location Permit required under the Uniform Building Code, the Zoning Ordinance or this Ordinance shall be issued on any property subject to this Ordinance until in conformity with all of the requirements of this Ordinance. (Ord. 2006-04, S10.14, June 12, 2006) (Ord. 1995-05, S1.14 Subd, Apr. 20, 1995)
- (15) Placement. Location designation for allowing Subdivision is determined by the zoning districts provided for in this Ordinance. Requests for changes in existing zone classifications to allow for the Development of Subdivisions may be submitted to the Commission for consideration in accordance with procedures set out in this Ordinance. (Ord. 2006-04, S10.15, June 12, 2006) (Ord. 1995-05, S3.2 Subd, Apr. 20, 1995)
- (16) Appeal of Administrator. Any decision or determination by the Administrator concerning Subdivision approvals may be appealed in writing to the Commission. (Ord. 2006-04, S10.16, June 12, 2006) (Ord. 1995-05, S3.3 Subd, Apr. 20, 1995)
- (17) Improvement Location Permit in Subdivisions. No Improvement Location Permit except for approved Model Home shall be issued for the construction of any Building, Structure or improvement to the land or any Lot within or outside a Subdivision as defined herein which has been approved for Platting or Re-platting until all requirements of this Ordinance or any special conditions approved by the Commission has been fully complied with. All Sales offices and contractors offices shall be considered a temporary Structure and shall be required to have an Improvement Location Permit and required inspections. (Ord. 2006-04, S10.17, June 12, 2006) (Ord. 1995-05, S3.4 Subd, Apr. 20, 1995)

- (18) Model Home. After the Final Plat has been recorded and copies have been provided to the office of the Commission; an Improvement Location Permit has been issued for site construction of the Subdivision, and a paved or gravel Roadway has been installed to the Model Home site from the entrance to the Subdivision, the Zoning Administrator may issue Improvement Location Permits for Model Homes within the first recorded section of a new Subdivision. The number of Model Home permits shall be limited to no more than the maximum of ten percent (10%) of the Lots in the Final Plat or a total of ten (10) Model Homes per Subdivision, whichever is less. Occupancy of Model Homes shall not take place until all permanent, private and Public Utility facilities that directly or indirectly affect the Model Home have been installed, inspected and approved in writing by all appropriate governmental agencies. (Ord. 2006-04, S10.18, June 12, 2006) (Ord. 1995-05, S3.5 Subd, Apr. 20, 1995)
- (19) Advertising and Sales. There shall be no advertising or Sales of a Subdivision prior to Final Plat approval by the Plat Commission and Council, No Person, firm of corporation proposing to make a Subdivision within the jurisdiction of the Commission shall enter into any contract for the Sale of such Subdivision or any part thereof, or shall proceed with any construction work on the proposed Subdivision before receiving Final Plat approval. (Ord. 2006-04, S10.19, June 12, 2006) (Ord. 1995-05, S4.1 Subd, Apr. 20, 1995)
- (20) Modified Treatment. Where the Commission finds that extraordinary hardships may result from strict compliance with these regulations it may vary the regulations so that substantial justice may be done and the public interest secured; provided that such modified treatment will not have the effect of nullifying the intent and purpose of the Comprehensive Plan or this Ordinance. In granting modifications, the Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements modified. (Ord. 2006-04, S10.20, June 12, 2006) (Ord. 1995-05, S5.1 Subd, Apr. 20, 1995)
- (21) Construction Bonding. The Commission may approve a Final Plat in which the improvements and installations have not been completed as required by this Ordinance only if the Applicant provides a Bond which shall:
- A. Run to the Town;
  - B. Be with surety satisfactory to the Town of Santa Claus;
  - C. Specify the time for the completion of the improvements and installations; and,
  - D. Be in an amount equal to the total cost of construction of improvements including storm sewer and drainage, new Streets and improvements to existing Streets, water, sanitary sewers Monuments and Markers; Streets signs, and any other Public Improvements

required by the Commission or Council. Surety is to be in the form of a Bond, Escrow, letter of credit or cashiers check made out to the Town.

The time period for the construction surety shall be for the entire time it takes to complete the construction, inspections and release in writing of the surety by the appropriate authority.

The Developer may install approved Subdivision improvements after an Improvement Location Permit has been issued and a time schedule for facility construction and inspection has been developed in writing and approved by all appropriate Town and other appropriate authorities, as determined by the Town, without surety as an alternate to the above. The Final Plat will not be signed by the Commission or Council, or recorded, until all improvements have been installed, inspected and approved in writing by appropriate authorities. (Ord. 2006-04, S10.21, June 12, 2006) (Ord. 1995-05, S7.1 Subd, Apr. 20, 1995)

(22) Maintenance Bonding. Following completion of improvements, a maintenance Bond shall be required upon the later of the release of the construction surety or signature of the Final Plat by the Council. Such Bond shall:

- A. Run to the Town;
- B. Be with surety satisfactory to the Town of Santa Claus;
- C. Be in an amount equal to not less than twenty percent (20%) of the Construction Surety or twenty percent (20%) of the actual cost of construction of improvements if installed without surety;
- D. Cover all expense of maintenance and repair of the improvements required for a time period of no less than two (2) years, and shall not be released until all inspections by the appropriate authorities and Commission staff have been performed and certified in writing that they meet all appropriate standards. The Town or Developer may request, within reason, Special Inspections by a duly authorized inspector or Registered Certified Engineer as approved by the Council to determine compliance with all appropriate standards, the cost of which shall be borne by the Subdivider or Developer. No surety shall be allowed to lapse or be terminated until approved in writing by the Council. (Ord. 2006-04, S10.22, June 12, 2006) (Ord. 1995-05, S7.1 Subd, Apr. 20, 1995)

(23) Preparatory Procedures. Before subdividing any tract or Parcel of land in the incorporated area of the Town, an Owner or Subdivider shall submit a preliminary Plat to the Commission. Prior to the preparation of a preliminary Plat, it is recommended that:

- A. The Owner or Subdivider secure a copy of this Ordinance;
  - B. Consult with the Commission relative to any questions the Owner or Subdivider may have;
  - C. Submit to the Commission a Sketch Plan of the proposed Subdivision prepared on a topographic Map of the area showing at least the local Street system and arrangement of Lots;
  - D. Request a Preliminary Plan Application; and,
  - E. Secure a Soil Survey of the area encompassing the Plat. (Ord. 2006-04, S10.23, June 12, 2006) (Ord. 1995-05, S9.1 Subd, Apr. 20, 1995)
- (24) Pre-design Conference. Prior to submitting any of the materials required by this Ordinance, the Applicant or his representative shall discuss with the Administrator the nature of the land division being proposed, so that the Applicant may be instructed concerning the classification of the proposed Subdivision and what regulatory procedures must be followed under this Ordinance in order to secure Preliminary and Final Plat approval. Where applicable, requirements concerning the general layout of Streets and for reservations of land, soil conditions, Street improvements, drainage, sewerage, fire protections, utilities and similar matters, as well as the availability of existing services should be discussed. The Administrator shall also advise the Applicant, where appropriate, to discuss the proposed land division with those other officials who must eventually approve those aspects of the Plat coming within their jurisdiction. (Ord. 2006-04, S10.24, June 12, 2006) (Ord. 1995-05, S9.2, Apr. 20, 1995)
- (25) Subdivision Application for Preliminary Approval.
- A. Completed Commission's Application form.
  - B. Preliminary Plat at a scale of 1 inch to 100 feet (1:100) or other appropriate scale showing the entire Subdivision. (Ord. 2006-04, S10.25, June 12, 2006) (Ord. 1995-05, S9.3 Subd, Apr. 20, 1995)
- (26) Preliminary Plat Requirements.
- A. Location Map showing names of adjacent property Owners and the zoning and land uses of adjacent properties.
  - B. Name, address and phone numbers of:
    - 1. The property Owner or Owners;

2. If a corporation, the name of the President, and all major investors;
  3. Any mortgagee(s) of the property;
  4. The Developer; and,
  5. The engineer or surveyor.
- C. Proposed name of the Subdivision.
  - D. Location by Section, Township and Range.
  - E. Legal description of record and boundary of proposed Subdivision.
  - F. Location, width and name of all existing and proposed public and or private Roadways, Easements and rights-of-way.
  - G. Location of all existing septic fields, well locations and proposed utilities including but not limited to sewer, water drainage facilities, power, telephone and cable.
  - H. Layout, number and dimensions of all Lots and out Parcels with Setback lines.
  - I. Property boundary lines of all adjacent properties.
  - J. Location and elevation of flood way and flood fringe areas, where applicable.
  - K. Drainage plan for all watersheds in and around the proposed Subdivision, showing all existing and proposed retention, detention facilities, and erosion and sedimentation control plans.
  - L. Topographic contour every two (2) feet if required by the Administrator or Technical Advisory Committee (otherwise 5 or 10 feet).
  - M. All improvements to Roadway system On-site and Off-Site.
  - N. Sidewalks or Pedestrian Ways.
  - O. Areas for parks, conservation areas, wetlands, common areas, lakes, Easements for Pedestrian Ways and local, State or Federal identified historic or archaeological resources.
  - P. Any special conditions relating to the Subdivision.

