

**TITLE 10**  
**LAND USE MANAGEMENT**

## TITLE 10

### LAND USE MANAGEMENT

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**ZONING ORDINANCE  
GENTRYVILLE, INDIANA**

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AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING REGULATIONS FOR THE TOWN OF \_\_\_\_\_ INDIANA, AND PROVIDING FOR THE ADMINISTRATION THEREOF

BE IT ORDAINED by the Board of Trustees of the Town of \_\_\_\_\_ under authority of Chapter 174, Acts of 1947, General Assembly of the State of Indiana and all acts amendatory thereto:

**10.08.010 PURPOSE**

**10.08.010.010 Basis for Establishing.** The zoning regulations and districts as herein set forth are made in accordance with a comprehensive master plan in order that adequate light, air, convenience of access, and safety from fire, flood and other danger may be secured; that congestion in the public streets may be lessened or avoided; and that the public health, safety, comfort, morals, convenience and general public welfare may be promoted. They are made with reasonable regard to existing conditions, the character of buildings erected in each district, the most desirable use for which the land in each district may be adapted and the conservation of property values on all land under the jurisdiction of this ordinance. (Ord. Unnumbered, Title I, S1, No date)

**10.08.020 GENERAL PROVISIONS**

**10.08.020.020 Short Title.** (A short title should be written by the attorney, clearly expressing the name of the new ordinance.) (Ord. Unnumbered, Title II, S2, No date)

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

- (1) Accessory Building and Use. A subordinate building located on the same lot with the main building, or a subordinate use of land, either of which is customarily incident to the main building or to the principal use of the land.

Where a substantial part of the wall of an accessory building is a part of the wall of the main building or where an accessory building is attached to the main building in a substantial manner as by a roof,

such accessory building shall be counted as part of the main building.

- (2) Accessory Living Quarters. Living quarters within an accessory building, for the sole use of persons employed on the premises; such quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling.
- (3) Advertising Device or Devices. Any billboard, sign, notice, poster, display, emblem, or any structure for supporting said device.
- (4) Apartment Hotel. An apartment house which provides services for the use of its tenants, which are usually furnished by hotels, but the privileges of these services are not available to the public.
- (5) Block Frontage. All the property fronting on one side of a street between intersecting or intercepting streets or between a street and right-of-way, end of dead-end street or city boundary measured along the street line.
- (6) Board. The Board of Zoning Appeals of the Town of \_\_\_\_\_.
- (7) Building. Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or chattel. When any portion thereof is completely separated from every other portion thereof by a division wall without openings then each such portion shall be deemed to be a separate building. At no time shall this definition be construed to include mobile homes.
- (8) Building, Detached. A building having no party wall in common with another building.
- (9) Building, Nonconforming. A legally existing building which fails to comply with the regulations set forth in this ordinance applicable to the district in which this building is located.
- (10) Building, Semi-detached. A building having one party wall common with an adjacent building.
- (11) Building, Height of. The vertical distance measured from the adjoining street centerline grade at a point opposite the center of the principal frontage of the building to the highest point of ceiling of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the mean height level between the eaves and ridge of a gable, hip or gambrel roof. Where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished lot grade at the front of the building.



- (12) Building Line. The line nearest the front and across a lot establishing the minimum open space to be provided between the front line of the building foundation and the front lot line. The front line of the foundations of enclosed porches or vestibules if nearer the front lot line than the main foundation.
- (13) Camp Ground and/or Mobile Home Park. Any area or tract of land used for occupancy by tents, moveable or temporary dwellings, rooms, sleeping quarters or mobile homes of any kind. A camp ground or mobile home park shall constitute two or more such units.
- (14) Cemetery. Land used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.
- (15) Certificate of Occupancy. A certificate issued by the Zoning Administrator stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of this ordinance.
- (16) City. The Town of \_\_\_\_\_ State of Indiana.
- (17) Clerk-Treasurer. The Clerk-Treasurer of the Town of \_\_\_\_\_, Indiana.
- (18) Commission. The Plan Commission of the Town of \_\_\_\_\_, Indiana.
- (19) County. Spencer County, Indiana.
- (20) County Board. The Board of County Commissioners of the County of Spencer, State of Indiana.
- (21) Court. An open unoccupied space on the same lot with a building or group of buildings and bounded on three or more sides by such building or buildings. The width of any court is its least horizontal dimension measured between opposite walls. The length of any court is its greatest horizontal dimension measured at right angles to its width.
- (22) Dump. Any premises used primarily for disposal by abandonment, discarding, dumping, reduction, burial, incineration, or any other means and for whatever purpose, of garbage, sewage, trash, refuse, waste material of any kind, junk, discarded machinery, vehicles or parts thereof, offal, or dead animals.

- (23) Dwelling. A structure or building or portion thereof, used exclusively for residential occupancy, including one-family and multiple dwellings, but not including hotels, lodging or boarding houses or tourist homes.
- (24) Dwelling, One-Family. A structure used for occupancy by one family.
- (25) Dwelling, Two-Family. A building used for occupancy by two families living independently of each other.
- (26) Dwelling, Multiple. A building or portion thereof used for occupancy by three or more families living independently of each other.
- (27) Dwelling, Row. A building having a party wall on each side in common with an adjoining building unless it is situated as the outermost building; in the latter case it will have a party wall on one side only.
- (28) Dwelling Unit. A dwelling or a portion of a two-family, multi-family, or row dwelling or of an apartment hotel used by one family for cooking, living and sleeping purposes.
- (29) Educational Institution. Pre-primary, primary or grade, public, parochial or private school, high school, preparatory school or academy, public or founded or owned or conducted by or under the sponsorship of a religious or charitable organization; private preparatory school or academy furnishing courses of instruction substantially equivalent to the courses offered by public high schools for preparation of admission to college or universities which award B.A. or B.S. degrees; junior college, college or university, public or founded or conducted by or under the sponsorship of a religious or charitable organization, or private when not conducted as a commercial enterprise for the profit of individual owners or stockholders. This definition shall not be deemed to include trade or business school as defined in this Section.
- (30) Essential Uses. Transmission lines, distribution systems and all appurtenances constructed and maintained for or by a utility company, either private or governmental.
- (31) Family. One or more persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, club, fraternity or sorority house. A family shall be deemed to include necessary servants.
- (32) Flood Plain. The areas adjoining any river or stream which have been, or may be expected hereafter to be, covered by flood water as

established from data supplied by the Division of Water of the Indiana Department of Natural Resources.

- (33) Floodway. The channel of a river or stream, and those portions of the flood plains adjoining the channels, which are required to efficiently carry the discharge of flood water or flood flow of any river or stream.
- (34) Floor Area (For Determining Floor Area Ratio). For the purpose of determining the floor area ratio, the "floor area" of a building is the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of walls separating two (2) buildings. The "floor area" of a building shall include basement floor area when more than one-half (1/2) of the basement height is above the finished lot grade level at the front of the building, interior balconies and mezzanines, and enclosed porches, and floor area devoted to accessory uses. However, any space devoted to off-street parking or loading shall not be included in the "floor area".
- (35) Garage, Private. A detached accessory building or portion of a main building, used for the storage of self-propelled vehicles where the capacity does not exceed three vehicles, or not more than two vehicles per family housed in the building to which such garage is accessory, whichever is the greater; not more than one-third the total number of vehicles stored in such garage shall be commercial vehicles. Storage space for not more than three vehicles may be rented for vehicles of non-occupants of the building to which garage is accessory.
- (36) Garage, Parking. Any building, except those herein defined as a private garage, used exclusively for parking of self-propelled vehicles, and with not more than two pumps for the incidental sale of gasoline.
- (37) Home Occupation. Any use customarily conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, and in connection with which there is no commodity sold upon the premises except that which is produced by such home occupation, and not more than two (2) persons are engaged in such occupation. Such uses as barber shop, beauty parlor, tea room, tourist home and animal hospital shall not be deemed to be home occupations.
- (38) Hospital. "Sanitarium", "Sanatorium", "Preventorium", "Clinic", provided such institution is operated by, or treatment given under direct supervision of, a physician licensed to practice by the State of Indiana.

- (39) Hospital, Animal. A lot, building, structure, enclosure or premises whereon or wherein three (3) or more dogs, cats, and other domestic animals are kept or maintained and which is operated by, or the treatment therein is under direct supervision of, a veterinarian licensed to practice by the State of Indiana.
- (40) Hotel. A building or portion thereof used for the more or less temporary occupancy of individuals who are lodged with or without meals and in which provision for cooking is made primarily in a central kitchen and not in the individual rooms or suites.
- (41) Improvement Location Permit. A permit issued by the Town Board of the Town of \_\_\_\_\_ or its duly authorized representative, stating that the proposed erection, construction, enlargement or moving of a building or structure referred to therein complies with the provisions of this ordinance.
- (42) Junk Yard, Including Automobile Wrecking and Storage. Any lot, building, structure, enclosure, premises, or parts thereof used for the storage, keeping or abandonment of any worn out, cast off, or discarded or abandoned article, material, vehicle, automobile, and machinery or parts thereof, which is ready for destruction or sale or has been collected or stored for salvage or conversion to some use, including scrap metal, paper, wood, cordage or other waste or discarded materials, articles, vehicles, automobiles and machinery or parts thereof, or vehicles or automobiles that are inoperable or incapable of movement by their own locomotion or power, or vehicles or automobiles without a valid current State registration and license plate issued to said vehicle or automobile and to the occupant, owner, purchaser, lessor, lessee or tenant of any lot, building, or structure therein or thereon situated.
- (43) Jurisdiction. All of the Town of \_\_\_\_\_ and that portion of the county lying outside of and immediately adjacent to its corporate limits. A drawing representing its external limits is on file in the office of the Recorder of Spencer County, Indiana. Exceptions as provided in Chapter 174 of the Acts of 1947, of the General Assembly of Indiana, and all Acts amendatory thereto, as is now or may hereafter be in effect.
- (44)  kennel. A lot, building, structure, enclosure, or premises whereon or wherein dogs or cats are maintained, boarded, bred, kept, or cared for, in return for remuneration, or are kept for the purpose of sale, or are groomed, trained, or handled, for others.
- (45) Lodging House (Rooming House). A building with more than two (2), but not more than ten (10) guest rooms where lodging of a permanent nature, with or without meals, is provided for compensation.

- (46) Lot. A parcel of land defined by metes and bounds or boundary lines in a recorded deed or on a recorded plat, fronting on a legally dedicated public thoroughfare. In determining lot area, no part thereof within the limits of the proposed street rights-of-way shall be included.
- (47) Lot, Corner. A lot abutting two (2) or more streets at their intersection.
- (48) Lot Front. That part of a lot adjacent to and parallel with the street. The front of a corner lot shall be determined, at the time of application for the improvement location permit, by either the owner, builder, developer or their agent and the Zoning Administrator. Once the front is determined, the structure shall then be erected in conformity with the zoning and the subdivision ordinances.
- (49) Lot Lines. Lines bounding a lot, as hereinafter described:
- A. Lot Line, Front. The line running along the front of the lot and separating it from the street. In this ordinance the front lot line is called the "front street line". In a "through lot" both lines abutting the streets are deemed "front street lines".
  - B. Lot Line, Rear. The lot line generally opposite and parallel to the front street line, except in a "through lot". If a rear lot line is less than ten (10) feet long or the lot comes to a point at the rear, said rear lot line is assumed to be a line at least ten (10) feet long, lying wholly within the lot, parallel to the front street line or, if the front street line is curved, parallel to the chord of the arc of said front street line.
  - C. Lot Line. Any lot line other than a front street line or a rear lot line. A side lot line separating the lot from a street is a "side street line".
- (50) Lot, Through. A lot having frontage on two (2) parallel or approximately parallel streets.
- (51) Lot Width. The distance parallel to the front of a building erected or to be erected, measured between side lot lines at the building line.
- (52) Master Plan. The complete plan, or any of its parts, serving as a guide for the development of the Town of \_\_\_\_\_ State of Indiana, prepared by or for the commission and adopted by the Town Board, in accordance with the authority conferred by Chapter 174, Acts of 1947 of the General Assembly of the State of Indiana and Acts amendatory thereto, as is now or may hereafter be in effect.

- (53) Mobile Home. A one-family dwelling designed for the transportation after fabrication on streets and highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling, complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundations, connections to utilities and the like.
- (54) Motel. A permanent building or group of buildings containing rooms without cooking facilities, used, rented or hired out for the more or less temporary occupancy of overnight guests.
- (55) Motor Vehicle. Shall include automobiles, trucks, tractors, trailers, semi-trailers, airplanes, buses and farm implements, whether self-propelled or designed to be pulled, pushed or carried by another motor vehicle.
- (56) Net Site Area. The entire land area within the boundaries of a site, including the area of any existing streets, alleys, or rights-of-way which are included in the legal description of the site.
- (57) Nonconforming Use. A legally existing use of land or building which fails to comply with the regulations set forth in this ordinance applicable to the district in which such use is located.
- (58) Parking Area, Public. An open area, other than a street, used for the temporary parking of more than four automobiles and available for public use whether free, for compensation or as an accommodation for clients or customers.
- (59) Parking Space (Off-Street), One. A space on private land accessible from a street or alley, used for the purpose of temporarily parking a motor vehicle.
- (60) Person. A corporation, firm, partnership, association, organization or any other group acting as a unit, as well as a natural person.
- (61) Sanitary Landfill. The disposal of garbage by the trench and cover method or fill and borrow method. In the first case, an excavation will be made and the garbage placed in the excavation and covered with the dirt which was removed. In the second case, the fill may be made in a low area and dirt borrowed from higher ground will be spread over the top of the garbage.
- (62) Sign. Any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, affixing or placing of a structure on any land or on any other structure, or produced by painting on or posting or placing any printed, lettered, pictured, figured or colored material on any building, structure, or surface. Signs placed or erected by

public agencies for the purpose of showing street names or traffic directions or regulations or for other governmental purposes or signs which are part of the architectural design of the building shall be included herein.

- (63) Story. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above; also any portion of a building used for human occupancy between the topmost floor and the roof. A basement shall not be counted as a story unless more than one-half (1/2) of the basement height is above grade level at the front of the building.
- (64) Street. A right-of-way, other than an alley, dedicated or otherwise legally established to the public use, usually affording the principal means of access to abutting property. A street may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive, or other appropriate name. The arterial thoroughfares and primary and secondary streets are designated on the thoroughfare map of the Master Plan for \_\_\_\_\_, Indiana. For the purpose of this ordinance, streets shall be classified as follows:
- A. Arterial Thoroughfares. This type of facility serves mainly to move through traffic; Indiana and U. S. marked routes as well as some county roads and important intra-city streets are considered under this classification. Where a highway is a non-limited access route, these facilities also perform a secondary function of providing direct access to abutting land and thus interconnect principal traffic generators.
  - B. Primary (Major) Routes. These facilities serve to connect cities with each other as well as to link smaller towns or settlements with the arterial thoroughfares system. Primary routes provide access to abutting land and generally serve all principal traffic generators.
  - C. Secondary (Connector) Roads. These facilities serve intra-city movements of traffic, such as that moving between a subdivision and a major street. The principal difference between the connector road and streets or roads of higher classification is the length of trip each principally serves. They are intended to supply the abutting property with the same degree of land service as the local street, while at the same time serving larger volumes of traffic.
  - D. Local (Residential) Streets. The sole function of these streets is to provide access to the immediately adjacent property. Local access streets are intended to carry low volumes of traffic.

- E. Marginal Access Street. A street designed to connect not more than two (2) streets, and which normally parallels an arterial thoroughfare, or a primary or secondary street, and is not separated from the said thoroughfare or street by a lot or tier of lots, and which is specifically so designated and approved as such on the plat of the subdivision.
- (65) Structure. Anything constructed, erected, or placed which requires location on the ground or attachment to something having a location on the ground. Devices used for the support of wires and appurtenances supplying public utility services shall not be considered as structures under this ordinance.
- (66) Tourist Home. A building in which more than one (1) but not more than five (5) guest rooms are used to provide or offer overnight accommodations for transient guests for compensation.
- (67) Town. Town of \_\_\_\_\_, Indiana.
- (68) Town Board. The Board of Trustees, of the Town of \_\_\_\_\_, Indiana.
- (69) Trade or Business School. Secretarial school or college; business school or college when not public and not owned or conducted by or under the sponsorship of a religious or charitable organization, school conducted as commercial enterprise for teaching instrumental music, dancing, barbering or hair dressing or for teaching industrial skills in which machinery is employed as a means of instruction. This definition shall not be deemed to include educational institution as defined in this Section.
- (70) Use. The employment or occupation of a building, structure or land for a person's service, benefit or enjoyment.
- (71) Use, Open. The use of a lot without a building or dwelling, or including a building or dwelling, incidental to the open use with a ground floor area equal to five (5) per cent or less of the area of the lot.
- (72) Yard. A space on the same lot with a main building, open, unoccupied and unobstructed by buildings or structures from the ground to the sky, except as otherwise provided in this ordinance.
- (73) Yard, Front. A yard extending across the full width of the lot, the depth of which shall be at the least distance between the front lot line and the front of the main building.
- (74) Yard, Rear. A yard extending the full width of the lot between the rearmost main building and the rear lot line, the depth of which shall be the least distance between the rear lot line and the rear of such main building.



