

TITLE 12
LAND USE PLANNING

TITLE 12
LAND USE PLANNING

Chapters:

12.01	Comprehensive Plan
12.03	Establishing Zoning Regulations
12.05	General Provisions
12.06	Zoning Districts
12.07	Land Uses
12.08	Accessory Uses, Structures and Signs
12.09	Density, Intensity, and Bulk Regulations
12.10	Performance Standards
12.11	Nonconforming Use, Lot and Structure Regulations
12.12	Procedures
12.13	Permits, Administration and Enforcement
12.14	Definitions
12.18	Appendices
12.20	Maps
12.21	Chrisney Schedule of Fees for Planning and Zoning
12.25	Mobile home regulations

Chapter 12.01

COMPREHENSIVE PLAN

Sections:

12.01.010 Adoption of Comprehensive Plan

12.01.010 Adoption of Comprehensive Plan. The Advisory Plan Commission of the Town of Chrisney, Indiana, did on Thursday, October 21, 1999 hold a legally advertised public hearing to consider adoption of the Town of Chrisney 1999 Comprehensive Plan.

The Advisory Plan Commission did consider said plan until all comments and objections were heard.

The Advisory Plan Commission found that said plan meets the requirements of Indiana Code 36-7-4-500 et. Seq.

The Advisory Plan Commission finds that it is in the best interests of the Town of Chrisney to adopt said plan; and

The Town Council finds that it is in the best interests of the Town of Chrisney to adopt said plan. Now, therefore, be it resolved that the Town Council hereby adopts the Town of Chrisney 1999 Comprehensive Plan as follows. (Res. Unnumbered, Dec. 6, 1999)

Chapter 12.03

ESTABLISHING ZONING REGULATIONS

Sections:

12.03.010	Adoption
12.03.020	Created as a part of Chrisney Code
12.03.030	Amendments
12.03.040	Effective when

12.03.010 Adoption. Be it ordained by the Town Council of the Town of Chrisney, Indiana that the Chrisney Zoning Ordinance, as herein attached as Exhibit A, is hereby adopted. (Ord. 2001-11, S1, Aug. 6, 2001)

12.03.020 Created as a part of Chrisney Code. Be it created by this ordinance that Title 12 - Zoning Ordinance is hereby created as a part of the Chrisney Code of Ordinances. (Ord. 2001-11, S2, Aug. 6, 2001)

12.03.030 Amendments. As necessary for the purpose of providing for the public health, safety, comfort, morals, convenience and general welfare of the community, the Town Council of Chrisney on recommendation of the Chrisney Plan Commission may from time to time amend the text of this zoning ordinance and/or the zoning map as incorporated within this zoning ordinance in the manner prescribed by law. (Ord. 2001-11, S3, Aug. 6, 2001)

12.03.040 Effective when. This Ordinance shall be in full force and effect as of the date of adoption (August 6, 2001) in the manner prescribed by law. (Ord. 2001-11, S4, Aug. 6, 2001)

Chapter 12.05

General Provisions

Sections:

12.05.010	Title
12.05.020	Authority
12.05.030	Jurisdiction
12.05.040	Purpose
12.05.050	Rationale
12.05.060	Application
12.05.070	Compliance
12.05.080	Re-enactment and Repeal
12.05.090	Severability
12.05.100	Effective Date

12.05.010 Title. Chapters 12.05 - 12.20 shall be known and may be cited as the "Zoning Ordinance of the Town of Chrisney," except as referred to herein, where it shall be known as "this Title." (Ord. 2001-11, S12.05.010, Aug. 6, 2001)

12.05.020 Authority. This Title is adopted pursuant to Indiana Code I.C. 36-7-4 et seq. as added by Public Law 309, Acts of 1981 of the General Assembly of Indiana, and all acts supplemental and amendatory thereto. Specific statutory references are provided within the body of this Title solely as a means of assisting the reader. Such references are not to be considered as all inclusive and shall in no manner be construed so as to limit the application or interpretation of this Title. Any references to statutes, laws, ordinances, or regulations herein shall include and be interpreted to mean those statutes, laws, ordinances or regulations which may hereafter replace, succeed, modify or supplement those named herein without necessity of amendment to this Title. State Law Reference: Section 36-7-4-601(a), Indiana Code (Ord. 2001-11, S12.05.020, Aug. 6, 2001)

12.05.030 Jurisdiction. This Title is applicable to all territory located within the corporate limits of the Town of Chrisney and its extraterritorial zoning and planning jurisdiction area. (Ord. 2001-11, S12.05.030, Aug. 6, 2001)

12.05.040 Purpose. The Zoning Ordinance of Chrisney, Indiana, is deemed necessary by the Town Council in order:

- (1) to implement certain goals and objectives of the comprehensive plan;
- (2) to preserve, promote and protect the public health, safety, comfort, morals, convenience and general welfare of the Town;

- (3) to provide for adequate light, air and privacy, to secure safety from fire, flood and other danger, and to prevent overcrowding of the land and undue concentration of population;
- (4) to protect the character and the social and economic stability of all parts of the Town and to encourage the orderly and beneficial development of all parts of the Town;
- (5) to protect and conserve the value of land throughout the Town and the value of buildings and improvements upon the land and to minimize the conflicts between the use of land and buildings through establishing and maintaining a rational pattern of relationships between various land uses;
- (6) to guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation and other public improvements and facilities;
- (7) to prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and management of natural resources throughout the Town in order to preserve the integrity, stability and beauty of the community and the value of land;
- (8) to preserve the natural beauty and topography of the Town and to ensure appropriate development with regard to these natural features; and
- (9) to preserve and enhance sites, areas, and structures of historic, aesthetic, social, cultural, environmental or architectural importance.

Rationale: In developing the specific regulations of this Title, much effort has gone into balancing the goals and objectives of the Comprehensive Plan. The current status of this Title and its components (including the Official Zoning Map) represents the cohesive result of carefully considered plan implementation practices. Amendments to these provisions and/or the Official Zoning Map shall seriously consider the effect of such changes on the interrelationships which exist within this Title, and between this document, the Comprehensive Plan, and related long-range planning policies and programs. (Ord. 2001-11, S12.05.040, Aug. 6, 2001)

12.05.050 Rationale. Throughout this Title, paragraphs labeled “Rationale” are included to ensure a complete understanding of the purpose and reasoning of the Town in adopting that particular portion of this Title. Each Rationale is intended as an official statement of the legislative findings or purposes, and shall serve to guide the administrative and judicial interpretation of this Title. The specific rationale expressed in each Rationale section is not intended to be exhaustive, and other non-explicit rationale may also be applicable. These paragraphs have been legislatively adopted together with the more formal text of this Title and shall be treated in the same manner as other aspects of legislative history. (Ord. 2001-11, S12.05.050, Aug. 6, 2001)

12.05.060 Application. The provisions of this Title shall be interpreted and applied as minimum requirements. Whenever the requirements of this Title are at variance or in any way conflict with other lawfully adopted rules, regulations, ordinances or restrictions, the more restrictive requirements, or the higher standards shall govern. (Ord. 2001-11, S12.05.060, Aug. 6, 2001)

12.05.070 Compliance. No structure shall be altered, constructed, converted, demolished, erected, enlarged, improved, located, moved, reconstructed, or relocated nor shall any structure or land be altered, cleared, excavated, filled, graded, prepared, used or be designed to be used, except in full compliance with all provisions of this Title and after lawful issuance of permits where required by this Title. (Ord. 2001-11, S12.05.070, Aug. 6, 2001)

12.05.080 Re-enactment and repeal.

- (1) This Title, in part, carries forward by re-enactment some of the provisions of the regulations governing zoning and related matters of the Town, adopted prior to the effective date of this Title. It is not the intention of this Title to repeal, but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued thereunder are preserved and may be enforced, unless explicitly surrendered by specific provisions of this Title or altered by the Official Zoning Map.
- (2) The adoption of this Title shall not adversely affect the Town's right to prosecute any violation of the predecessor ordinances provided the violation occurred while those ordinances were in effect. (Ord. 2001-11, S12.05.080, Aug. 6, 2001)

12.05.090 Severability. If any section, clause, provision, or portion of this Title shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Title which is not of itself invalid or unconstitutional. If any application of any provision to particular circumstances is held invalid, the remainder of the Title and the application of such provision to other circumstances shall not be affected. (Ord. 2001-11, S12.05.090, Aug. 6, 2001)

12.05.100 Effective date. This Title shall become effective upon passage and posting according to law. (Ord. 2001-11, S12.05.100, Aug. 6, 2001)

Chapter 12.06

ZONING DISTRICTS

Sections:

12.06.010	Purpose
12.06.020	Standard Zoning Districts
12.06.030	Map of Zoning Districts
12.06.040	New or Annexed Land
12.06.050	Zoning District Boundaries
12.06.060	Description of Zoning Districts

12.06.010 Purpose. The area located within the jurisdiction of this Title is hereby divided into zoning districts of such number and community character as are necessary to achieve compatibility of land uses within each district, to implement the officially adopted Town of Chrisney Comprehensive Plan, and to achieve the purposes of this Title (see Chapter 12.01). (Ord. 2001-11, S12.06.010, Aug. 6, 2001)

12.06.020 Standard zoning districts. The Town of Chrisney and its extraterritorial jurisdiction are hereby divided into the following standard zoning districts which primarily regulate the use of land and its density and intensity, shown below under four general land use categories:

Park/Open Space Districts

P-Park/Open Space

Agricultural Districts

AG - Agricultural

Residential Districts

R-Residential

Business Districts

GB - General Business

(Ord. 2001-11, S12.06.020, Aug. 6, 2001)

12.06.030 Map of zoning districts. The standard zoning districts are shown on the Official Zoning Map of the Town of Chrisney, which is hereby made part of this Title. (Ord. 2001-11, S12.06.030, Aug. 6, 2001)

12.06.040 New or annexed land. Any land outside the jurisdictional authority of the Chrisney Advisory Planning Commission hereafter annexed to the Town shall automatically, upon annexation, be classified within the R-Residential District, and be subject to all standards and regulations applicable to lands in such district until such land is later zoned in

a manner provided by law; provided that in the event the owner of property to be annexed desires another zoning district classification, in harmony with density and land use designations shown for said property on the Comprehensive Plan, the owner may petition for said zoning classification. (Ord. 2001-11, S12.06.040, Aug. 6, 2001)

12.06.050 Zoning district boundaries. The following rules shall be used to determine the precise location of any zoning district boundary shown on the Official Zoning Map of the Town of Chrisney:

- (1) Zoning district boundaries shown as following or approximately following the limits of any city, town or county boundary shall be construed as following such limits.
- (2) Zoning district boundaries shown as following or approximately following streets or railroad lines, shall be construed as following the centerline of such streets or railroad lines.
- (3) Zoning district boundaries shown as following or approximately following section lines, platted lot lines or other property lines on the Town or County plat or tax parcel maps shall be construed as following such lines.
- (4) Zoning district boundaries shown as following or approximately following the centerlines of streams, rivers, or other continuously flowing watercourses shall be construed as following the channel centerlines of such watercourses, and in the event of a natural change in the location of such streams, rivers, or watercourses, the zoning district boundary shall be construed as moving with the channel centerline.
- (5) Zoning district boundaries shown as following or approximately following ridgelines or forest or woodland borders, or similar natural features shall be construed as following such lines.
- (6) Zoning district boundaries shown as separated from any of the features listed in (a) through (e) above, shall be construed to be at such distance therefrom as are shown on the Official Zoning Map.
- (7) Where any uncertainty exists as to the exact location of a zoning district boundary line, as shown on the Official Zoning Map, the location of the line shall be determined through an interpretation by the Plan Commission. (Ord. 2001-11, S12.06.050, Aug. 6, 2001)

12.06.060 Description of zoning districts.

- (1) Park/Open Space Districts.

P-Park/Open Space

This zoning district is intended to serve as a district for permanent open space uses, including environmentally sensitive areas such as floodplains and wetlands and public recreational uses. Commercial recreational uses may be permitted after review as a Special Use.

(2) Agricultural Districts.

AG - Agricultural

This district is intended to permit development solely of a rural nature to maintain the rural community character and environment. Very low density residential development is permitted on lots of two (2) acres or more, and agricultural and agriculturally related uses on tracts of five (5) acres or greater. This district shall allow such residential development at a density of 0.5 or one unit per two (2) acres. This is to provide for small tracts of agricultural land to have a residence and to provide for larger tracts of agricultural land to have a primary and an additional residence for another family member on the same site after review as a group development for two principal buildings on one parcel. These densities are established to ensure that agricultural uses are encouraged and sustained by avoiding potential conflicts with neighboring residences. These densities also ensure that areas do not develop at more intense densities where services such as water and sewer should be provided. Higher densities should occur only in incorporated areas to minimize the overall costs of providing these and related services to scattered residential development.

(3) Residential Districts.

R-Residential

This district is intended to permit residential development of single-family housing that maintains community character, and is intended to preserve the small-town, residential character of the older neighborhoods. Duplexes, group homes and multi-family developments are special permitted uses in this district. The standards for this district are intended to preserve and protect the residential character of this district. This district is intended to be the primary district in the Town for future development, and is to serve as a “holding zone” for tracts of land annexed without a petition for rezoning.

(4) Business Districts.

GB - General Business

This district is intended to preserve the character of the downtown area and provide for commercial development through providing for cohesive and targeted commercial areas. Densities are higher to reflect the location along the state highway and to maintain the character of the area. Permitted uses include both pedestrian retail uses and convenience goods, and automobile related goods and services with outdoor activity. Uses are intended to be non-residential on the first floor to promote the district’s cohesiveness.

Residential uses in this district shall only be permitted as special uses to provide for both affordable housing and activity in the district at all times.
(Ord. 2001-11, S12.06.060, Aug. 6, 2001)

Chapter 12.07

LAND USES

Sections:

12.07.010	Purpose
12.07.020	Interpretation of Land Use Table
12.07.030	Detailed Land Use Descriptions and Regulations
12.07.040	Temporary Uses

12.07.010 Purpose. The purpose of this Chapter is to indicate which land uses may locate in each zoning district and under what requirements; and which land uses may not locate therein. There are uses that may locate in a district but only after receiving approval of a Special Use permit to do so. In addition to these principal permitted and special uses, there are also accessory uses and temporary uses for which regulations are outlined in this Chapter. (Ord. 2001-11, S12.07.010, Aug. 6, 2001)

12.07.020 Interpretation of land use table.

- (1) Land Uses Permitted by Right.
Land uses that are listed in Table 1 with a "P" are permitted by right per various requirements of this Title.
- (2) Land Uses Permitted as a Special Use.
Land uses that are listed in Table 1 with an "S" are Special Uses requiring application to and review by the Board of Zoning Appeals per Section 12.09.040. See the detailed land use regulations in Section 12.07.030 for each individual land use or category of land uses. Each application for, and instance of, a Special Use shall be considered a unique situation and shall not be construed as precedence for similar requests.
- (3) Land Uses Permitted as an Accessory Use.
Accessory land uses may be permitted by right or as Special Uses. See the detailed land use regulations pertaining to accessory uses in Chapter 12.08.
- (4) Land Uses Permitted as a Temporary Use.
Temporary uses are considered uses permitted by right or as Special Uses and shall be required to meet the requirements of Section 12.07.040 for the individual temporary use.
- (5) Blank Spaces on the Chart.
Land uses for which a blank space is shown for a specific zoning district are not permitted in that district, except as legal nonconforming uses (see Chapter 12.11).

- (6) Permitted Uses Subject to All Provisions of this Title.
Although a land use may be noted as permitted by right, permitted as a Special Use, or permitted as an accessory or temporary use, it does not follow that such land use is permitted or permissible on every parcel in such district. No land use is permitted or permissible on a parcel unless it can be located thereon in full compliance with all of the standards and regulations of this Title which are applicable to the specific land uses in question, or unless an appropriate variance has been granted.
- (7) Unlisted Uses that are Similar and Compatible.
Other uses that are similar and compatible with permitted uses in a zoning district may be allowed as unlisted uses in that district per a request for an interpretation following the procedures outlined in Section 12.12.070. (See Appendix B for a more detailed list of land uses.) (Ord. 2001-11, S12.07.020, Aug. 6, 2001)

TABLE 1: LAND USES PERMITTED IN ZONING DISTRICTS

Park – Park/Open Space
AG - Agricultural
R - Residential
GB - General Business

P - Permitted Use
S - Special Use

<i>USES</i>	<i>ZONING DISTRICTS</i>					
AGRICULTURAL USES	Park	AG	R	GB		
Agricultural Services		P	S	S		
Cultivation and Husbandry		P	S	S		
Intensive Agriculture		S				
RESIDENTIAL USES	Park	AG	R	GB		
Boarding House		P	S	S		
Dwelling, Lot Line			S			
Dwelling, Multiple-Family		S	S	S		
Dwelling, Single-Family		P	P	S		
Dwelling, Two-Family		S	S	S		
Group Housing		S	S	S		
Institutional Housing		S	S	S		
Manufactured Home		P	P	S		
Mobile Home		S				
INSTITUTIONAL/PUBLIC USES	Park	AG	R	GB		
Institutional Non-Residential		S	S	P		
Outdoor Public Recreational	P	S	S	S		
Public Services – General and Intense	S	S	S	S		
BUSINESS USES	Park	AG	R	GB		
Animal Boarding		P	S	S		
Bed and Breakfast		P	S	P		
Campground		S		S		
Child Care Center		S	S	P		
Communication Tower	S	S	S	S		
Composting Operations		S	S	S		
Funeral Homes and Parlors			S	P		
Hotels and Motels		S	S	P		
Indoor Commercial Entertainment		S	S	P		
Indoor Retail Sales and Service		S	S	P		
Mini-Warehouses and Warehouses		S		S		
Mining, Extraction, and Related Uses*		S		S		
Offices / Personal or Professional Services		S	S	P		
Outdoor Commercial Entertainment	S	S	S	S		
Outdoor Retail Sales and Services		S	S	S		
Waste Disposal Facilities		S	S	S		

TABLE 1: LAND USES PERMITTED IN ZONING DISTRICTS (continued)

Park – Park/Open Space

A - Agricultural

R - Residential

GB - General Business

P - Permitted Use

S - Special Use

<i>USES</i>	<i>ZONING DISTRICTS</i>					
ACCESSORY/TEMPORARY/OTHER USES	Park	AG	R	GB		
Child Care Home		S	S	S		
Commercial Apartment		S		S		
Drive-Up Establishment				S		
Group Developments		S	S	S		
Home Occupation		S	S	P		
Individual Septic Disposal System		P	P			
Outdoor Assembly (Temporary)	P	P	S	S		
Outdoor Display (Permanent)				S		
Outdoor Display (Temporary)		P		P		
Outdoor Storage		P		S		

**Only allowed as a Special Use in Business Districts outside the corporate limits per Sec. 36-7-4-1103, Indiana Code*

Note: Unlisted uses shall be considered per the conditions described in Section 12.12.070.

See also Appendix A for a detailed list of uses in each zoning district.

12.07.030 Detailed land use descriptions and regulations. The land use categories used by this Title are defined in this Section. Land uses which are not listed in this Title are not necessarily excluded from locating within any given zoning district. Section 12.12.070 empowers the Plan Commission to make interpretations of specific land use proposals so as to note them as unlisted permitted uses or unlisted Special Uses.

(1) Agricultural Land Uses.

A. Agricultural Services

Agricultural service land uses include all operations pertaining to the sale, handling, transport, packaging, storage, or disposal of agricultural equipment, products, by-products, or materials primarily used by agricultural operations. Examples of such land uses include agricultural implement sales, storage, or repair operations; feed and seed stores; agricultural chemical dealers and/or storage facilities; animal feed storage facilities; commercial dairies; food processing facilities; canning and other packaging facilities; and agricultural waste disposal facilities (except commercial composting uses).

Standards for development:

1. Shall not be located in, or abutting an existing or platted residential subdivision.
2. All buildings, structures, outdoor storage areas and outdoor animal containments shall be located a minimum of fifty (50) feet from all lot lines.

Permitted by Right in the following districts: AG.

Special Use in the following districts: R, GB.

B. Cultivation

Cultivation land uses include all operations primarily oriented to the on-site, outdoor raising of plants. This land use includes trees which are raised as a crop to be replaced with more trees after harvesting such as a nursery or Christmas tree farm. Cultivation also includes the raising of plants for the consumption of farm animals. Small residential gardens are considered accessory uses to a residential use and are not considered cultivation.

Permitted by Right in the following districts: AG.

Special Use in the following districts: R, GB.

Husbandry

Husbandry land uses include all operations primarily oriented to the on-site raising and/or use of animals at an intensity equal to or less than the numbers in the livestock chart below, including apiaries. (See also Animal Boarding, Section 12.07.030.D.1.)

Standards for development:

Any building housing animals shall be located a minimum of two hundred (200) feet from residentially zoned property, and one hundred (100) feet from all other lot lines.

Permitted by Right in the following districts: AG.

Special Use in the following districts: R, GB.

The livestock chart is a means for defining a husbandry or intensive agricultural use. The measures relate to the carrying capacity of one acre of land and is related to the amount of feed various species consume, and the amount of waste they produce. The following table notes common farm species and their permitted numbers per acre.

<i>Type of Livestock:</i>	<i>Number of Animals per Acre:</i>
Horse (2 years or older)	1
Colt (under 2 years)	2
Cattle (2 years or older)	1
Cattle (1 to 2 years)	2
Calves (under 1 year)	4
Brood Sow or Boar	2.5
Hogs (up to 220 pounds)	5
Sheep / Goats	7
Llamas	7
Lambs	14
Chickens	200
Other Poultry	200

Primary Source: Stockman's Handbook

C. Intensive Agriculture

Intensive agricultural land uses include all operations primarily oriented to the on-site raising and/or use of animals at an intensity exceeding the numbers in the livestock chart above and/or agricultural activities requiring large investments in structures. Examples of such land uses include feed lots, hog farms, poultry operations, fish farms, and commercial greenhouse operations.

Permitted by Right in the following districts: Not applicable.

Special Use in the following districts: AG.

Special Use regulations:

1. Shall not be located in or abutting an existing or platted residential subdivision.
2. Shall be completely surrounded by a solid buffer a minimum of six (6) feet in height consisting of fencing, walls, landscaping, berming, or a combination thereof.
3. Any building housing animals shall be located a minimum of three hundred (300) feet from residentially zoned property, and one hundred (100) feet from all other lot lines.

4. Shall be located in an area that is planned to remain commercially viable for agricultural land uses.

(2) Residential Uses.

A. Boarding, Lodging, and Rooming Houses

Boarding, lodging and rooming houses are dwellings with on-site owners or operators renting rooms with or without meals provided which do not contain private bathroom facilities (with the exception of approved bed and breakfast operations). See also group housing and hotels.

