

TITLE 10
COMPREHENSIVE PLAN, ZONING, AND BUILDING CODE

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COMPREHENSIVE PLAN, ZONING, AND BUILDING CODE

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Chapter 10.00

COMPREHENSIVE PLAN

Sections:

10.00.010	Title
10.00.020	Authority
10.00.030	Jurisdiction
10.00.040	Purpose
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10.00.060	Objectives for Future Development
10.00.070	Land Use Policy
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10.00.010 Title. This Plan may be cited as the “Town of English Comprehensive Plan,” except as referred to herein, where it shall be known as the “Plan”. (Resolution 1997-10, S1.1, Dec. 30, 1997)

10.00.020 Authority. This Plan is adopted pursuant to Indiana Code 36-7-4-500 et. seq. as added by Public Law 309, Acts of 1981 of the General Assembly of Indiana, and all acts supplemental and amendatory thereto. (Resolution 1997-10, S1.2, Dec. 30, 1997)

10.00.030 Jurisdiction. This Plan is applicable to all territory located with the corporate limits of the Town of English and any other jurisdictional areas under the control and regulation of the Town of English. (Resolution 1997-10, S1.3, Dec. 30, 1997)

10.00.040 Purpose. This plan is established for the promotion of public health, safety, morals, convenience, order, and general welfare and for the sake of efficiency and economy in the process of development. (Resolution 1997-10, S1.4, Dec. 30, 1997)

10.00.050 Severability. If any section, clause, provision, or portion of this Plan is held to be invalid or unconstitutional by any court or competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this Plan which is not of itself invalid or unconstitutional. If any application of any provision to particular circumstances is held invalid, the remainder of the Plan and the application of such provision to other circumstances shall not be affected. (Resolution 1997-10, S1.5, Dec. 30, 1997)

10.00.060 Objectives for Future Development. The Town of English must ensure the best possible development in the area while maintaining the character that makes the community unique. The following are objectives for future development in the Town:

- A. Maintain adequate public facilities for the support and benefit of the community.

- B. Provide sufficient housing opportunities.
- C. Encourage development in areas not subject to flooding.
- D. Promote sustainable and environmentally sensitive development.
- E. Advocate development which most effectively utilizes community resources.
- F. Continually assess the needs and desires of community residents. (Resolution 1997-10, S2.1, Dec. 30, 1997)

10.00.070 Land Use Policy. Land use guidelines are critical to the long term health of the Town. The policy of the Town shall be that land use development shall be in a manner consistent with the law, in good design and character, adequate and appropriate for both present and anticipated future needs, and in such a way as to promote and improve the health, safety, and welfare of the citizens of the community. (Resolution 1997-10, S2.2, Dec. 30, 1997)

10.00.080 Public Provisions Policy. In addition to land use management, it is additionally important to ensure the proper development of public ways, places, lands, structures and utilities. The policy of the Town shall be that the development of public provisions shall be in a manner consistent with the law, in good design and character, adequate and appropriate of both present and anticipated future needs, and in such a way as to promote and improve the health, safety, and welfare of the citizens and of the community. (Resolution 1997-10, S2.3, Dec. 30, 1997)

Chapter 10.01

GENERAL PROVISIONS OF ZONING ORDINANCE

Sections:

10.01.010	Title
10.01.020	Authority
10.01.030	Jurisdiction
10.01.040	Purpose
10.01.050	Rationale
10.01.060	Application
10.01.070	Compliance
10.01.080	Re-enactment and Repeal
10.01.090	Severability
10.01.100	Effective Date

10.01.010 Title. Title 10.01-10.20 shall be known and may be cited as the “Zoning Ordinance of the Town of English,” except as referred to herein, where it shall be known as “This Title.” (Ord. 98-05, S10.01.010, May 14, 1998)

10.01.020 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. 98-05, S10.01.020, May 14, 1998)

10.01.030 Jurisdiction. This Title is applicable to all territory located within the corporate limits of the Town of English and its extraterritorial zoning and platting jurisdiction area. (Ord. 98-05, S10.01.030, May 14, 1998)

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

- A. to implement certain goals and objectives of the comprehensive plan;
- B. to preserve, promote and protect the public health, safety, comfort, morals, convenience and general welfare of the Town;

- C. 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;
- D. 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;
- E. 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 among the use of land and buildings through establishing and maintaining a rational pattern of relationships between various land uses;
- F. 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;
- G. 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;
- H. to preserve the natural beauty and topography of the Town and to ensure appropriate development with regard to these natural features; and
- I. 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. 98-05, S10.01.040, May 14, 1998)

10.01.050 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 are 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. 98-05, S10.01.050, May 14, 1998)

10.01.060 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. 98-05, S10.01.060, May 14, 1998)

10.01.070 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. 98-05, S10.01.070, May 14, 1998)

10.01.080 Re-enactment and repeal.

- A. 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.
- B. 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. 98-05, S10.01.080, May 14, 1998)

10.01.090 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. 98-05, S10.01.090, May 14, 1998)

10.01.100 Effective date. All plans approved under previous zoning regulations shall be valid and may be used to obtain permits for a period of not more than one year after the effective date of this Title. This Title shall become effective upon passage and posting according to law. (Ord. 98-05, S10.01.100, May 14, 1998)

Chapter 10.02

Establishment Of Zoning Districts

Sections:

10.02.010	Purpose
10.02.020	Standard Zoning Districts
10.02.030	Overlay Zoning Districts
10.02.040	Map of Zoning Districts
10.02.050	New or Annexed Land
10.02.060	Zoning District Boundaries
10.02.070	Description of Zoning Districts

10.02.010 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 English Comprehensive Plan, and to achieve the purposes of this Title (see Section 10.01.040). (Ord. 98-05, S10.02.010, May 14, 1998)

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

Open Space Districts

REC - Recreational District

Agricultural Districts

A - Agricultural District

Residential Districts

R-1 - Low Density Residential
R-2 - Medium Density Residential
R-3 - High Density Residential
MH - Mobile Home Residential

Business Districts

B-1 - Central Business District
B-2 - General Business District

Industrial Districts

I - Industrial District

(Ord. 98-05, S10.02.020, May 14, 1998)

10.02.030 Overlay zoning districts. For the purposes of this Title, there are hereby established overlay zoning districts. Overlay zoning districts impose additional uniform restrictions on all properties within their boundaries which are in addition to or may supersede those of the underlying standard zoning district. Overlay zoning districts which may impact lands under the jurisdiction of this Title include:

FP - Floodplain District
(Ord. 98-05, S10.02.030, May 14, 1998)

10.02.040 Map of zoning districts. The standard zoning districts and overlay zoning districts are shown on the Official Zoning Map of the Town of English, which is hereby made part of this Title. (Ord. 98-05, S10.02.040, May 14, 1998)

10.02.050 New or annexed land. Any land outside the corporate limits of the Town of English hereafter annexed to the Town shall automatically, upon annexation be classified within the A-Agricultural 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. 98-05, S10.02.050, May 14, 1998)

10.02.060 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 English:

- A. 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.
- B. 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.
- C. 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.
- D. 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.

- E. 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.
- F. 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.
- G. 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. 98-05, S10.02.060, May 14, 1998)

10.02.070 Description of zoning districts.

- A. Open Space Districts.
 - 1. REC - Recreational
The REC 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 use. Commercial recreational uses may be permitted after review as a Special Use.
- B. Agricultural Districts.
 - 1. A - Agricultural
This district is intended to permit development solely of a rural nature to maintain the rural community character and environment or to serve as a “holding zone” for tracts of land annexed without a petition for rezoning. Very low density residential development is permitted on lots of one (1) acre or more, and agricultural and agricultural related uses on tracts of one (1) acre or greater. This district shall allow such residential development at a density of .05 or one unit per twenty (20) acres. This would allow small tracts of agricultural land at forty (40) acres to have a primary residence 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.

C. Residential Districts.

1. R-1 - Low Density Residential

This district is intended to permit development which has a very low density, or suburban community character. This district is intended to permit single-family development at a low density characteristic of newer subdivisions. The standards for this district are intended to preserve and protect the rural residential character of this district. This district is intended to be the primary residential district in the Town for future subdivision development. Single family only structures are permitted in this district. Maximum lot coverage cannot exceed 75% of the lot area. Minimum Ground Floor Area of structures shall be 1300 square feet of living space for one story dwellings and 900 square feet for over 1 story.

2. R-2 - Medium Density Residential

This district is intended to permit single-family development at low to moderate densities. The R-2 districts are generally located in transitional areas between low density residential uses and higher density residential uses. Single and multi-family dwellings are permissible in this district. Maximum lot coverage shall not exceed 75 percent for Single family and Multi-family dwellings. Minimum Ground Floor Area shall be 1,200 square feet of living space for one story dwellings, and 750 square feet for over 1 story.

3. R-3 - High Density Residential

This residential district is intended to preserve the residential character of the older neighborhoods downtown while supporting the higher densities of the area due to existing small lot sizes. The small lot sizes support the goal of providing affordable housing and the goal of maintaining the character of the established downtown residential district. Duplexes are permitted uses in this district. This district is intended to serve existing multiple-family buildings near the downtown and to provide areas for new multiple-family buildings to meet the varied housing needs of the Town's residents. This district is intended to serve as a transitional zone, that is, generally located between lower density residential areas and more intense commercial or industrial areas. Minimum Ground Floor Area shall be a minimum of 980 square feet of living space for one story dwellings, and 650 for over one story dwellings.

4. MH - Mobile Home Residential
This residential district is to provide for mobile homes, and is intended to serve the needs of smaller, denser housing units. Mobile homes shall have a minimum of 980 square feet of living space.

D. Business Districts.

1. B-1 - Central Business District
This district is intended to preserve the character of the area and support its revitalization through providing a cohesive commercial area on small lots to encourage pedestrian activity. Densities are higher to reflect the location along the state highway and lot sizes small 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 restricted to non-residential uses to promote the district's cohesiveness.
2. B-2 - General Business District
This district is intended to permit commercial development to support and enhance the character of the district. The district is characterized by low intensity development and limited commercial uses primarily of an indoor nature to ensure the development is compatible with surrounding residential areas and densities and the open spaces and floodplains in the district. Residential uses are restricted to those outlined in R-2 Medium Density Residential. No agricultural activity is permitted in this district. Light industrial uses are permitted.

E. Industrial Districts.

1. I - Industrial
This district is intended to provide an industrial area for limited industrial uses at low to moderate intensities. The industrial areas are characterized by uses which do not create excessive noise, odors, vibration or similar disturbances. Limited land area along with the presence of floodplains and steep slopes, plus utility capacity concerns, limit the types of industrial uses in the area due to environmental considerations.

F. Overlay Zoning Districts.

1. Floodplain District

This district is intended to guide development in flood hazard areas. Uses are restricted so that development does not create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety. The district's purpose is to reduce the potential for loss of life and property, reduce the potential for health and safety hazards, and reduce the potential for extraordinary public expenditures for flood protection and relief. (Ord. 98-05, S10.02.070, May 14, 1998)

Chapter 10.03

Land Use Regulations

Sections:

10.03.010	Purpose
10.03.020	Interpretation of Land Use Table
10.03.030	Detailed Land Use Descriptions and Regulations
10.03.040	Temporary Uses

10.03.010 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. 98-05, S10.03.010, May 14, 1998)

10.03.020 Interpretation of land use table.

- A. 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.

- B. 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 10.09.040. See the detailed land use regulations in Section 10.03.030 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.

- C. 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 10.04.
- D. 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 10.03.040 for the individual temporary use.
- E. 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 10.08).
- F. 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.
- G. 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 10.09.070. (See Appendix B for a more detailed list of land uses.) (Ord. 98-05, S10.03.020, May 14, 1998)

TABLE 1: LAND USES PERMITTED IN ZONING DISTRICTS

REC - Recreational
A - Agricultural
R-1 - Low Density Residential
R-2 - Medium Density Residential
R-3 - High Density Residential
MH - Mobile Home Residential
B1 - Limited Business
B2 - General Business
I - Industrial
P - Permitted Use
S - Special Use

<i>USES</i>	<i>ZONING DISTRICTS</i>								
	REC	A	R-1	R-2	R-3	MH	B1	B2	I
AGRICULTURAL USES									
Agricultural Services		P							
Cultivation and Husbandry		P							
Intensive Agriculture		S							

<i>USES</i>	<i>ZONING DISTRICTS</i>								
	REC	A	R-1	R-2	R-3	MH	B1	B2	I
RESIDENTIAL USES									
Boarding House		P			S				
Dwelling, Lot Line				S	S				
Dwelling, Multiple-Family					S				
Dwelling, Single-Family		P	P	P	P	P			
Dwelling, Two-Family		S		S	P				
Group Housing		S		S	S				
Institutional Housing					S	S			
Manufactured Home		P	S	P	P	P			
Mobile Home/Mobile Home Park or Sub.		S			S	P			

<i>USES</i>	<i>ZONING DISTRICTS</i>								
	REC	A	R-1	R-2	R-3	MH	B1	B2	I
INSTITUTIONAL/PUBLIC USES									
Institutional Non-Residential		S			S		P	P	
Outdoor Public Recreational	P								
Public Services - General	S	P	S	S	S	S	P	P	P
Public Services - Intense	S	S			S	S	S	S	S

<i>USES</i>	<i>ZONING DISTRICTS</i>								
	REC	A	R-1	R-2	R-3	MH	B1	B2	I
BUSINESS USES									
Animal Boarding		P							
Bed and Breakfast		P	S	S	P		S	S	
Campground	S	S					S		
Child Care Center		S		S	S	S	P	P	
Funeral Homes and Parlors				S	S		P	P	
Hotels and Motels							P	P	
Indoor Commercial Entertainment							P	P	
Indoor Retail Sales and Service							P	P	
Mini-Warehouses		S					S	S	P
Office		S			S		P	P	P
Outdoor Commercial Entertainment	S	S					S	S	
Outdoor Retail Sales and Service								S	
Personal or Professional Service				S	S		P	P	
Sexually-Oriented Land Uses									S

10.03.030 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 10.09.070 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.

A. Agricultural Land Uses.

1. 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:

(a) Shall not be located in, or abutting an existing or platted residential subdivision.

(b) 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: A.

Special Use in the following districts: GB.

2. 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: A.

Special Use in the following districts: Not applicable.

3. 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 10.03.030D.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: A.

Special Use in the following districts: Not applicable.

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	7
Lambs	14
Chickens	200
Other Poultry	200

Source: Stockman's Handbook

4. 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: A.

Special Use regulations:

- (a) Shall not be located in or abutting an existing or platted residential subdivision.

- (b) 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.
- (c) 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.
- (d) Shall be located in an area which is planned to remain commercially viable for agricultural land uses.
- (e) No confined feed lots are permitted in this district.

B. Residential Uses.

1. 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 breakfasts operations). See also group housing and hotels.

Permitted by Right in the following districts: A.

Special Use in the following districts: R-3.

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

2. 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:

- (a) 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.
- (b) 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 Town of English fire and building departments.

- (c) No lot line dwelling unit may be located along the lot line adjoining a non-lot line development or conventional single-family subdivision.
- (d) 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-2, R-3.

3. 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: R-3.

- Special Use regulations:
- (a) 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-3 zoning districts 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.
 - (b) 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 10.06.040.

4. 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: A, R-1, R-2, R-3, MH.
Special Use in the following districts: Not applicable.

5. 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: R-3.

Special Use in the following districts: A, R-2.

Special Use regulations:

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

6. 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: A, R-2, R-3.

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

7. 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: R-3, MH.

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, mobile home, or multiple-family dwelling.

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

8. 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:

- (a) are designed and built in a factory after January 1, 1981;
- (b) 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.);
- (c) 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;
- (d) 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: A, R-2, R-3, MH.

Special Use in the following districts: R-1.

9. Mobile Home

A mobile home is any dwelling unit, 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 or pull type campers. 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, (subject to the regulations therefor) or on a conventional lot in the MH zoning district in compliance with the regulations thereunder. All mobile homes shall also comply with the following:

- (a) 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.

- (b) The home shall be compatible with nearby land uses and shall not detract from the area in terms of sightliness and property values.
- (c) 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.
- (d) 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.
- (e) 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 10.03.040.
- (f) The mobile home shall be no older than five (5) years as measured from the date of its origination. However, an existing mobile home located within the jurisdiction of this ordinance may be relocated if older than five years, after a Special Use has been approved by the Board of Zoning Appeals.
- (g) All mobile homes shall conform to “The placement of mobile homes” as outlined in Appendix 7.
Permitted by Right in the following districts: MH.
Special Use in the following districts: A.

10. 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: A, MH.
Special Use regulations:

- (a) **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.

- (b) **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 10.09.040.

- (c) **Preparation of Development Plans**
All site plans for a mobile home park shall contain all of the information required in Section 10.10.030(B) as well as the following information:
 - (1) Layout of streets and sidewalks with width thereof, whether dedicated or private street, together with typical cross section.

 - (2) Layout of any alleys, crosswalks and easements.

 - (3) If lots are laid out, the dimensions and number thereof.

 - (4) Land to be set aside for common use of the tenants of the mobile home park.

 - (5) All setback lines.

 - (6) Location of all proposed permanent buildings, storage area, office and community center.

 - (7) 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.

- (d) Design requirements of mobile home parks
- The design requirements of a mobile home park must meet all development standards of the English municipal code and land use regulations and the following:
- (1) Each mobile home park shall contain a minimum of five (5) acres.
 - (2) 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.)
 - (3) 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.
 - (4) 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.
 - (5) 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 English.

- (6) 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.
- (7) 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.
- (8) Surface drainage as approved by the Board of Zoning Appeals shall be installed and maintained by the applicant or his successor in title.
- (9) 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 Board of Public Works and Safety of the Town of English).
- (10) 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.
- (11) 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 Crawford County Commissioners regarding public road entrances.
 - ii. The Town of English Wastewater Utility Certified Operator regarding hook on of sanitary sewers.
 - 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.

C. Institutional/Public Uses.

1. 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: B1, B2.

Special Use in the following districts: A, R3.

2. 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: REC.

Special Use in the following districts: Not applicable.

3. 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, outdoor public recreational land uses, and industrial uses - communication tower.

Standards for development:

(a) 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.

(b) The exterior of buildings shall be compatible with surrounding buildings to the extent feasible.

Permitted by Right in the following districts: A, B1, B2, I.
Special Use in the following districts: REC, R-1, R-2, R-3, MH.

4. 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, outdoor public recreational land uses, and industrial uses - communication tower.

Standards for development:

(a) All outdoor storage and activity areas shall be located a minimum of two hundred (200) feet from any property line of a residentially zoned lot. All buildings shall be located a minimum of fifty (50) feet from any property line of a residentially zoned lot.

(b) 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: REC, A, R-3, MH, B1, B2, I.

D. Commercial Land Uses.

1. 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:

- (a) No activity area, including runs, shall be located closer than ten (10) feet to any property line or street.
- (b) 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: A.

Special Use in the following districts: None.

2. 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: A, R3.

Special Use in the following districts: R1, R2, B1, B2, R-2.

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

3. 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: REC, A.

Special Use regulations:

Recreational vehicle parks shall comply with the regulations of Section 10.03.030(10) for mobile home parks.

4. 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: B1, B2

Special Use in the following districts: A, R-2, R-3.

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

5. 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: B1, B2.

Special Use in the following districts: R-2, R-3.

6. 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: B1, B2.

Special Use in the following districts: Not applicable.

7. 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: B1, B2.

Special Use in the following districts: Not applicable.

8. 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: B1, B2.

Special Use in the following districts: Not applicable.

9. 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: I.

Special Use in the following districts: A, B1, B2.

10. 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: B1, B2, I

Special Use in the following districts: A, R-3.

11. 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: REC, A, B1, B2.

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.

12. 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: B2.

Special Use regulations:

- (a) The display of items shall not be permitted in required landscaped buffer areas.
- (b) 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.
- (c) 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.

- (d) 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.
- (e) No buildings or outdoor activity shall be located within fifty (50) feet of any property line of a residentially zoned lot.

13. Personal or Professional Service

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: B1, B2.

Special Use in the following districts: R2, R3.

14. Sexually-Oriented Land Uses

Sexually-oriented land uses include any facility oriented to the display of sexually-oriented materials such as videos, movies, slides, photos, books, or magazines; or actual persons displaying and/or touching sexually specified areas, including massage establishments. For the purpose of this Title, "sexually specified areas" includes any one or more of the following: Genitals, anal area, female areola or nipple; and "sexually-oriented material" includes any media which display sexually specified area(s).

Permitted by Right in the following districts: Not applicable.

Special Use in the following districts: I.

Special use regulations:

Exterior building appearance and signage shall be designed to ensure that the use does not detract from the ability of businesses in the vicinity to attract customers, nor affect the marketability of properties in the vicinity for sale at their assessed values. No buildings shall be located within two hundred (200) feet of any property line of a residentially zoned lot.

Rationale: The incorporation of this subsection into this Title is designed to reflect the Town's finding that sexually-oriented commercial uses have a predominant tendency to produce certain undesirable secondary effects on the surrounding community, as has been demonstrated in other, similar jurisdictions. Specifically, the Town is concerned with the potential for such uses to limit: the

attractiveness of nearby locations for new development, the ability to attract and/or retain customers, and the ability to market and sell nearby properties at a level consistent with similar properties not located near such facilities. It is explicitly not the intent of this subsection to suppress free expression by unreasonably limiting alternative avenues of communication, but rather to balance the need to protect free expression opportunities with the need to implement the Town's Comprehensive Plan and protect the character and integrity of its business areas and neighborhoods.

E. Industrial Land Uses

1. 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:

- (a) 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.
- (b) 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: A, B1, B2, I.

2. 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: A, I.

Special use regulations:

- (a) 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.
- (b) The storage, handling, or collection of hazardous materials shall not be permitted.