- (75) Yard, Side. A yard between the main building and the side lot line, extending from the front yard or front lot line where no front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally and perpendicularly from the nearest point of the side lot line toward the nearest part of the main building.
- (76) Zoning Administrator. The officer designated and authorized by the Commission or Town Board to enforce the zoning requirements.
- (77) Zoning Lot. A single tract of land located within a single block which (at the time of the filing for a Zoning Permit) is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control. Therefore, a "Zoning Lot" may or may not coincide with a lot of record. The Zoning Lot shall have adequate frontage on an improved dedicated roadway of adequate width. (Ord. Unnumbered, Title II, S4, No date)

**10.08.020.040 Building and Uses Affected by Zoning.** No building, dwelling or structure, or land, except buildings, dwellings, or land incidental to agricultural operations, shall hereafter commence to be used unless erection has been started prior to the enactment of this ordinance. No building or dwelling or part thereof shall be erected, moved or altered unless in conformity with the regulations of this ordinance. (Ord. Unnumbered, Title II, S4, No date)

**10.08.020.050 Continuance of Nonconforming Buildings or Uses.**

- (1) Nonconforming Buildings or Structures.
  - A. Maintenance Permitted. A nonconforming structure lawfully existing upon the effective date of this ordinance may be maintained.
  - B. Repairs and Alterations. Repairs and alterations may be made to a nonconforming building or structure, provided that no enlargement shall be made.
  - C. Additions, Enlargements or Moving.
    - 1. A structure nonconforming as to use, height, yard requirements or lot area per dwelling unit shall not be added to or enlarged in any manner unless such structure, including such addition or enlargement, is made to conform to the use, height, yard, and area requirements of the zone in which it is located.

2. No nonconforming building or structure shall be moved in whole or in part to any other location on the lot unless every portion of such building or structure is made to conform to all the regulations of the zone in which it is located.

(2) Nonconforming Use of Buildings or Structures.

A. Continuation and Change of Use. Except as otherwise provided in this ordinance:

1. The nonconforming use of a building or structure, lawfully existing at the time this ordinance became effective, may be continued.
2. The nonconforming use of a building or structure may be changed only to a use of the same or more restricted classification.

B. Expansion Prohibited. A nonconforming use of a building or structure designed for a conforming use shall not be expanded or extended into any other portion of such conforming building or structure nor changed except to a conforming use.

C. A nonconforming use on a part of a lot shall not be expanded or extended into any other portion of such lot.

D. A nonconforming use of a building or structure designed for such use may be expanded to fifteen (15) per cent of the area nonconforming at the time of passage of this ordinance.

(3) Nonconforming Variance Permitted by Board of Zoning Appeals. The Board of Zoning Appeals may authorize, upon appeals in specific cases, such variance from the terms of this section as will not be contrary to the public interest, where, owing to a special condition, a literal enforcement of the provisions of this section will result in unnecessary hardship, and so that the spirit of this section shall be observed and substantial justice done; provided, however, that no action shall be taken or decision made except after public hearing. (Ord. Unnumbered, Title II, S5, No date)

**10.08.020.060 Amortization of Nonconforming Uses or Buildings.**

- (1) Discontinuance. Whenever a nonconforming use has been discontinued for a period of twelve (12) months, such use shall not thereafter be established and any future use shall be in conformity with the provisions of this chapter, except as otherwise noted in Paragraph B, this Section.

- (2) Discontinuance Seasonal Trade. Whenever a nonconforming use dependent on seasonal trade has been discontinued for a period of fourteen (14) months, such use shall not thereafter be established and any future use shall be in conformity with the provisions of this ordinance.
- (3) Damaged Building. No building damaged by fire or other causes to the extent that its restoration will cost more than double its assessed valuation shall be repaired or rebuilt except to conform to the provisions of this ordinance.
- (4) Open Use. Any nonconforming open use of land lawfully existing upon the effective date of this ordinance and not previously designated as a nonconforming open use of land by any prior zoning ordinance, shall be discontinued or be made conforming on or before five (5) years after the effective date of this ordinance. Any nonconforming open use of land that has been previously zoned as a nonconforming open use of land with a five (5) year amortization period established, shall be discontinued on or before the date as established under the previous zoning jurisdiction. (Ord. Unnumbered, Title II, S6, No date)

**10.08.020.070 Nonconformance Due to Reclassifications.** The provisions of Sections 5 and 6 shall also apply to buildings, structures, land or uses which hereafter become nonconforming due to any reclassification of zones under this ordinance, or any subsequent change in the regulations of this ordinance, and any time periods specified for discontinuance of nonconforming uses shall be measured from the date of such reclassification or change. (Ord. Unnumbered, Title II, S7, No date)

**10.8.020.080 General Use Provisions.**

- (1) Conformance and Permits Required. No building or structure shall be erected, reconstructed, enlarged or moved for any use other than that which is permitted in the zone in which such building, structure or land is located, nor shall any building, structure or land be used for any other use than is permitted in the zone in which it is located.
- (2) Zone Group Classification. Whenever the terms "F. Zone, A. Zone, R. Zone, B. Zone, or I. Zone" are used, they shall be deemed to refer to all zones containing the same letters in their names; e.g., B. Zone shall include the B-1, B-2 and B-3 zones.
- (3) Temporary Buildings, Structures and Mobile Homes.
  - A. No temporary building or temporary structure shall be erected, reconstructed, enlarged, or moved on to any lot, plot, or tract of land other than for agricultural purposes or as a temporary construction field office unless it conforms with this ordinance.

- B. A mobile home may be moved on to a lot, plot, or tract of land and be used as a temporary residence for a period of one year during the construction time of a permanent residence on the same lot, plot or tract. Prior to the moving of any mobile home onto any lot, plot, or tract, for said purpose, the owner shall obtain a special exception grant from the Board of Zoning Appeals; said grant shall run for a period of one year. Upon expiration the grant may be extended for one additional year by the Zoning Administrator upon adequate showing by the owner that the construction of the residence has not progressed to a livable stage due to conditions beyond his control. Only one such extension shall be allowed for said grant; after the final expiration of said grant, the mobile home shall be vacated and moved within thirty (30) days of the expiration date.

The temporary residence shall comply with all county and state health requirements which would be imposed upon a permanent residence on the same lot, plot, or tract.

A mobile home may be moved onto a lot, plot, or tract of land and be used as a temporary residence for a period of time as determined by the Board of Zoning Appeals; said determination shall be made upon the basis of the information supplied by the applicant. Prior to the moving of any mobile home onto any lot, plot or tract for said purpose, the owner or his agent shall obtain a special exception grant from the Board of Zoning Appeals; said grant shall run only for the time determined by the Board. Upon the expiration the grant may be renewed only by the Board of Zoning Appeals. The application for renewal shall be handled in the same manner as a new application. (Ord. unnumbered, Title II, S8, No date)

#### **10.08.020.090 Off-Street Parking and Loading Provisions.**

- (1) Off-Street Parking. The following off-street parking spaces shall be provided and satisfactorily maintained, by the owner of the property, for each building which is hereafter erected, enlarged or altered for use for any of the following purposes:
- A. Each automobile parking space shall be not less than 180 square feet in area.
  - B. Dwellings, at least one parking space for each dwelling or sleeping unit in the building or buildings.

- C. For any general auditorium, gymnasium, church, funeral home, or theatre; high school or college, or university auditorium or stadium; or other similar place of assembly, there shall be provided at least one (1) parking space for each six (6) seats provided for its patrons, based on the maximum seating capacity, including fixed and moveable seats. For any church there shall be allowed the use of joint parking facilities in connection with any buildings or use not normally open, used, or operated during the principal operating hours of a church providing a properly drawn legal instrument is executed by the parties concerned for the joint use of such off-street parking facilities, which instrument, duly approved as to form by the Town Attorney, shall be filed with the application for a zoning permit.
- D. For any hotel, apartment hotel, club house, dormitory, fraternity house or any other similar use or establishment, there shall be provided at least one parking space for each two (2) guest sleeping rooms.
- E. For any hotel in a B-2 district or any other similar use, at least one (1) parking space for each sleeping room shall be provided.
- F. For any dancing, exhibition, labor temple, lodge hall, skating rink or other assembly hall without fixed seats, there shall be provided not less than one (1) parking space for each 120 square feet of gross floor area thereof.
- G. For any bank, clinic, office building, professional office, welfare institution or any other similar use of establishment, there shall be provided not less than one (1) parking space for each 400 square feet of gross floor area thereof.
- H. For any medical clinic or any other similar use, there shall be provided at least three (3) parking spaces for each doctor or dentist using the clinic, plus one (1) space for each two (2) regular employees including nurses.
- I. For any hospital, sanitarium, convalescent home or any other similar use of establishment, there shall be provided not less than one parking space for each three (3) beds or any portion thereof.
- J. For any eating or drinking establishment or any other similar use where customers are seated and served within a building, there shall be provided at least one (1) parking space for each two hundred (200) square feet of gross floor area thereof.

- K. For any eating or drinking establishment or any other similar use where customers are served outside of a building, there shall be provided at least one (1) parking space for each fifty (50) square feet of gross floor area thereof, provided, however, that there shall not be less than six (6) parking spaces for each such establishment.
- L. For any retail store, except a food market, there shall be provided not less than one (1) parking space for each three hundred (300) square feet of gross floor area thereof.
- M. For any food market establishment or any similar use with a gross floor area of less than 2,500 square feet, there shall be provided not less than one (1) parking space for each 250 square feet of gross floor area thereof. For each gross floor area in excess of 2,500 square feet, there shall be one (1) parking space for each one hundred (100) square feet of gross floor area thereof in excess of 2,500 square feet.
- N. For any manufacturing, processing, wholesaling, storage, or any other industrial use or commercial establishment not specifically set out in this subsection, there shall be provided at least one (1) parking space for each two (2) employees, plus sufficient spaces to park all company-owned or leased motor vehicles, semi-trailers and trailers.
- O. For any launderette, laundromat, self-service laundry, washeteria or any other similar use or establishment under a different name, there shall be provided one (1) parking space for each two (2) washing machines or portion thereof.
- P. For any bowling center, there shall be provided four (4) parking spaces for each bowling alley thereof.
- Q. For any motel, tourist court, or similar use or establishment, there shall be provided one (1) parking space on the same parcel of land for each individual sleeping or living unit.
- R. For any camp ground, there shall be provided not less than one (1) parking space on the same parcel of land for each individual house trailer, tent, moveable or temporary dwelling contained therein.
- S. For any commercial or business office having a gross floor area in excess of ten thousand (10,000) square feet and occupied solely by the employees of one person, as defined in this ordinance, there shall be provided at least one (1) parking space for each eight hundred (800) square feet of gross floor area thereof.

- (2) Distance Measurements. The distance to any parking space as herein required shall be measured between the nearest point of the off-street parking facility and the nearest point of the building said parking area or facility is to serve.
- (3) Mixed Uses. In the case of any use not listed herein, the number of parking spaces required for such use shall be the same as for a similar use which is listed. In the case of mixed uses in the same building or structure, the total requirement for off-street parking facilities shall be the sum of the requirements of the various uses computed separately from the items set out in this section, and off-street parking facilities for one use shall not be considered as providing required parking facilities for any other use except as hereinafter specified for collective use.
- (4) Collective Parking Facilities. Nothing in this section shall be construed to prevent collective provision of any off-street parking facility for two or more buildings or uses providing, however, that the total number of off-street parking spaces shall not be less than the sum of requirements for the various individual uses computed separately in accordance with the items set out in this section.

All parking spaces provided pursuant to this section shall normally be on the same lot with the building; however, the Board may permit the parking spaces to be on any lot within three hundred (300) feet of the building except for the requirements of Paragraphs Q and R. If the Board determines that it is impractical to provide parking on the same lot with the building, the requirements set forth in Paragraphs D, E, G, H, I, J, and L first above may be waived by the Board in the case of a building erected or altered as a result of destruction by fire or act of God, or whenever the Board determines that more than seventy-five (75) per cent of the privately owned lands within three hundred (300) feet of the building to be erected, enlarged or altered, are improved with buildings regularly occupied and used.

- (5) Off-Street Loading. On the same premises with every building, structure or part thereof, hereafter erected, established or enlarged and occupied for manufacturing, storage, warehouse goods display, department store, wholesale store, market, hotel, mortuary, laundry, dry cleaning or other uses, involving the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained adequate space for standing, loading, and unloading in order to avoid undue interference with public use of the street or alley.

Such space, unless otherwise adequately provided for, shall include a twelve (12) foot by thirty-five (35) foot loading space with fourteen (14) foot height clearance for every 20,000 square feet or fraction thereof in excess of 3,000

square feet of floor area used for above mentioned purposes, or for every 20,000 square feet or fraction thereof in excess of 3,000 square feet of land used for the above mentioned purposes. These requirements may, upon appeal, be increased, modified, or waived by the Board where the conditions or circumstances justify such action.

- (6) Public Parking Area. Every parcel of land which, after the effective date of this ordinance, is changed to a public parking area, automobile or trailer sales area, filling station or garage shall be developed as follows:
- A. Such area, where subject to wheeled traffic, shall be improved with bituminous, concrete, crushed stone with an adequate base or other equivalent surfacing and shall have appropriate bumper guards where needed.
  - B. Where such area adjoins a lot in an R zone or a residential development, a solid wall, compact evergreen screen or uniformly painted board fence having a height of not less than four (4) feet shall be erected and maintained between such area and the property in residential areas and zones. Such enclosures shall be at least five (5) feet from the side of a lot in an R zone or residential development and all required front and side yards shall be properly maintained as such. Where such area is across the street from an R zone or a residential development a compact evergreen screen having a height of not less than four (4) feet shall be erected and maintained between such area and the property in the said zone or development and all required front yards shall be maintained as such.
  - C. Any light used to illuminate said parking area shall be so arranged as to reflect the light away from the adjoining premises in an R zone or residential development.
- (7) Permanency of Spaces Provided. Any parking or loading space established prior to the effective date of this ordinance and which is used or intended to be used in connection with any main building, structure or use, or any spaces designed and intended to comply with the requirements of this ordinance for any such main building or structure erected after such effective date, shall hereafter be maintained so long as said building or structure remains, unless the owner provides and maintains in another location an equivalent number of required spaces in conformance with the provisions of this ordinance. (Ord. unnumbered, Title II, S9, No date)



**10.08.020.100 General Area Provisions.** Except as hereinafter provided, no building or structure shall be erected on a lot unless such building, combined existing structure plus additions, conforms with the area regulations of the zone in which it is located.

- (1) Reduction of Lot Area. No lot area shall be so reduced, diminished and maintained that the yards, other open space, or total lot area shall be smaller than prescribed by this ordinance, nor shall the density of population be increased in any manner except in conformity with the regulations herein established.
- (2) Recorded Lots Less than Minimum Area. Lots of record at the time of the enactment of this ordinance which have less than the minimum area requirements for residential use may nevertheless be used for any use permitted therein, except that for dwellings, the lot must have a width of at least seventy-five (75) feet, and an area of at least 12,000 square feet. (Ord. 2004-05, Apr. 7, 2004)
- (3) Yards Apply to Only One Building. No required yard or other open space around an existing building, or which is hereafter provided around any building for the purpose of complying with the provision of this ordinance, shall be considered as providing a yard or open space for any other building; nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is to be erected.
- (4) Only One Main Building On a Lot. Every building hereafter erected shall be located on a lot as herein defined. In no case shall there be more than one residential building and its accessory buildings on one lot except a farm tenant dwelling may be erected on the same tract as the main farm dwelling. Row dwellings or group housing may be considered as one main residential building.
- (5) Corner Setback. At street intersections of an angle less than sixty (60) degrees, shrubs or structures over three and one-half (3 1/2) feet high will not be placed between the intersections of the street lines and ten (10) feet from the building line.
- (6) Front Yards On a Through Lot. At each end of a through lot there shall be a front yard of the depth required by this ordinance for the zone in which each street frontage is located, and one of such front yards may serve as a required rear yard. (Ord. unnumbered, Title II, S10, No date)

**10.08.020.110 General Height Provision.** Except as hereinafter provided, no building or structure shall be erected, enlarged, or reconstructed to exceed the height limit established for the zone wherein such building or structure is located. (Ord. unnumbered, Title II, S11, No date)

**10.08.020.120 Contingent Uses (All Districts).** The contingent uses hereinafter set forth shall be permitted by the Board, only after public hearing, in any district where such uses are essential or desirable to the public convenience or welfare, or if the refusal of this permit would create an undue hardship on the applicant. No permit for a contingent use shall be granted if the Board shall find that such use is in conflict with any plan duly adopted by ordinance, or if the Board determines the proposed use will be detrimental to the surrounding area. In the exercise of its approval, the Board may impose such additional conditions regarding the location, character, and other features of the proposed building, structure, or use as may be reasonably required to further the purposes of this ordinance.

(1) Such Permitted Contingent Uses are Identified as Follows:

- A. An airport or similarly designed area for the landing and taking off of aircraft; provided that:
  - 1. The proposed location has been approved by the Commission as to compatibility with the Master Plan for the physical development of the Town of \_\_\_\_\_.
  - 2. The area and the arrangement of all improvements shall be sufficient, for the class of airport proposed, to meet the requirements of the Federal Aviation Agency, the Aeronautic Administration of Indiana and any other rightfully involved governmental agency.
  - 3. Any proposed buildings, hangars, or other structures shall be at least one hundred (100) feet from any street or lot line.
  - 4. No application shall be considered, unless it is accompanied by a plan, drawn to scale, showing the proposed location of the airport; boundary lines; dimensions; names of owners of abutting properties; proposed layout of runways, landing strips or areas, taxi strips, aprons, roads, parking areas, hangars, buildings, and other structures, and facilities; the location and height of all buildings, structures, trees, and overhead wires falling within the airport approach zones and less than five hundred (500) feet distant from the boundary lines of the airport; other pertinent data, such as topography and grading plan, drainage, water, and sewerage, et cetera.
- B. Cemetery.
- C. Governmental installation not otherwise permitted.