Permitted by Right in the following districts: AG.

Special Use in the following districts: R, GB.

State Law Reference: Chapters 16-41-29 to 32, Indiana Code.

B. Dwelling, Lot Line

Lot line dwellings are fully detached single-family residences which are in complete compliance with the Building Code and are located on an individual lot where the dwelling unit may be located with one side of the building abutting a side lot line (with the provision of a five (5) foot wide maintenance easement recorded on the adjoining lot).

Standards for development:

1. No windows other than clerestory or skylights may be located along the building side located within five (5) feet of the abutting lot line in order to provide privacy for the abutting unit.
2. Units shall be designed with all necessary fire walls or indoor sprinkler systems necessary to meet decreased dwelling unit separations per state and local building codes and to the satisfaction of the Chrisney fire and building departments.
3. No lot line dwelling unit may be located along the lot line adjoining a non-lot line development or conventional single-family subdivision.
4. A development plan for approval of a lot line housing development shall be submitted and approved by the Board of Zoning Appeals as a Special Use.

Permitted by Right in the following districts: Not applicable.

Special Use in the following districts: R

C. Dwelling, Multiple-Family

Multiple-family dwellings are single buildings containing three or more dwelling units as the principal use of the property and which comply with all local and state building and fire codes. Examples include apartment buildings and attached single-family dwellings such

as townhouses and condominiums. See also Commercial Apartments as accessory uses.

Permitted by Right in the following districts: Not applicable.

Special Use in the following districts: AG, R, GB.

Special Use regulations:

1. The following standards are intended to minimize the impacts of multiple-family dwellings on adjoining land uses and provide for stable residential and commercial areas. In the R zoning district, such uses should be located on the fringes of the district near non-residential or other multiple-family uses, rather than in a cohesive single-family residential area. In the GB zoning district, such uses should be located near existing residential uses rather than in a cohesive commercial area.
2. Two or more multiple-family buildings may be permitted on a single tract of land held in common ownership and control with common areas as a group development per Section 12.09.040.

D. Dwelling, Single-Family

Single-family dwellings are dwellings designed for and occupied by not more than one (1) family. Single-family dwellings when referred to in this Title include detached single-family dwellings and manufactured homes.

Permitted by Right in the following districts: AG, R.

Special Use in the following districts: GB.

Special Use regulations:

In the business zoning districts, such uses should be located near existing residential uses rather than in a cohesive commercial area to minimize the impacts of single-family dwellings on adjoining land uses and provide for stable residential and commercial areas.

E. Dwelling, Two-Family

Two-family dwellings are detached buildings containing two dwelling units in a duplex arrangement with units side by side, or in a two-flat arrangement with units upper and lower, or in rare instances due to building design—combinations thereof.

Permitted by Right in the following districts: Not applicable.

Special Use in the following districts: AG, R, GB.

Special Use regulations:

In the GB zoning district, such uses should be located near existing residential uses rather than in a cohesive commercial area to minimize the impacts of two-family dwellings on adjoining land uses and provide for stable residential and commercial areas.

F. Group Housing

Group housing is the use of any residential structure in which care is provided in a supervised living program on a twenty-four (24) hour basis or temporarily in the case of shelter care for not more than ten (10) children nor more than eight (8) adults in accordance with state regulated care facilities in home settings. Community residential facilities for the mentally ill and developmentally disabled, adult care homes, group homes, shelters for domestic violence, and shelter care or residential youth facilities for children are group housing. See also child care homes and institutional housing.

Permitted by Right in the following districts: Not applicable.

Special Use in the following districts: AG, R, GB.

State Law Reference: Title 12, Human Services, Indiana Code.

G. Institutional Housing

Institutional housing is housing of individuals in connection with an established institution such as convents, monasteries, dormitories, fraternities, and sororities, and the housing and care of individuals in care facilities in an institutional rather than home setting on a twenty-four (24) hour basis such as nursing homes, community mental health centers, or developmental disability centers for nine (9) or more adults, extended care facilities, and private psychiatric institutions. See also group housing for home settings, and institutional non-residential uses for hospitals.

Permitted by Right in the following districts: Not applicable.

Special Use in the following districts: AG, R, GB.

Special use regulations: All structures shall be located a minimum of fifty (50) feet from a common residential property line with a single-family dwelling, lot line dwelling, two-family dwelling, manufactured home, or multiple-family dwelling.

State Law Reference: Title 12 and 16, Human Services and Health, Indiana Code.

H. Manufactured Home

Manufactured homes are individual single-family dwelling units installed as a permanent residence and which are subject to the same requirements as other dwelling units in the same zoning district and which shall comply with the following:

1. are designed and built in a factory after January 1, 1981;
2. bear a seal certifying that they were built in compliance with the federal Manufactured Housing Construction and Safety Standards Law of 1974 (42 U.S.C. § 5401 et seq.);
3. have wheels, axles, and towing chassis removed and are installed on a permanent foundation of masonry construction that is properly mortared and uniform in color, materials, and appearance that encases the perimeter of the structure in accordance with the Building Code;

4. have conventional residential roofing and siding materials such as asphalt roofing and horizontal siding compatible with those of adjoining residences.

Permitted by Right in the following districts: AG, R.

Special Use in the following districts: GB.

I. Mobile Home

A mobile home is any vehicle including equipment sold as part of a vehicle, which is so constructed as to permit its being used as a conveyance upon public streets or highways by either self-propelled or not self-propelled means, which is designed, constructed or reconstructed, or added to by means of an enclosed addition or room in such manner as will permit the occupancy thereof as a dwelling for one or more persons, which is both used and occupied as a dwelling having no foundation other than wheels, jacks, skirting, or other temporary supports. Mobile homes do not include recreational vehicles. Mobile homes include manufactured dwelling units not meeting the standards for manufactured homes above. Mobile homes may be located in mobile home parks, recreational vehicle parks, or in Agricultural districts as specified herein, and in all cases are subject to the regulations therefor in compliance with the regulations thereunder. All mobile homes shall also comply with the following:

1. The home shall be supported under the I-beams and shall be anchored in accordance with applicable state laws and shall be skirted on all sides with a permanently attached, substantial material, such as painted metal, fiberglass, concrete or masonry, that will not detract from the appearance of the mobile home or adjoining residences.
2. The home shall be compatible with nearby land uses and shall not detract from the area in terms of sightliness and property values.
3. A photograph of the mobile home shall be kept on file, and the mobile home shall be continuously maintained in the same condition as the day it was erected.
4. Mobile homes shall be connected to the local water and sewer system and other applicable utilities per the same policies that apply to single-family dwellings.
5. Mobile homes shall be considered principal uses and shall not be located as an accessory use to another principal use on the property except on a temporary basis as permitted for construction sites and similar activities per Section 12.07.040.
6. The mobile home shall be no older than three years as measured from the date of its original manufacture.
Permitted by Right in the following districts: Not applicable.
Special Use in the following districts: AG.

Mobile Home Park

A mobile home park is a land use regulated by the State of Indiana as a mobile home park and is an area of land on which at least five (5) mobile homes are harbored on temporary supports for the purpose of being occupied as residences, whether free of charge or for revenue purposes and shall include any street used or intended for use as part of the facilities of such mobile home park. A mobile home park does not include a mobile home sales area on which unoccupied mobile homes are parked for inspection or sale.

Permitted by Right in the following districts: Not applicable.

Special Use in the following districts: Not applicable.

Special Use regulations:

1. Filing
The applicant for approval of a mobile home park shall file five (5) copies of the development plans of such mobile home park with the Zoning Administrator.
2. Hearing
The Board of Zoning Appeals at its regular meeting will hold hearings for action as hereinafter set forth on all such development and improvement plans for a mobile home park or subdivision filed with the Zoning Administrator in accordance with Special Use approvals under Section 12.12.040.
3. Preparation of Development Plans
All site plans for a mobile home park shall contain all of the information required in Section 12.13.030 as well as the following information:
 - (a) Layout of streets and sidewalks with width thereof, whether dedicated or private street, together with typical cross section.
 - (b) Layout of any alleys, crosswalks and easements.
 - (c) If lots are laid out, the dimensions and number thereof.
 - (d) Land to be set aside for common use of the tenants of the mobile home park.
 - (e) All setback lines.
 - (f) Location of all proposed permanent buildings, storage area, office and community center.
 - (g) An improvement plan containing:
 - i. Plan and profile sheets of the proposed mobile home park streets, including typical cross-section showing pavement design.
 - ii. Plans for the proposed handling of surface water drainage, including plan and profile sheets of storm sewers, if included in the proposed improvements.
 - iii. Plans for sanitary sewers.
 - iv. Plans for water mains and water supply.

4. Design requirements of mobile home parks
- The design requirements of a mobile home park must meet all development standards of the Chrisney municipal code and land use regulations and the following:
- (a) Each mobile home park shall contain a minimum of five (5) acres.
 - (b) Mobile homes shall be located with the following setbacks:

Distance between mobile homes:	20 ft.
Distance between mobile homes, end to end:	10 ft.
Distance between mobile home and any other building or structure in the park:	20 ft.
Distance between any mobile home and any property line:	25 ft.
Minimum width of front yards:	50 ft.
Minimum width of side/rear yards:	25 ft.

(The width of the side and/or rear yards may be reduced by the Board of Zoning Appeals to ten (10) feet upon approval of a landscape plan depicting adequate landscape screening for neighboring land uses.)
 - (c) Each mobile home or mobile home stand, or mobile home space shall be provided with two (2) off-street parking spaces. Parking spaces shall have unobstructed access to a mobile home park street. No on-street parking shall be permitted.
 - (d) Each mobile home shall have access to, and the use of, general storage space of a minimum of ninety (90) cubic feet in a building of fireproof design, or storage space under the mobile home may be used provided said storage is shielded from view by underpinning or skirting of the mobile home.
 - (e) Mobile home park streets shall be paved either with portland cement, concrete or bituminous concrete. Such streets shall be a minimum of twenty-four (24) feet in width and shall, if to be publicly maintained, be built in conformance with the current street construction standards of Chrisney.
 - (f) A paved sidewalk shall be installed on at least one side of each mobile home park street. The minimum width of such sidewalks shall be three (3) feet.
 - (g) The Board of Zoning Appeals may, as part of its approval, require curbs and/or gutters in mobile home parks where, in the opinion of the Board, drainage of surface water as provided by the applicant in its development plan, is insufficient to properly carry such surface water.

- (h) Surface drainage as approved by the Board of Zoning Appeals shall be installed and maintained by the applicant or his successor in title.
- (i) There shall be a maximum of two (2) entrances to a mobile home park, unless a different number is approved by the Board of Zoning Appeals (and the Town Council of the Chrisney).
- (j) A maximum of nine (9) mobile homes shall be permitted per acre. This maximum shall be determined from the gross acreage of the mobile home park.
- (k) Prior to the issuance of an improvement location permit, an applicant must file with the Zoning Administrator, a letter from the following evidencing approval by such board and compliance with the requirements of such board:
 - i. The Chrisney Town Council or the Spencer County Commissioners regarding public road entrances.
 - ii. The Chrisney Town Council regarding hook on of sanitary sewers and water mains.
 - iii. The Indiana State Board of Health for applicable requirements of Chapter 16-41-27 Health, Sanitation and Safety: Mobile Homes of the Indiana Code.

State Law Reference: Chapter 16-41-27, Indiana Code.

(3) Institutional/Public Uses.

A. Institutional Non-Residential

Institutional land uses are generally public, quasi-public, and nonprofit uses or private uses commonly operated by public entities, and include cemeteries, public and private schools, colleges and universities, churches, nonprofit clubs, civic and fraternal organizations, community centers, indoor swimming pools, museums, libraries, public gymnasiums, public auditoriums, hospitals and similar land uses. See indoor commercial entertainment uses for private indoor recreational uses and personal and professional services for medical offices or clinics.

Standards for development:

All institutional non-residential uses and buildings shall be located a minimum of fifty (50) feet from any property line of a residentially zoned lot.

Permitted by Right in the following districts: GB.

Special Use in the following districts: AG, R.

B. Outdoor Public Recreational

Outdoor public recreational land uses include all recreational land uses located on public property which involve passive or active recreational activities. Such land uses include public parks, playcourts (such as ball diamonds, football fields, and soccer fields), tot lots, outdoor swimming pools, swimming beach areas, hiking trails, bike trails, picnic areas, nature areas, fishing areas, open grassed areas, fitness courses, public golf courses, and similar land uses. See institutional non-residential land uses for indoor public recreational land uses and see outdoor commercial entertainment for outdoor private recreational land uses.

Standards for development:

All structures and active recreational areas shall be located a minimum of fifty (50) feet from any property line of a residentially zoned lot.

Permitted by Right in the following districts: Park.

Special Use in the following districts: AG, R, GB.

C. Public Services - General

General public service land uses are those operated by a governmental agency or jurisdiction or by a public utility with most of the activity found indoors and include government offices, fire and police stations, public garages and parking lots, post offices, public works garages, radio and television broadcasting stations, railroad stations, telephone relay stations and water towers. See also intense public services and outdoor public recreational land uses.

Standards for development:

1. All outdoor storage areas shall be located a minimum of fifty (50) feet from any property line of a residentially zoned lot. All buildings shall be located a minimum of ten (10) feet from any property line of a residentially zoned lot.
2. The exterior of buildings shall be compatible with surrounding buildings to the extent feasible.

Permitted by Right in the following districts: Not applicable.

Special Use in the following districts: Park, AG, R, GB.

D. Public Services - Intense

Intense public service land uses are those land uses operated by a governmental agency or jurisdiction or by a public utility with most of the activity occurring outdoors and include airports, heliports, bus terminals, public works storage yards, radio and television towers, sewage treatment facilities, telephone exchange, switching and transmitting facilities, utility substations, utility yards, and water treatment facilities. See also general public services, and outdoor public recreational land uses.

Standards for development:

1. All outdoor storage and activity areas shall be located a minimum of fifty (50) feet from any property line of a

residentially zoned lot. All buildings shall be located a minimum of ten (10) feet from any property line of a residentially zoned lot.

2. The exterior of buildings shall be compatible with surrounding buildings to the extent feasible.

Permitted by Right in the following districts: Not applicable.

Special Use in the following districts: Park, AG, R, GB.

(4) Business Uses.

A. Animal Boarding

Animal pounds, shelters and kennels are commercial animal boarding facilities which provide short-term and/or long-term boarding for animals. Examples of these land uses include commercial kennels and commercial stables. Exercise yards, fields, training areas, and trails associated with such land uses are considered accessory to such land uses and do not require consideration as a separate principal use.

Standards for development:

1. No activity area, including runs, shall be located closer than ten (10) feet to any property line or street.
2. Any building housing animals shall be located a minimum of two hundred (200) feet from any property line of a residentially zoned lot.

Permitted by Right in the following districts: AG.

Special Use in the following districts: R, GB.

B. Bed and Breakfast Establishment

A bed and breakfast establishment is an operator occupied residence other than a hotel, motel, boarding house or food service establishment that provides sleeping accommodations to the public for a fee, has not more than fourteen (14) guest rooms, provides breakfast as part of the fee and provides sleeping accommodations for not more than thirty (30) consecutive days to a particular guest.

Permitted by Right in the following districts: AG, GB.

Special Use in the following districts: R.

State Law Reference: Section 16-41-31, Indiana Code.

C. Campground

Campgrounds include any facilities designed for overnight accommodation of persons in tents, travel trailers, or other mobile or portable shelters or vehicles including recreational vehicle parks.

Permitted by Right in the following districts: Not applicable.

Special Use in the following districts: AG, GB.

Special Use regulations: Recreational vehicle parks shall comply with the regulations of Section 12.07.030(9) for mobile home parks.

D. Child Care Center

A child care center is a building where at least seventeen (17) children receive child care from a qualified provider while unattended by a parent, legal guardian or custodian, for regular compensation, and for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays. Examples of such land uses include day care centers and nursery schools. Such land uses shall not be located within a dwelling unit. Such land uses may be operated on a for profit or a not for profit basis. Such land uses may be operated in conjunction with another principal land use on the same parcel, such as a church, school, business, or civic organization. In such instances, child care centers are not considered accessory uses and therefore require review as a separate land use.

Permitted by Right in the following districts: GB

Special Use in the following districts: AG, R.

State Law Reference: Section 12-2-28.4, Indiana Code.

E. Communication Tower

Communication towers include all private free-standing broadcasting, receiving, or relay structures, and similar principal land uses; and any office, studio or other land uses directly related to the function of the tower.

Standards for development:

1. The tower shall be located so that there is sufficient radius of clear land around the tower so that its collapse shall be completely contained on the property.
2. The structure shall be designed, landscaped and/or fenced so as to not pose as an attractive nuisance to children.

Permitted by Right in the following districts: Not applicable.

Special Use in the following districts: Park, AG, R, GB.

F. Composting Operations

Composting operation include all collection, storage, and processing of vegetation wastes over twenty (20) cubic yards which shall not involve food scraps or other vermin-attracting materials.

Permitted by Right in the following districts: Not applicable.

Special Use in the following districts: AG, R, GB.

Special use regulations:

1. All buildings, structures, and outdoor storage or activity areas shall be located a minimum of one hundred (100) feet from any lot line, and three (300) feet from a residentially zoned lot.
2. The storage, handling, or collection of hazardous materials shall not be permitted.

G. Funeral Homes and Parlors

Funeral homes and parlors are buildings used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

Standards for development:

Adequate parking and stacking spaces for vehicles lined up for processions must be provided to avoid any negative impacts on surrounding residential land uses.

Permitted by Right in the following districts: GB.

Special Use in the following districts: R.

H. Hotels and Motels

Commercial indoor lodging facilities such as hotels, motels, inns and motor courts include land uses which provide overnight housing in individual rooms or suites of rooms, each room or suite having a private bathroom. Such land uses may provide in-room or in-suite kitchens, and may also provide indoor recreational facilities for the exclusive use of their customers. Restaurant, arcades, fitness centers, and other on-site facilities available to non-lodgers are not considered accessory uses and therefore require review as a separate land use.

Standards for development:

No building of any kind shall be located within fifty (50) feet from any property line of a residentially zoned lot.

Permitted by Right in the following districts: GB.

Special Use in the following districts: AG, R.

I. Indoor Commercial Entertainment

Indoor commercial entertainment land uses include all land uses which provide entertainment services entirely within an enclosed building. Such activities often have operating hours which extend significantly later than most other commercial land uses. Examples of such land uses include restaurants, taverns, theaters, health or fitness centers, all forms of training studios (dance, art, martial arts, etc.), bowling alleys, dance halls, arcades, roller rinks, and pool halls.

Standards for development:

No building of any kind shall be located within fifty (50) feet from any property line of a residentially zoned lot.

Permitted by Right in the following districts: GB.

Special Use in the following districts: AG, R.

J. Indoor Retail Sales and Service

Indoor retail sales and service land uses include all land uses which conduct or display sales or rental merchandise or equipment, or conduct non-personal or non-professional services, entirely within an enclosed building. This includes self-service facilities such as coin-operated laundromats. All general retail uses, service uses, indoor maintenance and repair uses, and uses such as art galleries, veterinary clinics, auction houses, and ticket and travel agencies are considered

indoor retail or service uses. See also outdoor retail sales and service uses and personal and professional services.

Permitted by Right in the following districts: GB.

Special Use in the following districts: AG, R.

K. Mini-Warehouse

Mini-warehouse facilities are land uses oriented to the indoor storage of items entirely within partitioned buildings having an individual access to each partitioned area. Such storage areas may be available on either a condominium or rental basis. The facility shall be designed so as to minimize adverse visual impacts on nearby developments. The color, exterior materials, and orientation of proposed buildings and structures shall complement surrounding development.

Permitted by Right in the following districts: Not applicable.

Special Use in the following districts: AG, GB.

Warehouses

Warehouse facilities are land uses oriented to the indoor storage of items entirely within buildings having a commercial usage. The facility shall be designed so as to minimize adverse visual impacts on nearby developments. The color, exterior materials, and orientation of proposed buildings and structures shall complement surrounding development.

Permitted by Right in the following districts: Not applicable.

Special Use in the following districts: AG, GB.

L. Mining, Extraction and Related Uses

Mining and extraction uses include any land uses involving the removal of soil, clay, sand, gravel, rock, minerals, peat, natural gas, oil or other material in excess of that required for approved on-site development or agricultural activities. All such uses shall comply with all County, State, and Federal regulations.

Permitted by Right in the following districts: Not applicable.

Special Use in the following districts: AG, GB (outside corporate boundaries). AG (inside corporate boundaries).

Special use regulations:

1. Required site plans shall include detailed site restoration plans, which shall include at a minimum, detailed grading and revegetation plans, and a detailed written statement indicating the timetable for such restoration.
2. All buildings, structures, and outdoor storage or activity areas shall be located a minimum of three hundred (300) feet from any lot line.

State Law Reference: Section 36-7-4-1103, Indiana Code.

M. Office

Office land uses include all exclusively indoor land uses whose primary functions are the handling of information or administrative services. Such land uses do not typically provide services directly to customers on a walk-in or appointment basis. Examples include general or business offices, and political organization offices.

Permitted by Right in the following districts: GB.

Special Use in the following districts: AG, R.

Personal or Professional Services

Personal and professional service land uses include all exclusively indoor land uses whose primary function is the provision of services directly to an individual on a walk-in or appointment basis. Example of such land uses include professional services, insurance services, realty offices, financial services, banks and savings and loans, medical offices and clinics, veterinary clinics, barber shops, beauty shops, tanning salons, and related land uses.

Permitted by Right in the following districts: GB.

Special Use in the following districts: AG, R.

N. Outdoor Commercial Entertainment

Outdoor commercial entertainment land uses include all land uses which provide entertainment services partially or wholly outside of an enclosed building. Such activities often have the potential to be associated with nuisances related to noise, lighting, dust, trash and late operating hours. Examples of such land uses include outdoor commercial swimming pools, driving ranges, miniature golf facilities, golf courses, amusement parks, skating rinks, drive-in theaters and restaurants, go-cart tracks, and racetracks.

Permitted by Right in the following districts: Not applicable.

Special Use in the following districts: Park, AG, R, GB.

Special use regulations: No buildings or outdoor activity shall be located within two hundred (200) feet of any property line of a residentially zoned lot.

O. Outdoor Retail Sales and Service

Outdoor retail sales and services include all land uses which perform maintenance services, including repair, and have all, or any portion of the operations, including vehicle staging, located outside of an enclosed building and uses which conduct sales or display sales or rental merchandise or equipment outside of an enclosed building as a principal use of the lot. Such uses because of their nature tend to be associated with more noise and disturbances due to the outdoor nature of the use than typical indoor retail uses. Example of such land uses include vehicle, boat and similar sales; vehicle rental; manufactured housing sales and monument sales; automobile repair uses and body shops, motor vehicle towing services; service stations and automobile mini-markets; car washes; building materials and

supply stores; outdoor nurseries and garden centers; permanent flea markets; taxicab services; and delivery services.

