

7.05.020 Bulk, Density and Intensity Standards. Table 2 outlines the bulk, density, and intensity regulations for each of the zoning districts. All lots created, structures erected, and uses established after adoption of this Title shall conform with these requirements unless a variance is granted per Section 7.09.050 or unless a adjustment, exception or blanket variance is authorized per Sections 7.05.030, 7.05.040, and 7.05.060, respectively. (Ord. 96-02, S1, March 25, 1996)

7.05.030 Front Yard or Street Side Yard Setback Adjustment. The required front yard/street side yard setback for any use may be reduced for a principal structure on any lot where more than fifty (50) percent of the same type of principal structure on the same block face or street face do not meet the required front/street side yard setback. In such instances, the required front or street side yard setback for the principal structure shall be the average of all principal structures of the same type on said block face or street face. (Ord. 96-02, S1, March 25, 1996)

7.05.040 Exceptions to Maximum Height Regulations. The maximum permitted number of floors or maximum permitted height listed in Table 2 shall be the maximum for all buildings and structures except that the following are permitted to exceed the maximum height regulations by twenty-five (25) percent, within any district where permitted: church spires, belfries, cupolas and domes which do not contain usable space, public monuments, water towers, fire and hose towers, flag poles, chimneys, smokestacks, cooling towers, and elevator penthouses. In order to secure permission to exceed the maximum height or permitted number of floor regulations the petitioner shall apply for a Special Use Permit per Section 7.09.040. An additional one (1) foot setback from all or specifically designated property lines may be required as part of the Special Use permit for every one (1) foot in height over thirty (30) feet in residential and agricultural zoning districts and over forty (40) feet in height in non-residential zoning districts.

Rationale: The City of Cannelton has several existing taller structures and contains many steeply sloped areas of varying elevations. Therefore, there may exist many occasions where structures exceeding the height restrictions may be appropriate. Requests to exceed the maximum permitted height shall be reviewed as Special Uses rather than Variances. In this way, such requests would need to meet standards of compatibility with adjoining land uses rather than the more stricter standards relating to hardship. See also Section 7.04.040 for heights of accessory structures. (Ord. 96-02, S1, March 25, 1996)

7.05.050 Permitted Intrusions in Required Yards. Portions of residential structures or buildings shall be permitted to intrude into the following required yards:

- (a) Front or Street Side Yards, Side Yards and Rear Yards.
Chimneys, flues, sills, pilasters, lintels, ornamental features, cornices, eaves, and gutters for residential buildings; provided they do not encroach more than two and one-half (2.5) feet into the required yard.

- (b) Rear or Side Yards Only.
Overhanging bays on residential buildings which do not extend more than two (2) feet into the required yard and which do not contain a gross floor area of more than twenty (20) square feet.
- (c) Rear Yard Only.
Balconies or similar appurtenances to residential buildings which are located more than three (3) feet above grade; provided they do not extend more than six (6) feet into the required rear yard. (Ord. 96-02, S1, March 25, 1996)

7.05.060 Blanket Variances. A variance for any and all requirements of this Chapter is hereby automatically granted to all developments and lots in their configuration lawfully existing or as finally approved as of the effective date of this Title. All new construction, or any enlargement, expansion, or extension of an existing development or structure shall comply with the provisions of this Chapter. Lots which do not meet the requirements of this Chapter shall be granted this blanket variance so as to be considered buildable, however, all developments constructed on these lots after the effective date of this Title shall comply with all of the provisions herein, including yard and setback requirements unless a variance is granted by action of the Board of Zoning Appeals as provided in Section 7.09.050.

Rationale: The blanket variance is intended to prevent the creation of certain nonconforming developments. The adoption of this blanket variance ensures that developments approved prior to the adoption of this Title do not encounter difficulty in transferring ownership because they would otherwise be considered nonconforming. (Ord. 96-02, S1, March 25, 1996)

Chapter 7.06

FLOOD PLAIN MANAGEMENT REGULATIONS

Sections:

7.06.005	Floodplain Overlay District
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7.06.005 Floodplain Overlay District. There is hereby established a floodplain overlay district as herein described whose restrictions shall be in addition to the those of the underlying zoning district. Wherever a discrepancy exists between the floodplain regulations and the zoning district regulations, the more restrictive shall apply. (Ord. 2005-20, Oct. 24, 2005)

7.06.010 Statutory Authorization, Findings of Fact, Purpose, and Objectives.

(a) Statutory Authorization.

The Indiana Legislature has in IC 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, upon the favorable recommendation of the Cannelton Plan Commission, the Common Council for the City of Cannelton, Indiana does hereby adopt the following floodplain management regulations. (Ord. 2005-20, Article 1, SA, Oct. 24, 2005) (Ord. 96-16, S7.06.010(a), Dec. 30, 1996) (Ord. 92-02, S1, 1992)

(b) Findings of Facts.

(1) The flood hazard areas of Cannelton are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection, and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to

other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages. (Ord. 2005-20, Article 1, SB, Oct. 24, 2005)

(c) Statement of Purpose.

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging, and other development which may increase erosion or flood damage;
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and
- (6) Make federally subsidized flood insurance available for structures and their contents in the City by fulfilling the requirements of the National Flood Insurance Program. (Ord. 2005-20, Article 1, SC, Oct. 24, 2005) (Ord. 96-16, S7.06.010(b), Dec. 30, 1996) (Ord. 92-02, S2, 1992)

(d) Objectives.

The objectives of this ordinance are:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;

- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains;
- (6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas, and;
- (7) To ensure that potential homebuyers are notified that property is in a flood area. (Ord. 2005-20, Article 1, SD, Oct. 24, 2005)

7.06.020 Definitions.

- (a) Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.
 - (1) A zone means portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM or FHBM. The definitions are presented below:
 - A. Zone A: Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been preformed, no base flood elevation or depths are shown. Mandatory flood insurance purchase requirements apply.
 - B. Zone AE and A1-A30: Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. Mandatory flood insurance purchase requirements apply. (Zone AE is on new and revised maps in place of Zones A1-A30.)
 - C. Zone AO: Areas subject to inundation by the one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown with in this zone. Mandatory flood insurance purchase requirements apply.

- D. Zone AH: Areas subject to inundation by the one-percent annual chance shallow flooding (usually areas of ponding) where average depths are 1-3 feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone. Mandatory flood insurance purchase requirements apply.
- E. Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection. Mandatory flood insurance purchase requirements apply.
- F. Zone A99: Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown. Mandatory flood insurance purchase requirements apply.

- (2) Accessory structure (appurtenant structure) means a structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.
- (3) Addition (to an existing structure) means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

- (4) Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance or a request for a variance.
- (5) Area of shallow flooding means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- (6) Base Flood Elevation (BFE) means the elevation of the one-percent annual chance flood.
- (7) Basement means that portion of a structure having its floor sub-grade (below ground level) on all sides.
- (8) Building - see "Structure."
- (9) Community means a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.
- (10) Community Rating System (CRS) means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.
- (11) Critical facility means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.
- (12) Development means any man-made change to improve or unimproved real estate including but not limited to:
 - A. construction, reconstruction, or placement of a structure or any addition to a structure;
 - B. installing a manufactured home on a site, preparing a site for a manufactured home or installing recreational vehicle on a site for more than 180 days;
 - C. installing utilities, erection of walls and fences, construction of roads, or similar projects;

- D. construction of flood control structures such as levees, dikes, dame, channel improvements, etc.;
- E. mining, dredging, filling, grading, excavation, or drilling operations;
- F. construction and/or reconstruction of bridges or culverts;
- G. storage or materials; or
- H. any other activity that might change the direction, height, or velocity of flood or surface waters.

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

- (13) Elevated structure means a non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, or columns (Posts and piers).
- (14) Elevation Certificate is a certified statement that verifies a structure's elevation information.
- (15) Emergency Program means the first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.
- (16) Encroachment means the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into floodplain, which may impede or alter the flow capacity of a floodplain.
- (17) Existing Construction means any structure for which the "start of construction" commenced before effective date of the community's first floodplain ordinance.
- (18) Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of

concrete pads) is completed before the effective date of the community's first floodplain ordinance.

- (19) Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for serving the lots on which the manufactured homes are to be affixed (including the installation of utilities, construction of streets, an either final site grading or the pouring of concrete pads).
- (20) FEMA means the Federal Emergency Management Agency.
- (21) Five-hundred year flood (500-Year flood) means the flood that has a 0.2 percent chance of being equaled or exceeded in any year.
- (22) Flood means 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.
- (23) Flood Boundary and Floodway Map (FBFM) means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.
- (24) Flood Hazard Boundary Map (FHBM) means an official map of a community, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as Zone A.
- (25) Flood Insurance Rate Map (FIRM) means an official map of a community, on which FEMA ha delineated both the areas of special flood hazard and the risk premium zones applicable to the community.
- (26) Flood Insurance Study (FIS) is the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.
- (27) Floodplain means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

- (28) Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.
- (29) Floodplain management regulations means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.
- (30) Flood Protection Grade (FPG) is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (see "Freeboard")
- (31) Floodproofing (dry floodproofing) is a method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.
- (32) Floodproofing certificate is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.
- (33) Floodway is 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.
- (34) Freeboard means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the

many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

- (35) Fringe is those portions of the floodplain lying outside the floodway.
- (36) Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.
- (37) Hardship (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. The Board of Zoning Appeals requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.
- (38) Highest adjacent grade means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.
- (39) Historic structure means 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.
- (40) Increased Cost of Compliance (ICC) means the cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997 will include ICC coverage.
- (41) Letter of Map Amendment (LOMA) means an amendment to the currently effective FEMA map that

establishes that a property is not located in a SFHA. A LOMA is only issued by FEMA.

- (42) Letter of Map Revision (LOMR) means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.
- (43) Letter of Map Revision Based on Fill (LOMR-F) means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.
- (44) Lowest adjacent grade means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.
- (45) Lowest floor means the lowest of the following:
 - A. the top of the lowest level of the structure;
 - B. the top of the basement floor;
 - C. the top of the garage floor, if the garage is the lowest level of the structure;
 - D. the top of the first floor of a structure elevated on piling s or pillars;
 - E. the top of the first floor of a structure constructed with a crawl space, provided that the lowest point of the interior grade is at or above the BFE and construction meets requirements of 6 a.; or
 - F. the top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:
 - i. 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 net area of one (1) square inch for every square foot of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade; and

- ii. such enclosed space shall be usable solely for the parking of vehicles and building access.
- (46) Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."
 - (47) Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
 - (48) Map amendment means a change to an effective NFIP map that results in the exclusion from the SFHA of an individual structure or a legally described parcel of land that has been inadvertently included in the SFHA (i.e., no alterations of topography have occurred since the date of the first NFIP map that showed the structure or parcel to be within the SFHA).
 - (49) Map panel number is the four-digit number followed by a letter suffix assigned by FEMA on a flood map. The first four digits represent the map panel, and the letter suffix represents the number of times the map panel has been revised. (The letter "A" is not used by FEMA, the letter "B" is the first revision.)
 - (50) Market value means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.
 - (51) Mitigation means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is two fold: to protect people and structures, and to minimize the cost of disaster response and recovery.
 - (52) National Flood Insurance Program (NFIP) is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.
 - (53) National Geodetic Vertical Datum (NGVD) as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

- (54) New construction means any structure for which the "start of construction" commenced after the effective date of the community's first floodplain ordinance.
- (55) New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.
- (56) Obstruction includes, but is not limited to, any dam, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along across, or projecting into any watercourse which may alter, impede, retard, or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.
- (57) One-hundred year flood (100-year flood) is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood".
- (58) One-percent annual chance flood is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood".
- (59) Participating community is any community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards in the NFIP.
- (60) Physical Map Revision (PMR) is an official republication of a community's FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

- (61) Post-FIRM construction means construction or substantial improvement that started on or after the effective date of the initial FIRM of the community or after December 31, 1974, whichever is later.
- (62) Pre-FIRM construction means construction of substantial improvement that started on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.
- (63) Probation is a means of formally notifying participating communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations.
- (64) Public safety and nuisance, anything which is injurious to the safety or health of an entire community, neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.
- (65) Recreational vehicle means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as a quarters for recreational camping, travel, or seasonal use.
- (66) Regular program means the phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.
- (67) Regulatory flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Article 3 (B) of this ordinance. The "Regulatory Flood is also known by the term "Base Flood", "One-Percent Annual Chance Flood" and "100-Year Flood".
- (68) Repetitive loss means flood-related damages sustained by a structure on two separate occasions during a 10-year period ending on the date of the event for which the second claim is made in which the cost of repairing the

flood damage, on the average, equaled or exceeded 25% of the market value of the structure at the time of each such flood event.

- (69) Section 1316 is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.
- (70) Special Flood Hazard Area (SFHA) means those lands within the jurisdictions of the City subject to inundation by the regulatory flood. The SFHAs of the City generally identified as such on the Flood Insurance Rate Map of the City dated July 18, 1983, as well as any future updates, amendments, or revisions, prepared by the Federal Emergency management Agency with the most recent date. The SFHAs of those parts of unincorporated Perry County that are within the extraterritorial jurisdiction of the City or that may be annexed into the City are generally identified as such on the Flood Insurance Rate Map prepared for Perry County by the Federal Emergency Management Agency and dated November 1, 1995, as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FHBM or FIRM as Zone A, AE, A1-A30, AH, AR, A99, or AO).
- (71) Start of Construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement or permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footing, installation or piles, construction of columns, or any work beyond the stage of excavation for placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For

substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

- (72) Structure means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home or prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.
- (73) Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- (74) Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work preformed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a "historic Structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".
- (75) Suspension means the removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.
- (76) Variance is a grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.
- (77) Violation means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

- (78) Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.
- (79) Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum where specified) of floods of various magnitudes and frequencies in the floodplains or riverine areas.
- (80) X Zone means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.
- (81) Zone means a geographical area shown on a FHBM or FIRM that reflects the severity or type of flooding in the area.
- (82) Zone A (see definition for A zone)
- (83) Zone B, C, and X means areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new revised maps in place of Zone B and C.) (Ord. 2005-20, Article 2, Oct. 24, 2005) (96-16, S7.06.010(c), Dec. 30, 1996) (Ord. 92-02, S3, 1992)

7.06.030 General Provisions.

- (a) Lands to Which This Ordinance Applies.
This ordinance shall apply to all SFHA's within the entire jurisdictional area covered by the Zoning Ordinance of the City of Cannelton, Indiana. (Ord. 2005-20, Article 3, SA, Oct. 24, 2005)
- (b) Basis for Establishing Regulatory Flood Data.
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 and

submit it to the Indiana Department of Natural Resources for review and approval.

- (1) The regulatory flood elevation for the studied SFHAs of the Ohio River shall be as delineated on the 100 year flood profiles in the Flood Insurance Study of the City dated January 18, 1983 and the corresponding FIRM dated July 18, 1983, as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. The Regulatory floodway, and fringe limits shall be according to the best data available as provided by the Indiana Department of Natural Resources.
- (2) The regulatory flood elevation, floodway, and fringe limits for each of the remaining SFHAs delineated as an "A Zone" on the FIRM of the City shall be according to the best data available as provided by the Indiana Department of Natural Resources.
- (3) For the SFHAs of those parts of unincorporated Perry County that are within the extraterritorial jurisdiction of the City or that may be annexed in the City:
 - A. If the SFHA is delineated as "Zone A" on the County Flood Insurance Rate Map, dated November 1, 1995, prepared by the Federal Emergency Management Agency, the regulatory flood elevation, floodway, and fringe limits shall be according to the best data available as provided by the Indiana Department of Natural Resources. (Ord. 2005-20, Article 3, SB, Oct. 24, 2005) (Ord. 96-16, S7.06.010(c), Dec. 30, 1996) (Ord. 92-02, S5, 1992)
- (c) Establishment of Floodplain Development Permit.
A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard. (Ord. 2005-20, Article 3, SC, Oct. 24, 2005)
- (d) Compliance.
No structure shall hereafter be located, extended, converted, or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations. (Ord. 2005-20, Article 3, SD, Oct. 24, 2005)

- (e) Abrogation and Greater Restrictions.
This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 2005-20, Article 3, SE, Oct. 24, 2005) (Ord. 96-16, S7.06.010(m), Dec. 30, 1996) (Ord. 92-02, S13, 1992)
- (f) Discrepancy between Mapped Floodplain and Actual Ground Elevations.
 - (1) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.
 - (2) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
 - (3) If the elevation (natural grade) of the site in question is above the base flood elevation, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner should be advised to apply for a LOMA. (Ord. 2005-20, Article 3, SF, Oct. 24, 2005)
- (g) Interpretation.
In the interpretation and application of this ordinance all provisions shall be:
 - (1) Considered as minimum requirements;
 - (2) Liberally constructed in favor of the governing body; and,
 - (3) Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 2005-20, Article 3, SG, Oct. 24, 2005)
- (h) Warning and 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 Cannelton, the Indiana 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 lawfully thereunder. (Ord. 2005-20, Article 3, SH, Oct. 24, 2005) (Ord. 96-16, S7.06.010(k), Dec. 30, 1996) (Ord. 92-02, S11, 1992)

(i) Penalties for Violation.

Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for Cannelton.