- D. A hospital, nursing home, sanitarium or asylum which does not treat mental, drug or alcoholic patients.
- E. Medical health center or clinic, with parking provided as specified by this ordinance.
- F. Public utility facilities such as: radio and television transmitter stations and towers; petroleum and natural gas transmission lines, pumping stations and facilities; electric substations and telephone exchanges where not otherwise permitted by this ordinance; railroad lines; classification yards and terminals; and other similar uses of a public utility or public service nature; including structures and appurtenances for their enclosure, maintenance and operation.
- G. Educational institution, including churches.
- H. Fairground.
- I. Transient amusement enterprise, medicine show or circus, the chief activity of which is carried on for gain or profit.
- J. Private school.
- K. Golf course.

- (2) Authorization for Continuance: All contingent uses which existed upon the effective date of this ordinance shall be regarded as conforming uses and may be continued, except that major changes in layout, expansions or extensions to such uses shall be subject to Board review and approval as required for contingent use. (Ord. unnumbered, Title II, S 12, No date)

**10.08.020.130 Special Exception - Specified Zones.** The special exceptions hereinafter set forth shall be permitted by the Board, only after public hearing, in the zones indicated in Subsection (1) of this section, where such uses are essential or desirable to the public convenience or welfare or if the refusal of this permit would create an undue hardship on the applicant. No permit for a special exception shall be granted if the Board shall find that such use is in conflict with any plan duly adopted by ordinance, or if the Board determines the proposed use will be detrimental to the surrounding area. In the exercise of its approval the Board may impose such additional conditions regarding the location, character, and other features of the proposed building, structure or use as may be reasonably required to further the purposes of this ordinance.

- (1) The Board May Permit:

- A. Animal hospitals, veterinary clinics, animal boarding places and kennels. In any A or F-2 zone, a veterinary clinic, animal hospital, animal boarding place, or kennel provided that no part of any building, pen, or run shall be within three hundred (300) feet of any adjoining residence.
- B. Antique shop. In any A zone, an antique shop, provided that any outdoor display of articles for sale shall be at least fifty (50) feet from any street or property line.
- C. Boarding and/or rooming house. In any A and R-1 zone, the temporary use for a period of not more than three years, subject to renewal of a single-family dwelling for a boarding and/or rooming house upon a finding by the Board that such rooming house will not constitute a nuisance because of sidewalk or street traffic, noise or type of physical activity, and that such use will not tend to affect adversely the use and development of adjoining properties or the immediate neighborhood.
- D. Child care home. In any A, R-1, and R-2 zone, a child care home or nursery school upon a finding by the Board that said use will not constitute a nuisance because of traffic, number of children being cared for, noise or type of physical activity.
- E. Dumps, sanitary landfills, and incinerators. In any A, F-2 or I-2 zone a dump, sanitary landfill and/or incinerator, upon a finding that said use will not constitute a nuisance because of traffic, noise, odors, smoke, or physical activity, provided that the area, and setback requirements as specified by the Boards are complied with, provided that it meets the approval of the County Board of Health and the Indiana Department of Natural Resources.
- F. Hospital, nursing home, sanitarium, asylum or other institution. In any A and R-2 zone, a hospital, nursing home, sanitarium, asylum or other institution which cares for mental, drug, or alcoholic patients or is a penal or correctional institution, subject to the conditions that:
  - 1. No part of any building in which inmates or patients are housed is, or is proposed to be, located less than three hundred (300) feet from any bounding lot or street line.
  - 2. Adequate off-street parking space is provided.
  - 3. Protective man-proof fencing is provided where necessary.

G. Limited office uses in residential zones as a transitional use. In any R-2 zone a dwelling on any lot or parcel of land immediately abutting along its side lot line or lying directly opposite across a street from any commercial or industrial district, may be used for limited office purposes provided that such use is in accordance with the following requirements:

1. Such uses shall be confined to the offices of doctors, dentists, lawyers, accountants, realtors, engineers, and similar professional persons.
2. Such uses shall not change or alter the exterior characteristic of the premises and no name plate or other sign exceeding two (2) square feet in area shall be displayed on the premises.
3. Wherever possible, in the opinion of the Board, all entrances, driveways, walks, parking areas, and signs incidental to such use shall be located on the side of the building nearest to the commercial or industrial zone.

H. Recreational Establishments and Uses.

1. In any zone, buildings and structures for clubs, fraternal organizations, lodges, youth organizations, adult organizations, fishing ponds, picnic groves, and private recreational developments all conducted (a) for profit, or (b) not for profit.
2. For the purpose of this section, the above enumerated uses shall be hereby divided into three (3) specific classifications:

Class A. Uses for youth organizations for camps, ball fields, swimming pools and water sports and similar uses which will at no time involve the use of firearms or other deadly weapons or instruments, or the use of engine-powered racing vehicles or other noise producing devices.

Class B. Uses for clubs, fraternal organizations, lodges, adult organizations, fishing ponds, picnic groves, and private recreational developments which will not at any time involve the dispensing, sale, distribution or use of alcoholic beverages on the premises.

Class C. Uses for clubs, fraternal organizations, lodges, adult organizations, fishing ponds, picnic groves, and private recreational developments which may, at any time, involve the dispensing, sale, distribution or use of alcoholic beverages or the use of fire arms on the premises.

I. Special Uses Allied with Agriculture.

1. In any A zone, a trucking operation primarily engaged in commercial transportation of agricultural products other than those raised on the premises, feed mills where grain is processed on a commercial basis, poultry dressing establishments and animal slaughter houses where animals other than those raised on the premises are processed on a wholesale basis, commercial welding shops, livestock sales or auction barns, commercial dairy for the processing, packaging and distribution of dairy products.
2. In any A, F-2, and R-2 zone, a greenhouse and/or plant nursery provided retail sales are limited to the sale of plants and the commodities used in the direct care of plants.

J. Sand, gravel, or clay pits; rock or stone quarries; mining; removal of earth or top soil. In any zone, the use of vacant land for the removal of natural material or deposits including, but not limited to, sand, gravel, clay, rock or stone, earth or top soil; all such uses shall be subject to the following:

1. All applications for said uses shall be accompanied by a map or plat showing the area proposed to be included in the extraction or removal of material; and a final grading plan which shows the existing ground elevations of the site and the land immediately adjacent thereto, the location and elevation of all bounding streets or roads, and the final elevations of the site at the termination of the operation with respect to the elevations of the immediately adjacent land and bounding streets or roads.
2. Unless the Board specifies otherwise, the areas exposed by said operation shall not have a final cut slope of steeper than three (3) feet horizontal to one (1) foot vertical distance and shall be left suitable for development purposes in accordance with the final grading plan approved by the Board.

3. Unless otherwise permitted by the Board of Zoning Appeals, temporary operating cut slopes steeper than one (1) foot horizontal to one (1) foot vertical shall in no case be brought closer to an exterior property line, right-of-way line of any street, road, way, or alley, as existing or as proposed in the Master Plan than fifty (50) feet where a sight screen is provided or seventy-five (75) feet in the case where no provision is made for sight screening.
4. Explosives shall be used only between sunup and sundown except in case of an emergency.
5. All buildings, structures or equipment shall be entirely removed from the property within one (1) year after the expiration of the permit.
6. Dikes or other barriers and drainage structures shall be provided, to prevent silting of natural drainage channels or storm drains in the area surrounding said uses.
7. Where required by the Board, final cut slopes shall be treated to prevent erosion; topsoil shall be replaced on such slopes to support vegetation; ground cover shall be planted within twelve (12) months after a cut slope is excavated to its final position; and such ground cover shall be maintained for a period of time sufficient to provide vegetation of a density that will prevent erosion.
8. Where required, suitable plant material shall be placed and maintained to screen slopes from public view. There shall be no open storage of discarded machinery, trash or junk which would present an unsightly appearance.
9. Quarries and sand and gravel pits shall be operated so as to keep dust and noise to a minimum, and access roads shall be maintained as dustfree surfaces from the public street to within one hundred (100) feet of the loading point within the quarry or sand and gravel pit when adjacent properties are used or zoned for residential purposes.
10. Vehicles carrying materials from quarries or sand and gravel pits shall be loaded in such manner as to prevent spilling rock, gravel, sand or other materials of a mineral nature while in transit upon roads and highways.

11. Quarry or sand and gravel pit excavations which may penetrate near or into a usable water bearing stratum shall be conducted in such a manner that any such stratum so approached or encountered will not be subject to pollution or contamination either during quarrying operations or the excavation of a sand and gravel pit or subsequent to the abandonment of said quarry or sand and gravel pit.
  
- K. Sawmill. In any F-2 or A zone, a sawmill, for a period of not more than three (3) years subject to renewal, for the cutting of timber grown in the immediate area, provided that no saw or other machinery shall be less than one hundred (100) feet from any lot or street line and that all power saws and machinery will be secured against tampering or locked when not in use.
  
- L. Tourist home. In any A and R-2 zone, a tourist home, provided that such use will meet all other applicable governmental regulations.
  
- M. Mobile home parks. Mobile home parks may be permitted in B-2, B-3 and M-1 zones. They may also be permitted in A, R-1, and R-2 zones only when the proposed mobile home park site is at least six hundred (600) feet from existing residences. After a public hearing, the decision of the Board of Zoning Appeals shall determine whether or not the proposed site may be used for the purpose intended. The following requirements shall be fulfilled in all mobile home parks located in the Town of \_\_\_\_\_ approved subsequent to the adoption of this ordinance.
  1. Procedure. An applicant for a Mobile Home Park Permit shall apply therefore to the Commission upon the prescribed forms. Said application shall be filed with the Zoning Administrator and shall be accompanied by a preliminary development plan for the entire tract involved, together with supporting data thereof.

Upon receipt of such application, development plan and data, the Commission shall review same and if approval of the plan is given, a hearing shall be scheduled, by the applicant, before the Board of Zoning Appeals asking that the Board grant a special exception for the proposed use.



The Commission shall consider such comments and shall review the proposed development plan and supporting data upon the basis of the requirements of this ordinance. Thereafter, the Commission shall take action as follows:

- (a) If it shall find that such plan meets the requirements of this ordinance, it shall approve the same as the final development plan.
- (b) If it shall find that such a plan does not comply with the requirements of this ordinance and is not susceptible of alteration, change or amendment to meet such requirements, the Commission shall disapprove the same.

In the event the developer proposes to develop the tract by sections, the developer shall submit all data and final development plans for the section to be developed. The Commission shall not approve any further development plans for any section or sections of the tract until all improvements serving the previously approved section or sections are completely installed as approved. The first section submitted to the Commission, shall include a minimum of twenty-five per cent (25%) of the total proposed development.

2. Development Plan. The owner or developer of such tract of land shall have prepared a development plan for the entire tract which shall include the following:

- (a) Proposed name of the mobile home park.
- (b) Location by township, section, or other legal description.
- (c) Name and address of the developer.
- (d) Date, scale, and north point.
- (e) Location, widths, and names of all existing platted streets or other public ways, railroads and utility rights-of-way, parks, and other public open spaces, existing buildings and structures within and adjacent to the tract.
- (f) Adjoining boundary lines of all adjacent land uses, describing said land uses, showing the

name of the developer or owner, or some other means of identification.

- (g) Layout of proposed streets, their widths, also the widths of alleys, crosswalkways, and easements.
- (h) Layout of proposed lots, their numbers and dimensions.
- (i) Parcels of land intended for public use.
- (j) Mobile home limit lines.
- (k) Contours at intervals of not more than five (5) feet.
- (l) Location and type of easements.
- (m) Information as to any agreements which have been entered into with the owners of other property within the neighborhood in which the proposed mobile home park is located, as to general plans for the entire neighborhood.
- (n) Such other data as the Plan Commission may by rule require. Any such rule shall be adopted by Commission resolution only after a public hearing.

3. Development Plan Requirements. In determining the approval or disapproval of a proposed Development Plan and supporting data, the Commission shall be governed by the following:

- (a) The tract to be developed shall contain a minimum of five (5) acres exclusive of all existing or proposed road rights-of-way.
- (b) Lot Area and Dimensions.
  - i Minimum lot width shall be seventy-five (75) feet, measured perpendicular to the side lot line.
  - ii The minimum lot area for a mobile home shall be 12,000 square feet, which shall require an on-street parking area for all vehicles in the park and a playground for children, allowing a minimum of three thousand (3,000) square feet of play area per mobile home lot. A lot

size of 3,300 square feet may be adopted with a choice of on-street parking area or playground and/or a lot size of 3,500 square feet may be adopted with no on-street parking area or playground. In the event on-street parking is not provided, one off-street parking space shall be provided on each lot. One parking space per each four lots shall be provided by the developer in addition to the above requirements.

- (c) The setback line for all mobile home park front yards shall conform to the provisions of Section 10.08.050.180(3)B of this chapter. The park side and rear yard shall be at least 25% Depth of Lot in width and shall include a dense screen planting when adjoining property is zoned or used for residential purposes. When said park is adjacent to an arterial thoroughfare, a dense screen planting shall be provided along said thoroughfare.
- (d) Location of Mobile Home on Lot shall be as follows:
  - i Minimum front yard from hitch to lot line shall be thirty (30) feet on town streets and sixty-five (65) feet on Main Street and State Road 162; in the case of a removed hitch, the minimum front yard from trailer to front lot line shall be thirty (30) feet on town streets and sixty-five (65) feet on Main Street and State Road 162.
  - ii Minimum side yard shall be twenty (20) feet.
  - iii Minimum rear yard shall be 25% Depth of lot.
  - iv Minimum distance between mobile homes shall be forty (40) feet; minimum distance between any additions to or projections of a mobile home and the next adjacent mobile home shall be forty (40) feet. In the event the complete mobile home is in excess of fourteen (14) feet in width, the minimum distance between mobile homes shall be forty (40) feet. In any event the aggregate

total of side yards shall not be less than twenty (20) feet.

- (e) Provision must be made, in every mobile home park, for a road in front of every lot. The road surface shall be of the all-weather type with a traffic surface of not less than twenty (20) feet in width, properly crowned and graded. When off-street parking is not utilized, a parking surface of eight (8) feet in width shall be provided along each side of said traffic surface. When such roads come in contact with any public roads or highway, reinforced concrete sewer pipe with cemented joints or continuous iron or steel pipe shall be installed to provide drainage. The cost of such pipe shall be defrayed by the owner or operator of the park and the installation shall be approved by the City Engineer or appointed official. All roads within the park must be accessible for traffic at all times and shall be maintained in first class condition. Roads in any mobile home park will not be accepted into the county road system; therefore, the operator shall provide for their maintenance.
  - (f) Sidewalks of a thirty (30) inch minimum width shall be provided by the developer; said sidewalks shall serve each lot and mobile home.
  - (g) Street lighting shall be provided by the developer. The light value on all occupied streets shall be a minimum of 1/10 foot candle.
4. Water Supply. Water supply shall be from a municipal water service or from approved and protected driven wells that meet all test requirements, provided with tight, elevated concrete platforms and which will not be subject to overflow or surface drainage. The source and supply of the water for human consumption must meet all the requirements of the Spencer County and State Boards of Health. The use of open wells, springs, cisterns, or open storage tanks for human consumption is unlawful and shall constitute a violation of the terms of this ordinance.
5. Waste and Garbage Disposal. Mobile home parks must be kept in clean and sanitary condition and provided with suitable covered metal receptacles for garbage, waste, litter, and trash. Receptacles must be emptied once a week and the contents of same must be disposed of immediately by

incineration or other approved means, as a regular collection by a garbage disposal service.

Liquid wastes from mobile homes shall be collected by a sewage system which has a trapped outlet available to each lot or unit plot and which shall discharge into an approved sewage disposal system. The use of buckets as a depository for waste is unlawful.

6. Sewage Treatment and Sewage Disposal. Primary treatment of all sewage shall be through a sewage disposal process which meets all county and state health requirements. If septic tanks are used, a percolation test will be required meeting the specifications of the County and State Sanitation Code. If a sewage disposal plant or lagoon is used, the system must be approved by the Spencer County and State Boards of Health. Every mobile home park shall provide one (1) or more service buildings based upon the requirements set forth in the Indiana General Assembly Acts of 1955, Chapter 321, Sections 16 to 21 and amendments thereto. Supervision and maintenance of the mobile home park shall comply with the Indiana General Assembly Acts of 1955, Chapter 321, Section 11 and amendments thereto.
7. Alterations. It shall be unlawful to remove the rolling equipment or any part thereof from any mobile home in any mobile home park, other than for incidental repair.
8. Operating Condition of Motor Vehicles and Mobile Homes. All motor vehicles and mobile homes occupying any lot in the Town of \_\_\_\_\_ must be kept in such operating condition that they may be removed or placed in transit within twenty-four (24) hours upon legal service of the sheriff or other law enforcement officer.
9. Registration Requirements for Owners and Operators. Every person proposing the expansion of an existing or creating a new mobile home park shall apply to the Plan Commission for an improvement location permit and shall furnish such relevant information, plans and specifications as will enable the aforesaid Board to pass on the eligibility of such mobile home park.

10. Forms Required for Operators and Tenants.

- (a) Every owner, agent, lessee, person, firm, or corporation that operates or manages any area, tract, subdivision, or any part thereof for use as a mobile home park, shall file, with the Plan Commission at the time of opening the park for occupancy, a Mobile Home Park Registration. The form shall be furnished by the Commission.
- (b) The Owner or Operator, or agent of the Owner, or Operator, before renting or leasing any unit plot, shall complete the Mobile Home Registration form which shall be furnished by the Commission. An original and five (5) copies of the form will be filled out and distributed with one (1) completed form to each of the following:
  - i The Mobile Home Park Operator.
  - ii The State Health Service.
  - iii The \_\_\_\_\_ Plan Commission.
  - iv The School Superintendent of the district in which the park is situated.
  - v The Town Police Chief or Spencer County Sheriff.
  - vi The Spencer County Board of Health.
- (c) The copies of this form are all to be made out in full and properly signed and distributed as indicated. The failure to furnish these records as prescribed shall constitute a misdemeanor within the terms of this ordinance.