Permitted by Right in the following districts: Not applicable.

Special Use in the following districts: AG, R, GB.

Special Use regulations:

1. The display of items shall not be permitted in required landscaped buffer areas.
2. In no event shall the display of items reduce or inhibit the use or number of parking stalls provided on the property below the requirement. If the number of provided parking stalls on the property is already less than the requirement, such display area shall not further reduce the number of parking stalls already present.
3. Signs, screening, enclosures, landscaping, or materials being displayed shall not interfere in any manner with either on-site or off-site traffic visibility, including potential traffic/traffic and traffic/pedestrian conflicts.
4. Inoperative vehicles or equipment, or other items typically stored or displayed in a junkyard or salvage yard, shall not be displayed under the provisions of this land use.
5. No buildings or outdoor activity shall be located within fifty (50) feet of any property line of a residentially zoned lot.

P. Waste Disposal Facility

Waste disposal facilities are any areas used for the disposal of solid wastes, but do not include composting operations.

Permitted by Right in the following districts: Not applicable.

Special Use in the following districts: AG, R, GB.

Special Use regulations:

1. Shall comply with all County, State and Federal regulations.
2. Operations shall not involve the on-site holding, storage or disposal of hazardous materials in any manner.
3. Required site plans shall include detailed site restoration plans, which shall include at a minimum, detailed grading and plans, and a detailed written statement indicating the timetable for such restoration.
4. All buildings, structures, and outdoor storage or activity areas shall be located a minimum of one hundred (100) feet from any lot line.

(Ord. 2001-11, S12.07.030, Aug. 6, 2001)

12.07.040 Temporary uses.

(1) General Temporary Uses.

Any temporary uses or structures not specified below connected with construction, special events or emergency operations, shall be permitted to locate on a zoning lot in any zoning district for a maximum of six (6) months

and shall be in character with the surrounding area and compatible with adjoining land uses. The site shall be of adequate size to accommodate the proposed temporary use with parking available for its operation so as not to cause any congestion in the streets or inadequate circulation for emergency and fire vehicles. Any temporary use not meeting these standards shall be reviewed as a Special Use by the Board of Zoning Appeals.

- (2) Concrete Batch Plants - Temporary.
Temporary concrete batch plants shall be permitted in any zoning district but only after approval of a Special Use by the Board of Zoning Appeals.
- (3) Contractor's Equipment, Sheds and Trailers.
Contractors buildings, structures, trailers and equipment may be located on a temporary basis in any zoning district if the materials or structures are incidental and necessary to the construction taking place on-site. All such equipment and structures shall be removed within thirty (30) days after the construction project is complete.
- (4) Outdoor Assembly.
Includes any organized outdoor assembly of more than one hundred (100) persons on private property for seven (7) days or less. Any use wishing to locate temporarily on a lot for over seven (7) days as an outdoor assembly land use shall receive approval by the Board of Zoning Appeals as a Special Use. Outdoor assembly may include land uses such as block parties, carnivals, circuses, and outdoor arts and crafts shows.
Permitted by Right in the following districts: Park, AG, GB.
Special Use in the following districts: R.
The following regulations shall apply to all outdoor assembly land uses:
 - A. Activities shall not obstruct pedestrian or vehicular circulation, including vehicular sight distances.
 - B. Adequate parking, drinking water, and toilet facilities shall be provided.
 - C. If the subject property abuts a residential neighborhood, such activities shall be limited to the hours from 7:00 a.m. to 11:00 p.m..
 - D. Adequate provisions for crowd control shall be made.
- (5) Outdoor Display and Sales - Temporary.
Temporary outdoor sales of seasonal items, gardening products, gifts and arts and crafts, and similar outdoor sales not operated by the owner of the lot as an accessory use customary thereto, shall require a permit for same prior to operation. Temporary use permits for outdoor sales shall be valid for one (1) year after its issuance and must be issued to each individual vendor performing such sales. All applications for permits for such temporary sales must be signed by the property owner and the vendor. All such permits shall be available for review by the Zoning Administrator or his or her designee

and shall therefore be located on the premises at all times while the sales are in operation. Temporary sales unrelated to and not operated by the principal use shall be operated a maximum of ninety (90) days in any twelve month period on the lot.

Permitted by Right in the following districts: AG, R, GB.

Special Use in the following districts: Not applicable.

All temporary outdoor sales and display whether conducted by the property owner, a lessee, or other entity, shall comply with the following regulations:

- A. The display area shall not exceed twenty-five (25) percent of the gross floor area of the principal building(s) on the site.
- B. The display of items shall not be permitted in required landscaped buffer areas.
- C. In no event shall the display of items be located so as to cause vehicles to park in areas other than designated parking stalls.
- D. Signs, screening, enclosures, landscaping, or materials being displayed shall not interfere in any manner with either on-site or off-site traffic visibility, or pedestrian or vehicular traffic flow.
- E. Inoperative vehicles or equipment, or other items typically stored or displayed in a junkyard or salvage yard, shall not be displayed under the provisions of this land use.
- F. The display of items on public property such as public sidewalks shall in no way cause a threat to the public health, safety, comfort, convenience and general welfare.
- G. If the subject property abuts a residential use, sales and display activities shall be limited to daylight hours.

(Ord. 2001-11, S12.07.040, Aug. 6, 2001)

Chapter 12.08

ACCESSORY USES, STRUCTURES, AND SIGNS

Sections:

- 12.08.010 Accessory Use Regulations
- 12.08.020 Height, Setback, and Related Requirements for Accessory Structures and Uses
- 12.08.030 Signs

12.08.010 Accessory use regulations. The following accessory uses shall comply with the regulations as set forth herein and shall be allowed as permitted or special uses in the zoning districts noted below. Except on a farm, accessory structures and uses may not be erected on any lot before the principal building or structure is erected or principal use established. For regulations regarding heights and setbacks and related bulk and intensity standards, see Chapter 12.09.

- (1) Child Care Home.
Child care homes are residential structures that are the primary residence of the person who operates the child care home and in which at least six (6) children but no more than sixteen (16) children receive child care from the provider while unattended by a parent, legal guardian, or custodian, for regular compensation, and for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays. A child at least seven (7) years of age and for whom a care provider in the home is a parent, stepparent, guardian, custodian, or other relative shall not be counted in the sixteen (16) children limit.
Permitted by Right in the following districts: Not applicable.
Special Use in the following districts: AG, R, GB.
State Law Reference: Sections 12-7-2-28.6, 12-17.2-5, and 36-7-4-1108, Indiana Code.
- (2) Commercial Apartment.
Commercial apartments are dwelling units that are generally located above the ground floor of a building used for a commercial land use. Commercial apartments may be allowed in the first floor of a building only if permitted after review by the Board of Zoning Appeals as a Special Use. Parking spaces provided by nonresidential land uses on the site may be counted for required parking for the apartment with the approval of the Zoning Administrator.
Permitted by Right in the following districts: Not applicable.
Special Use in the following districts: AG, GB.

(3) Drive-Up Establishment.

Drive-up establishments include all land uses which perform sales to persons in vehicles on a drive-through basis. Such land uses often have traffic volumes which exhibit their highest levels concurrent with peak traffic flows on adjacent roads. Examples of such land uses include restaurant and banking drive-ups, and drive-through windows connected with office uses (such as a bill payment window) or retail establishments (such as a photo processing drive-up window). See also fuel stations, car washes, and quick oil changes under outdoor retail sales and services and drive-in/outdoor theaters under outdoor commercial entertainment. In some instances this use may be the principal use of a zoning lot, in which case the use shall also be reviewed as a Special Use as an Outdoor Retail Sales and Service Use (a Special Use in the GB district only) under the standards below, those for the outdoor retail use in addition to meeting the setback, etc. requirements of a principal use on a lot.

Permitted by Right in the following districts: Not applicable.

Special Use in the following districts: GB.

Special use regulations:

- A. The drive-up facility shall be designed so as to not impede or impair vehicular and pedestrian traffic movement, or exacerbate the potential for pedestrian/vehicular conflicts. Each drive-up lane shall have a minimum stacking length of thirty (30) feet behind the pass through window and fifteen (15) feet beyond the pass through window.
- B. The setback of any overhead canopy or similar structure shall be a minimum of ten (10) feet from all street rights-of-way lines, a minimum of twenty (20) feet from all residentially-zoned property lines, and shall be a minimum of five (5) feet from all other property lines. The total height of any overhead canopy or similar structure shall not exceed twenty (20) feet as measured to the highest part of the structure.

(4) Home Occupation.

Home occupations are economic activities performed within any dwelling unit by the residents thereof which are clearly incidental to the use as a residence and which comply with the following requirements. Examples include personal and professional services, and handicrafts.

Permitted by Right in the following districts: AG, R, GB.

Special Use in the following districts: Not Applicable.

- A. Locations where activities may be conducted
 - 1. The home occupation shall be conducted only completely within the dwelling unit, and not in any accessory building or structure, and not within any garage or on any porch, deck, patio or other unenclosed or partially enclosed portion of the dwelling unit.
 - 2. No activity, materials, goods, or equipment incidental to the home occupation shall be externally visible.

3. No more than twenty-five (25) percent of the total living area of the dwelling (exclusive of garage and porch areas) shall be used for the home occupation(s).
- B. Limitations on Types of Uses Allowed as a Home Occupation
1. The sale of items at the location of the home occupation shall be conducted only on an appointment basis and shall not create retail traffic patterns resulting in continuous or peak time multiple in and out traffic movements.
 2. Other than typical handicrafts, no production or manufacturing shall be conducted in the dwelling unit.
 3. The dwelling unit used for the home occupation shall not serve as a storage facility for a business conducted elsewhere.
 4. The use of the dwelling unit for a home occupation shall in no way be incompatible with the character of nearby residential areas or create a nuisance for neighboring properties due to, but not limited to, noise, odors, vibration, heat, or the use or storage of chemicals, explosives, flammable liquids, pollutants or other hazardous or toxic materials not typically found (because of type or quantity) in a residential structure.
- C. Employees and Hours of Operation
1. No more than two (2) home occupations shall be carried on in any single dwelling unit.
 2. The home occupation shall be conducted by a resident of the dwelling unit, and no more than two (2) other persons shall be employed, on either a part-time or full-time basis at that site.
 3. No activity resulting from the home occupation except that conducted wholly within the residence by a resident thereof shall be conducted between the hours of 10:00 p.m. and 6:00 a.m. including, but not limited to, deliveries and customers or employee arrivals/departures.
- D. Parking and Deliveries
1. Adequate off-street parking shall be provided where necessary to avoid negatively impacting adjoining properties.
 2. No deliveries shall be permitted by other than passenger automobile or commercial delivery van.
- (5) Individual Septic Disposal System.
This land use includes any State or County approved septic disposal system.
Standards for development:
- A. Minimum lot size of 2.0 acres.
 - B. No available public sewage disposal system within one thousand (1000) feet of any point on the subject property.

- C. Development shall attach to public sewage disposal system within one (1) year of its availability to the subject property or in keeping with any applicable hook-up policies at the time of sewer availability. Each building shall install and continually maintain a conventional sewage system tap-in line upon development, so as to facilitate hook-up to the public system upon its availability.

Permitted by Right in the following districts: AG, R.

Special Use in the following districts: Not applicable.

- (6) Outdoor Display Incidental to Indoor Sales and Service - Accessory Use.
Sales and service uses may display a limited number of items outdoors as an accessory use either on a daily basis or on a temporary basis for special events and/or special sales. Uses with outdoor displays exceeding twenty-five (25) percent of the gross floor area of the principal building shall be considered Outdoor Retail Sales and Service Uses. (See Section 12.07.030(D)(15)) See also Section 12.07.040(E) for temporary sales not related to or operated by the principal use.

Permitted by Right in the following districts: AG, GB (temporary display).

Special Use in the following districts: GB (permanent display).

- A. The display area shall not exceed twenty-five (25) percent of the gross floor area of the principal building(s) on the site.
- B. Outdoor display and sales as an accessory use shall be limited to items purchased for sale by the principal use/owner of the property and/or shall be related to the principal use of the property (except for temporary display and sales). For example, hardware stores may display wheelbarrows for sale, whereas, clothing stores could not. The sale of goods from the back of a semi-trailer is not permitted unless such goods are related to the principal use (potatoes sold by a grocery store) and purchased for sale by the grocery store.
- C. The display of items shall not be permitted in required landscaped buffer areas.
- D. In no event shall the display of items be located so as to cause vehicles to park in areas other than designated parking stalls.
- E. Signs, screening, enclosures, landscaping, or materials being displayed shall not interfere in any manner with either on-site or off-site traffic visibility, or pedestrian or vehicular traffic flow.
- F. Inoperative vehicles or equipment, or other items typically stored or displayed in a junkyard or salvage yard, shall not be displayed under the provisions of this land use.

- G. The display of items on public property such as public sidewalks shall in no way cause a threat to the public health, safety, comfort, convenience and general welfare.
 - H. If the subject property abuts a residential use, sales and display activities shall be limited to daylight hours.
- (7) Outdoor Storage.
- A. Residential Zoning Districts
 - 1. General Outdoor Storage

Outdoor storage of any kind other than firewood and yard equipment is not permitted in any residential district unless specifically allowed hereunder. Trash receptacles and dumpsters may be set out no longer than 24 hours. For residential construction and/or rehabilitation, dumpsters may be set for the length of the building permit or until construction activities are complete.
 - 2. Storage of Motor Vehicles

Motor vehicles and motorized recreational equipment in operable condition including boats, snowmobiles, all terrain vehicles, and recreational vehicles, shall be permitted to be stored in the open on a lot if owned by the owner of the lot and if said equipment is stored so as to be located a maximum distance from adjoining properties and the least visible from adjoining roadways. Said equipment storage shall not be located in a minimum required parking space during said equipment's off-season. Recreational vehicles which are used on a year-round basis shall be permitted in required parking spaces on a year-round basis. (Winterization of such vehicles shall be a conclusive indication of non-use.) No abandoned or inoperable vehicles shall be stored on any residential lot nor shall any vehicle be stored on blocks or jacks. Major repairs to motor vehicles shall not be performed in the open on any residential lot.
 - 3. Agricultural Uses

Outdoor storage is permitted only as an accessory use to a principal agricultural activity in areas of residential zoning districts where agriculture is the principle land use activity.
 - B. Non-Residential Districts
 - 1. Trash receptacle shall not be set out for more than 24 hours. Dumpsters shall be located the maximum distance from adjacent property lines and in the least visible location on the property from the street.
 - 2. Outdoor storage of any materials, equipment, merchandise, or vehicles in unenclosed areas for more than forty-eight (48) hours is permitted only per the following standards.

Permitted by Right in the following districts: AG.
Special Use in the following districts: GB.

- (a) Outdoor Sales and Service Uses
Outdoor display and storage in connection with approved outdoor sales and service uses is permitted in locations only after a site plan has been approved by the Board of Zoning Appeals in conjunction with a Special Use for the property.
- (b) Agricultural Uses
Outdoor storage is permitted only as an accessory use to a principal agricultural activity on the same lot in agricultural zoning districts.

(Ord. 2001-11, S12.08.010, Aug. 6, 2001)

12.08.020 Height, setback, and related requirements for accessory structures and uses. Except as otherwise permitted or required under the accessory use regulations of Section 12.08.010, accessory buildings, structures and uses shall comply with the following height, setback and related requirements. Except on a farm, accessory structures and uses may not be erected on any lot before the principal building or structure is erected or principal use established. Except on a farm, the lot coverage of all accessory structures on a lot shall not exceed seventy-five (75) percent of the lot coverage of the principal building or buildings, excluding patios and decks.

- (1) Residential Zoning District (R).
 - A. Height
No accessory structure shall exceed eighteen (35) feet in height, except on a farm where the height shall not exceed (45) feet.
 - B. Setbacks
All accessory structures and uses shall be set back a minimum of five (5) feet from all side and rear property lines. No accessory structures or uses shall be located between the existing building line and the front/street lot line.
 - C. Fences
Fences may be located along the property line (but may not extend into a street or right-of-way) subject to the following conditions:
 - (a) Front Yards and Street Yards
Fences between the principal building and the front lot line shall be no greater than four (4) feet above grade. Such fences shall consist of open decorative fences such as split rail, picket, chain link and wrought iron or solid decorative stone, brick or similar walls.
 - (b) Side and Rear Yards
Fences shall be no greater than six (6) feet above grade and may be solid or open fences. Such fences may be constructed of any material except barbed wire, woven wire and non-

conventional residential fencing materials such as untreated or uncured lumber, concrete block, and metal or fiberglass roofing materials.

(c) Swimming Pool Fences

Private in-ground swimming pools are to be enclosed by a six (6) foot high fence, and above ground swimming pools by a six (6) foot vertical integral enclosure, with said fences and enclosures being erected prior to the pool being filled with water.

(2) Non-Residential Zoning Districts (Park, AG, GB).

A. Height

Accessory structures shall not exceed forty-five (45) feet in height.

B. Setbacks

All accessory structures and uses shall be set back a minimum of five (5) feet from all property lines, except where the adjoining property line abuts a residential zoning district, a minimum setback of ten (10) feet shall be required.

C. Fences

Fences may be located along the property line (but may not extend into a street or right-of-way) subject to the following conditions:

1. Front Yards and Street Yards

Fences between the principal building and the front lot line shall be no greater than four (4) feet above grade. Such fences shall consist of open decorative fences such as split rail, chain link and wrought iron or solid decorative stone, brick or similar walls.

2. Side and Rear Yards

Fences shall be no greater than eight (8) feet above grade and may be solid or open fences. Such fences may be constructed of any material except non-conventional fencing materials for the district in which they are located such as untreated or uncured lumber, concrete block, and metal or fiberglass roofing materials. Barbed wire, woven wire, and electric fences may be used only in cases where hazardous substances, activities or conditions which threaten the public health or safety exist. (Ord. 2001-11, S12.08.020, Aug. 6, 2001)

12.08.030 Signs. The purpose of this Section is to indicate the requirements for signage for all properties within the jurisdiction of this Title. The following provisions shall apply only to signs in the view of the public. Unless otherwise noted herein, all permanent signs shall require an improvement location permit prior to installation, relocation, or alteration.

Rationale: This Section regulates the location, type, size, height, materials, and design of signage within the jurisdiction of this Title. This Section is designed to ensure the implementation of the Comprehensive Plan and the purposes of this Title, particularly in regard to implementation of the desired overall character and appearance of the community and its constituent zoning districts and protection of the public safety and welfare through regulations protecting public ways and properties.

(1) Permanent Signs in Non-Residential Zoning Districts.

Permanent signs in non-residential zoning districts (Park, AG, GB) shall comply with the following regulations:

A. Free-standing signs

1. Number

One (1) ground sign or one (1) monument sign may be erected per street frontage (up to a maximum of two (2) per lot). The sign shall be a maximum height of eight (8) feet above grade and the entire bottom of the sign shall be in contact with or less than one (1) foot above the ground.

2. Area

The surface area shall not exceed seventy (70) square feet per face, up to a maximum of one-hundred forty (140) aggregate square feet.

3. Location

Ground signs shall not extend into a street or over any lot line, nor may they be located so as to block a pedestrian's or motorist's vision at the intersection of two streets or a driveway with a street. See also Section 12.06.050.

B. Wall signs and roof signs

1. Number

Two wall or roof signs per street frontage may be erected per building or tenant.

2. Area

Wall and roof signs shall have an aggregate surface area not to exceed three (3) square feet per one (1) linear foot of building frontage (or tenant frontage) up to a maximum of one hundred (100) aggregate square feet per building or tenant.

3. Location

Roof signs shall not extend more than six (6) feet above the building's roof line or overhang, or extend beyond any exterior wall of the building. Wall signs, except for projecting signs, shall not extend beyond or overhang the wall upon which they are mounted.

- C. Projecting signs
 - 1. Extension
Projecting signs shall not project or extend out from the building or structure to which it is attached for more than five (5) feet.
 - 2. Height
Tops of projecting signs shall not exceed twenty (20) feet in height above ground level.
 - 3. Material
No glass shall be used in projecting signs other than safety glass.
 - 4. Area
Size of projecting sign area shall be no more than twenty-five (25) square feet.
- D. Pole signs
 - 1. Number
One (1) pole sign may be erected per street frontage (up to a maximum of two (2) per lot).
 - 2. Area
The surface area of the sign shall not exceed forty (40) square feet per face, to a maximum of eighty (80) square feet.
 - 3. Location
Pole signs shall not extend over any lot line. The sign shall have a maximum height of twenty (20) feet above grade and the bottom of the sign shall be a minimum of seven (7) feet above grade. Sign poles must be made of metal and be strong enough to support the sign in a horizontal position.

(2) Permanent Signs in Residential Zoning Districts.

Permanent signs in residential zoning districts (R) shall comply with the following regulations:

- A. Number
One (1) wall or ground sign shall be permitted per street frontage.
- B. Height and Location
Ground signs shall be a maximum height of four (4) feet above grade and the entire bottom of the sign shall be in contact with or less than one (1) foot above the ground. Ground signs shall not extend into a street or over any lot line, nor may they be located so as to block a pedestrian's or motorist's vision at the intersection of two streets or a

driveway with a street. See also Section 12.06.050 for detailed setbacks.

C. Area

Signs shall be a maximum of eight (8) square feet in area per building or use.

D. Other Permitted Signs

Signs and name and address plates less than two (2) square feet in area are permitted per Section 12.08.030(D)(9).

(3) Temporary Signs.

The following signs shall be permitted on a temporary basis only. No permits are required for the following signs. See banners under prohibited signs, Section 12.08.030(D)(8) for more information.

A. Temporary Signs in Residential Districts. Temporary signs are permitted in residential zoning districts subject to the following regulations:

1. A maximum of one temporary sign per street frontage per lot, or if located along a street a maximum of one sign per five (500) hundred linear feet per side of the street shall be permitted.
2. Signs shall be either wall signs or ground signs.
3. Signs shall not exceed four (4) square feet in area.
4. Any ground sign must be mounted in a freestanding manner on either a single stake or on two (2) stakes, with the top of any such sign not exceeding four (4) feet in height and placed so as not to obstruct traffic flow or vision (signs are not permitted on utility poles or trees due to increased cost of maintenance and potential damage, potential confusion with street and official signs, and appearance concerns).
5. Temporary signs may not be erected any sooner than two weeks before an event with a fixed time and the sign and the stake must be completely removed from the site no later than noon (12:00 p.m.) the day following the event.