- (1) A separate offense shall be deemed to occur for each day the violation continues to exist.
- (2) The Cannelton City Floodplain Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- (3) Nothing herein shall prevent the City from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible. (Ord. 2005-20, Article 3, SI, Oct. 24, 2005) (Ord. 96-16, S7.06.010(l), Dec. 30, 1996) (Ord. 92-02, S12, 1992)

7.06.040 Administration.

(a) Designation of Administrator.

The Cannelton City Council hereby appoints the Zoning Administrator to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator. (Ord. 2005-20, Article 4, SA, Oct. 24, 2005)

(b) Permit Procedures.

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations, of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:

- (1) Application Stage.
 - A. A description of the proposed development;

- B. Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams;
- C. A legal description of the property site;
- D. A site development plan showing existing and proposed development locations and existing and proposed land grades;
- E. Elevation of the top of the lowest floor (including basement) of all proposed buildings. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD);
- F. Elevation (in NGVD) to which any non-residential structure will be floodproofed;
- G. Description of the extent to which any watercourse will be altered or related as a result of proposed development, and;

(4) Construction Stage.

Upon placement of the lowest floor; or floodproofing, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the NGVD elevation of the lowest floor or floodproofed elevation, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer or architect and certified by same. When floodproofing is utilized for a particular structure said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holders' risk. (The Floodplain Administrator shall review the lowest floor and floodproofing elevation survey data submitted.) The permit holder shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project. (Ord. 2005-20, Article 4, SB, Oct. 24, 2005)

- (c) Duties and Responsibilities of the Floodplain Administrator.
The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

Duties and Responsibilities of the Floodplain Administrator shall include, but not be limited to:

- (1) Review all floodplain development permits to assure that the permit requirements of this ordinance have been satisfied;
- (2) Inspect and inventory damaged structures in SFHA and complete substantial damage determinations;
- (3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Article 5, Section E and G (1) of this ordinance, and maintain a record of such authorization (either copy of actual permit or floodplain analysis/regulatory/assessment.)
- (4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits are to be maintained on file with the floodplain development permit;
- (5) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA;
- (6) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and floodplain analysis and regulatory assessments (letter of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this ordinance.
- (7) Utilize and enforce all Letters of Map Revision (LOMR) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
- (8) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
- (9) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Article 4 Section B;

- (10) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed, in accordance with Article 4, Section B;
- (11) Review certified plans and specifications for compliance. (Ord. 2005-20, Article 4, SC, Oct. 24, 2005) (Ord. 96-16, S7.06.010(d), Dec. 30, 1996) (Ord. 92-02, S4, 1992)

7.06.050 Provisions for Flood Hazard Reduction.

(a) General Standards.

In all SFHAs the following provisions are required:

- (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG;
- (4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

- (9) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance; and,
- (10) Any alteration, repair, reconstruction or improvement to a structure that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not further, extended, or replaced. (Ord. 2005-20, Article 5, SA, Oct. 24, 2005)

(b) Specific Standards.

In all SFHAs, the following provisions are required:

- (1) In addition to the requirements of Article 5, Section A, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
 - A. Construction or placement of any new structure having a floor area greater than 400 square feet;
 - B. Structural alterations made to:
 - i. an existing (previously unaltered structure), the cost of which equals or exceeds 50% of the value of the pre-altered structure (excluding the value of the land);
 - ii. any previously altered structure
 - C. Reconstruction or repairs made to a damaged structure that are valued at more than 50% of the market value of the structure (excluding the value of the land) before damaged occurred;
 - D. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
 - E. 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

(2) Residential Construction.

New construction or substantial improvements of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Article 5, Section B (4).

(3) Non-Residential Construction.

New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation). Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

- A. A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in Article 4 Section C (10).
- B. Floodproofing measures shall be operable human intervention and without an outside source of electricity.

(4) Elevated Structures.

New construction or substantial improvements of elevated structures that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevations shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

- A. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the follow minimum criteria:

- i. provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
- ii. the bottom of all openings shall be no higher than one foot above foundation interior grade (which must be equal to in elevation or higher than the exterior foundation grade); and
- iii. openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- iv. access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and
- v. the interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(5) Structures Constructed on Fill.

A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

- A. The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with the Standard Proctor Test method.
- B. The fill should extend at least ten feet beyond the foundation of the structure before sloping below the FPG.
- C. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the sloped shall be no steeper than 3 horizontal to 1 vertical.
- D. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

- E. The top of the lowest floor including basements shall be at or above the FPG.

(6) Standards for Structures Constructed with a Crawlspace.

A residential or nonresidential structure may be constructed with a crawlspace located below the flood protection grade provided that the following conditions are met:

- A. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy; and
- B. Any enclosed area below the flood protection grade shall have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. A minimum of one opening on each wall having a total net area of not less than one square inch for every one square foot of enclosed area. The bottom of the openings shall be no more than one foot above grade; and
- C. The interior grade of the crawlspace must be at or above the base flood elevation; and
- D. The interior height of the crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall must not exceed four feet at any point; and
- E. An adequate drainage system must be installed to remove floodwaters from the interior area of the crawlspace within a reasonable period of time after a flood event; and
- F. Portions of the building below the flood protection grade must be constructed with materials resistant to flood damage; and
- G. Utility systems within the crawlspace must be elevated above the flood protection grade.

(7) Standards for Manufactured Homes and Recreational Vehicles.

Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more

than 180 days must meet one of the following requirements:

- A. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site;
 - i. outside a manufactured home park or subdivision;
 - ii. in a new manufactured home park or subdivision;
 - iii. in an expansion to an existing manufactured home park or subdivision; or
 - iv. in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.
- B. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has been substantially damaged by a flood.
- C. Recreational vehicles placed on a site shall either:
 - i. be on site for less than 180 days; and
 - ii. 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
 - iii. meet the requirements for "manufactured homes" as stated earlier in this section. (Ord.

2005-20, Article 5, SB, Oct. 24, 2005) (Ord. 96-16, Dec. 30, 1996) (Ord. 92-02, S8, 1992)

(c) Standards for Subdivisions Proposals.

- (1) All subdivisions proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivisions proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivisions proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty lots or five acres. (Ord. 2005-20, Article 5, SC, Oct. 24, 2005) (Ord. 96-16, S7.06.010(i), Dec. 30, 1996) (Ord. 92-02, S9, 1992)

(d) Critical Facility.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical Facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible. (Ord. 2005-20, Article 5, SD, Oct. 24, 2005)

(e) Standards for Identified Floodways.

Located within SFHAs, established in Article 3, Section B, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resource is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in a floodway. This includes land preparation activities such as filling, grading, clearing, and

paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of non-substantial additions/ improvements to residences in a non-boundary river floodway without obtaining a permit for construction in a floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval (construction in a floodway permit for the fill is required from the Indiana Department of Natural Resources.)

No action shall be taken by the Floodplain Administrator until a permit (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in a floodway. Once a permit for construction in a floodway has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Article 5 of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

No development shall be allowed which acting alone or in combination with existing or future development, will increase the regulatory flood more than 0.14 of one foot; and

For all projects involving channel modifications or fill (including leaves) the City shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data. (Ord. 2005-20, Article 5, SE, Oct. 24, 2005)

(f) Standards for Identified Fringe.

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Article 5 of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG. (Ord. 2005-20, Article 5, SF, Oct. 24, 2005)

(g) Standards for SFHAs Without Established Base Flood Elevation and/or Floodways/Fringes.

- (1) Drainage area upstream of the site is greater than one square mile: If the site is an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is

greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

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

Once the Floodplain Administrator has received the proper construction in a floodway permit or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Article 5 of this ordinance have been met.

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

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Article 5 of this ordinance have been met.

- (3) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood more than 0.14 of one foot and will not increase flood damages or potential flood damages. (Ord. 2005-20, Article 5, SG, Oct. 24, 2005)

7.06.060 Variance Procedures.

- (a) Designation of Variance and Appeals Board.
The Board of Zoning Appeals as established by the Cannelton City Council shall hear and decide appeals and requests for variances from requirements of this ordinance. (Ord. 2005-20, Article 6, SA, Oct. 24, 2005)

(b) Duties of Variance and Appeals Board.

The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Circuit Court of Perry County, Indiana, as provided in Indiana Code 36-7-4-1003. (Ord. 2005-20, Article 6, SB, Oct. 24, 2005)

(c) Variance Procedures.

In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and;

- (1) The danger of life and property due to flooding or erosion damage;
- (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (3) The importance of the services provided by the proposed facility to the community;
- (4) The necessity to the facility of a waterfront location, where applicable;
- (5) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (6) The compatibility of the proposed use with existing and anticipated development;
- (7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (8) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (9) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site; and,
- (10) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets, and bridges. (Ord. 2005-20, Article 6, SC, Oct. 24, 2005)

(d) Conditions for Variances.

- (1) Variances shall only be issued when there is:
 - A. A showing of good and sufficient cause;
 - B. A determination that failure to grant the variance would result in exceptional hardship; and,
 - C. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- (2) No variance for a residential use within a floodway subject to Article 5, Section E or Section G (1) of this ordinance will require a permit from the Indiana Department of Natural Resources.
- (3) Any variance granted in a floodway subject to Article 5, Section E or Section G (1) of this ordinance will require a permit from the Indiana Department of Natural Resources.
- (4) Variances to the Provisions for Flood Hazard Reduction of Article 5, Section B, may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Architectural, Archaeological and Cultural Sites, Structures, Districts, and Objects.
- (7) Any application to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See Section E).

(8) The Flood plain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See Section E). (Ord. 2005-20, Article 6, SD, Oct. 24, 2005) (Ord. 96-16, S7.06.010(j), Dec. 30, 1996) (Ord. 92-02, S10, 1992)

(e) Variance Notification.

Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

- (1) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 to \$100 of insurance coverage; and
- (2) Such construction below the base flood level increases risks to life and property.

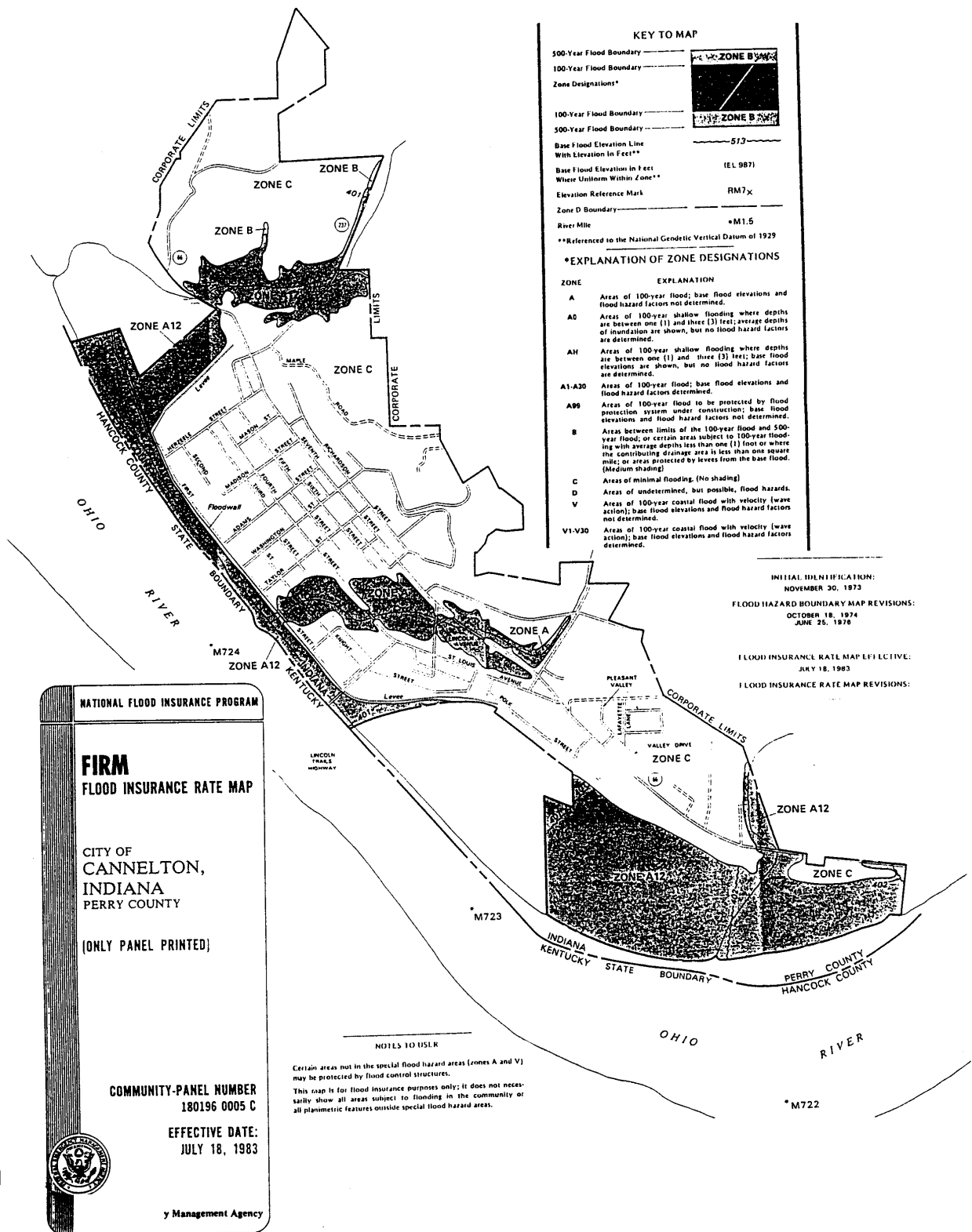
The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency. (Ord. 2005-20, Article 6, SE, Oct. 24, 2005)

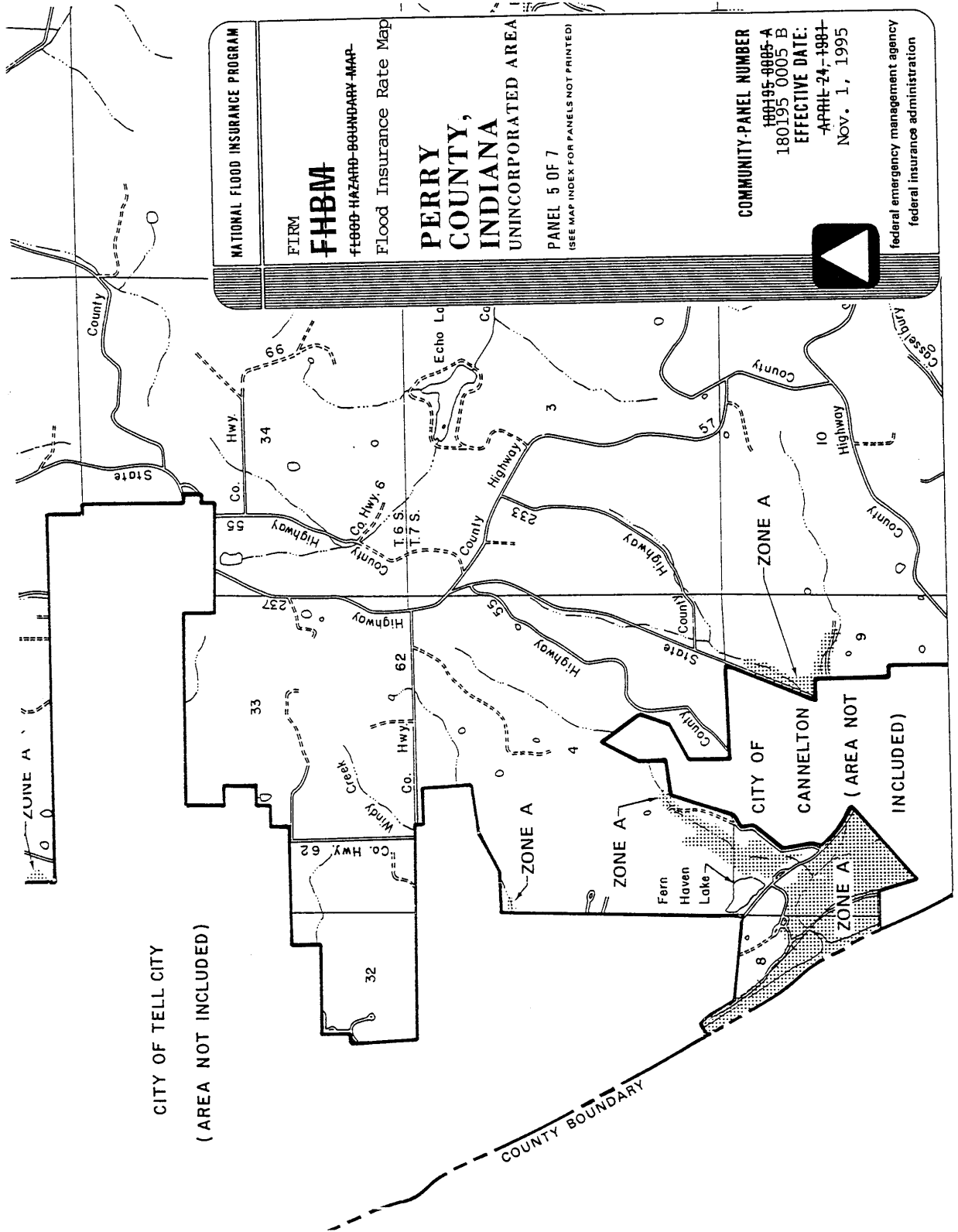
(f) Historic Structure.