3. **Heavy Industrial Land Use**
 Heavy industrial land uses are industrial facilities which may be wholly or partially located outside of an enclosed building; may have the potential to create certain nuisances which are detectable at the property line; and may involve materials which pose a significant safety hazard. However, in no instance shall a heavy industrial land use exceed the performance standards of this title or as regulated by the State of Indiana. Examples of heavy industrial land uses include meat product producers; alcoholic beverage producers; paper, pulp or paperboard producers; chemical and allied product producers (except drug producers) including poison or fertilizer producers; petroleum and coal product producers; asphalt, concrete or cement producers; tanneries; stone, clay or glass product producers; electrical distribution equipment producers; electrical industrial apparatus producers; transportation vehicle producers; commercial sanitary sewage treatment plants; railroad switching yards; and recycling facilities not involving the on-site storage of salvage materials.
 Permitted by Right in the following districts: Not applicable.
 Special Use in the following districts: I.
 All buildings and structures shall be located a minimum of one hundred (100) feet from any lot line, and outdoor storage or activity areas shall be located a minimum of three (300) feet from a residentially zoned lot.

4. **Junkyards, Salvage Yard, or Automobile Wrecking Yard**
 Junkyards or salvage yard facilities are any land or structure maintained, operated or used for a salvaging operation including but not limited to: the above-ground, outdoor buying, keeping, storage and/or sale of waste paper, rags, rope, rubber, scrap metal, and any other discarded materials intended for sale or recycling; and/or the collection, dismantlement, storage or salvage of two (2) or more unlicensed and/or inoperative vehicles or parts thereof. Recycling facilities involving the on-site storage of salvage materials are included in this land use.
 Permitted by Right in the following districts: Not applicable.
 Special Use in the following districts: I.
 Special use regulations:
 - (a) 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.

 - (b) The storage, handling, or collection of hazardous materials shall not be permitted.

- (c) All buildings, activity, and storage areas shall be completely screened from all lot lines by a fence a minimum of (10) feet in height above grade. Landscaping or landscaping and berming shall be placed on the outside of the fence to soften its appearance at minimum intervals of forty (40) feet apart along the fence.

5. Light Industrial Land Uses

Light industrial land uses are industrial facilities at which all operations (with the exception of parking and loading operations):

- (a) are conducted entirely within an enclosed building;
- (b) are not potentially associated with nuisances such as odor, noise, heat, vibration, and radiation which are detectable at the property line;
- (c) do not pose a significant safety hazard (such as danger of explosion);
- (d) are conducted within buildings located a minimum of one hundred (100) feet from a residentially zoned lot; and
- (e) comply with all of the performance standards of this Title.
Light industrial land uses may conduct retail sales activity as an accessory use.

Permitted by Right in the following districts: B2, I.

Special Use in the following districts: Not applicable.

6. Mining, Extraction and Related Uses

Mining and extraction uses include any land uses involving the removal of soil, clay, sand, gravel, rock, minerals, peat, 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: A, B1, B2, I (outside corporate boundaries). A, I (inside corporate boundaries).

Special use regulations:

- (a) 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.

- (b) 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.

7. Waste Disposal Facility

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

Permitted by Right in the following districts: Not applicable.

Special Use in the following districts: A, I.

Special Use regulations:

- (a) Shall comply with all County, State and Federal regulations.
- (b) Operations shall not involve the on-site holding, storage or disposal of hazardous materials in any manner.
- (c) 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.
- (d) All buildings, structures, and outdoor storage or activity areas shall be located a minimum of three hundred (300) feet from any lot line. (Ord. 98-05, S10.03.030, May 14, 1998)

10.03.040 Temporary uses.

A. 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.

B. 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.

- C. 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.
- D. Outdoor Assembly.
Includes any organized outdoor assembly of more than one hundred (100) persons on private property for thirty (30) days or less. Any use wishing to locate temporarily on a lot for over thirty (30) days as an outdoor assembly land use shall receive approval by the Plan Commission 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: A, B1, B2, I.
Special Use in the following districts: R-1, R-2, R-3, MH.
The following regulations shall apply to all outdoor assembly land uses:
1. Activities shall not obstruct pedestrian or vehicular circulation, including vehicular sight distances.
 2. Adequate parking, drinking water, and toilet facilities shall be provided.
 3. 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..
 4. Adequate provisions for crowd control shall be made.
- E. 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: A, B1, B2, I.
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:

1. The display area shall not exceed twenty-five (25) percent of the gross floor area of the principal building(s) on the site.
2. The display of items shall not be permitted in required landscaped buffer areas.
3. In no event shall the display of items be located so as to cause vehicles to park in areas other than designated parking stalls.
4. 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.
5. 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.
6. 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.
7. If the subject property abuts a residential use, sales and display activities shall be limited to daylight hours. (Ord. 98-05, S10.03.040, May 14, 1998)

Chapter 10.04

ACCESSORY USES, STRUCTURES, AND SIGNS

Sections:

- 10.04.010** **Accessory Use Regulations**
- 10.04.020** **Height, Setback, and Related Requirements for Accessory Structures and Uses**
- 10.04.030** **Signs**

10.04.010 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 10.06. Any accessory use or building shall conform to main structure of the property and not deter from the adjacent properties and uses.

A. 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: A, R-1, R-2, R-3, MH, B1, B2.

Special Use in the following districts: Not applicable.

State Law Reference: Sections 12-7-2-28.6, 12-17.2-5, and 36-7-4-1108, Indiana Code.

B. Commercial Apartment.

Commercial apartments are dwelling units which are generally located above the ground floor of a building used for a commercial land use. Commercial apartments may be allowed in the rear of 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: A, R-3, B1, B2.

C. 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: B1, B2.

Special use regulations:

1. 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.
2. 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.

D. 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: All Districts.

Special Use in the following districts: Not applicable.

1. Locations where Activities may be Conducted
 - (a) 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.

- (b) No activity, materials, goods, or equipment incidental to the home occupation shall be externally visible.
- (c) 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).

2. Limitations on Types of Uses Allowed as a Home Occupation

- (a) 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.
- (b) Other than typical handicrafts, no production or manufacturing shall be conducted in the dwelling unit.
- (c) The dwelling unit used for the home occupation shall not serve as a storage facility for a business conducted elsewhere.
- (d) 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.

3. Employees and Hours of Operation

- (a) No more than two (2) home occupations shall be carried on in any single dwelling unit.
- (b) 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.
- (c) 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.

4. Parking and Deliveries

(a) Adequate off-street parking shall be provided where necessary to avoid negatively impacting adjoining properties.

(b) No deliveries shall be permitted by other than passenger automobile or commercial delivery van.

E. Individual Septic Disposal System.

This land use includes any State or County approved septic disposal system.

Standards for development:

1. Minimum lot size of 0.5 acres.

2. No available public sewage disposal system within one thousand (1000) feet of any point on the subject property.

3. 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: A.

Special Use in the following districts: Not applicable.

F. 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 10.03.030(D)(12)) See also Chapter 4.12 Peddlers, Itinerant Merchants, Solicitors of the municipal code for related licensing requirements for sale in a public street and Section 10.03.040(E) for temporary sales not related to or operated by the principal use.

Permitted by Right in the following districts: B1, B2.

Special Use in the following districts: Not applicable.

1. The display area shall not exceed twenty-five (25) percent of the gross floor area of the principal building(s) on the site.

2. 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.
3. The display of items shall not be permitted in required landscaped buffer areas.
4. In no event shall the display of items be located so as to cause vehicles to park in areas other than designated parking stalls.
5. 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.
6. 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.
7. 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.
8. If the subject property abuts a residential use, sales and display activities shall be limited to daylight hours.

G. Outdoor Storage.

1. Residential Zoning Districts
 - (a) 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.
 - (b) 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.

2. Non-Residential Districts

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: A, I.

Special Use in the following districts: B1, B2.

(a) Industrial Uses

Outdoor industrial storage is permitted in approved storage areas only after a site plan has been approved by the Plan Commission for a property in the Industrial district.

(b) 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.

(c) Agricultural Uses

Outdoor storage is permitted only as an accessory use to a principal agricultural activity on the same lot in agricultural zoning districts.

(d) Junkyards and Salvage Yards

Outdoor storage is permitted in approved junkyards and salvage yards per the Special Use and site plan approved for the property by the Board of Zoning Appeals. (Ord. 98-05, S10.04.010, May 14, 1998)

10.04.020 Height, setback, and related requirements for accessory structures and uses. Except as otherwise permitted or required under the accessory use regulations of Section 10.04.010, 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.

A. Residential Zoning Districts (R-1, R-2, R-3, MH).

1. Height

No accessory structure shall exceed eighteen (18) feet in height.

2. 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 other than garages shall be located between the existing building line and the front/street lot line except for garages which may be permitted up to one (1) foot from the property line, curb, or back of sidewalk whichever is the greater distance but only upon a determination from the Zoning Administrator and/or Building Inspector that the topography of the area results in there being no other feasible alternative location for the garage.

Rationale: This section is intended to allow flexibility in the construction of garages on steep slopes in areas where there is an existing dwelling unit. Garages are encouraged to remove parking from the street and therefore minimal setbacks may be allowed in cases where there is no feasible alternative location, including the ability to locate the garage on a rear alley and where traffic in the street or along the sidewalk is not impeded.

3. 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 only such as split rail, picket, and wrought iron or solid decorative stone, brick or similar walls. Chain link fences are not permitted between the principal building and the front lot line.

(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 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.

B. Non-Residential Zoning Districts (A, REC, B1, B2, I).

- 1. **Height**
Accessory structures shall not exceed forty-five (45) feet in height.
- 2. **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.
- 3. **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 only such as split rail, and wrought iron or solid decorative stone, brick or similar walls. Chain link fences are not permitted between the principal building and the front lot line.
 - (b) **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 may be used only in cases where hazardous substances, activities or conditions which threaten the public health or safety exist. Electric fences are prohibited except for permitted husbandry land uses. (Ord. 98-05, S10.04.020, May 14, 1998)

10.04.030 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.

A. Permanent Signs in Non-Residential Zoning Districts.

Permanent signs in non-residential zoning districts (A, REC, B1, B2 and I) shall comply with the following regulations:

1. Free-standing signs

(a) Number

One (1) ground 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.

(b) 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.

(c) 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 10.06.050.

2. Wall signs and roof signs

(a) Number

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

(b) Area

Wall and roof signs shall have an aggregate surface area not to exceed one (1) square foot 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 use.

- B. Permanent Signs in Residential Zoning Districts.
Permanent signs in residential zoning districts (R-1, R-2, R-3, MH) shall comply with the following regulations:
1. Number
One (1) wall or ground sign shall be permitted per street frontage.
 2. 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 10.06.050 for detailed setbacks.
 3. Area
Signs shall be a maximum of eight (8) square feet in area per building or use.
 4. Other Permitted Signs
Signs and name and address plates less than two (2) square feet in area are permitted per Section 10.04.030(D)(9).
- C. 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 10.04.030(D)(8) for more information.
1. Temporary Signs in Residential Districts
Temporary signs are permitted in residential zoning districts subject to the following regulations:
 - (a) A maximum of one temporary sign per street frontage per lot, or if located in a street a maximum of one sign per five (500) hundred linear feet per side of the street shall be permitted.
 - (b) Signs shall be either wall signs or ground signs.
 - (c) Signs shall not exceed four (4) square feet in area.
 - (d) 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).

- (e) Temporary signs may not be erected any sooner than the day before an event with a fixed time (except for an election) 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.
- (f) Temporary signs to be placed in the right-of-way or in a street must be obtained from the Town Hall. There is no charge for these signs, but a deposit for their return is required.

2. Temporary Signs in Non-Residential Districts

Temporary signs are permitted in non-residential zoning districts subject to the following regulations:

- (a) A maximum of one temporary sign per street frontage per lot, or if located in a street a maximum of one sign per five (500) hundred linear feet per side of the street shall be permitted.
- (b) Signs shall be either wall signs or ground signs.
- (c) Signs shall not exceed twelve (12) square feet in area.
- (d) 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).
- (e) Temporary banners, pennants, balloons and streamers may be used subject to subsection (D)(8)(a) below.
- (f) Temporary signs may not be erected any sooner than the day before an event with a fixed time (other than an election), 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.

- (g) Temporary signs to be placed in the right-of-way or in a street must be obtained from the Town Hall. There is no charge for these signs, but a deposit for their return is required.

D. General Signage Regulations.

1. 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 10.04.030(D)(9) and normal maintenance per subsection (4) below.

2. 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.

3. Illumination

No illuminated signs may be located in residential zoning districts except through a variance approved under Section 10.09.050 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.

4. 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 10.10.070. 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.

5. 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 10.10.070.

6. Abandoned Signs

Signs which are obsolete and misleading in terms of identifying businesses, services, attractions, or events which no longer exist shall be removed one year 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.

7. 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:

- (a) Abandonment of the nonconforming sign for a continuous period of one (1) year which shall make it an abandoned sign per subsection (D)(6) above;
- (b) Any dimensional changes or rebuilding of the nonconforming sign after the effective date of this Title;
- (c) Damage to or destruction of the nonconforming sign from any cause whatsoever, in which the cost of repairing the damage or destruction exceeds seventy-five percent (75%) of the replacement cost of such sign on the date of damage or destruction. In determining the replacement cost of any nonconforming sign, the cost of the land, or the cost of renting the land, or any factor other than the sign itself, shall not be included;
- (d) Relocation of the sign which shall require it to conform in all respects to its new location.

8. 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.

- (a) 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.

- (b) Deceptive Signs
Deceptive signs are prohibited in all zoning districts.
- (c) Flashing Signs
No exterior sign having flashing, intermittent, or animated illumination shall be permitted. Searchlights are also prohibited in all zoning districts.
- (d) 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.
- (e) 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 10.04.030(C).
- (f) 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.
- (g) 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.
- (h) Unlisted Signs
Any sign not permitted by this Title is prohibited in all zoning districts.
- (i) Vacant Lot Signs
No signs shall be placed on a vacant lot other than temporary signs.

- (j) 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.

9. 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 10.04.030(A) and 10.04.030(B) above.

- (a) Flags
Flags do not require a permit.
- (b) Governmental Signs and Community Information Signs
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.
- (c) Holiday Decorations
Signs or other materials temporarily displayed on traditionally accepted civic, patriotic or religious holidays do not require a permit.
- (d) Interior Signs
Signs which are fully located within the interior of any building or stadium, do not require a permit.
- (e) 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 do not require a permit.
- (f) Temporary Signs
Temporary signs listed in Section 10.04.030(C) do not require a permit.
- (g) Signs Less Than Two (2) Square Feet
Signs less than two (2) square feet in area do not require a permit.
- (h) Window Signs
Window signs no not require a permit.

10. **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 on the recommendation of the Historic Preservation Commission.

Sign, historic place

Any sign indicating the historical significance of a site or structure.

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

See Nonconforming building, lot or structure.

Sign, pole

A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six (6) feet or more above grade.

Sign, prohibited

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

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 building and 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 10.04.030(C).

Sign, vehicle

Any sign attached to or displayed on a vehicle that is used for the express purpose of advertising a business establishment, 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 does 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 intentionally be visible from the outside which can be seen through the window from the exterior of the structure or vehicle.

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. 98-05, S10.04.030, May 14, 1998)

Chapter 10.05

FLOODPLAIN OVERLAY ZONING DISTRICT

Sections:

- 10.05.010 Statutory Authorization, Findings of Fact, Purpose, and Objectives**
- 10.05.020 Definitions**
- 10.05.030 General Provisions**
- 10.05.040 Administration**
- 10.05.050 Provisions for Flood Hazard Reduction**
- 10.05.060 Variance Procedures**
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- 10.05.080 Effective Date**

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

- A. Statutory Authorization. The Indiana Legislature has in IC 36-7-4 and IC 14-28-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council of the Town of English does hereby adopt the following floodplain management regulations.
- B. Findings of Fact.
 - 1. The flood hazard areas of English are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
 - 2. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.
- C. Statement of Purpose. It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging, and other development which may increase erosion or flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and,
6. Make federally subsidized flood insurance available for structures and their contents in the Town by fulfilling the requirements of the National Flood Insurance Program.

D. Objectives. The objectives of this ordinance are:

1. To protect human life and health;
2. To minimize expenditure of public money for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains;
6. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and,

7. To ensure that potential homebuyers are notified that property is in a flood area. (Ord. 2007-06, S1, Sept. 17, 2007) (Ord. 1998-11, Nov. 23, 1998) (Ord. 1998-10, Aug. 31, 1998) (Ord. 1998-09, July 27, 1998) (Ord. 98-05, May 14, 1998) (Ord. 1997-07, Aug. 14, 1997) (Res. Unnumbered, Apr. 18, 1996) (Ord. 90-01, Sept. 13, 1990) (Ord. Unnumbered, Dec. 3, 1985) (Ord. 133, Mar. 1, 1976) (Ord. 130A, Dec. 22, 1975) (Ord. 130, June 16, 1975)

10.05.020 Definitions.

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

Average flood depths derived from detailed hydraulic analyses are shown within this zone. Mandatory flood insurance purchase requirements apply.

- (e) Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection. Mandatory flood insurance purchase requirements apply.
 - (f) Zone A99: Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown. Mandatory flood insurance purchase requirements apply.
2. **Accessory structure** (appurtenant structure) means a structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.
 3. **Addition** (to an existing structure) means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.
 4. **Appeal** means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance or a request for a variance.
 5. **Area of shallow flooding** means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base

flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

6. **Base Flood Elevation (BFE)** means the elevation of the one-percent annual chance flood.
7. **Basement** means that portion of a structure having its floor sub-grade (below ground level) on all sides.
8. **Building** - see "Structure."
9. **Community** means a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.
10. **Community Rating System (CRS)** means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.
11. **Critical facility** means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.
12. **Development** means any man-made change to improved or unimproved real estate including but not limited to:
 - (a) construction, reconstruction, or placement of a structure or any addition to a structure;
 - (b) installing a manufactured home on a site, preparing a site for a manufactured home or installing recreational vehicle on a site for more than 180 days;
 - (c) installing utilities, erection of walls and fences, construction of roads, or similar projects;
 - (d) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;

- (e) mining, dredging, filling, grading, excavation, or drilling operations;
- (f) construction and/or reconstruction of bridges or culverts,
- (g) storage of materials; or
- (h) any other activity that might change the direction, height, or velocity of flood or surface waters.

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

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

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

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

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

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

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

41. **Letter of Map Amendment (LOMA)** means an amendment to the currently effective FEMA map that establishes that a property is not located in a SFHA. A LOMA is only issued by FEMA.
42. **Letter of Map Revision (LOMR)** means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.
43. **Letter of Map Revision Based on Fill (LOMR-F)** means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.
44. **Lowest adjacent grade** means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.
45. **Lowest floor** means the lowest of the following:
 - (a) the top of the lowest level of the structure;
 - (b) the top of the basement floor;
 - (c) the top of the garage floor, if the garage is the lowest level of the structure;
 - (d) the top of the first floor of a structure elevated on pilings or pillars;
 - (e) the top of the first floor of a structure constructed with a crawl space, provided that the lowest point of the interior grade is at or above the BFE and construction meets requirements of (f)(1); or
 - (f) the top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:
 - (1) the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) having a total net area of one (1)

square inch for every one square foot of enclosed area. The bottom of all such openings shall be no higher than one (1) foot above grade; and,

- (2) such enclosed space shall be usable solely for the parking of vehicles and building access.

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

property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

53. **National Geodetic Vertical Datum of 1929 (NGVD)** as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.
54. **New construction** means any structure for which the "start of construction" commenced after the effective date of the community's first floodplain ordinance.
55. **New manufactured home park or subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.
56. **North American Vertical Datum of 1988 (NAVD 88)** as adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.
57. **Obstruction** includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.
58. **One-hundred year flood (100-year flood)** is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood".
59. **One-percent annual chance flood** is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood".

60. **Participating community** is any community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.
61. **Physical Map Revision (PMR)** is an official republication of a community's FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.
62. **Post-FIRM construction** means construction or substantial improvement that started on or after the effective date of the initial FIRM of the community or after December 31, 1974, whichever is later.
63. **Pre-FIRM construction** means construction or substantial improvement, which started on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.
64. **Probation** is a means of formally notifying participating communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations.
65. **Public safety and nuisance**, anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.
66. **Recreational vehicle** means a vehicle which is (1) built on a single chassis, (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.
67. **Regular program** means the phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

68. **Regulatory flood** means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in 10.05.030 B. of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".
69. **Repetitive loss** means flood-related damages sustained by a structure on two separate occasions during a 10-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the structure at the time of each such flood event.
70. **Section 1316** is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.
71. **Special Flood Hazard Area (SFHA)** means those lands within the jurisdictions of the Town subject to inundation by the regulatory flood. The SFHAs of the Town generally identified as such on the Flood Insurance Rate Map of the Town of English dated January 3, 1986, as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. The SFHAs of those parts of unincorporated Crawford County that are within the extraterritorial jurisdiction of the Town or that may be annexed into the Town are generally identified as such on the Flood Insurance Rate Map prepared for Crawford County by the Federal Emergency Management Agency and dated January 17, 1986, as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FHBM or FIRM as Zone A, AE, AI-A30, AH, AR, A99, or AO).

72. **Start of construction** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement or permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footing, installation of piles, construction of columns, or any work beyond the stage of excavation for placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
73. **Structure** means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.
74. **Substantial damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
75. **Substantial improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "repetitive loss" or "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".
76. **Suspension** means the removal of a participating community from the NFIP because the community has not enacted and/or enforced

the proper floodplain management regulations required for participation in the NFIP.