B. Temporary Signs in Non-Residential Districts. Temporary signs are permitted in non-residential zoning districts subject to the following regulations:

1. A maximum of one temporary sign per street frontage per lot, or if located along a street a maximum of one sign per five (500) hundred linear feet per side of the street shall be permitted.
2. Signs shall be either wall signs or ground signs.
3. Signs shall not exceed twelve (12) square feet in area.
4. Any ground sign must be mounted in a freestanding manner on either a single stake or on two (2) stakes, with the top of any such sign not exceeding four (4) feet in height and placed so as not to obstruct traffic flow or vision (signs are not permitted on utility poles or trees due to increased cost of maintenance and potential damage, potential confusion with street and official signs, and appearance concerns).
5. Temporary banners, pennants, balloons and streamers may be used subject to subsection (4)(G)(1) below.
6. Temporary signs may not be erected any sooner than two weeks before an event with a fixed time and the stake must be completely removed from the site no later than noon (12:00 p.m.) the day following the event.

(4) General Signage Regulations.

A. Permits

No person shall erect, alter, display or relocate within the Town any sign without first obtaining a permit except those signs listed in Section 12.08.030(D)(9) and normal maintenance per subsection (D) below.

B. Regulation of Content

With the exception of misleading information, the Town does not intend, by any provision of this Title, to regulate the content of any sign.

C. Illumination

No illuminated signs may be located in residential zoning districts except through a variance approved under Section 12.13.050 by the Board of Zoning Appeals. No illuminated sign in any zoning district shall be permitted within fifty (50) feet of an abutting zoned residential property line unless the illumination of such sign is so designed that it does not reflect or shine light onto such property. All methods of illumination shall be provided in a manner which shield light sources from streets and adjacent properties and prevent adverse brightness and glare.

D. Maintenance of Signs

All signage shall remain in a state of proper maintenance. Proper maintenance shall be the absence of loose materials (including peeling paint, paper or other material), the lack of excessive rust, the lack of excessive vibration or shaking, and the presence of the original structural integrity of the sign, its frame and supports, its mounting, and all components thereof. Signage found to be in violation of this requirement shall be subject to the provisions of Section 12.14.070. The repainting, changing of parts and preventive maintenance of signs which completely conform to the requirements of this Title shall not be deemed to be alterations requiring a sign permit.

E. Removal of Signs from Streets and Public Property

The Town reserves the right to remove any sign located in a street or on public property which is illegally placed there, or allowed to remain there in excess of the time permitted herein. Such violations shall be abated per the procedures established in Section 12.14.070.

F. Abandoned Signs

Signs which are obsolete and misleading in terms of identifying businesses, services, attractions, or events which no longer exist shall be removed 90 days after discontinuance of the business, service, attraction or event. Property owners are responsible for the removal of abandoned signs. This section is not intended to prohibit historic signs as defined by this Title.

G. Nonconforming Signs

Lawful signs in existence on the effective date of this Title which do not conform to the provisions herein shall be nonconforming signs. No nonconforming sign shall be rebuilt or moved to a new location without first being brought into compliance with the requirements of this Title. The right to retain any nonconforming sign shall be terminated by any one of the following:

1. Abandonment of the nonconforming sign for a continuous period of ninety (90) days which shall make it an abandoned sign per subsection (4)(F) above;
2. Any dimensional changes of the nonconforming sign;
3. Relocation of the sign which shall require it to conform in all respects to its new location.

H. Prohibited Signs

In any district, except as noted, the provisions of this Subsection shall be applied to protect the safety of motorists and facilitate traffic movement as well as maintain the character and appearance of the community and resulting property values.

1. Banners, Pennants, Streamers, and Balloons

Such signs are prohibited except as a temporary sign for a maximum of thirty (30) days in any six month period.

2. Deceptive Signs

Deceptive signs are prohibited in all zoning districts.

3. Flashing Signs

No window sign or exterior sign having flashing, intermittent, or animated illumination shall be permitted. Searchlights are also prohibited in all zoning districts.

4. Movable and Portable Signs

Portable or movable signs are prohibited in all zoning districts except as temporary signs. Those portable signs which are generally on a metal frame and are changeable copy or letter signs, normally internally illuminated are prohibited as either permanent or temporary signs.

5. Signs in a Street, Public Way or on Public Property

No person other than a government official or their designee shall place or cause to be placed on any public way or public property any sign other than temporary signs permitted under Section 12.08.030(C).

6. Signs on Trees and Natural Features

No signs shall be painted upon trees, retaining walls, rocks, or natural features; no sign shall be erected or painted upon any vegetation, except as may be allowed in the parking and traffic ordinance.

7. Signs That May Interfere with Traffic

No sign shall be erected or maintained at any location where, by reason of its position, wording, illumination, size, shape, or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with any authorized traffic control sign, signal, or device. No sign shall contain or make use of any phrase, symbol, shape, form, or character in such a manner as to interfere with, mislead, or confuse moving traffic.

8. Unlisted Signs

Any sign not permitted by this Title is prohibited in all zoning districts.

9. Vacant Lot Signs

No signs shall be placed on a vacant lot other than temporary signs and signs that do not require a permit.

10. Vehicle Signs

Vehicle signs are prohibited when the vehicle is parked so as to attract the attention of pedestrians and motorists and thereby acts as a large stationary sign rather than business identification for a vehicle in transit.

I. Signs That Do Not Require a Permit

Signs are permitted in all zoning districts for the following uses without the need for a sign permit. Such signs shall not count toward

the maximum permitted sign area under Sections 12.08.030(A) and 12.08.030(B) above.

1. Flags
Flags no larger than 40 square feet, and flag poles no higher than 30 feet from the ground elevation, shall not require a permit. Flags and flag poles in excess of these limits shall be permitted only by a Special Use permit.
2. Governmental Signs and Community Information Signs
Public signs, public notices, and emergency or warning signs established by, or by order of, any governmental agency shall not require a permit. Community information signs and community entrance signs up to forty (40) square feet in area shall not require a permit.
3. Holiday Decorations
Signs or other materials temporarily displayed on traditionally accepted civic, patriotic or religious holidays do not require a permit.
4. Interior Signs
Signs which are fully located within the interior of any building or stadium, do not require a permit.
5. Memorial and Historic Place Signs
Memorial plaques or tablets, grave markers, statutory, or other remembrances or persons or events that are non-commercial in nature and less than sixteen (16) square feet do not require a permit. Other such signs larger than sixteen (16) square feet shall require a permit.
6. Political Signs
Political signs and elections signs do not require a permit. Political signs may be erected a maximum of forty-five (45) days prior to the election and shall be removed within twenty-four (24) hours after the election.
7. Temporary Signs
Temporary signs listed in Section 12.08.030(C) do not require a permit.
8. Signs Less Than Two (2) Square Feet
Signs less than two (2) square feet in area do not require a permit including realty signs.
9. Window Signs
Window signs no not require a permit.

J. **Definitions.**

The following definitions shall be used herein to assist in the establishment of clear signage regulations.

Searchlight

An apparatus containing a light and/or reflector for projecting a strong, far-reaching beam in any direction.

Sign

Any stationary object, device, display, structure, symbol, or part thereof, subject to public view, used primarily to advertise, attract attention to, display, direct, or identify, a business, event, institution, location, object, organization, person, product, or service, by any means including colors, designs, figures, fixtures, illumination, letters, logos, motion, projected images, symbols, or words. Any displayed merchandise shall not be considered a sign.

Sign, abandoned

Any sign which is obsolete in terms of identifying a business, service, attraction, or event which no longer exists or applies.

Sign, animated

Any sign or exterior graphic display device, or any part thereof, which changes physical position or light intensity by movement or rotation or that gives the visual impression of such movement or rotation.

Sign, deceptive

Any sign which is erroneous and/or misleads the public.

Sign, flashing

Any directly or indirectly-illuminated sign, either stationary or animated, which exhibits changing natural or artificial light or color effects by any means whatsoever.

Sign, freestanding

Any non-movable sign independent of buildings and consisting of self-supporting elements, including ground signs and pole signs.

Sign, governmental

A sign erected and maintained pursuant to and in discharge of any governmental functions or required by law, ordinance, or other governmental regulations.

Sign, ground

A free-standing sign in which the entire bottom of the sign is in contact with or less than one (1) foot above the ground and which is a maximum height of eight (8) feet above grade.

Sign, historic

Any sign that has historic significance as determined by the Town Council.

Sign, historic place

Any sign indicating the historical significance of a site or structure as determined by the Town Council or other governmental authority.

Sign, monument

A free-standing sign in which the entire bottom of the sign is in contact with or less than one (1) foot above grade and whose height ranges from higher than eight (8) feet to no higher than twenty (20) feet above grade.

Sign, movable

Any sign not permanently affixed to the premises which may be moved from one location to another location with relatively few mechanical or physical operations.

Sign, nonconforming

A sign existing as of the effective date of this Title which does not comply with all the height, area, size, setback, bulk, and other applicable regulations of this Title.

Sign, pole

A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is seven (7) feet or more above grade to no higher than twenty (20) feet above grade.

Sign, prohibited

Means any sign not permitted within the jurisdictional limits of the Town of Chrisney.

Sign, projecting

A sign which is attached to a building or other structure and extends more than one foot beyond the line of said building or structure.

Sign, public

Means any sign required or authorized for any public purpose to meet the needs of public information, health, safety, and welfare.

Sign, roof

Any sign erected upon or over the roof or parapet of any building, which does not extend more than six (6) feet above the building's roofline or overhang, or extend beyond any exterior wall of the building. The area of roof signs shall be calculated in the maximum square footage of all wall signs.

Sign, temporary

A sign constructed of cardboard, cloth, canvas, fabric, plywood, or other light material and designed or intended to be displayed for a short period of time not to exceed thirty (30) days in any six month period per lot or location. See Section 12.08.030(C). Realty signs as a temporary sign shall not have a time limit for display when used to mark a property for sale or rent.

Sign, vehicle

Any sign attached to or displayed on a vehicle for the purpose of public display for advertising a product, service, or entertainment when that vehicle is so parked as to attract the attention of the motoring or pedestrian traffic.

Sign, wall

Any sign attached to, painted on, or erected against the exterior walls of a building or structure, including awning, canopy, marquee, and projecting signs which, except for projecting signs, do not overhang or extend beyond the wall upon which it is mounted. The area of roof signs shall be calculated in the maximum square footage of all building and wall signs.

Sign, window

Any sign applied to, attached to, or located so as to be intentionally visible from the outside which can be seen through the window from the exterior of the structure.

Sign area

The entire face of a sign, including the advertising surface and any framing, trim or molding, but not including the supporting structure. If the sign is composed of individual letters or has no defined sign background, the area shall be the area of the smallest rectangle which can be drawn around the letters and related logos, designs, and display. (Ord. 2001-11, S12.08.030, Aug. 6, 2001)

CHAPTER 12.09

DENSITY, INTENSITY, AND BULK REGULATIONS

Sections:

12.09.010	Purpose
12.09.020	Bulk, Density and Intensity Standards
12.09.030	One Principal Building or Use Per Lot
12.09.040	Group Developments
12.09.050	Additional Setbacks at Intersections
12.09.060	Front or Street Yard Setback Adjustment
12.09.070	Exceptions to Maximum Height Regulations
12.09.080	Permitted Intrusions in Required Yards - Residential Structures
12.09.090	Blanket Variances

12.09.010 Purpose. The purpose of this Chapter is to describe the requirements for building location and bulk, and residential density and non-residential intensity standards. For additional regulations pertaining to accessory uses, see Section 12.08.010.

Rationale: This Chapter is designed to ensure that the goals and objectives of the Comprehensive Plan are implemented. Appearance and community character are primary concerns of the Plan and are essential for economic development. These regulations are intended to maintain the small town character of the community, the historic character of the historic structures in the downtown area and nearby residential areas, the open character of the larger lot residential subdivisions, to provide for downtown business areas, to promote tourism and small lot commercial development, to maintain the scenic setting of the community, and to enhance the appearance of the original US Highway 231 and State Highway 70 corridors. Emphasis is placed on encouraging compatible, and well-designed infill development and redevelopment on existing lots. Lot sizes and gross density are intended to maintain the existing degree of compactness of dwellings in the town's various neighborhoods and prevent overcrowding. Lot and building sizes are intended to ensure that uses are compatible with each other and nearby land uses and viable for the conduct of business and the maintenance of residential character by district. Lot width is aimed at providing proper access to lots from streets and reducing traffic hazards. Building heights are intended to maintain the feel and the character of existing areas, preserve views, support fire-fighting capacity, and protect solar access. Yard and setback requirements protect privacy, reduce dangers from fire and other hazards, preserve character, provide open space, and preserve views. These regulations individually and in combination provide an array of benefits in addition to those mentioned here, with the overall aim of providing for a rational pattern of land uses which maintains and improves property values. (Ord. 2001-11, S12.09.010, Aug. 6, 2001)

12.09.020 Bulk, Density and Intensity Standards. Table 2 outlines the bulk, density, and intensity regulations for principal structures and uses in each of the zoning districts. See Chapter 12.08 for setbacks, heights and related requirements for accessory structures. 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 12.12.050 or unless an adjustment, exception or blanket variance is authorized per Sections 12.09.060, 12.09.070 and 12.09.090 respectively. (Ord. 2001-11, S12.09.020, Aug. 6, 2001)

12.09.030 One Principal Building or Use Per Lot. With the exception of a multiple-family development authorized under Section 12.07.030(b) or a group development permitted under Section 12.09.040, only one (1) principal building or use and its accessory structures may be erected on any lot. (Ord. 2001-11, S12.09.030, Aug. 6, 2001)

12.09.040 Group Developments. A group development is any development containing two (2) or more permitted or special uses (after approval for same is granted) and/or principal buildings on the same lot or parcel. Common examples include apartment complexes, shopping and office centers. Group developments do not include individual apartment buildings, shopping centers in single structures, mobile home parks or subdivisions, commercial apartments, or accessory uses to a principal use (eg. car wash as an accessory use to a service station). Group developments are intended to allow some flexibility in the location of two principal uses on a lot which are similar and compatible but where one use is not clearly incidental to the other and to allow for two principal structures on the same lot where a single structure may not be feasible due to use, topography, or design of the parcel or development. All group developments shall be reviewed and approved by the Board of Zoning Appeals as a Special Use and shall comply with the following regulations:

Permitted by Right in the following districts: Not applicable.

Special Use in the following districts: AG, R, GB.

Special use standards:

- (1) The land shall be held in common ownership and control with common areas provided. Future sale of any portion of a group development shall be approved as an amendment to the original Special Use and shall require that all lots or parcels created meet the requirements of the underlying zoning district and that all required setbacks and related bulk, density and intensity regulations for each separate lot or parcel are met.
- (2) Group developments are permitted in all zones except the P Park/Open Space Zoning District.
- (3) Group developments containing one (1) or more principal uses shall consist only of permitted uses in the underlying zoning district or allowable special uses approved by the Board of Zoning Appeals. All development standards and requirements for the individual land uses shall be adhered to.
- (4) The required densities or lot coverages shall be adhered to for the site as a whole.
- (5) All buildings and structures shall comply with required heights and setbacks from property lines.

- (6) All buildings shall be located a minimum of twenty (20) feet from one another.
- (7) Parking shall be distributed in a manner so that it is easily accessible from all buildings.
- (8) The development shall be designed so that it is compatible with surrounding land uses.
- (9) Easements, covenants or public dedication of common areas shall be recorded to ensure perpetual maintenance of these areas to the satisfaction of the Town Attorney. (Ord. 2001-11, S12.09.040, Aug. 6, 2001).

12.09.050 Additional Setbacks at Intersections. To promote public safety by providing a clear view of movements on intersecting streets, there shall be established on each corner lot a triangular area of clear vision determined by the two (2) curb lines at that corner and by a diagonal line connecting the two (2) points on those curb lines that are fifteen (15) feet respectively from the corner. Within said area no parking spaces, vegetation, structures, signs, fences or earthwork or other obstructions which block views between thirty (30) inches and eight (8) feet above street level shall be located. Provided, however, that such setbacks shall not apply to traffic signs and local municipal utility structures. (Ord. 2001-11, S12.09.050, Aug. 6, 2001)

12.09.060 Front or Street Yard Setback Adjustment. The required front/street building setback for a principal structure or use on a lot shall be the established setback line when more than seventy-five percent (75%) of the lot frontage within five hundred (500) feet on the same side of the street contains an existing and similar structure or use. In such instances, the required front/street setback shall be the average of all principal structures or uses of the same type within said distance, or if a small minority of buildings or uses have excessive or extremely minimal setbacks and skew the remaining setbacks which are all fairly similar, than the setback shall be the average of those so similarly set back, and the one or more dissimilar setbacks should not be considered in the calculation. (Ord. 2001-11, S12.09.060, Aug. 6, 2001)

12.09.070 Exceptions to Maximum Height Regulations. In order to secure permission to exceed the maximum height regulations other than those above, the petitioner shall apply for a Special Use Permit per Section 12.13.040. 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-five (35) feet in residential zoning districts and over forty-five (45) feet in height in non-residential zoning districts.

Rationale: The Town of Chrisney has existing taller structures and contains 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. (Ord. 2001-11, S12.09.070, Aug. 6, 2001)

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

- (1) Front or Street Yards, Side Yards and Rear Yards
Stairs, chimneys, flues, windows, 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.
- (2) Rear or Side Yards Only
Overhanging bays on residential buildings which do not extend more than two and one-half (2.5) feet into the required yard and which do not contain a gross floor area of more than twenty (20) square feet.
- (3) 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. 2001-11, S12.09.080, Aug. 6, 2001)

12.09.090 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 replacement, 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, for example in regard to lot width or lot size, 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 12.12.050.

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. 2001-11, S12.09.090, Aug. 6, 2001)

TABLE 2: DENSITY, INTENSITY AND BULK REGULATIONS

Park - Park/Open Space
AG - Agricultural

R - Residential
GB - General Business

P - Permitted Use
S - Special Use

<u>REGULATION</u>	<u>ZONING DISTRICTS</u>								
	<u>Park</u>	<u>AG</u>	<u>R</u>	<u>GB</u>					
<u>Minimum Lot Size (sq. feet)</u>	<u>n/a</u>	<u>2 acres</u> <u>(resid.)</u> <u>5 acres</u> <u>(non-res)</u>	<u>10,000</u>	<u>10,000</u>					
<u>Minimum Lot Width (linear feet)</u>	<u>n/a</u>	<u>200</u>	<u>90</u>	<u>100</u>					
<u>Minimum Building Size (sq. feet)</u>	<u>n/a</u>	<u>1200</u>	<u>1200</u>	<u>600</u>					
<u>Minimum Building Width, Depth and/or Length - All Sides</u>	<u>n/a</u>	<u>n/a</u>	<u>30</u>	<u>n/a</u>					
<u>Maximum Building Height (feet)</u>	<u>45</u>	<u>45</u>	<u>35</u>	<u>45</u>					
<u>Maximum Lot Coverage (%)</u>	<u>n/a</u>	<u>25</u>	<u>50</u>	<u>75</u>					
<u>Maximum Gross Residential Density (units per acre)</u>	<u>n/a</u>	<u>0.5</u>	<u>4</u>	<u>n/a</u>					
<u>Minimum Required Building Setbacks: (linear feet)</u>									
<u>FRONT YARD (1,2)</u>	<u>Park</u>	<u>AG</u>	<u>R</u>	<u>GB</u>					
<u>Major Arterial Street</u>	<u>35</u>	<u>35</u>	<u>35</u>	<u>35</u>					
<u>Major Collector Street</u>	<u>35</u>	<u>35</u>	<u>35</u>	<u>35</u>					
<u>Minor Collector Street</u>	<u>35</u>	<u>35</u>	<u>35</u>	<u>35</u>					
<u>Local Street</u>	<u>35</u>	<u>35</u>	<u>35</u>	<u>35</u>					
<u>SIDE YARD (3)</u>	<u>25</u>	<u>25</u>	<u>10</u>	<u>10</u>					
<u>REAR YARD</u>	<u>25</u>	<u>25</u>	<u>20</u>	<u>20</u>					
<u>Minimum Required Parking Lot Setbacks: (linear feet) (4)</u>									
<u>Adjoining Residential (5)</u>	<u>20</u>	<u>25</u>	<u>25</u>	<u>25</u>					
<u>From street/front lot line (6)</u>	<u>20</u>	<u>15</u>	<u>15</u>	<u>15</u>					

These standards are for principal structures and uses only, see Chapter 12.08 for regulations for accessory structures and uses.

Additional setbacks or requirements may be required under the particular use as outlined in Section 12.07.030 or as allowed

for group developments per Section 12.09.040.

(1) Measured from the nearest curb of the street (in no instance shall the building be closer than 10 ft. from a right-of-way).

Major Arterials: US Highway 231; State Highway 70

Major Collectors: Unspecified

Minor Collectors: Unspecified

Local Streets: All streets not classified as either major arterials, major collectors, or minor collectors.

(2) If locating in an already developed area, different setbacks may be required to maintain the established building setback line per Section 12.09.060.

(3) Zero lot line residential development is allowed per Section 12.07.030(B)(2).

(4) Parking lot refers to any parking lot with 6 or more cars and associated driveways and access aisles.

(5) "Setback from residential" is a setback from any property line of a residentially zoned lot. See Section 12.06.070(C).

(6) The setback shall be 15 feet behind the curb, or if the street is dedicated, 10 feet behind the lot line, whichever is greater.

Chapter 12.10

PERFORMANCE STANDARDS

Sections:

12.10.010	Purpose
12.10.020	Off-Street Parking and Traffic Circulation Standards
12.10.030	Off-Street Loading Standards
12.10.040	Access Standards
12.10.050	Exterior Lighting and Glare Standards
12.10.060	Noise Standards
12.10.070	Odor and Heat Standards
12.10.080	Fire and Explosion Standards
12.10.090	Drainage Standards
12.10.100	Bufferyards and Landscaping Regulations
12.10.110	Administration & Enforcement of Performance Standards

12.10.010 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 12.05.040. (Ord. 2001-11, S12.10.010, Aug. 6, 2001)

12.10.020 Off-street parking and traffic circulation standards.

- (1) 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. Parking areas prescribed in this Section for general business uses must be located on the premises of such commercial or industrial use.
- (2) Use of Off-Street Parking Areas and Joint Parking.
Joint parking facilities may be approved by the Plan Commission and shall be executed by a legally binding instrument recorded by the applicant(s) with the County, and a recorded copy filed with the Zoning Administrator. One or more uses may use such joint facilities, however, a total number of parking stalls shall be provided not less than the sum total of the separate parking needs for each use during any peak hour parking period when said joint parking area is utilized at the same time by said uses.

The use of all off-street parking areas shall be limited to the parking of operable vehicles that 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 as such on the approved site plan.