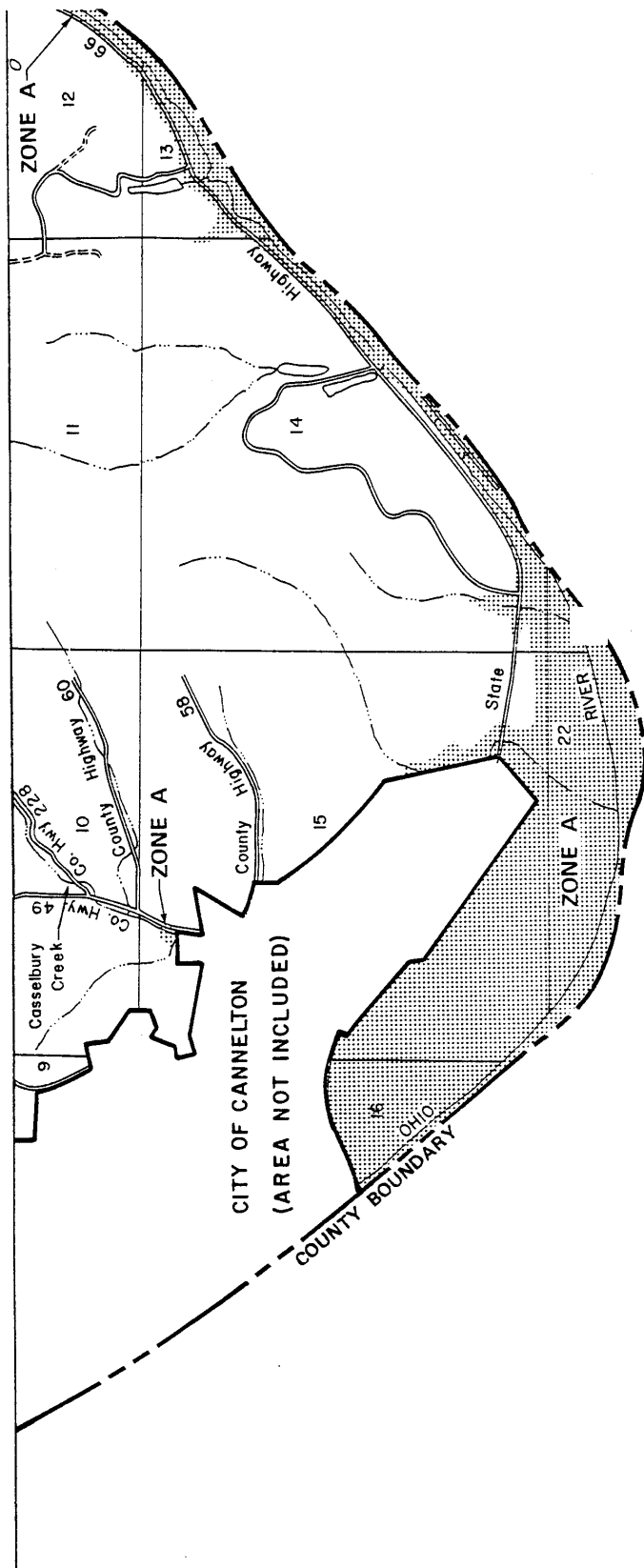
Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure. (Ord. 2005-20, Article 6, SF, Oct. 24, 2005)

(g) Special Conditions.

Upon the consideration of the factors listed in Article 6, and the purposes of this ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance. (Ord. 2005-20, Article 6, SG, Oct. 24, 2005)








NATIONAL FLOOD INSURANCE PROGRAM

FIRM
FHBM-
 FLOOD HAZARD BOUNDARY MAP -
 Flood Insurance Rate Map

**PERRY
 COUNTY,
 INDIANA**
 UNINCORPORATED AREA

PANEL 7 OF 7
 (SEE MAP INDEX FOR PANELS NOT PRINTED)

COMMUNITY-PANEL NUMBER
~~180195-0007-A~~
 180195 0007 B
 EFFECTIVE DATE:
~~-APRIL-24, 1981~~
 Nov. 1, 1995


 federal emergency management agency
 federal insurance administration



Federal Emergency Management Agency

Washington, D.C. 20472

IA-RA-TO:198

THIS IS A SPECIAL NOTICE REGARDING THE CONVERSION FROM THE EMERGENCY TO THE REGULAR PROGRAM, WHICH SHOULD BE ATTACHED TO THE MAP FOR:

180195 Perry County(Uninc. Areas) Perry IN
Community Number Community Name & Type County Name State

April 24, 1981 A November 1, 1995 B
Flood Hazard Old Regular Program Entry and Initial New
Boundary Map Date Suffix Flood Insurance Rate Map Date Suffix

This community will be converted to the Regular Program of the National Flood Insurance Program, effective as indicated above. This action has the effect of converting the Flood Hazard Boundary Map (FHBM), which is referenced above, to a Flood Insurance Rate Map (FIRM). The Federal Insurance Administration does not intend to republish the FHBM as a FIRM at this time. Therefore, for insurance application and rating purposes please note that the map suffix has been advanced from that shown on the FHBM to the next letter shown above. Also note that the Special Flood Hazard Areas, which is the shaded area on the map, is designated Zone A and all other areas are Zone C. The conversion of a community to the Regular Program affords additional limits of insurance coverage. If the above is unclear, please call (800) 638-6620 for more details.

YOU ARE ONLY BEING SENT ONE COPY OF THE NOTICE TO SAVE PRINTING, DISTRIBUTION AND POSTAGE. YOU MAY REPRODUCE THE NOTICE AS NEEDED.

FOR YOUR CONVENIENCE, PLEASE PERMANENTLY MARK YOUR COPY OR COPIES OF THE APPLICABLE FHBM AS A FIRM WITH THE NEW EFFECTIVE DATE AND SUFFIX.

OLD FHBM			NEW FIRM		
PANEL NO:	SUFFIX	DATE	PANEL NO:	SUFFIX	DATE
0000		04/24/81	0000		11/01/95
0001	A	04/24/81	0001	B	11/01/95
0002	A	04/24/81	0002	B	11/01/95
0003	A	04/24/81	0003	B	11/01/95
0004	A	04/24/81	0004	B	11/01/95
0005	A	04/24/81	0005	B	11/01/95
0006	A	04/24/81	0006	B	11/01/95
0007	A	04/24/81	0007	B	11/01/95

CITY OF CANNELTON
Application For
Improvement Location Permit

TYPE OF WORK
☐ New Building
☐ Addition

Application No. _____
Date _____

OWNER'S NAME _____ PHONE _____
ADDRESS _____
LEGAL DESCRIPTION _____
KIND OF STRUCTURE _____ No. of Parking Spaces _____ COST \$ _____
Size of Lot _____ Zone _____ Size of Building, sq.ft. _____
Height in Stories and Feet _____ No. of Bedrooms _____ No. of Baths _____
Present Use of Premises _____ Proposed Use _____
Does Proposed Improvement lie in A Special Flood Hazard Area (100 year
Floodplain)? _____ yes _____ no
If yes, certified "as built" lowest floor elevation of structure (including
basement): _____

EACH UTILITY SERVICE MUST BE LOCATED ON YOUR DRAWING WITH MEASUREMENTS, ETC:

Electric Service _____ Size Service Amps. _____
(Public, Private, etc.)

Secondary Voltage _____ Three Phase or Single _____
Water System _____ Size Service and Meter _____
(Public, Private, etc.)

Private Fire Hydrants No. _____ Sprinkler System _____
Wastewater System _____ Size of Service _____
(Public, Private, etc.)

No. of Wastewater Drains _____ Grease Trap _____ Garbage Grinder _____
We advise that a check flap valve be installed on service after all drains
have come to one effluent line. Yes No
Building To Be Heated By _____ Air Conditioner _____
Gas System _____ Size Service and Meter _____
(Public, Private, etc.)

Sump Pump _____ Yes _____ No _____
If yes, where does effluent go? _____ stormsewer _____ sanitary sewer

CONTRACTORS	NAME	ADDRESS
**PLEASE READ BELOW		

General _____
Electrical _____
Plumbing _____
Gas _____

Above information certified to be true and correct:

Date _____ Applicant Sign _____

FOR OFFICE USE ONLY

IMPROVEMENT LOCATION PERMIT NO. _____ ISSUED THIS _____ DAY OF _____, 19____
PERMIT FEE \$ _____
PAID _____
(Date) _____ Zoning Administrator _____

SITE PLAN: INCLUDE LOT SIZE, ALL SET BACK DISTANCES, STREET NAMES, AND
IMPROVEMENT DIMENSIONS.

**No building materials, supplies or equipment shall be stored or
placed on any thoroughfare. No construction debris, excavation
dirt or refuse, or any other materials or substances emanating from
this construction site shall be permitted to remain overnight on
any public thoroughfare, and shall be cleaned and cleared from the
thoroughfare, at the end of each workday.

Chapter 7.07

NONCONFORMING USE, LOT AND STRUCTURE REGULATIONS

Sections:

- 7.07.010 Nonconforming Use Regulations**
- 7.07.020 Nonconforming Structure and Building Regulations**
- 7.07.030 Zoning Administrator Review and Special Uses**
- 7.07.040 Prohibition on Creation of Non-Conforming Lots**

7.07.010 Nonconforming Use Regulations.

(a) Definition

A nonconforming use is an active and actual use of land or structures, or both; legally established prior to the effective date of this Title or subsequent applicable amendment thereto which has continued the same use to the present, and which would not be permitted under the current terms of this Title.

(b) Continuance of a Nonconforming Use

Any nonconforming use lawfully existing upon the effective date of this Title may be continued at the size and in a manner of operation existing upon such date, except as specified in this Section.

(c) Modification of a Nonconforming Use

A nonconforming use shall not be expanded, or changed to another nonconforming use unless such modification would make the nonconforming use have a more desirable effect in terms of implementing the purposes of this Title (as determined by the Zoning Administrator). If such a modification is permitted, said use shall not be modified back to the original nonconforming use, or to any other nonconforming use which does not better accomplish the purposes of this Title. Permission to modify in such a manner shall require that the lot be brought into conformance wherever reasonable and feasible, or a schedule to bring the lot into conformance with the provisions of this Title be developed. For example, additional parking shall be provided, nonconforming signs shall be removed, etc. as a condition of approval of such a modification.

(d) Discontinuance of a Nonconforming Use

When any nonconforming use of any structure or land is discontinued for a period of twelve (12) months, or is changed into a conforming use, any future use of said structure or land shall be in conformance with the provisions of this Title.

(e) Maintenance of a Nonconforming Use

The normal maintenance of a structure or land containing or related to a nonconforming use is permitted, including necessary repairs and incidental alterations which do not exacerbate the adverse impacts of the nonconforming use in relation to the purposes of this Title. In no instance shall said repairs exceed fifty (50) percent of the value of said structure or property prior to said repairs. See Section 7.07.030 below for reconstruction of structures and buildings for permitted and nonconforming uses.

(f) Exceptions for Pre-Existing Residential Structures in the GC - General Commercial District

(1) Mixed Use Nature of General Commercial District

The General Commercial district exists today as a mixed use district with several residential land uses mixed with the more intense commercial land uses along State Highway 66. It is the intent of this Title to gradually create a more cohesive and therefore more viable General Commercial district in this area. However, it is not the intent of this Title to create dormant structures designed for residential use which may not easily convert to commercial use or be reconstructed as commercial structures. The impact of these vacancies on the district and overall property values warrants that these residential structures be given special consideration until the market can bear their gradual transition to commercial uses.

(2) Exception for Residential Structures

Any building lawfully existing upon the effective date of this Title used, previously used, or originally designed for a residential use, may be used for a residential use, with said residential use considered a permitted use in the General Commercial District. No new residential uses in structures other than those defined in this section, or construction of new residential buildings or structures shall be permitted in the General Commercial District without the approval of a Special Use by the Board of Zoning Appeals. (Ord. 99-5, May 24, 1999) (Ord. 96-02, S1, March 25, 1996)

7.07.020 Nonconforming Structure and Building Regulations

(a) Continuance of a Nonconforming Structure

Any structure or building lawfully existing upon the effective date of the Title may be continued in the size and in a manner of operation existing upon such date, except as hereafter specified.

(b) Permitted Alterations to Nonconforming Structures

Alterations and expansions to a building or structure containing a permitted use are permitted if they do not further encroach on the nonconformity. For example, a structure containing a lawful use which does not meet the front yard building setback, may build a room addition in the rear if it meets all setbacks. However, such alteration may be conditioned upon alleviation or partial correction of any one (1) or more other nonconforming aspects of the structure or use where feasible and reasonable and to an extent that parallels the extent of the request to alter or expand. This subsection in no way is intended to permit a building containing a nonconforming use to be expanded or altered if such an expansion would intensify the nonconforming use.

(c) Maintenance of a Nonconforming Structure

(1) Normal Maintenance

Normal maintenance of a nonconforming structure or building is permitted, including necessary nonstructural repairs and incidental alterations which do not extend, enlarge, or intensify the nonconformity or nonconforming use.

(2) Unsafe Buildings and Structures

Nothing in this Title shall preclude the Building Inspector or Zoning Administrator from remedial or enforcement actions when a nonconforming structure or building is declared unsafe.

(3) Exceptions for Residential Garages

The addition of a garage to an existing nonconforming residential use or the alteration or replacement of an existing garage shall not constitute enlargement or intensification of the nonconforming use or structure so long as the construction does not exacerbate the nonconformity or in the case of new construction, create a nonconformity.

(4) Exemptions for Replacement or Upgraded Mobile Homes

The replacement of an existing mobile home with an upgraded version in the Multi-Family Zoning district, in compliance with the provisions set out in Section 7.04.050(b), shall not constitute an enlargement or intensification of nonconforming use or structure so long as the replacement will enhance, not detract, nearby land uses. (Ord. 2005-09, June 27, 2005)

(d) Modification of a Nonconforming Structure

When any lawful nonconforming structure or building in any district is modified so as to be in conformance with the provisions of this Title, any future modification of said structure or building shall be in conformance with the provisions of this Title.

(e) Reconstruction of a Nonconforming Structure

Whenever a lawful nonconforming structure or building has been damaged by fire, flood, wind, explosion, earthquake, war, riot, unlawful act, or Act of God, it may be reconstructed and used as before if it is constructed within one (1) year after such calamity, unless the damage to said structure or building equals or exceeds fifty (50) percent of its assessed value. In such cases, the reconstruction shall be limited to uses permitted by the provisions of this Title (unless the ability to re-establish a nonconforming use is specifically granted by the Board of Zoning Appeals as a Special Use).

(f) Permits Issued for Structures Prior to the Effective Date of this Title

Any structure or building for which a building permit has been lawfully granted prior to the effective date of this Title, which will become nonconforming hereunder, may be constructed in accordance with the approved permits and plans, provided construction is started within one hundred eighty (180) calendar days of the effective date of this Title and provided that construction is completed within seven hundred thirty (730) days of the effective date of this Title. Said structure or building shall thereafter be a legal nonconforming structure or building. (Ord. 96-02, S1, March 25, 1996)

7.07.030 Zoning Administrator Review and Special Uses.

The intent of this Chapter is to prohibit the expansion or alteration of non-conforming uses and structures. However, these regulations shall in no way be construed as limiting a property owner's desire to improve a property or use which does not conform in one or more

ways with the requirements of this Title. As indicated above, changes to uses and structures may be made in certain instances subject to the review of the Zoning Administrator. However, any changes to nonconforming uses and structures shall require as many of the nonconformities that exist on a lot to be abated or mitigated. The Zoning Administrator shall reasonably require correction of such nonconformities to an extent or number that is related to the request to alter and expand. For example, should a nonconforming use wish to erect a new pole sign, it may be reasonable to have some of the nonconforming wall signs removed, but would perhaps not be reasonable to require paving for the four (4) parking spaces needed to conform with the minimum requirements for that use. However, if a permitted use wishes to add a 800 square foot, two room building addition, it may be reasonable to require them to pave their driveway entrance, provide the needed parking, and provide bufferyard landscaping along the lot line that adjoins the single family home next door. Whenever such conditions cannot be agreed upon between the property owner seeking the alteration or expansion and the Zoning Administrator, the matter shall be referred to the Board of Zoning Appeals for Special Use review for expansion or alteration of a nonconforming use or structure. (Ord. 96-02, S1, March 25, 1996)

7.07.040 Prohibition on Creation of Non-Conforming Lots.

No lot or combination of lots and parcels may be further used, sold, or divided after the effective date of this Title in a manner which creates a lack of conformance with one or more of the requirements established herein, including lot width and area requirements. Blanket variances as authorized in Section 7.05.060 apply only to lots in their configuration as of the effective date of this Title. (Ord. 96-02, S1, March 25, 1996)

Chapter 7.08

PERFORMANCE STANDARDS

Sections:

7.08.010	Purpose
7.08.020	Off-Street Parking and Traffic Circulation Standards
7.08.030	Off-Street Loading Standards
7.08.040	Access Standards
7.08.050	Visibility Standards
7.08.060	Exterior Lighting Standards
7.08.070	Noise Standards
7.08.080	Odor Standards
7.08.090	Glare and Heat Standards
7.08.100	Fire and Explosion Standards
7.08.110	Drainage Standards
7.08.120	Bufferyard and Landscaping Regulations
7.08.130	Administration & Enforcement of Performance Standards

7.08.010 Purpose. The purpose of this Chapter is to provide standards relating to the performance of uses and activities within zoning districts. These standards are intended to prevent the creation of nuisances and to provide compatibility of uses between districts, particularly at the boundaries. The performance standards herein are designed to further the purposes of this Title as outlined in Section 7.01.050. These performance standards apply to uses established after the effective date of this Title unless specifically noted herein. (Ord. 96-02, S1, March 25, 1996)

7.08.020 Off-Street Parking and Traffic Circulation Standards.

(a) Depiction on Required Site Plan

Any and all parking and traffic circulation areas proposed to be located on the subject property shall be depicted as to their location and configuration on the site plan required for the development of the subject property. A garage stall shall be considered a parking space. Parking spaces for any and all vehicles exceeding 18 feet in length shall be clearly indicated on said site plan.