N. Camp Grounds. Camp grounds may be permitted in any B-2, B-3 and M-I zones. They may also be permitted in the A and R-2 zones, only when the site is at least six hundred (600) feet from existing residences. They may be permitted in the F-2 zone providing they receive approval from the Indiana Department of Natural Resources, Division of Water prior to the Board's approval. After a public hearing the decision of the Board of Zoning Appeals shall determine whether or not the proposed site may be used for the purpose intended.

- O. Community Unit Projects. The owner or owners of any tract of land comprising an area of twenty (20) or more acres may be submitted to the Plan Commission for the use and development of this land for mixed dwelling purposes in a residential district. It shall be referred to the Plan Commission for study. The Plan Commission shall advertise and hold a public hearing. After the public hearing by the Commission, the plan, together with recommendations of the Commission shall be submitted to the Town Board for consideration.

The considerations for approval and recommendation by the Plan Commission shall be that:

1. The property adjacent to the area included in the plan will not be adversely affected.
2. The plan is consistent with the intent and purpose of this chapter to promote health, safety, morals and general welfare of the community.
3. The buildings shall be used for single-family dwellings of the usual type, or of the cluster type development, duplexes, three (3) and four (4) family dwellings, row houses or apartments, condominiums, and usual accessory uses such as garages, parking areas, storage space, administrative buildings, and community activities including churches.
4. The area shall be provided with community or city sewers and water system and with fire protection.
5. The average lot area per family and minimum yard shall be as follows:
  - (a) Single-family dwellings: 15,000 square feet.
  - (b) Cluster development: Over-all density shall not exceed that of the zone in which the land occurs. The houses in the proposed subdivision shall be grouped in clusters. The minimum lot area shall be two-thirds of the minimum normally required in the zone in which the land is located.
  - (c) Two-family dwellings: 15,000 square feet or 7,500 square feet per dwelling unit.

- (d) Row houses and low apartments not to exceed thirty-five (35) feet in height, 15,000 square feet for the first two units and 4,000 square feet for each additional unit.
6. Provisions shall be made for sufficient utility easements to service the property.
  7. Sufficient parking facilities shall be provided as in Section 10.08.020.090(6). In case parking lots are provided, the following shall be required:
    - (a) There shall be a setback from the street conforming to the requirements of the zone in which the lot is located.
    - (b) The area around the improvement shall be landscaped.
    - (c) There shall be a solid wall or screen planting at least three and a half (3 1/2) feet in height along the street and any side adjoining residential property provided it is not in violation with the provisions of Section 10.08.020.100
    - (d) The improvement shall be at least twenty (20) feet from any property line and forty (40) feet from any building.

If the Town Board approves the plan, improvement location permits and certificates of occupancy may be issued even though the use of the land and the location of the building to be erected and the yards and open spaces contemplated by the Plan Commission do not conform in all respects to the regulations of the zone in which the development is located.

- (2) Considerations for any Special Exception: In considering a petition for any permitted Special Exception, the Board shall give due regard to the following factors as they will apply to the particular situation:
  - A. The location and size of the use; the nature and intensity of the operations involved in or conducted in connection with it; its site layout, including parking space requirements; and its relation to streets giving access to it so that vehicular traffic to and from the use will not create undue hazards to the normal traffic of the vicinity, taking into account among other things, vehicular turning movement in relation to routes of traffic flow, relation to street intersections, sight distances, and relation to pedestrian traffic.



- B. The nature, location, size, and site layout of the use so that it will be harmonious to the district in which it is situated.

(3) Authorization for Continuance:

- A. All special exceptions, except dumps, sanitary landfills and incinerators, which existed upon the effective date of this ordinance and which are located in a district which would permit such use in accordance with the provisions of this section, shall be regarded as conforming uses and may be continued, except that major changes in layout, expansion or extension to such uses shall be subject to Board review and approval as required for special exception.
- B. All special exceptions hereafter authorized by the Board in accordance with the provisions of this section, shall be regarded as conforming uses and may be continued, except that major changes in layout, expansion or extension to such use shall be subject to Board review and approval as required for special exceptions. (Ord. 2004-05, Apr. 7, 2004) (Ord . unnumbered, Title II, S13, No date)

**10.08.030 ZONES**

**10.08.030.140 Establishment of Zones.** For the purposes of this ordinance all land falling within the jurisdiction of this ordinance is hereby divided into fourteen (14) zones and districts designated as follows:

- F2 Flood Plain Zone
- A Agricultural Zone
- RI One-Family Zone
- R2 Multi-Family Zone
- B1 Neighborhood Business Zone
- B2 Rural Business Zone
- B3 General Business Zone
- B-P1 Planned Neighborhood Business District
- B-P2 Planned Rural Business District
- B-P3 Planned General Business District
- I1 Light Industrial Zone
- I2 Heavy Industrial Zone
- I-PL Planned Limited Industrial District
- I-PH Planned Heavy Industrial District

The above zones and districts and boundaries of such zones and districts are hereby established as shown on the map entitled "Town of \_\_\_\_\_ Official Zoning Map" dated \_\_\_\_\_ day of \_\_\_\_\_, 1968, which

accompanies this ordinance and is on file in the office of the Clerk-Treasurer and the Commission. Said map and all explanatory matter thereon are hereby adopted and made a part of this ordinance.

The Town of \_\_\_\_\_ Official Zoning Map shall be identified by the signature of the President of the Town Board and seal of the Town under the words: "I do hereby certify that this is the Official Zoning Map referred to in Title III Section 14 of Ordinance Number of the Town of \_\_\_\_\_" together with the date of the adoption of this ordinance.

If any changes are made in the district boundaries or any other matter portrayed on the Town of \_\_\_\_\_ Official Zoning Map, such changes together with the following statement: "On (date), by official action of the Board of Trustees the following (change) changes (was) were made in the Official Zoning Map: (brief description of nature of change.)" shall be made on the Official Zoning Map promptly after the amendment has been approved by the Town Board. The entry shall be signed by the President of the Town Board and bear the seal of the Town. No amendment to this ordinance involving anything portrayed on the Official Zoning Map shall become effective until after such change has been made on the map.

Regardless of the existence of copies of the Town of \_\_\_\_\_ Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the Clerk-Treasurer is the final authority as to the current zoning status of land and water areas, buildings, and other structures in the town.

**10.08.030.150 Replacement of Official Zoning Map.** In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Town Board may by resolution adopt a replacement which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction may have the effect of amending the original zoning ordinance or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the President of the Town Board and the seal of the Town under the following words: "I do hereby certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption or map being replaced) as part of Ordinance No. \_\_\_\_\_ of the Town of \_\_\_\_\_ along with the date of the resolution. (Ord. unnumbered, Title III, S15, No date)

**10.08.030.152 Interpretation of Zone and District Boundaries.** When uncertainty exists as to the boundaries of the districts shown on the Official Zoning Map, the following rules apply:

- (1) Boundaries indicated as approximately following the center lines of streets, highways, alleys, streams, rivers, or other bodies of water shall be construed to follow such center lines;

- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- (3) Boundaries indicated as approximately following city limits shall be construed as following the city limits;
- (4) Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (3) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
- (5) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections (1) through (4) above, the Board of Zoning Appeals shall interpret the district boundaries. (Ord. unnumbered, Title III, S15A, No date)

**10.08.030.154 Annexed Areas.** All territory which is hereafter annexed to the Town shall be considered to be zoned in the same manner as the contiguous territory inside the previous corporate limits until otherwise classified. (Ord. unnumbered, Title III, S15B, No date)

#### **10.08.040 FLOOD ZONE REGULATIONS**

**10.08.040.160 Flood Zones, Creation of and 10.08.040.170 F2 Flood Plain Zone** have been amended and superseded by the following Ordinances:

- 1975-5 Sections 1, 2, 3, and 4 adopted June 2, 1975
- Ord. 1-1987, Aug. 5, 1987
- Ord. 2-1988, Nov. 2, 1988 and
- Ord. 94-1, April 6, 1994

Chapter 10.15 in this Code Book is dedicated to the current rules and regulations concerning the F2 Flood Plain Zone. (See Chapter 10.15)

#### **10.08.050 AGRICULTURAL ZONE REGULATIONS**

**10.08.050.180 A Agricultural Zone.** The following regulations and the regulations contained in 10.08.020 shall apply in the A Agricultural Zone:

- (1) Permitted Uses as Follows or Uses of a Similar Type:
  - A. Any use permitted in the F2 Flood Plain Zone except Section 10.08.170 Use (4)I.
  - B. One-family detached dwelling and dwellings for tenants employed on the farm, and two-family dwelling.

- C. Park, playground or community center, owned and operated by a local community association for subdivisions or neighborhoods.
- D. Noncommercial institutions.
- E. Stands for the retail sale of agricultural products or commodities raised on the premises. Off-street parking shall be provided in accordance with 10.08.020 Section 10.08.020.090(6).
- F. Accessory buildings and uses customarily incidental to any of the above uses including home occupation, provided that the residential character of such dwelling is not changed and that there shall be not more than one assistant employed.
- G. Professional office in a one-family dwelling, provided that such use is incidental to the main use as a dwelling and further provided that such use is limited to a person actually residing in the dwelling.
- H. Name plate and advertising devices, provided that they shall be erected in accordance with the provisions of 10.08.100.
- I. Riding stable of a private, noncommercial nature on at least three (3) acres of land.
- J. Swimming pools, provided they are enclosed by an animal proof fence not less than three (3) feet in height and further provided they are constructed and maintained in agreement with all county and state board of health laws.

(2) Height:

- A. Maximum Height of Dwelling: Maximum height of a dwelling shall be two and one-half (2 1/2) stories, not to exceed thirty-five (35) feet.
- B. Exceptions: Exceptions to height regulations are provided for in Section 10.08.090.280.

(3) Lot Area and Yards:

- A. Lot Area. Except as hereinafter provided, no residential structure shall be erected or altered in any A Agricultural Zone unless said structure, when completed, shall be in conformity with the following requirements; unless additional lot area is required to be in conformity with Article VI, Section 4D of the Subdivision Control Ordinance “Town of \_\_\_\_\_ Ordinance No. \_\_\_\_\_, 19\_\_\_\_.”

	<b>Minimum Width at Front Building Line</b>	<b>Minimum Net Site Area (Sq. Ft.)</b>	<b>Required Lot Area Per Dwelling Unit No. of Units and Sq. Ft. Per Unit</b>	
If served by individual well and septic tank	150'	43,560	1	38,000
			2	20,000
If served by public or other approved community sewer system.	100'	24,000	1	20,000
			2	10,000

Required lot area shall be exclusive of proposed road right-of-way.

- B. Front Yard. There shall be a front yard between the building line and the highway and street proposed right-of-way lines as shown on the Thoroughfare Plan and by the Town of \_\_\_\_\_ Road Resolution as follows:

<u>Type of Thoroughfare</u>	<u>Setback Distance</u>
1. Main Street	65 feet
2. State Road 162	65 feet
3. Local (residential)	30 feet

- C. Side Yard. There shall be two side yards for each lot, the minimum width of either and the aggregate width of both shall be as follows:

	<b><u>Minimum Width of One Side Yard</u></b>	<b><u>Aggregate Width of Both Yards</u></b>
If served by individual septic tank and well	20 feet	45 feet
More than one dwelling unit	Above plus 2 feet per additional unit	Above plus 4 feet per additional unit
If served by public or other approved community water and sewer system	10% of the lot width or 15 feet whichever is less	25% of the lot width or 35 feet whichever is less
More than one dwelling unit	Above plus 2 feet per additional unit	Above plus 4 feet per additional unit

The side street, side yard of any corner lot shall be not less than twenty-five (25) feet.

- D. Rear Yard. There shall be a rear yard of not less than twenty-five percent (25%) of the depth of the lot.
- E. Lot Coverage. Not more than twenty per cent (20%) of the area of a lot may be covered by buildings and structures.
- F. Exceptions. Exceptions to yard regulations are provided for in Section 10.08.090.290.
- (4) Building Size: No building shall be erected for residential purposes having a floor area of less than seven hundred sixty (760) square feet per primary dwelling unit, exclusive of unenclosed porches, terraces, and garages. Additional units shall have a minimum of four hundred eighty (480) square feet per each additional unit. (Ord. unnumbered, Title V, S18, No date)

## 10.08.060 RESIDENTIAL ZONE REGULATIONS

**10.08.060.190 R1 One-Family Zone.** The following regulations and the regulations contained in 10.08.020 shall apply in the R1 One-Family Zone:

- (1) Permitted Uses as Follows or Uses of a Similar Type:
- A. Any use permitted in Section 10.08.040.170 F2 Flood Plain Zone excepting permitted use (4)A, (4)F, and (4)I.

- B. One-family detached dwelling.
- C. Park, playground or community center, owned and operated by a local community association for subdivisions or neighborhoods.
- D. Swimming pools as specified under the conditions of 10.08.050.180(1)J.
- E. Accessory buildings and uses customarily incidental to any of the above uses including home occupation, provided that the residential character of such dwelling is not changed and that there shall be not more than one assistant employed.
- F. Name plate or advertising devices, provided they shall be in accordance with the provisions of 10.08.100.

(2) Height:

- A. Maximum Height of Dwellings. Maximum height of dwelling shall be two (2) stories, not to exceed twenty-five (25) feet.
- B. Exceptions. Exceptions to height regulations are provided for in Section 10.08.090.280.

(3) Lot Area and Yards:

- A. Lot Area. Except as hereinafter provided, no residential structure shall be erected or altered in any R1 one-family zone unless said structure when completed shall be in conformity with the following requirements.

Minimum lot width at front of Building (Ord. 2004-05, S1, Apr. 7, 2004)	75 Feet
Minimum Site Area (Ord. 2004-05, S2, Apr. 7, 2004)	15,000 Square Feet
Minimum Lot Area (Ord. 2004-05, S3, Apr. 7, 2004)	12,000 Square Feet

- B. Front Yard.

Building Set Back	Main Street and SR 162	65 Feet
(Ord. 2004-05, S4, Apr. 7, 2004)		
From Property line	All other towns and streets	30 Feet
(Ord. 2004-05, S5, Apr. 7, 2004)		

- C. Side Yard. Each lot, except as otherwise specified, shall have two (2) side yards either having a width of not less than twenty (20) feet. (Ord. 2004-05, Apr. 7, 2004)
  - D. Rear Yard. There shall be a rear yard of not less than twenty-five per cent (25%) of the depth of the lot. (Ord. 2004-05, Apr. 7, 2004)
  - E. Lot Coverage. Not more than thirty-five per cent (35%) of the area of the lot may be covered by buildings or structures.
  - F. Exceptions. Exceptions to yard regulations are provided for in Section 10.08.090.290.
- (4) Building Size: No building shall be erected for residential purposes having a floor area of less than 760 square feet, exclusive of unenclosed porches, terraces and garages. (Ord. unnumbered, Title VI, S19, No date)

**10.08.060.200 R2 Multi-Family Zone.** The following regulations and the regulations contained in 10.08.020 shall apply in the R2 Multi-Family Zone.

- (1) Permitted Uses as Follows or Uses of a Similar Type:
- A. Any use permitted in R1 One-Family Zone.
  - B. Two-family dwellings.
  - C. Row or multiple dwellings.
  - D. The following special exceptions shall be permitted if their location is first approved by the Board as provided for in Section 10.08.020.120 and Section 10.08.120.380.
    - 1. Lodging house, tourist home, or tourist cottage.
    - 2. Doctor's office.
    - 3. Nursing or rest home.
  - E. Name plate or advertising devices, provided that they shall be erected in accordance with the provisions of 10.08.100.
- (2) Height:
- A. Maximum Height. Maximum height of dwellings shall be two stories not to exceed twenty-five (25) feet.



- B. Exceptions. Exceptions to height regulations are provided for in Section 10.08.090.280.
- (3) Lot Area and Yards:
- A. Lot Area Per Dwelling Unit for Multi-Family Structures. The required lot area per dwelling unit shall be as prescribed in Section 10.08.050.180(3)A for the first two units. For every structure exceeding two (2) dwelling units there shall be provided a minimum of 4,500 square feet of required lot area per each additional dwelling unit.
  - B. Lot Area for One-Family. Every lot used for one-family purposes shall have a minimum lot area as prescribed in Section 10.08.060.190(3)A.
  - C. Front Yard. Same as required in A zone, Section 10.08.050.180(3)B.
  - D. Side Yards. Each lot, except as otherwise specified, shall have two (2) side yards either having a width of not less than six (6) feet the aggregate width of both side yards on any lot shall be not less than twenty per cent (20%) of the width of the lot.
  - E. Rear Yard. Same as required in R1 zone, Section 10.08.060.190(3)D.
  - F. Lot Coverage. Same as required in R1 zone, Section 10.08.060.190(3)E.
  - G. Exceptions. Exceptions to yard regulations are provided for in Section 10.08.090.290.
- (4) Building Size: Some as required in A zone, Section 10.08.050.180(4). (Ord. unnumbered, Title VI, S20, No date)

## **10.08.070 BUSINESS ZONE REGULATIONS**

**10.08.070.210 B1 Neighborhood Business Zone.** The following regulations and the regulations contained in 10.08.020 shall apply in the BI Neighborhood Business Zone:

- (1) Permitted Uses:
- A. Any use permitted in the R2 Multi-Family Zone which is in conformity with the lot area and yard requirements.