- (3) 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.
- (4) Off-Street Parking and Traffic Circulation Design Standards.
- A. Surface Materials
All parking lots for six (6) or more cars shall be constructed of a hard surface such as asphalt, concrete, or brick.
 - B. Lighting
All off-street parking and traffic circulation areas serving six (6) or more cars shall be equipped with artificial lighting so as to ensure the safe and efficient use of said areas during the hours of use.
 - C. 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 street. 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.
 - D. Parking Space Design Standards
Other than parking required to serve the handicapped, all provided off-street parking spaces 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. All parking spaces shall be properly striped. A garage stall shall be considered a parking space.

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

- (5) Calculation of Minimum Required Parking Spaces:
- A. General Guidelines for Calculating Required Parking Spaces
 - 1. Minimum Required Spaces

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

2. 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.

3. 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.

B. Minimum Off-Street Parking Requirements for Land Uses

Each land use shall provide sufficient off-street parking spaces to accommodate parking demand. 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. The following requirements shall be the minimum, for each land use:

1. Agricultural Land Uses

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

2. Residential Land Uses

(a) Group or institutional housing:

1 per every three (3) beds plus 1 per every 2 employees on maximum work shift

(b) Single-family detached:

1 space for lots up to 6,999 sq. ft. in area

2 spaces for lots 7,000+ sq. ft. in area

- (c) Other than above:
 - 1.5 spaces for efficiency
 - 2 spaces for 1 or 2 bedrooms
 - 3 spaces for 3 or more bedrooms
- 3. Park/Open Space and General Business Land Uses
 - (a) Auditorium, Stadium, Theater, Church, or Other Places of Public Assemblage: At least one parking space for each four seats provided for its patrons, based on maximum seating capacity.
 - (b) Bed and Breakfast, Boarding House, or Hotel/Motel: At least one parking space for each guest sleeping room.
 - (c) Restaurant or Other Eating Place: Parking spaces in a number equal to one-third of the total seating capacity, excepting when it is in a building which provides parking spaces, in which case the number of places already provided may be taken to be available for the restaurant or other eating place.
 - (d) Hospital, Sanitarium, or Nursing Home: At least one parking space for each five patient capacity.
 - (e) Retail Stores, Service Establishments and Repair Shops: At least one parking space for each three hundred (300) square feet of store floor area devoted to sales.
 - (f) Offices, Office Buildings, Banks, and Other Financial Institutions: At least one parking space for each three hundred (300) square feet of office floor area.
 - (g) Other General Businesses Not Otherwise Listed: At least one parking space for each four hundred (400) square feet of gross floor area, exclusive of areas used only for storage.
 - (h) Bowling Alleys: At least four parking spaces for each alley.
 - (i) Amusement Enterprises, Exhibition Halls, Auction Barns, and Places of Public Assembly Without Fixed Seats: At least one parking space for each hundred (100) square feet of floor area in public use.

- (j) Funeral Homes and Mortuaries: At least one parking space for each fifty square feet of floor area in service rooms.
- (k) Laundromats: At least one parking space for each two machines. (Ord. 2001-11, S12.10.020, Aug. 6, 2001)

12.10.030 Off-street loading standards.

- (1) 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.
- (2) Location.
All loading berths shall be located twenty-five (25) feet or more from the intersection of two street curb lines. Loading berths shall not be located within any required front yard setback area, or within any street yard setback area. Access to the loading berth shall be located in conformance with Section 12.10.020(D)(3). All loading areas shall be located on the private lot and shall not be located within, or so as to interfere with, any public way.
- (3) Size of Loading Area.
All loading berths shall be a minimum of twenty-five (25) 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.
- (4) 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 12.10.040, 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.
- (5) Surfacing.
All required loading areas shall be constructed of a hard surface such as asphalt, concrete, or brick and shall be maintained in a dust-free condition at all times.
- (6) 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.

- (7) 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.
- (8) Calculation of Required Loading Spaces.
- A. General Business 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. One additional loading berth shall be required for each additional 50,000 square feet of net floor area or fraction thereof in excess of the original 29,999 square feet.
- B. 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.
- C. 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. One additional loading berth shall be required for each additional 100,000 square feet of net floor area or fraction thereof in excess of the original 99,999 square feet. (Ord. 2001-11, S12.10.030, Aug. 6, 2001)

12.10.040 Access standards.

- (1) Number of Access Points.
- A. Each lot shall have not more than two (2) access points on any street frontage, subject to (2) below.
- B. 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 curb line).
- (2) Angle of Intersection with Street.
All access drives shall intersect with any street at an angle of not less than 70 degrees, and shall intersect at an angle of 90 degrees wherever possible.
- (3) Width of Driveways.
All access drives shall have a minimum width of ten (10) feet and a maximum width of thirty (30) feet as measured along the curb line (without flare).
- (4) Traffic Control.
The traffic generated by any use shall be channelized and controlled in a manner that 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 Town Council.

- (5) 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.
- (6) Paving of Access.
In all zoning districts except the Agricultural districts, access approach areas located within a street shall be paved a minimum of fifteen (15) feet behind the curb or to the back edge of the sidewalk whichever is the greater distance, with a hard, all-weather surface such as asphalt, concrete, or brick, and shall be maintained so as to prevent the transport of gravel, dirt, or other eroded material from the subject property into the street.
- (7) A permit is required for all driveways onto a street in a General Business District or along a state or federal highway. (Ord. 2001-11, S12.10.040, Aug. 6, 2001)

12.10.050 Exterior lighting and glare standards.

- (1) Applicability.
The requirements of this Section apply to all private exterior lighting within the jurisdiction of this Title except for lighting streets and/or lighting on public property.
- (2) 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.
- (3) Requirements.
 - A. Flashing, Flickering and other Distracting Lighting
Flashing, flickering and/or other lighting that may distract motorists or imitate a traffic device are prohibited.
 - B. Orientation and Glare
No direct orientation or sky-reflected glare, whether from lights, floodlights, temperature processes such as combustion or welding or otherwise, shall be permitted so as to carry beyond the lot line of the subject property.

- C. 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 structures. See Section 12.11.020. (Ord. 2001-11, S12.10.050, Aug. 6, 2001)

12.10.060 Noise standards.

- (1) 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.
- (2) 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 surrounding residential areas. (Ord. 2001-11, S12.10.060, Aug. 6, 2001)

12.10.070 Odor and heat standards.

- (1) 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.
- (2) 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 which is detectable in the surrounding residential areas.
- (3) 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.
- (4) Nonconforming Odor and Heat.
All lawful land uses that do not meet the standards of this section existing prior to the effective date of this Title shall be considered legal non-

conforming situations. See Section 12.11.020. (Ord. 2001-11, S12.10.070, Aug. 6, 2001)

12.10.080 Fire and explosion standards.

- (1) Applicability.
The requirements of this Section apply to all land uses and activities.
- (2) Standards.
 - A. Explosives
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.
 - B. Flammables
Solid substances ranging from free or active burning to intense burning may be stored, used or manufactured only within completely enclosed buildings having incombustible exterior walls and protected throughout by an automatic fire extinguishing system. 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.
 - C. Certificate of Compliance
A certificate of compliance, issued by the State Fire Marshall's office, stating that the plans and specifications for a light or general business use comply with the rules and regulations of the State Fire Marshall shall accompany the application for an improvement location permit. (Ord. 2001-11, S12.10.080, Aug. 6, 2001)

12.10.090 Drainage standards. No land shall be developed and no use shall be permitted that results in water runoff or water blockage which causes property damage, a nuisance, and/or erosion on adjacent properties. Such runoff and natural water courses shall be properly conveyed to a public storm drain, drainageway or other such public drainage facility. (Ord. 2001-11, S12.10.090, Aug. 6, 2001)

12.10.100 Bufferyards and landscaping regulations. 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 as well as those required for specific principal and accessory uses in Chapter 12.07 and 12.08 shall be provided and maintained for all uses hereafter established.

- (1) Parking Lot Landscaping.
All parking lots designed for six (6) or more vehicles shall be landscaped in accordance with the standards herein. All parking lots located along a street shall be landscaped across fifty (50) percent of their frontage with

landscaping a minimum of three (3) feet in height. Such landscaping shall consist of berms, ornamental trees, evergreens, or shrubbery. All parking areas containing fifty (50) or more parking spaces shall also provide a minimum of five (5) percent of the interior of the parking lot for landscaping. Such areas shall be dispersed to break up the paved surface and each such area shall be a minimum of seven (7) feet in width and contain at least one shade tree.

(2) General Landscaping of General business lots.

All general business zoned lots shall maintain a minimum of ten (10) percent of the lot in landscaped, porous surfaces. Shade trees are the preferred landscape materials along streets except where more dense screening is required for parking lots. The trees shall be located a minimum of forty (40) feet on center and a minimum of twenty (20) feet from the curb of the street or from a driveway.

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

A. 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.

B. 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 (fences shall be a maximum of six (6) feet above grade in residential districts, and eight (8) feet above grade in non-residential districts).

C. Fences Used in Bufferyards

Fencing installed along a common side property line with the adjoining residential property shall not 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.

D. 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.

(4) Additional Screening Required for Certain Uses.

The Board of Zoning Appeals may require as part of the conditions of a variance or special use 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. (Ord. 2001-11, S12.10.100, Aug. 6, 2001)

12.10.110 Administration and enforcement of performance standards.

- (1) **Determination of Violations.**
Where determinations can be made by the Zoning Administrator using equipment normally available to the Town or obtainable without extraordinary expense, such determinations shall be so made before notice of violation is issued.
- (2) **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 12.13.070.

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.
- (3) **General Enforcement.**
Enforcement of the provisions of this Chapter shall be per the violations and penalties set forth in Section 12.13.070. (Ord. 2001-11, S12.10.110, Aug. 6, 2001)

Chapter 12.11

NONCONFORMING USE, LOT AND STRUCTURE REGULATIONS

Sections:

12.11.010	Nonconforming Use Regulations
12.11.020	Nonconforming Structure and Building Regulations
12.11.030	Zoning Administrator Review and Special Uses
12.11.040	Prohibition on Creation of Non-Conforming Lots

12.11.010 Nonconforming use regulations.

- (1) 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.
- (2) 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.
- (3) 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.
- (4) 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.

- (5) 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 12.11.020(E) below for reconstruction of structures and buildings for permitted and nonconforming uses. (Ord. 2001-11, S12.11.010, Aug. 6, 2001)

12.11.020 Nonconforming Structure and Building Regulations

- (1) Continuance of a Nonconforming Structure.
Any structure or building lawfully existing upon the effective date of this Title may be continued in the size and in a manner of operation existing upon such date, except as hereafter specified.
- (2) 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 that 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.
- (3) Maintenance of a Nonconforming Structure.
 - A. Normal Maintenance
Normal maintenance of a nonconforming structure or building is permitted, including necessary nonstructural repairs and incidental alterations that do not extend, enlarge, or intensify the nonconformity or nonconforming use.
 - B. 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.
 - C. 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 intensify the

nonconformity or in the case of new construction, create a nonconformity.

- (4) **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.
- (5) **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).
- (6) **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 twelve (12) months of the effective date of this Title. Said structure or building shall thereafter be a legal nonconforming structure or building. (Ord. 2001-11, S12.11.020, Aug. 6, 2001)

12.11.030 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 parking requirements for that use. However, if a permitted use wishes to add an 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. 2001-11, S12.11.030, Aug. 6, 2001)

12.11.040 Prohibition on creation of non-conforming lots. No lot or combination of lots and parcels may be further 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 12.09.090 apply only to lots in their configuration as of the effective date of this Title. (Ord. 2001-11, S12.11.040, Aug. 6, 2001)

Chapter 12.12

PROCEDURES

Sections:

12.12.010	Purpose
12.12.020	Text Amendments to the Zoning Ordinance or Text of the Comprehensive Plan
12.12.030	Amendment of the Official Zoning Map or Comprehensive Plan Land Use Map
12.12.040	Special Use Review
12.12.050	Variance Review
12.12.060	Appeals
12.12.070	Interpretations

12.12.010 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, and zoning appeals to the Board of Zoning Appeals. See Section 12.13.030 for issuance of improvement location permits. (Ord. 2001-11, S12.12.010, Aug. 6, 2001)

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

- (1) 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 all applicants (as defined in Chapter 12.14) shall also provide the following:
 - A. 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;
 - B. A copy of the text which is proposed to replace the current text; and
 - C. Written justification for the proposed text amendment (the petitioner is advised to answer the questions in Subsection (2) below).
- (2) Review by the Zoning Administrator.
 - A. The Zoning Administrator shall review the submittal in order to ensure that all required portions of the submittal are provided.
 - B. After acknowledgment of a complete submittal, the Zoning Administrator 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. The Zoning Administrator shall further evaluate the submittal based on the following questions:

1. How does the proposed text amendment further the purpose of this Title as outlined in Section 12.05.040 or the Plan, as applicable?
2. How does the proposed text amendment relate to the Town's Comprehensive Plan overall?
3. Which of the following factors have arisen that are not properly addressed in the current text?
 - (a) The text should be brought into conformance with the Comprehensive Plan (note pertinent portions of the Comprehensive Plan).
 - (b) 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.
 - (c) New methods of development or providing infrastructure make it necessary to alter this Title or the Plan to meet these new factors.
 - (d) 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.
 - (e) 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 the Title/Plan.
4. 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?

C. A report shall be forwarded to the Plan Commission for review and use in the development of a recommendation to the Town Council.

(3) Review by the Plan Commission.

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

A. 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.

- B. 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 Town Council stating its findings regarding Subsection (2) above, and its recommendations regarding the petition as a whole.

(4) Review and Action by the Town Council.

The Town 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 Town 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.

- A. This subsection applies if the proposal receives a favorable recommendation from the Plan Commission:

1. At the first regular meeting of the Town Council after the proposal is certified (or at any subsequent meeting within the ninety (90) day period), the Town Council may adopt, reject, or amend the proposal. The Town Council shall give notice under IC 5-14-1.5-5 of its intention to consider the proposal at that meeting.
2. If the Town Council adopts (as certified) the proposal, it takes effect as other ordinances of the Town Council,
3. If the Town 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.
4. If the Town 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 Town Council as follows:

- (a) If the Commission approves the amendment or fails to act within the forty-five (45) day period, the ordinance stands as passed by the Town Council as of the date of the filing of the Commission's report of approval with the Town Council or the end of the forty-five (45) day period.
- (b) If the Commission disapproves the rejection or amendment, the action of the Town Council on the original rejection or amendment stands only if confirmed by another vote of the Town Council within forty-five (45) days after the Commission certifies its disapproval. If the Town Council fails to confirm its action under this clause, the ordinance takes effect in the manner provided in Subsection (3).

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

- 1. At the first regular meeting of the Town Council after the proposal is certified (or at any subsequent meeting within the ninety (90) day period), the Town Council may adopt, reject, or amend the proposal. The Town Council shall give notice under IC 5-14-1.5-5 of its intention to consider the proposal at that meeting.
- 2. If the Town Council adopts (as certified) the proposal, it takes effect as other ordinances of the Town Council.
- 3. If the Town Council rejects the proposal or fails to act on it within ninety (90) days after certification, it is defeated.
- 4. If the Town 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 Plan Commission has forty-five (45) days in which to consider the amendment and report to the Town Council as follows:
 - (a) If the Commission approves the amendment or fails to act within the forty-five (45) day period, the ordinance stands as passed by the Town Council as of the date of the filing of the Commission's report of approval with the Town Council or the end of the forty-five (45) day period.
 - (b) If the Commission disapproves the amendment, the action of the Town Council on the original amendment stands only if confirmed by another vote of the Town Council within forty-five (45) days after the Commission certifies its disapproval. If the Town Council fails to confirm its action under this clause, the ordinance is defeated as provided in Subsection (3).

- (5) 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.
- (6) Fee.
No fee is required for this procedure.
- (7) Printing.
The Plan Commission must print the amendments to the zoning ordinance per Section 36-7-4-610 of the Indiana Code. (Ord. 2001-11, S12.12.020, Aug. 6, 2001)

12.12.030 Amendment of the Official Zoning Map Or Comprehensive Plan Land Use Map.

- (1) Application Requirements.
All applications for proposed amendments to the Official Zoning Map or Plan Map, may be filed in the office of the Zoning Administrator by the Town Council, the Plan Commission or the property owners who own at least fifty (50) percent of the land involved. All applicants (as defined in Chapter 12.14) shall also provide the following:
 - A. 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.
 - B. A map of the general location of the site in relation to the Town as a whole; and
 - C. Written justification for the proposed map amendment (the petitioner is advised to answer the questions in subsection (B) below).
- (2) Review by the Zoning Administrator.
 - A. The Zoning Administrator shall review the submittal in order to ensure that all required portions of the submittal are provided.
 - B. After acknowledgment of a complete submittal, the Zoning Administrator 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. The Zoning

Administrator shall further evaluate the submittal based on the following questions:

1. How does the proposed Official Zoning Map/Plan Map amendment further the purpose of this Title as outlined in Section 12.05.040 or the Plan?
2. How does the proposed map amendment relate to the Town's Comprehensive Plan overall?
3. Which of the following factors has arisen that are not properly addressed on the current zoning/plan map?
 - (a) The designations on the map should be brought into conformance with the Comprehensive Plan (note pertinent portions of the Comprehensive Plan).
 - (b) 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 Town may intend to stop an undesirable land use pattern from spreading);
 - (c) 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;
 - (d) Growth patterns or rates have changed, thereby creating the need for an amendment to the map.
4. 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?

C. A report shall be forwarded to the Plan Commission for review and use in the development of a recommendation to the Town Council.

(3) Review by the Plan Commission.

The Town 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.

- A. 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 map 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.

- B. Within ten (10) business days after the Plan Commission determines its recommendation, the Plan Commission shall certify the proposal to the Town Council stating its findings regarding Subsection (B) above, and its recommendations regarding the petition as a whole.

(4) Review and Action by the Town Council.

The Town 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 Town 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.

- A. This subsection applies if the proposal receives a favorable recommendation from the Plan Commission:

1. At the first regular meeting of the Town Council after the proposal is certified (or at any subsequent meeting within the ninety (90) day period), the Town Council may adopt or reject the proposal. The Town Council shall give notice under IC 5-14-1.5-5 of its intention to consider the proposal at that meeting.
2. If the Town Council adopts (as certified) the proposal, it takes effect as other ordinances of the Town Council.
3. If the Town Council rejects the proposal, it is defeated.
4. If the Town 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.

- B. This subsection applies if the proposal receives either an unfavorable recommendation or no recommendation from the Plan Commission.

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

2. If the Town Council adopts (as certified) the proposal, it takes effect as other ordinances of the Town Council.
 3. If the Town Council rejects the proposal, it is defeated.
 4. If the Town Council fails to act on the proposal within ninety (90) days after certification, it is defeated.
- (5) **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.
- (6) **Fee.**
All applicants shall pay a fee for this procedure.
- (7) **Map Revision.**
The official zoning map that is kept available for public viewing by the Zoning Administrator or in the office of the Plan Commission shall be updated to reflect the map amendment. (Ord. 2001-11, S12.12.030, Aug. 6, 2001)

12.12.040 Special use review.

- (1) **Application Requirements.**
All applications for, or amendments to Special Uses or major amendments (as determined by the Zoning Administrator) to the development plans approved thereunder, shall be filed in the office of the Zoning Administrator and shall be accompanied by the following:
- A. 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.
 - B. A map of the general location of the site in relation to the Town as a whole;
 - C. A written description of the proposed Special Use describing the type of activities, buildings, and structures for the subject property and their general locations;
 - D. A site development plan of the subject property as proposed for development which includes:

1. A title block which indicates the names and addresses of the current owners of the property.
 2. A north arrow and a graphic scale.
 3. All property lines, utility lines, easements and drainageways, and right-of-way lines with dimensions.
 4. All required building and parking setback lines and building heights.
 5. A legal description of the subject property.
 6. All existing and proposed buildings, structures, paved areas, walks, drives, parking and loading spaces and their number provided vs. number required, signs, decks, patios, fences, utility poles, lighting, drainage facilities, landscaping, outdoor storage, dumpsites, on-site septic or waste treatment systems, and walls.
 7. Any other information required by the Zoning Administrator.
- E. Written justification for the proposed Special Use (the petitioner is advised to answer the questions in Subsection (2) below).
- (2) Review by the Zoning Administrator.
- A. The Zoning Administrator shall review the submittal in order to ensure that all required portions of the submittal are provided.
 - B. After acknowledgment of a complete submittal, the Zoning Administrator 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. The Zoning Administrator shall further evaluate the submittal based on the following questions:
 1. How is the proposed Special Use (the use in general) in harmony with the purposes, goals, objectives, policies and standards of the Town of Chrisney Comprehensive Plan, this Title, and any other plan, program, or ordinance adopted or under consideration pursuant to official notice by the Town?
 2. How is the proposed Special Use (in its specific location) in harmony with the purposes, goals, objectives, policies and standards of the Town of Chrisney Comprehensive Plan, this Title, and any other plan, program, or ordinance adopted or under consideration pursuant to official notice by the Town?
 3. Does the proposed Special Use, in its 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 Town or other governmental agency having jurisdiction to guide growth and development?

4. Does the proposed Special Use maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the surroundings of the subject property?
5. 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 services provided by public agencies serving the subject property?
6. Do the potential benefits of the proposed Special Use outweigh any and 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?

C. A report shall be forwarded to the Board of Zoning Appeals for its review and use in the development of a determination.

(3) Review by the Board of Zoning Appeals.

- A. 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.
- B. 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 (2) above, and the petition as a whole.

(4) 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.

- (5) **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 or conditions applied to its approval 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.
- (6) **Time Limits on the Development of a Special Use.**
The start of construction of any and all Special Uses shall be initiated within three hundred sixty-five (365) days of their approval by the Board of Zoning Appeals 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 of Zoning Appeals 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.
- (7) **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.
- (8) **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.
- (9) **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 Town with the County Recorder’s office.
- (10) **Fee**
A fee is required for this procedure. (Ord. 2001-11, S12.12.040, Aug. 6, 2001)

12.12.050 Variance Review.

(1) Purpose.

This Section is intended to provide regulations which enable the Board of Zoning Appeals to hear and decide requests for variances from the following sections of the Zoning Ordinance:

- A. development and special use standards found in Chapters 12.07 and Section 12.08.010;
- B. signage regulations under Section 12.08.030;
- C. the bulk, density and intensity standards of Chapter 12.09; and
- D. the performance standards of Chapter 12.10.

Variances shall not be contrary to the public interest and shall be permissible 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 12.13.050(G)(3).

(2) Initiation of Requests.

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

(3) Application Requirements.

All applications for proposed variances shall include one original and two copies of the application, shall include the names and addresses of all landowners within two hundred (200) feet of the boundaries of the subject property, and shall be filed in the office of the Zoning Administrator accompanied by the following:

- A. 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 properties 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 able to be mapped). 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 that is reproducible with a photocopier.
- B. A map of the general location of the site in relation to the Town as a whole; and
- C. Written justification for the proposed variance (the petitioner is advised to answer the questions in Subsection (4) below).