(b) Use of Off-Street Parking Areas

The use of all off-street parking areas shall be limited to the parking of operable vehicles which are not for lease, rent, or sale unless the lot is a vehicle sales lot. No storage of any kind shall be permitted unless shown on the approved site plan.

(c) Maintenance of Off-Street Parking and Traffic Circulation Areas

All off-street parking and traffic circulation areas shall be maintained in a dust-free condition at all times.

(d) Off-Street Parking and Traffic Circulation Design Standards

(1) Lighting

All off-street parking and traffic circulation areas serving 6 or more cars shall be lit so as to ensure the safe and efficient use of said areas during the hours of use.

(2) Access

Each required off-street parking space shall open directly upon an aisle or driveway that is wide enough and designed to provide a safe and efficient means of vehicular access to the parking space without backing or maneuvering a vehicle into a public right-of-way. All off-street parking and traffic circulation facilities shall be designed with an appropriate means of vehicular access to a street or alley, in a manner which least interferes with traffic movements.

(3) Parking Space Design Standards

Other than parking required to serve the handicapped, every and all provided off-street parking space shall comply with the minimum requirements of Table 3. All parking spaces shall have a minimum vertical clearance of at least seven (7) feet. A typical 90° parking stall shall be a minimum of nine (9) feet wide by eighteen and one-half (18.5) feet in length.

(e) Calculation of Minimum Required Parking Spaces:

(1) General Guidelines for Calculating Required Parking Spaces

A. Minimum Required Spaces

The requirements of Subsection (2), below, shall be used to determine the minimum required number of parking spaces which must be provided on the subject property.

B. Method of Calculation

Requirements are generally tied to the capacity of the use; the net floor area of the use; or the

number of employees which work at the subject property during the largest work shift. The term “capacity” as used herein means the maximum number of persons that may be accommodated by the use as determined by its design or by State Building Code regulations, whichever number is greater. References herein to “employee(s) on the largest work shift” means the maximum number of employees working at the facility during a single given day, regardless of the time period during which this occurs, and regardless of whether any such person is a full-time employee. The largest work shift may occur on any particular day of the week or during a lunch or dinner period in the case of a restaurant.

C. Additional Business Vehicle Parking Required

In all cases, one (1) reserved parking space shall be provided for each vehicle used by the operation during business hours. Spaces shall be in addition to those required below.

D. Handicapped Parking

Handicapped parking shall be provided as required under Indiana Code 5-16-9 with one (1) parking space required for any facility having more than fifty (50) parking spaces with additional stalls required for larger facilities. Said stalls shall be a minimum of thirteen (13) feet in width and painted with blue lines.

(2) Minimum Off-Street Parking Requirements for Land Uses

Each land use shall provide sufficient off-street parking spaces to accommodate parking demand. Uses in the Downtown Residential and Downtown Commercial Districts shall provide parking per the following requirements wherever feasible. However, should the lot be too small to accommodate the required parking, the maximum number of stalls shall be provided (which may be none) without the necessity for a variance from these standards. The following requirements shall be the minimum, for each land use:

A. Agricultural Land Uses

One (1) space per employee on the largest work shift.

B. Residential Land Uses

- i. Group or institutional housing:
1 per every three (3) beds plus 1 per every 2 employees on maximum work shift
- ii. Single-family detached:
0 spaces for lots 0 to 4,999 sq. ft. in area
1 space for lots 5,000 to 6,999 sq. ft. in area
2 spaces for lots 7,000+ sq. ft. in area
- iii. Other than above:
1.5 for efficiency
2 for 1 or 2 bedrooms
3 for 3 or more bedrooms

C. Institutional Land Uses

Generally, one (1) space per three (3) expected patrons at maximum capacity for nonresidential uses unless noted below. See B. Residential Land Uses above for institutional housing parking requirements.

- i. Cemetery: one (1) space per employee, plus one (1) space per three (3) patrons to the maximum capacity of all indoor assembly areas, if present.
- ii. Church: one (1) space per five (5) seats at the maximum capacity.
- iii. College: one (1) space per staff member on the largest work shift, plus one (1) space per two (2) students of the largest class attendance period.
- iv. Commercial or Trade School: one (1) space per three (3) students, plus one (1) space per employee (including faculty) at capacity class attendance period.
- v. Community or Recreation Center: one (1) space per 200 square feet of net floor area, or one (1) space per four (4) patrons to the maximum capacity, whichever is greater, plus one (1) space per employee on the largest work shift.

- vi. Elementary and Junior High: one (1) space per teacher and per staff member, plus one (1) space per two (2) classrooms.
- vii. Golf Course: 36 spaces per line nine (9) holes, plus one (1) space per employee on the largest work shift, plus fifty (50) percent of spaces otherwise required for any accessory uses (e.g., banquet facilities, restaurant).
- viii. Hospital: two (2) spaces per three (3) patient beds, plus one (1) space per staff doctor and each other employee on the largest work shift.
- ix. Library or Museum: one (1) space per 250 square feet of net floor area or one (1) space per four (4) seats to the maximum capacity, whichever is greater, plus one (1) space per employee on the largest work shift.
- x. Outdoor Public Recreational: one (1) space per four (4) expected patrons at maximum capacity (unless otherwise noted above).
- xi. Public Services: one (1) space per employee on the largest work shift, plus one (1) space per company vehicle normally stored or parked on the premises, plus one (1) space per 400 square feet of net square feet of office area.
- xii. Senior High: one (1) space per teacher and per staff member on the largest work shift, plus one (1) space per five (5) non-bused students.
- xiii. Swimming Pool: one (1) space per seventy-five (75) square feet of gross water area.
- xiv. Tennis Court: three (3) spaces per court.

D. Commercial Land Uses

- i. Bed and Breakfast Establishment: one (1) space per bedroom, plus one (1) space for each employee on the largest work shift.
- ii. Commercial Animal Boarding: one (1) space per every 800 square feet of net floor area.

- iii. Day Care Center: one (1) space per five (5) children plus one (1) space for each employee on the largest work shift.
- iv. Funeral Homes: one (1) space per three (3) patron seats at maximum capacity, plus one (1) space per employee on largest work shift.
- v. Hotels, Motels Lodging: one (1) space per bedroom, plus one (1) space for each employee on the largest work shift.
- vi. Indoor Commercial Entertainment: one (1) space per every three (3) patron seats or lockers (whichever is greater); or one (1) space per three (3) persons at the maximum capacity of the establishment (whichever is greater).
- vii. Indoor Sales or Service: one (1) space per 200 square feet of net floor area.
- viii. Mini-Warehouse: one (1) space per each employee on largest work shift, if applicable.
- ix. Office: one (1) space per 200 square feet of net floor area.
- x. Outdoor Assembly: one (1) space for every three (3) patrons at maximum capacity.
- xi. Outdoor Commercial Entertainment: one (1) space for every three (3) patron seats at the maximum capacity of the establishment, or 1.5 spaces per campsite in campground.
- xii. Outdoor Sales or Service: one (1) space per 100 square feet of net floor area.
- xiii. Personal or Professional Service: one (1) space per 200 square feet of net floor area.
- xiv. Sexually-Oriented Use: one (1) space per 200 square feet of net floor area, or one (1) space per person at the maximum capacity of the establishment (whichever is greater).

E. Industrial Land Uses

One (1) space per each employee on the largest work shift. (Ord. 96-02, S1, March 25, 1996)

Table 3:
Parking Space Design Dimensions
(for nine (9) foot stalls at various angles in linear feet)

		<u>0°</u>	<u>45°</u>	<u>60°</u>	<u>90°</u>
A	Stall width, parallel to aisle	24.0	12.5	10.5	9.0
B	Stall length of line	----	25.0	22.0	18.5
C	Stall depth to wall	9.0	17.5	19.0	18.5
D	Stall depth, interlock	----	15.5	17.5	18.5
E	One-way aisle	12.0	13.0	18.0	24.0
F	Two-way aisle	24.0	24.0	24.0	24.0

7.08.030 Off-Street Loading Standards.

(a) Applicability

Any use which has a net floor area of 6,000 square feet or more, and which requires deliveries or makes shipments, shall provide off-street loading facilities in accordance with the regulations of this Section.

(b) Location

All loading berths shall be located twenty-five (25) feet or more from the intersection of two street right-of-way lines. Loading berths shall not be located within any required front yard setback area, or within any street side yard setback area. Access to the loading berth shall be located in conformance with Section 7.08.020. All loading areas shall be located on the private lot and shall not be located within, or so as to interfere with, any public right-of-way.

(c) Size of Loading Area

All loading berths shall be a minimum of fifty (50) feet in length and ten (10) feet in width, exclusive of aisles and maneuvering space. All required loading berths shall have a minimum vertical clearance of fourteen (14) feet.

(d) Access to Loading Area

Each loading berth shall be located so as to facilitate access to a public street or alley, and shall not interfere with other vehicular or pedestrian traffic per Section 7.08.040, and shall not interfere with the function of parking areas. In no instance shall loading areas rely on backing movements into public rights-of-way.

(e) Surfacing and Marking

All required loading areas shall be maintained in a dust-free condition at all times.

(f) Use of Required Loading Areas

The use of all required loading areas shall be limited to the loading and unloading of vehicles. Said area shall not be used to provide minimum required parking spaces.

(g) Depiction on Required Site Plan

Any and all required loading areas proposed to be located on the subject property shall be depicted as to their location and

configuration on the site plan required for the development of the subject property.

(h) Calculation of Required Loading Spaces

(1) Commercial (except Offices), and Industrial Land Uses

One (1) loading berth shall be required for each building having a net floor area of 6,000 square feet to 29,999 square feet. For such uses located in buildings having a net floor area of 30,000 square feet or greater, an additional loading berth shall be required for any portion of each 50,000 square feet of net floor area in addition to the original 29,999 square feet.

(2) Institutional Non-Residential Land Uses

One (1) loading berth shall be required for each building having a net floor area of 6,000 square feet to 29,999 square feet. For such uses located in buildings having a net floor area of 30,000 square feet or greater, two (2) loading berths shall be required.

(3) Office Land Uses

One (1) loading berth shall be required for each building having a net floor area of 6,000 square feet to 99,999 square feet. For such uses located in buildings having a net floor area of 100,000 square feet or greater, an additional loading berth shall be required for any portion of each 100,000 square feet of net floor area in addition to the original 99,999 square feet. (Ord. 96-02, S1, March 25, 1996)

7.08.040 Access Standards.

(a) Permit Required

Each access point onto a public street or right-of-way shall have a permit issued by the City.

(b) Number of Access Points

(1) Each lot shall have not more than two (2) access points on any street frontage, subject to (2) below.

(2) In no instance shall any lot be permitted more than one (1) access point on any one street if its frontage on said street is less than 100 linear feet (as measured along the right-of-way line).

(c) Angle of Intersection with Public Right-of-Way

All access drives shall intersect with any public right-of-way at an angle of not less than 75 degrees, and shall intersect at an angle of 90 degrees wherever possible.

(d) Distance from Property Line

The distance from an access drive to the property line of an adjacent property shall not be less than five (5) feet, as measured along the right-of-way line.

(e) Width of Driveways

All access drives shall have a maximum width of twenty-four (24) feet or thirty (30) feet (as determined by the City), as measured along the right-of-way line.

(f) Traffic Control

The traffic generated by any use shall be channelized and controlled in a manner which avoids congestion on public streets and other safety hazards. Traffic into and out of all off-street parking, loading and traffic circulation areas serving six (6) or more parking spaces or any non-residential loading area shall be forward moving, with no backing into streets or pedestrian ways. Traffic control devices shall be required as determined by the City.

(g) Depiction on Required Site Plan

Any and all proposed access drives on the subject property shall be depicted as to their location and configuration on the site plan required for the development of the subject property.

(h) Paving of Access

In all zoning districts except the Agricultural and Countryside Residential districts, access approach areas located within a street right-of-way shall be paved to the satisfaction of the City with a hard, all-weather surface, and shall be maintained so as to prevent the transport of gravel, dirt, or other eroded material from the subject property into the right-of-way. (Ord. 96-02, S1, March 25, 1996)

7.08.050 Visibility Standards.

(a) Requirement

In order to provide a clear view of intersecting streets to motorists there shall be a triangular area of clear vision formed

by the two (2) intersecting corner lot lines and a chord forming the third side of the triangle connecting a point on each lot line thirty (30) feet from the corner or intersection of the lot lines with each other. Within said triangular area, no signs, parking spaces, structures, opaque landscaping or earthwork obstructions between thirty (30) inches and nine (9) feet in height shall be permitted.

(b) Depiction on Required Site Plan

Any and all visibility triangles located on the subject property shall be depicted as to their location and configuration on the site plan required for the development of the subject property. (Ord. 96-02, S1, March 25, 1996)

7.08.060 Exterior Lighting and Glare Standards.

(a) Applicability

The requirements of this Section apply to all private exterior lighting within the jurisdiction of this Title except for lighting public rights-of-way and/or lighting on public property.

(b) Depiction on Required Site Plan

Any and all exterior lighting shall be depicted as to its location, orientation and configuration on the site plan required for the development of the subject property.

(c) Requirements

(1) Orientation of Fixture

In no instance shall an exterior lighting fixture be oriented so that the lighting element (or a transparent shield) is visible from a property located within a residential zoning district. The use of shielded luminaries and careful fixture placement is encouraged so as to facilitate compliance with this requirement.

(2) Flashing, Flickering and other Distracting Lighting

Flashing, flickering and/or other lighting which may distract motorists or imitate a traffic device are prohibited.

(3) Glare

No direct or sky-reflected glare, whether from floodlights or from temperature processes such as combustion or welding or otherwise, shall be permitted so as to be visible at the lot line of the subject property.

(4) Nonconforming Lighting

All lawful lighting fixtures which do not meet the standards of this section existing prior to the effective date of this Title shall be considered legal non-conforming uses. See Section 7.07.010. (Ord. 96-02, S1, March 25, 1996)

7.08.070 Noise Standards.

(a) Applicability

The requirements of this Section apply to all uses and activities which create detectable noise, except that these standards shall not apply to noise created during construction on the subject property, or by incidental traffic, parking, loading, maintenance or agricultural operations.

(b) Requirements

All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness. In no event shall any objectionable noise radiated continuously from a facility be detectable in the surrounding residential areas. (Ord. 96-02, S1, March 25, 1996)

7.08.080 Odor and Heat Standards.

(a) Applicability

The requirements of this Section apply to all land uses and activities, except that these standards shall not apply to odors or heat created during construction on the subject property, or by incidental traffic, parking, loading, or maintenance operations. Public landfills and public sanitary sewage treatment plants shall be exempted from the requirements of this Section as essential public services.

(b) Odor

Except for food preparation and cooking odors emanating from residential land uses, and odors associated with property development and maintenance (such as construction, lawn care, and the painting and roofing of structures), no objectionable odor shall be created for periods exceeding a total of fifteen (15) minutes per any day which is detectable in the surrounding residential areas.

(c) Heat

There shall be no transmission of heat or heated air so as to be discernible (by a healthy observer such as the Zoning Administrator or a designee) at the lot line with adjoining residential uses. Solar energy systems regulated by State Code shall be entitled to the protections of its provisions.

State Law Reference: Section 36-7-2-8, Indiana Code. (Ord. 96-02, S1, March 25, 1996)

7.08.090 Fire and Explosion Standards.

(a) Applicability

The requirements of this Section apply to all land uses and activities.

(b) Standards

Any use involving materials which could decompose by detonation shall locate such materials not less than 400 feet from any residential zoning district except that this standard shall not apply to the storage or usage of liquefied petroleum or natural gas for normal residential or business purposes. All activities and storage of flammable and explosive materials at any point shall be provided with adequate safety and fire fighting devices in accordance with all fire prevention codes of the State of Indiana. (Ord. 96-02, S1, March 25, 1996)

7.08.100 Drainage Standards.

(a) Applicability

The requirements of this Section apply to all land uses and activities erected or developed after the effective date of this Title.

(b) Standards

No land shall be developed and no use shall be permitted that results in water runoff which causes property damage, a nuisance, and/or erosion on adjacent properties. Such runoff shall be properly conveyed to a public storm drain, drainageway or other such public drainage facility per the approval of the City. (Ord. 96-02, S1, March 25, 1996)

7.08.110 Bufferyards and Landscaping. Bufferyards are a combination of setbacks, fencing, and landscaping which serve to separate land uses from one another to ensure compatibility with land uses of different character. The following bufferyards shall be provided and maintained for all uses hereafter established:

(a) Non-Residential Uses Adjoining a Residential Zoning District

(1) Year Round Screening Required

For all non-residential uses which adjoin a residential zoning district a year round bufferyard shall be provided along the abutting property line of the adjoining residential property.