- Q. All Sign locations and preliminary plans including entrance, traffic, Street name, etc
  - R. Existing mailbox and fence locations.
  - S. Preliminary landscape, mounding, perimeter fencing and Screening plan. (Ord. 2006-04, S10.26, June 12, 2006) (Ord. 1995-05, S9.4 Subd, Apr. 20, 1995)
- (27) Other Required Information.
- A. Soils Maps and description of soils as they relate to Development.
  - B. Restrictive Covenants.
  - C. Fees related to property use.
  - D. List of names and addresses of all adjacent property Owners.
  - E. Any other information the Administrator deems necessary to the Development of the Subdivision. (Ord. 2006-04, S10.27, June 12, 2006) (Ord. 1995-05, S9.5 Subd, Apr. 20, 1995)
- (28) Conditions. As part of the preliminary Plat review and approval process, the Commission may impose certain reasonable conditions relating to the proposed Subdivision that it feels is needed in order to insure the orderly Development of the area under their jurisdiction and to protect the health, safety or welfare of the general public. The reason for the condition shall be included with the findings of fact. All conditions shall be recorded by the petitioner in the office of the County Recorder, as part of the Final Plat. (Ord. 2006-04, S10.28, June 12, 2006) (Ord. 1995-05, S9.6 Subd, Apr. 20, 1995)
- (29) Technical Advisory Committee. The Commission may establish a committee to review Plats and technical information for conformity with the standards and requirements of this Ordinance and other Santa Claus Ordinances as they relate to Development in Santa Claus. A written report from members of this committee shall be submitted to the Commission prior to Commission consideration of the proposed Subdivision. (Ord. 2006-04, S10.29, June 12, 2006) (Ord. 1995-05, S10.1, Subd Apr. 20, 1995)
- (30) Administrator Reports. The Administrator shall make a written report to the Commission on the conformity of the Plat to this Ordinance and the need for any conditions or recommendations for Preliminary Approval.
- A. Records. The Administrator shall keep:

1. Application Form of all proposed Subdivisions and supporting information.
  2. Copies of the Technical Advisory Committee and Administrator Reports.
  3. Signed copies of all recommendations, findings, commitments, Restrictive Covenants, conditions and decisions on all proposed Subdivisions.
  4. Signed and stamped approved copies of all plans and specifications of all proposed Subdivision improvements.
  5. Copies of all recorded Restrictive Covenants and special conditions.
  6. Copies of all recorded Plats.
  7. Copies of all inspection records and as built drawings of all Subdivision improvements.
  8. Copies of the Bonds and agreements for all Plats in all correspondence relating to a specific Subdivision. (Ord. 2006-04, S10.30, June 12, 2006) (Ord. 1995-05, S10.2 Subd, Apr. 20, 1995)
- (31) Notice of Decision. After a decision of Preliminary Approval, Disapproval, or Approval with Conditions, findings of fact shall be completed and certified and signed by the President of the Commission and a copy shall be mailed to the Applicant and any Interested Parties that have requested a copy of the findings by letter to the Commission or its staff. (Ord. 2006-04, S10.31, June 12, 2006) (Ord. 1995-05, S11.1 Subd, Apr. 20, 1995)
- (32) Reserved. (Ord. 2006-04, S10.32, June 12, 2006)
- (33) Preliminary Approval of Subdivision.
- A. Standards. To qualify for Preliminary Approval by the Commission, the following standards must be met:
    1. All appropriate requirements of this Ordinance must be met.
    2. All requirements of the Santa Claus Comprehensive Plan, Chapter IV Transportation Plan and its standards must be met.

3. Easements and rights-of-way must be provided for all utilities and government agencies to have adequate access to each Lot.
  4. Landscaping, sign, open space, drainage and conservation Easements shall be separate from utility Easements.
  5. Copy of inventory and evaluation from the Technical Committee.
  6. A written statement giving preliminary approval of the sanitary sewer system plans from the governmental body or official with jurisdiction.
  7. Confirmation in writing of special conditions required by the Commission.
  8. Supporting engineering data and plans as required and approved by the appropriate agencies.
- B. Conditions. As part of the Preliminary Plat review and approval process, the Commission may specify conditions relating to:
1. The need of additional Roadway Right-of-Way and improvements based on the Town's existing Thoroughfare Plans, reports or studies undertaken by the Commission or other local, county, state or federal agencies lacking such studies. The Commission may require additional studies to be completed by the petitioner or other professional consulting firms to determine the need for additional Roadway Right-of-Way or improvements as a result of the proposed Development and its impact on the surrounding areas.
  2. The need for, location, types and configuration of Pedestrian Ways.
  3. The need for Buffering, Landscaping and Screening.
  4. The need to protect environmental features including wetlands, mineral resources, flood plains, archeological and historic sites and places.
  5. Any other reasonable conditions deemed necessary to protect the health, safety and welfare of the general public. (Ord. 2006-04, S10.33, June 12, 2006) (Ord. 1995-05, S12.1 Subd, Apr. 20, 1995)

- (34) Reserved. (Ord. 2006-04, S10.34, June 12, 2006)
- (35) Final Plat Process.
- A. Within two (2) years after Preliminary Approval by the Commission, the Owner of Subdivider shall file with the Commission fifteen (15) copies of an application for approval of the Final Plat covering all or a part of the approved Preliminary Plat. The Final Plat shall retain the design characteristics and intent of the approved Preliminary Plat, except that the Commission may require such changes or revisions as are deemed necessary.
  - B. In the case of the application for approval for a Final Plat is made for only a part of the approved preliminary Plat, the Commission may extend the time for filing an application for approval of a Final Plat covering the remaining area included in the approved preliminary Plat beyond the two-year filing period.
  - C. The Applicant shall be notified of the time and place of the hearing and he or his designated agent shall attend such hearing.
  - D. The Commission shall approve or disapprove the Final Plat within sixty (60) days from the date of the filing of the Final Plat with the Commission. Upon the adoption of a resolution approving a Final Plat, the Commission shall forward the Plat, when approved, to the Council for Final Approval.
  - E. The Final Plat, as approved by the Council, shall be filed by the Applicant with the County Recorder within ninety (90) days. Otherwise the Plat shall be considered void.
  - F. The Commission shall retain a copy of the approved Final Plat, distribute original Final Plat to the Council and one copy to the County Surveyor.
  - G. If the application for approval of the Final Plat is rejected, a written statement indicating the reasons for rejection shall be sent to the Applicant.
  - H. If the application for approval of the Final Plat has been rejected, the Applicant may re-file a Final Plat application within ninety (90) days following the rejection. (Ord. 2006-04, S10.35, June 12, 2006) (Ord. 1995-05, S13.1 Subd, Apr. 20, 1995)
- (36) Final Plat Requirements. The Final Plat must be in a form approved by the County Recorder and shall contain a least the following items:
- A. Name of Subdivision and Section Number, Registered Professional Engineer or Surveyor's stamp, address and phone number on all

pages of the Plat except pages showing only Restrictive Covenants and Special Conditions.

- B. Legal description including section, Township and range; and survey meeting Indiana Survey Standards with bearings and linear dimensions and showing the entire boundary of Plat.
- C. Scale, date and North point.
- D. Location and width of each Street Right-of-Way within and adjacent to the Plat.
- E. Bearings and distances to a minimum of two section corners or quarter section corners or to a corner of a recorded Subdivision which shall be accurately described and referenced on the Plat.
- F. Corporate, Township and County Lines within and adjacent to the Plat.
- G. Names of each Street within and adjacent to the Plat; curve radii including angle, length of curve, length of tangent, length of chord and chord bearing (tables may be used).
- H. All Easements including widths for public and private ways, drainage and utilities.
- I. Accurate location of all Monuments and Markers and materials to be used.
- J. Location and purpose of all areas dedicated to public use.
- K. Front (yard) Building Setback line.
- L. Notarized Certification by Owner of Plat for the dedication of Streets and other improvements.
- M. Acceptance by the Santa Claus Council all dedicated areas and improvements.
- N. Signature of President of the Commission.
- O. All Restrictive Covenants and conditions approved by the Commission.
- P. Recording information of any previously recorded Subdivision shall be shown on the front page of the Plat.
- Q. Abutting recorded Plat name and recording information.

- R. Signature of any other governmental body or official which must approve any portion of the Plat.
  - S. Street names and Lot addresses as approved by the Administrator in conjunction with the Director of E911, other affected emergency operations and postal service.
  - T. Three (3) sets completed Final Construction Plans. (Ord. 2006-04, S10.36, June 12, 2006) (Ord. 1995-05, S14.1 Subd, Apr. 20, 1995)
- (37) Drawing, Scale, and Size of Final Plat. The Final Plat shall be drawn on dimensionally stable, transparent sheets such as mylar with black waterproof ink. If the Subdivision contains Lots of twenty thousand (20,000) square feet or more, Maps shall be at a scale not less than one inch equals 100 feet. If the Subdivision is composed entirely of Lots less than twenty thousand (20,000) square feet, Maps shall not be less than one inch equals 50 feet. (Ord. 2006-04, S10.37, June 12, 2006) (Ord. 1995-05, S15.1 Subd, Apr. 20, 1995)
- (38) Final Construction Plans. All Construction Plans shall be completed, reviewed and approved by all government departments and agencies. Final Construction Plans shall be stamped and approved by the reviewing department or agency, dated and signed by the Administrator, certifying engineer and Developer on the front page of the Plans. No changes shall be made to the final approved Construction Plans without the review and approval of the appropriate authority. Amended Construction Plans shall be reviewed, signed and dated and copies filed with the appropriate authority and the Commission. The President of the Commission shall not Sign the Final Plat until all Construction Plans have been finalized and surety secured or improvements have been made in accordance with the approved Construction Plan.
- No site work can begin nor improvements be installed on the site of the proposed Subdivision until:
- A. The Final Construction Plan has been approved, signed and filed with the office of the Commission; and,
  - B. An Improvement Location Permit is issued. (Ord. 2006-04, S10.38, June 12, 2006) (Ord. 1995-05, S15.2 Subd, Apr. 20, 1995)
- (39) Record Drawings. After the completion of the construction of the improvements, a set of prints showing the as-built details and changes, if any, shall be filed with the Commission. These drawings shall be signed, dated and certified by the project engineer and Developer. (Ord. 2006-04, S10.39, June 12, 2006) (Ord. 1995-05, S15.3 Subd, Apr. 20, 1995)