- D. A report shall be forwarded to the Board of Zoning Appeals for review and use in the development of a determination.
- (4) Review by the Zoning Administrator.
- A. The Zoning Administrator shall review the submittal in order to ensure that all required portions of the submittal are provided.
 - B. After acknowledgment of a complete submittal, the Zoning Administrator shall undertake a review of the submittal which shall evaluate and comment on the written justification for the proposed variance provided in the submittal. The Zoning Administrator shall further evaluate the submittal based on the following questions:
 - 1. What exceptional or extraordinary circumstances or special factors are present which apply 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:
 - (a) 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;
 - (b) Loss of profit or pecuniary hardship shall not, in and of itself, be grounds for a variance;
 - (c) 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 street or deed restrictions imposed by the owner's predecessor in title are considered to be self-imposed hardships;
 - (d) Violations by, or variances granted to, neighboring properties shall not justify a variance;
 - (e) The alleged hardship shall not be one that would have existed in the absence of a zoning ordinance.
 - 2. 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.

3. 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.
4. 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 streets, 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 Town? The response to this question shall clearly indicate how the proposed variance will have no substantial impact on such long-range planning matters.
5. 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.

C. A report shall be forwarded to the Board of Zoning Appeals for its review and use in the development of a determination.

(5) Review and Determination by the Board of Zoning Appeals.

- A. 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.
- B. 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 (2) above, and the petition as a whole.

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

(6) 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.

(7) 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.

(8) Stay of Proceedings.

An application for a variance shall stay all legal proceedings 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 proceedings 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.

(9) Fee.

A fee is required for this procedure. (Ord. 2001-11, S12.12.050, Aug. 6, 2001)

12.12.060 Appeals.

(1) Initiation of Requests.

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

- A. any order, requirement, decision, or determination made by an administrative official, hearing officer, zoning administrator or staff member under the zoning ordinance;

- B. 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
 - C. 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 Title requiring the procurement of an improvement location or building permit.
- (2) 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 of Zoning Appeals 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:
- A. 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
 - B. 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.
- (3) Review by the Zoning Administrator.
- The submitted appeal shall be reviewed by the Zoning Administrator as follows:
- A. The Zoning Administrator shall review the submittal in order to ensure that all required portions of the submittal are provided.
 - B. After acknowledgment of a complete submittal, the Zoning Administrator shall undertake a review of the submittal which shall evaluate and comment on the written justification for the appeal as provided in the submittal.
 - C. A report shall be forwarded to the Board of Zoning Appeals for its review and use in the development of a determination.
- (4) Review and Determination by the Board of Zoning Appeals.
- A. 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 and all property owners within 200 feet of the boundaries of the subject property.

- B. 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 (2) 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.
- C. If the Board fails to make a determination within ninety (90) days after the public hearing, than the request for the appeal shall be considered denied.

(5) Effect of Denial.

No appeal which has been denied (either wholly or in part) shall be resubmitted except on grounds of new evidence or proof of change of factors found valid by the Zoning Administrator.

(6) 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 an Improvement Location 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.

(7) Stay of Proceedings.

A. 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.

B. 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.

- C. 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 Town of Chrisney to give effect to that order.

- (8) Fee.
All applicants shall pay a fee for this procedure. (Ord. 2001-11, S12.12.060, Aug. 6, 2001)

12.12.070 Interpretations.

- (1) Initiation of Requests.
The Plan Commission is assigned the responsibility for the 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 Town Council, or a request by the Zoning Administrator.
- (2) Application Requirements.
All applications for proposed interpretations, shall be filed in the office of the Zoning Administrator and applicants (as defined in Chapter 12.14) shall also provide the following:
 - A. 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.
 - B. 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:
 - 1. 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.
 - 2. A map of the general location of the site in relation to the Town as a whole; and
 - 3. A written description of the reason for the requested interpretation and how the proposed interpretation relates to

the type of activities, buildings, and structures currently located on, and proposed for, the subject property.

4. A site development plan of the subject property as proposed for development. Said site plan shall conform to the requirements of Section 12.12.080(A)(4).

C. 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 by the applicant:

1. How is the subject land use (in general) in harmony with the purposes, goals, objectives, policies and standards of the Town of Chrisney Comprehensive Plan, this Title, and any other plan, program, or ordinance adopted or under consideration pursuant to official notice by the Town?
2. 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?
3. Do the potential public benefits of the proposed land use outweigh any and all potential adverse impacts of the proposed land use?

(3) Review by the Zoning Administrator.

- A. The Zoning Administrator shall review the submittal in order to ensure that all required portions of the submittal are provided.
- B. Second, upon receipt of and acknowledgment of a complete submittal, 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. Within thirty (30) days of such receipt, the request and the review shall be forwarded to the Plan Commission for their use in making the official interpretation.

(4) Standards for Review of Requested Interpretations.

This Title shall be interpreted in a manner which is consistent with the purposes intended by the Town of Chrisney Town 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:

- A. 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.

- B. 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.

- C. 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.

- D. This Title has been carefully designed by the Town 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 Town of Chrisney. 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 Town Council.

E. 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:

1. Previously Rejected Use

No interpretation shall allow the establishment of any land use which was previously considered and rejected by the Town Council on application for an amendment to the Zoning Ordinance, the Official Zoning Map, or a previously applied for appeal within the last five (5) years unless changed factors have arisen that make the request potentially justifiable as determined by the Plan Commission.

2. 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.

3. 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, general business, etc.)

4. 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.

(5) 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.

- (6) Limitations on Favorable Land Use Interpretations.
- A. 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 an Improvement Location 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.
- B. 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.
- (7) Fee.
No fee is required for this procedure. (Ord. 2001-11, S12.12.070, Aug. 6, 2001)

Chapter 12.13

PERMITS, ADMINISTRATION AND ENFORCEMENT

Sections:

12.13.010	Purpose
12.13.020	Zoning Administrator
12.13.030	Improvement Location Permits
12.13.040	Plan Commission
12.13.050	Board of Zoning Appeals
12.13.060	Fees
12.13.070	Violations and Penalties
12.13.080	Injunctive Relief
12.13.090	Burden of Proof

12.13.010 Purpose. The purpose of this Chapter is to establish the administrative and enforcement provisions for the implementation of this Title. (Ord. 2001-11, S12.13.010, Aug. 6, 2001)

12.13.020 Zoning Administrator. This Title shall be administered, implemented and enforced by the Zoning Administrator, and/or his designee, who shall serve at the pleasure of the Plan Commission, and who in addition and per said authority shall:

- (1) Receive, file, and forward all applications for improvement location permits and all procedures governed by this Title (see Chapter 12.13) to the designated official bodies and attend all Plan Commission, Board of Zoning Appeals and Town Council meetings as requested.
- (2) Determine that all permits, plans, and certificates required herein comply with all provisions of this Title.
- (3) Perform inspections of buildings, structures and lands to determine compliance with this Title.
- (4) Issue permits for the activities listed below in Section 12.13.030 after an application for said permit has been submitted to the Town on forms provided by the Town.
- (5) Institute, in the name of the Town of Chrisney, any appropriate actions or proceeding against a violator of this Title, including abatement of violations, as provided by law.
- (6) Maintain permanent and current records of this Title, including but not limited to all improvement location permits, maps, amendments, special uses, variances, appeals, interpretations, development plans, and applications

therefor and provide monthly reports of such applications and permits to the Plan Commission, Board of Zoning Appeals, and the Town Council. (Ord. 2001-11, S12.13.020, Aug. 6, 2001)

12.13.030 Improvement location permits. Improvement location permits shall be issued by the Zoning Administrator in accordance with the procedures in this Section. A fee for such permits are required unless noted below and said fee shall be paid upon submission of an application for a permit for the review thereof.

(1) Activities Not Requiring Permits

Improvement location permits are not required for: routine maintenance, repair or remodeling of existing structures not involving a change in use, additional lot coverage, or increase in the size of the structure; underground or overhead municipal utility lines, signs and related appurtenances; lot improvements such as sidewalks, landscaping, and play equipment; and structures accessory to an agricultural cultivation or husbandry land use.

(2) Activities Requiring Permits

Improvement location permits are required for the activities listed in 1 through 7 below:

- A. All construction, reconstruction or placement of structures and buildings including such improvements erected by a public or private utility or public agency;
- B. Additions to, enlargements of, or structural alterations to buildings and structures which increase the lot coverage, height, or size of the structure;
- C. Demolition or relocation of buildings and structures;
- D. Accessory structure construction, placement, addition or relocation including, but not limited to, signs, detached garages, carports, gazebos, sheds, swimming pools, decks, porches, patios, and fences;
- E. Off-street parking lot construction or expansion;
- F. All driveways for all land uses in all zoning districts in addition to necessary commercial driveway permits issued by the Indiana Department of Transportation; and
- G. Change in use.

(3) Applications for Improvement Location Permits

The application for an improvement location permit shall be signed by the property owner and accompanied by the following information:

- A. A site development plan as shown in Appendix 2 showing at a minimum:
 - 1. A north arrow and a title block which indicates the names and addresses of the current owners of the property.
 - 2. All property lines, utility and other easements and major drainageways, and right-of-way lines with dimensions.
 - 3. All required building and parking setback lines and building heights.
 - 4. All existing and proposed buildings, structures, paved areas, drives, parking and loading spaces and their number provided versus number required, signs, decks, patios, fences, lighting, landscaping if required by this ordinance, outdoor storage, dumpsites, and on-site septic or waste treatment systems.
- B. Plans and specifications as required by the Zoning Administrator showing the work to be completed.
- C. A copy of the sewage disposal permit issued by Spencer County for all private disposal systems.
- D. 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.
- E. A landscape plan for:
 - 1. all commercial and industrial zoned lots,
 - 2. parking lots for six (6) or more cars, and
 - 3. all non-residential land uses abutting a residential land use.
- F. Any other information required by the Zoning Administrator.

(4) Permit Expiration

After issuance of an improvement location permit, the start of construction must have commenced within one hundred and eighty (180) days or the permit shall automatically expire. All work approved under the permit shall be completed within one (1) year from the date of issuance of the permit, or said permit shall automatically expire. Further work shall not proceed until a new permit is applied for and approved by the Zoning Administrator. A permit may be revoked if the permittee fails to comply with all conditions of the permit and all local ordinances. Further work shall not proceed until a permit is applied for and approved or reissued by the Zoning Administrator. (Ord. 2001-11, S12.13.030, Aug. 6, 2001)

12.13.040 Plan Commission.

- (1) Name.
The Town of Chrisney Advisory Planning Commission per Indiana Code 36-7-4-200 shall hereafter be referred to as the Plan Commission.

(2) Membership.

The Plan Commission consists of seven (7) voting members or if extraterritorial jurisdiction areas are established, nine (9) voting members. The Town Clerk shall certify members appointed by the Town Council and the Town Council President shall certify his appointments. The certificates shall be sent to and made a part of the records of the Plan Commission.

- A. The Town Council appoints three (3) persons, who must be elected or appointed municipal officials or employees in the municipal government, as members.
- B. The Town Council President appoints 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 Plan Commission if the Town exercises zoning jurisdiction outside its corporate boundaries. The citizen members must:
 - 1. reside in the unincorporated area; and
 - 2. not be of the same political party.

(3) Terms of Voting Members.

A. Citizen Members

1. Terms

(a) Town Appointments

Two (2) citizen members were initially appointed for a term of three (3) years and two (2) 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.

(b) County Appointments from the Extra Territorial Jurisdictional area

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

2. 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.

B. Town Employees and Town Officials

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

(4) 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.

(5) 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.

(6) 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.

(7) Organization.

A. 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.

B. Secretary

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

C. 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.

(8) Duties.

A. Recommendations to the Town Council

1. Comprehensive Plan

The Plan Commission shall make recommendations to the Town Council concerning the adoption of the comprehensive plan, ordinance, and amendments for the development of the Town and of the contiguous unincorporated area, designated by the Commission, that is outside the corporate boundaries of the Town, and that, in the judgment of the Commission, bears reasonable relation to the development of the Town.

2. Zoning Ordinance and Map

The Plan Commission shall make recommendations to the Town 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.

3. Subdivision Ordinance

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

4. Ordinances and Plans Relating to Town's Development

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

B. Plan Commission Final Authority for Approval

1. Plats

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

2. Development Plans

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

3. Redevelopment Plans

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

4. Street Numbers

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

C. Administrative Duties

1. Administrative and Fiscal Duties

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

2. 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.

3. Dissemination of Information

The Plan Commission shall prepare, publish, and distribute reports, ordinances, and other material relating to authorized activities. (Ord. 2001-11, S12.13.040, Aug. 6, 2001)

12.13.050 Board of Zoning Appeals.

(1) Name.

The Town of Chrisney Board of Zoning Appeals (BZA) per Indiana Code 36-7-4-900 shall hereafter be referred to as the Board of Zoning Appeals.

(2) Membership and Terms.

The Board of Zoning Appeals consists of five (5) members, who are residents of the Town (or extraterritorial area where applicable) and who do not hold other elective or appointive office in municipal, county or state government (except on the Plan Commission as allowed below). 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 is appointed as follows:

A. Town Council President Appointments

Three (3) citizen members appointed by the Town Council President, 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.

B. Town Council Appointments

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

C. 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 Town Council President and if applicable, must be one of the two (2) members appointed by the county executive to serve on the Plan Commission representing the extraterritorial jurisdiction area (ETJ) area to serve a term of four (4) years.

(3) 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.

(4) 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.

(5) Quorum.

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

(6) Organization.

A. 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, who does not have to be a member of the Board, and any other such employees as are necessary for the discharge of its duties.

B. 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.

(7) Duties.

A. 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.

B. 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.

C. Variances

The Board of Zoning Appeals shall approve or deny all variances from the provisions of this Title. Variances in development standards and related requirements as outlined in Section 12.12.050(A) shall be permitted, however variances in use shall not be permitted but shall be considered through an interpretation by the Plan Commission that the use is a Permitted or Special Use per Section 12.12.070, that a text amendment to permit such a use in a zoning district is recommended, or that rezoning of the property is necessary to permit a particular use on a particular property.

(8) Administrative Duties.

The Board of Zoning Appeals may 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. 2001-11, S12.13.050, Aug. 6, 2001)

12.13.060 Fees. The Plan Commission shall recommend to the Town Council a schedule of fees, charges, and expenses for permits and procedures required herein. The Town Council shall establish the fee schedule and post the schedule in the offices of the Zoning Administrator and Town Clerk. The schedule of fees may be amended or altered only by the Town Council and shall not be a part of this ordinance. (Ord. 2001-11, S12.13.060, Aug. 6, 2001)

12.13.070 Violations and penalties. The following regulations shall apply to all violations of this Title and the following penalties for same are established herein.

- (1) **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.
- (2) **Penalties.**
Any person, firm, corporation or similar entity who violates, disobeys, 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.
- (3) **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 with ten (10) working days of receipt of the notice. Any entity other than a property owner found in violation of this ordinance may also be notified and held liable for such acts per this Section. 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.
- (4) **Abatement of Violation by the Town**
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.
- (5) **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 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 Town 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 thirty (30) calendar days from the receipt thereof. (Ord. 2001-11, S12.13.070, Aug. 6, 2001)

12.13.080 Injunctive relief.

- (1) 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.
- (2) 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.
- (3) If the Board of Zoning Appeals is successful in its action, the respondent shall bear the costs of the action including the Town's Attorney's fees. A change of venue from the county may not be granted in such an action. (Ord. 2001-11, S12.13.080, Aug. 6, 2001)

12.13.090 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. 2001-11, S12.13.090, Aug. 6, 2001)

Chapter 12.14

DEFINITIONS

Sections:

12.14.010	Purpose
12.14.020	Word Usage
12.14.030	Definitions

12.14.010 Purpose. This Chapter defines words, terms and phrases used in the Zoning Ordinance which have meanings that are not generally common English usage. See also Chapter 12.08 for terms used in connection with the regulation of signs. (Ord. 2001-11, S12.14.010, Aug. 6, 2001)

12.14.020 Word Usage. The Zoning Ordinance and its words, terms, and phrases shall be interpreted with the provisions and definitions of this Chapter except where the context clearly requires otherwise, where words have been otherwise defined in the chapter or text itself where located, or where the result would clearly be inconsistent with the manifest intent of the Zoning Ordinance. Words and terms not defined herein shall be defined as specified in the latest version of the Webster's New Collegiate Dictionary.

- (1) Words used or defined in one tense or form shall include other tenses and derivative forms.
- (2) Words in the singular number shall include the plural number and words in the plural number shall include the singular number.
- (3) Words in the masculine gender shall include the feminine and neuter, and words in the feminine gender shall include the masculine and neuter.
- (4) The words "shall", "must", and "will" are mandatory and are not discretionary. The words "may", "can", and "might" are permissive. The word "used" shall be deemed to include arranged, designed, intended, occupied, or maintained.
- (5) The word "person" shall be deemed to include associations, corporations, firms, government agencies, individuals, joint ventures, partnerships, trusts, and any other similar legal entities.
- (6) If there is any ambiguity between the text and any caption, illustration or table, the text shall control unless the intent clearly reflects a typographical error that had been made in the text. (Ord. 2001-11, S12.14.020, Aug. 6, 2001)

12.14.030 Definitions.

Abutting

Physically touching or having a common border, property line or lot line with, or being separated from such common border by an alley or easement.

Access

A means of vehicular approach, i.e., entry to or exit from a property, street or highway.

Access, secondary

A means of vehicular or non-vehicular approach, entry to, or exit from a property from a source other than a public street or highway.

Accessory building, use or structure

A building, use or structure subordinate in area, extent and purpose to, and serving, the principal building, use or structure on the same lot and customarily incidental thereto. See Chapter 12.08.

Addition

Any walled and roofed expansion to the perimeter and/or height of a building connected by a common load-bearing wall other than a firewall. Any walled and roofed addition that is connected by a firewall or is separated by independent perimeter load-bearing walls is new construction.

Administrator, zoning

The person or persons appointed or employed by the Plan Commission to interpret and administer the zoning ordinance and related land development regulations.

Advisory Plan Commission

A plan commission serving a single local government jurisdiction. The Town of Chrisney Plan Commission is an Advisory Plan Commission. State Law Reference: Section 36-7-4-202, Indiana Code.

Agriculture

The use of land for cultivation and/or husbandry and/or related services and processing customary thereto. See Section 12.07.030(A) for agricultural land uses.

Alley

A public way, other than a street, road, crosswalk, or easement, that provides secondary access for the special accommodation of abutting property and is not intended for general traffic circulation.

Alteration

Any change in size, shape, character, occupancy, or use of a building or structure.

Amateur radio antenna support structures

Poles, master towers and antennas used in the operation of amateur radios licensed by the Federal Communication Commission and regulated as an accessory structure.

Apartment

One or more rooms comprising an independent self-contained dwelling unit, in a building containing two or more dwelling units or uses, which is rented and not commonly owned by its occupants. See Section 12.07.030(B)(3) and see also commercial apartment under Section 12.08.010(B).

Appeal

A means for obtaining review of a decision, determination, order, or failure to act pursuant to the terms of this Title as expressly authorized by the provisions of Section 12.12.060.

Applicant

The owner or owners of real estate or the lessee, developer or other person with the written consent of the owner.

Awning

A roof-like cover that projects from the wall of a building that may be temporary in nature and may be capable of being retracted into the face of the building for the purpose of shielding a doorway or window from the elements.

Basement

That portion of the building partly underground which has more than one-half of its height measured from finished floor to finished ceiling above the average grade of the adjoining ground; and not deemed a story unless the ceiling is six (6) feet or more above the grade. In no instance shall the main floor of a single-story building be considered a basement. (See also Cellar)

Bed and Breakfast

A commercial land use defined under Section 12.07.030(D)(2).

Board of Zoning Appeals

The board established to hear appeals, variances and special uses under the Zoning Ordinance as authorized by state law and known as the Board of Zoning Appeals of the Town of Chrisney.

Boarding House, Lodging House or Rooming House

A residential land use defined under Section 12.07.030(B)(1).

Building

A structure which is substantially enclosed by exterior walls, has a roof supported by columns or walls and is built, maintained or used or intended to be used for the shelter, support, enclosure, or protection of persons, animals, processes or property of any kind (each part of such a structure that is separated from the rest by unbroken party walls is a separate building for the purposes of the Zoning Ordinance).

Building, principal

A building in which is conducted, or in which is intended to be conducted, the main or principal use of the lot on which it is located.

Building code

The Uniform Building Code, as established by the State of Indiana.

Building height

The vertical distance measured from the established grade level to the highest point of the under side of the ceiling beams in the case of a flat roof, to the deck line of a mansard roof, to a point directly above the highest wall of a shed roof, to the uppermost point on a round or arched type roof, and to the mean level of the under side of rafters between the eaves and the ridge of a gable, hip, or gambrel roof. Chimneys, spires, towers, elevator penthouses, tanks and similar projections, other than signs, shall not be included in calculating the height. See Section 12.09.070 for other exclusions and see also Height (of a structure).

Building line

A line that passes through the point on the existing principal building nearest the lot line that is generally parallel to the lot line. In the case of a non-conforming structure set too close to the lot line, the minimum required building setback line for the district in which the lot is located shall be the building line. The building line relates to the actual setback of an existing conforming structure whereas the setback line refers to the minimum required setback distance which may be closer to the lot line than the actual building line.

Building line, front

The building line that is nearest to and parallel to the front lot line.

Building permit

See Improvement location permit.

Building, principal

A building in which is conducted, or in which is intended to be conducted, the main or principal use of the lot on which it is located.

Bulk regulations

Development standards which control the maximum size of buildings and structures on a lot and the buildable areas within which the building may be located, including coverage, setbacks, height, floor area, and yard requirements. (See also development standards)

Business district

Refers to the GB zoning district (See Section 12.06.060(D)).

Campground

A commercial land use defined under Section 12.07.030(D)(3).

Cellar

A portion of a building partly underground which has less than one-half of its height measured from finished floor to finished ceiling above the average grade of the adjoining ground and which is not deemed a story.

Cemetery

A place of burial for the dead. It may include any columbarium, crematory, mausoleum, or mortuary operated in conjunction with and on the same tract as the cemetery. See institutional non-residential land uses, Section 12.07.030(C)(1).

Childcare center

A commercial land use defined under Section 12.07.030(D)(4). State Law Reference: Section 12-7-2-28.4, Indiana Code

Childcare home

An accessory land use defined under Section 12.08.010(B). State Law Reference: Section 12-7-2-28.6, Indiana Code

Clinic, medical

An establishment in which patients are admitted for examination or treatment on an outpatient basis and in which the services of at least two (2) physicians or dentists are provided. See personal and professional services, Section 12.07.030(D)(13).