77. **Variance** is a grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.
78. **Violation** means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.
79. **Watercourse** means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.
80. **Water surface elevation** means the height, in relation to the North American Vertical Datum of 1988 (NAVD 88), or National Geodetic Vertical Datum of 1929 (NGVD) (other datum where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.
81. **X zone** means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.
82. **Zone** means a geographical area shown on a FHBM or FIRM that reflects the severity or type of flooding in the area.
83. **Zone A** (see definition for A zone)
84. **Zone B, C, and X** means areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones

B and C.) (Ord. 2007-06, S2, Sept. 17, 2007) (Ord. 1998-11, Nov. 23, 1998) (Ord. 1998-10, Aug. 31, 1998) (Ord. 1998-09, July 27, 1998) (Ord. 98-05, May 14, 1998) (Ord. 1997-07, Aug. 14, 1997) (Res. Unnumbered, Apr. 18, 1996) (Ord. 90-01, Sept. 13, 1990) (Ord. Unnumbered, Dec. 3, 1985) (Ord. 133, Mar. 1, 1976) (Ord. 130A, Dec. 22, 1975) (Ord. 130, June 16, 1975)

10.05.030 General Provisions.

- A. Lands to Which This Ordinance Applies. This ordinance shall apply to all SFHAs within the jurisdiction of the Town of English.

- B. Basis for Establishing Regulatory Flood Data. This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Indiana Department of Natural Resources for review and approval.
 - 1. The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs shall be as delineated on the 100 year flood profiles in the Flood Insurance Study of the Town of English dated January 3, 1986 and the corresponding FBFM dated January 3, 1986, as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.

 - 2. The regulatory flood elevation, floodway, and fringe limits for each of the remaining SFHAs delineated as an "A Zone" on the FIRM of the Town shall be according to the best data available as provided by the Indiana Department of Natural Resources.

 - 3. For the SFHAs of those parts of unincorporated Crawford County that are within the extraterritorial jurisdiction of the Town or that may be annexed into the Town:
 - (a) The regulatory flood elevation, floodway, and fringe limits of studied streams shall be as delineated on the 100 year flood profiles in the Flood Insurance Study of Crawford County dated January 17, 1986 and the corresponding FBFM dated January 17, 1986, as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.

- (b) If the SFHA is delineated as "Zone A" on the County Flood Insurance Rate Map, the regulatory flood elevation, floodway, and fringe limits shall be according to the best data available as provided by the Indiana Department of Natural Resources.

- C. Establishment of Floodplain Development Permit. A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard.

- D. Compliance. No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

- E. Abrogation and Greater Restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

- F. Discrepancy between Mapped Floodplain and Actual Ground Elevations.
 - 1. In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.
 - 2. If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
 - 3. If the elevation (natural grade) of the site in question is above the base flood elevation, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner should be advised to apply for a LOMA.

- G. Interpretation. In the interpretation and application of this ordinance all provisions shall be:
 - (1) Considered as minimum requirements;
 - (2) Liberally construed in favor of the governing body; and,

- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

H. Warning and Disclaimer of Liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of the Town of English, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

I. Penalties for Violation. Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for the Town of English. All violations shall be punishable by a fine not exceeding \$200.00.

1. A separate offense shall be deemed to occur for each day the violation continues to exist.
2. The Town of English Zoning Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
3. Nothing herein shall prevent the Town from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible. (Ord. 2007-06, S3, Sept. 17, 2007) (Ord. 1998-11, Nov. 23, 1998) (Ord. 1998-10, Aug. 31, 1998) (Ord. 1998-09, July 27, 1998) (Ord. 98-05, May 14, 1998) (Ord. 1997-07, Aug. 14, 1997) (Res. Unnumbered, Apr. 18, 1996) (Ord. 90-01, Sept. 13, 1990) (Ord. Unnumbered, Dec. 3, 1985) (Ord. 133, Mar. 1, 1976) (Ord. 130A, Dec. 22, 1975) (Ord. 130, June 16, 1975)

10.05.040 Administration.

A. Designation of Administrator. The Town Council of the Town of English hereby appoints the Zoning Administrator to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

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

1. Application stage.
 - (a) A description of the proposed development;
 - (b) Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams;
 - (c) A legal description of the property site;
 - (d) A site development plan showing existing and proposed development locations and existing and proposed land grades;
 - (e) Elevation of the top of the lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD;
 - (f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed;
 - (g) Description of the extent to which any watercourse will be altered or related as a result of proposed development, and;
- (2) Construction stage. Upon placement of the lowest floor; or floodproofing, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor or floodproofed elevation, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular structure said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holders' risk. (The Floodplain Administrator shall review the lowest floor and floodproofing

elevation survey data submitted.) The permit holder shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

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

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

1. Review all floodplain development permits to assure that the permit requirements of this ordinance have been satisfied;
2. Inspect and inventory damaged structures in SFHA and complete substantial damage determinations;
3. Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to 10.05.050, E and G 1. of this ordinance, and maintain a record of such authorization (either copy of actual permit or floodplain analysis/regulatory assessment.)
4. Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits are to be maintained on file with the floodplain development permit;
5. Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA;
6. Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this ordinance.

7. Utilize and enforce all Letters of Map Revision (LOMR) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
8. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
9. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with 10.05.040, B.;
10. Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed, in accordance with 10.05.040, B.;
11. Review certified plans and specifications for compliance.
12. Stop Work Orders.
 - (a) Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.
 - (b) Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.
13. Revocation of Permits.
 - (a) The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
 - (b) The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance. (Ord. 2007-06, S4, Sept. 17, 2007) (Ord. 1998-11, Nov. 23, 1998) (Ord. 1998-10, Aug. 31, 1998) (Ord. 1998-09, July

27, 1998) (Ord. 98-05, May 14, 1998) (Ord. 1997-07, Aug. 14, 1997) (Res. Unnumbered, Apr. 18, 1996) (Ord. 90-01, Sept. 13, 1990) (Ord. Unnumbered, Dec. 3, 1985) (Ord. 133, Mar. 1, 1976) (Ord. 130A, Dec. 22, 1975) (Ord. 130, June 16, 1975)

10.05.050 Provisions for Flood Hazard Reduction.

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

10. Any alteration, repair, reconstruction or improvement to a structure that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not further, extended, or replaced.

B. Specific Standards. In all SFHAs, the following provisions are required:

1. In addition to the requirements of 10.05.050, A., all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
 - (a) Construction or placement of any new structure having a floor area greater than 400 square feet.
 - (b) Structural alterations made to:
 - (1) an existing (previously unaltered structure), the cost of which equals or exceeds 50% of the value of the pre-altered structure (excluding the value of the land);
 - (2) any previously altered structure.
 - (c) Reconstruction or repairs made to a damaged structure that are valued at more than 50% of the market value of the structure (excluding the value of the land) before damaged occurred;
 - (d) Installing a travel trailer or recreational vehicle on a site for more than 180 days.
 - (e) Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and
 - (f) Reconstruction or repairs made to a repetitive loss structure.
2. **Residential Construction.** New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the

FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of 10.05.050, B., 4.

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

- (a) A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in 10.05.040, C 10.
- (b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

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

- (a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - (1) provide a minimum of two openings having a total net area of not less than one square inch for every one square foot of enclosed area; and
 - (2) the bottom of all openings shall be no higher than one foot above foundation interior grade (which

must be equal to in elevation or higher than the exterior foundation grade); and

- (3) openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- (4) access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and
- (5) the interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- (6) portions of the building below the flood protection grade must be constructed with materials resistant to flood damage.

5. **Structures Constructed on Fill.** A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

- (a) The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with the Standard Proctor Test method.
- (b) The fill should extend at least ten feet beyond the foundation of the structure before sloping below the FPG.
- (c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
- (d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
- (e) The top of the lowest floor including basements shall be at or above the FPG.

6. **Standards for Structures Constructed with a Crawlspace.** A residential or nonresidential structure may be constructed with a crawlspace located below the flood protection grade provided that the following conditions are met:

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

7. **Standards for Manufactured Homes and Recreational Vehicles.** Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:

- (a) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral

movement. This requirement applies to all manufactured homes to be placed on a site;

- (1) outside a manufactured home park or subdivision;
 - (2) in a new manufactured home park or subdivision;
 - (3) in an expansion to an existing manufactured home park or subdivision; or
 - (4) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.
- (b) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.
- (c) Recreational vehicles placed on a site shall either:
- (1) be on site for less than 180 days; and,
 - (2) be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
 - (3) meet the requirements for "manufactured homes" as stated earlier in this section.

C. Standards for Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage;

2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;
 4. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty lots or five acres.
- D. Critical Facility. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.
- E. Standards for Identified Floodways. Located within SFHAs, established in 10.05.030, B, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1, a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of non-substantial additions/ improvements to residences in a non-boundary river floodway without obtaining a permit for construction in a floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval (construction in a floodway permit) for the fill is required from the Indiana Department of Natural Resources.)

No action shall be taken by the Floodplain Administrator until a permit (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in a floodway. Once a permit for construction in a floodway has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in 10.05.050 of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

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

For all projects involving channel modifications or fill (including levees) the Town shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.

- F. Standards for Identified Fringe. If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in 10.05.050 of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

- G. Standards for SFHAs Without Established Base Flood Elevation and/or Floodways/Fringes.
 - 1. Drainage area upstream of the site is greater than one square mile: If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

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

Once the Floodplain Administrator has received the proper construction in a floodway permit or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in 10.05.050 of this ordinance have been met.

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

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in 10.05.050 of this ordinance have been met.

3. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood more than 0.14 of one foot and will not increase flood damages or potential flood damages. (Ord. 2007-06, S5, Sept. 17, 2007)

10.05.060 Variance Procedures.

- A. Designation of Variance and Appeals Board. The Board of Zoning Appeals as established by Town Council of the Town of English shall hear and decide appeals and requests for variances from requirements of this ordinance.
- B. Duties of Variance and Appeals Board. The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Crawford County Courthouse, as provided by Statute.
- C. Variance Procedures. In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and;

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

D. Conditions for Variances.

1. Variances shall only be issued when there is:
 - (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship; and,
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

2. No variance for a residential use within a floodway subject to 10.05.050, E or G 1. of this ordinance may be granted.
 3. Any variance granted in a floodway subject to 10.05.050, E or G 1. of this ordinance will require a permit from the Indiana Department of Natural Resources.
 4. Variances to the Provisions for Flood Hazard Reduction of 10.05.050, B, may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
 5. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 6. Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
 7. Any application to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See E).
 8. The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See E).
- E. Variance Notification. Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:
1. The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and;
 2. Such construction below the base flood level increases risks to life and property.

The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.

- F. Historic Structure. Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

- G. Special Conditions. Upon the consideration of the factors listed in 10.05.060, and the purposes of this ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance. (Ord. 2007-06, S6, Sept. 17, 2007) (Ord. 1998-11, Nov. 23, 1998) (Ord. 1998-10, Aug. 31, 1998) (Ord. 1998-09, July 27, 1998) (Ord. 98-05, May 14, 1998) (Ord. 1997-07, Aug. 14, 1997) (Res. Unnumbered, Apr. 18, 1996) (Ord. 90-01, Sept. 13, 1990) (Ord. Unnumbered, Dec. 3, 1985) (Ord. 133, Mar. 1, 1976) (Ord. 130A, Dec. 22, 1975) (Ord. 130, June 16, 1975)

10.05.070 Severability. If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance. (Ord. 2007-06, S7, Sept. 17, 2007) (Ord. 1998-11, Nov. 23, 1998) (Ord. 1998-10, Aug. 31, 1998) (Ord. 1998-09, July 27, 1998) (Ord. 98-05, May 14, 1998) (Ord. 1997-07, Aug. 14, 1997) (Res. Unnumbered, Apr. 18, 1996) (Ord. 90-01, Sept. 13, 1990) (Ord. Unnumbered, Dec. 3, 1985) (Ord. 133, Mar. 1, 1976) (Ord. 130A, Dec. 22, 1975) (Ord. 130, June 16, 1975)

10.05.080 Effective Date. This ordinance shall take effect upon its passage by the Town Council. (Ord. 2007-06, S8, Sept. 17, 2007) (Ord. 98-05, S10.05.010, May 14, 1998) (Ord. 1998-11, Nov. 23, 1998) (Ord. 1998-10, Aug. 31, 1998) (Ord. 1998-09, July 27, 1998) (Ord. 98-05, May 14, 1998) (Ord. 1997-07, Aug. 14, 1997) (Res. Unnumbered, Apr. 18, 1996) (Ord. 90-01, Sept. 13, 1990) (Ord. Unnumbered, S1-13, Dec. 3, 1985) (Ord. Unnumbered, Dec. 3, 1985) (Ord. 133, Mar. 1, 1976) (Ord. 130A, Dec. 22, 1975) (Ord. 130, June 16, 1975)

Chapter 10.06

DENSITY, INTENSITY, AND BULK REGULATIONS

Sections:

10.06.010	Purpose
10.06.020	Bulk, Density and Intensity Standards
10.06.030	One Principal Building or Use Per Lot
10.06.040	Group Developments
10.06.050	Additional Setbacks at Intersections
10.06.060	Front or Street Yard Setback Adjustment
10.06.070	Exceptions to Maximum Height Regulations
10.06.080	Permitted Intrusions in Required Yards - Residential Structures
10.06.090	Blanket Variances

10.06.010 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 10.04.010.

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 industrial areas and open industrial parks, to promote tourism and small lot commercial development, to maintain the scenic, natural beauty of the valley, and to enhance the appearance of the area. 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 city'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, and 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. 98-05, S10.06.010, May 14, 1998)

10.06.020 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 10.04 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 10.09.050 or unless an adjustment, exception or blanket variance is authorized per Sections 10.06.060, 10.06.070 and 10.06.090 respectively. (Ord. 98-05, S10.06.020, May 14, 1998)

10.06.030 One Principal Building or Use Per Lot. With the exception of a multiple-family development authorized under Section 10.03.030(b) or a group development permitted under Section 10.06.040, only one (1) principal building or use and its accessory structures may be erected on any lot. (Ord. 98-05, S10.06.030, May 14, 1998)

10.06.040 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: REC, A, R-1, R-2, R-3, B1, B2, I.

Special use standards:

- A. 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.
- B. Group developments are permitted in all zones by special use designations.
- C. 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.
- D. The required densities or lot coverages shall be adhered to for the site as a whole.
- E. All buildings and structures shall comply with required heights and setbacks from property lines.

- F. All buildings shall be located a minimum of twenty (20) feet from one another.
- G. Parking shall be distributed in a manner so that it is easily accessible from all buildings.
- H. The development shall be designed so that it is compatible with surrounding land uses.
- I. 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. 98-05, S10.06.040, May 14, 1998)

10.06.050 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 twenty-five (25) 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. (Ord. 98-05, S10.06.050, May 14, 1998)

10.06.060 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. 98-05, S10.06.060, May 14, 1998)

10.06.070 Exceptions to Maximum Height Regulations.

- A. **Spires, Domes, Cooling Towers, Flag Poles and Similar Structures**
The maximum permitted height listed in Table 2 shall be the maximum for all buildings and structures except that if the following (or necessary mechanical appurtenances and support structures related thereto) does not constitute a hazard to an established airport than they may extend to a height of sixty (60) feet in a non-residential district, and fifty (50) feet in a residential district without the need for a variance where permitted: chimneys and smokestacks, church spires and belfries, cooling towers, cupolas and domes which do not contain usable space, elevator bulkheads,

fire and hose towers, flag poles, penthouses, public monuments and water towers.

B. Accessory Agricultural Structures

Accessory agricultural structures (other than dwellings) may be constructed to any height but shall be setback an additional one (1) foot for every one foot in height over forty-five (45) feet from all property lines bordering a residential zoning district.

C. Amateur Radio Antenna Support Structures

Such support structures may be erected to a maximum height of seventy-five (75) feet, provided the minimum setback distance from all lot lines is fifteen (15) feet, or the setback requirements for the specific zoning district, whichever is greater.

D. Special Use Required for Height Exceptions

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 10.09.040. An additional one (1) foot setback from all or specifically designated property lines may be required as part of the Special Use permit for every one (1) foot in height over thirty-five (35) feet in residential zoning districts and over forty-five (45) feet in height in non-residential zoning districts.

Rationale: The Town of English has existing taller structures and contains many steeply sloped areas of varying elevations. Therefore, there may exist many occasions where structures exceeding the height restrictions may be appropriate. Requests to exceed the maximum permitted height shall be reviewed as Special Uses rather than Variances. In this way, such requests would need to meet standards of compatibility with adjoining land uses rather than the more stricter standards relating to hardship. However, the maximum heights permitted are based on the current fire-fighting equipment available to the Town. Should fire fighting equipment be made available to effectively fight fires over these heights, these maximum limits could be raised. Prior to such time, if a structure is proposed to exceed the maximum height allowed in the zoning district under (d) above, it should be equipped with internal fire fighting mechanisms which are approved by the Fire Department as part of the Special Use review process. See also Section 10.04.020 for heights of accessory structures. (Ord. 98-05, S10.06.070, May 14, 1998)

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

- A. Front or Street Yards, Side Yards and Rear Yards
Chimneys, flues, sills, pilasters, lintels, ornamental features, cornices, eaves, and gutters for residential buildings; provided they do not encroach more than two and one-half (2.5) feet into the required yard.
- B. Rear or Side Yards Only
Overhanging bays on residential buildings which do not extend more than two (2) feet into the required yard and which do not contain a gross floor area of more than twenty (20) square feet.
- C. Rear Yard Only
Balconies or similar appurtenances to residential buildings which are located more than three (3) feet above grade; provided they do not extend more than six (6) feet into the required rear yard. (Ord. 98-05, S10.06.080, May 14, 1998)

10.06.090 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 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 10.09.050.

Rationale: The blanket variance is intended to prevent the creation of certain nonconforming developments. The adoption of this blanket variance ensures that developments approved prior to the adoption of this Title do not encounter difficulty in transferring ownership because they would otherwise be considered nonconforming. (Ord. 98-05, S10.06.090, May 14, 1998)

Chapter 10.07

Performance Standards

Sections:

10.07.010	Purpose
10.07.020	Off-Street Parking and Traffic Circulation Standards
10.07.030	Off-Street Loading Standards
10.07.040	Access Standards
10.07.050	Exterior Lighting Standards
10.07.060	Noise Standards
10.07.070	Odor and Heat Standards
10.07.080	Fire and Explosion Standards
10.07.090	Drainage Standards
10.07.100	Waste Matter Standards
10.07.110	Bufferyard and Landscaping Regulations
10.07.120	Administration & Enforcement of Performance Standards

10.07.010 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 10.01.050. (Ord. 98-05, S10.07.010, May 14, 1998)

10.07.020 Off-street parking and traffic circulation standards.

- A. Depiction on Required Site Plan.
Any and all parking and traffic circulation areas proposed to be located on the subject property shall be depicted as to their location and configuration on the site plan required for the development of the subject property. Parking areas prescribed in this Section for commercial and industrial uses must be located on the premises of such commercial or industrial use.
- B. 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 which are not for lease, rent, or sale unless the lot is a vehicle sales lot. No storage of any kind shall be permitted unless shown as such on the approved site plan.

- C. Maintenance of Off-Street Parking and Traffic Circulation Areas.
All off-street parking and traffic circulation areas shall be maintained in a dust-free condition at all times.

- D. Off-Street Parking and Traffic Circulation Design Standards.
 - 1. Surface Materials
All parking lots for six (6) or more cars shall be constructed of a hard surface such as asphalt, concrete, brick, or bomonite.

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

 - 3. 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.

 - 4. Parking Space Design Standards
Other than parking required to serve the handicapped, every and 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

E. Calculation of Minimum Required Parking Spaces:

1. General Guidelines for Calculating Required Parking Spaces

(a) Minimum Required Spaces

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

(b) Method of Calculation

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

(c) Handicapped Parking

Handicapped parking shall be provided as required under Indiana Code 5-16-9 with one (1) parking space required for any facility having more than fifty (50) parking spaces with additional stalls required for larger facilities. Said

stalls shall be a minimum of thirteen (13) feet in width and painted with blue lines.

2. Minimum Off-Street Parking Requirements for Land Uses

Each land use shall provide sufficient off-street parking spaces to accommodate parking demand. 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:

- (a) Agricultural Land Uses
One (1) space per employee on the largest work shift.

- (b) Residential Land Uses
 - (1) Group or institutional housing:
1 per every three (3) beds plus 1 per every 2 employees on maximum work shift

 - (2) Single-family detached:
0 spaces for lots 0 to 4,999 sq. ft. in area
1 space for lots 5,000 to 6,999 sq. ft. in area
2 spaces for lots 7,000+ sq. ft. in area

 - (3) Other than above:
1.5 for efficiency
2 for 1 or 2 bedrooms
3 for 3 or more bedrooms

- (c) Institutional and Recreational Land Uses
Generally, one (1) space per three (3) expected patrons at maximum capacity for nonresidential uses unless noted below. See (b.) Residential Land Uses above for institutional housing parking requirements.
 - (1) Cemetery: one (1) space per employee, plus one (1) space per three (3) patrons to the maximum capacity of all indoor assembly areas, if present.

 - (2) Church: one (1) space per five (5) seats at the maximum capacity.