#### 11.04. 110 Development Standards.

- (1) Blocks.
  - A. Blocks shall not exceed one thousand (1,000) feet in length.
  - B. Blocks which are more than six hundred (600) feet in length and which inhibit public access to parks, schools, recreation areas or other neighboring facilities, shall have cross or through-walks at convenient locations. Said cross or through walks shall be placed on permanent ingress/egress Easements granted for public use. Easements shall be a minimum ten (10) feet in width.
  - C. Residential Blocks shall be of sufficient depth to accommodate two (2) tiers of Lots of minimum depth, except where reverse Frontage Lots bordering on a freeway, Arterial Street or flood plain are used. (Ord. 2006-04, S11.1, June 12, 2006) (Ord. 1995-05, S17.1 Subd, Apr. 20, 1995)
- (2) Public Use Areas. Where sites for parks, schools, playgrounds or other public use areas, as shown in the Comprehensive Plan are located within the Subdivision area, the Commission shall require that such areas be so designated on the Final Plat. Within three (3) years after the approval of the Final Plat, the authority having jurisdiction shall acquire the designated land or commence proceedings to acquire it; otherwise the Owner may make permitted use of the site, as long as said use complies with all other applicable ordinances. (Ord. 2006-04, S11.2, June 12, 2006) (Ord. 1995-05, S17.2 Subd, Apr. 20, 1995)
- (3) Lots. All Lots shall conform to the Lot design standards provided for in this section and all other requirements of this Ordinance for the zoning district in which such Subdivision is located.
  - A. The Commission may establish reduced or expanded Lot area requirements in areas where conditions of soil, groundwater, drainage slope, or other physical factors necessitate such changes.
  - B. Lots shall have Building Setback line which shall be established to compliment the Development pattern but which may not be less than the distance established in this Ordinance.
  - C. Every Lot or Parcel shall have sufficient Frontage as required in this Ordinance and access to a Public Street designated, designed and improved in accordance with the terms of this Ordinance.
  - D. The depth to width ratio of any single-Family residential Lot shall not be greater than three to one (3:1) for any Lot smaller than one (1)

acre. (Ord. 2006-04, S11.3, June 12, 2006) (Ord. 1995-05, S18.1 Subd, Apr. 20, 1995)

(4) Monuments and Markers.

- A. Permanent Markers consisting of steel pipes or steel rods not less than five eighths of one inch (5/8") diameter and twenty four inches (24") in length shall be installed at:
1. The intersection of all Street center lines within a proposed Plat.
  2. The beginning and ending of all curves in Street center lines.
  3. On all outside boundary corners and angle points of a Final Plat, and be set in 4"x4"x48" concrete with steel rod in center.
- B. All Federal, State, County, or other official benchmarks, Monuments or triangulation station in or adjacent to the property shall be preserved in precise position. (Ord. 2006-04, S11.4, June 12, 2006) (Ord. 1995-05, S18.2 Subd, Apr. 20, 1995)

(5) Commercial and Industrial Subdivisions. It is recognized that the Subdivider, in creating commercial and industrial Subdivisions, faces unique problems of Lot design not normally encountered in residential Subdivisions. For this reason, the initial emphasis of the Commission shall be upon Street layout and Block arrangement.

- A. The procedural requirements shall be for the Owner or Developer to follow the regular procedure outlined herein. The Subdivider need show only two (2) Lots along the Street and Block layout. As prospective buyers or users express interest in Lots sized to their required specifications, the Subdivider shall request an amendment to the approved recorded Subdivision Plat.
- B. Streets previously built shall not have to be rebuilt because of adoption of new criteria. This shall also apply to storm drainage facilities within said Subdivision unless run-off characteristics have been changed by newly proposed improvements or unauthorized existing improvements. (Ord. 2006-04, S11.5, June 12, 2006) (Ord. 1995-05, S18.3 Subd, Apr. 20, 1995)

(6) Sanitary Sewers.

- A. The Subdivider shall provide the Subdivision with a complete sanitary sewer system which shall connect with an existing approved sanitary sewer outlet. If such approved outlet is not within one

thousand (1,000) feet of the area being subdivided, one of the following methods of sewage disposal may be authorized by the Commission:

1. Public System. A complete sanitary sewer system which shall convey the sewage into an established municipal or other Public Agency sanitary sewage disposal and treatment system, at a point and in a manner approved in writing by the municipal or other Public Agency involved. The plans for the complete installation of the sewage system showing all locations, material, size, profiles and any connections thereto shall be prepared by a Registered Engineer and/or Registered Land Surveyor at the expense of the Subdivider or Developer and shall be approved by and meet the requirements of the municipal or other Public Agency, and any other Federal, State or Local governmental entity or official with jurisdiction.
  2. Private or Quasi-Public System. A complete sanitary sewage system to convey the sewage to a treatment plant provided by the Developer or others and prepared by a Registered Engineer and/or a Registered Land Surveyor in accordance with the requirements of the Spencer County Board of Health, the State Board of Health; or other federal, state or local governmental entity or official with jurisdiction.
- B. The plans for the complete installation of the sewer system both within the Subdivision and any Off-Site installations serving said Subdivision showing all locations, size, material, profiles, and capacities, shall be prepared by a Registered Professional Engineer and/or a Registered Land Surveyor submitted to and approved by the State Board of Health; or other federal, state or local governmental entity or official with jurisdiction.
- C. The Subdivider shall furnish the Commission a complete final set of plans and profiles as approved and signed by the various authorities. (Ord. 2006-04, S11.6, June 12, 2006) (Ord. 1995-05, S20.1 Subd, Apr. 20, 1995)
- (7) Water.
- A. The Subdivider shall provide the Subdivision with a complete water main system which shall connect with an existing approved Public Water system. If such approved outlet is not within one thousand (1,000) feet of the area being subdivided, one of the following methods may be authorized by the Commission:

1. Public System. A complete water main system which shall be connected to a public or other community water supply which is approved by the Spencer County Board of Health, the State Board of Health; or other Federal, State or local governmental entity or official with jurisdiction. The plans for the complete installation showing size, location, depth, material and all connections thereto including fire hydrants and valves approved by the local fire department, shall meet the requirements and receive the approval of the local water utility and Spencer County Board of Health, the State Board of Health; or other Federal, State or local governmental entity or official with jurisdiction
  2. Private Water Systems are not acceptable. (Ord. 2006-04, S11.7, June 12, 2006) (Ord. 1995-05, S20.2 Subd, Apr. 20, 1995)
- (8) Waivers. The Subdivider may request the Commission to waive the requirements for connection to Public Sewers or water systems for Subdivision located within the mandatory distance from sewer or water systems, where topography or other influences are such that connection with the existing utility is demonstrably impractical. (Ord. 2006-04, S11.8, June 12, 2006) (Ord. 1995-05, S21.1 Subd, Apr. 20, 1995)
  - (9) Sediment Control. The Developer or his agent shall have prepared and Erosion Control Plan for all Subdivisions which shall show all disturbed areas of the site and both temporary and permanent methods for erosion control during and after all construction activities related to the site including temporary seeding. The plan shall be submitted to the Administrator, the County Surveyor and the County Soil and Water Conservation District staff for review, approval and signature. Any amendments to the approved Plan shall be approved by all three reviewing departments. The Urban Development Planning Guide for Erosion Control, Sediment Control, Flood Prevention and Drainage 1985 or latest edition and the Indiana Handbook for Erosion Control in Developed Areas, latest edition as prepared by the Indiana Department of Natural Resources shall be used in determining the best procedure and methods established on the Erosion Control Plan. (Ord. 2006-04, S11.9, June 12, 2006) (Ord. 1995-05, S22.1 Subd, Apr. 20, 1995)
  - (10) Topography, Natural Vegetation and Flooding. In the subdividing of any land within the jurisdiction, due regard shall be shown for all natural features, such as tree growth and other vegetation, watercourses, or other similar elements which, if preserved, would add attractiveness and value to the proposed Development and surrounding area as long as the entire site is not precluded from reasonable Development.

- A. The natural topography shall be retained wherever possible in order to reduce runoff onto adjoining property and to avoid extensive regrading of the site.
- B. Building locations shall be carefully studied in relation to existing twelve inch and larger caliper trees, and other pertinent site features.
- C. Consideration shall be given to varying the Setback line required in the zoning district where the Subdivision is proposed in order to retain where ever possible existing topography, rock formations, and large trees. Consideration shall be given only after the Board of Zoning Appeals has granted a Building line variance for the affected Subdivision.
- D. Where there is a question as to the suitability of a Lot or Lots for their intended use due to factors such as rock formations, flood conditions, or similar circumstance, the Commission shall consider withholding approval of such Lots.
- E. The Administrator shall review all proposed Subdivisions to determine whether the Subdivision lies in a flood way and/or flood fringe area. If the Subdivision is to be located within the flood way, the petitioner shall forward all plans and materials to the Indiana Department of Natural Resources for review, comment, approval or disapproval. The Commission may require appropriate changes and modifications in order to assure that it is consistent with the need to minimize flood damages; all public utilities and facilities, such as sewer, gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage; adequate drainage shall be provided so as, to reduce exposure to flood hazards; on-site waste disposal systems, per the requirements of the Spencer County Board of Health, the State Board of Health; or other Federal, State or local governmental entity or official with jurisdiction. If there is a question as to the location of the Subdivision in relation to a flood way or flood fringe area, the Administrator shall direct the Developer or his agent to submit the plans to the Indiana Department of Natural Resources in order to locate the flood way and flood fringe area in relation to the Subdivision.
- F. Primary Subdivision Plat and Construction Plans containing lands identified elsewhere by ordinance as flood prone areas shall have the elevation of the 100 year flood and the locations of the flood way and flood fringe areas.
- G. All Development must meet the requirements of the Flood Plain District as established in this Ordinance. (Ord. 2006-04, S11.10, June 12, 2006) (Ord. 1995-05, S23.1 Subd, Apr. 20, 1995)

(11) Drainage.