Club or lodge, private

A building and related facilities owned or operated by a corporation, association, person or persons for a fraternal, social, educational, cultural, or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business, and whose members generally pay dues and meet certain prescribed qualifications for membership. See institutional non-residential land uses, Section 12.07.030(C)(1).

Commercial apartment

An accessory land use defined under Section 12.08.010(B).

Commission

The Chrisney Plan Commission.

Community character

The impression which an area makes in regard to the type, intensity, density, quality, appearance, and age of development.

Comprehensive Plan

The Comprehensive Plan of the Town of Chrisney setting forth the development of the Town, adopted by Resolution dated December 6, 1999 and any subsequent amendments thereto. State Law Reference: Section 36-7-4-504, Indiana Code.

Condominium

Real estate lawfully subject to the Horizontal Property Law by the recordation of condominium instruments, in which undivided interests in the common areas and facilities are vested in the condominium unit owners. See multiple-family dwellings, Section 12.07.030(B)(3). State Law Reference: Chapter 32-1-6, Indiana Code.

Council

The Chrisney Town Council.

County

Spencer County, Indiana.

Crawl space or underpinning

A permanent perimeter structural system completely enclosing the space between the floor joists of the home and the ground, except for necessary openings constructed in accordance with the Building Code of the Town of Chrisney and applicable state laws.

Curb

The defined edge between the pavement, gravel or traveled portion of a street and the remainder of the public right-of-way or parkway.

Day care center

See Child care center.

Demolition

Any act or process which destroys in part or in whole a structure.

Development

The division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any buildings; any use or change in use of any buildings or land; any extension of any use of land; or any clearing, grading, or other movement of land or water, below or above ground or water for which permission may be required pursuant to this Title.

Development site

One or more lots, plots, or parcels or combinations of contiguous lots, plots or parcels or portions thereof developed or to be developed as a single development or land use and containing one or more buildings and structures, commonly under single ownership or control at the time of construction.

Development standards

The lot, area, bulk (setback, floor area, yard, etc.), and height requirements defined in this Title for each zoning district.

District, zoning

Any specifically described area of the Town as indicated by the Official Zoning Map of the Town of Chrisney for which uniform regulations governing the use, height, area, size, and intensity of use of buildings and land and open spaces around buildings, are herein established. See Section 12.06.060 for definitions of residential, commercial, industrial, agricultural, recreational, and non-residential zoning districts.

Dormitory

A building or part of a building generally operated by an institution as an accessory use and containing a room or rooms forming one or more habitable units which are used or intended to be used by residents of the institution for living and sleeping, but not for cooking or eating purposes. See institutional housing, Section 12.07.030(B)(7).

Drainage

The removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during and after development, and the means necessary for water supply reservation or prevention or alleviation of flooding.

Drive-in restaurant

An outdoor commercial entertainment establishment selling food, frozen desserts, or beverages to consumers; the establishment being designed, intended or used for the consumption of such items on the premises outside of the building in which they were prepared. See Section 12.07.030(D)(14).

Drive-up establishment

An accessory use defined under Section 12.08.010(C).

Driveway

A private pathway providing access for motor vehicles to a street or highway.

Dump Site

The location and related enclosure of a dumpster or other trash receptacle.

Dwelling

A building, or part of a building, occupied or intended to be occupied exclusively for residence purpose or human habitation. This does not include a hotel, motel, lodging house, or boarding house.

Dwelling unit

One or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping.

Dwelling unit, manufactured home

A residential land use defined under Section 12.07.030(B)(8). Manufactured homes are individual single-family dwelling units installed as a permanent residence, are designed and built in a factory after January 1, 1981, are installed on a permanent foundation of masonry construction, and have conventional residential roofing and siding materials compatible with those of adjoining residences.

Dwelling unit, mobile home

A residential land use defined under Section 12.07.030(B)(9). A mobile home is any vehicle including equipment sold as part of a vehicle which is so constructed as to permit its being used as a conveyance upon public streets or highways by either self-propelled or not self-propelled means, which is designed as a dwelling for one or more persons having no foundation other than wheels, jacks, skirting, or other temporary supports. Mobile homes do not include recreational vehicles. Mobile homes include manufactured dwelling units not meeting the standards for manufactured homes above.

Dwelling unit, multiple-family

A residential land use defined under Section 12.07.030(B)(3). Multiple-family dwellings are single buildings containing three or more dwelling units as the principal use of the property. Examples include apartment buildings and attached single-family dwellings such as townhouses and condominiums.

Dwelling unit, single-family attached

An attached single-family dwelling unit is a building consisting of dwelling units each of which is attached by a common vertical wall to one other dwelling unit with each dwelling unit having a separate entrance. An attached single-family dwelling unit shall include the terms "townhouse" and "row house". Attached single-family dwelling units are considered multiple-family dwellings, see Section 12.07.030(B)(4).

Dwelling unit, single-family detached

A single-family detached dwelling unit is a building containing a single dwelling unit only, which is separated from all other dwelling units by open space. Manufactured homes and detached single-family dwellings are single-family dwelling land uses described under Section 12.07.030(B)(4).

Dwelling unit, two-family

A residential land use defined under Section 12.07.030(B)(5). Two-family dwellings are detached buildings containing two dwelling units in a duplex arrangement with units side by side, or in a two-flat arrangement with units upper and lower, or in rare instances due to building design—combinations thereof.

Easement

Authorization by a property owner for another party to use for a specified purpose any designated part of his property or any one or more of the property rights attached thereto.

Extraterritorial area

The area outside the town's corporate limits in which the Town of Chrisney exercises extraterritorial powers of zoning and/or land division review.

Family

A group of individuals, not necessarily related, living together in a dwelling unit as single nonprofit housekeeping unit, doing their cooking on the premises, in an intentionally structured relationship providing organization and long-term stability; as distinguished from a group occupying a boarding house, fraternity, or similar living arrangement.

Farm

A parcel of land used for agricultural purposes. See definition of Agriculture.

Fence

Any unroofed construction of wood, metal, wire mesh, masonry or other material erected for, or serving the purpose of assuring privacy or protection and enclosing, screening or separating areas.

Fire department

Refers to the governmental organization that is responsible for providing fire protection services to the Town of Chrisney.

Floor area, gross

The total number of square feet of floor space within the exterior walls of a building, including halls, stairways, elevator shafts, attached garages, porches, and balconies but not including space in cellars or basements.

Floor area, ground

The gross floor area of a building in square feet, as measured in a horizontal plane at the ground floor level within its largest outside dimensions, exclusive of open porches, breezeways, terraces, garages, and exterior stairways.

Foundation

The supporting member of a wall or structure.

Fraternity, sorority, or student cooperative

An unrelated group of persons living as a single housekeeping unit, recognized under state or federal tax law as a not-for-profit entity and recognized as a student living unit by a college or university. See institutional residential land uses, Section 12.07.030(B)(7).

Free burning

A rate of combustion described by a substance that burns actively and easily supports combustion.

Frontage, building

The linear width in feet of the principal building facing a street.

Frontage, street

That portion of a lot measured along the front lot line abutting a street. (A corner lot or through lot may have more than one frontage.)

Garage, private residential

An accessory building, carport or part of a principal residential building designed to be compatible with adjoining residential structures.

Garage, public

A building or premises which is operated for commercial purposes and used for the storage of motor vehicles, but a "public garage" shall not be used for the storage of dismantled or wrecked motor vehicles or parts thereof, or junk.

Garage, public parking

A garage, other than private garage, where parking, but not repairs, are available to members of the public or to persons occupying a hotel, club, or similar facility.

Glare

The brightness of a light source which causes eye discomfort, annoyance, or loss in visual performance and visibility.

Grade or ground level

The average level of the finished surface of the ground adjacent to the exterior (walls) of a building or structure.

Grandfathered

Refer to Nonconforming building, lot or structure or Nonconforming use within Definitions.

Group development

A development with two or more principal uses or buildings described in Section 13.06.040 allowed only after a Special Use is approved by the Board of Zoning Appeals.

Handicap

Any physical or mental impairment which limits one or more of a person's life activities; or a record of having such impairment; or being regarded as having such impairment. However, the definition of handicap does not include the current use of or addiction to a controlled substance.

Hardship

A perceived difficulty with regard to one's ability to improve land stemming from the application of the development standards of this Title, which may or may not be subject to relief by variance. In and of themselves, self-imposed situations and claims based on a perceived reduction of or restriction on economic gain shall not be considered hardships. Self-imposed situations include: the purchase of land with actual or constructive knowledge that, for reasons other than physical characteristics of the property, the development standards herein will inhibit the desired improvement; any improvement initiated in violation of the standards of this Title; any result of land division requiring variance from the development standards of this Title in order to render that site buildable.

Hazardous waste

Material which has been designated as "hazardous waste" by the Federal Environmental Protection Agency, the Spencer County Board of Health, the Indiana State Board of Health, or the Town Fire Chief.

Height (of a structure other than a building)

The vertical distance measured from the established grade level to the highest point of the structure. See Section 12.09.070 for exclusions and see also Building height.

Home occupation

An accessory land use defined under Section 12.08.010(D).

Hotel, motel, inn, or motorcourt

A commercial land use defined under Section 12.07.030(D)(8).

Household

See Family.

Husbandry

An agricultural land use defined under Section 12.07.030(A)(2).

Improvement location permit

Written permission by the Town for the construction, alteration, repair or addition to a structure or site as detailed in Section 12.13.030.

Improvements

Any building, structure, parking facility, fence, gate, wall, work of art, underground utility service or other structure that becomes part of, is placed upon, or is affixed to real estate.

Indoor commercial entertainment

A commercial land use defined under Section 12.07.030(D)(9).

Industrial park

An industrial district in which buildings and lands may be used for research, offices, experimental or testing laboratories, light industrial, non-nuisance manufacturing, storage and distribution facilities and other customary uses that meet with the requirements of the comprehensive plan and specifically excludes any hazardous or radioactive waste storage, transportation or disposal.

Infill development

Development located in areas that are for the most part developed already.

Institutional housing

A residential land use defined under section 12.07.030(B)(7).

Intense burning

A rate of combustion described by a substance that burns with a high degree of activity and is consumed rapidly.

Intensive agriculture

An agricultural land use defined under Section 12.07.030(A)(4).

Interested person

Any person who holds an interest in real estate that is the subject of a zoning decision located within two hundred and fifty (250) feet of the property lines of such real estate. Service of notice to interested persons may be made by mail or personal service on the last assessee of record, unless specified otherwise.

Junk yard

An industrial land use including salvage yards where land or structures are operated or used for a salvaging or recycling operation including but not limited to outdoor buying, storage and/or sale of appliances, waste paper, rubber, scrap metal, or other materials, or discarded materials intended for recycling; and/or the collection, dismantlement, storage or salvage of two (2) or more unlicensed and/or inoperative vehicles or parts thereof.

Kennel

Any commercial or non-commercial facility, either private or public, used primarily for keeping, grooming, breeding, boarding, training, or selling four (4) or more dogs or other small animals that are ordinarily kept as pets and are at least four (4) months old. See animal boarding, a commercial land use, Section 12.07.030(D)(1).

Landscaped area

Land that has been decoratively or functionally altered by contouring and/or planting shrubs, trees, or vines, with a living or nonliving groundcover.

Lodging house

See Boarding house.

Lot

A tract or parcel of land that:

- a. is undivided by any street or private road;
- b. is occupied by, or designed to be developed for one (1) building or principal use and is of sufficient size to meet the minimum zoning requirements for said building or use; and
- c. contains the accessory buildings or uses customarily incidental to such building, use or development, including such open spaces and yards as designed and arranged or required for such building, use or development, or
- d. a tract or parcel of land that exists as shown or described on a plat or deed legally recorded in the office of the county recorder or legally approved by the Town of Chrisney.

Lot, corner

A lot at the junction of and abutting two (2) or more intersecting or intercepting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed one hundred thirty-five (135) degrees.

Lot, interior

A lot other than a corner lot.

Lot, through

A lot which has a pair of opposite lot lines abutting two substantially parallel streets, or abutting two streets or two portions of a continuous curvilinear street that do not intersect at the boundaries of the lot.

Lot coverage

The percentage of the total lot area which is covered by buildings, including accessory or out buildings.

Lot line

The property lines bounding a lot that divide it from another lot or a public or private street. Where a lot line parallels and approximates the centerline of an undedicated street or where a lot line parallels a private street, the lot line shall be considered the curb line for determining setbacks.

Lot line, front

The lot line which abuts a public or private street (which is not a street lot line). In the case of a lot which abuts two or more streets, the lot line most closely parallel with the front door of the principal building, or where there is no building, the lot line along which primary access to the site is obtained or to which the development or use is clearly related shall be the front lot line. Where a lot line parallels and approximates the centerline of an undedicated street or where a lot line parallels a private street, the lot line shall be considered the curb line for determining setbacks.

Lot line, rear

In the case of rectangular or most trapezoidal shaped lots, the lot line or lines directly opposite the front lot line. In the case of an irregular, triangular, or gore-shaped lot, a line twenty (20) feet in length, entirely within the lot, parallel to and at the maximum possible distance from the front lot line shall be considered the rear lot line.

Lot line, side

Any boundary or lot line of a lot which is not a front lot line, a street lot line, or a rear lot line. Side lot lines extending into streets shall be measured at the curb line.

Lot line, street

Any lot line which abuts a public or private street which is not the front lot line. Where a lot line parallels and approximates the centerline of an undedicated street or where a lot line parallels a private street, the lot line shall be considered the curb line for determining setbacks.

Lot width

The distance between the side and/or street lot lines as measured at the minimum required building setback line.

Manufactured home

See Dwelling unit, manufactured home.

Master Plan

See Comprehensive plan.

Mobile home

See Dwelling unit, mobile home.

Mobile home park

A residential land use defined under Section 12.07.030(B)(9). A mobile home park is a land use regulated by the State of Indiana as a mobile home park and is an area of land on which at least five (5) mobile homes are harbored on temporary supports for the purpose of being occupied as residences, whether free of charge or rented, and shall include any street used or intended for use as part of the facilities of such mobile home park. A mobile home park does not include a mobile home sales area on which unoccupied mobile homes are parked for inspection or sale.

Mobile home subdivision

Any site, lot, field or tract of land under single ownership, or ownership of two or more persons, which is to be divided into smaller lots, which are to be sold for use by purchaser to locate such purchaser's mobile home.

Motel

See Hotel.

Nonconforming building, lot or structure

Any building, lot, or structure lawfully existing under provisions or regulations prior to the effective date of this Title and which does not comply with all the height, area, size, setback, bulk, and other applicable regulations of this Title.

Nonconforming use

An active and actual use that exists prior to the effective date of this Title which has continued as the same use to the present and which does not comply with all the applicable regulations of this Ordinance.

Nursing home

Premises used for the housing of and caring for the ambulatory, aged or infirm. There shall be only incidental convalescent care not involving either trained nurse or physician residing on the premises. There shall be no surgery or other similar activities such as is customarily provided in sanitariums and hospitals.

Occupied space

The total area of earth horizontally covered by the structure, excluding garages, patios and porches and other accessory structures.

Office, medical

An establishment in which patients are admitted for medical or dental treatment and in which the services of one (1) physician or dentist are provided.

Office, professional

An office used by members of a recognized profession such as accountants, architects, artists, engineers, lawyers, real estate agents, insurance agents and brokers.

On-site

Located on the lot in question.

Open space

Any front, side or back yards, courts, or other land or water areas not occupied by any building, structure, pavement, gravel or man-made impervious surfaces.

Outdoor assembly

A temporary land use defined under Section 12.07.040(D).

Outdoor commercial entertainment

A commercial land use defined under Section 12.07.030(D)(14).

Owner

The owner as shown on the records of the Property Records Section of the Spencer County Recorder's office on the date of the filing of an application for development approval.

Performance standard

A criterion established for the purpose of controlling light, noise, odor, heat, smoke, toxic matter, vibration, fire and explosive hazards, glare or similar characteristics generated by, or inherent in, uses of land or buildings.

Permanent foundation

A structural system for transposing loads from a structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil.

Permitted use

Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Person

Any individual person, corporation, firm, partnership, association, organization, unit of government, or any other group that acts as a single unit.

Petitioner

See Applicant.

Plan Commission

The Plan Commission of the Town of Chrisney.

Public way

Any street, road, avenue, alley, or sidewalk within the Town's boundaries provided and maintained by the Town for the vehicular and pedestrian use of its citizens, including those within the park system.

Recreational vehicle

A transportable vehicular structure without permanent foundation that can be towed, hauled, or driven and primarily designed as a temporary living accommodation for camping, travel and vacation uses including but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes which is identified on the unit by the manufacturer as a travel trailer.

Recreational vehicle park

Any site, lot, field, or tract of land designed with facilities for short-term occupancy by recreational vehicles only. Reference Section 12.07.030(D)(3).

Residential facility for the developmentally disabled

A properly licensed, community based living facility that provides a family or home-like environment and, in some cases, training for from four (4) to sixteen (16) developmentally disabled persons (as defined in P.L. 98-527 STAT 2662 1984) in a supervised group living program, as described in IC 16-13-22-1(1).

Residential facility for the mentally ill

A properly licensed, community based living facility that provides a family or home-like environment and, in some cases, training for mentally ill individuals as defined and delineated in the Indiana State Code in a supervised group-living program.

Residential youth facility

An emergency shelter or a temporary residential home for abused or neglected or court-ordered children (as defined in IC 12-3-2 and 31-6-4-1[b]).

Rest home

See Nursing home.

Right-of-way

The strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation intended to be occupied by a road and related public utilities or amenities.

Satellite antenna or dish

A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or concave dish. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), and satellite microwave antennas.

Setback line

The line delineating the minimum required horizontal distance between the front lot line and a building or parking area.

Shelter, emergency

Boarding and/or lodging and supporting services provided by non-profit, charitable, governmental, or religious organizations to primarily indigent, abused, needy, or homeless persons.

Shopping center

A group of commercial establishments, planned, developed, owned, and managed as a unit, with off-street parking provided on the property, and related in its location, size, and type of shops to the trade area which the unit serves.

Sign

See Section 12.08.030 for definitions of signs and related subjects.

Special use

A specific use which is allowed under "Special Uses" in certain zoning districts and has been deemed by the Board of Zoning Appeals to meet the specific conditions outlined in Section 12.13.050 of this Title.

Start of construction

The date the building permit is issued, provided the actual start of activity was within one hundred eighty (180) days of the permit date. The actual start of activity means either the first placement of permanent construction of a structure on the site such as the pouring of a slab or footings, the installation of piles, or the construction of columns. 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 basements, footings, piers, or foundations; nor does it include 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 part of the main structure.

Street

The entire width of every way publicly maintained, whether improved or unimproved, when any part thereof is intended for, or open to the general public for the purpose of primary access or through vehicular traffic movements and which is established or dedicated by duly recorded plat, deed, grant, governmental authority or by operation of law.

Street, arterial

A main street designed for high volume traffic and through traffic.

Street, local

A street designed to collect traffic from individual driveways and carry it to collector roadways. All streets not classified as either major arterials, major collectors, or minor collectors are considered local streets.

Street, major collector

A street designed to facilitate the collection of traffic from local streets and minor collectors to arterial streets.

Street, minor collector

A street designed to facilitate the collection of traffic from local streets, to provide circulation within neighborhood areas and convenient ways to reach major collectors and arterial streets.

Street, private

A street which has not been accepted by the town or any other governmental entity.

Structure

A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water. All buildings are structures.

Subdivision

The division of an existing parcel of land into at least two (2) smaller parcels so that either now or in the future the subdivider can transfer ownership, construct buildings, or create new building sites for lease with one or more of the divided parcels:

Town

The Town of Chrisney, Indiana.

Townhouse

A group or row of three (3) or more, but not more than six (6) attached single-family-household dwelling units extending from the foundation to the roof and facing upon a street or place as herein defined.

Trade or business school

A secretarial school, business school or college that is not publicly owned; or that is not owned, conducted, or sponsored by a religious, charitable, or non-profit organization; or that is not a school conducted as a commercial enterprise for teaching instrumental music, dancing, barbering, hairdressing, industrial arts or technical arts.

Travel trailer park

See Recreational vehicle park and Campground. Refer to Section 12.07.030(D)(3).

Truck freight terminal

Any land and/or buildings used as a relay station for the transfer of a load from one vehicle to another or one party to another. Said terminal facility may include areas for the short-term storage of trucks and trailers and also may include buildings or areas for the repair and cleaning of trucks and trailers associated with the terminal. (This definition and use are not meant to include any commercial truck stop operations, nor accessory freight transfers to another principal industrial use.)

Use

The purpose or activity for which land or building are designed, arranged, or intended or for which land or buildings are occupied or maintained.

Use, accessory

See Accessory building, use or structure.

Use, principal

The main or primary purpose for which a building, structure and/or lot is designed, arranged, or intended, or for which they may be used, occupied or maintained under this Title.

Use, temporary

A land use which is present on a lot for a limited and specified period of time. See Section 12.07.040.

Variance

A specific approval granted by the Board of Zoning Appeals in the manner prescribed by this Title, to deviate from the development standards (such as height, bulk, and area) that the Title otherwise prescribes. Refer to Section 12.12.050.

Warehouse

A structure, or part thereof, or area used principally for the storage of goods and merchandise. Refer to Section 12.07.030(D)(11).

Yard

A space on the same lot with the principal building it serves that is open and unobstructed except as otherwise authorized by this Title and which is bounded by applicable lot lines and setback lines.

Yard, buildable

The additional space remaining after calculating the minimum required yards that exist between the required setback lines and the actual building lines.

Yard, required front

A yard extending along the full width of the front lot line bounded by the front lot line, side/street lot lines (or rear lot line(s) in the case of a lot without side lot lines), and the front building setback line.

Yard, required rear

A yard extending along the rear lot line between and to the side setback lines (and/or the front or street setback lines in the case of a corner lot) and the rear setback line (includes any area leftover from the artificial creation of a rear lot line in the case of an irregular shaped lot.)

Yard, required side

A yard extending along the side/street lot line between the front setback line and rear lot lines, and the side setback line.

Yard, required street

A side yard which abuts a street which extends along the street lot line between the rear lot line and front setback line and the street setback line. The street setback line shall be the same minimum required width as the front setback in the applicable zoning district.

Yard line

See setback line.

Zoning district

See District, zoning.