- (3) College: one (1) space per staff member on the largest work shift, plus one (1) space per two (2) students of the largest class attendance period.
- (4) Commercial or Trade School: one (1) space per three (3) students, plus one (1) space per employee (including faculty) at capacity class attendance period.
- (5) Community or Recreation Center: one (1) space per 200 square feet of net floor area, or one (1) space per four (4) patrons to the maximum capacity, whichever is greater, plus one (1) space per employee on the largest work shift.
- (6) Elementary and Junior High: one (1) space per teacher and per staff member, plus one (1) space per two (2) classrooms.
- (7) Golf Course: 36 spaces per nine (9) holes in line, plus one (1) space per employee on the largest work shift, plus fifty (50) percent of spaces otherwise required for any accessory uses (e.g., banquet facilities, restaurant).
- (8) Hospital: two (2) spaces per three (3) patient beds, plus one (1) space per staff doctor and each other employee on the largest work shift.
- (9) Library or Museum: one (1) space per 250 square feet of net floor area or one (1) space per four (4) seats to the maximum capacity, whichever is greater, plus one (1) space per employee on the largest work shift.
- (10) Outdoor Public Recreational: one (1) space per four (4) expected patrons at maximum capacity (unless otherwise noted above).
- (11) Public Services: one (1) space per employee on the largest work shift, plus one (1) space per company vehicle normally stored or parked on the premises, plus one (1) space per 400 square feet of net square feet of office area.

- (12) Senior High: one (1) space per teacher and per staff member on the largest work shift, plus one (1) space per five (5) non-bused students.
 - (13) Swimming Pool: one (1) space per seventy-five (75) square feet of gross water area.
 - (14) Tennis Court: three (3) spaces per court.
- (d) Commercial Land Uses and Outdoor Assembly
- (1) Bed and Breakfast Establishment: one (1) space per bedroom, plus one (1) space for each employee on the largest work shift.
 - (2) Commercial Animal Boarding: one (1) space per every 800 square feet of net floor area.
 - (3) Day Care Center: one (1) space per five (5) children plus one (1) space for each employee on the largest work shift.
 - (4) Funeral Homes: one (1) space per three (3) patron seats at maximum capacity, plus one (1) space per employee on largest work shift.
 - (5) Hotels, Motels and Lodging: one (1) space per bedroom, plus one (1) space for each employee on the largest work shift.
 - (6) Indoor Commercial Entertainment: one (1) space per every three (3) patron seats or lockers (whichever is greater); or one (1) space per three (3) persons at the maximum capacity of the establishment (whichever is greater).
 - (7) Indoor Sales or Service: one (1) space per 200 square feet of net floor area.
 - (8) Mini-Warehouse: one (1) space per each employee on largest work shift, if applicable.
 - (9) Office: one (1) space per 200 square feet of net floor area.

- (10) Outdoor Assembly: one (1) space for every three (3) patrons at maximum capacity.
- (11) Outdoor Commercial Entertainment: one (1) space for every three (3) patron seats at the maximum capacity of the establishment, or 1.5 spaces per campsite in campground.
- (12) Outdoor Sales or Service: one (1) space per 100 square feet of net floor area.
- (13) Personal or Professional Service: one (1) space per 200 square feet of net floor area.
- (14) Sexually-Oriented Use: one (1) space per 200 square feet of net floor area, or one (1) space per person at the maximum capacity of the establishment (whichever is greater).

- (e) Industrial Land Uses
One (1) space per each employee on the largest work shift.
(Ord. 98-05, S10.07.020, May 14, 1998)

10.07.030 Off-street loading standards.

- A. Applicability.
Any use which has a net floor area of 6,000 square feet or more, and which requires deliveries or makes shipments, shall provide off-street loading facilities in accordance with the regulations of this Section.
- B. Location.
All loading berths shall be located twenty-five (25) feet or more from the intersection of two street 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 10.07.020(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.
- C. Size of Loading Area.
All loading berths shall be a minimum of fifty (50) feet in length and ten (10) feet in width, exclusive of aisles and maneuvering space. All required loading berths shall have a minimum vertical clearance of fourteen (14) feet.

- D. Access to Loading Area.
Each loading berth shall be located so as to facilitate access to a public street or alley, and shall not interfere with other vehicular or pedestrian traffic per Section 10.07.040, and shall not interfere with the function of parking areas. In no instance shall loading areas rely on backing movements into public rights-of-way.
- E. Surfacing.
All required loading areas shall be maintained in a dust-free condition at all times.
- F. Use of Required Loading Areas.
The use of all required loading areas shall be limited to the loading and unloading of vehicles. Said area shall not be used to provide minimum required parking spaces.
- G. Depiction on Required Site Plan.
Any and all required loading areas proposed to be located on the subject property shall be depicted as to their location and configuration on the site plan required for the development of the subject property.
- H. Calculation of Required Loading Spaces.
1. Commercial (except Offices), and Industrial Land Uses
One (1) loading berth shall be required for each building having a net floor area of 6,000 square feet to 29,999 square feet. 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.
 2. Institutional Non-Residential Land Uses
One (1) loading berth shall be required for each building having a net floor area of 6,000 square feet to 29,999 square feet. For such uses located in buildings having a net floor area of 30,000 square feet or greater, two (2) loading berths shall be required.
 3. Office Land Uses
One (1) loading berth shall be required for each building having a net floor area of 6,000 square feet to 99,999 square feet. 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. 98-05, S10.07.030, May 14, 1998)

10.07.040 Access standards.

- A. Number of Access Points.
 - 1. Each lot shall have not more than two (2) access points on any street frontage, subject to (2) below.
 - 2. In no instance shall any lot be permitted more than one (1) access point on any one street if its frontage on said street is less than 100 linear feet (as measured along the curb line).

- B. 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.

- C. Width of Driveways.

All access drives shall have a maximum width of twenty-four (24) feet, except on a major arterial street where a maximum of thirty (30) feet as measured along the curb line (without flare) shall be permitted.

- D. Traffic Control.

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

- E. 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.

- F. 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, brick, or bomonite, and shall be maintained so as to prevent the transport of gravel, dirt, or other eroded material from the subject property into the street.

- G. Permit Required.

A permit is required for all driveways onto any street. (Ord. 98-05, S10.07.040, May 14, 1998)

10.07.050 Exterior lighting and glare standards.

- A. Applicability.
The requirements of this Section apply to all private exterior lighting within the jurisdiction of this Title except for lighting streets and/or lighting on public property.
- B. Depiction on Required Site Plan.
Any and all exterior lighting shall be depicted as to its location, orientation and configuration on the site plan required for the development of the subject property.
- C. Requirements.
 - 1. Orientation of Fixture
In no instance shall an exterior lighting fixture be oriented so that the lighting element (or a transparent shield) is visible from a property located within a residential zoning district. The use of shielded luminaries and careful fixture placement is encouraged so as to facilitate compliance with this requirement.
 - 2. Flashing, Flickering and other Distracting Lighting
Flashing, flickering and/or other lighting which may distract motorists or imitate a traffic device are prohibited.
 - 3. Glare
No direct or sky-reflected glare, whether from lights, floodlights, temperature processes such as combustion or welding or otherwise, shall be permitted so as to be visible at the lot line of the subject property.
 - 4. Nonconforming Lighting
All lawful lighting fixtures which do not meet the standards of this section existing prior to the effective date of this Title shall be considered legal non-conforming structures. See Section 10.08.020. (Ord. 98-05, S10.07.050, May 14, 1998)

10.07.060 Noise standards.

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

- B. Requirements.
All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness. In no event shall any objectionable noise radiated continuously from a facility be detectable in surrounding residential areas. (Ord. 98-05, S10.07.060, May 14, 1998)

10.07.070 Odor and heat standards.

- A. Applicability.
The requirements of this Section apply to all land uses and activities, except that these standards shall not apply to odors or heat created during construction on the subject property, or by incidental traffic, parking, loading, or maintenance operations. Public landfills and public sanitary sewage treatment plants shall be exempted from the requirements of this Section as essential public services.
- B. Odor.
Except for food preparation and cooking odors emanating from residential land uses, and odors associated with property development and maintenance (such as construction, lawn care, and the painting and roofing of structures), no objectionable odor shall be created which is detectable in the surrounding residential areas.
- C. Heat.
There shall be no transmission of heat or heated air so as to be discernible (by a healthy observer such as the Zoning Administrator or a designee) at the lot line with adjoining residential uses. Solar energy systems regulated by State Code shall be entitled to the protections of its provisions.
State Law Reference: Section 36-7-2-8, Indiana Code. (Ord. 98-05, S10.07.070, May 14, 1998)

10.07.080 Fire and explosion standards.

- A. Applicability.
The requirements of this Section apply to all land uses and activities.
- B. Standards.
 - (1) 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.

- (2) **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.

- (3) **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 industrial use comply with the rules and regulations of the State Fire Marshall shall accompany the application for an improvement location permit. (Ord. 98-05, S10.07.080, May 14, 1998)

10.07.090 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. 98-05, S10.07.090, May 14, 1998)

10.07.100 Waste matter standards. No use except those permitted in Chapter 10.03 shall accumulate within the lot or discharge beyond the lot lines any waste matter, whether liquid or solid, in conflict with applicable public health, safety and welfare standards and regulations. (Ord. 98-05, S10.07.100, May 14, 1998)

10.07.110 Bufferyards and landscaping. Bufferyards are a combination of setbacks, fencing, and landscaping which serve to separate land uses from one another to ensure compatibility with land uses of different character. The following bufferyards as well as those required for specific principal and accessory uses in Chapter 10.03 and 10.04 shall be provided and maintained for all uses hereafter established.

- A. **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.

- B. General Landscaping of Commercial and Industrial lots.
All commercial and industrial zoned lots shall maintain a minimum of ten (10) percent of the lot in landscaped, impervious 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.
- C. Non-Residential Uses Adjoining a Residential Zoning District.
1. Year Round Screening Required
For all non-residential uses which adjoin a residential zoning district a year round bufferyard shall be provided along the abutting property line of the adjoining residential property.
 2. Design
Screening shall consist of landscaping, berming, fencing, walls, or combinations thereof to form a continuous solid screen a minimum of six (6) feet in height (fences shall be a maximum of six (6) feet above grade in residential districts, and eight (8) feet above grade in non-residential districts).
 3. Fences Used in Bufferyards
No fencing installed along a common side property line with the adjoining residential property shall extend further toward the front property line than the required building setback of the adjoining residential zoning district. All fencing shall be commercial grade with the finished side of the fence facing outward.
 4. Height Differences Based on Topography
Heights of screens may be increased to a maximum of eight (8) feet or reduced to a minimum of four (4) feet based on topography changes between the proposed use and the neighboring residential property per the determination of the Zoning Administrator.
- D. Additional Screening Required for Certain Uses.
The Board of Zoning Appeals may as part of the conditions of a variance or special use may require additional setbacks, screening, increase in fence heights, or similar design solutions to ensure compatibility between land uses and adjoining property. Bufferyards may be required by the Board of Zoning Appeals between certain land uses and adjoining uses not located in a residential zoning district. For example, a proposed heavy manufacturing use may be required to screen the use from the adjoining schoolyard or hospital even though the latter uses are located in a nonresidential zoning district. (Ord. 98-05, S10.07.110, May 14, 1998)

10.07.120 Administration & enforcement of performance standards.

- A. Determination of Violations.
Where determinations can be made by the Zoning Administrator and his designee using equipment normally available to the Town or obtainable without extraordinary expense, such determinations shall be so made before notice of violation is issued.

- B. Written Notice.
The Zoning Administrator and/or Building Inspector 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 and/or Building Inspector 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 and/or Building Inspector. However, should the violation pose a great and immediate danger, the Zoning Administrator and/or Building Inspector may initiate abatement of the violation in accordance with Section 10.10.070 .

The notice shall state, and it is hereby declared, that failure to reply or to correct the alleged violation to the satisfaction of the administrative official within the time limit set constitutes admission of violation of the terms of this Title.

- C. General Enforcement.
Enforcement of the provisions of this Chapter shall be per the violations and penalties set forth in Section 10.10.070. (Ord. 98-05, S10.07.120, May 14, 1998)

Chapter 10.08

Nonconforming Use, Lot And Structure Regulations

Sections:

- 10.08.010 Nonconforming Use Regulations**
- 10.08.020 Nonconforming Structure and Building Regulations**
- 10.08.030 Zoning Administrator Review and Special Uses**
- 10.08.040 Prohibition on Creation of Non-Conforming Lots**

10.08.010 Nonconforming use regulations.

- A. Definition.
A nonconforming use is an active and actual use of land or structures, or both; legally established prior to the effective date of this Title or subsequent applicable amendment thereto which has continued the same use to the present, and which would not be permitted under the current terms of this Title.
- B. Continuance of a Nonconforming Use.
Any nonconforming use lawfully existing upon the effective date of this Title may be continued at the size and in a manner of operation existing upon such date, except as specified in this Section.
- C. Modification of a Nonconforming Use.
A nonconforming use shall not be expanded, or changed to another nonconforming use unless such modification would make the nonconforming use have a more desirable effect in terms of implementing the purposes of this Title (as determined by the Zoning Administrator). If such a modification is permitted, said use shall not be modified back to the original nonconforming use, or to any other nonconforming use which does not better accomplish the purposes of this Title. Permission to modify in such a manner shall require that the lot be brought into conformance wherever reasonable and feasible, or a schedule to bring the lot into conformance with the provisions of this Title be developed. For example, additional parking shall be provided, nonconforming signs shall be removed, etc. as a condition of approval of such a modification.
- D. Discontinuance of a Nonconforming Use.
When any nonconforming use of any structure or land is discontinued for a period of either twelve (12) months for a residential use, or six (6) months for a non-residential use, or is changed into a conforming use, any future

use of said structure or land shall be in conformance with the provisions of this Title.

E. Maintenance of a Nonconforming Use

The normal maintenance of a structure or land containing or related to a nonconforming use is permitted, including necessary repairs and incidental alterations which do not exacerbate the adverse impacts of the nonconforming use in relation to the purposes of this Title. In no instance shall said repairs exceed fifty (50) percent of the value of said structure or property prior to said repairs. See Section 10.08.020(E) below for reconstruction of structures and buildings for permitted and nonconforming uses. (Ord. 98-05, S10.08.010, May 14, 1998)

10.08.020 Nonconforming Structure and Building Regulations

A. 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.

B. Permitted Alterations to Nonconforming Structures.

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

C. Maintenance of a Nonconforming Structure.

1. Normal Maintenance

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

2. Unsafe Buildings and Structures

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

3. Exceptions for Residential Garages

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

D. Modification of a Nonconforming Structure.

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

E. Reconstruction of a Nonconforming Structure.

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

F. Permits Issued for Structures Prior to the Effective Date of this Title.

Any structure or building for which a building permit has been lawfully granted prior to the effective date of this Title, which will become nonconforming hereunder, may be constructed in accordance with the approved permits and plans, provided construction is started within one hundred eighty (180) calendar days of the effective date of this Title and provided that construction is completed within seven hundred thirty (730) days of the effective date of this Title. Said structure or building shall thereafter be a legal nonconforming structure or building. (Ord. 98-05, S10.08.020, May 14, 1998)

10.08.030 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. 98-05, S10.08.030, May 14, 1998)

10.08.040 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 10.06.090 apply only to lots in their configuration as of the effective date of this Title. (Ord. 98-05, S10.08.040, May 14, 1998)

Chapter 10.09

Procedures

Sections:

10.09.010	Purpose
10.09.020	Amendments to the Zoning Ordinance or the Comprehensive Plan
10.09.030	Amendment of the Official Zoning Map or Land Use Map
10.09.040	Special Use Review
10.09.050	Variances
10.09.060	Appeals
10.09.070	Interpretations

10.09.010 Purpose. The purpose of this Chapter is to establish the procedures for the review and approval of zoning ordinance and comprehensive plan text amendments, zoning map and plan map amendments, special uses, variances, zoning interpretations by the Zoning Administrator, and zoning appeals to the Board of Zoning Appeals. See Sections 10.05.020 and 10.05.010 for procedures regarding approval of activities in the floodplain or historic preservation district, respectively. See Section 10.10.030 for issuance of improvement location permits. (Ord. 98-05, S10.09.010, May 14, 1998)

10.09.020 Text amendments to the zoning ordinance or text of the comprehensive plan.

- A. Application Requirements.
All applications for proposed amendments to this Title or the text of the Comprehensive Plan, shall be filed in the office of the Zoning Administrator and all applicants (as defined in Chapter 10.11) shall also provide the following:
1. A copy of the portion of the current provisions of this Title or the Plan proposed to be amended, with said provisions clearly indicated in a manner which is reproducible with a photocopier;
 2. A copy of the text which is proposed to replace the current text; and
 3. Written justification for the proposed text amendment (the petitioner is advised to answer the questions in Subsection (B) below).
- B. Review by the Zoning Administrator.
1. The Zoning Administrator shall review the submittal in order to ensure that all required portions of the submittal are provided.
 2. After acknowledgment of a complete submittal, 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:
 - (a) How does the proposed text amendment further the purpose of this Title as outlined in Section 10.01.040 or the Plan, as applicable?
 - (b) How does the proposed text amendment relate to the Town's Comprehensive Plan overall?
 - (c) Which of the following factors have arisen that are not properly addressed in the current text?
 - (1) The text should be brought into conformance with the Comprehensive Plan (note pertinent portions of the Comprehensive Plan).
 - (2) 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.

- (3) New methods of development or providing infrastructure make it necessary to alter this Title or the Plan to meet these new factors.
- (4) 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.
- (5) 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.

(d) If the proposed amendment is concerned with the land use or bulk, density and intensity regulations: How does the proposed amendment maintain the desired overall consistency of land uses, land use intensities, and land use impacts within the pertinent zoning districts?

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

C. 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.

1. Within sixty (60) days after receipt of the complete petition as determined by the Zoning Administrator, the Plan Commission shall hold a public hearing. Notice of the proposed text amendment and the hearing shall conform to the requirements of Section 5-3-1 of the Indiana Code. Said notice shall contain the time and place of the hearing, the geographic areas (or zoning districts in a specified geographic area) to which the proposal applies, a summary (which the Plan Commission shall have prepared) of the subject matter contained in the proposal (not the entire text) that describes any new or changed provisions, where a copy of the proposal is on file for examination before the hearing, that written objections to the proposal that are filed with the secretary of the commission before the hearing will be considered, that oral comments concerning the proposal will be heard, that the

hearing may be continued from time to time as may be found necessary, and if the proposal contains or would add or amend any penalty or forfeiture provisions the entire text of those penalty or forfeiture provisions. In addition, at least ten (10) days before the hearing the Zoning Administrator shall mail an identical notice to the petitioner.

2. Within ten (10) working days after the Plan Commission has determined its recommendation it shall certify the proposal and shall make a written report to the Town Council stating its findings regarding Subsection (B) above, and its recommendations regarding the petition as a whole.

D. 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.

1. This subsection applies if the proposal receives a favorable recommendation from the Plan Commission:
 - (a) 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.
 - (b) If the Town Council adopts (as certified) the proposal, it takes effect as other ordinances of the Town Council.
 - (c) 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.
 - (d) 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:

- (1) 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.
 - (2) 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 (c).
2. This subsection applies if the proposal receives either an unfavorable recommendation or no recommendation from the Plan Commission.
 - (a) At the first regular meeting of the 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.
 - (b) If the Town Council adopts (as certified) the proposal, it takes effect as other ordinances of the Town Council.
 - (c) If the Town Council rejects the proposal or fails to act on it within ninety (90) days after certification, it is defeated.
 - (d) 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:
 - (1) 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.

(2) 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 (c).

E. Effect of Denial.

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

F. Fee.

No fee is required for this procedure.

G. Printing.

The Plan Commission must print the amendments to the zoning ordinance per Section 36-7-4-610 of the Indiana Code. (Ord. 98-05, S10.09.020, May 14, 1998)

10.09.030 Amendment of the official zoning map or comprehensive plan land use map.

A. Application Requirements.

All applications for proposed amendments to the Official Zoning Map or Plan Map, 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 10.11) shall also provide the following:

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

3. Written justification for the proposed map amendment (the petitioner is advised to answer the questions in subsection (B) below).
- B. Review by the Zoning Administrator.
1. The Zoning Administrator shall review the submittal in order to ensure that all required portions of the submittal are provided.
 2. After acknowledgment of a complete submittal, 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:
 - (a) How does the proposed Official Zoning Map/Plan Map amendment further the purpose of this Title as outlined in Section 10.01.040 or the Plan?
 - (b) How does the proposed map amendment relate to the Town's Comprehensive Plan overall?
 - (c) Which of the following factors has arisen that are not properly addressed on the current zoning/plan map?
 - (1) The designations on the map should be brought into conformance with the Comprehensive Plan (note pertinent portions of the Comprehensive Plan);
 - (2) 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);
 - (3) 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;

(4) Growth patterns or rates have changed, thereby creating the need for an amendment to the map.

(d) How does the proposed amendment maintain the desired consistency of land uses, land use intensities, and land use impacts as related to the surroundings of the subject property?

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

C. 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.

1. Within sixty (60) days after receipt of the complete petition as determined by the Zoning Administrator, the Plan Commission shall hold a public hearing. Notice of the proposed 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.

2. 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.

D. 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.

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

- (a) 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.
- (b) If the Town Council adopts (as certified) the proposal, it takes effect as other ordinances of the Town Council.
- (c) If the Town Council rejects the proposal, it is defeated.
- (d) 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.

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

- (a) At the first regular meeting of the 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.
- (b) If the Town Council adopts (as certified) the proposal, it takes effect as other ordinances of the Town Council.
- (c) If the Town Council rejects the proposal, it is defeated.
- (d) If the Town Council fails to act on the proposal within ninety (90) days after certification, it is defeated.