B. The following uses or uses of similar type, provided that they are conducted wholly within a building, except for off-street loading of delivery vehicles which are incidental thereto as required in Section 10.08.020.090:

1. Bakery.
2. Bank.
3. Barber shop or beauty parlor.
4. Book or stationery store.
5. Cleaning establishment using cleaning fluid which is nonexplosive and nonflammable.
6. Club, lodge (nonprofit) or fraternal association.
7. Confectionery store.
8. Custom dressmaking or millinery shop.
9. Department, furniture or radio store.
10. Drug store.
11. Florist or gift shop.
12. Greenhouses and nurseries.
13. Grocery, fruit or vegetable store.
14. Hardware or electric appliance store.
15. Jewelry store.
16. Medical or dental clinic or laboratory.
17. Meat market or delicatessen.
18. Music store or newsstand.
19. Office, business or professional.
20. Photographer.
21. Repair of appliances and small equipment, provided that any repair shall be conducted and confined wholly within a building.

22. Restaurant, tea room or cafe (excluding drive-ins).
  23. Shoe store or shoe repair shop.
  24. Sign painting or tire shop, provided all activities shall be conducted wholly within a building.
  25. Tailor, clothing or wearing apparel store.
  26. Theatre other than “Drive-In”.
  27. Variety store.
  28. Other retail business and service establishments, not specifically referred to in this ordinance, selling new merchandise exclusively.
- C. Automobile Service Stations. Automobile service stations shall be permitted in accordance with Chapter 11 of “Rules and Regulations of the State Fire Marshall Regulating the Use, Handling, Storage and Sale of Flammable Liquids in the State of Indiana”, provided that any tire or tube repairing, battery charging and storing of merchandise or supplies are conducted wholly within a building. Plans for the erection or structural alteration of an automobile service station shall be approved by the Commission. The Commission may require such change therein in relation to yards, location of pumps and buildings and construction of buildings as it may deem best suited to insure safety, to minimize traffic difficulties and to safeguard adjacent properties.
- D. Advertising Devices. Advertising devices shall be permitted provided that they shall be erected in accordance with the provisions of 10.08.100.
- E. Incidental Uses. Uses customarily incidental to any of the above uses and accessory buildings shall be permitted when located on the same lot.
- F. Public Parking Areas. Public parking areas shall be permitted for the exclusive use of the patrons of the stores, shops or businesses in the immediate business zone when located and developed as required in Section 10.08.020.090.
- (2) Height:
- A. Maximum Height. Maximum height of structures shall be three stories.

- B. Exceptions. Exceptions to height regulations are provided for in Section 10.08.090.280.

(3) Yards:

- A. Front Yard. Same as required in A zone, Section 10.08.050.180(3)B.
- B. Side Yards. Where the side of a lot in the B zone abuts upon the side of a lot in an R zone, there shall be a side yard of not less than four (4) feet for each story of height; but such side yard shall not be less than six (6) feet in width. In all other cases, a side yard for a business building shall not be required; but if provided, it shall not be less than four (4) feet in width.

When used for residential purposes on the first floor, the side yard shall be the same as required in R2 zone, Section 10.08.060.200(3)D.

- C. Rear Yard. Where the B zone abuts an R zone, there shall be a rear yard of not less than twenty per cent (20%) of the depth of the lot; but such rear yard need not exceed twenty (20) feet. In all other cases no rear yard shall be required; but if provided, it shall not be less than four (4) feet in depth .
- D. Exceptions. Exceptions to yard regulations are provided for in Section 10.08.090.290. (Ord. unnumbered, Title VII, S21, No date)

**10.08.070.220 B2 Rural Business Zone.** The following regulations and the regulations contained in 10.08.020 shall apply in the B2 Rural Business Zone.

(1) Permitted Uses:

- A. Any use permitted in the B1 Neighborhood Business Zone provided that B1 uses shall be subject to the same limitations and controls, as specifically set forth in the B1 zone, Section 10.08.070.210.
- B. The following uses or uses of a similar type pertinent to farm commodities provided where they are within one hundred fifty (150) feet of a lot of a more restrictive zone. They shall be conducted wholly within the building or within an area screened on all sides by a masonry wall, compact evergreen planting, or uniformly painted ornamental wood fence not less than six (6) feet in height shall be maintained between such use and adjoining residential zones except for off-street loading and delivery vehicles which are incidental thereto as required in Section 10.08.020.090.

1. Agricultural implements, automobile or trailer sales or repair provided that any display or storage area shall be developed as required in Section 10.08.020.090; any incidental repair of implements, automobiles, or trailers shall be conducted and confined wholly within a building.
  2. Building material sales yard, including the sale of lumber (where no millwork is provided), rock, sand and gravel but excluding concrete and asphaltic concrete mixing.
  3. Farm equipment storage yard or equipment rental establishment.
  4. Draying, freighting, or trucking yard or terminal.
  5. Feed sales.
  6. Creamery or ice-cream manufacture.
  7. Wholesale florist, greenhouse.
  8. Poultry or rabbit killing incidental to retail sales on the premises.
  9. Underground bulk storage and fuel oil, liquefied petroleum gas and gasoline in amounts not to exceed 50,000 gallon capacity.
- C. The following uses or uses of a similar type, not pertinent to farm commodities provided they meet the requirements indicated in Section 10.08.070.220(1), Sub-paragraph B shall be permitted.
1. Auction hall, amusement enterprise, including billiard or pool hall, bowling alley, boxing arena, dance hall, games of skill or science, penny arcade, shooting gallery, and the like if the nearest point of the structure is not less than 200 feet from any R zone.
  2. Bottling works.
  3. Drive-in business - where persons are served in automobiles from a refreshment stand, restaurant, food store and the like, provided the area is screened by a masonry wall, compact

evergreen planting or uniformly painted wood fence not less than six (6) feet in height is erected and maintained between such uses and any adjoining R zone or residential development.

4. Drive-in movie.
  5. Driving tees or ranges.
  6. Funeral parlor.
  7. Laundry or dry cleaning establishment, including auto-laundry.
  8. Motel.
  9. Printing shop.
  10. Stadium.
  11. Pet shop.
- D. Advertising devices shall be permitted provided that they shall be erected in accordance with the provisions of 10.08.100.

(2) Height:

- A. Maximum Height. The maximum height of structures shall be the same as required in BI zone, Section 10.08.070.210.
- B. Exceptions. Exceptions to height regulations are provided for in Section 10.08.090.280.

(3) Yards:

- A. Front Yard. Same as required in A zone, Section 10.08.050.180(3)B.
- B. Side Yards. Same as required in B1 zone, Section 10.08.070.210(3)B.
- C. Rear Yard. Same as required in B1 zone, Section 10.08.070.210(3)C.
- D. Exceptions. Exceptions to yard regulations are provided for in Section 10.08.090.290. (Ord. unnumbered, Title 7, S22, No date)

**10.08.070.230 B3 General Business Zone.** The following regulations and the regulations contained in 10.08.020 shall apply in the B3 General Business Zone.

(1) Permitted Uses:

- A. Any use permitted in the B2 Rural Commercial Zone provided all B2 uses shall be subject to the same limitations and controls excepting those regarding maximum height, as specially set forth in the B2 zone, Section 10.08.070.220.
- B. The following uses or uses of a similar type provided that, where they are within 150 feet of a lot in a more restricted zone they shall be conducted wholly within a building; except for the off-street loading of delivery vehicles which are incidental thereto as required in Section 10.08.020.090:
  - 1. Carpenter, cabinet, plumbing or sheet metal fabricating shops, but excluding manufacture.
  - 2. Ice manufacture or cold storage.
  - 3. Warehousing.
  - 4. Wholesale merchandise storage.
  - 5. Any use permitted in the M1 zone provided that not more than ten per cent (10%) of the rentable floor area of any floor of a building is devoted to such use. In determining the floor area so used, it shall be all the rentable floor area occupied by concerns engaged in such production activities exclusive of that used for offices, display, waiting rooms, or clerical work.
  - 6. Pawnshop.
  - 7. Rescue or temporary revival mission.
  - 8. Trade or business school or private school operated as commercial enterprise.
- C. The following uses or uses of a similar type provided they are wholly within a building except for off-street loading of delivery vehicles which are incidental thereto as required in Section 10.08.020.090:
  - 1. Art or antique shop.
  - 2. Second hand store.

3. Upholstering shop.
- D. The following uses or uses of a similar type provided that, where they are within 150 feet of a lot in a more restricted zone they shall be conducted wholly within a building or within an area enclosed on all sides with a solid wall, compact evergreen screen or uniformly painted board fence, not less than four (4) feet in height; except for the off-street loading of delivery vehicles which are incidental thereto as required in Section 10.08.020.090:
1. Building material sales yard, including the sale of lumber, rock, sand and gravel, but excluding concrete and asphaltic concrete mixing.
  2. Contractor's equipment storage yard or plant or rental of equipment commonly used by contractors.
  3. Draying, freighting, or trucking yard or terminal.
  4. Feed or fuel yard.
- (2) Height:
- A. Maximum Height. Maximum height of structures shall not exceed forty-five (45) feet.
  - B. Exceptions. Exceptions to height regulations are provided for in Section 10.08.090.280.
- (3) Yards:
- A. Front Yard. Same as A zone, Section 10.08.050.180(3)B.
  - B. Side Yards. Same as B1 zone, Section 10.08.070.210(3)B.
  - C. Rear Yard. Same as B1 zone, Section 10.08.070.210(3)C.
  - D. Exceptions. Exceptions to area regulations are provided for in Section 10.08.090.290. (Ord. unnumbered, Title 7, S23, No date)

**10.08.070.240 B-P Planned Business Centers.**

- (1) General Conditions: A B-P District may be established upon a tract of land in single ownership or under united control provided that the preliminary and final development plan for a planned business center has been prepared and submitted in compliance with the regulations and requirements of this section.



This district shall be further divided into B-P1, B-P2, and B-P3 districts with requirements as listed below:

If it is to be designated as a B-P1 district, the net area of land to be included and so designated shall be at least one and one half (1 1/2) acres in size. If to be designated as B-P2 district, the net area of land to be included shall be at least five (5) acres. If to be designated B-P3 district, there shall be at least ten (10) acres in size. The net area as used herein shall not include any area within designated highways, streets, alleys, or any other public ways or public property.

The area occupied by a building on a tract of land which is to be established as B-P district shall be twenty-five per cent (25%) or less of the net area of the district. The location of any B-P district shall be on property which has an acceptable relationship to major thoroughfares. The Commission must satisfy itself as to the adequacy of the thoroughfares to carry the additional traffic engendered by the development and may request a report and recommendations from the City Engineer or County Highway Supervisor.

The place of the proposed development must present the unified and organized management of building and service facilities which shall have a functional relationship to the properties and public ways comprising the planned development and shall not adversely affect the properties and the uses of properties immediately adjacent to the proposed development.

The requirements and regulations herein described pertaining to height, yards, setbacks, and parking and loading may be adjusted or modified by the County Plan Commission before a B-P district is established so that the property in question may be developed in a reasonable manner and, at the same time, will not be detrimental to the public welfare and the interest of the community, but in keeping with the general intent and spirit of the zoning ordinance.

The \_\_\_\_\_ Plan Commission shall have the power to make and adopt such rules and regulations necessary and proper to effectuate the purpose of this section. The Plan Commission may, if it sees fit, require the developer to have made a projected shopping analysis of the surrounding trade area in which it is anticipated that the center may draw for its customers.

The proponents of the planned business center shall prepare and submit a preliminary development plan to the \_\_\_\_\_ Plan Commission for its inspection and review, upon which the Plan Commission shall hold a public hearing. Upon determination by the Commission that the preliminary plan, as prepared and submitted,

meets the requirements and regulations of this section, the proponent shall prepare and submit a final development plan, which plan shall incorporate any changes or alterations suggested by the Commission. If the final development plan is found to comply with the intent of the requirements and regulations set forth in this section, the Commission shall prepare and submit to the Town Board a request for ordinance amendment, which amendment shall provide for the establishment of a B-P district in accordance with the final development plan submitted. The Town Board may modify the final development plan consistent with the intent and meaning of the ordinance. The preliminary and final development plans submitted shall comply with the rules and regulations adopted by the Town Board for the submission, review, and development of the planned business centers.

A copy of the final development plan showing the approval of the Town Board shall be filed with the \_\_\_\_\_ Plan Commission.

Application may be made directly to the Town Board for the ordinance amendment of property for a planned business shopping center. But before taking action, the Town Board shall refer the matter to the \_\_\_\_\_ Plan Commission for recommendations. The procedure and requirements for the submission of the plans and the information required shall be the same as though the application had been made directly to the \_\_\_\_\_ Plan Commission and which is provided for in this section.

The proponents of the planned business center shall prepare and submit a schedule of construction, which construction shall begin within a period of one (1) year following the approval of the final development plan by the Town Board. Failure to begin construction as scheduled shall void the plan as approved, unless request for an extension is made by the proponents to the Board of Zoning Appeals and approved by the said board. No fee shall be charged for this request.

If for any reason the plan is abandoned or if the construction is terminated after the completion of any stage and there is ample evidence that further development is not contemplated, the ordinance amendment establishing such B-P district shall be rescinded by the Town Board and the zoning of the portion which is undeveloped as a planned business center shall revert to its former classification as established by ordinance. After the final development plan has been approved and the zoning district has been created, and when, in the course of carrying out this plan, adjustments or rearrangement of the buildings, parking areas, entrances, heights, or yards, are being requested by the proponents, and such request conforms to the

standards established by the approved final development plan for the area to be covered by buildings, parking space, entrances, heights, or setbacks, and lot area requirements, such adjustments may be approved by the Board of Zoning Appeals upon application without fee and after receiving the recommendations of the \_\_\_\_\_ Plan Commission.

The plan shall meet the following requirements as to use, height, yard space, off-street parking and loading, and all driveways or shop accessways.

- (2) Use Regulations: In any B-PI , B-P2, or B-P3 District, no building or land shall be used and no building shall be erected, altered, or enlarged, which is arranged, intended or designed, for other than the following uses or uses of a similar type. In any B-P District, all advertising devices shall comply with the regulations as indicated in 10.08.100.320(4). The plans for any structure shall be submitted as part of the preliminary and final development plan.

A. In a B-P1 District:

1. Any use permitted in 10.08.070.210, “B1 Neighborhood Business” (1) B.2 through B.28 inclusive and C.
2. Artists’ studios.
3. Bakery or pastry shops (retail only).
4. Clinics, for people only.
5. Dancing schools.
6. Garages (storage) for motor vehicles (no body or fender work).
7. Plumbing shops, no tinwork nor outside storage permitted.
8. Public parking lots or stations for passenger cars or taxicabs.
9. Accessory uses customarily incidental to the uses enumerated above, including air conditioning plants and ice refrigeration plants purely incidental to a main activity permitted on the premises.

B. In a B-P2 District:

1. Any use permitted in B-P1 District.

2. Automobile or trailer sales rooms.
3. Bars and cocktail lounges if they comply with the Liquor Ordinance and laws including package stores.
4. Billiard or pool halls and bowling alleys, if the nearest point of the property is more than two hundred (200) feet from the boundary of a residentially zoned property.
5. Bus stations.
6. Business or commercial schools, not to include trade schools.
7. Children's day nurseries for the convenience of customers, including accessory amusement devices.
8. Commercial photography.
9. Drive-in restaurants, where persons are served in automobiles, when the nearest point of the property is more than two hundred (200) feet from the boundary of a residentially zoned or developed property and provided all work is done within the building.
10. Frozen food lockers for individual or family use.
11. Garages (public), provided the nearest point of the property is more than two hundred (200) feet from the boundary of a residentially zoned or developed property, and provided all work is done within the building.
12. Job printing, newspapers, lithographing and publishing.
13. Launderettes, washterias, or self-service laundries, including auto laundries.
14. Loan and finance companies.
15. Office buildings.
16. Pet shops, if entirely within a building.
17. Pony rings, provided the animals are stabled outside of the development.

18. Public parking stations for commercial delivery cars or vehicles not exceeding three-fourths (3/4) ton.
19. Telephone exchanges.
20. Wholesale sales offices and sample rooms.

C. In a B-P3 District:

1. Any use permitted in B-P2 District.
2. Battery stations.
3. Cat and dog hospitals, sound proofed and without outside pens.
4. Diaper service.
5. Drive-in businesses where persons are served in automobiles, such as refreshment stands, restaurants, food stores and the like, provided the nearest point of the property is more than one hundred (100) feet from the boundary of a residentially zoned or developed property.
6. Garages (public), provided the nearest point of the property is more than one hundred (100) feet from the boundary of a residentially zoned or developed property, and provided all work is done within the building.
7. Manufacture of articles sold only at retail on the premises.
8. Miniature golf courses.
9. Parking stations for trucks and buses.
10. Plumbing or sheet metal shops.
11. Sign painting and sign shops.
12. Taxidermy establishments.
13. Tourist courts and motels.
14. Transfer and storage offices.

15. Accessory uses customarily incidental to the above uses.

(3) Height, Yard and Area Regulations:

- A. Height. In a B-P1 District, the height shall not exceed two (2) stories and shall not exceed thirty-five (35) feet.

In a B-P2 District, the height shall not exceed three (3) stories and shall not exceed forty-five (45) feet.

In a B-P3 District, the height shall not exceed five (5) stories and shall not exceed sixty-five (65) feet.

If a planned business center is to be constructed in the vicinity of an airport, no building or structure shall be erected whose roof, chimney, or topmost structure or portion of a structure shall intrude into an approach zone as indicated in Civil Aeronautics Authority regulations provided that this shall not prohibit the erection of a building or structure of a height not over twenty-five (25) feet.