- A. The Subdivider shall provide each Lot with a free outlet for surface and subsurface drainage. Storm drainage design may be prepared for the Subdivider by a Registered Professional Engineer, a Registered Land Surveyor or a registered landscape architect. The analysis shall be based upon the rational formula ( $Q=CIA$ );  $Q$ =Discharge Rate;  $C$ =Runoff Coefficient;  $I$ =Intensity Inches/Hour; and  $A$ =Area (acres). Times of concentration, storm frequencies and other variable factors to be used in the design shall be for ten (10) year and one hundred (100) year storm events and discussed with and approved by the Administrator during the preliminary consideration of the Subdivision. The engineer or surveyor preparing said analysis shall provide the Administrator with a copy of the computations used in the completion of the analysis and design.
- B. Storm water sewer systems on and off site shall be separate and independent of the sanitary sewer system. Storm sewers including surface inlets, detention/retention areas, open ditches, swales and pipes shall be provided by the Subdivider.
- C. Whenever a Subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a drainage Right-of-Way which shall be for the purpose of widening, improving or protecting the stream and its flood plain. To insure proper drainage Right-of-Way width, the following requirements shall be incorporated in the Final Plat:
1. Side yard Easements with drainage Structures or swales shall be a minimum of fifteen (15) feet in width on each Lot.
  2. Rear yard Easements with drainage Structure or swales shall be a minimum of fifteen (15) feet in width on each Lot.
  3. Perimeter Easements with drainage Structure or swales shall be a minimum of thirty (30) feet, if the abutting properties have no drainage Easements. In cases of adjoining properties having drainage Easements, the aggregate of the Easements shall be no less than thirty (30) feet and the new Easement shall be no less than twenty (20) feet.
  4. Easements must run continuously from Right-of-Way to Right-of-Way and not dead end.
  5. Open Channel Easements shall be a minimum of twenty five (25) feet as measured from the top of bank on each side plus the width of the channel from top of bank to top of bank.

6. Areas of the 100 year flood plain shall be covered by a drainage Easement.
  7. Easements for open channels and flood plain areas shall be a straight line when possible between Lot Lines. Location of Easements shall be dimensioned along Lot Lines. In cases of Easements not being a straight line between Lot Lines, all points of the Easement segments shall be dimensioned from and on Lot Lines.
  8. Retention areas shall be protected by Easements a minimum of twenty (20) feet as measured horizontally from the 100 year high water elevation.
  9. Drainage Easements of fifteen (15) feet shall be required along both sides of Streets on which road-side ditches are used.
  10. The Commission shall reserve the right to require additional Easement widths depending upon size and depth of pipe or Structure, topography, soil conditions and other conditions.
  11. All requirements of Indiana law, Spencer County ordinance and other rules and regulations under Indiana drainage laws must be met.
- D. Town Streets shall be provided with an adequate storm drainage system consisting of curbs, gutters and storm sewers, or side ditches and culverts, as determined by the Commission. A six inch (6") perforated tile shall be placed on each side of all Streets and:
1. Be two foot, zeros inches (2'-0") below and parallel with the pavement;
  2. Flow to the low point and into the storm drainage system;
  3. Shall be bedded with and trench backfilled with #8 stone up to 12" for entire length of trench; and,
  4. On all Lots, shall have a "tee" installed and stubbed to ground surface with a removable plug for future connection and surface clean out.
- E. When vegetation has been removed from a slope and the possibility of soil erosion occurs, the Subdivider shall seed or otherwise prevent damage to adjacent property or accumulation on Street surfaces. (Ord. 2006-04, S11.11, June 12, 2006) (Ord. 1995-05, S24.1 Subd, Apr. 20, 1995)

(12) Landscaping.

- A. The Subdivider shall submit his proposal and a schedule for Landscaping to the Commission prior to filing or with the filing of the application for approval of the preliminary Plat.
- B. All Subdivisions must have an approved landscape plan.
- C. Landscaping must be shown on the preliminary and final Construction Plans, and must be installed and maintained by the Developer as specified on the plan within one (1) year of beginning construction or Subdivision or section thereof and same for following sections.
- D. Required landscape plans must be prepared by a Landscape Architect registered in Indiana or a Licensed Nurseryman.
- E. Required Landscape Plans.

1. Residential Subdivision.

- (a) Minimum six foot (6') wide strip behind the Right-of-Way and or Easement along all existing Public Street or Roadway Frontage for entire length of Subdivision. (Does not mean new internal Streets.)
- (b) Tree preservation plan where more than one (1) acre of woods is to be developed or where existing wooded fence rows are located at edge of property.
- (c) Entrance features, such as Landscaping, walls, signs, lighting, etc.

2. Commercial or Industrial Subdivisions.

- (a) Minimum six foot (6') wide strip behind Right-of-Way and/or Easement along all existing Public Street Frontage for entire length of Subdivision (Does not mean new internal Streets)
- (b) Tree preservation plan where more than one (1) acre of woods is to be developed or where existing wooded fence rows are located at edge of property.
- (c) Screening/Buffering plans for Parking Areas, outdoor storage areas, loading areas, storage tanks, large mechanical or electrical installations and other

unsightly uses or Structures visible from non-commercial or non-industrial adjacent land uses must also be in accordance with the Zoning Ordinance.

3. Required Landscaping shall include but not be limited to a mixture of trees, shrubs and ground cover. Minimum sizes at time of planting shall be as follows:
  - (a) Deciduous Shade Trees 1 1/2" diameter trunk.
  - (b) Deciduous ornamental trees 4' (four foot) high.
  - (c) Evergreen trees 4' (four foot) high.
  - (d) Shrubbery 18" - 24" height.

Each required landscape strip shall have as an average minimum one (1) tree every 30' (thirty) feet horizontally along strip.

4. The Subdivider shall make every attempt to preserve and enhance all existing woods, forests, and soils as part of overall landscape plan. (Ord. 2006-04, S11.12, June 12, 2006) (Ord. 1995-05, S25.1 Subd, Apr. 20, 1995)

(13) Retaining Walls. Retaining walls may be constructed within sites given the following requirements:

- A. Must be shown on the Construction Plans.
- B. If over four (4) feet, must be designed by a Registered Professional Engineer, landscape architect or architect and all design plans must be submitted and stamped by said design professional.
- C. Shall not exceed ten (10) feet in height without terracing.
- D. Shall not be constructed within a Street Right-of-Way nor a drainage or a utility Easements.
- E. No drainage, utility, sanitary sewer or water line will be constructed on the upper elevation of a retaining wall nor closer than fifteen (15) feet from the lower elevation of a retaining wall. (Ord. 2006-04, S11.13, June 12, 2006) (Ord. 1995-05, S25.2 Subd, Apr. 20, 1995)

(14) Earth Mounds.

- A. Maximum height shall be six (6) feet.

- B. Minimum top width shall be two (2) feet.
- C. Maximum side slope for front and back sides shall be three feet horizontal to one foot vertical (3:1).
- D. Mounds shall be set back from Right-of-Ways or property lines so that the toe of slope will be no closer than five (5) feet of the Right-of-Way or property line.
- E. Mounds shall not increase storm water runoff onto an adjoining property in excess of the amount received previous to new Development. (Ord. 2006-04, S11.14, June 12, 2006) (Ord. 1995-05, S25.3 Subd, Apr. 20, 1995)

(15) Street Plan. The arrangement, character, extent, width, Grade, and location of all Streets shall be considered in their relation to existing and planned Streets; to reasonable circulation of traffic within the Subdivision and adjoining land; to topographical conditions, to runoff of storm water; to public convenience and safety; and in their appropriate relations to the proposed use of the area to be served.

A. Right-of-Way. Minimum Right-of-Way widths shall be:

	Minor	Major	Secondary	Primary
<u>Local</u>	<u>Collector</u>	<u>Collector</u>	<u>Arterial</u>	<u>Arterial</u>
50'	60'	70'	90'	100'

B. Roadway Width. All Streets to be dedicated shall be improved with Roadway hard surface pavements to an overall width in accordance with the following minimum dimensions:

Pavement width B-13 (Base to Base) of curbs:

	Minor	Major	Secondary	Primary
<u>Local</u>	<u>Collector</u>	<u>Collector</u>	<u>Arterial</u>	<u>Arterial</u>
28'	36'	38'	44'	48'

Minimum Roadway width dimensions shall be reduced or increased when the Commission determines that such an Alteration is required due to terrain or density.

C. Private (non-dedicated) Roadways.

- 1. Non-dedicated Roadways will not be permitted in recorded Subdivisions except when Right-of-Way standards are met:
  - (a) In Planned Unit Developments, Condominium Developments and other similarly developed

Subdivision in which communal Development is the significant feature and is reasonably inalterable.

- (b) In estate-type Subdivisions consisting solely of Lots which are greater than three (3) acres in area, where Roadways do not and cannot generate either through traffic or a significant volume of local traffic.
- (c) In Subdivision areas where the division is primarily for the purpose of delineation or rental or Leased areas and where ownership of all Lots will remain vested in the Subdivider.

2. All non-dedicated Roadways shall meet the following minimum requirements:

- (a) All private Roadways shall fall within an Easement which is of the same width as the Right-of-Way which would be required if the Roadway were to be dedicated.
- (b) All Building Setbacks shall be measured from the Roadway Easement line except that in Planned Unit Development or Condominium Development the Commission may, in public hearing, waive Setback requirements.
- (c) All private Roadways shall be clearly shown as such on the record Plats, a covenant note shall be entered onto the record Plat stating that private Roadways and the maintenance of such Roadways are encumbrances on and carry with the land. All original deeds which may be prepared for property subdivided under this section shall carry a similar covenant.
- (d) All Private Streets shall be constructed to the same requirements as if they were to be dedicated except surface pavements in minor Subdivisions.

3. Private Roadways may not be dedicated and accepted by the Council unless and until the following minimum requirements have been met:

- (a) All dedicated Right-of-Way standards for dedicated Roadways have been met in full.
- (b) Street construction, in place, has been completed or has been improved to meet all current standards for

dedicated Public Streets including, but not limited to: Base construction, traffic surface construction, shoulders, drainage, alignment, Grades and turnaround areas.

- (c) A surety, in the form of a Bond or other security acceptable to the Commission, has been filed to secure the costs of maintenance and/or repairs to the Streets which may become necessary within a period of twenty-four (24) months from the date of acceptance of dedication. Security shall be released at the expiration of the period following final inspection and release by the Administrator and Utility or Street Superintendent.
- (d) The Administrator and Utility Superintendent have physically inspected the Roadway and the Commission has issued a certificate to the effect that construction meets the published standards, that the Right-of-Way has been dedicated and recorded and that acceptance of dedication is not in conflict with the public interest.