E. Effect of Denial.

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

- F. Fee.
All applicants shall pay a fee for this procedure.
- G. 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. 98-05, S10.09.030, May 14, 1998)

10.09.040 Special use review.

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

- (e) A legal description of the subject property.
 - (f) All existing and proposed buildings, structures, paved areas, walks, drives, parking and loading spaces and their number provided vs. number required, signs, decks, patios, fences, utility poles, lighting, drainage facilities, landscaping, outdoor storage, dumpsites, on-site septic or waste treatment systems, and walls.
 - (g) Any other information required by the Zoning Administrator.
5. Written justification for the proposed Special Use (the petitioner is advised to answer the questions in Subsection (B) below).
- B. Review by the Zoning Administrator.
- 1. The Zoning Administrator shall review the submittal in order to ensure that all required portions of the submittal are provided.
 - 2. After acknowledgment of a complete submittal, 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:
 - (a) How is the proposed Special Use (the use in general) in harmony with the purposes, goals, objectives, policies and standards of the Town of English Comprehensive Plan, this Title, and any other plan, program, or ordinance adopted or under consideration pursuant to official notice by the Town?
 - (b) How is the proposed Special Use (in its specific location) in harmony with the purposes, goals, objectives, policies and standards of the Town of English Comprehensive Plan, this Title, and any other plan, program, or ordinance adopted or under consideration pursuant to official notice by the Town?
 - (c) 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 pubic 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?

- (d) 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?
- (e) Is the proposed Special Use located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property?
- (f) 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?

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

C. Review by the Board of Zoning Appeals.

- 1. Within forty-five (45) days after receipt of the complete petition as determined by the Zoning Administrator, the Board of Zoning Appeals shall hold a public hearing. Notice of the Special Use and the hearing shall conform to the requirements of Section 5-3-1 Indiana Code. Said notice shall contain a description of the subject property and the proposed Special Use. In addition, at least ten (10) days before the hearing the Zoning Administrator shall mail an identical notice to all property owners within two hundred (200) feet of the subject property, and shall mail an identical notice to the petitioner.
- 2. Within sixty (60) days after the receipt of the complete petition as determined by the Zoning Administrator (or within an extension of said period requested in writing by the petitioner and granted by the Board of Zoning Appeals), the Board of Zoning Appeals shall

make a written determination stating its findings regarding subsection (b) above, and the petition as a whole.

- D. **Effect of Denial.**
No application which has been denied (either wholly or in part) shall be resubmitted for a period of twelve (12) months from the date of said order of denial, except on grounds of new evidence or proof of change of factors found valid by the Zoning Administrator.
- E. **Revocation of a Special Use.**
Upon approval by the Board of Zoning Appeals, the petitioner must demonstrate that the proposed Special Use meets all general and specific Special Use and site plan requirements. Any Special Use found in violation with the terms of this Title 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.
- F. **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.
- G. **Discontinuance of a Special Use**
Any and all Special Uses which have been discontinued for a period exceeding three hundred sixty five (365) days shall have their Special Use invalidated automatically. The burden of proof shall be on the property owner to conclusively demonstrate that the subject Special Use was operational during this period.
- H. **Change of Ownership**
All requirements of the approved Special Use shall be continued regardless of ownership of the subject property. Modification of any Special Use without approval by the Board of Zoning Appeals (except for

minor development plan changes approved by the Zoning Administrator), shall be grounds for revocation of said Special Use.

I. Recordation of Special Use Conditions

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

J. Fee

A fee is required for this procedure. (Ord. 98-05, S10.09.040, May 14, 1998)

10.09.050 Variance review.

A. Purpose.

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

1. development and special use standards found in Chapters 10.03 and Section 10.04.010;
2. signage regulations under Section 10.04.030;
3. the floodplain regulations of Chapter 10.05 subject to the restrictions as set forth in Section 10.05.020(J);
4. the bulk, density and intensity standards of Chapter 10.06; and
5. the performance standards of Chapter 10.07.

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 10.10.050(G)(3).

B. 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.

C. Application Requirements.

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

1. A map of the subject property showing all lands for which the variance is proposed, and all other lands within two hundred (200) feet of the boundaries of the subject property. Said map shall clearly indicate the current zoning of the subject property and the property within two hundred (200) feet, and the local government which maintains that zoning control. The map should indicate the location of the variance request and its nature (or provide a sketch if the variance is not mappable). All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided. Said map and all its attachments shall be submitted in a manner which is reproducible with a photocopier.
2. A map of the general location of the site in relation to the Town as a whole; and
3. Written justification for the proposed variance (the petitioner is advised to answer the questions in Subsection (D) below).
4. If the variance is from Chapter 10.05 regarding floodplain regulations, then the site plan shall accurately locate the property and structure in relation to existing roads and streams, shall contain a legal description, shall indicate existing and proposed development locations and existing and proposed land grades, and shall note the elevation of the top of the lowest floor of the development (including basement) The elevations shall be in NGVD or NAVD with the conversion formula. (see Subsection 10.05.020(F))
5. A report shall be forwarded to the Board of Zoning Appeals for review and use in the development of a determination.

D. Review by the Zoning Administrator.

1. The Zoning Administrator shall review the submittal in order to ensure that all required portions of the submittal are provided.
2. After acknowledgment of a complete submittal, 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:
 - (a) 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:

- i. The hardship or difficulty shall be peculiar to the subject property and different from that of other properties, and not one which affects all properties similarly. Such a hardship or difficulty shall have arisen because of the unusual shape of the original acreage parcel; unusual topography or elevation; or because the property was created before the passage of the current zoning regulations and is not economically suitable for a permitted use or will not accommodate a structure of reasonable design for a permitted use if all area, yard, parking and setback requirements are observed;
 - ii. Loss of profit or pecuniary hardship shall not, in and of itself, be grounds for a variance;
 - iii. Self-imposed hardship shall not be grounds for a variance. Reductions resulting from the sale of portions of a property reducing the remainder of said property below buildable size or cutting off existing access to a street or deed restrictions imposed by the owner's predecessor in title are considered to be self-imposed hardships;
 - iv. Violations by, or variances granted to, neighboring properties shall not justify a variance;
 - v. The alleged hardship shall not be one that would have existed in the absence of a zoning ordinance.
- (b) In what manner do the factors identified in A. above prohibit the development of the subject property in a manner similar to that of other properties under the same zoning district? The response to this question shall clearly indicate how the requested variance is essential to make the subject property developable so that property rights enjoyed by the owners of similar properties can be enjoyed by the owners of the subject property.
- (c) Would the granting of the proposed variance be of substantial detriment to adjacent properties? The response to this question shall clearly indicate how the proposed variance will have no substantial negative impact on adjacent properties.

- (d) Would the granting of the proposed variance as depicted on the map or site plan result in a substantial or undue adverse impact on the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or 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.
 - (e) Have the factors which present the reason for the proposed variance been created by the act of the petitioner or previous property owner or their agent (eg. previous development decisions such as building placement, floor plan, orientation, lotting pattern or grading) after the effective date of this Title? The response to this question shall clearly indicate that such factors existed prior to the effective date of this Title and were not created by action of the petitioner, a previous property owner, or their agents.
 - 3. A report shall be forwarded to the Board of Zoning Appeals for its review and use in the development of a determination.
- E. Review and Determination by the Board of Zoning Appeals.
 - 1. Within forty-five (45) days after receipt of the complete petition as determined by the Zoning Administrator, the Board of Zoning Appeals shall hold a public hearing. Notice of the requested variance and the hearing shall conform to the requirements of Section 5-3-1 Indiana Code. Said notice shall contain a description of the subject property and the proposed variance. In addition, at least ten (10) days before the hearing the Zoning Administrator shall mail an identical notice to all property owners within two hundred (200) feet of the subject property, and shall mail an identical notice to the petitioner.
 - 2. Within sixty (60) days after the receipt of the complete petition as determined by the Zoning Administrator (or within an extension of said period requested in writing by the petitioner and granted by the Board of Zoning Appeals), the Board of Zoning Appeals shall make a written determination stating its findings regarding Subsection (B) above, and the petition as a whole.

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

F. 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.

G. 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.

H. 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.

I. Fee.

A fee is required for this procedure. (Ord. 98-05, S10.09.050, May 14, 1998)

10.09.060 Appeals.

A. Initiation of Requests.

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

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

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

B. Application Requirements.

All applications for proposed appeals, shall be filed in the office of the Zoning Administrator within thirty (30) days of the date of issuance of the order being appealed (failure to initiate this appeal procedure within the thirty (30) day period shall constitute a final and binding waiver of the right to appeal). A person may not communicate with any member of the Board 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:

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

C. Review by the Zoning Administrator.

The submitted appeal shall be reviewed by the Zoning Administrator as follows:

1. The Zoning Administrator shall review the submittal in order to ensure that all required portions of the submittal are provided.
2. After acknowledgment of a complete submittal, 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.
3. A report shall be forwarded to the Board of Zoning Appeals for its review and use in the development of a determination.

D. Review and Determination by the Board of Zoning Appeals.

1. Within forty-five (45) days after receipt of the complete petition as determined by the Zoning Administrator, the Board of Zoning

Appeals shall hold a public hearing. Notice of the appeal and the hearing shall conform to the requirements of Section 5-3-1 Indiana Code. Said notice shall contain a description of the appeal. At least ten (10) days before the hearing the Zoning Administrator shall mail an identical notice to the petitioner.

2. Within sixty (60) days after the receipt of the complete petition as determined by the Zoning Administrator (or within an extension of said period requested in writing by the petitioner and granted by the Board of Zoning Appeals), the Board of Zoning Appeals shall make a written determination stating its findings regarding subsection (b) above, and the petition as a whole. The Board may reverse, affirm, or modify the order, requirements, decision, or determination appealed from. For this purpose, the Board has all the powers of the official, officer, board, or body from which the appeal is taken. Within five (5) days after making any decision on appeal, the Board of Zoning Appeals shall file in the office of the Board a copy of its decision.
3. If the Board fails to make a determination within ninety (90) days after the public hearing, than the request for the appeal shall be considered denied.

E. 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.

F. Limited Effect of a Favorable Ruling on an Appeal.

No ruling by the Board of Zoning Appeals shall be valid for a period of more than 365 days from the date of issuance of the ruling on the appeal, unless 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.

G. Stay of Proceedings.

1. When an appeal from the decision of an official or board has been filed with the Board of Zoning Appeals, proceedings and work on the premises affected shall be stayed unless that official or board certifies to the Board of Zoning Appeals that, by reason of the facts, a stay would cause great and immediate danger or imminent

peril to life or property. In that case, proceedings or work may not be stayed except by a restraining order.

2. After notice to the officer or board and to the owner of the premises affected and after due cause is shown, the circuit or superior court of the county in which the premises affected are located may grant the restraining order.
3. After the owner of, or a person in charge of the work on the premises affected has received notice that an appeal has been filed with the Board of Zoning Appeals, the official or board charged with the enforcement of an ordinance, may order the work stayed and call on the police power of the Town of English to give effect to that order.

H. Fee.

All applicants shall pay a fee for this procedure. (Ord. 98-05, S10.09.060, May 14, 1998)

10.09.070 Interpretations.

A. 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.

B. Application Requirements.

All applications for proposed interpretations, shall be filed in the office of the Zoning Administrator and applicants (as defined in Chapter 10.11) shall also provide the following:

1. Text from Which Interpretation is Sought

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

2. Applications Relative to a Specific Property

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

- (a) A map of the subject property showing all lands for which the interpretation is requested, and all other lands within two hundred (200) feet of the boundaries of the subject property. Said map shall clearly indicate the current zoning of the subject property and the property within two hundred

(200) feet, and the local government which maintains that zoning control. All lot dimensions of the subject property, a graphic scale, and a north arrow shall be provided.

- (b) A map of the general location of the site in relation to the Town as a whole; and
- (c) 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.
- (d) A site development plan of the subject property as proposed for development. Said site plan shall conform to the requirements of Section 10.09.040(A)(4).

3. Applications Relative to a Land Use

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

- (a) How is the subject land use (in general) in harmony with the purposes, goals, objectives, policies and standards of the Town of English Comprehensive Plan, this Title, and any other plan, program, or ordinance adopted or under consideration pursuant to official notice by the Town?
- (b) How is the subject land use in harmony with the purposes, goals, objectives, policies and standards of the pertinent zoning district for which the interpretation is being sought?
- (c) Do the potential public benefits of the proposed land use outweigh any and all potential adverse impacts of the proposed land use?

C. Review by the Zoning Administrator.

- 1. The Zoning Administrator shall review the submittal in order to ensure that all required portions of the submittal are provided.
- 2. Second, upon receipt of and acknowledgment of a complete submittal, 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.

D. 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 English 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:

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

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

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

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

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

Rationale: If an interpretation would merely allow a design solution that is slightly different from the one expressly stated or permitted, and if it would result in a same or greater degree of

protection to any affected party (either the adjoining landowners, the public at large, and/or a future property owner or renter), such an interpretation may be appropriately made. An interpretation which would result in any identifiable loss of protection for one group to the benefit of others is contrary to the spirit of this Title.

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

4. This Title has been carefully designed by the 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 English. 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.
5. In addition to the petitioner's response to the questions required above, the following standards shall govern the decision on the requested interpretation on land use interpretation matters:
 - (a) **Previously Rejected Use**
No interpretation shall allow the establishment of any land use which was previously considered and rejected by the 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 .
 - (b) **Compliance with All Regulations Required**
No interpretation shall permit a land use in a zoning district unless evidence is presented which demonstrates that the land use will comply with any and all regulations applicable to development in the subject property's zoning district.

- (c) Similarity to Permitted Uses
No interpretation shall permit a land use in a particular zoning district unless such use is substantially similar to other uses permitted in that same district and is more similar to such other permitted uses than to uses either not permitted in said district, or permitted in a more intensive district in the same zoning district category (residential, commercial, etc.)
- (d) Similarity to Special Uses
If the proposed land use is more similar to a land use permitted only as a Special Use in the subject property's zoning district than to a use permitted by right, then an interpretation permitting such use shall be conditioned upon the approval of a Special Use by the Board of Zoning Appeals.

- E. Effect of a Favorable Land Use Interpretation.
No interpretation finding a particular land use to be permitted by right or as a Special Use in a specific zoning district shall authorize either the establishment of such use or the development, construction, reconstruction, alteration or moving of any building or structure. A favorable interpretation merely authorizes the preparation, filing, and processing of applications for any permits and approvals which may be required by this Title. These permits and approvals, include, but are not limited to, site development plans, Special Use permits, and certificates of appropriateness.
- F. Limitations on Favorable Land Use Interpretations.
 - 1. Period of Validity
No interpretation finding a particular land use to be permitted by right or as a Special Use in a specified zoning district shall be valid for a period of more than 365 days from the date of issuance of the interpretation, unless 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.
 - 2. Applicability to Other Uses or Properties Prohibited
An interpretation finding a particular land use to be permitted by right or as a Special Use in a specified zoning district shall be deemed to authorize only that particular use as proposed and designed at that particular location for which the interpretation was issued. The interpretation shall not be deemed to authorize any allegedly similar use for which a separate interpretation has not

been issued. A favorable interpretation shall automatically expire and cease to be of any force or effect if the particular use for which it was issued shall, for any reason, be discontinued for a period of 365 consecutive days or more.

- G. Fee.
No fee is required for this procedure. (Ord. 98-05, S10.09.070, May 14, 1998)

Chapter 10.10

Permits, Administration And Enforcement

Sections:

10.10.010	Purpose
10.10.020	Zoning Administrator
10.10.030	Improvement Location Permits
10.10.040	Plan Commission
10.10.050	Board of Zoning Appeals
10.10.060	Fees
10.10.061	Location Improvement Permit Fees
10.10.070	Violations and Penalties
10.10.080	Injunctive Relief
10.10.090	Burden of Proof

10.10.010 Purpose. The purpose of this Chapter is to establish the administrative and enforcement provisions for the implementation of this Title. (Ord. 98-05, S10.10.010, May 14, 1998)

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

- A. Receive, file, and forward all applications for improvement location permits and all procedures governed by this Title (see Chapter 10.09) to the designated official bodies and attend all Plan Commission, Board of Zoning Appeals and Town Council meetings as requested.
- B. Determine that all permits, plans, and certificates required herein comply with all provisions of this Title.
- C. Review development proposals for compliance with the floodplain regulations per Section 10.05.020.

- D. Perform inspections of buildings, structures and lands to determine compliance with this Title.
- E. Issue permits for the activities listed below in Section 10.10.030 after an application for said permit has been submitted to the Town on forms provided by the Town.
- F. Institute, in the name of the Town of English, any appropriate actions or proceeding against a violator of this Title, including abatement of violations, as provided by law.
- G. 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. 98-05, S10.10.020, May 14, 1998)

10.10.030 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. Certificates of appropriateness are also required from the Historic Preservation Commission per Section 12.20.070 of the municipal code in all areas of the historic district for: the demolition, moving, alteration or conspicuous changes in the exterior of a principal or accessory historic building including any color changes, a conspicuous change in the appearance of, or new construction of a non-historic building subject to view from a street, and changes in or construction of, walls and fences.

- A. **Activities Requiring Permits**
Improvement location permits are required for the activities noted in 1. through 8. below. Such 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 utility lines, signs and related appurtenances other than buildings and primary structures erected by a public utility or public agency; lot improvements such as sidewalks, landscaping, play equipment, flag poles, and lawn and garden equipment; and structures accessory to an agricultural cultivation or husbandry land use.
 - 1. Construction, reconstruction or placement of structures and buildings;

2. Additions to, enlargements of, or structural alterations to buildings and structures which increase the lot coverage, height, or size of the structure;
3. Demolition or relocation of buildings and structures;
4. Accessory structure construction, placement, addition or relocation including, but not limited to, signs, detached garages, carports, sheds, swimming pools, decks, porches, patios, fences and portable buildings and units exceeding one hundred twenty (120) square feet;
5. Off-street parking lot construction or expansion;
6. All driveways and curb cut lots;
7. Any temporary structure;
8. Change in use; and
9. Development in the special flood hazard area consisting of, but not limited to the following man-made changes to improved or unimproved real estate per Chapter 10.05.020(C)(2):
 - (a) construction, reconstruction, or placement of a building or any addition to a building;
 - (b) installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
 - (c) installing utilities, erection of walls and fences, construction of roads, or similar projects;
 - (d) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
 - (e) mining, dredging, filling, grading, excavation, or drilling operations;
 - (f) construction and/or reconstruction of bridges or culverts;
 - (g) storage of materials; or
 - (h) any other activity that might change the direction, height, or velocity of flood or surface waters.

Development for the purposes of subsection 8. above does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent buildings. (see map of special flood hazard areas (A Zones) in Appendix 3)

B. 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:

1. A site development plan as shown in Appendix 2 showing at a minimum:
 - (a) A north arrow and a title block which indicates the names and addresses of the current owners of the property.
 - (b) All property lines, utility and other easements and major drainageways, and right-of-way lines with dimensions.
 - (c) All required building and parking setback lines and building heights.
 - (d) All existing and proposed buildings, structures, paved areas, drives, parking and loading spaces and their number provided vs. number required, signs, decks, patios, fences, lighting, landscaping if required by this ordinance, outdoor storage, dumpsites, and on-site septic or waste treatment systems.
 - (e) If the development is located in a flood hazard area than the site plan shall also accurately locate the property and structures in relation to existing roads and streams, shall contain a legal description, shall indicate existing and proposed development locations and existing and proposed land grades, and shall note the elevation of the top of the lowest floor of the development (including basement). The elevations shall be in NGVD or NAVD with the conversion formula. (see Section 10.05.020(F)(1))
2. Plans and specifications as required by the Zoning Administrator showing the work to be completed.
3. A copy of the sewage disposal permit issued by Crawford County for all private disposal systems.

4. A copy of the Indiana Department of Fire and Building Services Construction Design Release shall be provided for all non-exempt Class-I construction, pursuant to IC 22-15-3-1.
5. A copy of the Certificate of Appropriateness for construction related to a historic building or district, if applicable.
6. A copy of the permit from the Natural Resources Commission for construction in a floodway per Section 10.05.020(F), if applicable.
7. A landscape plan for:
 - (a) all commercial and industrial zoned lots,
 - (b) parking lots for six (6) or more cars, and
 - (c) all non-residential land uses abutting a residential land use.
8. Any other information required by the Zoning Administrator.

C. Permit Expiration

After issuance of an improvement location permit, construction must have commenced within one-hundred 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. 98-05, S10.10.030, May 14, 1998)

10.10.040 Plan Commission.

A. Establishment.

There is hereby established the Town of English Advisory Plan Commission under the authority of IC 36-7-4-200 et seq., and herein shall be known as the "Commission".

B. Purpose.

The fundamental purpose of the Commission is to coordinate efforts to promote and improve the health, safety, and welfare of the citizens and to plan for the future development of the community.

C. Membership.

1. Town Council Appointees

The Town Council shall appoint three persons who must be elected or appointed municipal officials or employees in the municipal government.

2. Town Council President Appointees

The Town Council President shall appoint four citizen members, of whom no more than two may be of the same political party. A citizen member must be a resident of the jurisdictional area of the Commission and may not hold other elective or appointive office in municipal, county, or state government.

D. Term of Office.

1. Town Council Appointees

The term of office of a member who is appointed by the Town Council is coextensive with the member's term of office with the town government.

2. Town Council President Appointees

Two citizen members shall initially be appointed by the Town Council President for a term of three years and two shall initially be appointed for a term of four years. When an initial term of office of a citizen member expires, each new appointment of a citizen member is for a term of four years.

3. Term Expiration

Each member's term expires on the first Monday of January of the first, second, third, or fourth year, respectively, after the year of the member's appointment. A member serves until the member's successor is appointed and qualified. A member is eligible for reappointment.

E. Vacancies.

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

F. Official Action.

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

G. Conflict of Interest.

A member of the Commission may not participate as a member in a hearing or decision of the 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 its member has such a disqualification. A member 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 of a comprehensive plan.

H. Organization.

1. President and Vice President

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

2. Secretary

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

3. Meetings and Minutes

The 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 Commission may be called by the president or be two members of the Commission upon written request to the secretary. The secretary shall send to all members, at least three 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 the date, time, and place of such meeting are fixed in a regular meeting and all members of the Commissions are present at that regular meeting.