(2) Design

Screening shall consist of landscaping, berming, fencing, walls, or combinations thereof to form a continuous solid screen a minimum of six (6) feet in height.

(3) Fences Used in Bufferyards

No fencing installed along a common side property line with the adjoining residential property shall extend further toward the front property line than the required building setback of the adjoining residential zoning district. All fencing shall be commercial grade with the finished side of the fence facing outward.

(4) Height Differences Based on Topography

Heights of screens may be increased to a maximum of eight (8) feet or reduced to a minimum of four (4) feet based on topography changes between the proposed use and the neighboring residential property per the determination of the Zoning Administrator.

(b) Additional Screening Required for Certain Uses

The Board of Zoning Appeals may require additional setbacks, screening, increase in fence heights, or similar design solutions to ensure compatibility between land uses and adjoining property. Bufferyards may be required by the Board of Zoning Appeals between certain land uses and adjoining uses not located in a residential zoning district. For example, a proposed heavy manufacturing use may be required to screen the use from the adjoining schoolyard or hospital even though the latter uses are located in a nonresidential zoning district. (Ord. 96-02, S1, March 25, 1996)

7.08.120 Administration & Enforcement of Performance Standards.

(a) Determination of Violations

Determinations necessary for administration and enforcement of performance standards set forth herein range from those which can be made with satisfactory accuracy by a reasonable person using normal senses and no mechanical equipment, to those requiring great technical competence and complex equipment for precise measurement. It is the intent of this Title that:

(1) Determinations by the Zoning Administrator

Where determinations can be made by the Zoning Administrator using equipment normally available to the City or obtainable without extraordinary expense, such determinations shall be so made before notice of violation is issued.

(2) Determinations Requiring Technical Expertise

Where technical complexity or extraordinary expense makes it unreasonable for the City to maintain the personnel or equipment necessary for making difficult or unusual determinations, procedures shall be available for causing corrections or apparent violations of performance standards, for protecting individuals from arbitrary, capricious, and unreasonable administration and enforcement of performance standard regulations, and for protecting the general public from unnecessary costs for administration and enforcement.

(3) Written Notice

The Zoning Administrator shall give written notice, by certified mail or other means, ensuring a signed receipt for such notice to the person or persons responsible for the alleged violations. The notice shall describe the particulars of the alleged violation and the reasons why the Zoning Administrator believes there is a violation in fact, and shall require an answer or correction of the alleged violation to the satisfaction of the Zoning Administrator. However, should the violation pose a great and immediate danger, the Zoning Administrator may initiate abatement of the violation in accordance with Section 7.10.070 .

The notice shall state, and it is hereby declared, that failure to reply or to correct the alleged violation to the satisfaction of the administrative official within the time

limit set constitutes admission of violation of the terms of this Title. The notice shall further state that upon request of those to whom it is directed, technical determination as described in this Title will be made, and that if violations as alleged are found, costs of such determinations shall be charged against those responsible for the violation, in addition to such other penalties as may be appropriate, but that if it is determined that no violation exists, the cost of the determination will be paid by the City.

(b) General Enforcement

Enforcement of the provisions of this Chapter shall be per the violations and penalties set forth in Section 7.10.070. (Ord. 96-02, S1, March 25, 1996)

Chapter 7.09

PROCEDURES

Sections:

7.09.010	Purpose
7.09.020	Text Amendments to the Zoning Ordinance or Text of the Comprehensive Plan
7.09.030	Amendment of the Official Zoning Map or Comprehensive Plan Land Use Map
7.09.040	Special Use Review
7.09.050	Variances
7.09.060	Appeals
7.09.070	Interpretations

7.09.010 Purpose. The purpose of this Chapter is to establish the procedures for the review and approval of zoning ordinance and comprehensive plan text amendments, zoning map and plan map amendments, special uses, variances, zoning interpretations by the Zoning Administrator, zoning appeals to the Board of Zoning Appeals. See Sections 7.06.010 and 7.06.020 for procedures regarding approval of activities in the floodplain or historic preservation district, respectively. See Section 7.10.030 for issuance of building permits. (Ord. 96-02, S1, March 25, 1996)

7.09.020 Text Amendments to the Zoning Ordinance or Text of the Comprehensive Plan.

(a) Application Requirements.

All applications for proposed amendments to this Title or the text of the Comprehensive Plan, shall be filed in the office of the Zoning Administrator and shall be accompanied by the following:

- (1)** A copy of the portion of the current provisions of this Title or the Plan proposed to be amended, with said provisions clearly indicated in a manner which is reproducible with a photocopier;
- (2)** A copy of the text which is proposed to replace the current text; and
- (3)** Written justification for the proposed text amendment (the petitioner is advised to answer the questions in subsection (b) below).

(b) Review by Staff

- (1) The Zoning Administrator shall review the submittal in order to ensure that all required portions of the submittal are provided.
- (2) After acknowledgment of a complete submittal, City Staff shall undertake a review of the submittal which shall evaluate and comment on the written justification for the proposed text amendment provided in the submittal. Staff shall further evaluate the submittal based on the following questions:
 - A. How does the proposed text amendment further the purpose of this Title as outlined in Section 7.01.050 or the Plan, as applicable?
 - B. How does the proposed text amendment relate to the City's Comprehensive Plan overall?
 - C. Which of the following factors have arisen that are not properly addressed in the current text?
 - i. The text should be brought into conformance with the Comprehensive Plan (note pertinent portions of the Comprehensive Plan).
 - ii. A change has occurred in the land market, or other factors have arisen which require a new form of development, a new type of land use, or a new procedure to meet said changes.
 - iii. New methods of development or providing infrastructure make it necessary to alter this Title or the Plan to meet these new factors.
 - iv. Changing governmental finances require amending this Title or the Plan in order to meet the needs of the government in terms of providing and affording public services.
 - v. Numerous variances have been granted from the same section of this Title or the Plan making the regulation a norm rather than an individual and particular hardship which were unforeseen at the time of the adoption of this Title/Plan.
 - D. If the proposed amendment is concerned with the land use or bulk, density and intensity regulations: How does the proposed amendment maintain the

desired overall consistency of land uses, land use intensities, and land use impacts within the pertinent zoning districts?

- (3) A staff report shall be forwarded to the Plan Commission for review and use in the development of a recommendation to the City Council.

(c) Review by the Plan Commission

The City Council shall not amend this Title without allowing for a recommendation from the Plan Commission per the provisions of this subsection.

- (1) Within sixty (60) days after receipt of the complete petition as determined by the Zoning Administrator, the Plan Commission shall hold a public hearing. Notice of the proposed text amendment and the hearing shall conform to the requirements of Section 5-3-1 of the Indiana Code. Said notice shall contain the time and place of the hearing, the geographic areas (or zoning districts in a specified geographic area) to which the proposal applies, a summary (which the Plan Commission shall have prepared) of the subject matter contained in the proposal (not the entire text) that describes any new or changed provisions, where a copy of the proposal is on file for examination before the hearing, that written objections to the proposal that are filed with the secretary of the commission before the hearing will be considered, that oral comments concerning the proposal will be heard, that the hearing may be continued from time to time as may be found necessary, and if the proposal contains or would add or amend any penalty or forfeiture provisions the entire text of those penalty or forfeiture provisions. In addition, at least ten (10) days before the hearing the Zoning Administrator shall mail an identical notice to the petitioner.
- (2) Within ten (10) working days after the Plan Commission has determined its recommendation it shall certify the proposal and shall make a written report to the City Council stating its findings regarding subsection (b) above, and its recommendations regarding the petition as a whole.

(d) Review and Action by the City Council

The City Council shall consider the recommendation of the Plan Commission regarding the proposed text amendment and vote on the proposal within ninety (90) days after Plan Commission certification. Any action to amend the provisions of this Title

shall require a majority vote of the City Council. Approval of the requested amendment shall be considered as the approval of a unique request, and shall not be construed as a precedent for any other proposed amendment.

- (1) This subsection applies if the proposal receives a favorable recommendation from the Plan Commission:
 - A. At the first regular meeting of the City Council after the proposal is certified (or at any subsequent meeting within the ninety (90) day period), the City Council may adopt, reject, or amend the proposal. The City Council shall give notice under IC 5-14-1.5-5 of its intention to consider the proposal at that meeting.
 - B. If the City Council adopts (as certified) the proposal, it takes effect as other ordinances of the City Council,
 - C. If the City Council fails to act on the proposal within ninety (90) days after certification, it takes effect as if it had been adopted (as certified) ninety (90) days after certification.
 - D. If the City Council rejects or amends the proposal, it shall be returned to the Plan Commission for its consideration, with a written statement of the reasons for rejection or amendment. The Commission has forty-five (45) days in which to consider the rejection or amendment and report to the City Council as follows:
 - i. If the Commission approves the amendment or fails to act within the forty-five (45) day period, the ordinance stands as passed by the City Council as of the date of the filing of the Commission's report of approval with the City Council or the end of the forty-five (45) day period.
 - ii. If the Commission disapproves the rejection or amendment, the action of the City Council on the original rejection or amendment stands only if confirmed by another vote of the City Council within forty-five (45) days after the Commission certifies its disapproval. If the City Council fails to confirm its action under this clause, the ordinance takes effect in the manner provided in subdivision C.

(2) This subsection applies if the proposal receives either an unfavorable recommendation or no recommendation from the Plan Commission.

A. At the first regular meeting of the City Council after the proposal is certified (or at any subsequent meeting within the ninety (90) day period), the City Council may adopt, reject, or amend the proposal. The City Council shall give notice under IC 5-14-1.5-5 of its intention to consider the proposal at that meeting.

B. If the City Council adopts (as certified) the proposal, it takes effect as other ordinances of the City Council.

C. If the City Council rejects the proposal or fails to act on it within ninety (90) days after certification, it is defeated.

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

i. If the Commission approves the amendment or fails to act within the forty-five (45) day period, the ordinance stands as passed by the City Council as of the date of the filing of the commission's report of approval with the City Council or the end of the forty-five (45) day period.

ii. If the commission disapproves the amendment, the action of the City Council on the original amendment stands only if confirmed by another vote of the City Council within forty-five (45) days after the commission certifies its disapproval. If the City Council fails to confirm its action under this clause, the ordinance is defeated as provided in subsection C.

(e) Effect of Denial

No application which has been denied (either wholly or in part) shall be resubmitted for a period of twelve (12) months from the

date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the Zoning Administrator.

(f) Fee

A fee is required for this procedure. Refer to Section 7.10.060.

(g) Printing

The Plan Commission must print the amendments to the zoning ordinance per Section 36-7-4-610 of the Indiana Code. (Ord. 1996-02, S1, March 25, 1996)

7.09.030 Amendment of the Official Zoning Map or Comprehensive Plan Land Use Map.

(a) Application Requirements

All applications for proposed amendments to the Official Zoning Map or Plan Map, shall be filed in the office of the Zoning Administrator by the city council, the Plan Commission or the property owners who own at least fifty (50) percent of the land involved and shall be accompanied by the following:

- (1) A map of the subject property showing all lands for which the change is proposed, and all other lands within two hundred (200) feet of the boundaries of the subject property. Said map shall clearly indicate the current zoning of the subject property and the property within two hundred (200) feet, and the local government which maintains that zoning control. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided. Said map and all its attachments shall be submitted in a manner which is reproducible with a photocopier.
- (2) A map of the general location of the site in relation to the City as a whole; and
- (3) Written justification for the proposed map amendment (the petitioner is advised to answer the questions in subsection (b) below).

(b) Review by Staff

- (1) The Zoning Administrator shall review the submittal in order to ensure that all required portions of the submittal are provided.

- (2) After acknowledgment of a complete submittal, City Staff shall undertake a review of the submittal which shall evaluate and comment on the written justification for the proposed map amendment provided in the submittal. Staff shall further evaluate the submittal based on the following questions:
- A. How does the proposed Official Zoning Map/Plan Map amendment further the purpose of this Title as outlined in Section 7.01.050 or the Plan?
 - B. How does the proposed map amendment relate to the City's Comprehensive Plan overall?
 - C. Which of the following factors has arisen that are not properly addressed on the current zoning/plan map?
 - i. The designations on the map should be brought into conformance with the Comprehensive Plan (note pertinent portions of the Comprehensive Plan).
 - ii. A mistake was made in mapping on the Official Zoning Map/Land Use Map. (That is the area is, and has been, developing in a manner and purpose different from that for which it is mapped. NOTE: If this reason is cited, it must be demonstrated that the inconsistency between actual land use and designated zoning/land use is not intended, as the City may intend to stop an undesirable land use pattern from spreading);
 - iii. Factors have changed (such as the availability of new data, the presence of new roads or other infrastructure, new or additional development, annexation, or other zoning changes), making the subject property more appropriate for a different zoning district or land use designation;
 - iv. Growth patterns or rates have changed, thereby creating the need for an amendment to the map.
 - D. How does the proposed amendment maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the surroundings of the subject property?

- (3) A staff report shall be forwarded to the Plan Commission for review and use in the development of a recommendation to the City Council.

(c) Review by the Plan Commission

The City Council shall not amend the Official Zoning Map/Plan Map without allowing for a recommendation from the Plan Commission per the provisions of this subsection.

- (1) Within sixty (60) days after receipt of the complete petition as determined by the Zoning Administrator, the Plan Commission shall hold a public hearing. Notice of the proposed text amendment and the hearing shall conform to the requirements of Section 5-3-1 of the Indiana Code. Said notice shall contain the time and place of the hearing, the geographic area that is the subject of the zone map or land use map change, a summary of the current and proposed zoning or land use designations, where a copy of the proposal is on file for examination before the hearing, that written objections to the proposal that are filed with the secretary of the commission before the hearing will be considered, that oral comments concerning the proposal will be heard, and that the hearing may be continued from time to time as may be found necessary. In addition, at least ten (10) days before the hearing the Zoning Administrator shall mail an identical notice to the petitioner and to all property owners within two hundred (200) feet of the subject property.
- (2) Within ten (10) business days after the Plan Commission determines its recommendation, the Plan Commission shall certify the proposal to the City Council stating its findings regarding subsection (b) above, and its recommendations regarding the petition as a whole.

(d) Review and Action by the City Council

The City Council shall consider the recommendation of the Plan Commission regarding the proposed map amendment and vote on the proposal within ninety (90) days after Plan Commission certification. Any action to amend the maps shall require a majority vote of the City Council. Approval of the requested map amendment shall be considered as the approval of a unique request, and shall not be construed as a precedent for any other proposed map amendment.

- (1) This subsection applies if the proposal receives a favorable recommendation from the Plan Commission:

- A. At the first regular meeting of the City Council after the proposal is certified (or at any subsequent meeting within the ninety (90) day period), the City Council may adopt or reject the proposal. The City Council shall give notice under IC 5-14-1.5-5 of its intention to consider the proposal at that meeting.
 - B. If the City Council adopts (as certified) the proposal, it takes effect as other ordinances of the City Council.
 - C. If the City Council rejects the proposal, it is defeated.
 - D. If the City Council fails to act on the proposal within ninety (90) days after certification, the ordinance takes effect as if it had been adopted (as certified) ninety (90) days after certification.
- (2) This subsection applies if the proposal receives either an unfavorable recommendation or no recommendation from the Plan Commission.
- A. At the first regular meeting of the City Council after the proposal is certified under section 605 of this chapter (or at any subsequent meeting within the ninety (90) day period), the City Council may adopt, reject the proposal. The City Council shall give notice under IC 5-14-1.5-5 of its intention to consider the proposal at that meeting,.
 - B. If the City Council adopts (as certified) the proposal, it takes effect as other ordinances of the City Council.
 - C. If the City Council rejects the proposal, it is defeated.
 - D. If the City Council fails to act on the proposal within ninety (90) days after certification, it is defeated.

(e) Effect of Denial

No application which has been denied (either wholly or in part) shall be resubmitted for a period of twelve (12) months from the date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the Zoning Administrator.

(f) Fee

A fee is required for this procedure. Refer to Section 7.10.060.

(g) Map Revision

The official zoning map that is kept available by the Zoning Administrator or in the office of the Plan Commission shall be updated to reflect the map amendment. (Ord. 96-02, S1, March 25, 1996)

7.09.040 Special Use Review.

(a) Application Requirements

All applications for, or amendments to Special Uses or major amendment to the development plans approved thereunder, shall be filed in the office of the Zoning Administrator and shall be accompanied by the following:

- (1) A map of the subject property showing all lands for which the Special Use is proposed, and all other lands within two hundred (200) feet of the boundaries of the subject property. Said map shall clearly indicate the current zoning of the subject property and the property within two hundred (200) feet, and the local government which maintains that zoning control. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided. Said map and all its attachments shall be submitted in a manner which is reproducible with a photocopier.
- (2) A map of the general location of the site in relation to the City as a whole;
- (3) A written description of the proposed Special Use describing the type of activities, buildings, and structures for the subject property and their general locations;
- (4) A site development plan of the subject property as proposed for development which includes:
 - A. A title block which indicates the names and addresses of the current owners of the property.
 - B. A north arrow and a graphic scale.
 - C. All property lines, utility lines, easements and drainageways, and right-of-way lines with dimensions.