D. Street Design.

1. Sight distance, measured along the center line of the Street shall not be less than three hundred (300) feet on Arterial Streets, two hundred and fifty (250) feet on Collector Streets, and two hundred (200) feet on minor (and local) Streets.
2. Local Streets shall have a center line radius of not less than one hundred (100) feet on hilly terrain, one hundred and seventy-five (175) feet on rolling terrain, and two hundred and fifty (250) feet on ordinary terrain.
3. Collector Streets shall have a centerline radius of not less than one hundred and fifty (150) feet on hilly terrain, two hundred and fifty (250) feet on rolling terrain, and two hundred and fifty (250) feet on ordinary terrain.
4. Streets, curbs, and walks may also be required in those areas where the absence of such improvements would create a hazard to the area environment and to the health, safety and welfare of its residents.
5. Maximum length of a cul-de-sac shall be seven hundred and fifty (750) feet.

6. Minimum Radius of a Cul-de-sac shall be sixty (60) feet for Right-of-Way and fifty (50) feet for pavement.
7. No islands or obstructions may be placed or constructed in Cul-de-sac.

E. Intersections.

1. The clear sight distance shall be ninety (90) feet on ordinary terrain, ninety (90) feet on rolling terrain and seventy (70) feet on hilly terrain.
2. The vertical alignment shall be flat on ordinary terrain, two percent (2%) on rolling terrain, and four percent (4%) on hilly terrain.
3. Streets shall intersect at ninety degrees (90°) whenever possible, but not less than seventy-five degrees (75°) at Collector Streets or less than sixty degrees (60°) at local Street intersections, unless specific provisions are made for traffic control and visibility.
4. The Subdivider shall provide, at each Street intersection, substantial, legible, permanent Street signs, as approved by the Commission. No Street names shall be used which duplicate or may be confused with names of existing Streets.
5. The minimum centerline offset of intersections shall be one hundred and fifty (150) feet for local-local and local-Collector Streets, and two hundred (200) feet for collector-Collector Streets

F. Design Speed. All roads and Street shall be designed for the following speeds:

	Minor	Major	Secondary	Primary
<u>Local</u>	<u>Collector</u>	<u>Collector</u>	<u>Arterial</u>	<u>Arterial</u>
25mph	35mph	40mph	55mph	55mph

G. Easements.

1. Suitable Easements shall be provided for the installation and maintenance of utilities. Such Easements may be located as may be required to properly serve the utilities, but shall, whenever possible, be along rear and/or Side Lot Lines. Utility Easements shall as provided for in this Ordinance equally divided between adjacent Lots, where such exist, and shall provide reasonable continuity from Block to Block.

2. The rights-of-ways for all drains shall conform to the Indiana Drainage Code.

H. Grades.

1. Maximum Grades.

- (a) Arterial Streets: Not to exceed three percent (3%).
- (b) Collector Streets: Not to exceed four percent (4%).
- (c) Local Streets and Cul-de-sacs: Not to exceed seven percent (7%), except for portions of Streets not to exceed six hundred (600) feet in length where maximum Grade shall not exceed twelve percent (12%).

2. Minimum Grades.

- (a) Concrete Streets and gutters shall be not less than three tenths of one percent (.3%)
- (b) All other types of Streets and gutters and for ditches shall be four tenths of one percent (.4%)

I. Gutters and Curbs.

1. Gutters and curbs may not be required for Streets when the proposed Subdivision consists of two (2) Dwelling Units or less per acre.
2. Gutters and curbs shall be required for all Streets when the proposed Subdivision consists of two (2) or more Dwelling Units per acre.
3. Gutters and curbs may be in integral concrete curb or combined gutter and curb type and may be either straight or rolled.

J. Pavement.

1. Flexible Type Pavement (Asphaltic Surface). Minimum design characteristics shall be as follows:

<b>Deep Base Asphalt</b>	<b>Local</b>	<b>Collectors</b>	<b>Arterials</b>
HA Surface #11 agg.	1 1/2"	1 1/2"	1 1/2"
HA Binder #8 agg.	2 1/2"	2 1/2"	3"
HA Base #5 agg.	6"	8"	9"
Compacted Subbase	95% mod. Proctor	95% mod. Proctor	95% mod. Proctor

OR

<b>Agg. Base/Asphalt</b>	<b>Local</b>	<b>Collectors</b>	<b>Arterials</b>
HA Surface #11	1 1/2"	1 1/2"	1 1/2"
HA Binder #8	3"	3"	3"
#53 Agg Bas	8" (6")	6"	10"
#2 Agg. Base	(4")	4"	4"
Compacted Subbase	95% mod. Proctor	95% mod. Proctor	95% mod. Proctor

2. Rigid Type Pavement (Cement Concrete). Minimum design characteristics of rigid Street pavement shall be as follows:

<b>Concrete *(Reinforced)</b>	<b>Arterial</b>	<b>Collector</b>	<b>Local</b>
Uniform thickness	**8" - 9"	7 1/2"	6"
Leveling Course	1"	1"	1"
Compaction	95% mod. Proctor	95% mod. Proctor	95% mod. Proctor

\*Wire mesh continuous between expansion joints with steel dowels at expansion joints.

\*\*Nine (9) inch thickness required at all intersections and where heavy truck traffic is proposed by Developer or Subdivider.

The Commission shall determine the subbase requirements for rigid pavement based upon the characteristics of the area. The Developer shall submit with the preliminary plan supporting data on the subbase being proposed for rigid pavement Streets. Final required pavement must be installed prior to Final Plat approval. (Ord. 2006-04, S11.15, June 12, 2006) (Ord. 1995-05, S27.1, 27.2, 28.1, 29.1, 30.1, 31.1, 31.2, 32.1, 33.1, 34.1, 35.1 Subd, Apr. 20, 1995)

#### **11.04. 120 Administration and Enforcement.**

- (1) Administrative Responsibility. The Zoning Administrator is authorized to enforce this Zoning Ordinance and receive applications, issue permits, and furnish the required certificates. The Administrator will provide for the inspection of sites and Structures for compliance with applicable provisions of the law under the authority of this Ordinance.

The Administrator shall keep records of all correspondence, applications, permits, inspections, and certificates or notices issued. All papers that relate to Buildings that are regulated under this Ordinance shall be retained on file and will be open for public inspection during regular business hours.

The Zoning Administrator shall have the duty to enforce the provisions of this Ordinance in the manner and form and with the powers provided in the laws of the State of Indiana and in the Ordinances of the Town of Santa Claus. (Ord. 2006-04, 12.1, June 12, 2006)

- (2) Improvement Location Permit. No Building or Structure shall be erected, reconstructed, enlarged or moved, nor shall any other Development commence or change in land use occur until an Improvement Location Permit shall have been applied for in writing and issued by the Zoning Administrator. A fee according to the fee schedule in this Ordinance shall be paid when making application for an Improvement Location Permit. Said permit shall be posted in a prominent place on the premises prior to and during the period of erection, reconstruction, enlargement or moving. Before a permit is issued for the erection, moving, Alteration, enlargement or occupancy of any Building or Structure or use of premises, the plans and intended use shall indicate conformity in all respects to the provisions of this Ordinance.

A. An Improvement Location Permit shall be required for any Alteration to the condition of the land or Structures thereon within the jurisdiction of this Ordinance. The Zoning Administrator shall determine that the proposed use will meet the minimum standards for the sewage disposal and water as required by the Town, Spencer County Health Department, the State Board of Health; or other Federal, State or local governmental entity or official with jurisdiction. The proposed use shall also meet all other requirements set forth in this Ordinance and applicable Spencer County ordinances

and Indiana law prior to issuance of the Improvement Location Permit.

- B. No Improvement Location Permit shall be issued prior to approval of any necessary onsite waste disposal system by the Spencer County Board of Health, the State Board of Health; or other Federal, State or local governmental entity or official with jurisdiction. The Applicant shall be required to present this approval to the Zoning Administrator upon application for the Improvement Location Permit.
- C. A Site Plan shall be submitted at time of application for an Improvement Location Permit and shall comply with the Site Plan requirements set forth in this Ordinance.
- D. Every application for an Improvement Location Permit submitted to the Zoning Administrator shall be accompanied by a Site Plan, drawn to scale, showing the Lot and the Building site and the location of existing Buildings on the Lot, accurate dimensions of the Lot, yards and Building or Buildings, together with locations, size and use of any land and all Buildings not only on the Lot but within fifty (50) feet from the boundaries thereof, unless separated therefrom by a Street, together with such other information as may be necessary to the enforcement of this Ordinance.
- E. No Improvement Location Permit shall be issued until the fees required by this Ordinance have been paid to the Zoning Administrator.
- F. Interpretation of Ordinance. In interpreting and applying the provision of this Ordinance, such provisions shall be held to be the minimum requirements for the promotion of health, safety, morals, convenience or the general welfare. The Lot or yard areas required by this Ordinance for a particular Building shall not be diminished and shall not be included as part of the required Lot or yard areas of any other Building. The Lot or yard areas of Buildings existing at the time this Ordinance became effective shall not be diminished below the requirements herein provided for Buildings hereafter erected and such required areas shall not be included as a part of the required areas of any Building hereafter erected.
- G. Completion of Existing Building. Nothing in this Ordinance shall require any change in the plans, construction or intended use of a Building, the construction of which has commenced pursuant to the terms of the Town's current Zoning Ordinance. Nothing herein shall prevent the reconstruction of a wall or other structural part of a Building declared unsafe by the State Fire Marshal or the Administrative Building Council of the State of Indiana.

- H. Improvement Location Permits shall expire twelve (12) months after date of issuance if construction has not commenced.
- I. The Improvement Location Permit may or may not be extended for an additional six (6) months at the discretion of the Zoning Administrator.
- J. The Improvement Location Permit may or may not be extended an additional six (6) months by the Commission. (Ord. 2006-04, S12.2, June 12, 2006) (Ord. 1997-01, S5.1, Jan. 13, 1997) (Ord. 1995-05, S5.1, 5.2, Apr. 20, 1995)

(3) Site Plan Review.