I. Duties.

1. Recommendations to the Town Council

The Commission shall make recommendations to the Council concerning the adoption, development, and amendments to the Comprehensive Plan, the Zoning Ordinance, the official Zoning Map, and any other ordinances, plans, maps, and reports relating to the development of the Town.

2. Final Authority for Approval
The Commission shall render decisions concerning and approve plats or replats of subdivisions, development or redevelopment plans, and the assignment of street numbers to lots and structures, the renumbering of lots and structures, and the naming and renaming of streets.
3. Administrative
The 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. The Commission shall prepare, publish, and distribute reports, ordinances, and other material relating to authorized activities. The Commission shall prescribe uniform rules pertaining to investigations and hearings. (Ord. 98-05, S10.10.040, May 14, 1998) (Ord. 1997-07, S1-9, August 14, 1997)

10.10.050 Board of Zoning Appeals.

- A. Name.
The Board of Zoning Appeals (BZA) per Indiana Code 36-7-4-900 shall hereafter be referred to as the Town of English Board of Zoning Appeals
- B. 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 as allowed below on the Plan Commission). The terms of the members shall expire on the first Monday of January of the first, second, third, or fourth years, respectively, after the year of the member's appointment. Each new appointment thereafter shall be for a term of four (4) years. The Board of Zoning Appeals is appointed as follows:
 1. 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.

2. 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.
 3. Plan Commission Appointment
One (1) citizen member appointed by the Plan Commission, who must be a member of the Plan Commission other than the member appointed by the 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.
- C. Vacancies.
If a vacancy occurs among the members of the Board of Zoning Appeals, the appointing authority shall appoint a member for the unexpired term of the vacating member. In addition, the appointing authority may appoint an alternate member to participate with the Board in any hearing or decision in which the regular member it has appointed has a disqualification.
- D. Conflict of Interest.
A member of a Board of Zoning Appeals may not participate in a hearing or decision of that Board concerning a zoning matter in which he has a direct or indirect financial interest. The Board shall enter in its records the fact that a regular member has such a disqualification and the name of the alternate member, if any, who participates in the hearing or decision in place of the regular member.
- E. Quorum.
A quorum consists of a majority of the entire membership of the Board of Zoning 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.
- F. Organization.
1. Chairman, Vice-Chairman and Secretary
At the first meeting of each year, the Board of Zoning Appeals shall elect a chairman and vice chairman from its members. The vice-chairman may act as chairman during the absence or disability of the chairman. The Board of Zoning Appeals may also appoint a secretary and such employees as are necessary for the discharge of its duties.
 2. Minutes and Records
The Board of Zoning Appeals shall keep minutes of its proceedings and record the vote on all actions taken. All minutes and records

shall be filed in the office of the Board and are public records. The Board shall in all cases heard by it make written findings of fact.

G. Duties.

1. Appeals

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

2. Special Uses

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

3. Variances

The Board of Zoning Appeals shall approve or deny all variances from the provisions of this Title. Variances in development standards and related requirements as outlined in Section 10.09.050(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 10.09.070, 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.

H. 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. 98-05, S10.10.050, May 14, 1998)

10.10.060 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. 98-05, S10.10.060, May 14, 1998)

10.10.061 Location Improvement Permit Fee. The Location Improvement Permit Fees be adopted as outlined by the Town of English Advisory Plan Commission “Exhibit 1”.

Exhibit 1
LOCATION IMPROVEMENT PERMIT FEES
EFFECTIVE JANUARY 1, 2002

RESIDENTIAL & AGRICULTURAL

New Construction	\$ 100.00
**includes Mobile Homes	
Additions/Alterations/Improvements	\$ 50.00
Change in existing use	\$ 50.00
Driveway & Curb cuts	\$ 25.00
Accessory Structures	\$ 30.00
Decks & Porches	\$ 20.00
Swimming Pools	
less than 10, diameter	-0-
10’ diameter and greater	\$ 15.00
Inground pools	\$ 30.00
Demolition	\$ 25.00
Special Use Application	\$ 150.00
Variance Application	\$ 150.00

COMMERCIAL

New Construction	\$ 200.00
Special Use	\$ 250.00
Change in Use	\$ 250.00
Demolition	\$ 100.00
Driveway & Curb Cuts	\$ 25.00
Parking Lots	\$ 100.00
Parking lot addition/improvements	50.00
Accessory Structure/signs	\$ 100.00
Variance	\$ 250.00

INDUSTRIAL

New Construction	\$ 350.00
Change in Use	\$ 250.00
Special Use	\$ 350.00

**All renewal permits are 1/2 the original permit fee and good for an additional 6 months.

(Res. 2001-11, S1, Oct. 11, 2001) (Res. 2000-12, S1, Sept. 1, 2000)

10.10.070 Violations and penalties. The following regulations shall apply to all violations of this Title and the following penalties for same are established herein. See Section 10.05.020(L) for additional regulations pertaining to violations of the floodplain development regulations.

A. Prohibition on Violations.

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

B. Penalties.

Any person, firm, corporation or similar entity who violates, disobeys, omits, neglects, fails or refuses to comply with any 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 new offense.

1. Procedures. Any violator of the Town of English Zoning Ordinance, 1998-05, as amended after being served a notice of violation has three (3) days to notify town officials for a plan of corrective action. (Res. 2001-12, S1, Oct. 11, 2001) (Res. 2001-03, S1, Mar. 8, 2001)

2. Penalties and Fines. Failure on the part of any violator will result in the following penalties assessed:

\$10.00 per day for up to 10 days

\$25.00 per day for 11-30 days

\$50.00 per day for 31-59 days

\$200.00 per day for violations existing 60 days and over

(Res. 2001-12, S2, Oct. 11, 2001) (Res. 2001-03, S2, Mar. 8, 2001)

3. Cost of Abatement/Legal or Professional Fees. The violator additionally will be responsible for the Cost of Abatement and any necessary legal or professional fees incurred by the Town of English to abate said violation. (Res. 2001-12, S3, Oct. 11, 2001) (Res. 2001-03, S3, Mar. 8, 2001)

- C. Notice of Violation.
If the Zoning Administrator and/or Building Inspector 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 and/or Building Inspector 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.
- D. Abatement of Violation by the Town
If the Zoning Administrator and/or Building Inspector determines that a violation of this Title exists, and further determines that the nature of such violation poses a great and immediate danger to the public health, safety, peace, morals, or decency, the Zoning Administrator shall cause the violation to be abated. Costs associated with such abatement shall be charged to the owner of the property on which said violation has occurred per (E) below.
- E. Cost of Abatement
In addition to any other penalty imposed by this Chapter for a violation of the provisions of this Title, the cost of abating a violation of the this Title shall be collected as a debt from the owner of the property on which said violation has occurred. An account of the expenses incurred by the 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. 98-05, S10.10.070, May 14, 1998)

10.10.080 Injunctive relief.

- A. The Board of Zoning Appeals, or any designated enforcement official, may bring an action for injunction in the circuit court to restrain a person from violating this Title.
- B. The Board of Zoning Appeals may also bring an action for a mandatory injunction, directing a person to remove a structure erected in violation of this Title.

- C. If the Board of Zoning Appeals is successful in its action, the respondent shall bear the costs of the action including the Town's Attorney's fees. A change of venue from the county may not be granted in such an action. (Ord. 98-05, S10.10.080, May 14, 1998)

10.10.090 Burden of proof. In an enforcement action brought under this Title, the party alleging the existence of a nonconforming use or variance granted by the Board of Zoning Appeals has the burden of proof on that issue. The nonexistence of a nonconforming use or variance need not be proved. (Ord. 98-05, S10.10.100, May 14, 1998)

Chapter 10.11

Definitions

Sections:

10.11.010	Purpose
10.11.020	Word Usage
10.11.030	Definitions

10.11.010 Purpose. This Chapter defines words, terms and phrases used in the Zoning Ordinance which have meanings which are not generally common English usage. See also Chapter 10.04 for terms used in connection with the regulation of signs, and Chapter 10.05 for terms associated with the regulation of development in floodplains. (Ord. 98-05, S10.11.010, May 14, 1998)

10.11.020 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.

- A. Words used or defined in one tense or form shall include other tenses and derivative forms.
- B. Words in the singular number shall include the plural number and words in the plural number shall include the singular number.
- C. Words in the masculine gender shall include the feminine and neuter, and words in the feminine gender shall include the masculine and neuter.
- D. 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.
- E. The word "person" shall be deemed to include associations, corporations, firms, government agencies, individuals, joint ventures, partnerships, trusts, and any other similar legal entities.
- F. 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 had been made in the text. (Ord. 98-05, S10.11.020, May 14, 1998)

10.11.030 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 10.04.

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 fire wall. Any walled and roofed addition which is connected by a fire wall 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 English 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 10.03.030(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 10.03.030(B)(3) and see also commercial apartment under Section 10.04.010(A).

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 10.09.060.

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 is temporary in nature and 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 10.03.030(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 English.

Boarding house, lodging house or rooming house

A residential land use defined under Section 10.03.030(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 adopted and modified by the Town of English.

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 10.06.070 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 LB & GB zoning districts (See Section 10.02.070(D)).

Camper

A truck based or pull behind recreational unit not designed to serve as a permanent residential unit, and designed for recreational uses.

Campground

A commercial land use defined under Section 10.03.030(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 columbium, crematory, mausoleum, or mortuary operated in conjunction with and on the same tract as the cemetery. See institutional non-residential land uses, Section 10.03.030(C)(1).

Certificate of appropriateness

A certification from the Historic Preservation Commission authorizing their pre-approval of work covered by an improvement location permit prior to its issuance for changes to structures or sites in any historic district. See Chapter 12.2 of the municipal code.

Child care center

A commercial land use defined under Section 10.03.030(D)(4).

State Law Reference: Section 12-7--2-28.4, Indiana Code

Child care home

An accessory land use defined under Section 10.04.010(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 10.03.030(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 10.03.030(C)(1).

Commercial apartment

An accessory land use defined under Section 10.04.010(A).

Commission

The English 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 English setting forth the development of the Town, adopted as Ordinance 1997-10 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 10.03.030(B)(3).

State Law Reference: Chapter 32-1-6, Indiana Code.

Council

The English Town Council.

County

Crawford 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 English 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 English 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 10.02.070 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 10.03.030(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 10.03.030(D)(11).

Drive-up establishment

An accessory use defined under Section 10.04.010(C).

Driveway

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

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 10.03.030(B)(8).

Dwelling unit, mobile home

A residential land use defined under Section 10.03.030(B)(9).

Dwelling unit, multiple-family

A residential land use defined under Section 10.03.030(B)(3).

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 10.03.030(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 10.03.030(B)(4).

Dwelling unit, two-family

A residential land use defined under Section 10.03.030(B)(5).

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 English 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 which is responsible for providing fire protection services to the Town of English.

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 10.03.030(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, having overhead or other vehicle doors no greater than nine (9) feet above grade, located on the same lot as the principal use, erected after construction of the principal building, and used primarily for the storage of passenger vehicles owned and operated by the residents thereof.

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.

Group development

A development with two or more principal uses or buildings described in Section 10.06.040 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 Crawford 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 10.06.070 for exclusions and see also Building height.

Home occupation

An accessory land use defined under Section 10.04.010(D).

Hotel, motel, inn, or motorcourt

A commercial land use defined under Section 10.03.030(D)(6).

Household

See Family.

Husbandry

An agricultural land use defined under Section 10.03.030(A).

Improvement location permit

Written permission by the Town for the construction, alteration, repair or addition to a structure or site as detailed in Section 10.10.030.

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 10.03.030(D)(7).

Industrial, light (land use)

See Section 10.03.030(E)(5).

Industrial, heavy (land use)

See Section 10.03.030(E)(3).

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 which are for the most part developed already.

Institutional housing

A residential land use defined under section 10.03.030(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 10.03.030(A)(4).

Interested person

Any person who holds an interest in real estate which 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 defined under Section 10.03.030(E)(4).

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 10.03.030(D)(11).

Landscaped area

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

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 English.

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 10.03.030(B)(10).

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. The mobile homes and lots shall be subject to the same standards for minimum size, yards, setbacks, etc. as other dwelling units in the zoning district in which it is located.

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.

Octave band

All the frequencies from one frequency to a second. In sound octave bands, the second frequency is usually twice the first one.

Octave band filter

An electrical device that separates the sounds in each octave band and presents them to the sound-level meter.

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 10.03.040(D).

Outdoor commercial entertainment

A commercial land use defined under Section 10.03.030(D)(11).

Owner

The owner as shown on the records of the Property Records Section of the Crawford 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 English.

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; is not more than eight and one-half (8.5) feet in body width nor more than forty (40) feet in body length.

Recreational vehicle park

Any site, lot, field, or tract of land designed with facilities for short-term occupancy by recreational vehicles only.

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 television antenna or dish

A device twenty-four (24) inches in diameter or larger 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.

Sexually-oriented land use

A commercial land use defined in Section 10.03.030(D)(14).

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 10.04.030 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 10.09.040 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 arterioles, 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 English, 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 basement 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.

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 10.03.040.

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.

Warehouse

A structure, or part thereof, or area used principally for the storage of goods and merchandise.

Waste matter

Unlicensed vehicles, trash, debris, garbage, feces, by-products or residue which has been discarded or abandoned.

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 exists 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 English as part of the Zoning Ordinance, and amended from time to time, upon which the zoning districts and related information is delineated. (Ord. 98-05, S10.11.030, May 14, 1998)

Chapter 10.20

APPENDICES TO ZONING ORDINANCE

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

Residential Uses

Group Housing

Adult care homes
Community residential facilities for the mentally ill and disabled
Group homes
Shelter care facilities for children
Shelters for domestic violence

Institutional Housing

Community mental health centers
Convents
Development disability centers (9 or more adults)
Dormitories
Extended care facilities
Fraternities
Hospitals - long term care
Monasteries
Nursing homes
Psychiatric institutions
Sororities

Institutional - Non-Residential

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, private
Gymnasiums: school and park
Hospitals - short term care
Museums
Libraries
Auditoriums
Clubs, lodges and fraternal organizations
Public community and recreational centers
Indoor public swimming pools

Outdoor Public Recreational

Arboretums and botanical gardens
Athletic fields
Ball courts and ballfields
Fishing areas
Fitness courses
Golf courses
Hiking and similar trails
Nature preserves and sanctuaries
Public open grassed areas
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
Radio and television broadcasting stations

Institutional/Public Uses (continued)

Public Services - General (Continued)

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

Amusement establishments, except as noted elsewhere in this Title
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

Indoor Retail Sales and Service (Continued)

Art galleries
Art studios
Auction houses
Art supply stores
Automobile parts and supply stores
Bait shops
Bakeries: retail
Banquet halls
Bicycles sales and repair shops
Blueprinting, photostatting and small duplicating establishments
Book stores
Business machine sales and service
Camera and photographic supply stores
Candy and confectionery stores
Carpet and rug stores
Catering establishments
China and glassware stores
Cigar, cigarette and tobacco stores
Clothing and costume rental agencies
Clothing and apparel stores
Coin, philatelic, stamp, and numismatic stores
Computer sales and service
Convenience stores
Currency exchanges
Dairy product sale
Delicatessens
Department stores
Diaper, linen and towel services
Drapery stores
Drug stores
Dry goods stores
Dry cleaners: retail
Electrical supply and equipment stores
Electronic sales and service
Eyewear sales and service
Equipment rental and leasing
Fabric and sewing supply stores
Fish markets
Floor covering stores

Indoor Retail Sales and Service (continued)

Florists
Food stores
Frozen food stores
Fruit and vegetable markets: retail
Funeral homes and parlors
Fur repairs
Furniture cleaning, upholstery, and repair shops
Furniture and home furnishing stores
Furriers and fur apparel stores
Glass cutting and glazing
Grocery stores
Haberdasheries
Hardware stores
Hobby stores
Home decorating stores
Hosiery stores
Ice cream shops
Ice or ice machine sales
Interior decorating shops
Jewelry stores
Laundromats and laundries: retail
Lawnmower sales and services
Leather goods and luggage stores
Linoleum and tile stores
Liquor stores
Locksmiths
Machinery sales and service
Magazine and newspaper stores
Meat markets
Medical appliance and supply stores
Millinery shops
Motor vehicle parts and supply stores
Musical instrument sales and service
Newsstands
Notions stores
Office equipment and supply stores
Office equipment and repair establishments
Paint, glass, and wallpaper stores

Indoor Retail Sales and Service (continued)

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
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

Outdoor Commercial Entertainment (Continued)

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

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

Heavy Industrial

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. 98-05, Appendix 1, May 14, 1998)

**APPENDIX 2
SAMPLE SITE PLAN SKETCH FOR PERMITS**

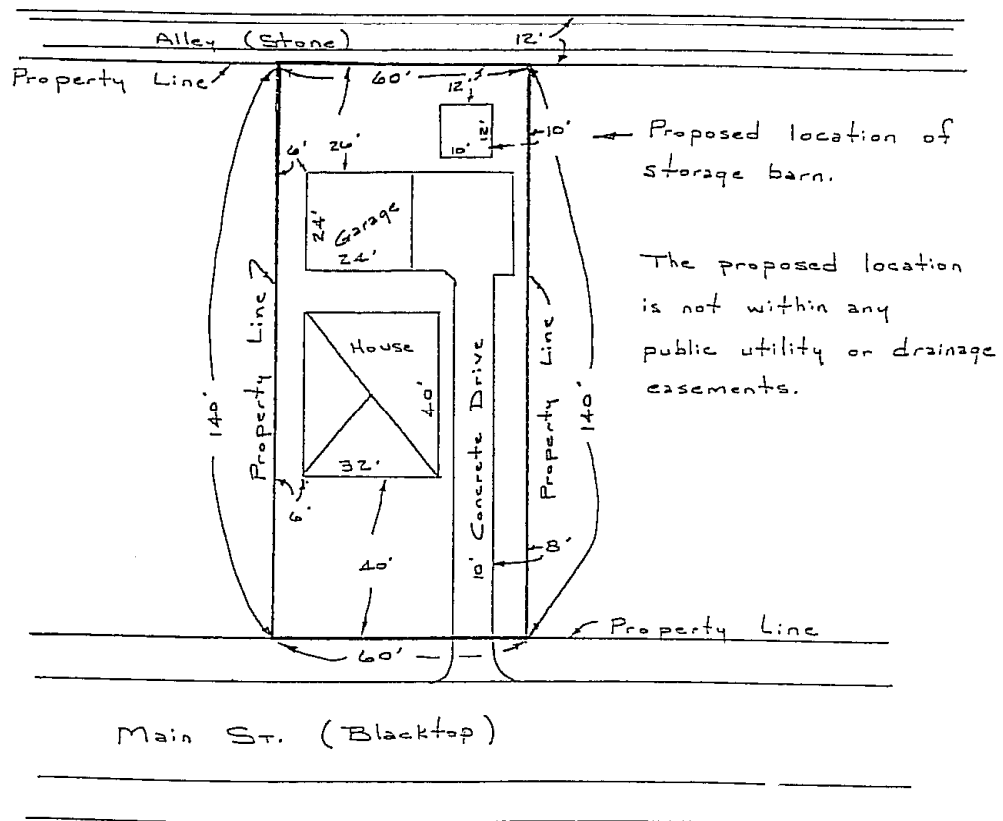
Property Owner: John and Jane Doe

Address: 1234 Main St., West Baden

Drawing By: Jane Doe

Date: July 23, 1996

Signature: *Jane Doe*



Storage barn to be roofed with black asphalt shingles,
the outside walls with gray vinyl.
Estimated cost: \$800.00

(Ord. 98-05, Appendix 2, May 14, 1998)

**APPENDIX 3
FLOOD INSURANCE RATE MAPS**



(Ord. 98-05, Appendix 3, May 14, 1998)

NATIONAL FLOOD INSURANCE PROGRAM

FIRM
FLOOD INSURANCE RATE MAP

TOWN OF
 ENGLISH,
 INDIANA
 CRAWFORD COUNTY

[ONLY PANEL PRINTED]

COMMUNITY-PANEL NUMBER
 180032 0001 B

EFFECTIVE DATE:
 JANUARY 3, 1986



Federal Emergency Management Agency

KEY TO MAP

- 500-Year Flood Boundary
- 100-Year Flood Boundary
- Zone Designations*
- 100-Year Flood Boundary
- 500-Year Flood Boundary
- Base Flood Elevation Line With Elevation in Feet**
- Base Flood Elevation in Feet Where Uniform Within Zone**
- Elevation Reference Mark
- Zone D Boundary
- River Mile



**Referenced to the National Geodetic Vertical Datum of 1929

***EXPLANATION OF ZONE DESIGNATIONS**

ZONE	EXPLANATION
A	Areas of 100-year flood; base flood elevations and flood hazard factors not determined.
A0	Areas of 100-year shallow flooding where depths of inundation are shown, but no flood hazard factors are determined.
A1	Areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; base flood elevations are shown, but no flood hazard factors are determined.
A1-A30	Areas of 100-year flood; base flood elevations and flood hazard factors determined.
A99	Areas of 100-year flood to be protected by flood protection system under construction; base flood elevations and flood hazard factors not determined.
B	Areas between limits of the 100-year flood and 500-year flood; or certain areas where the contributing drainage area is less than one square mile; or areas protected by levees from the base flood. (Medium shading)
C	Areas of minimal flooding. (No shading)
D	Areas of undetermined, but possible, flood hazards.
V	Areas of 100-year coastal flood with velocity (wave action); base flood elevations and flood hazard factors not determined.
V1-V30	Areas of 100-year coastal flood with velocity (wave action); base flood elevations and flood hazard factors determined.

NOTES TO USER

Certain areas not in the special flood hazard areas (zones A and V) may be protected by flood control structures. This map is for flood insurance purposes only; it does not necessarily show all areas subject to flooding in the community or all planimetric features outside special flood hazard areas.