Zoning map

The map or maps adopted by the Town of Chrisney as part of the Zoning Ordinance, and amended from time to time, upon which the zoning districts and related information is delineated. (Ord. 2001-11, S12.14.030, Aug. 6, 2001)

Chapter 12.18

APPENDICES

APPENDIX 1 DETAILED LIST OF LAND USES - SPECIFIED CATEGORIES

Agricultural Uses

Agricultural Services

Agricultural chemical dealers
Agricultural equipment sales and service
Canning and other packaging facilities
Commercial dairies
Feed and seed stores
Food processing facilities

Intensive Agriculture

Commercial greenhouses
Feed lots
Fish farms
Hog farms
Poultry operations

Cultivation and Husbandry

Christmas tree farm
Commercial nursery
Production agriculture
Apiaries

Residential Uses

Group Housing

Adult care homes (8 or fewer adults)
Community residential facilities for the mentally ill or disabled
Group homes
Shelter care facilities for children (10 or fewer children)
Shelters for domestic violence victims

Institutional Housing

Convents
Development disability centers (9 or more adults)
Dormitories
Extended care facilities
Fraternities
Hospitals - long term care

Institutional Housing (continued)

Monasteries
Nursing homes
Psychiatric institutions
Sororities

Institutional - Non-Residential

Community mental health centers
Cemeteries and mortuaries
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
Gymnasiums: school and park
Hospitals - short term care
Museums
Libraries
Auditoriums
Clubs, lodges and fraternal organization facilities
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
Public parks
Picnic areas and shelters
Playgrounds and totlots
Swimming pools and beaches
Zoos and animal parks and preserves

Public Services - General

Fire stations
Government offices
Parking garages and parking lots: public
Police stations
Post offices

Public works garages
Institutional/Public Uses (continued)

Public Services - General (continued)

Radio and television broadcasting stations
Railroad stations
Telephone relay stations
Water towers and storage facilities

Public Services - Intense

Airports, landing strips, and landing fields
Bus terminals
Heliports and helipads
Prisons and correctional facilities
Public works storage yards and related facilities
Radio and television towers
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

Business Uses

Indoor Commercial Entertainment

Arcades
Billiard and pool halls
Bowling alleys
Cultural and entertainment centers
Dance halls
Dance and other training studios
Health clubs
Miniature golf courses
Nights clubs and taverns
Restaurants, without drive-up or drive-through service
Skating rinks
Swimming clubs and pools
Tennis, racquetball, handball, and other private recreational clubs
Theaters, motion picture and drama

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
Business Uses (continued)

Indoor Retail Sales and Service (continued)

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
Florists
Food stores
Frozen food stores
Fruit and vegetable markets: retail
Funeral homes and parlors
Fur repairs

Furniture cleaning, upholstery, and repair shops
Furniture and home furnishing stores
Furriers and fur apparel stores

Business Uses (continued)

Indoor Retail Sales and Service (continued)

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
Sewing machine sales and service
School supply stores

Shoe stores
Souvenir and curio stores
Sporting goods stores

Business Uses (continued)

Indoor Retail Sales and Service (continued)

Stationery and card stores
Swimming pool sales and service
Tailors and dressmaking shops
Taxidermy shops
Telegraph offices
Telephone sales and service
Television 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

Offices

Offices: general or business
Political organization offices

Outdoor Commercial Entertainment

Amusement parks
Country clubs
Drive-in restaurants
Miniature golf courses
Race tracks
Skating rinks and parks
Stables and riding academies
Theaters, outdoor

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

Business Uses (continued)

Outdoor Retail Sales and Services (continued)

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

Personal and Professional Services

Banks and savings and loan
Barber shops and beauty parlors
Credit unions and financial institutions
Employment agencies
Medical clinics
Real estate sales and brokerage offices
Tanning salons

Industrial Uses

Heavy Industrial/Nuisance Manufacturing

Alcoholic beverage producers
Asphalt, concrete or cement producers
Chemical and allied products producers (except drug producers)
Coal or petroleum product producers
Commercial sanitary sewage treatment plants
Electrical distribution equipment producers
Electrical industrial apparatus producers
Fertilizer or poison producers
Meat product producers
Paper, pulp, or paperboard producers
Railroad switching yards
Recycling facilities not involving the on-site storage of salvage materials
Stone, clay or glass product producers
Tanneries
Transportation vehicle producers

(Ord. 2001-11, Appendix 1, Aug. 6, 2001)

APPENDIX 2

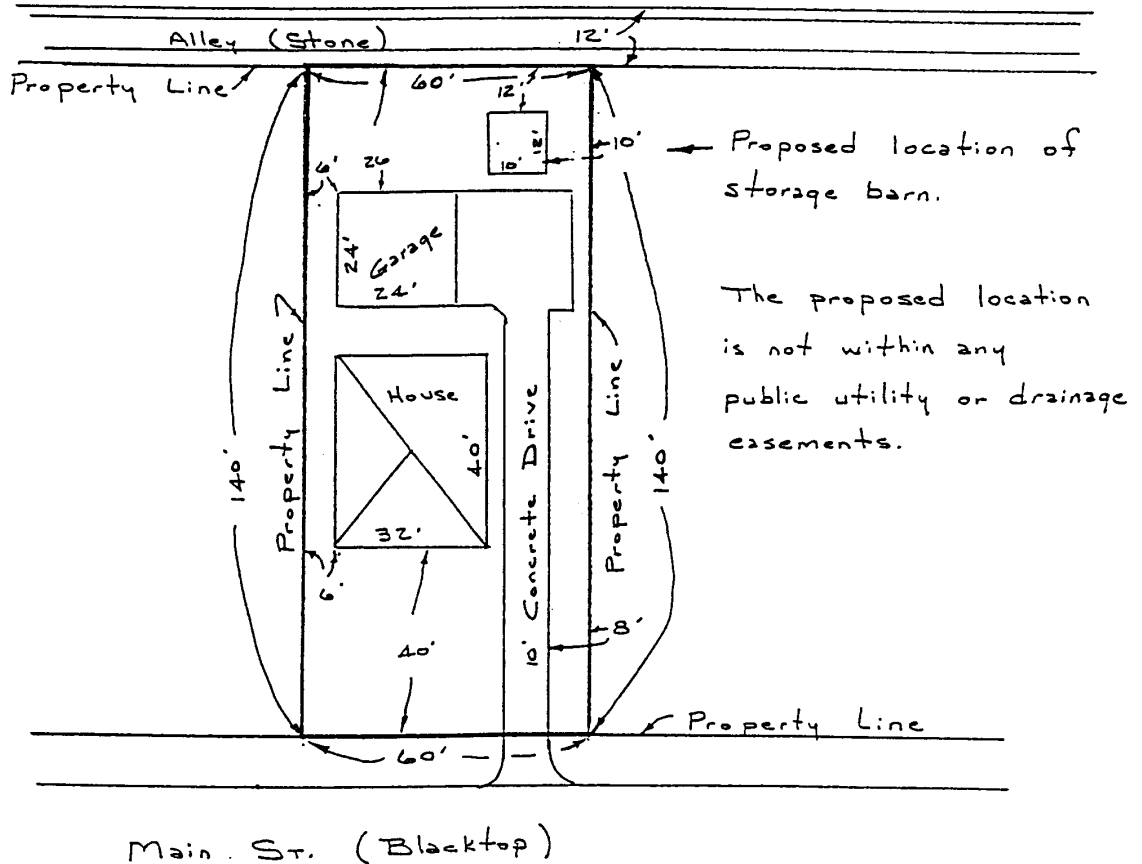
Property Owner: John and Jane Doe

Address: 1234 Main St., West Baden

Drawing By: Jane Doe

Date: July 23, 1996

Signature: Jane Doe



Rj.

Storage barn to be roofed with black asphalt shingles,
the outside walls with gray vinyl.

Estimated cost: \$800.⁰⁰

(Ord. 2001-11, Appendix 2, Aug. 6, 2001)

**APPENDIX 3
LIST OF AMENDMENTS TO THE OFFICIAL ZONING MAP
(REZONINGS)**

Plan

Commission Town Council

<u>Case No.</u>	<u>Ordinance No.</u>	<u>Date Adopted:</u>	<u>Description:</u> _____
-----------------	----------------------	----------------------	---------------------------

(Ord. 2001-11, Appendix 3, Aug. 6, 2001)

APPENDIX 4
LIST OF AMENDMENTS TO THE ZONING ORDINANCE
(TEXT AMENDMENTS)

Plan

Commission Town Council

<u>Case No.</u>	<u>Ordinance No.</u>	<u>Date Adopted:</u>	<u>Description:</u> _____
------------------------	-----------------------------	-----------------------------	----------------------------------

(Ord. 2001-11, Appendix 4, Aug. 6, 2001)

**APPENDIX 5
LIST OF APPROVED SPECIAL USES**

Board of Zoning

Appeals

Case No._____

Date

Approved:_____

Address/

Location:_____

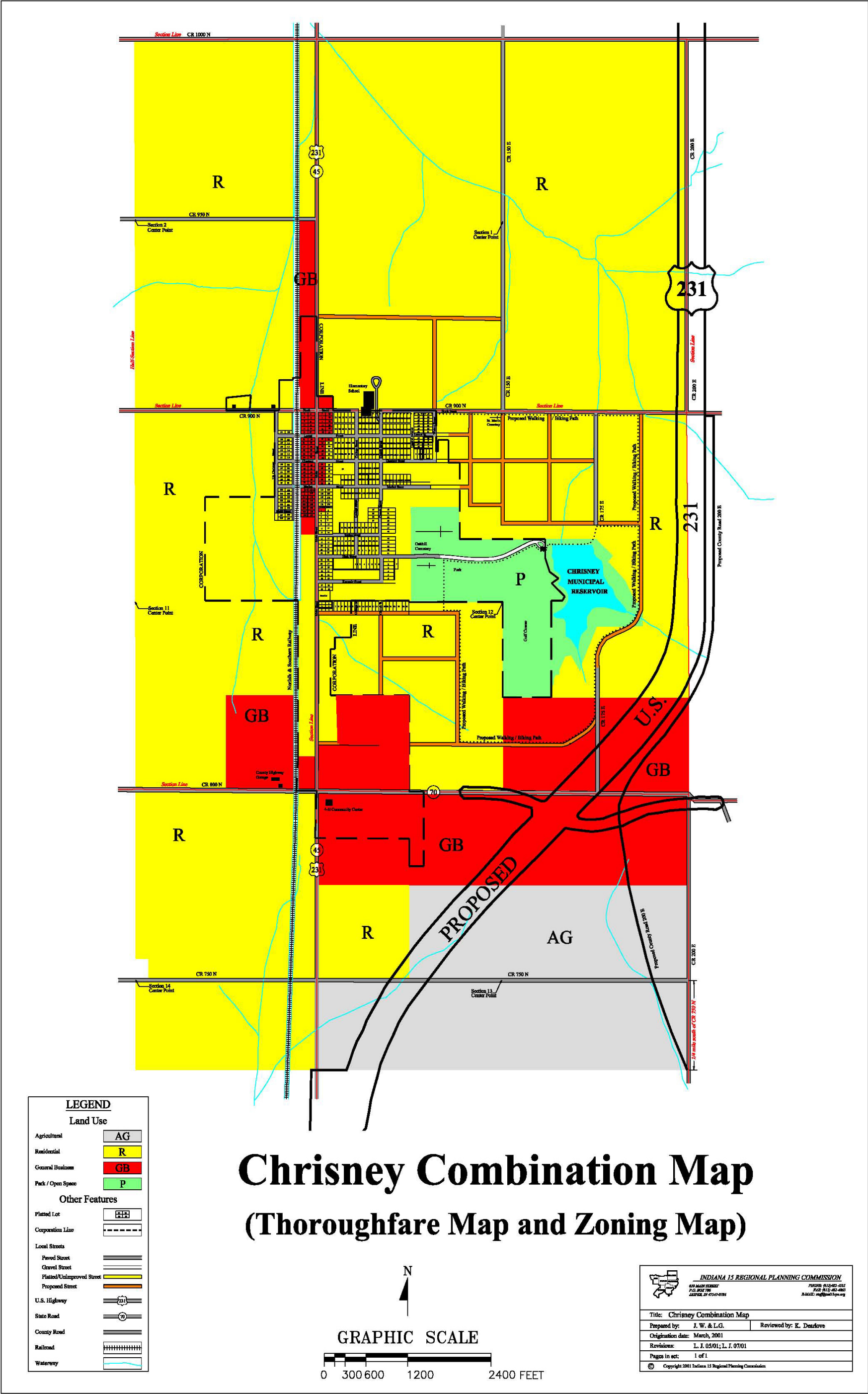
Description:_____

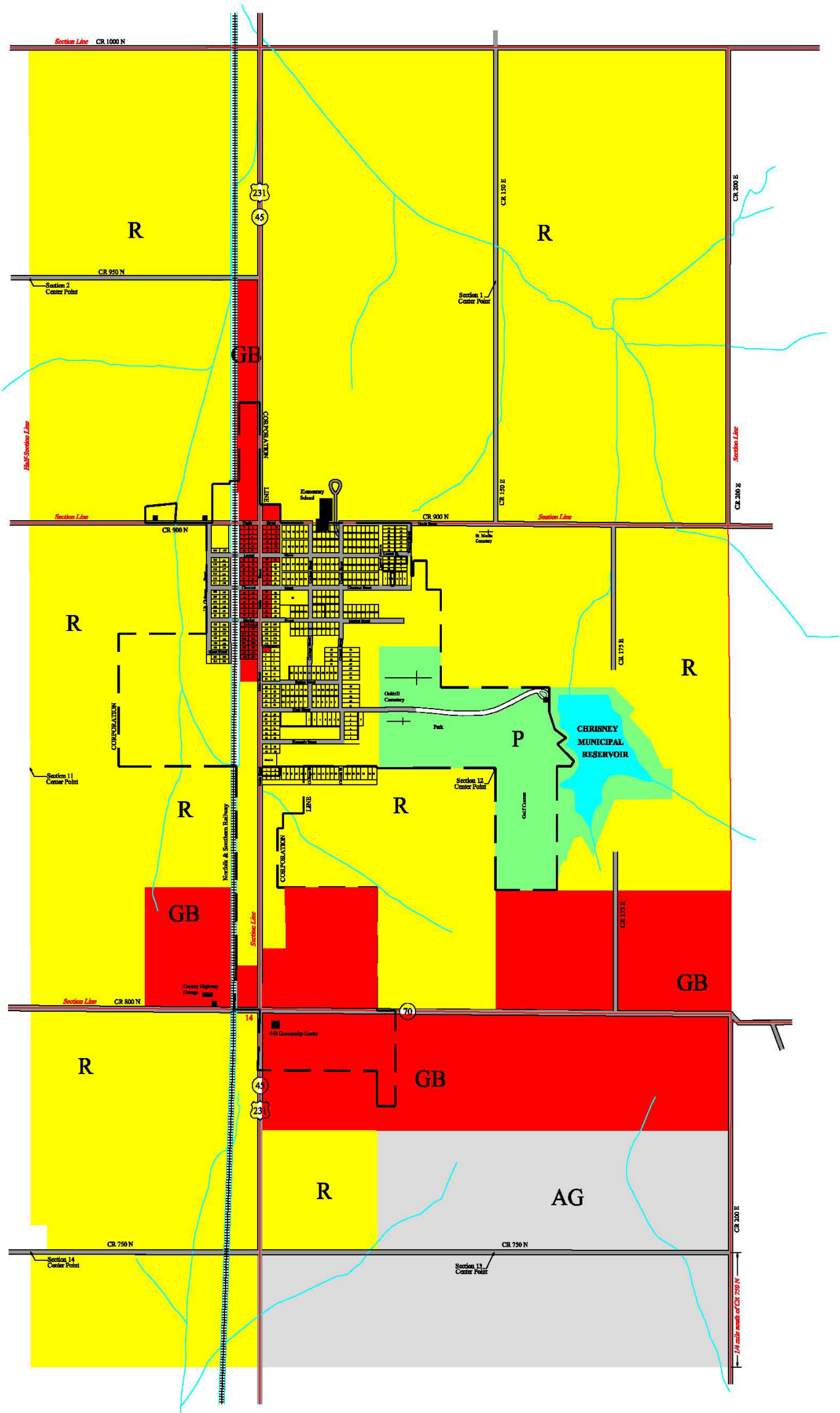
(Ord. 2001-11, Appendix 5, Aug. 6, 2001)

APPENDIX 6
LIST OF PRE-EXISTING, LEGAL, NON-CONFORMING LAND USES

Property Owner <u>Name</u> _____	Date <u>of Listing:</u> _____	Address/ <u>Location:</u> _____	<u>Description:</u> _____
---------------------------------------------------	------------------------------------------------	--------------------------------------------------	----------------------------------

(Ord. 2001-11, Appendix 6, Aug. 6, 2001)





LEGEND

Land Use

Agricultural AG

Residential R

General Business GB

Park / Open Space P

Other Features

Platted Lot

Corporation Line

Local Streets

Paved Street

Gravel Street

Platted/Unimproved Street

U.S. Highway

State Road

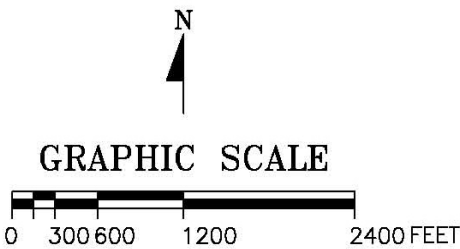
County Road

Railroad

Waterway

Official Zoning District Map

Town of Chrisney, Indiana



INDIANA 15 REGIONAL PLANNING COMMISSION

600 MAIN STREET
P.O. BOX 700
JEFFERSON, IN 47137-0700

PHONE: (812) 462-4515
FAX: (812) 462-4661
E-MAIL: info@indiana15.org

Title: Chrisney Official Zoning District Map

Prepared by: J. W. & L.G. Reviewed by: E. Dearlove

Origination date: April, 2001

Revisions: L. J. 05/01; L. J. 07/01

Pages in set: 1 of 1

© Copyright 2001 Indiana 15 Regional Planning Commission

Chapter 12.21

CHRISNEY SCHEDULE OF FEES FOR PLANNING AND ZONING

Sections:

12.21.010	Building and Improvement Location Permits
12.21.020	Board Of Zoning Appeals Actions
12.21.030	Plan Commission Actions

12.21.010 Building and Improvement Location Permits

Principal Building Construction, Reconstruction, Addition, or Placement	\$125
Accessory Structures and Signs Which Require Permit	\$10
Principal Building Demolition or Relocation	\$25
Driveways and Parking Lot Construction or Expansion	\$10
Temporary Outdoor Sales Annual permit	\$0 - Non-profit (must obtain permit) \$0 - Resident (must obtain permit) \$0 - Business (must obtain permit)
Dumpster Permit (for demolition, construction, reconstruction or general clean-up) for 60 days with one (1) renewal for 60 days for additional \$10	\$10

(Ord. 2002-5, June 3, 2002) (Ord. 2001-12, Aug. 6, 2001)

12.21.020 Board Of Zoning Appeals Actions

Variance	\$100
Special Use/Special Use Amendment	\$100
Appeal	\$10

(Ord. 2002-5, June 3, 2002) (Ord. 2001-15, Nov. 5, 2001) (Ord. 2001-12, Aug. 6, 2001)

12.21.030 Plan Commission Actions

Zoning Map Amendments (Rezoning)	\$200
Amendment to the Comprehensive Plan	\$500
Text Amendment to the Zoning Ordinance	No fee is required.
Interpretation	No fee is required.
Recording Fee	\$0; paid by Town for municipal actions only.

(Private actions requiring official county recordings are the sole responsibility of the private property owner.)

(Ord. 2002-5, June 3, 2002) (Ord. 2001-12, Aug. 6, 2001)

Fees shall be payable at the time of submittal of the application.

Chapter 12.25

MOBILE HOME REGULATIONS

Sections:

12.25.010	Definitions
12.25.020	Mobile Home Permit
12.25.030	Conditions necessary to receive a Mobile Home Permit
12.25.040	Information needed with application for Mobile Home Permit
12.25.050	Penalty for violation

12.25.010 Definitions. The terms mobile home and trailer as used in this Chapter shall mean a one-family dwelling designed for the transportation after fabrication on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling, complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connections to utilities and the like. (Ord. 1977-?, S1, Aug. 1, 1977)

12.25.020 Mobile Home Permit. It shall be unlawful for any person to locate a mobile home or trailer in the Town of Chrisney, Indiana, for residential purposes. Mobile home and trailer permits may be issued for commercial purposes for a period not to exceed two years. A fee of \$20.00 shall be paid to the Clerk-Treasurer when making application for a Mobile Home Permit. Before a Mobile Home Permit is issued for a mobile home or trailer, the plans submitted with the application for the permit shall indicate conformity in all respects to the provisions of this Chapter. (Ord. 1999-6, S1&2, Aug. 2, 1999) (Ord. 1977-?, S2, Aug. 1, 1977)

12.25.030 Conditions necessary to receive a Mobile Home Permit. The Clerk-Treasurer shall issue a Mobile Home Permit only on the following conditions:

- (1) The mobile home will not be used or residential purposes. (Ord. 1999-6, S1, Aug. 2, 1999)
- (2) The mobile home can only be used for commercial purposes for a period not to exceed two years. (Ord. 1999-6, S2, Aug. 2, 1999)
- (3) The lot size upon which the mobile home or trailer is to be located is 100 feet by 150 feet in size. (Ord. 1977-?, S3a, Aug. 1, 1977)

- (4) There are no other mobile homes, trailers or residences of any kind located on said lot and that there will be no other mobile homes, trailers or residences located on said lot in the future. (Ord. 1977-?, S3b, Aug. 1, 1977)
- (5) The mobile home is located 15 or more feet from the front of the lot. (Ord. 1977-?, S3c, Aug. 1, 1977)
- (6) The mobile home is connected to the town sewer system and to the town water system. (Ord. 1977-?, S3d, Aug. 1, 1977)

12.25.040 Information needed with application for Mobile Home Permit. Every application for a Mobile Home Permit shall be submitted to the Clerk-Treasurer and shall contain the following information:

- (1) The legal description of the lot upon which the applicant proposes to locate a mobile home or trailer. (Ord. 1977-?, S4a, Aug. 1, 1977)
- (2) A drawing or plot plan showing the size of the lot and the proposed location of the mobile home in relation to the boundary lines of the lot. (Ord. 1977-?, S4b, Aug. 1, 1977)

12.25.050 Penalty for violation. Any person or corporation, whether a principal, agent, employee or otherwise, who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction, shall be fined not less than Ten Dollars (\$10.00) and not more than Three Hundred Dollars (\$300.00), for each offense, such fine to inure to the Town. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. The Town Attorney shall, immediately upon such violation having been called to his attention, institute injunction, abatement, or any other appropriate action to prevent, enjoin, abate or remove such violation. Such action may also be instituted by any property owner who may be especially damaged by any violation of this Ordinance.

The remedy provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law. (Ord. 1977-?, S5, Aug. 1, 1977)