- A. No permit for the construction, exterior Alteration, relocation, occupancy, or change in use of any Building or land shall be given and no existing use shall be established or expanded in Floor Area except in conformity with a Site Plan approved by the Zoning Administrator or an authorized designee. A Site Plan review shall also be required for the resumption of any use discontinued for more than one (1) year or for the expansion of any existing use. Required approval includes proposals for commercial, residential, manufacturing, office, multiple Dwelling residential Developments, municipal, institutional, utility, fraternal, or recreational purposes, in all zoning districts established under this Ordinance.
- B. A Site Plan shall include the following elements, as determined in the discretion of the Zoning Administrator, in order to properly evaluate a particular project in accordance with the Development standards set forth by this Ordinance:
  - 1. The name and address of the Owner, Developer, engineer, landscape architect, and architect.
  - 2. The location of the project by public way, Township and section.
  - 3. The legal description of the property including bearing notations and lengths.
  - 4. The date, scale of Map, and north arrow.
  - 5. The location, size, capacity, and use of all existing and proposed Structures and Buildings to be placed on the site.
  - 6. The site layout of the project including the location, size, arrangement, and capacity of the area to be used for yards,

Setbacks, Buildings, vehicular access, parking, and loading and unloading.

7. The existing and proposed sewage, water, gas, electricity, and storm drainage facilities.
  8. The existing and proposed elevations of the Building site with finished floor elevations of all proposed Buildings and contours showing directions or storm water runoff and the limits of any regulated flood plain and Flood way.
  9. The names and locations of all adjacent Public Streets, and public ways, including existing and proposed Easements for future widening.
  10. The location, widths, and names of utility or other Easements.
  11. The layout, names, widths and rights-of-ways of proposed Streets or public ways.
  12. The description and use of adjacent property.
  13. The location, dimensions, and design of all advertising devices and signs for the project.
  14. The location of all lighting for the project.
  15. A landscape plan showing all natural land features, trees, forest cover, and water sources, and all proposed changes to those features including size and type of plant material and areas devoted to Landscaping.
  16. The layouts of proposed Lots with their numbers and dimensions.
  17. Land use density factors.
  18. The outside storage and display area, if allowed. (Ord. 2006-04, S12.3, June 12, 2006) (Ord. 1995-05, S5.3, Apr. 20, 1995)
- (4) Permits and Fees. The Commission shall establish a schedule of fees, charges and expenses, and a collection procedure for the administration and enforcement of this Ordinance. The schedule of fees shall be posted in the Administrator's office and may be altered or amended only by the Council. No action shall be taken on any application or appeal until all fees, charges,

and expenses have been paid in full. This Ordinance hereby establishes the following fees, charges, and expenses:

FEES AND TIME TABLES FOR REQUESTS FOR PERMITS OR HEARINGS

<u>REQUEST</u>	<u>FEES</u>	<u>PROCEDURE</u>	<u>FILING TIME</u>
Zoning Petition (Re-Zoning)	\$200.00 for 2 acres, \$5.00 more for each additional acre.	1 Public Hearing before Advisory Planning Commission	Received by the Zoning Administrator's office 30 days prior to next regularly scheduled Advisory Planning Commission Meeting
Special Exception/ Land Use Variance	\$50.00	1 Public Hearing before the Board of Zoning Appeals (BOZA)	Received by the Zoning Administrator's office 30 days prior to the next regularly scheduled BOZA meeting.
Like Use Determination	\$35.00	1 Public Hearing before the Board of Zoning Appeals (BOZA)	Received by the Zoning Administrator's office 30 days prior to the next regularly scheduled BOZA meeting
Improvement Location Permit	\$40.00		
Preliminary Plat or Re-plat of Subdivision	\$250.00 plus \$20.00 per Lot		
Final Plat or Re-Plat of Subdivision	\$200 per sheet		
Temporary Use or Structure	\$40.00		

In addition to the above-listed fees, the Applicant shall be responsible for reimbursement to the Town of the actual cost of providing notice and publication of notices. (Ord. 2006-04, S12.4, June 12, 2006) (Ord. 1998-06, Apr. 8, 1998) (Ord. 1995-05, S5.4, Apr. 20, 1995)

- (5) Enforcement, Violations and Penalties. All departments, officials, and public employees of the Town, which are vested with the duty or authority to issue

permits shall conform to the provisions of this Ordinance and shall issue no permit for any use, Building or purpose if the same would be in conflict with the provisions of this Ordinance.

Any permit issued in conflict with the provisions of this Ordinance shall be null and void.

- A. Violations. If any new construction, structural changes, Alteration, or extension shall be commenced; or if any Building shall be moved within the jurisdictional area or the Town of Santa Claus prior to the issuance of an Improvement Location Permit, such action violates this section by the Person performing the construction or work and the Person owning the real estate.
- B. Common Nuisance. Any Building which shall be erected, raised, or converted, or any land or premises which shall be used in violation of any provision of this Ordinance or of any regulations made by the Commission, shall be deemed to be a common nuisance and the Owner or the Building, land, premises shall be liable for maintaining a public nuisance.
- C. Penalties for Violation. The procedures for the enforcement of this Ordinance are as follows:
  - 1. Actions for injunction for violations of this Ordinance may be instituted by the Commission or Council to restrain Persons or governmental units from violating any provision of this Ordinance.
  - 2. The Zoning Administrator shall be the designated enforcement officer and shall act for the Commission and/or Town and shall not be personally liable for his or her official acts.
  - 3. The Commission and Council, as relator or otherwise, may institute suits for mandatory injunctions directing Persons or governmental units to remove Structures erected in violation of any provision of this Ordinance
- D. Fines.
  - 1. Any Person who knowingly engages in any activity under the control of this Ordinance without first obtaining the required Improvement Location Permit shall have violated the terms of this Ordinance and in addition to any injunctive and other relief provided by this Ordinance, shall be liable to pay a fine of not less than fifty dollars (\$50.00) in addition to the fees for such Permit as required by this Ordinance.

2. If any Person required to pay this additional fee subsequently fails to obtain the required Permit, that Persons shall pay a fine of not less than one hundred dollars (\$100.00) in addition to the fees required by this Ordinance, on each and every occasion the required Permit is not obtained.
  3. Any Person who violates any other provision of this Ordinance or any regulation of the Commission, shall be fined not less than one hundred dollars (\$100.00). Each day a violation occurs or continues constitutes a separate offense. Each day a violation occurs or continues, and each separate violation of any provision of this Ordinance or any regulation of the Commission, constitutes a separate offense for the purposes of this fine.
- E. If the Commission or Council shall be successful in any action for nuisance, injunctive relief, for monetary fines or other relief under this Ordinance, the respondent shall bear the costs of the action, including any and all reasonable attorneys' fees incurred by the Town prior to and in the prosecution of such action to enforce this Ordinance. (Ord. 2006-04, S12.5, June 12, 2006) (Ord. 1995-05, S5.5, Apr. 20, 1995)

**11.04.130 Advisory Plan Commission and Board of Zoning Appeals.**

(1) Advisory Plan Commission.

A. Membership. The Santa Claus Advisory Plan Commission is established in accordance with Indiana Code 36-7-4-200, et seq. The Commission shall consist of seven (7) members, as follows:

1. The Council shall appoint three (3) Persons, who must be elected or appointed municipal officials or employees in the municipal government, as members.
2. The Council President, or other Town executive officer, shall appoint four (4) citizen members, of whom no more than two (2) may be of the same political party.

B. Advisory Members.

1. A designated representative of the Spencer County Plan Commission may serve as an advisory member of the Commission; and,
2. A designated representative of the Commission shall serve as an advisory member of the Spencer County Plan Commission.

Each citizen member shall be appointed because of the member's knowledge and experience in community affairs; the member's awareness of the social, economic, agricultural, and industrial problems of the area; and the member's interest in the Development and integration of the area. A citizen member may not hold other elective or appointive office in the municipal, county, or state government, and must be a resident of the jurisdictional area of the Commission.

- C. Term. After the terms of the citizen members currently in office expire each new appointment of a citizen member shall be for a four (4) year term. If vacancy occurs among the members of the Commission, the appointing authority shall appoint a member for the unexpired term of the vacating member.
  
- D. Conflict of Interest.
  - 1. No member of the Commission shall participate in a hearing or decision of the Commission concerning a matter in which he or she has a direct or indirect financial interest or which for any other reason brought to the attention of the Commission results in disqualification.
  
  - 2. The Commission shall enter in its records the fact that a regular member has such a disqualification and the name of the alternate member, if any, who participates in the hearing or decision.
  
  - 3. Any participating alternative member shall be appointed by the same body which appointed the regular member who has been disqualified.
  
- E. Organization. At the first meeting of each year, the Commission shall elect from its members a president and a vice president. The Commission may appoint and fix the duties and compensation of a Secretary and those employees necessary for discharge of its duties, all in conformity to and compliance with salaries and compensations fixed by the Council and Indiana law.
  
- F. Rules of Procedure. The Commission shall supervise and may make rules for the administration of the affairs of the Commission, and prescribe uniform rules pertaining to investigations and hearings.
  - 1. All meetings of the Commission shall be open to the public.
  
  - 2. The Commission shall keep minutes of its proceedings, keep records of its examinations and other official actions, prepare

written findings of fact and record the vote, disqualification, abstention, or failure to vote of each member upon each question.

3. All minutes and records shall be filed in the office of the Commission and shall be a public record.

- G. Powers and Duties. The Commission shall make recommendations to the Council concerning the adoption of the Comprehensive Plan, Zoning Ordinance, and amendments; and other matters, within the jurisdiction of the Commission and authorized by Indiana law.

The Commission shall also render decisions concerning Subdivisions and PUDs, and approve Plats or Re-plats of Subdivisions, and planned unit, residential, commercial and industrial Developments. (Ord. 2006-04, S13.1, June 12, 2006) (Ord. 1995-05, S6.1, Apr. 20, 1995)

(2) Board of Zoning Appeals.

- A. Purpose. The Santa Claus Board of Zoning Appeals (BOZA) is hereby established in accordance with I.C.§§36-7-4-900, et seq.

The Board of Zoning Appeals shall have exclusive territorial jurisdiction over all matters properly before the Board from the appropriate jurisdictions in Santa Claus, Indiana.