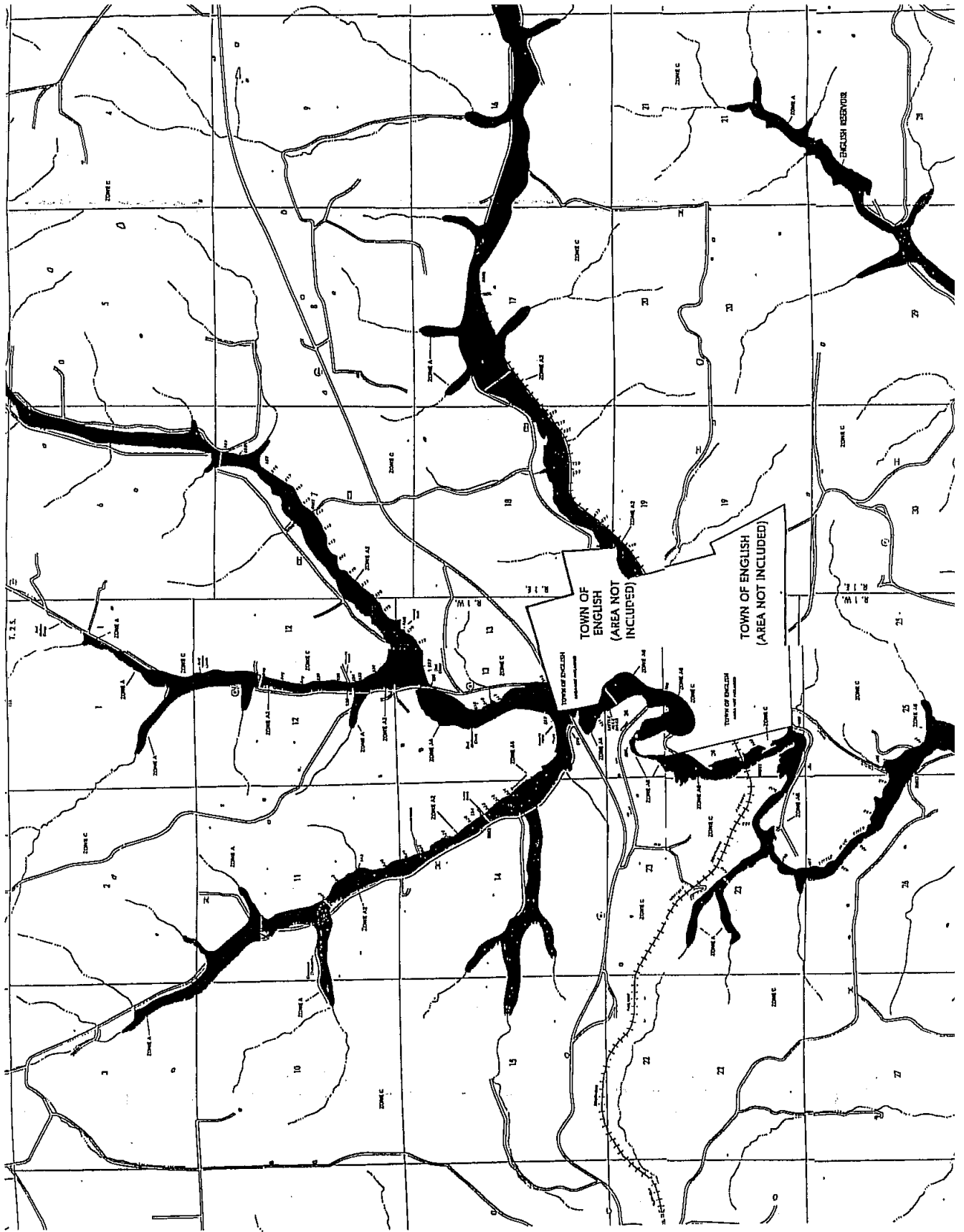
INITIAL IDENTIFICATION:
 APRIL 12, 1974

FLOOD HAZARD BOUNDARY MAP REVISIONS:
 OCTOBER 24, 1975

FLOOD INSURANCE RATE MAP EFFECTIVE:
 JANUARY 3, 1986

FLOOD INSURANCE RATE MAP REVISIONS:

To determine if flood insurance is available in this community, contact your insurance agent, or call the National Flood Insurance Program, at (800) 638-6620.



NATIONAL FLOOD INSURANCE PROGRAM


FIRM
FLOOD INSURANCE RATE MAP

CRAWFORD
COUNTY,
INDIANA
(UNINCORPORATED AREAS)

PANEL 40 OF 80
(SEE MAP INDEX FOR PANELS NOT PRINTED)

COMMUNITY-PANEL NUMBER
180472 0040 B

EFFECTIVE DATE:
JANUARY 17, 1986



Federal Emergency Management Agency

NATIONAL FLOOD INSURANCE PROGRAM


FIRM
FLOOD INSURANCE RATE MAP

CRAWFORD
COUNTY,
INDIANA
(UNINCORPORATED AREAS)

PANEL 35 OF 80
(SEE MAP INDEX FOR PANELS NOT PRINTED)

COMMUNITY-PANEL NUMBER
180472 0035 B

EFFECTIVE DATE:
JANUARY 17, 1986



Federal Emergency Management Agency

NATIONAL FLOOD INSURANCE PROGRAM


FIRM
FLOOD INSURANCE RATE MAP

CRAWFORD
COUNTY,
INDIANA
(UNINCORPORATED AREAS)

PANEL 20 OF 80
(SEE MAP INDEX FOR PANELS NOT PRINTED)

COMMUNITY-PANEL NUMBER
180472 0020 B

EFFECTIVE DATE:
JANUARY 17, 1986



Federal Emergency Management Agency

NATIONAL FLOOD INSURANCE PROGRAM


FIRM
FLOOD INSURANCE RATE MAP

CRAWFORD
COUNTY,
INDIANA
(UNINCORPORATED AREAS)

PANEL 15 OF 80
(SEE MAP INDEX FOR PANELS NOT PRINTED)

COMMUNITY-PANEL NUMBER
180472 0015 B

EFFECTIVE DATE:
JANUARY 17, 1986



Federal Emergency Management Agency

**APPENDIX 4
LIST OF AMENDMENTS TO THE OFFICIAL ZONING MAP
(REZONINGS)**

Plan Commission <u>Case No.</u>	<u>Ordinance No.</u>	<u>Date Adopted:</u>	<u>Description:</u>_____
	1990-04	December 26, 1990	Original Official Map adopted

(Ord. 98-05, Appendix 4, May 14, 1998)

**APPENDIX 5
LIST OF AMENDMENTS TO THE ZONING ORDINANCE
(TEXT AMENDMENTS)**

Plan Commission Case No.	Ordinance No.	Date Adopted:	Description:
	1990-04	December 26, 1990	Original Zoning Ordinance adopted

(Ord. 98-05, Appendix 5, May 14, 1998)

**APPENDIX 6
LIST OF APPROVED SPECIAL USES**

Board of Zoning Appeals Case No. _____	Date Approved: _____	Address/ Location: _____	Description: _____
1994-01	July 12, 1994	Chestnut Drive	Hartford Place Apartments- Variance granted

(Ord. 98-05, Appendix 6, May 14, 1998)

APPENDIX 7
STANDARD FOR THE PLACEMENT OF MOBILE HOMES

All mobile homes placed on private property in the Town of English shall conform to the following minimum standards.

1. Footings: The minimum footing for all interior piers shall be as follows: 2'-0" x 2'-0" x 2'-0". Extending to the frost depth of 24". The minimum footing for perimeter foundation systems shall be as follows: 8" x 16" and extend to the frost depth (Minimum 24" below finished grade.)

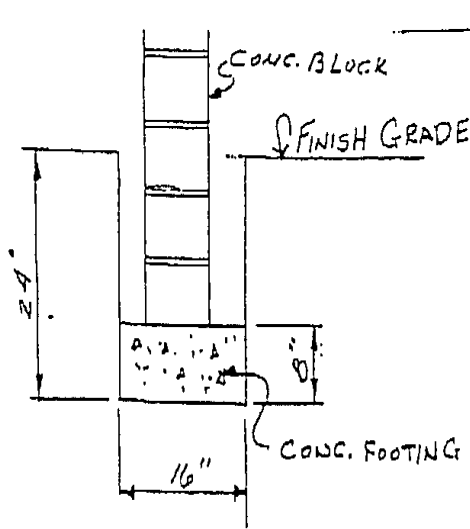
2. Piers: Piers shall be designed and constructed to distribute loads evenly. Concrete blocks, is used, shall be a nominal 8 inches by 16 inches stacked true and plumbed with a maximum horizontal block offset of 1/2" from the top of the pier to the bottom. Concrete block shall be stable and firm on the footing.

3. Anchoring: Steel strapping, cable, chain or other approved material shall be used for ties. All ties shall be fastened to ground anchors and drawn tight with tumbuckles or other adjustable tension devices or devices supplied with the ground anchor. All mobile homes shall be anchored as follows: 2 vertical ties and 4 diagonal ties minimum or as per manufacturers specifications.

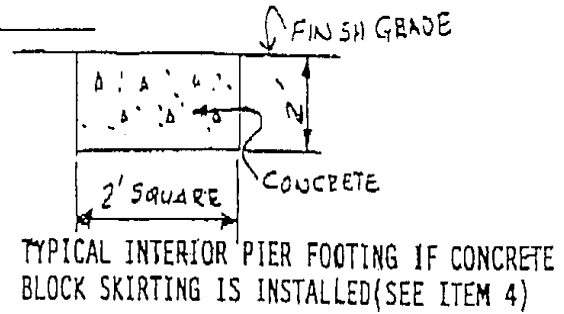
NOTE: All electric and plumbing connections shall meet the requirements of the National Electric Code and the Indiana Plumbing Code respectively.

(Ord. 98-05, Appendix 7, May 14, 1998)

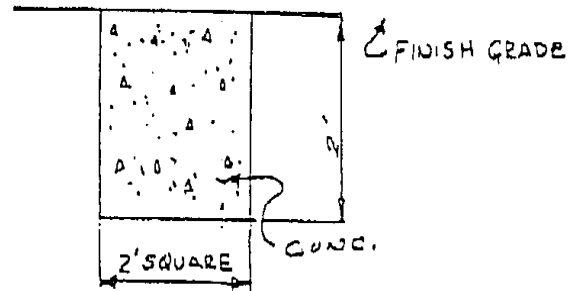
BELOW ARE EXAMPLES WHICH WILL BE ACCEPTED



TYPICAL PERIMETER ENCLOSURE
IF CONCRETE BLOCK IS USED.
(SEE ITEM 4)



TYPICAL INTERIOR PIER FOOTING IF CONCRETE
BLOCK SKIRTING IS INSTALLED (SEE ITEM 4)



TYPICAL INTERIOR PIER IF UNDERSKIRTING
(FIBERGLASS OR METAL) IS APPLIED

REQUIRED INSPECTIONS FOR MOBILE HOMES

In order to comply with all applicable code requirements, all building permit holders shall contact the English Plan Commission Office when construction has reached the points listed below so the necessary inspections may be made by this office.

1. After all areas are excavated, forms erected (if used), any reinforcing steel is in place, just prior to placement of concrete.
2. After home is set, anchored, and ready for electrical service.
3. Underpinning MUST be on site before electric service will be approved.

PLEASE CALL THE ENGLISH PLANNING COMMISSION (812) 338-2654 "24 HOURS" PRIOR TO INSPECTION.

Chapter 10.55

SLUM AND BLIGHTED AREA

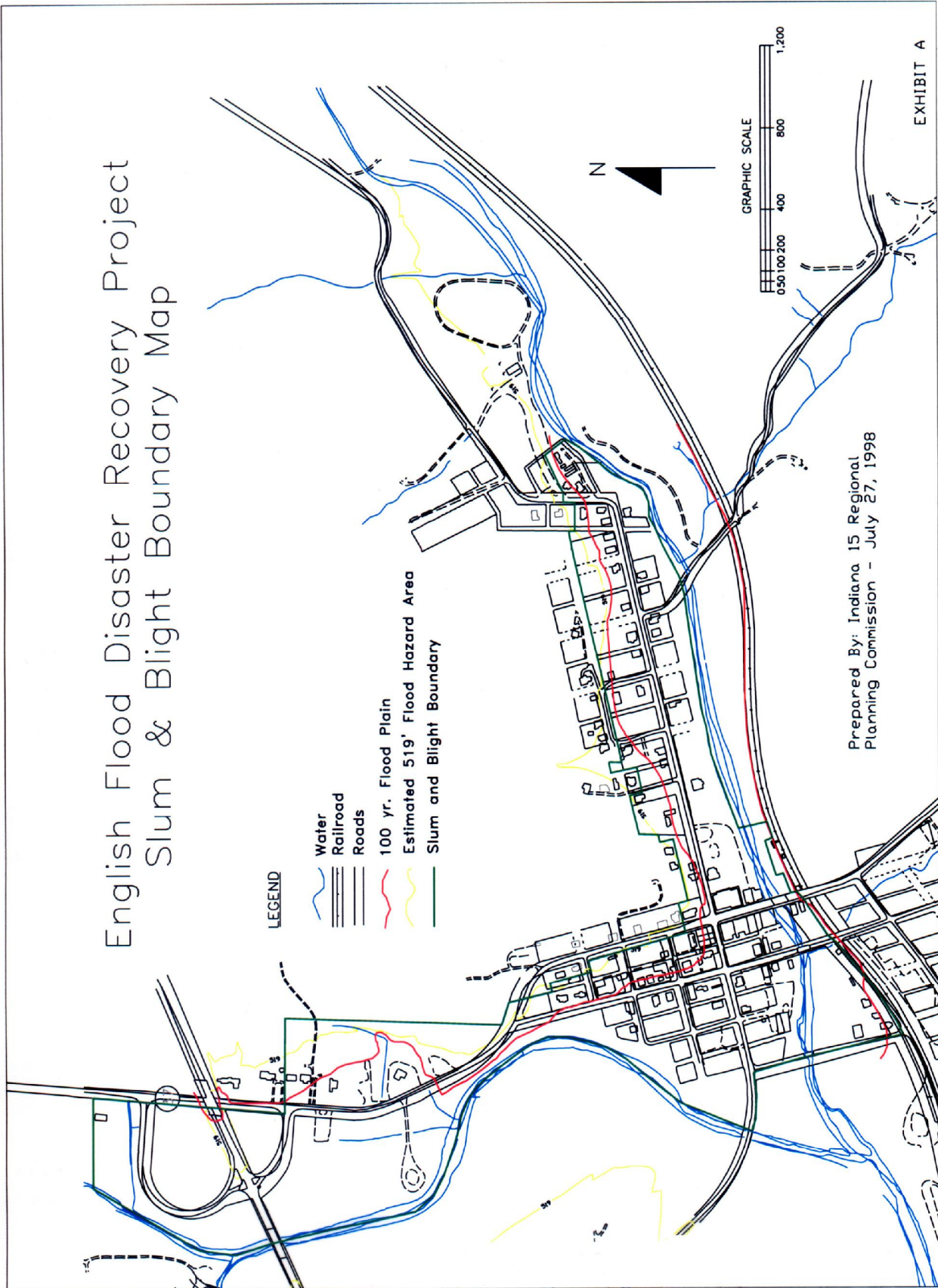
Sections:

10.55.010 Description of slum and blighted area

10.55.010 Description of slum and blighted area. The following area of the Town of English, as herein generally described and as further defined by the attached Exhibit A, English Flood Disaster Recovery Project - Slum and Blight Boundary Map as prepared by Indiana 15 Regional Planning Commission, is hereby designated as blighted as defined by Indiana Code 36-7-14:

Starting at the corner of Spear Street and Park Street east to the east side of State Highway 37, continuing easterly and including property owned by Roy Moore, thence east along the north side of Camp Fork Creek to the east line of the John T. Temple Addition, thence north to the north line of Lot 59 of the said Temple Addition, thence westerly along the north line of Lot 9 of the said Temple Addition, thence westerly along the south line of Sloan Avenue within the George W. Sloan Addition for approximately 1600 feet to the west line of the Temple Brothers Addition, thence southwesterly to the north line (back property line) of GTE/Contel, thence westerly to and along the east and the north property lines of the property owned by Darrell Conrad (old post office site), thence to the west side of State Highway 37, thence northerly to the south side of Second Street, thence westerly approximately 50 feet, thence northerly approximately 200 feet to the northwest edge of the Mike Benham property thence westerly approximately 50 feet, then northerly to the east side of State Highway 37, thence northwesterly approximately 100 feet, then northerly along the eastern property lines of commercial and residential properties to the southeast corner of the property owned by Southern Hills Counseling Center, Inc., thence west to the west side of State Highway 37, thence northerly to the northeast corner of the property owned by Terry Enlow, thence west along the north line of the Enlow property to the Little Blue River, thence southerly along the Little Blue River to the bridge on West Fifth Street, thence easterly to the east side of Spear Street, thence southerly along the east side of Spear Street to Park Street at the point of beginning. (Ord. 1998-09, July 27, 1998)

English Flood Disaster Recovery Project Slum & Blight Boundary Map



Prepared By: Indiana 15 Regional
Planning Commission - July 27, 1998

Chapter 10.70

UNSAFE BUILDINGS

Sections:

10.70.010	Established
10.70.020	Provisions
10.70.030	Inspection
10.70.040	Chief Administrative Officer
10.70.050	Powers of the Building Commissioner
10.70.060	Unsafe building defined
10.70.070	Substantial property interest defined
10.70.080	Accepted building standards
10.70.090	Unsafe Building Fund
10.70.100	Penalty for violation
10.70.110	Separability

10.70.010 Established. Under the provisions of Indiana Code 36-7-9, there is hereby established the Indiana Unsafe Building Law. (Ord. 1991-04, S 1, Dec, 4, 1991)

10.70.020 Provisions. Indiana Code 36-7-9-1 through 36-7-9-28 is hereby incorporated by reference in the Indiana Unsafe Building Law. All proceedings with the Town of English for the inspection, repair, and removal of unsafe buildings shall be governed by said law and the provisions of this Ordinance. In the event the provisions of this ordinance conflict with the provisions of the state, statute shall control. (Ord. 1991-04, S2, Dec. 4, 1991)

10.70.030 Inspection. All buildings or portions thereof within the Town of English which are determined after inspection by the Building Commissioner to be unsafe as defined in this Ordinance are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal. (Ord. 1991-04, S3, Dec. 4, 1991)

10.70.040 Chief Administrative Officer. The State Building Commissioners, as chief administrative officer of the Department of Fire and Building Services, shall be authorized to administer and to proceed under the provisions of said law in ordering the repair or removal of any buildings found to be unsafe as specified therein or as specified hereafter. (Ord. 1991-04, S4, Dec. 4, 1991)

10.70.050 Powers of the Building Commissioner. Wherever in the building regulations of the Town of English or the Indiana Unsafe Building Law, it is provided that the Building Commissioners, or any other officer of the Town, this shall be construed to give such officer only the discretion of determining whether the rules and standards established by ordinance have been complied with; and no such provisions shall be construed as giving an officer discretionary powers as to what such regulations or standards shall be, power to require conditions not prescribed by ordinance, or to enforce

ordinance provisions in an arbitrary or discretionary manner. (Ord. 1991-04, S5, Dec. 4, 1991)

10.70.060 Unsafe building defined. The description of an unsafe building contained in Indiana Code 36-7-9-4 is hereby supplemented to provide minimum standards for building condition or maintenance in the Town of English, Indiana, by adding the following definition:

UNSAFE BUILDING means any building or structure which has any or all of the conditions or defects hereinafter described, provided that such conditions or defects exist to the extent that life, health, property, or safety of the public or its occupants are endangered:

- A. Whenever any door, aisle, passageway, or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
- B. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
- C. Whenever the stress in any materials, member, or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed for new buildings of similar structure, purpose, or location.
- D. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood, or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements for new buildings of similar structure, purpose, or location.
- E. Whenever any portion, member or appurtenance thereof is likely to fall, to become detached or dislodged, or to collapse and thereby injure persons or damage property.
- F. Whenever any portion of a building, or any member, appurtenance, or ornamentation on the exterior thereof is not of sufficient strength or stability or is not so anchored, attached, or fastened in place so as to be capable of resisting a wind pressure of one-half of that specified for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted for such buildings.
- G. Whenever any portion thereof has cracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less

resistance to wind or earthquakes than is required in the case of similar new construction.

- H. Whenever the building or structure, or any portion thereof, because of (1) dilapidation, deterioration, or decay; (2) faulty construction; (3) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (4) the deterioration, decay, or inadequacy of its foundation; or (5) any other cause, is likely to partially or completely collapse.
- I. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
- J. Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
- K. Whenever the building or structure, exclusive of the foundation, shows thirty-three percent or more damage or deterioration of its supporting member or members, or fifty percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
- L. Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood or has become so dilapidated or deteriorated so as to become (1) an attractive nuisance to children, or (2) freely accessible to persons for the purpose of committing unlawful acts.
- M. Whenever any building or structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this Town, or of any law or ordinance of the state or Town relating to the condition, location, or structure of buildings.
- N. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances has in any non-supporting part, member, or portion less than fifty percent, or in any supporting part, member, or portion less than sixty-six percent of the (1) strength, (2) fire-resisting qualities or characteristics or (3) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same location.
- O. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or

sanitation facilities, or otherwise, is determined by the health official to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease.