- B. Yards. In any B-P District, there shall be a setback from any street conforming to the requirements of the zone in which the district is located. Any structure in the B-P District shall be at least twenty (20) feet from any other structure and ten (10) feet from any parking lot.

Along any property line within or adjoining an established commercial district, there shall be a setback from any building or structure of at least ten (10) feet unless provisions for a fire lane are not considered necessary. Along any other property line abutting or adjoining a residential zone or developed area, there shall be a setback of at least twenty (20) feet from any building or parking lot. The planned business center shall be screened from any abutting or adjoining properties zoned or used for residential purposes, by a wall, fence, hedge or other suitable enclosure at least three and one half (3 1/2) feet in height, which shall be erected or placed at least fifteen (15) feet from the property line. The area between the wall, fence, or hedge planting shall be planted with grass and trees, or shrubs. Such trees, shrubs, and grass shall be properly and adequately maintained by the developer or subsequent owner.

The building line along any street shall be consistent with the building line established in the neighboring zone.

- (4) Parking and Loading Regulations: In all B-P Districts there shall be provided off-street customer parking space in the ratio of at least ten (10) parking spaces for each one thousand (1,000) square feet of gross floor area for each of the first ten thousand (10,000) square feet of floor area. Eight (8) additional parking spaces shall be required for each additional one thousand (1,000) square feet of gross floor area in excess of ten thousand (10,000) square feet.

Off-street parking space for drive-in service establishments shall be provided in addition to the parking space prescribed for all other retail facilities.

Ample off-street parking space for standard loading and unloading shall be provided within the development. Light used to illuminate the parking area shall be so spaced and directed that it will not shine on adjoining streets or residential properties. (Ord. unnumbered, Title 7, S24, No date)

### **10.08.080 INDUSTRIAL ZONE REGULATIONS**

**10.08.080.250 I1 Light Industrial Zone.** The following regulations and the regulations contained in 10.08.020 shall apply to the I1 Light Industrial Zone.

- (1) Permitted Uses:
- A. Any use permitted in Section 10.08.070.220, B-2 Rural Business Zone and I-P District, Section 10.08.080.270(3), provided all the uses therein shall be subject to the same limitations and controls as specifically set forth in the B-2 Zone, Section 10.08.070.220 and I-P District, Section 10.08.080.270(3).
  - B. The following uses or uses of a similar type, provided that, when they are within one hundred (100) feet of a lot in a more restrictive zone they shall be conducted wholly within a building, except for off-street loading of delivery vehicles as required in Section 10.08.020.090:
    - 1. The manufacture, compounding, processing, packaging, or treatment of food products excepting fish and meat products, sauerkraut, vinegar, yeast, and the rendering or refining of fats and oils.
    - 2. The manufacture of pottery or figurines or any other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.

3. Automobile assembly, painting, upholstering, rebuilding, reconditioning, truck repair or overhauling, tire retreading or recapping, and battery manufacturing.
  4. Blacksmith shops, the manufacturing of machine tools, manufacturing of machinery, including agricultural, electrical machinery or equipment, office or store machines, equipment or supplies and the like, machine shops.
  5. Foundries, casting light weight, non-ferrous, metals not causing noxious fumes or odors.
  6. Animal hospitals or kennels.
  7. Chick hatcheries.
  8. Underground storage of fuel oil, liquefied petroleum gas and gasoline in amounts not to exceed 120,000 gallon capacity.
- C. The following uses or uses of a similar type, provided the operations are carried on completely within the buildings or an area enclosed with dense screen plantings or a solid fence:
1. Auto wrecking.
  2. Bleaching or dyeing.
  3. Body or fender works.
  4. Breweries or liquor distilleries.
  5. Stone cutting.
  6. Storage, sorting, collection, or bailing of rags, paper, metal, or junk.
- D. Advertising devices shall be permitted provided they shall be erected in accordance with the provisions of 10.08.100.

(2) Height:

- A. Maximum Height. The maximum height of structures shall be the same as required in B3 zone, Section 10.08.070.230, provided that no building or structure nor the enlargement of any building or structure shall be hereafter erected or maintained to exceed the height requirements of an adjacent R zone when such building or structure is within one hundred fifty (150) feet of said adjacent R zone.



- B. Exceptions. Exceptions to height regulations are provided for in Section 10.08.090.280.

(3) Yards:

- A. Front Yard. Same as required in Section 10.08.050.180(3)B.
- B. Side Yards. Same as required in Section 10.08.070.210(3)B.
- C. Rear Yards. Same as required in Section 10.08.070.210(3)C.
- D. Exceptions. Exceptions to yard regulations are provided for in Section 10.08.090.290. (Ord. unnumbered, Title VIII, S25, No date)

**10.08.080.260 I2 Heavy Industrial Zone.** The following regulations and the regulations contained in 10.08.020 shall apply in the I2 Zone:

(1) Permitted Uses:

- A. The following uses or uses of a similar type, provided where they are within one hundred fifty (150) feet of a residential zone or area or business zone; they shall be contained wholly within a building or within an area enclosed on all sides with a solid wall, compact evergreen screen or uniformly painted board or metal fence which shall not allow any stored material to be viewed from the opposite side of any immediately adjacent street by a line of sight, the origin of which shall be not less than six (6) feet; except for the off-street parking and loading of delivery vehicles which are incidental thereto as required in Section 10.08.020.090. Any use allowed in I1 Zone, paragraphs B, C and D may be permitted.
  - 1. Acetylene gas manufacture or storage.
  - 2. Agriculture.
  - 3. Alcohol manufacture.
  - 4. Ammonia or bleaching powder manufacturing.
  - 5. Asphalt manufacturing or refining.
  - 6. Boiler works, locomotive or railroad car manufacturing.

7. Brick, tile, terra cotta or cinder block manufacturing.
8. Carbon or lampblack manufacturing.
9. Central station light or power plant.
10. Coal distillation including manufacture or derivation of the by-products.
11. Coke oven.
12. Creosote manufacture or treatment.
13. Furniture manufacture.
14. Garbage feeding or disposal.
15. Gas manufacture from coal or petroleum or the storage thereof.
16. Incinerator, industrially affiliated.
17. Iron or steel foundry, steel furnace or rolling mill, except smelting.
18. Meat products manufacture.
19. Oil cloth or linoleum manufacture.
20. Paint, oil (including linseed), shellac, turpentine, lacquer or varnish manufacture.
21. Planing mill.
22. Plastic manufacture.
23. Power forge.
24. Pyroxylin manufacture.
25. Railroad yards including turntables and repair facilities.
26. Rubber or gutta-percha manufacture or treatment.
27. Soap manufacture.
28. Stove or shoe polish manufacture.
29. Tanning, curing or storage of raw hides.

30. Tar distillation or tar products manufacture.

- (2) Height, Yard, and Area Regulations: Same as I1, Section 10.08.080.250, Paragraphs (2) and (3). (Ord. unnumbered, Title VIII, S26, No date)

**10.08.080.270 I-P Planned Industrial Districts.**

- (1) General Conditions: An I-P District may be established upon a tract of ground in single ownership or under unified control provided a preliminary and final development plan for the Planned Industrial Area has been prepared and submitted in compliance with the regulations and requirements of this section. This district may be further divided into I-PL and I-PH districts with requirements as listed below:

A. I-PL Planned Limited Industrial District. If a tract of land is to be designated as an I-PL District, it shall be at least thirty (30) acres in area unless in accordance with a comprehensive plan for future development, the area falls into one of the following classifications:

1. A small area which is isolated from residential neighborhoods by railroads, parks, or natural boundaries.
2. A portion of a larger industrial district.
3. Where buffer zones may be desirable, where the established pattern assures the Plan Commission of proper control.
4. Where co-operative agreements of development interests give the \_\_\_\_\_ Plan Commission assurance of a unified management.

B. I-PH Planned Heavy Industrial District. If an area is to be designated as a Planned Heavy Industrial District, it shall be at least sixty (60) acres in area, unless the Plan Commission sees fit to reduce this area because of any reason indicated in the second paragraph of this section.

The area occupied by buildings on the tract of land which is established as an I-P district shall be thirty-five (35) per cent or less of the net area of the tract. The balance of the land shall be used for parking, loading, lawns, landscaping, etc.

The location of any I-P district shall be on property which has an acceptable relationship to the major thoroughfares. The

Plan Commission must satisfy itself as to the adequacy of the thoroughfares to carry the additional traffic engendered by the development and the Commission may divert truck traffic away from residential neighborhoods.

The plan for the proposed development must present a unified and organized arrangement of buildings and service facilities which have a functional relationship to the properties and public ways comprising the planned development and not adversely affect the properties and the use of properties immediately adjacent to the proposed development.

The requirements and regulations herein described pertaining to height, yard, setback, parking, and loading, may be adjusted or modified by the \_\_\_\_\_ Plan Commission before an I-P district is established so that the property in question may be developed in a reasonable manner and, at the same time, will not be detrimental to the public welfare and interests of the communities and will be in keeping with the general intent and spirit of the zoning ordinance.

The Commission shall have power to make and adopt such rules and regulations necessary and proper to effectuate the purpose of this section. The proponents of the planned industrial center shall prepare and submit a preliminary development plan to the \_\_\_\_\_ Plan Commission for its inspection and review upon which plan the Commission shall hold a public hearing. Upon determination by the Plan Commission that the preliminary plan, as prepared and submitted, meets the requirements and regulations of this section, the proponent shall prepare and submit a final development plan, which plan shall incorporate any changes or alterations suggested by the Commission. If the final development plan is found to comply with the intent, requirements and regulations set forth in this section, the Plan Commission shall prepare and submit to the Town Board a request for ordinance amendment, which amendment is to provide for the establishment of an I-P district in accordance with the final development plan submitted. The Town Board may modify the final development plan consistent with the intent and meaning of this ordinance. The preliminary and final development plan submitted shall comply with the rules and regulations adopted by the Town Board for the submission, review, and development of the planned industrial area. A copy of the final development plan, showing the approval of the Town Board, shall be filed with the \_\_\_\_\_ Plan Commission.

Application may be made directly to the Town Board for the zoning of a planned industrial area, but before taking action, the Town Board shall refer the matter to the Plan Commission for recommendations. The procedure and requirements for the submission of plans and the information required shall be the same as though the application had been made directly to the Plan Commission and which is provided for in this section. When the matter has been referred to the \_\_\_\_\_ Plan Commission by the Town Board and action has been taken by the Commission, the plan, together with the recommendations of the Commission shall be submitted to the Town Board.

The proponents of the planned industrial area shall prepare and submit a schedule of construction, which construction shall begin within a period of one (1) year following the approval of the final development plans by the Town Board. Failure to begin the construction as scheduled shall void the plan as approved, unless a request for an extension of time has been made by the proponents to the Board of Zoning Appeals and approved by said Board. No fee shall be charged for this request.

If for any reason the plan is abandoned or if construction is terminated after the completion of any stage and there is ample evidence that further development is not contemplated, the ordinance amendment establishing the I-P district may be rescinded by the Town Board and the zoning of the portion which is undeveloped as a planned industrial area, shall revert to the former classification as established by ordinance.

After the final development plan has been approved and the zoning district has been created, and when, in the course of carrying out this plan, adjustments for re-arrangement of buildings, parking areas, entrances, heights, or yards are requested by the proponents and such requests conform to the standards established by the approved final development plan for the area to be covered by buildings, parking space, entrances, height, setback, and lot area requirements, such adjustments may be approved by the Board of Zoning Appeals upon application without fee and after receiving the recommendations of the \_\_\_\_\_ Plan Commission.

The plan shall meet the following requirements as to use, height, yard space, off-street parking and loading, and all drive-ways and accessways.

- (2) Use Regulations: In the I-P district, which is further subdivided into I-PL and I-PH, no building or land shall be used and no building shall be erected, altered, or enlarged which is arranged, intended, or designed for other than the following uses.

In any I-P district, all advertising devices shall comply with the regulations as indicated in 10.08.100.320(5). The flat wall device indicated will not be construed to mean billboards attached or mounted upon buildings. All the plans for advertising devices shall be submitted as part of the preliminary and final development plan for the approval of the \_\_\_\_\_ Plan Commission.

- (3) I-PL Planned Limited Industrial District: The following uses or uses of a similar type shall be permitted when operations are conducted wholly within a building; except where off-street loading or delivery vehicles which are incidental thereto are required in Section 10.08.020.090:
- A. Any use permitted in Section 10.08.080.250(1), I1 Light Industrial Zone, provided all the uses therein shall be subject to the same limitations and controls as specifically set forth in the I1 zone, and provided further that a building containing dwelling units shall not be permitted.
  - B. The compounding, processing, packing or treatment of such products as bakery goods, candy, cosmetics, drugs, perfumed toilet soap, pharmaceuticals, and toiletries.
  - C. The compounding, assembly, and treatment of articles where merchandise is from the following prepared materials:

Bones, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, grass, hair, horn, leather, paper, plastic, precious or semi-precious metals or stones, shells, textiles, tobacco, wood (excluding planeing mill), yarn, and paint (not employing a boiling process).
  - D. The manufacture or repair of electric or neon signs, billboards, light sheet metal production, heating or ventilating ducts or equipment, cornices or edges and the like.
  - E. The manufacture of musical instruments, clocks, watches, toys, novelties, and rubber or metal stamps.
  - F. Assembly of electrical appliances, electronic instruments and devices, radio and phonograph and including the manufacture of small parts only, such as coils, condensers, transformers, crystals and crystal holders.

G. Laboratory, experimental photography, motion picture film, or testing.

H. Wholesale warehouses and storage buildings.

- (4) I-PH Planned Heavy Industrial District: The following regulations and the regulations in 10.08.020 shall apply in the I-PH District.

The following uses or uses of a similar type provided where they are within one hundred fifty (150) feet of residential or business zone, they shall be contained wholly within a building or within an area enclosed on all sides with a solid wall, compact evergreen screen or uniformly painted board or metal fence not less than six (6) feet in height; except for the off-street parking and loading of delivery vehicles which are incidental thereto as required in Section 10.08.020.090.

A. Any use permitted in Section 10.08.080.260 and Section 10.08.080.270(3).

B. Height, Yard, and Area Regulations:

1. Height. In an I-PL District the height shall not exceed three (3) stories and shall not exceed thirty-five (35) feet.

In an I-PH District the height shall not exceed three (3) stories and shall not exceed forty-five (45) feet except for grain elevators which may be higher.

If a Planned Industrial Area is to be constructed in the vicinity of an airport, no building or structure shall be erected whose roof, chimney, or uppermost structure or portion of structure shall intrude into an approach zone as indicated in CAA regulations provided that this shall not prohibit the erection of a building or structure to a height of twenty-five (25) feet. In case a building of twenty-five (25) feet intrudes into an approach zone, the airport shall be expected to obtain the control of this area through the purchase of land on an aviation easement.

2. Yards. In any I-P district there shall be a setback line from any street conforming to the requirements set forth in 10.08.050.180(3)B. There shall also be a setback of at least twenty (20) feet from any building and fifteen (15) feet from any parking lot. Along any property line within or adjoining an established commercial zone or area there shall be a setback for any building or structure of at least twenty (20) feet unless provisions for a fire lane are not considered necessary.

Along any property line abutting or adjoining a residential zone or development, there shall be a setback of at least twenty (20) feet for any building or parking lot. The planned industrial area shall be permanently screened from such abutting or adjoining properties, zoned or used for residential purposes, by a wall, hedge, fence, or other suitable enclosure at least five (5) feet in height which shall be erected or placed at least fifteen (15) feet from the property line. The area between such wall, hedge, or fence shall be landscaped. Such landscaping shall be properly and adequately maintained by the developer.

The building line along any street shall be consistent with the building line established in the neighboring buildings.

The \_\_\_\_\_ Plan Commission may recommend a reduction in the above required setback where the situation will reasonably warrant such reduction.

- C. Parking and Loading Regulations. In all I-P districts there shall be provided off-street customer and employee parking space for any manufacturing, processing, wholesaling, or any other industrial use or establishment including warehouse and storage building. There shall be provided one (1) parking space for each two hundred (200) square feet of gross floor area thereof. In case an industrial establishment can foresee the number of employees that will be required, a ratio of two (2) employees per parking space may be substituted for the above quotation.

The off-street parking space required above shall be provided in addition to any space used for commercial parking lot, taxicab stand, truck and bus parking, or loading space for commercial delivery cars or trucks. Where such facilities are provided they shall comply with provisions of Section 10.08.020.090(5). Ample off-street parking space for standing, loading, and unloading shall be provided within the development in compliance with Section 10.08.020.090. The driveways and parking area shall be illuminated. Lights used to illuminate the parking area shall be so placed that they will not shine on adjoining streets or properties. (Ord. unnumbered, Title VIII, S27, No date)



## 10.08.090 EXCEPTIONS AND MODIFICATIONS

### 10.08.090.280 Height.

- (1) Three (3) Story Buildings in Two (2) Story Zones: In the zones limiting height to two (2) stories not to exceed twenty-five (25) feet, any permitted structure may be increased in height to three (3) stories not to exceed forty-five (45) feet, provided the required side yards are increased an additional one (1) foot for each three (3) feet such structure exceeds twenty-five (25) feet.
- (2) Through Lots (one hundred fifty (150) feet or less in depth): On through lots one hundred fifty (150) feet or less in depth, the height of a building may be measured from the adjoining curb level on either street.
- (3) Through Lots (more than one hundred fifty (150) feet in depth): On through lots more than one hundred fifty (150) feet in depth, the height regulations and basis of height measurements for the street permitting the greater height shall apply to a depth of not more than one hundred fifty (150) feet from that street.
- (4) Structures Permitted Above Height Limit: Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, fire or parapet walls, skylights, television aerials, steeples, roof signs, flagpoles, chimneys, smokestacks, wireless masts, water tanks, grain elevators, silos, gas containers, material hoppers, or similar structures may be erected above the height limits herein prescribed; but no penthouse or roof structure or any space above the height limit shall be allowed for the purpose of providing additional floor space for residential, business or industrial use. (Ord. unnumbered, Title IX, S28, No date)

### 10.08.090.290 Area and Yards.

- (1) Yard Regulations Modified: Where the yard regulations cannot reasonably be complied with or their application determined on lots of peculiar shape, location or topography, such regulations may be modified or determined by the Board, as provided for in Section 38.
- (2) Front Yard (between projecting buildings): Where a lot is situated between two (2) lots, each of which has a main building which projects beyond the ordinance established front yard line and was so maintained when this ordinance become effective, the front yard requirement on such lot may be the average of the front yards of said existing buildings, provided, however, the front yard of such lot shall be not less than ten (10) feet.