- B. Membership. The Board of Zoning Appeals consists of five (5) members as follows:

1. Three (3) citizen members appointed by the Council President or other Town executive, of whom one (1) must be a member of the Commission and two (2) must not be members of the Commission.
2. One (1) citizen member appointed by the Council, who must not be a member of the Commission.
3. One (1) member appointed by the Commission from the Commission's membership, who must be a citizen member of the Commission other than the member appointed under (2)B1 above.

- C. Term. Upon expiration of the terms of office currently held, appointments shall be made for a term of four (4) years. Vacancies shall be filled by the appointing authority as designated in Section (2)B2 above.

- D. Organization. At the first meeting of each year the Board shall elect a Chairperson and a Vice-Chairperson from among its members. The Board may appoint and fix the compensation of a Secretary and those employees necessary for the discharge of its duties, all in conformity to and compliance with salaries and compensations fixed by the Council and Indiana law.

Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine.

- E. Rules of Procedure. The Board may not take any action unless this action is authorized by a quorum, which is defined as a majority of the members of the Board.

The Board may adopt rules concerning the filing of appeals, applications for variance and special exceptions, the giving of notice, the conduct of hearings, and other matters as required by State law or as deemed necessary or desirable by the Board. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, keep records of its examinations and other official actions, prepare written findings of fact and record the vote, abstention, or failure to vote of each member upon each question. All minutes and records shall be filed in the office of the Board and shall be a public record.

- F. Powers and Duties. The Board shall have the powers provided in the 900 Series of I.C. §36-7-4, as amended. In the exercise of these powers and the responsibilities assigned to it by this Ordinance, the Board may impose such conditions regarding the location, character and other features of the proposed Building, Structure or use as it may deem advisable in furtherance of the purposes of this Ordinance. It shall not, however, permit any use in conflict with this Ordinance.

The Chairman or, in his/her absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses. Petitions addressed to the Board shall, prior to public hearing, be referred to the Commission for written recommendation thereon. The Commission shall have thirty-one (31) days to act upon the petition. Prior to decision on such petitions, the Board shall hold a public hearing thereon, notice of which shall be mailed to the petitioner and to the Owners of all property deemed by the Board to be affected thereby as they appear in the current records of the County Auditor, and also shall be advertised ten (10) days prior to the public hearing in a newspaper of general circulation, published in the County. The cost of notifying affected Owners and the cost of advertising the notice of the public hearing shall be borne by the petitioner in addition to any the filing fee.

- G. Authority. The Board:
1. Shall hear and determine appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator, a staff member or administrative board designated by Ordinance, other than the Commission, made in the enforcement of this Zoning Ordinance or the issuance of Building and occupancy permits under Title 36, Article 7 of the Indiana Code.
  2. May reverse or affirm, wholly or partly, or may modify any order, requirement, decision, or determination appealed from as in its opinion ought to be done in the premises and to that end shall have all the powers vested in the Person or board from whom the appeal is taken.
  3. Shall hear and approve or deny all special exceptions as specified in this Ordinance. A special exception may be approved under this section only upon a written determination as provided by this Ordinance.
- H. Findings and Decisions. All decisions of the Board on all matters within their jurisdiction and authority shall be in writing supported by specific written findings of fact on each material element pertaining to the matter under consideration.
- I. Appeal to Court. Each decision of the Board is subject to review by certiorari as prescribed by State law.
- J. Findings of Fact-Special Exception. The Board shall make written findings of fact and decisions pursuant to and consistent with the criteria below. To grant a special exception, the Board shall find that:
1. The establishment, maintenance, or operation of the special exception will not be injurious to the public health, safety, or general welfare of the community; and,
  2. The special exception will not affect the use and value of other property in the immediate area in a substantially adverse manner; and,
  3. The establishment of the special exception will be consistent with the character of the district (particularly that area immediately adjacent to the special exception) and the permitted land uses; and,

4. The Board may impose conditions as part of its approval to protect the public health and for reasons of safety, comfort, and convenience.
- K. Findings of Fact-Variance of Development Standards. To approve or deny a variance from the Development standards of the Zoning Ordinance, the Board shall find that:
1. The approval will not be injurious to the public health, safety, and general welfare of the community; and,
  2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and,
  3. The strict application of the terms of the Zoning Ordinance would result in an unnecessary hardship in the use of the property.
- L. Findings of Fact-Variance of Use. To approve or deny variance of use from the terms of the Zoning Ordinance, the Board shall find:
1. The approval will not be injurious to the public health, safety, and general welfare of the community; and,
  2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and,
  3. The need for the variance arises from some condition peculiar to the property involved; and,
  4. The strict application of the terms of the Zoning Ordinance would result in an unnecessary hardship in the use of the property for which the variance is sought; and,
  5. The approval does not interfere substantially with the Town Comprehensive Plan.
- M. Modification. To reverse or modify in whole or in part an order, requirement, decision, or determination of the Zoning Administrator, staff member, or administrative board (other than the Commission), the Board shall find that the Zoning Administrator, staff member, or administrative Board:
1. Improperly interpreted any relevant portion of a law, ordinance, or rule; or,

2. Improperly took administrative action pertaining to a relevant law, ordinance, or rule; or,
3. Improperly enforced a relevant law, ordinance, or rule.

The Board may require the Owner to make a written commitment concerning the use of Development of that Parcel to receive a special exception or a variance from the terms of the Zoning Ordinance. Those commitments shall be recorded in the office of the County Recorder and shall take effect upon the granting of the special exception or variance. A recorded commitment shall be binding on the Owner, each subsequent Owner, and each other Person acquiring an interest in the Parcel. A commitment may be modified or terminated only by a decision of the Board made at a public hearing after notice as provided by rule.

N. Conflict of Interest.

1. No member of the Board shall participate in a hearing or decision of the Board concerning a matter in which he or she has a direct or indirect financial interest or, which for any other reason brought to the attention of the Board, results in disqualification.
2. The Board shall enter in its record the fact that a regular member has such a disqualification and the name of the alternate member, if any, who participates in the hearing or decision.
3. Any participating alternate member shall be appointed by the same body which appointed the regular member who has been disqualified.

O. Communication with Board. No Person shall communicate with any Board member prior to a hearing or decision with the intent to influence the actions of any member of the Board regarding any matter pending before the Board. However, the staff may file a written statement with the Board setting forth facts or its opinions concerning that matter. (Ord. 2006-04, S13.2, June 12, 2006) (Ord. 1995-05, S6.2, Apr. 20, 1995)

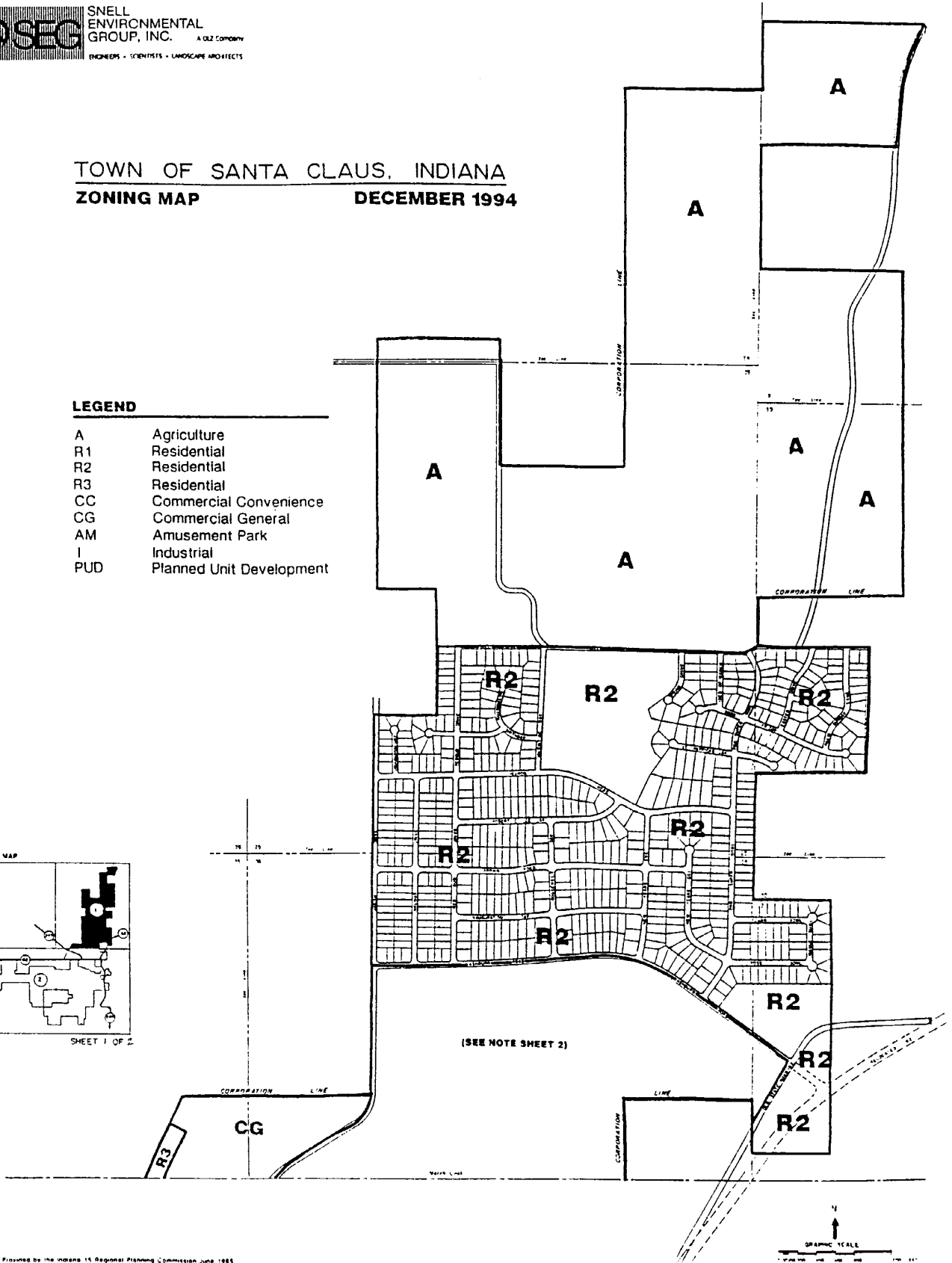
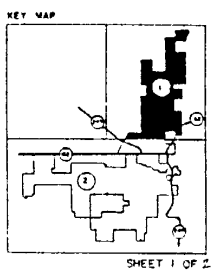