- P. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction is determined by the fire official to be a fire hazard.
- Q. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public. (Ord. 1991-04, S6, Dec. 4, 1991)

10.70.070 Substantial property interest defined. The definition of "substantial property interest" set forth in IC 36-7-9-2 is hereby incorporated by reference herein as if copied in full. (Ord. 1991-04, S7, Dec. 4, 1991)

10.70.080 Accepted building standards. All work for the reconstruction, repair, or demolition of buildings and other structures shall be performed in a good workmanlike manner according to the accepted standards and practices in the trade. The provisions of the building laws, as defined in IC 22-12-1-3, adopted as rules of the Fire Prevention and Building Safety Commission, shall be considered standard and acceptable practice for all matters covered by this ordinance or orders issued pursuant to this ordinance by the Building Commissioner of the Town of English, Indiana. (Ord. 1991-04, S8, Dec. 4, 1991)

10.70.090 Unsafe Building Fund. An Unsafe Building Fund is hereby established in the operating budget of the Town in accordance with the provisions of IC 36-7-9-14. (Ord. 1991-04, S9, Dec. 4, 1991)

10.70.100 Penalty for violation. No person, firm, or corporation, whether as owner, lessee, sublessee or occupant, shall erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy, or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this ordinance or any order issued by the Building Commissioner. Any person violating the provisions of this ordinance or IC 36-7-9-28 shall commit a Class C infraction for each day such violation continues. (Ord. 1991-04, S10, Dec. 4, 1991)

10.70.110 Separability. Should any section, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reasons, the remainder of said ordinance shall not be affected thereby. (Ord. 1991-04, S11, Dec. 4, 1991)

Chapter 10.75

BUILDING CODE

Sections:

10.75.010	Title
10.75.020	Purpose
10.75.030	Authority
10.75.040	Scope
10.75.050	Adoption of Rules by Reference
10.75.060	Application for Permits
10.75.070	Permit required
10.75.080	Other ordinances
10.75.090	Fees
10.75.100	Review of application
10.75.110	Inspections
10.75.120	Inspection assistance
10.75.130	Entry
10.75.140	Stop Order
10.75.150	Certificate of Occupancy
10.75.160	Workmanship
10.75.170	Violations
10.75.180	Right of Appeal
10.75.190	Remedies
10.75.200	Penalties
10.75.210	Effective date

10.75.010 Title. This ordinance, and all ordinances supplemental or amendatory hereto, shall be known as the "Building Code of the Town of English, Indiana", may be cited as such, and will be referred to herein as "this code". (Ord. 1991-05, S1, Dec. 4, 1991)

10.75.020 Purpose. The purpose of this code is to provide minimum standards for the protection of life, health, environment, public safety and general welfare, and for the conservation of energy in the design and construction of buildings and structures. (Ord. 1991-05, S2, Dec. 4, 1991)

10.75.030 Authority. The Building Commissioner is hereby authorized and directed to administer and enforce all of the provisions of this code. Whenever in this code, it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner or any other officer of the Town, this shall be construed to give such officer only the discretion of determining whether this code has been complied with; and no such provision shall be construed as giving any officer discretionary powers as to what this code shall be, or power to require conditions not prescribed by ordinances or to enforce this code in an arbitrary or discriminatory manner. Any variance from adopted

building rules are subject to approval under IC 22-13-2-7(b). (Ord. 1991-05, S3, Dec. 4, 1991)

10.75.040 Scope. The provisions of this code apply to the construction, alteration, repair, use, occupancy, and addition to all buildings and structures, other than industrialized building systems or mobile structures certified under IC 22-15-4, in the Town of English. (Ord. 1991-05, S4, Dec. 4, 1991)

10.75.050 Adoption of rules by reference.

A. Building rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following Articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this code and shall include later amendments to those Articles as the same are published in the Indiana Register or the Indiana Administrative Code with effective dates as fixed therein:

1. Article 13 - Building Codes
 - (a) Fire and Building Safety Standards
 - (b) Indiana Building Code
 - (c) Indiana Building Code Standards
 - (d) Indiana Handicapped Accessibility Code
2. Article 14 - One and Two Family Dwelling Code
Indiana One and Two Family Dwelling Code
3. Article 16 - Plumbing Code
Indiana Plumbing Code
4. Article 17 - Electrical Codes
 - (a) Indiana Electrical Code
 - (b) Safety Code for Health Care Facilities
5. Article 18 - Mechanical Code
Indiana Mechanical Code

6. Article 19 - Energy Conservation Codes
 - (a) Indiana Energy Conservation Code
 - (b) Modifications to the Model Energy Code
7. Article 20 - Swimming Pool Code
Indiana Swimming Pool Code

- B. Copies of adopted building rules, codes and standards are on file in the office of Town Clerk of English. (Ord. 1991-05, S5, Dec. 4, 1991)

10.75.060 Application for permits. No building permit shall be issued for the foregoing purposes, unless the application for a permit is accompanied by a plat or sketch of the proposed location showing lot boundaries, and by plans and specifications showing the work to be done. In addition, a copy of a Design Release, issued by the State Building Commissioner and the State Fire Marshal pursuant to IC 22-15-3-1, shall be provided to the Building Commissioner before issuance of a permit for construction covered by such Design Release. (Ord. 1991-05, S6, Dec. 4, 1991)

10.75.070 Permit required. A permit shall be obtained before beginning construction, alteration or repair of any building or structure, the cost of which exceeds five hundred dollars (\$500), using forms furnished by the Building Commissioner, and all fees required by this code shall be paid to Town Clerk of English. (Ord. 1991-05, S7, Dec. 4, 1991)

10.75.080 Other ordinances. All work done under any permit shall be in full compliance with all other ordinances pertaining thereto, and in addition to the fees for permits, there shall be paid the fees prescribed in such ordinances. (Ord. 1991-05, S8, Dec. 4 1991)

10.75.090 Fees. All fees shall be as outlined in Section 9 and attached hereto and made part hereof. (Ord. 1991-05, S9, Dec. 4, 1991)

10.75.100 Review of application. Prior to the issuance of any building permit, the Building Commissioner shall:

- A. Review all building permit applications to determine full compliance with the provisions of this code.
- B. Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding.

- C. Review building permit applications for major repairs within the flood plain area having special flood hazards to determine that the propose repair (1) uses construction materials and utility equipment that are resistant to flood damage, and (2) uses construction methods and practice that will minimize flood damage.

- D. Review building permit applications for new construction or substantial improvements within the flood plain area having special hazards to assure that the proposed construction (including prefabricated and mobile homes):
 - 1. is protected against flood damage,
 - 2. is designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure, flood damage, and
 - 3. uses construction methods and practices that will minimize flood damage. (Ord. 1991-05, S10, Dec. 4, 1991)

10.75.110 Inspections. After the issuance of any building permit, the Building Commissioner shall make, or shall cause to be made, inspections of the work being done as are necessary to insure full compliance with the provisions of this code and the terms of the permit. Reinspections of work found to be incomplete or not ready for inspection are subject to assessment of reinspection fees as prescribed in this code. (Ord. 1991-05, S11, Dec. 4, 1991)

10.75.120 Inspection assistance. The Chief of the Fire Department, or his designated representative, shall assist the Building Commissioner in the inspection of fire suppression, detection and alarm systems and shall provide reports of such inspection to the Building Commissioner. (Ord. 1991-05, S12, Dec. 4, 1991)

10.75.130 Entry. Upon presentation of proper credentials, the Building Commissioner or his duly authorized representatives may enter at reasonable times any building, structure or premises in the Town of English to perform any duty imposed upon him by this code. (Ord. 1991-05, S13, Dec. 4, 1991)

10.75.140 Stop order. Whenever any work is being done contrary to the provisions of this code, the Building Commissioner may order the work stopped by notice in writing served on any persons engaged in the doing or causing of such work to be done, and any such persons shall forthwith stop such work until authorized by the Building Commissioner to proceed with the work. (Ord. 1991-05, S14, Dec. 4, 1991)

10.75.150 Certificate of Occupancy. No certificate of occupancy for any building or structure constructed after the adoption of this code shall be issued unless such building or structure was constructed in compliance with the provisions of this code. It shall be

unlawful to occupy any such building or structure unless a full, partial, or temporary certificate of occupancy has been issued by the Building Commissioner. (Ord. 1991-05, S15, Dec. 4, 1991)

10.75.160 Workmanship. All work on the construction, alteration and repair of buildings and other structures shall be performed in a good and workmanlike manner according to accepted standards and practices in the trade. (Ord. 1991-05, S16, Dec. 4, 1991)

10.75.170 Violations. It shall be unlawful for any person, firm or corporation, whether as owner, lessee, sub-lessee, or occupant, to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure, other than fences, in the Town of English or cause or permit the same to be done, contrary to or in violation of the provisions of this code. (Ord. 1991-05, S17, Dec. 4, 1991)

10.75.180 Right of appeal. All persons shall have the right to appeal any order of the Building Commissioner first through the Town of English and then to the Fire Prevention and Building Safety Commission of Indiana in accordance with the provisions of IC 22-13-2-7 and IC 4-21.5-3-7. (Ord. 1991-05, S18, Dec. 4, 1991)

10.75.190 Remedies. The Building Commissioner shall in the name of the Town of English bring action in the Circuit Court of Crawford County, Indiana for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders made by the Building Commissioner, and any such action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this code. (Ord. 1991-05, S19, Dec. 4, 1991)

10.75.200 Penalties. If any person, firm or corporation shall violate any of the provisions of this code, or shall do any act prohibited herein, or shall fail to perform any duty lawfully enjoined, within the time prescribed by the Building Commissioner, or shall fail, neglect or refuse to obey any lawful order given by the Building Commissioner in connection with the provisions of this code for each such violation, failure or refusal, such person, firm or corporation shall be fined in any sum not less than \$100.00 nor more than \$1,000.00. Each day of such lawful activity as is prohibited by the first sentence of this section shall constitute a separate offense. (Ord. 1991-05, S20, Dec. 4, 1991)

10.75.210 Effective date. This code shall be in full force and effect from and after its adoption, approval by the Fire Prevention and Building Safety Commission of Indiana, and publication as required by law. (Ord. 1991-05, S21, Dec. 4, 1991)

Chapter 10.80

FIRE PREVENTION CODE

Sections:

10.80.010	Administration and enforcement
10.80.020	Purpose
10.80.030	Applicability
10.80.040	Adoption of Fire Prevention Codes
10.80.050	Enforcement authority
10.80.060	Inspections
10.80.070	Right of entry
10.80.080	Investigation of fires
10.80.090	Fire records; reports
10.80.100	Violations; orders
10.80.110	Administrative Review; Appeals
10.80.120	Remedies
10.80.130	Penalties
10.80.140	Effective date

10.80.010 Title. This ordinance (Chapter), and all ordinances supplemental or amendatory hereto, shall be known as the "Fire Prevention Code of the Town of English, Indiana", may be cited as such, and will be referred to herein as "this code". (Ord. 1991-06, S1, Dec. 4, 1991)

10.80.020 Purpose. The purpose and the intent of this code is to prescribe minimum requirements and controls to safeguard life, property or public welfare from the hazards of fire and explosion arising from the storage, handling or use of substances, materials, or devices and from conditions hazardous to life, property or public welfare in the use or occupancy of buildings, structures, sheds, tents, lots or premises. (Ord. 1991-06, S2, Dec. 4, 1991)

10.80.030 Applicability.

- A. The provisions of this code and the fire safety rules of the Indiana Fire Prevention and Building Safety Commission shall apply to existing buildings and conditions.

Exceptions:

1. Existing conditions which do not constitute a distinct hazard to life or property.

2. The transportation of any articles or substance under the jurisdiction of and in compliance with the regulations prescribed by the armed forces of the United States.
- B. Nothing in this code shall be construed, interpreted or applied to abrogate, nullify or abolish any law, ordinance or code adopted by the Town governing the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of buildings specifically provided herein. When any provision of this code is found to be in conflict with any building, zoning, safety, health or other applicable law, ordinance or code of the Town existing on the effective date of this code or hereafter adopted, the provision which establishes the higher standard for the promotion and protection of the safety and welfare of the public shall prevail.
- C. The planning, design and construction of new buildings and structures to provide egress facilities, fire protection, and built-in fire protection equipment shall be controlled by the building rules of the Indiana Fire Prevention and Building Safety Commission; and any alterations, additions or changes in buildings required by the provisions of this code which are within the scope of the said building rules shall be made in accordance therewith.
- D. Buildings built under and in full compliance with the building and fire safety laws and rules in force at the time of construction or alteration thereof, and that have been properly maintained and used for such use as originally permitted, shall be exempt from the requirements of this code pertaining to any of the following matters:
1. Fire protection of structural elements.
 2. Exits required, except as provided for existing buildings under this code.
 3. Isolation of hazardous operations and mixed uses; provided, however, that the fire chief shall require the installation of fire safety devices or systems (fire extinguishers, fire alarms, fire detection devices, or similar systems) where they are necessary to provide safety to life. In lieu of requiring the installation of safety devices or systems or when necessary to secure safety in addition thereto, the fire chief shall prescribe limitations on the handling and storage of materials or substances or upon operations that are liable to cause fire, contribute to the spread of fire, or endanger life or property. Any orders issued by the fire chief to obtain

compliance with this subsection shall be governed by the provisions of IC 36-8-17-10(d). (Ord. 1991-06, S3, Dec. 4, 1991)

10.80.040 Adoption of fire prevention codes.

- A. The following fire safety rules of the Indiana Fire Prevention and Building Safety Commission as set out in Article 22 of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this code, and shall include later amendments to that Article as the same are published in the Indiana Register or the Indiana Administrative Code with effective dates as fixed therein:

Article 22 - Fire Prevention Codes

- 1. Indiana Flammable and Combustible Liquids and Gases Code
 - 2. Indiana Fire Prevention Code
- B. Copies of adopted fire safety rules, codes and standards are on file in the office of Clerk for the Town of English. (Ord. 1991-06, S4, Dec. 4, 1991)

10.80.050 Enforcement Authority.

- A. It shall be the duty and responsibility of the Chief of the fire department, chief of the fire prevention bureau or such officer or designate who is an official assistant to the state fire marshal under IC 36-8-17-5(a), to enforce the provisions of this code. The designated enforcement officer of this code is herein referred to as the "fire chief".
- B. The fire chief shall cooperate with the building commissioner or inspector responsible for the enforcement of the code of building laws and orders required to be enforced in the Town of English pursuant to IC 36-7-2-9. (Ord. 1991-06, S5, Dec. 4, 199 1)

10.80.060 Inspections.

- A. The fire chief shall cause to be inspected all structures and premises except the interiors of private single-family dwellings, and dwelling units in two-family and multi-family dwellings for the purpose of ascertaining and causing to be corrected any condition liable to cause fire, contribute to the spread of fire, interfere with fire fighting operations, endanger life or any violations of the provisions or intent of this code affecting fire safety.
- B. Whenever in the enforcement of this code the responsibility of more than one official of the Town is involved, it shall be their duty to coordinate

their inspections and administrative orders as fully as practicable so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors nor multiple or conflicting orders. Whenever an inspector from any agency or department observes an apparent or actual violation of some provisions of some law, ordinance or code of the Town not within the inspector's authority to enforce, the inspector shall report the findings to the official having jurisdiction. (Ord. 1991-06, S6, Dec. 4, 1991)

10.80.070 Right of entry. Whenever necessary for the purpose of enforcing the provisions of this code, or whenever the fire chief or authorized fire inspector has reasonable cause to believe that there exists in any structure or upon any premises, any condition which makes such structure or premises unsafe, the fire chief or fire inspector shall be permitted to enter such structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the fire chief by this code; provided that if such structure or premises be occupied, the fire chief or fire inspector shall first present proper credentials and request entry. If such entry is refused, the fire chief shall have recourse to every remedy provided by law to secure entry. (Ord. 1991-06, S7, Dec. 4, 1991)

10.80.080 Investigation of fires. The fire chief shall investigate, or cause to be investigated, every fire or explosion occurring within the Town that is of a suspicious nature or which involves the loss of life or serious injury or causes destruction or damage to property. Such investigation shall be initiated immediately upon the occurrence of such fire or explosion; and if it appears that such an occurrence is of a suspicious nature, the fire chief shall take charge immediately of the physical evidence, and in order to preserve any physical evidence relating the cause or origin of such fire or explosion, take means to prevent access by any person or persons to such buildings, structures or premises until such evidence has been properly processed. The fire chief shall notify the Office of the State Fire Marshal pursuant to IC 36-8-17-7 for further investigations into such matters and shall further cooperate with said office in the collection of evidence and prosecution of the case. (Ord. 1991-06, S8, Dec. 4, 1991)

10.80.090 Fire records; reports.

- A. The fire chief shall keep a record of all fires and all facts concerning the same, including investigation findings and statistics and information as to the cause, origin and the extent of such fires and the damage caused thereby.
- B. The fire chief shall submit a report of each fire occurring within the Town to the Office of the State Fire Marshal in accordance with IC 36-8-17-7, and in such form as prescribed by that office. (Ord. 1991-06, S9, Dec. 4, 1991)

10.80.100 Violations; orders.

- A. Whenever the fire chief observes an apparent or actual violation of a provision of this code or other ordinances under the fire chief's jurisdiction, the fire chief shall prepare a written notice of violation and order describing the condition deemed unsafe and specifying a reasonable time for the required repairs or improvements to be made to correct such violation. The written notice of said violation of this code shall be served upon the owner, a duly authorized agent or upon the occupant or other person responsible for the conditions under violation. Such notice of violation shall be served either by delivering a copy of same to such person or persons by ordinary mail to the last known post office address, delivered in person or by delivering it to and leaving it in the possession of any person in charge of the premises, or in the case such person is not found upon the premises, by affixing a copy thereof, in a conspicuous place at the entrance door or avenue of access; and such procedure shall be deemed the equivalent of personal notice.
- B. If the notice of violation and order is not complied with within the time specified by the fire chief, and if no review of such order has been initiated under IC 36-8-17-10, the fire chief shall request the legal counsel of the Town to institute the appropriate legal proceedings to restrain, correct or abate such violation or to require removal or termination of the unlawful use of the building or structure in violation of the provisions of this code or any order or direction made pursuant thereto.
- C. Temporary or emergency orders issued by the fire chief under IC 36-8-17-9(b) shall first be approved by the State Fire Marshal.
- D. When, in the opinion of the fire chief, there is actual and potential danger to the occupants or those in the proximity of any building, structure or premises because of unsafe structural conditions, or inadequacy of any means of egress, the presence of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases or materials, the fire chief may issue an emergency order, with oral approval of the State Fire Marshal, for the immediate evacuation of said building, structure or premises. All of the occupants so notified shall immediately leave the building, structure or premises and persons shall not enter or reenter until authorized to do so by the fire chief. Any person who shall refuse to leave, interfere with the evacuation of other occupants or continue any operation after having been given an evacuation order except such work as that person is directed to perform to remove a violation or unsafe condition, shall be deemed in violation of this code. (Ord. 1991-06, S10, Dec. 4, 1991)

10.80.110 Administrative review; appeals.

- A. A person who is aggrieved by an order issued pursuant to Section 10.80.100 of this code or IC 36-8-17-9, shall have an opportunity to informally discuss the order with the State Fire Marshal, who may modify or reverse the order.
- B. An order issued pursuant to Section 10.80.100 of this code or IC 36-8-17-9, or an order affirmed or modified by the State Fire Marshal may be appealed to the Indiana Fire Prevention and Building Safety Commission under IC 4-21.5-3-7. (Ord. 1991-06, S 11, Dec. 4, 1991)

10.80.120 Remedies. The attorney for the Town upon receipt of a written notice from the Fire Chief, that after having issued a lawful notice and order to abate a violation of this code, and after a reasonable time for compliance has expired, shall bring action in the Circuit or Superior Courts of Crawford County, Indiana, for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders made by the Fire Chief, and any such action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this ordinance. (Ord. 1991-06, S12, Dec. 4, 1991)

10.80.130 Penalties. If any person, firm or corporation shall violate any of the provisions of this ordinance, or shall do any act prohibited herein, or shall fail to perform any duty lawfully enjoined within the time prescribed by the Fire Chief, or shall fail, neglect or refuse to obey any lawful order given by the Fire Chief in connection with the provisions of this ordinance, for each such violation, failure or refusal, such person, firm or corporation shall be fined in any sum not less than Twenty Five Dollars (\$25.00), nor more than Five Hundred Dollars (\$500.00). Each day of such unlawful activity as is prohibited by the first sentence of this section constitutes a separate offense. (Ord. 1991-06, S13, Dec. 4, 1991)

10.80.140 Effective date. This ordinance shall be in full force and effect from and after its adoption, approval by the Indiana Fire Prevention and Building Safety Commission, and publication as required by law. (Ord. 1991-06, S14, Dec. 4, 1991)

Chapter 10.90

CRAWFORD COUNTY MULTI-HAZARD MITIGATION PLAN

Sections:

- 10.90.010** **Natural Hazards**
- 10.90.020** **Actions before Disasters**
- 10.90.030** **Future Grant Funding**
- 10.90.040** **Joint Planning**
- 10.90.050** **Adoption**

10.90.010 Natural Hazards. English recognizes the threat that natural hazards pose to people and property. (Res. 2006-05, Whereas, July 17, 2006)

10.90.020 Actions before Disasters. Undertaking hazard mitigation actions before disasters occur will reduce the potential for harm to people and property and save taxpayer dollars. (Res. 2006-05, Whereas, July 17, 2006)

10.90.030 Future Grant Funding. An adopted multi-hazard mitigation plan is required as a condition of future grant funding for mitigation projects. (Res. 2006-05, Whereas, July 17, 2006)

10.90.040 Joint Planning. English participated jointly in the planning process with the other local units of government within the County to prepare a Multi-Hazard Mitigation Plan. (Res. 2006-05, Whereas, July 17, 2006)

10.90.050 Adoption. The Crawford County Emergency Management Agency will submit on behalf of the participating municipalities the adopted Multi-Hazard Mitigation Plan to the Indiana Department of Homeland Security and the Federal Emergency Management Agency for final review and approval. (Res. 2006-05, S1, July 17, 2006)