- (3) Front Yard (adjoining projecting building): Where a lot adjoins only one (1) lot having a main building which projects beyond the ordinance established front yard line and has been so maintained since this ordinance became effective, the front yard requirement on such lot may be the average of the front yard of the existing building and the established front yard line, provided, however, the front yard of such lot shall be not less than ten (10) feet.
- (4) Side Yards Waived: For the purpose of side yard regulations, the following dwellings with common party walls shall be considered as one (1) building occupying one (1) lot: semi-detached dwellings, row dwellings, and group dwellings.
- (5) Front and Side Yards Waived. The front and side yards may be waived for dwellings, hotels, and lodging houses erected above the ground floor of a building when said ground floor is designed and used exclusively for business and/or industrial purposes.
- (6) Rear Yard Accessory Building: An accessory building, not exceeding twenty (20) feet in height may occupy not more than thirty (30) per cent of the area of a required rear yard, providing it is no less than five (5) feet from any side or rear lot line.
- (7) Through Lot May Be Considered as Two (2) Lots: Where a through lot has a depth of two hundred (200) feet or more, and an area of 20,000 square feet or more, said lot may be assumed to be two (2) lots with the rear line of each approximately equidistant from the front lot lines, provided all area requirements are complied with.
- (8) Projection into Yards:
  - A. Porte Cochere. A porte cochere may be permitted over a driveway in a side yard, provided such structure is not more than one (1) story in height and twenty (20) feet in length, and is entirely open on at least the front and rear sides, except for the necessary supporting columns and customary architectural features provided, however, said porte cochere does not extend to within six (6) feet of a side lot line.
  - B. Cornice, Sill or Chimney. A cornice, eave bolt course, sill, canopy or other similar architectural feature (not including bay window or other vertical projection) may extend or project into a required front, side or rear yard not more than two (2) feet, provided the width of such side yard is not reduced to less than three (3) feet.
  - C. Fire Escape. A fire escape may extend or project into any required front, side or rear yard not more than four (4) feet.

- D. Open Stairway and Balcony. An open, unenclosed stairway or balcony, not covered by a roof or canopy, may extend or project into a required rear yard, and such balcony may extend into a required front yard not more than thirty (30) inches.
- E. Open Porch. An open, unenclosed porch, platform or land place not covered by a roof or canopy, which does not extend above the level of the first floor of the building, may extend or project into any required side yard not more than four (4) feet and into any required front or rear yard not more than eight (8) feet.
- F. Fence or Wall.
1. Fences, walls or hedges may be permitted on any property provided that no fence, wall or hedge shall be erected on any property closer than two (2) feet of the rear and side property line or public sidewalk, six (6) feet from a fire hydrant, and three (3) feet from the front property line or road right-of-way, and may not be more than six (6) feet in height, except in commercial and industrial zones which may be taller than six (6) feet. However, if the adjoining property owners mutually agree in writing, the fence, wall or hedge may be erected on the property line. Prior to any fence, wall or hedge being erected, the landowner wanting to erect it shall provide, at their sole cost and expense, a survey clearly showing the property lines on the ground. All fencing material attached to posts shall be attached to the exterior of the posts. No fence shall be electrified or electrical in nature. Fences may only be constructed of chain link, wood, welded wire, vinyl, PVC, brick, stone, or similar masonry products. (Ord. 2017, S1, Aug. 1, 2017)
  2. Vision Clearance on Corner Lots. On any corner lot in any residential district, no sign, structure or plantings higher than three and one half (3 1/2) feet above, established curb grade, except trees with a minimum clearance of eight (8) feet from the ground to the lowest branch, shall be erected or maintained within a line connecting points on the street lot lines twenty (20) feet distance from the corner. (Ord. 2017-04, S2, Aug. 1, 2017)
- G. Landscape Feature. A landscape feature, such as trees, shrubs, flowers or plants, shall be permitted in any required front, side or rear yard, provided it does not violate the provisions of Section 10.08.100. (Ord. unnumbered, Title IX, S29, No date)

## 10.08.100 ADVERTISING DEVICES

**10.08.100.300 Improvement Location Permit.** After the enactment of this ordinance it shall be deemed unlawful to erect, place, attach or structurally alter any advertising device in the Town of \_\_\_\_\_, State of Indiana, unless and until an Improvement Location Permit has been issued. Upon the issuance of said permit the advertising company or its agent may erect, place, attach or structurally alter said advertising device only if the device shall be in conformity with all sections of this 10.08.100. (Ord. unnumbered, Title X, S30, No date)

**10.08.100.310 Exceptions to Section 10.08.100.300.** A name plate or sign not exceeding one (1) square foot, house or address notations, a device pertaining to the sale of the property on which it is located and not exceeding twelve (12) square feet, a device pertaining to a home occupation or sale of farm produce providing it does not exceed twelve (12) square feet and that it is limited to the advertising of items crafted or grown on the premises and that it is located not more than five hundred (500) feet from the actual premises on which the product is being sold, providing that said device shall be in conformity with all other provisions. (Ord. unnumbered, Title X, S31, No date)

**10.08.100.320 Area and Location.** Yard restrictions set out in other sections of this ordinance do not apply to advertising devices except where direct reference is made to said devices; the restrictions as set forth in this 10.08.100 shall apply in all other cases. The size and location of all advertising devices shall comply with the provisions of this 10.08.100.

- (1) Churches, Schools and Institutions. All churches, public or parochial, primary, or secondary schools, and all institutions shall be limited to one free, standing, advertising device not to exceed twenty-four (24) square feet. In the event the church, school or institution faces more than one street, one advertising device per street may be permitted on the building's site. All such devices shall be located not less than fifteen (15) feet behind the front or side lot line, except where affixed to the wall of the building and not extending over the sidewalk.
- (2) A, R-1 and R-2 Zones: The following regulations pertain to advertising devices permitted in the A, R-1 and R-2 zones; for additional regulations in the A zone see Section 10.08.100.320(6).
  - A. Name Plate or Sign. One per dwelling unit, not exceeding one (1) square foot in area.
  - B. Home Occupation. Unlighted, not to exceed two (2) square feet in area. The required front setback shall be not less than fifteen (15) feet from the front or side property lines.
  - C. Temporary. One per lot or use, not to exceed twelve (12) square feet in area, pertaining to sale or rental of property on which it is located; or giving names of contractors, engineers and/or architects during a

construction period. The required front setback shall be not less than fifteen (15) feet from the front and/or side property lines.

- D. Temporary. One sign, not to exceed one hundred twenty-eight (128) square feet in area and no single dimension to exceed sixteen (16) feet, advertising the sale of lots within the subdivision and located within the subdivision and located thereon, providing that not more than one (1) such sign be located at each major approach to the subdivision. The setback from the front or side lot line shall be equal to one-half (1/2) the required front building setback as specified for the zone in which it is situated. Said sign shall be removed by the developer or his agent, upon the completion or the sale of 90% of the lots in the subdivision.
  - E. Permanent. One identification device not exceeding twenty (20) square feet in area for multiple dwellings, provided that such device shall be located not less than fifteen (15) feet from the front and/or side property lines, except where it is affixed to the wall of the building and does not extend over the sidewalk.
  - F. All advertising devices, except as mentioned in Subsections (1) and (2) of this Section 10.08.100.320 and official signs of government agencies, are prohibited in the R-1 and R-2 zones.
- (3) B1, B2, B3, I1, and I2 Zones: In any B1, B2, B3, I1, and I2 zone, an advertising device may be permitted provided that when same is located within seventy-five (75) feet of an R zone or residentially used area boundary line, it shall be affixed to or be a part of a building, and not to extend over any street line nor project above the roof line and shall pertain only to a use conducted within the building. The size shall be limited to three (3) square feet of area to each lineal front foot of the building displaying such device.
- A. No free-standing device shall have an advertising area exceeding three hundred twenty (320) square feet in area.
  - B. No flashing advertising device shall be located within three hundred (300) feet of any residentially zoned or developed area.
  - C. Yard restrictions shall be as required in the zone in which the device is located.
- (4) In any B-P, Planned Shopping Center District:
- A. One (1) advertising device not to exceed six hundred (600) square feet in area on each thoroughfare on which the shopping center has established entrance drives. Such device shall give the name of the center and may be used to give the names of individual stores but

shall not be used to advertise any products or merchandise within the center.

- B. No free standing advertising device shall be permitted within the shopping center, except as permitted in Subsection (4)A of this Section 10.08.100.320.
  - C. Advertising devices attached to the buildings, not projecting above the roof line, shall be permitted. Such devices shall give the name of the store or use and shall not be used to advertise merchandise sold on the property. The size shall be limited to three (3) square feet of area to each lineal front foot of the building displaying such device.
  - D. Yard restrictions shall be as required in 10.080.070.240(3).
  - E. Small hanging name plates not to exceed four (4) square feet in area shall be permitted within the pedestrian mall or over walkways at a minimum height of seven and a half (7 1/2) feet above the walkway, attached to the store or use, giving the name of the store or use and at no time being used for advertising products or merchandise sold on the property. All such name plates shall be of uniform design throughout the shopping center.
  - F. Any advertising devices attached to or painted on the display windows of the building shall be exempted.
  - G. The nature of all advertising devices within the shopping center shall be included in the final development plan and shall be subject to the approval or disapproval of the Commission.
- (5) In any I-P, Planned Industrial District:
- A. An advertising device at each major entrance to the planned industrial park, not to exceed six hundred (600) square feet in area, stating the name of the park if applicable, and listing the names of the various industrial uses located within the park.
  - B. Temporary devices advertising the sale of lots and directional signs at major intersections within the park which aid in the location of establishments, truck loading docks and visitors parking facilities. Such devices shall not exceed twenty (20) square feet in area and shall be situated so as not to cause a traffic hazard and they shall be of uniform design throughout the planned industrial area.
  - C. Yard restrictions shall be as required in 10.08.080.270.
  - D. Flat wall devices attached to the building or use stating the name of the operation shall not be placed so as to exceed ten (10) feet in

height above the roof line of the building. Not more than twenty-five per cent (25%) of the area of such device shall be devoted to product advertising and then only for advertising of products produced on the premises.

- E. Any advertising devices attached to or painted on the display windows of the building shall be exempted.
- F. The nature of all advertising devices within the Planned Industrial District shall be included in the final development plan and subject to the approval or disapproval of the Commission.

(6) In any A or F2 Zone

- A. Advertising devices pertaining to a home occupation or sale of farm produce not to exceed twelve (12) square feet and limited to advertising items crafted or grown on the premises and located not more than five hundred (500) feet from the actual premises on which the product is being sold.
- B. Free-standing, nonaccessory advertising device, that is, any device advertising a business, use, activity, product, or merchandise not sold, handled or occurring on the property on which the device is located shall be subject to the following:
  - 1. Such advertising device shall be in conformity with the front yard requirements as specified in 10.08.050.180(3)B.
  - 2. Said device shall be a minimum of three hundred (300) feet from a line projected perpendicular across the highway from a dwelling, church, school, or public institution.
  - 3. Said device shall be a minimum of four hundred (400) feet from any dwelling or land platted, divided, or zoned for residential use, school, church, park, or place of public assembly.
  - 4. Said device shall be a minimum of one hundred (100) feet from a side property line, when such property line is a division line of property ownership.
  - 5. Said device shall be a minimum of two hundred (200) feet from a railroad or a cross road intersection, a "T" road or highway entrance, a bridge or a stretch of highway that is specified as being hazardous by the State or County, a turn in the highway or an entering lane or road, and the curve of a curved highway.

(7) General Provisions for All Advertising Devices:

- A. All devices, either of a temporary or permanent nature, shall be constructed or maintained in a presentable manner for the life of the device.
- B. Any nonconforming device that is or becomes in a rundown or objectional condition shall be removed from the premises by the owner of said device. Said condition shall exist when the device is determined to be in excess of thirty (30) per cent destroyed by acts of God or man. Said determination shall be made by the Town Board and the Commission.
- C. Any nonconforming advertising device not attached to a building, lawfully existing upon the effective date of this ordinance shall be discontinued on or before ten (10) years after the effective date of this ordinance unless a discontinuance date has been established by a prior zoning ordinance in which case such prior date of discontinuance shall apply, unless in the meantime it is determined or made conforming with this Section 10.08.100.320.
- D. Advertising devices may contain not more than one sign per facing, nor more than two sides per said device.
- E. All new devices (except those referred to in Subsection (7)I of this Section 10.08.100.320) in excess of twenty (20) square feet and not an integral part of another structure shall require an Improvement Location Permit.
- F. Any device that is deemed a traffic hazard for reason of obstructing the view of an approaching road or intersection, railroad, school playground or park, pedestrian crosswalk or any other situation that may endanger health and welfare of any pedestrian or occupant of any vehicle shall be prohibited.
- G. Said device shall be a minimum of one thousand three hundred twenty (1,320) feet from another advertising device located on the same side of a two-lane State, Federal or County Highway. Where located in a commercial zone, there shall be a separation requirement of two hundred (200) feet. Where located in an industrial zone there shall be a separation requirement of one hundred (100) feet.
- H. For the purposes of sub-paragraph G first above, a series of 1 to 6 signs, each having an area of no greater than six (6) square feet and spaced at least one hundred (100) feet apart, which are designed to be read in sequence to convey a single message, shall be considered as one advertising device.



- I. The following signs shall be excluded from the provisions of this ordinance:
  1. All signs necessary for convenience and safety established by the Federal, State, and/or County Highway Departments.
  2. A notice of change of zoning as established by the Commission.
  3. Only those devices of a temporary nature, advertising or giving directions to an official, special event, all such devices shall be removed within twenty-four (24) hours after they become no longer applicable. (Ord. unnumbered, Title X, S32, No date)

### **10.08.110 ADMINISTRATION AND ENFORCEMENT**

It shall be the duty of the Zoning Administrator to enforce the provisions of this ordinance in the manner and form and with the powers provided in the laws of the State of Indiana and in the Ordinances of the Town.

**10.08.110.330 Improvement Location Permit.** No building or structure, except buildings incidental to agricultural operations shall be erected, reconstructed, enlarged or moved until an Improvement Location Permit shall have been applied for in writing and issued by the Zoning Administrator. A fee of sixty (\$60.00) dollars shall be paid when making application for an Improvement Location Permit. Said fee will be used for payment to Zoning Inspector (\$50.00) and bookkeeping fee of (\$10.00) per permit. Said permit shall be posted in a prominent place on the premises prior to and during the period of erection, reconstruction, enlargement or moving. Before a permit is issued for the erection, moving, alteration, enlargement or occupancy of any building or structure or use of premises, the plans and intended use shall indicate conformity in all respects to the provisions of this ordinance. (Ord. 3-96, Dec. 30, 1996) (Ord. 4-95, Oct. 4, 1995)

- (1) Site Plan: Every application for an Improvement Location Permit submitted to the Zoning Administrator shall be accompanied by a site plan, drawn to scale, showing the lot and the building site and the location of existing buildings on the lot, accurate dimension of the lot, yards and building or buildings, together with locations, size and use of any land and all buildings not only on the lot but within fifty (50) feet from the boundaries thereof, unless separated therefrom by a street, together with such other information as may be necessary to the enforcement of this ordinance.
- (2) Interpretation of Ordinance: In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of health, safety, morals, convenience or the general welfare. The lot or yard areas required by this ordinance for a particular building shall not be diminished (other than by the Board of Zoning Appeals), and shall not be included as part of the required lot or yard areas of any other building. The

lot or yard areas of buildings existing at the time this ordinance became effective shall not be diminished below the requirements herein provided for buildings hereafter erected and such required areas shall not be included as a part of the required areas of any building hereafter erected.

- (3) Completion of Existing Buildings: Nothing in this ordinance shall require any change in the plans, construction or intended use of a building, the construction of which have been diligently prosecuted at least two (2) months preceding the date of this ordinance, and such entire building shall be completed within two (2) years from the date this ordinance became effective. Nothing herein shall prevent the reconstruction of a wall or other structural part of a building declared unsafe by the State Fire Marshal or the Administrative Building Council of the State of Indiana.

No Improvement Location Permit for erection of any building shall be issued before application has been made for a Certificate of Occupancy. (Ord. unnumbered, Title XI, S33, No date)

**10.08.110.340 Certificate of Occupancy.** A certificate of occupancy to be issued by the Zoning Administrator shall be required for any of the following, except buildings incidental to agricultural operations.

- (1) Occupancy and use of a building or structure hereafter erected or enlarged.
- (2) Change in use of an existing building or structure.
- (3) Occupancy and use of vacant land except for agricultural operations.
- (4) Change in the use of land to a use of a different classification except for agricultural operations.
- (5) Any change in the use of a nonconforming use.