SNELL  
ENVIRONMENTAL  
GROUP, INC. A D2Z COMPANY  
ENGINEERS - SCIENTISTS - LANDSCAPE ARCHITECTS

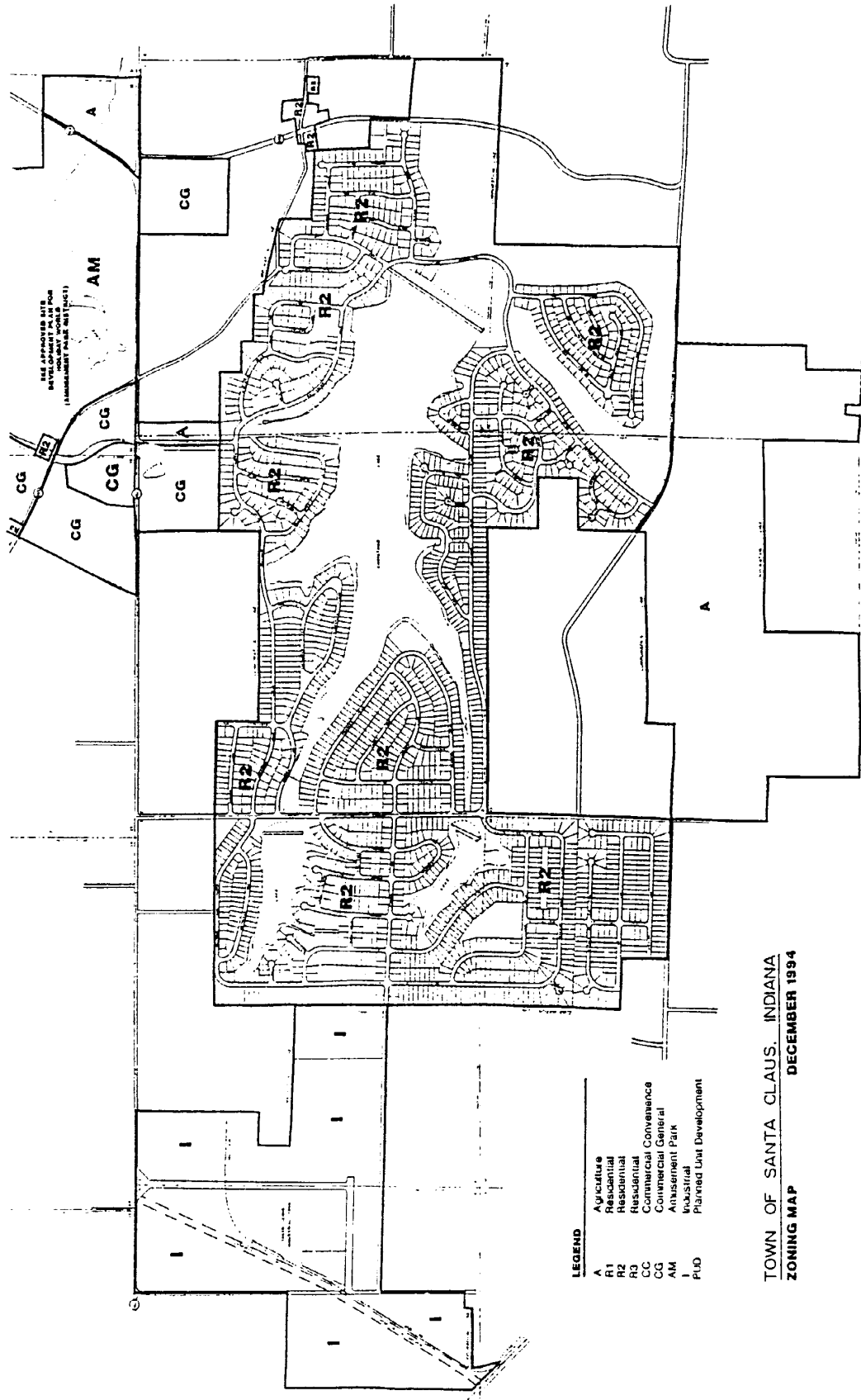
TOWN OF SANTA CLAUS, INDIANA  
ZONING MAP  
DECEMBER 1994

LEGEND

A	Agriculture
R1	Residential
R2	Residential
R3	Residential
CC	Commercial Convenience
CG	Commercial General
AM	Amusement Park
I	Industrial
PUD	Planned Unit Development



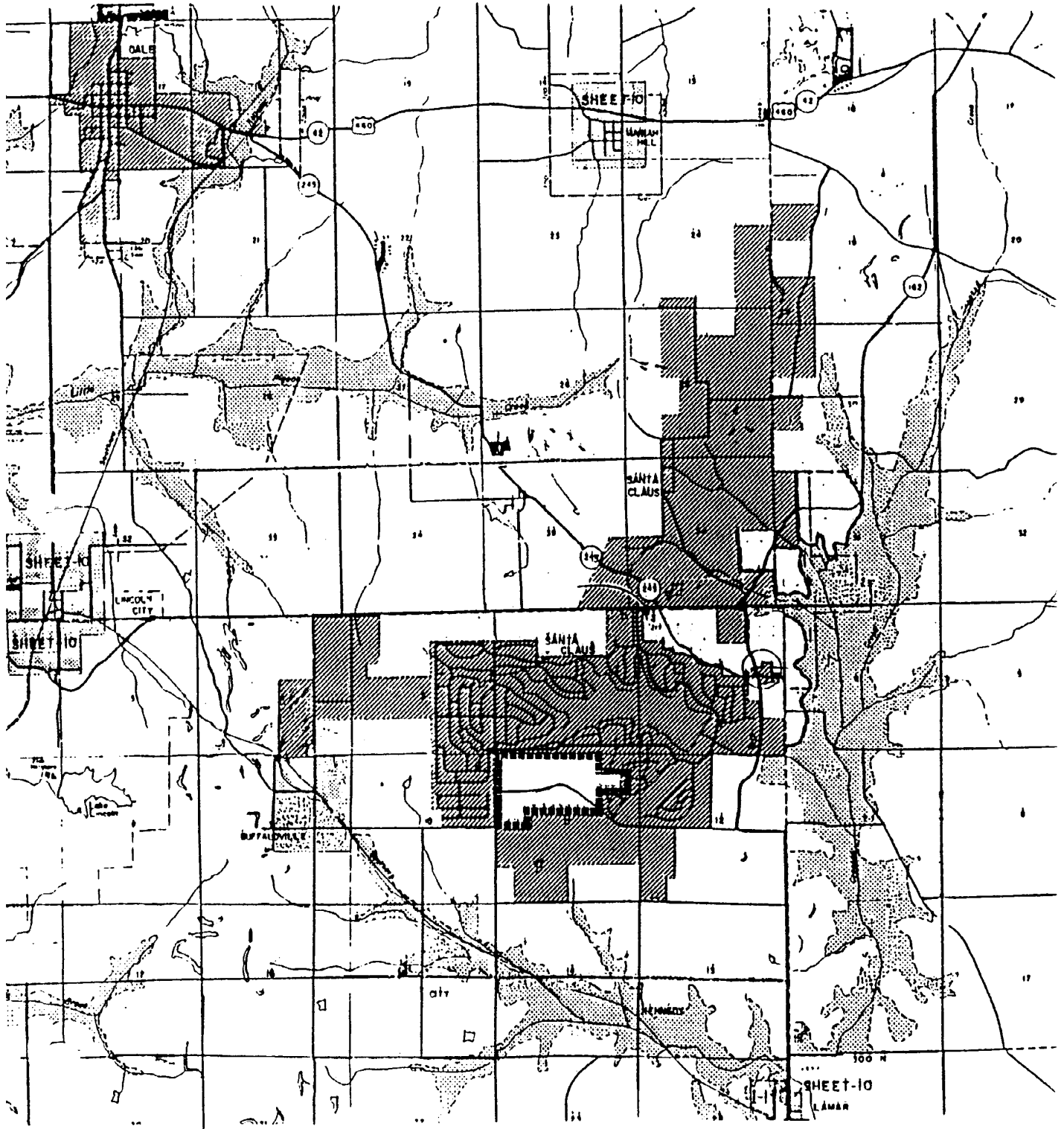
Map was Prepared by the Indiana 15 Regional Planning Commission June 1985



TOWN OF SANTA CLAUS, INDIANA  
 ZONING MAP  
 DECEMBER 1994



TOWN OF SANTA CLAUS, INDIANA  
FEBRUARY 1995



## Chapter 11.38

### ESTABLISHING LOT 15 AND 16 OF THE SANTA CLAUS INDUSTRIAL PARK AS AN ECONOMIC DEVELOPMENT PROJECT AND APPROVING REAL ESTATE OPTION AGREEMENT

#### Sections:

#### 11.38.010 Development or Redevelopment

##### 11.38.010 Development or Redevelopment.

- (1) The development or redevelopment of Lots 15 and 16 of the Santa Claus Industrial Park will attract new business enterprises to the area, specifically the current prospective purchaser who will not locate at such location absent option of the real estate by the Town.
- (2) The development or redevelopment of Lots 15 and 16 of the Santa Claus Industrial Park will benefit the public health and welfare, and will be of the public utility and benefit.
- (3) The development and redevelopment of Lots 15 and 16 will protect and increase state and local tax bases or revenues.
- (4) The development and redevelopment of Lots 15 and 16 of the Santa Claus Industrial Park will result in a substantial increase in temporary and permanent employment opportunities and private sector investment in the area.
- (5) The Town Council has reviewed that certain Real Estate Option Agreement attached hereto as Exhibit "A," and after due consideration for the benefits of the Economic Development Project of the Town of Santa Claus, the Santa Claus Town Council hereby approves said Real Estate Option Agreement to be entered into with Progressive Investment Company, LLC. (Ord. 2002-07, July 19, 2002)