- D. All required building and parking setback lines and building heights.
 - E. A legal description of the subject property.
 - F. All existing and proposed buildings, structures, paved areas, walks, drives, parking and loading spaces and their number provided vs. number required, signs, decks, patios, fence, utility poles, lighting, drainage facilities, landscaping, outdoor storage, dumpsites, on-site septic or waste treatment systems, and walls.
 - G. Any other information required by the Zoning Administrator.
- (5) Written justification for the proposed Special Use (the petitioner is advised to answer the questions in subsection (b) below).
- (b) Review by Staff
- (1) The Zoning Administrator shall review the submittal in order to ensure that all required portions of the submittal are provided.
 - (2) After acknowledgment of a complete submittal, City Staff shall undertake a review of the submittal which shall evaluate and comment on the written justification for the proposed Special Use provided in the submittal. Staff shall further evaluate the submittal based on the following questions:
 - A. How is the proposed Special Use (the use in general) in harmony with the purposed, goals, objectives, policies and standards of the City of Cannelton Comprehensive Plan, this Title, and any other plan, program, or ordinance adopted or under consideration pursuant to official notice by the City?
 - B. How is the proposed Special Use (in its specific location) in harmony with the purposes, goals, objectives, policies and standards of the City of Cannelton Comprehensive Plan, this Title, and any other plan, program, or ordinance adopted or under consideration pursuant to official notice by the City?

- C. Does the proposed Special Use, it is proposed location as depicted on the required site plan result in a substantial or undue adverse impact on adjacent property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or right-of-way, or other matters effecting the public health, safety or general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of the provisions and policies of this Title, the Comprehensive Plan, or any other plan, program, map, or ordinance adopted or under consideration pursuant to official notice by the City of other governmental agency having jurisdiction to guide growth and development?
 - D. Does the proposed Special Use maintain the desired consistency of land uses, land surroundings of the subject property?
 - E. Is the proposed Special Use located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or service provided by public agencies serving the subject property?
 - F. Do the potential benefits of the proposed Special Use outweigh any all potential adverse impacts of the proposed Special Use (as identified in A. through E. above), after taking into consideration any proposal by the petitioner and any requirements recommended by the petitioner to ameliorate such impacts?
- (3) A staff report shall be forwarded to the Board of Zoning Appeals for its review and use in the development of determination.
- (c) Review by the Board of Zoning Appeals
- (1) Within forty-five (45) days after receipt of the complete petition as determined by the Zoning Administrator, the Board of Zoning Appeals shall hold a public hearing. Notice of the Special Use and the hearing shall conform to the requirements of Section 5-3-1 Indiana Code. Said notice shall contain a description of the subject property and the proposed Special Use. In addition, at least ten (10) days before the hearing the Zoning Administrator shall mail an identical notice to all property owners within two

hundred (200) feet of the subject property, and shall mail an identical notice to the petitioner.

- (2) Within sixty (60) days after the receipt of the complete petition as determined by the Zoning Administrator (or within an extension of said period requested in writing by the petitioner and granted by the Board of Zoning Appeals), the Board of Zoning Appeals shall make a written determination stating its findings regarding subsection (b) above, and the petition as a whole.

(d) Effect of Denial

No application which has been denied (either wholly or in part) shall be resubmitted for a period of twelve (12) months from the date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the Zoning Administrator.

(e) Revocation of a Special Use

Upon approval by the Board of Zoning Appeals, the petitioner must demonstrate that the proposed Special Use meets all general and specific Special Use and site plan requirements. Any Special Use found in violation with the terms of this Title shall be subject to all applicable procedures and penalties. A Special Use may be revoked for such a violation by a majority vote of the Board of Zoning Appeals, following the procedures for obtaining a Special Use above.

(f) Time Limits on the Development of a Special Use

The start of construction of any and all Special Use shall be initiated within three hundred sixty-five (365) days of their approval by the Board and shall be operational within seven hundred thirty (730) days of said approval. Failure to initiate development within this period shall automatically constitute a revocation of the Special Use. For the purposes of this section "operational" shall mean permanent occupancy. Prior to such a revocation, the petitioner may request an extension to this period. Said request shall require formal approval by the Board and shall be based upon a showing of acceptable justification (as determined by the Board of Zoning Appeals) and shall be approved only if the conditions relative to the original approval's appropriateness remain in effect.

(g) Discontinuance of a Special Use

Any and all Special Uses which have been discontinued for a period exceeding three hundred sixty five (365) days shall have their Special use invalidated automatically. The burden of proof

shall be on the property owner to conclusively demonstrate that the subject Special Use was operational during this period.

(h) Change of Ownership

All requirements of the approved Special Use shall be continued regardless of ownership of the subject property. Modification of any Special Use without approval by the Board of Zoning Appeals (except for minor development plan changes approved by the Zoning Administrator), shall be grounds for revocation of said Special Use.

(i) Recordation of Special Use Conditions

All documents associated with the written description, approved site plan, and the specific conditions of approval, along with a legal description of the property, may be recorded by the City with the County recorder's office.

(j) Fee

A fee is required for this procedure. Refer to Section 7.10.060. (Ord. 96-02, S1, March 25, 1996)

7.09.050 Variance Review.

(a) Purpose

This Section is intended to provide regulations which enable the Board of Zoning Appeals to hear and decide requests for variances from the development standards (such as height, bulk, or area) of this Title as will not be contrary to the public interest; where owing to special factors, a literal enforcement of this Title would result in practical difficulty or unnecessary hardship. Use variances shall not be permitted but shall otherwise be treated as set forth in Section 7.10.050 (g) (3).

(b) Initiation of Requests

Request for variances may be brought by a recommendation of the Board of Zoning Appeals or City Council, or by a petition of the owners of the subject property.

(c) Application Requirements

All applications for proposed variances, shall be filed in the office of the Zoning Administrator and shall be accompanied by the following:

- (1) A map of the subject property showing all lands for which the variance is proposed, and all other lands within two

hundred (200) feet of the boundaries of the subject property. Said map shall clearly indicate the current zoning of the subject property and the property within two hundred (200) feet, and the local government which maintains that zoning control. The map should indicate the location of the variance request and its nature (or provide a sketch if the variance is not mappable). All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided. Said map and all its attachments shall be submitted in a manner which is reproducible with a photocopier.

- (2) A map of the general location of the site in relation to the City as a whole; and
- (3) Written justification for the proposed variance (the petitioner is advised to answer the questions in subsection (b) below).
- (4) A staff report shall be forwarded to the Board of Zoning Appeals for review and use in the development of a determination.

(d) Review by Staff

- (1) The Zoning Administrator shall review the submittal in order to ensure that all required portions of the submittal are provided.
- (2) After acknowledgment of a complete submittal, City Staff shall undertake a review of the submittal which shall evaluate and comment on the written justification for the proposed variance provided in the submittal. Staff shall further evaluate the submittal based on the following questions:
 - A. What exceptional or extraordinary circumstances or special factors are present which apply on to the subject property? The response to this question shall clearly indicate how the subject property contains factors which are not present on other properties in the same zoning district. Specifically:
 - i. The hardship or difficulty shall be peculiar to the subject property and different from that of other properties, and not one which affects all properties similarly. Such a hardship or difficulty shall have arisen because of the unusual shape of the original acreage parcel; unusual topography or elevation; or because the property was created before the passage of

the current zoning regulations and is not economically suitable for a permitted use or will not accommodate a structure of reasonable design for a permitted use if all area, yard, parking and setback requirements are observed;

- ii. Loss of profit or pecuniary hardship shall not, in and of itself, be grounds for a variance;
 - iii. Self-imposed hardship shall not be grounds for a variance. Reductions resulting from the sale of portions of a property reducing the remainder of said property below buildable size or cutting off existing access to a public right-of-way or deed restrictions imposed by the owner's predecessor in title are considered to be self-imposed hardships;
 - iv. Violations by, or variances granted to, neighboring properties shall not justify a variance;
 - v. The alleged hardship shall not be one that would have existed in the absence of a zoning ordinance.
- B. In what manner do the factors identified in A. above prohibit the development of the subject property in a manner similar to that of other properties under the same zoning district? The response to this question shall clearly indicate how the requested variance is essential to make the subject property developable so that property rights enjoyed by the owners of similar properties can be enjoyed by the owners of the subject property.
- C. Would the granting of the proposed variance be of substantial detriment to adjacent properties? The response to this question shall clearly indicate how the proposed variance will have no substantial negative impact on adjacent properties.
- D. Would the granting of the proposed variance as depicted on the map or site plan result in a substantial or undue adverse impact on the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety, or

general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of this Title, the Comprehensive Plan, or any other plan, map, policy or ordinance of the City? The response to this question shall clearly indicate how the proposed variance will have no substantial impact on such long-range planning matters.

E. Have the factors which present the reason for the proposed variance been created by the act of the petitioner or previous property owner or their agent (eg. previous development decisions such as building placement, floor plan, orientation, lotting pattern or grading) after the effective date of this Title? The response to this question shall clearly indicate that such factors existed prior to the effective date of this Title and were not created by action of the petitioner, a previous property owner, or their agents.

(3) A staff report shall be forwarded to the Board of Zoning Appeals for its review and use in the development of determination.

(c) Review and Determination by the Board of Zoning Appeals

(1) Within forty-five (45) days after receipt of the complete petition as determined by the Zoning Administrator, the Board of Zoning Appeals shall hold a public hearing. Notice of the requested variance and the hearing shall conform to the requirements of Section 5-3-1 Indiana Code. Said notice shall contain a description of the subject property and the proposed variance. In addition, at least ten (10) days before the hearing the Zoning Administrator shall mail an identical notice to all property owners within two hundred (200) feet of the subject property, and shall mail an identical notice to the petitioner.

(2) Within sixty (60) days after the receipt of the complete petition as determined by the Zoning Administrator (or within an extension of said period requested in writing by the petitioner and granted by the Board of Zoning Appeals), the Board of Zoning Appeals shall make a written determination stating its findings regarding subsection (b) above, and the petition as a whole.

(3) If the Board fails to make a determination within ninety (90) days after the public hearing, then the request for the variance shall be considered defeated.

(d) Effect of Denial

No application which has been denied (either wholly or in part) shall be resubmitted for a period of twelve (12) months from the date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the Zoning Administrator.

(e) Limited Effect of a Variance

Where the Board of Zoning Appeals has granted a variance, such approval shall neither change the use classification of the building or premises, nor give it any status as a nonconforming use other than that which it has as a result of the variance. Granting of a variance shall be considered as unique to the variance granted, and shall not be construed as precedent for any other proposed variance.

(f) Stay of Proceedings

An application for a variance shall stay all legal proceeding furthering enforcement of any provision of this Title from which the petitioner is requesting a variance, unless the Zoning Administrator certifies to the Board of Zoning Appeals after the request for the variance has been filed, that by reason of the facts a stay would, in his/her opinion cause great and immediate danger or peril to life or property. In such case proceeding shall not be stayed otherwise than by a restraining order which may be granted by the Board of Zoning Appeals or a Court of Record on application, on notice to the Zoning Administrator, and on due cause shown.

(g) Fee

A fee is required for this procedure. Refer to Section 7.10.060. (Ord. 96-02, S1, March 25, 1996)

7.09.060 Appeals.

(a) Initiation of Requests

The Board of Zoning Appeals shall hear and determine appeals from and review:

- (1) any order, requirement, decision, or determination made by an administrative official, hearing officer, or staff member under the zoning ordinance;
- (2) any order, requirement, decision, or determination made by an administrative board or other body except a Plan

Commission in relation to the enforcement of the zoning ordinance; or

- (3) any order, requirement, decision, or determination made by an administrative board or other body except a Plan Commission in relation to the enforcement of an ordinance adopted under this chapter requiring the procurement of an improvement location or building permit.

(b) Application Requirements

All applications for proposed appeals, shall be filed in the office of the Zoning Administrator within thirty (30) days of the date of issuance of the order being appealed (failure to initiate this appeal procedure within the thirty (30) day period shall constitute a final and binding waiver of the right to appeal) A person may not communicate with any member of the board before the hearing with intent to influence the member's action on a matter pending before the board. The application shall be accompanied by the following:

- (1) A copy of the pertinent items in the file on the matter maintained by the person or board as identified by the petitioner and/or the board or persons who are the subject of the appeal, and
- (2) A written statement from the petitioner indicating the reasons why an appeal is justified, based upon an analysis of the board or person's original decision. This statement shall be signed and dated by the petitioner.

(c) Review by Staff

The submitted appeals shall be reviewed by City Staff as follows:

- (1) The Zoning Administrator shall review the submittal in order to ensure that all required portions of the submittal are provided.
- (2) After acknowledgment of a complete submittal, City Staff shall undertake a review of the submittal which shall evaluate and comment on the written justification for the appeal as provided in the submittal.
- (3) A staff report shall be forwarded to the Board of Zoning Appeals for its review and use in the development of a determination.

(d) Review and Determination by the Board of Zoning Appeals

- (1) Within forty-five (45) days after receipt of the complete petition as determined by the Zoning Administrator, the Board of Zoning Appeals shall hold a public hearing. Notice of the appeal and the hearing shall conform to the requirements of Section 5-3-1 Indiana Code. Said notice shall contain a description of the appeal. At least ten (10) days before the hearing the Zoning Administrator shall mail an identical notice to the petitioner.
- (2) Within sixty (60) days after the receipt of the complete petition as determined by the Zoning Administrator (or within an extension of said period requested in writing by the petitioner and granted by the Board of Zoning Appeals), the Board of Zoning Appeals shall make a written determination stating its findings regarding subsection (b) above, and the petition as a whole. The Board may reverse, affirm, or modify the order, requirements, decision, or determination appealed from. For this purpose, the Board has all the powers of the official, officer, board, or body from which the appeal is taken. Within five (5) days after making any decision on appeal, the Board of Zoning Appeals shall file in the office of the board a copy of its decision.
- (3) If the Board fails to make a determination within ninety (90) days after the public hearing, then the request for the variance shall be considered denied.

(e) Effect of Denial

No application which has been denied (either wholly or in part) shall be resubmitted for a period of twelve (12) months from the date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the Zoning Administrator.

(f) Limited Effect of a Favorable Ruling on an Appeal

No ruling by the Board of Zoning Appeals shall be valid for a period of more than 365 days from the date of issuance of the ruling on the appeal, unless a Building Permit is issued and development commenced and is thereafter diligently pursued to completion, or occupancy is obtained within the 365 day period. Any ruling shall not be deemed to allow any similar use or action for which a separate ruling has not been obtained. If the use or action for which a favorable ruling has been obtained ceases for a period of 365 consecutive days, the ruling shall automatically expire and cease to be of any force.

(g) Stay of Proceedings

- (1) When an appeal from the decision of an official or board has been filed with the Board of Zoning Appeals, proceedings and work on the premises affected shall be stayed unless that official or board certifies to the Board of Zoning Appeals that, by reason of the facts, a stay would cause great and immediate danger or imminent peril to life or property. In that case, proceedings or work may not be stayed except by a restraining order.
- (2) After notice to the officer or board and to the owner of the premises affected and after due cause is shown, the circuit or superior court of the county in which the premises affected are located may grant the restraining order.
- (3) After the owner of, or a person in charge of the work on the premises affected has received notice that an appeal has been filed with the Board of Zoning Appeals, the official or board charged with the enforcement of an ordinance, may order the work stayed and call on the police power of the City of Cannelton to give effect to that order.

(h) Fee

A fee is required for this procedure. Refer to Section 7.10.060. (Ord. 1996-02, S1, March 25, 1996)

7.09.070 Interpretations.

(a) Initiation of Requests

The Zoning Administrator is assigned the responsibility for the official interpretation of this Title. Proceedings for an interpretation may be brought by a petition of the owners of a subject property, a recommendation of the Plan Commission, action of the City Council, or a request by City Staff.

(b) Application Requirements

All applications for proposed interpretations, shall be filed in the office of the Zoning Administrator and shall be accompanied by the following:

(1) Text from Which Interpretation is Sought

The request shall clearly indicate the part of the text of this Title for which the interpretation is requested and the specific questions the petitioner has regarding the text.

(2) Applications Relative to a Specific Property

If the request relates to the application of this Title to a specific property, the additional following information shall be provided:

- A. A map of the subject property showing all lands for which the interpretation is requested, and all other lands within two hundred (200) feet of the boundaries of the subject property. Said map shall clearly indicate the current zoning of the subject property and the property within two hundred (200) feet, and the local government which maintains that zoning control. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.
- B. A map of the general location of the site in relation to the City as a whole; and
- C. A written description of the reason for the requested interpretation and how the proposed interpretation relates to type of activities, buildings, and structures currently located on, and proposed for, the subject property.
- D. A site development plan of the subject property as proposed for development. Said site plan shall conform to the requirements of Section 7.09.040(a)(4).

(3) Applications Relative to a Land Use

If the requested interpretation relates to the classification or treatment of a particular land use under the provisions of this Title, a series of written responses to the following questions shall also be submitted:

- A. How is the subject land use (in general) in harmony with the purposes, goals, objectives, policies and standards of the City of Cannelton Comprehensive Plan, this Title, and any other plan, program, or ordinance adopted or under consideration pursuant to official notice by the City?
- B. How is the subject land use in harmony with the purposes, goals, objectives, policies and standards of the pertinent zoning district for which the interpretation is being sought?

- C. Do the potential public benefits of the proposed land use outweigh any and all potential adverse impacts of the proposed land use?

(c) Review by Zoning Administrator

- (1) The Zoning Administrator shall review the submittal in order to ensure that all required portions of the submittal are provided.
- (2) Second, upon receipt of and acknowledgment of a complete submittal, and within thirty (30) days of such receipt, the Zoning Administrator shall undertake a review of the submittal which shall evaluate and comment on the written justification for the proposed interpretation provided in the submittal. This review shall also take into consideration the standards for review presented in (d) below.

(d) Standards for Review of Requested Interpretations

This Title shall be interpreted in a manner which is consistent with the purposes intended by the City of Cannelton City Council as noted in this Title and the Comprehensive Plan. The intent of the standards and supporting definitions of this Title is to protect both individual property owners and the general public from adverse impacts that may result from a proposed, modified, or existing land use. To this end, those called upon to interpret this Title shall proceed as follows:

- (1) Articulate certain public purposes underlying the standards for which an interpretation is required.

Rationale: Before any zoning interpretation is made, there must be an explicit discussion of certain purposes for which the regulation was initially imposed. Each zoning regulation is intended to protect the interests of other present and future neighbors and the general public. Each standard is developed as a regular response to an identifiable potential negative impact. A sound interpretation of any standard cannot be ensured without careful analysis of the regulation and the end toward which it is directed. It is understood that there may be other public purposes underlying the interpretation which are not explicitly articulated.

- (2) Articulate the actual impact of the various proposed interpretations, permitting flexibility in design and prohibiting any interpretation that lowers the protection afforded to the public.

Rationale: There is a critical distinction between an interpretation which provides a greater degree of design freedom to achieve a permitted land use, and an interpretation which permits a new or not previously permitted use, or which allows a use to be enlarged, or have its intensity increased beyond the degree specified in this Title. Design freedom is to be encouraged while lowering of the standards of this Title is to be prohibited.

- (3) Determine whether the proposed interpretation will ensure a just balance between the rights of the landowner and all others who will be affected by that person's land use proposal.

Rationale: If an interpretation would merely allow a design solution that is slightly different from the one expressly stated or permitted, and if it would result in a same or greater degree of protection to any affected party (either the adjoining landowners, the public at large, and/or a future property owner or renter), such an interpretation may be appropriately made. An interpretation which would result in any identifiable loss of protection for one group to the benefit of others is contrary to the spirit of this Title.

Similarly, any interpretation which would either increase the nuisance potential of any use or alter the purpose for which the regulation was adopted shall be considered counter to the legislative intent of this Title. Any interpretation which will result in any loss of protection or increase in intensity beyond that already permitted shall only be made if the party interpreting this Title has the power to impose additional restrictions or requirements and exercise this power in order to protect the public.

- (4) This Title has been carefully designed by the City Council to combine maximum achievement of public goals, and the protection of adjoining landowners while providing flexibility for property owners to use their land for a variety of uses consistent with the goals and objectives of the Comprehensive Plan for the City of Cannelton. Great care has been taken to balance the rights of competing groups while achieving maximum protection with flexibility and a range of use options. Persons interpreting this Title should not substitute their own judgments for the legislative acts of the City Council.
- (5) In addition to the petitioner's response to the questions required above, the following standards shall govern the

decision on the requested interpretation on land use interpretation matters:

A. Previously Rejected Use

No interpretation shall allow the establishment of any land use which was previously considered and rejected by the City Council on application for an amendment to the Zoning Ordinance, the Official Zoning Map, or a previously applied for appeal from a requested interpretation submitted within the last five (5) years; unless changed factors have arisen that make the request potentially justifiable as determined by the Board of Zoning Appeals who shall then direct the Zoning Administrator to make an interpretation.

B. Compliance with All Regulations Required

No interpretation shall permit a land use in a zoning district unless evidence is presented which demonstrates that the land use will comply with any and all regulations applicable to development in the subject property's zoning district.

C. Similarity to Permitted Uses

No interpretation shall permit a land use in a particular zoning district unless such use is substantially similar to other uses permitted in that same district and is more similar to such other permitted uses than to uses either not permitted in said district, or permitted in a more intensive district in the same zoning district category (residential, commercial, etc.)

D. Similarity to Special Uses

If the proposed land use is more similar to a land use permitted only as a Special Use in the subject property's zoning district than to a use permitted by right, then an interpretation permitting such use shall be conditioned upon the approval of a Special Use by the Board of Zoning Appeals.

(e) Effect of a Favorable Land Use Interpretation

No interpretation finding a particular land use to be permitted by right or as a Special Use in a specific zoning district shall authorize either the establishment of such use or the development, construction, reconstruction, alteration or

moving of any building or structure. A favorable interpretation merely authorizes the preparation, filing, and processing of applications for any permits and approvals which may be required by this Title. These permits and approvals, include, but are not limited to, site development plans, Special Use permits, and certificates of appropriateness.

(f) Limitations on Favorable Land Use Interpretations

(1) Period of Validity

No interpretation finding a particular land use to be permitted by right or as a Special Use in a specified zoning district shall be valid for a period of more than 365 days from the date of issuance of the interpretation, unless a Building Permit is issued and development is actually begun within that period, and is thereafter diligently pursued to completion, or occupancy is obtained and a use commenced within that period.

(2) Applicability to Other Uses or Properties Prohibited

An interpretation finding a particular land use to be permitted by right or as a Special Use in a specified zoning district shall be deemed to authorize only that particular use as proposed and designed at that particular location for which the interpretation was issued. The interpretation shall not be deemed to authorize any allegedly similar use for which a separate interpretation has not been issued. A favorable interpretation shall automatically expire and cease to be of any force or effect if the particular use for which it was issued shall, for any reason, be discontinued for a period of 365 consecutive days or more.

(g) Fee

A fee is required for this procedure. Refer to Section 7.10.060. (Ord. 1996-02, S1, March 25, 1996)

Chapter 7.10

ADMINISTRATION AND ENFORCEMENT

Sections:

7.10.010	Purpose
7.10.020	Zoning Administrator
7.10.030	Building Inspector
7.10.040	Plan Commission
7.10.050	Board of Zoning Appeals
7.10.060	Fees
7.10.070	Violations and Penalties
7.10.080	Injunctive relief
7.01.090	Burden of Proof

7.10.010 Purpose. The purpose of this Chapter is to establish the administrative and enforcement provisions for the implementation of this Title. (Ord. 1996-02, S1, March 25, 1996)

7.10.020 Zoning Administrator. This Title shall be administered, implemented and enforced by the Zoning Administrator, and/or their designee, who in addition and per said authority shall:

- (a) Receive, file, and forward all applications for any all procedures governed by this Title (see Chapter 7.09) to the designated official bodies.
- (b) Determine that all permits, plans, and certificates required herein comply with all provisions of this Title.
- (c) Make interpretations regarding the meaning of the provisions of this Title.
- (d) Institute, in the name of the City of Cannelton, any appropriate actions or proceeding against a violator of this Title, including abatement of violations, as provided by law.
- (e) Maintain permanent and current records of this Title, including but not limited to all maps, amendments, special uses, variances, appeals, interpretations, development plans, and applications therefor. (Ord. 1996-02, S1, March 25, 1996)

7.10.030 Building Inspector. In addition to any other responsibilities set forth elsewhere in the Cannelton Code of Ordinances, the Building Inspector shall be responsible for the following duties:

- (a) Inspections

The Building Inspector shall perform inspections of buildings structures and lands to determine compliance with this Title.

(b) Permits

The Building Inspector shall issue permits for the activities listed under Section 7.10.060(e) after an application for said permit has been submitted to the City on forms provided by the City. The application shall be signed by the property owner and accompanied by the following information:

- (1) A site development plan showing the information required under Section 7.09.040(a)(4).
- (2) Plans and specifications as required by the Zoning Administrator and Building Inspector showing the work to be completed.
- (3) A copy of the sewage disposal permit issued by Perry County for all private disposal systems.
- (4) A copy of the Indiana Department of Fire and Building Services Construction Design Release shall be provided for all non-exempt Class-I construction, pursuant to IC 22-15-3-1.
- (5) A copy of the Certificate of Appropriateness for construction related to a historic building or district, if applicable.
- (6) A copy of the permit from the Natural Resources Commission for construction in a floodway, if applicable.
- (7) A determination from the Zoning Administrator that the permit and plans comply with all provisions of this Title and that any approvals have been granted by the appropriate Board or Commission.
- (8) Any other information required by the Zoning Administrator or the Building Inspector. (Ord. 1996-02, S1, March 25, 1996)

7.10.040 Plan Commission.

(a) Establishment

There is hereby established an advisory Plan Commission per Indiana Code 36-7-4-200 who shall hereafter be referred to as the City of Cannelton Plan Commission.

(b) Membership

(1) Voting Members

The Plan Commission shall consist of nine (9) voting members. The City Clerk shall certify members appointed by City Council and the Mayor shall certify his appointments. The certificates shall be sent to and made a part of the records of the Plan Commission.

A. The City Council shall appoint three (3) persons, who must be elected or appointed municipal officials or employees in the municipal government, as members.

B. The Mayor shall appoint four (4) citizen members, of whom no more than two (2) may be of the same political party. 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 municipal, county, or state government. A citizen member must be a resident of the jurisdictional area of the Plan Commission.

C. The County executive shall appoint two (2) additional citizen members to the City Plan Commission. The citizen members must:

- i. reside in the unincorporated area; and
- ii. not be of the same political party.

(2) Advisory Members

Each advisory member to the City Plan Commission and to the County Plan Commission has all the privileges of membership, except the right to vote.

A. A designated representative of the County Plan Commission shall serve as an advisory member of the City Plan Commission.

B. A designated representative of the City Plan Commission shall serve as an advisory member of the County Plan Commission.

(c) Terms of Voting Members

(1) Citizen Members

A. Initial Terms

i. City Appointments

Two (2) citizen members shall initially be appointed for a term of three (3) years and two (2) shall initially be appointed for a term of four (4) years. Each member's term expires on the first Monday of January of the second, third, or fourth year, respectively, after the year of the member's appointment.

ii. County Appointments

Initially, one (1) member shall be appointed for a term of one (1) year and the other for a term of four (4) years

B. Subsequent Terms

A member serves until his successor is appointed and qualified. A member is eligible for reappointment. When an initial term of office of a citizen member expires, each new appointment of a citizen member is for a term of four (4) years.

(2) City Employees and City Officials

The term of office of an elected or appointed city official or employee shall be coextensive with the member's term of office or employment.

(d) Vacancies

If a vacancy occurs among the Plan Commission members who are appointed, then the appointing authority shall appoint a member for the unexpired term of the vacating member.

(e) Conflict of Interest

A member of the Plan Commission may not participate as a member in a hearing or decision of the Plan Commission concerning a zoning matter in which the member has a direct or indirect financial interest. The Commission shall enter in its records the fact that its member has such a disqualification. A member of the Plan Commission may not directly or personally represent another person in a hearing before the Commission

concerning a zoning matter. As used in this section, “zoning matter” does not include the preparation or adoption of a comprehensive plan.

(f) Quorum

Action of the Plan Commission is not official, unless it is authorized, at a regular or special meeting, by a majority of the entire membership of the Plan Commission.

(g) Organization

(1) President and Vice-President

At its first regular meeting in each year, the Plan Commission shall elect from its members a president and a vice president. The vice president may act as president of the Plan Commission during the absence or disability of the president.

(2) Secretary

The Plan Commission may appoint and fix the duties of a secretary, who is not required to be a member of the Commission.

(3) Meetings and Minutes

The Plan Commission shall fix the time for holding regular meetings each month or as necessary. The Commission shall keep minutes of its meetings. The minutes of Commission meetings and all records shall be filed in the office of the Commission and are public records. Special meetings of the Plan Commission may be called by the president or by two (2) members of the Commission upon written request to the secretary. The secretary shall send to all members, at least three (3) days before the special meeting, a written notice fixing the time and place of the meeting. Written notice of a special meeting is not required if: (1) the date, time, and place of a special meeting is fixed in a regular meeting and all members of the Commission are present at the regular meeting.

(h) Duties

(1) Recommendations to the City Council

A. Comprehensive Plan

The Plan Commission shall make recommendations to the City Council concerning the adoption of the comprehensive plan,

ordinance, and amendments for the development of the city and of the contiguous unincorporated area, designated by the Commission, that is outside the corporate boundaries of the city, and that, in the judgement of the Commission, bears reasonable relation to the development of the city.

B. Zoning Ordinance and Map

The Plan Commission shall make recommendations to the City Council concerning the adoption of the zoning ordinance and official zoning map and text amendments to the zoning ordinance and amendments to the Official Zoning Map, and any other matter, within the jurisdiction of the Commission, authorized by the advisory planning law.

C. Subdivision Ordinance

The Plan Commission shall make recommendations to the City Council concerning the adoption of the subdivision ordinance and text amendments to the subdivision ordinance.

D. Ordinances and Plans Relating to City's Development

The Plan Commission shall make recommendations to the City Council concerning the review, development, or recommendation of, or changes to ordinances, plans, maps, reports, and issues related to the physical development of the city such as housing and building codes, capital improvement plans, annexation policies, etc.

(2) Plan Commission Final Authority for Approval

A. Plats

The Plan Commission shall render decisions concerning and approve plats or replats of subdivisions;

B. Development Plans

The Plan Commission shall render decisions concerning and approve development plans for permitted residential, commercial, and industrial uses;

C. Redevelopment Plans

The Plan Commission shall render decisions concerning and approve redevelopment or economic development plans submitted by the redevelopment commission for conformance with the comprehensive plan; and

D. Street Numbers

The Plan Commission shall render decisions concerning and approve street number assignments to lots and structures.

(3) Administrative Duties

A. Administrative and Fiscal Duties

The Plan Commission shall supervise, and make rules for, the administration of the affairs of the Commission, shall supervise the fiscal affairs of the Commission and prepare and submit an annual budget to the City Council and shall prescribe uniform rules pertaining to investigations and hearings.

B. Records and Certifications

The Plan Commission shall keep a complete record of all proceedings, shall certify to all official acts, adopt a seal and shall record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers.

C. Dissemination of Information

The Plan Commission shall prepare, publish, and distribute reports, ordinances, and other material relating to authorized activities. (Ord. 96-02, S1, March 25, 1996)

7.10.050 Board of Zoning Appeals.

(a) Establishment

The Board of Zoning Appeals (BZA) of the City of Cannelton is hereby established per Indiana Code 36-7-4-900 who shall hereafter be referred to as the City of Cannelton Board of Zoning Appeals

(b) Membership and Terms

The Board of Zoning Appeals shall consist of five (5) members, who are residents of the City (or extraterritorial area where applicable) and who do not hold other elective or appointive office in municipal, county or state government (except as allowed below on the Plan Commission). The terms of the members shall expire on the first Monday of January of the first, second, third, or fourth years, respectively, after the year of the member's appointment. Each new appointment thereafter shall be for a term of four (4) years. The Board of Zoning Appeals shall be appointed as follows:

(1) Mayoral Appointments

Three (3) citizen members appointed by the Mayor, of whom one (1) must be a member of the Plan Commission to serve a term of four (4) years and two (2) must not be members of the Plan Commission, one to serve a term of one (1) year, and one to serve a term of two (2) years.

(2) City Council Appointments

One (1) citizen member appointed by the City Council, who must not be a member of the Plan Commission, to serve a term of three (3) years.

(3) Plan Commission Appointment

One (1) citizen member appointed by the Plan Commission, who must be a member of the Plan Commission other than the member appointed by the Mayor and must be one of the two (2) members appointed by the county executive to serve on the Plan Commission representing the ETJ area to serve a term of four (4) years.

(c) Vacancies

If a vacancy occurs among the members of the Board of Zoning Appeals, the appointing authority shall appoint a member for the unexpired term of the vacating member. In addition, the appointing authority may appoint an alternate member to participate with the Board in any hearing or decision in which the regular member it has appointed has a disqualification.

(d) Conflict of Interest

A member of a Board of Zoning Appeals may not participate in a hearing or decision of that Board concerning a zoning matter in which he has a direct or indirect financial interest. The Board 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 in place of the regular member.

(e) Quorum

A quorum consists of a majority of the entire membership of the Board of Zoning Appeal. Action of the Board of Zoning Appeals is not official, unless it is authorized by a majority of the entire membership of the Board.

(f) Organization

(1) Chairman, Vice-Chairman and Secretary

At the first meeting of each year, the Board of Zoning Appeals shall elect a chairman and vice chairman from its members. The vice chairman may act as chairman during the absence or disability of the chairman. The Board of Zoning Appeals may also appoint a secretary and such employees as are necessary for the discharge of its duties.

(2) Minutes and Records

The Board of Zoning Appeals shall keep minutes of its proceedings and record the vote on all actions taken. All minutes and records shall be filed in the office of the Board and are public records. The Board shall in all cases heard by it make written findings of fact.

(g) Duties

(1) Appeals

The Board of Zoning Appeals shall hear and determine appeals from any order, requirement, decision or determination made by: an official, hearing officer, or staff member under this Title; an administrative board or other body except the Plan Commission in relation to enforcement of this Title; or an administrative board or other body except the Plan Commission in relation to the enforcement of this Title requiring the procurement of an improvement location or occupancy permit.

(2) Special Uses

The Board of Zoning Appeals shall approve or deny all special uses and reasonable conditions may be imposed as part of its approval.

(3) Variances

The Board of Zoning Appeals shall approve or deny all variances from the provisions of this Title. Variances in development standards shall be permitted, however variances in use shall not be permitted but shall be considered through determination by the Zoning Administrator that the use is an unlisted permitted use, that the use is an unlisted Special Use, or that rezoning of the property is necessary to permit a particular use on a particular property.

(h) Administrative Duties

The Board of Zoning Appeals shall adopt rules which may not conflict with the zoning ordinance, which shall be printed and be made available to all applicants and other interested persons, concerning the filing of appeals, the application for variances and special uses, the giving of notice, and the conduct of hearings. (Ord. 96-02, S1, March 25, 1996)

7.10.060 Fees. Fees shall be payable at the time of submittal of an application in accordance with the following fee schedule:

(a) <u>Board of Zoning Appeals Actions:</u>	
Variance	\$ 150
	\$ 50 Single-Family Lots
Special Use	\$ 150
Appeal	\$ 50
(b) <u>Plan Commission Actions:</u>	
Zoning Map Amendment (Rezoning)	\$ 150
Text Amendment to the Zoning Ordinance	\$ 150
Amendment to the Comprehensive Plan	\$ 150
Recording Fee (Conditions attached to approvals or similar documents)	\$ 10 plus actual fee
Subdivision Plat Approval/Recording	(See Subdivision Ordinance)
(c) <u>Historic Preservation Commission Actions:</u>	
Certificate of Appropriateness (for construction affecting historic structures or buildings)	\$ 10 (deducted from building permit fee if one is required)
(d) <u>Zoning Administrator Actions:</u>	
Interpretation	\$ 25
(e) <u>Building Inspector Actions:</u>	
Building Permits: (includes improvement location permit)	
1. Residential Building (principal bldg.)	\$ 25 for 1st unit \$ 10 for ea. Addtl. unit
2. Non-Residential Building (principal bldg.)	\$ 75
3. Building Additions	\$ 25
4. Detached Garages, Carports, Sheds, Accessory Structures and Signs (eg. swimming pools, patios, fences)*	\$ 5
5. Off-street Parking Lots and Minor Changes to a Development Plan	\$ 25
Building Demolition/Relocation/Change in Use (principal building)	\$ 10
Driveway Permit	No fee required, but must obtain permit

*Accessory buildings for an agricultural use do not require a permit.
(Ord. 96-02, S1, March 25, 1996)

7.10.070 Violations and Penalties.

(a) Prohibition on Violations

It shall be unlawful to construct or use any structure, land or water, or engage in any development activity in violation of any provisions of this Title, or otherwise neglect, refuse or fail to comply with the Title's requirements. Any person who violates or fails to comply with any of the provisions of this Title shall, upon conviction thereof, be subject to the penalties set forth in (b) below, and in addition, shall pay all costs and expenses, including reasonable attorney and professional consultant fees involved in the case.

(b) Penalties

Any person, firm, corporation or similar entity who violates, disobey, omits, neglects, fails or refuses to comply with or who resists the enforcement of any of the provisions of this Title shall be fined no less than five dollars (\$5.00) nor more than two hundred dollars (\$200.00) for each offense. Each day a violation exists or continues shall constitute a separate offense.

(c) Notice of Violation

If the Zoning Administrator determines that a violation of this Title exists, and further determines that the nature of such violation is not such as to pose a great and immediate danger to the public health, safety, peace, morals, or decency, the Zoning Administrator shall serve written notice by certified mail on the current owner of the property (as indicated on the tax records) on which said violation is occurring to remove said violation within ten (10) working days of receipt of the notice. If such violations are not removed or abated within ten (10) days, the Zoning Administrator shall cause the violation to be abated per (d) below.

(d) Abatement of Violation by the City

If the Zoning Administrator determines that a violation of this Title exists, and further determines that the nature of such violation poses a great and immediate danger to the public health, safety, peace, morals, or decency, the Zoning Administrator shall cause the violation to be abated. Costs associated with such abatement shall be charged to the owner of the property on which said violation has occurred per (e) below.

(e) Cost of Abatement

In addition to any other penalty imposed by this chapter for a violation of the provisions of this Title, the cost of abating a

violation of the this Title shall be collected as a debt from the owner of the property on which said violation has occurred. An account of the expenses incurred by the City to abate the violation shall be kept and such expenses shall be charged to and paid by the property owner. Notice of the bill for abatement of the violation shall be mailed to the last known address of said property owner by certified mail, and shall be payable within 30 calendar days from the receipt thereof. (Ord. 96-02, S1, March 25, 1996)

7.10.080 Injunctive Relief.

- (a) The board of zoning appeals, or any designated enforcement official, may bring an action for injunction in the circuit court to restrain a person from violating this Title.
- (b) The board of zoning appeals may also bring an action for a mandatory injunction, directing a person to remove a structure erected in violation of this Title.
- (c) If the board of zoning appeals is successful in its action, the respondent shall bear the costs of the action including the City's Attorney's fees. A change of venue from the county may not be granted in such an action. (Ord. 96-02, S1, March 25, 1996)

7.10.090 Burden of Proof. In an enforcement action brought under this Title, the party alleging the existence of a nonconforming use or variance granted by the Board of Zoning Appeals has the burden of proof on that issue. The nonexistence of a nonconforming use or variance need not be proved. (Ord. 96-02, S1, March 25, 1996)

APPENDIX 1:

Detailed List of Land Uses - Specified Categories

Institutional - Non-Residential

Cemeteries
Churches, Chapels, Synagogues and Temples
Colleges and Universities
Religious Assembly Halls and Meeting and Reading Rooms
Public and Private Schools
Business, Technical, Trade and Vocational Schools
and Training Centers, Private
Gymnasiums: School And Park
Hospitals - Short term care
Museums
Libraries
Auditoriums
Clubs, Lodges and Fraternal Organizations
Public Community and Recreational Centers
Indoor Public Swimming Pools

Outdoor Public Recreational

Arboretums and Botanical Gardens
Athletic Fields
Ball courts and Ballfields
Fishing Areas
Fitness Courses
Golf Courses
Hiking and similar Trails
Nature Preserves and Sanctuaries
Public Open Grassed Areas
Picnic Areas and Shelters
Playgrounds and Totlots
Swimming Pools and Beaches
Zoos and animal parks and preserves

Public Services - General

Fire Stations
Parking Garages: Public
Parking Lots: Public
Police Stations
Post Offices
Radio and Television Broadcasting Stations
Telephone Relay Stations
Water Towers and Storage Facilities

Public Services - Intense

Airports, landing strips, and landing fields
Bus Terminals
Heliports and Helipads
Public Works Garages
Public Works Storage Yards and Related Facilities
Radio and Television Towers
Railroad Stations Railroad Yards and Switching Facilities
Sewage Treatment and Distribution Facilities
Telephone Exchange, Switching, and Transmitting Facilities
Utility Substations
Utility Yards
Water Treatment and Distribution Facilities

Indoor Commercial Entertainment

Amusement Establishments, except as noted
elsewhere in this Title
Billiard and Pool Halls
Bowling Alleys
Cultural and Entertainment Centers
Dance Halls
Dance Studios
Health Clubs
Miniature Golf Courses
Nights Clubs and Taverns
Restaurants
Skating Rinks
Swimming Clubs and Pools
Tennis, Racquetball, Handball, and Other
Private Recreational Clubs
Theaters, Motion Picture and Drama

Outdoor Commercial Entertainment

Amusement Parks
Campground or Travel Park
Country Clubs
Miniature Golf Courses
Race tracks
Skating Rinks and Parks
Stables and Riding Academies
Theaters

Offices

Offices: General or Business
Government Offices except as noted elsewhere in this Title
Political Organization Offices

Personal and Professional Services

Banks and Savings and Loan
Barber Shops and Beauty Parlors
Credit Unions and Financial Institutions
Employment Agencies
Real Estate Sales and Brokerage Offices
Tanning Salons

Health Services

Medical Clinics
Dental Clinics
Physicians
Dentists
Tattoo Parlors
Body Piercing Establishments
Acupuncture Establishments

Outdoor Retail Sales and Services

Aircraft Sales and Service
Ambulance Services
Automobile Body Shops
Automobile Leasing agencies
Automobile Mini-Markets
Automobile Repair and Services
Automobile Service Stations
Boat Sales and Service
Building Materials and Supply Stores
Car Wash Installations
Drive-In Establishment
Flea Markets, Permanent
Lumber Companies and Yards
Marine Craft and Accessories Sales and Service
Monument and Tombstones Sales and Service
Motor Vehicle Rental Agencies
Motor Vehicle Towing Services
Motor Vehicle Sales and Service
Outdoor Nurseries and Garden Centers
Outdoor Retail. Display and Storage
Parcel Pick-up and Delivery Services
Taxicab Offices and Storage
Truck Wash Installations

Indoor Retail Sales and Service

Air Conditioning Sales and Service
Antique Shops
Apparel and Accessory Stores
Appliance Sales and Service
Art Galleries
Art Studios
Auction Houses
Art Supply Stores
Automobile Parts and Supply Stores
Bait Shops
Bakeries: Retail
Banquet Halls
Bicycles Sales and Repair Shops
Blueprinting, Photostatting and Small Duplicating
Establishments
Book Stores
Business Machine Sales and Service
Camera and Photographic Supply Stores
Candy and Confectionery Stores
Carpet and Rug Stores
Catering Establishments
China and Glassware Stores
Cigar, Cigarette and Tobacco Stores
Clothing and Costume Rental Agencies
Clothing and Apparel Stores
Coin, Philatelic, Stamp, and Numismatic Stores
Computer Sales and Service
Convenience Stores
Currency Exchanges
Dairy Product Sale
Delicatessens
Department Stores
Diaper, Linen and Towel Services
Drapery Stores
Drug Stores
Dry Goods Stores
Dry Cleaners: Retail
Electrical Supply and Equipment Stores
Electronic Sales and Service
Eyewear Sales and Service
Equipment Rental and Leasing
Fabric and Sewing Supply Stores
Fish Markets
Floor Covering Stores

Indoor Retail Sales and Service (continued)

Florists
Food Stores
Frozen Food Stores
Fruit and Vegetable Markets: Retail
Fur Repairs
Furniture Cleaning, Upholstery, and Repair Shops
Furniture and Home Furnishing Stores
Furriers and Fur Apparel Stores
Glass Cutting and Glazing
Grocery Stores
Haberdasheries
Hardware Stores
Hobby Stores
Home Decorating Stores
Hosiery Stores
Ice Cream Shops
Ice or Ice Machine Sales
Interior Decorating Shops
Jewelry Stores
Laundromats and Laundries: Retail
Lawnmower Sales and Services
Leather Goods and Luggage Stores
Linoleum and Tile Stores
Liquor Stores
Locksmiths
Machinery Sales and Service
Magazine and Newspaper Stores
Meat Markets
Medical Appliance and Supply Stores
Millinery Shops
Motor Vehicle Parts and Supply Stores
Musical Instrument Sales and Service
Newsstands
Notions Stores
Office Equipment and Supply stores
Office Equipment and Repair Establishments
Paint, Glass, and Wallpaper Stores
Pawn Shops
Pet Stores
Pharmacies
Phonograph, Records, Compact Discs, Tape, and Music Stores
Photographic Processing Shops: Retail
Photographic Processing Establishments
Photographic Studios: Retail
Picture Framing Shops
Plumbing Appliance and Equipment Store
Radio Sales and Service

Indoor Retail Sales and Service (continued)

Sewing Machine Sales and Service
School Supply Stores
Shoe Stores
Souvenir and Curio Stores
Sporting Goods Stores
Stationery and Card Stores
Swimming Pool Sales and Service
Tailors and Dressmaking Shops
Taxidermy Shops
Telegraph Offices
Telephone Sales and Service
Televisions Sales and Service
Ticket Agencies
Toy Stores
Tool Sales and Service
Travel Agencies
Veterinary Clinics
Video and Equipment Sales and Service
Water Softener Sales and Service

(Ord. 99-5, Appendix 1, May 24, 1999)

(Ord. 96-02, Appendix 1, March 25, 1996)

APPENDIX 2:

Washington Street Historic District Boundaries

Primary Boundary Description

Beginning at the intersection of the west right-of-way of Washington Street and the centerline of First Street; thence northeasterly 600 feet along the west right-of-way line of Washington Street; thence northwest parallel with the Indiana Cotton Mill 410 feet to the centerline of Adams Street; thence northeast 140 feet to the Cotton Mill property line; thence following said property line for the next three footages: southeast 257 feet; thence northeast 21 feet; thence southeast 118 feet to the west right-of-way of Washington Street; thence northeast along the west right-of-way of Washington Street 185 feet to the centerline of 4th Street; thence northwest 115 feet to the centerline of James Street; thence northeast along the centerline of James Street 308.5 feet; thence northwest 255 feet along the rear lot lines of lots #250, 249, 248, and the side lot of #245 to the centerline of Adams Street; thence northeast 440 feet to the centerline of State Road 66 (also known as 7th Street); thence southeast 40 feet to the side property line of lot #3; thence northeast along lot #3 126 feet to the right-of-way line of Richardson Street; thence southeasterly 240 feet along said right-of-way; thence northeast 60 feet crossing Richardson Street and continuing the same direction following the property line of St. Michael's Church 150 feet; thence east 90 feet; thence southeast 85 feet to Washington Street; thence crossing Washington Street southeasterly 230 feet; thence southwest 280 feet to the south right-of-way to Richardson Street; thence southeast 230 feet along said right-of-way to the centerline of Taylor Street; thence southwest along the centerline of Taylor Street 310 feet; thence southeast 200 feet along the centerline of Bry Street along George Meyers Grade School; thence southwest 160 feet to the centerline of 6th Street; thence northwest 200 feet to the centerline of Taylor Street; thence southwest along said centerline 220 feet to the centerline of 5th Street; thence northwest 280 feet to the south right-of-way of Lawrence Street; thence southwest 381 feet to the centerline of Church Street; thence southeast 67.5 feet to center lot #132; thence southwest 151 feet to the centerline of 3rd Street; thence northwest 37.5 feet; thence southwest 630 feet to the centerline of First Street; thence northwest. 190 feet to the place of beginning.

(Ord. 96-02, Appendix 2 (page 1), March 25, 1996)

Secondary Boundary

Beginning at the intersection of Adams Street and First Street; thence northeasterly 1,440 feet along the centerline of Adams Street; thence northwest 173 feet along the side of lot #29; thence northeast along the rear lot line of lots #29, 30, 31, a distance of 160 feet; thence northwest long the rear lot line of lots #21, 20, 19, 18, 17, 16, and also lots #21, 20, 19, 18, and 17 a distance of 800 feet to the west right-of-way of Mason Street; thence northeast 150 feet to the north right-of-way of State Road 66 (also known as 7th Street); thence southeast 15 feet to the north side property line of Erma Lee Weatherholt; thence northeast 215 feet along said property line to the south right-of-way of Richardson Street; thence along the south right-of-way of Richardson Street 1,250 feet; thence northeast 60 feet crossing Richardson Street and continuing in the same direction following the property line of St. Michael's Church 150 feet; thence east 90 feet; thence southeast 85 feet to Washington Street; thence crossing Washington Street southeasterly 230 feet; thence southwest 280 feet to the south right-of-way of Richardson Street; thence southeast 1,100 feet along said right-of-way to the west right-of-way of Hoskinson Street; thence southwest 190 feet to the south right-of-way of State Road 66; thence southeast 200 feet along the right-of-way of State Road 66; thence southwest 200 feet; thence northwest 200 feet; thence northeast 50 feet to north right-of-way of Bry Street; thence northwest along the north right-of-way of Bry Street 475 feet to the west right-of-way of Congress Street; thence southwest along Congress Street 175 feet to the centerline of 6th Street; thence northwest 115 feet to the centerline of Fuller Street; thence southwest 450 feet along the centerline of Fuller Street; thence southwest 450 feet along the centerline of Fuller Street to the centerline of 4th Street; thence northwest 37.5 feet; thence southwest 490 feet to the centerline of Smith Street; thence northwest 75 feet along Smith Street between lots #88 and 93; thence southwest 151 feet to the centerline of 2nd Street; thence northwest 75 feet; thence southwest 310 feet along the rear of lots #36 and 27 to the centerline of First Street; thence northwest 950 feet along the centerline of First Street to the place of beginning. Except that part as described as the Primary Boundary.

This is not a legal survey. Distances are approximate. Prepared by Lisa Gehlhausen, Indiana 15 Regional Planning Commission.

(Ord. 96-02, Appendix 2 (page 2), March 25, 1996)

APPENDIX 3:

List of Amendments to the Official Zoning Map

Plan Commission

<u>Case No.</u>	<u>Ordinance No.</u>	<u>Date Adopted:</u>	<u>Description:</u>
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(Ord. 96-02, Appendix 3, March 25, 1996)

APPENDIX 4:

List of Amendments to the Zoning Ordinance

Plan Commission

<u>Case No.</u>	<u>Ordinance No.</u>	<u>Date Adopted:</u>	<u>Description:</u>
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(Ord. 96-02, Appendix 4, March 25, 1996)

APPENDIX 5:

List of Approved Special Uses

Board of Zoning

Appeals Case No. Date Approved: Address/Location: Description:

(Ord. 96-02, Appendix 5, March 25, 1996)