No such occupancy, use or change of user, shall take place until a certificate of occupancy therefore shall have been issued .

Written application for a certificate of occupancy for a new building or for an existing building which has been enlarged shall be made at the same time as the application for the Improvement Location Permit for such building. No fee shall be charged for an original certificate applied for, coincident with the application for an Improvement Location Permit; for all other certificates or for copies of any original certificate there shall be a charge of one dollar (\$1.00) each. Said certificate shall be acted upon within four (4) days after a request for the same has been made to the Zoning Administrator after the erection or enlargement of such building or part thereof has been completed in conformity with the provisions of this ordinance.

Pending the issuance of such a certificate, a temporary certificate of occupancy may be issued by the Zoning Administrator for a period of not more than six (6) months during the

completion of the construction of the building or of alterations which are required under the terms of any law or ordinance. Such temporary certificate may be renewed, but it shall not be construed in any way to alter the respective rights, duties or obligations of the owner or of the county relating to the use of occupancy of the land or building, or any other matter covered by this ordinance, and such temporary certificate shall not be issued except under such restrictions and provisions as will adequately insure the safety of the occupants.

Written application for a certificate of occupancy for the use of vacant land, or for a change in the use of land or of a building, or for a change in a nonconforming use, as herein provided, shall be made to the Zoning Administrator.

If the proposed use is in conformity with the provisions of this ordinance, the certificate of occupancy therefore shall be issued within four (4) days after the application for the same has been made.

Each certificate of occupancy shall state that the building or proposed use of a building or land complies with all provisions of this ordinance.

A record of all certificates of occupancy shall be kept on file in the office of the Commission and a copy shall be forwarded, on request, to any person having proprietary or tenancy interest in the building or land affected. (Ord. unnumbered, Title XI, S34, No date)

**10.08.110.350 Enforcement.** All departments, officials, and public employees of the Town which are vested with the duty or authority to issue permits shall conform to the provisions of this ordinance and shall issue no permit for any use, building or purpose if the same would be in conflict with the provisions of this ordinance.

Any permit issued in conflict with the provisions of this ordinance shall be null and void. (Ord. unnumbered, Title XI, S35, No date)

**10.08.110.360 Penalties.** Any person or corporation, whether as principal, agent, employee or otherwise, who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction, shall be fined not less than ten dollars (\$10.00) and not more than three hundred dollars (\$300.00), for each offense, such fine to inure to the Town. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

The erection, construction, enlargement, conversion, moving, or maintenance of any building or structure and the use of any land or building which is continued, operated or maintained, contrary to the provisions of this ordinance is hereby declared to be a violation of this ordinance and unlawful. The Town Attorney shall, immediately upon any such violation having been called to his attention, institute injunction, abatement, or any other appropriate action to prevent, enjoin, abate or remove such violation. Such action may also be instituted by any property owner who may be especially damaged by any violation of this ordinance.

The remedy provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law. (Ord. unnumbered, Title XI, S36, No date)

## **10.08.120 BOARD OF ZONING APPEALS**

**10.08.120.370 Organization.** A Board of Zoning Appeals for the Town is hereby established in accordance with Chapter 174, Acts of 1947, General Assembly, State of Indiana, as amended.

Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses. Petitions addressed to the Board shall, prior to public hearing, be referred to the Commission for written recommendation thereon. If the Commission shall fail to act within thirty-one (31) days, it shall be deemed to approve such petitions. Prior to decision on such petitions, the Board shall hold a public hearing thereon, notice of which shall be mailed to the petitioner and to the owners of all property deemed by the Board to be affected thereby as they appear in the current records of the Clerk-Treasurer and also advertised ten (10) days prior to the public hearing in a newspaper of general circulation, published or having wide distribution in the Town. The cost of notifying affected property owners and the cost of advertising the notice of the public hearing shall be borne by the petitioner by the filing fee.

The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the enforcement officer or other duly authorized administrative officer, and the concurring vote of three (3) members of the Board shall be required to pass under this ordinance or to affect any variation in the application of this ordinance.

The Board shall cause to be made a detailed report of all its proceedings, setting forth its reasons for its decisions. Such record, immediately following the Board's decision shall be filed in the offices of the Board and of the Commission, and shall be open to public inspection. Notice of such decision shall be mailed forthwith to each party in interest as aforesaid.

Any person or persons, jointly or severally aggrieved by any decision of the Board may proceed in the manner prescribed in Section 82, Chapter 174, Acts of 1947, General Assembly of the State of Indiana. (Ord. unnumbered, Title XII, S37, No date)

**10.08.120.380 Powers of the Board of Zoning Appeals.** The Board of Zoning Appeals shall have the powers provided in Chapter 174 of the Acts of 1947, General Assembly, State of Indiana, as amended. In the exercise of these powers and the responsibilities assigned to it by this ordinance, it may impose such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in furtherance of the purposes of this ordinance. It shall not, however, permit any use in conflict with this ordinance. (Ord. unnumbered, Title XII, S38, No date)

## **10.08.130 AMENDMENTS TO ORDINANCE AND MAP**

The regulations, restrictions and boundaries provided for in this ordinance may from time to time be amended or repealed.

**10.08.130.390 Procedure.** This ordinance may from time to time be amended as provided in Chapter 174 of the Acts of 1947. (Ord. unnumbered, Title XIII, S39, No date)

**10.08.130.400 Filing Fees.** Any petition to the Board for a Special Exception or Variance and any petition to the Town Board for an amendment to this ordinance except when initiated by the Commission, shall be accompanied by a filing fee of fifteen dollars (\$15.00) which shall be deposited with the Clerk-Treasurer and no part of which shall be returnable to the petitioner. (Ord. unnumbered, Title XIII, S40, No date)

#### **10.08.140 VALIDITY AND ADOPTION**

**10.08.140.410 Severance Clause.** If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this ordinance. (Ord. unnumbered, Title XIV, S41, No date)

**10.08.140.420 Effective Date.** This ordinance shall take effect upon its passage (approval by the Town Board).

PASSED and ENACTED by the Board of Trustees of the Town of \_\_\_\_\_, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_. 19\_\_\_. (Ord. unnumbered, Title XIV, S42, No date)

## Chapter 10.15

### FLOOD HAZARD AREAS

#### Sections:

<b>10.15.010</b>	<b>Statutory Authorization, Findings of Fact, Purpose, and Objectives</b>
<b>10.15.020</b>	<b>Definitions</b>
<b>10.15.030</b>	<b>General Provisions</b>
<b>10.15.040</b>	<b>Administration</b>
<b>10.15.050</b>	<b>Provisions for Flood Hazard Reduction</b>
<b>10.15.060</b>	<b>Variance Procedures</b>

#### **10.15.010 Statutory Authorization, Findings of Fact, Purpose, and Objectives.**

- (1) Statutory Authorization. The Indiana Legislature has in IC 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council of the Town of Gentryville does hereby adopt the following floodplain management regulations. (Ord. 2015-03, S1A, Mar. 11, 2015) (Ord. 94-1, S1, Apr. 6, 1994) (Ord. 2-1988, S1.0, Nov. 2, 1988) (Ord. 1-1987, S1.0, Aug. 5, 1987)
- (2) Findings of Fact.
  - A. The flood hazard areas of the Town of Gentryville 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.
  - B. 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, inadequately flood-proofed, or otherwise unprotected from flood damages. (Ord. 2015-03, S1B, Mar. 11, 2015)
- (3) 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:
  - A. 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.

- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
  - C. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.
  - D. Control filling, grading, dredging, and other development which may increase erosion or flood damage.
  - E. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
  - F. Make federal flood insurance available for structures and their contents in the Town by fulfilling the requirements of the National Flood Insurance Program. (Ord. 2015-03, S1C, Mar. 11, 2015) (Ord. 94-1, S2, Apr. 6, 1994) (Ord. 2-1988, S1.4, Nov. 2, 1988) ( Ord. 1-1987, S1.4, Aug. 5, 1987)
- (4) Objectives. The objectives of this ordinance are:
- A. To protect human life and health.
  - B. To minimize expenditure of public money for costly flood control projects.
  - C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
  - D. To minimize prolonged business interruptions.
  - E. 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.
  - F. 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. (Ord. 2015-03, S1D, Mar. 11, 2015)

**10.15.020 Definitions.** 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. 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.
  - 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. (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.
  - 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.
  - 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.
  - 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.
- (2) **Accessory structure** (appurtenant structure) means a structure with a floor area 400 square feet or less 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.
- (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** means the flood having a one percent chance of being equaled or exceeded in any given year.
- (7) **Base Flood Evaluation (BFE)** means the elevation of the one-percent annual chance flood.
- (8) **Basement** means that portion of a structure having its floor sub-grade (below ground level) on all sides.
- (9) **Boundary River** means the part of the Ohio River that forms the boundary between Kentucky and Indiana.
- (10) **Boundary River Floodway** means the floodway of a boundary river.
- (11) **Building** - see "Structure."
- (12) **Community** means a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.
- (13) **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.
- (14) **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.

(15) **D Zone** means unstudied areas where flood hazards are undetermined, but flooding is possible. Flood insurance is available in participating communities but is not required by regulation in this zone.

(16) **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 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.

1. “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.

(17) **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, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

- (18) **Elevation Certificate** is a certified statement that verifies a structure's elevation information.
- (19) **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.
- (20) **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.
- (21) **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).
- (22) **FEMA** means the Federal Emergency Management Agency.
- (23) **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.
- (24) **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.
- (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) **Flood Prone Area** means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "Flood")
- (28) **Flood Protection Grade (FPG)** is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (See "Freeboard")

- (29) **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.
- (30) **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.
- (31) **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.
- (32) **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.
- (33) **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.
- (34) **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.
- (35) **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.
- (36) **Fringe** is those portions of the floodplain lying outside the floodway.

- (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 structures** means any structures 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 Final Determination (LFD)** means a letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated and automatic adoption cause.
- (42) **Letter of Map Change (LOMC)** is a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below:
- A. **Letter of Map Amendment (LOMA)** means an amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.

- B. **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.
  - C. **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.
- (43) **Lowest adjacent grade** means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entry way immediately next to the structure.
- (44) **Lowest floor** means the lowest elevation described among 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 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) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;
    2. the total net area of all openings shall be at least 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 the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,
    3. such enclosed space shall be usable solely for the parking of vehicles and building access.

- (45) **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.”
- (46) **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.
- (47) **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.
- (48) **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 twofold: to protect people and structures, and to minimize the cost of disaster response and recovery.
- (49) **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.
- (50) **National Geodetic Vertical Datum (NGVD) of 1929** as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.
- (51) **New Construction** means any structure for which the “start of construction” commenced after the effective date of the community’s first floodplain ordinance.
- (52) **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.
- (53) **Non-boundary river floodway** means the floodway of any river or stream other than a boundary river.

- (54) **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.
- (55) **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.
- (56) **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”.
- (57) **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.
- (58) **Public safety and nuisance** means 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.
- (59) **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.
- (60) **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.
- (61) **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 Section 10.15.030(2)



of this ordinance. The “Regulatory Flood” is also known by the term “Base Flood”, “One-Percent Annual Chance Flood”, and “100-Year Flood”.

- (62) **Repetitive loss** means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.
- (63) **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.
- (64) **Special Flood Hazard Area (SFHA)** means those lands within the jurisdiction of the Town subject to inundation by the regulatory flood. The SFHAs of the Town of Gentryville are generally identified as such on the Spencer County, Indiana and Incorporated Areas Flood Insurance Rate Map dated May 18, 2015 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 FIRM as Zone A, AE, A1-A30, AH, AR, A99, or AO).
- (65) **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 either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the 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 nor occupied as dwelling units or not part of the main structure. For a 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.
- (66) **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.

- (67) **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.
- (68) **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”.
- (69) **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.
- (70) **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.
- (71) **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.
- (72) **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.
- (73) **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.

- (74) **Zone** means a geographical area shown on a FIRM that reflects the severity or type of flooding in the area.
- (75) **Zone A** (see definition for A zone)
- (76) **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. 2015-03, S2, Mar. 11, 2015) (Ord. 94-1, S3, Apr. 6, 1994) (Ord. 2-1988, S2.0, Nov. 2, 1988) (Ord. 1-1987, S2.0, Aug. 5, 1987)

#### 10.15.030 General Provisions.

- (1) **Lands to Which this Ordinance Applies.** This ordinance shall apply to all SFHAs and known flood prone areas within the jurisdiction of the Town of Gentryville. (Ord. 2015-03, S3A, Mar. 11, 2015)
- (2) **Basis for Establishing Regulatory Flood Data.** This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below.
  - A. The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the Town of Gentryville shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Spencer County, Indiana and Incorporated Areas and the corresponding Flood Insurance Rate Map dated May 18, 2015 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.
  - B. The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the Town of Gentryville, delineated as an "A Zone" on the Spencer County, Indiana and Incorporated Areas Flood Insurance Rate Map dated May 18, 2015 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources: provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted

to the Indiana Department of Natural Resources for review and subsequently approved.

- C. In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.
  - D. Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA. (Ord. 2015-03, S3B, Mar. 11, 2015) (Ord. 94-1, S5, Apr. 6, 1994) (Ord. 2-1988, S3.0, Nov. 2, 1988) (Ord. 1-87, S3.0, Aug. 5, 1987)
- (3) **Establishment of Floodplain Development Permit.** A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard. (Ord. 2015-03, S3C, Mar. 11, 2015)
  - (4) **Compliance.** No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations. (Ord. 2015-03, S3D, Mar. 11, 2015)
  - (5) **Abrogation and Greater Restrictions.** This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 2015-03, S3E, Mar. 11, 2015) (Ord. 94-1, S13, Apr. 6, 1994) (Ord. 2-1988, S1.3, Nov. 2, 1988) (Ord. 1-1987, S1.3, Aug. 5, 1987)
  - (6) **Discrepancy between Mapped Floodplain and Actual Ground Elevations.**
    - A. 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.

- B. 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.
  - C. If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA. (Ord. 2015-03, S3F, Mar. 11, 2015)
- (7) **Interpretation.** In the interpretation and application of this ordinance all provisions shall be:
- A. Considered as minimum requirements.
  - B. Liberally construed in favor of the governing body.
  - C. Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 2015-03, S3G, Mar. 11, 2015)
- (8) **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 Gentryville, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder. (Ord. 2015-03, S3H, Mar. 11, 2015) (Ord. 94-1, S11, Apr. 6, 1994) (Ord. 2-1988, S12.0, Nov. 2, 1988) (Ord. 1-1987, S12.0, Aug. 5, 1987)
- (9) **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 Gentryville. All violations shall be punishable by a fine not exceeding \$50.00.
- A. A separate offense shall be deemed to occur for each day the violation continues to exist.
  - B. The Floodplain Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

- C. Nothing herein shall prevent the Town from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible. (Ord. 2015-03, S3I, Mar. 11, 2015) (Ord. 94-1, S12, Apr. 6, 1994)

**10.15.040 Administration.**

- (1) **Designation of Administrator.** The Town of Gentryville hereby appoints the Zoning Commission Director to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.
- (2) **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:

- A. Application Stage

- 1. A description of the proposed development.
- 2. Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
- 3. A legal description of the property site.
- 4. A site development plan showing existing and proposed development locations and existing and proposed land grades.
- 5. Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.
- 6. Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.
- 7. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and

any watercourse changes submitted to DNR for approval and them to FEMA as a Letter of Map Revision. (See Section 10.15.040(3)(F) for additional information.)

B. Construction Stage

1. Upon establishment of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the applicant to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor, 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. The Floodplain Administrator shall review the lowest floor elevation survey data submitted. The applicant 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. Any work undertaken prior to submission of the elevation certification shall be at the applicant's risk.
2. Upon establishment of the floodproofed elevation of a floodproofed structure, it shall be the duty of the applicant to submit to the Floodplain Administrator a floodproofing certificate. Certification shall be prepared by or under the direct supervision of a registered professional engineer and certified by same. (The Floodplain Administrator shall review the floodproofing certification submitted.) The applicant shall correct any deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the floodproofing certification or failure to make correction required shall be cause to issue a stop-work order for the project.

C. Finished Construction

1. Upon completion of construction, an elevation certification which depicts the "as-built" lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, floodproofing certification is required to be submitted by the applicant to the Floodplain Administrator. (Ord. 2015-03, S4B, Mar. 11, 2015)

(3) **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.

A. Duties and Responsibilities of the Floodplain Administrator shall include, but are not 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 the 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 Section 10.15.050(5) and (7)(A) of this chapter, and maintain a record of such authorization (either copy of actual permit/authorization 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/authorizations are to be maintained on file with the floodplain development permit.
5. Maintain and track permit records involving additions and improvements to residences located in the floodway.
6. 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.
7. 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 Change (LOMC), copies of DNR permits, letters of authorization, 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.



8. Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
9. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
10. Review certified plans and specifications for compliance.
11. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Section 10.15.040(2).
12. Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Section 10.15.040(2).
13. 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.
14. 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. 2015-03, S4C, Mar. 11, 2015)

(Ord. 94-1, S4, Apr. 6, 1994) (Ord. 2-1988, S7.0, Nov. 2, 1988) (Ord. 1-1987, S7.0, Aug. 5, 1987)

**10.15.050 Provisions for Flood Hazard Reduction.**

- (1) **General Standards.** In all SFHAs and known flood prone areas the following provisions are required:
  - A. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
  - B. 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.
  - C. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
  - D. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
  - E. Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
  - F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
  - G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
  - H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
  - I. 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. (Ord. 2015-03, S5A, Mar. 11, 2015)

- (2) **Specific Standards.** In all SFHAs, the following provisions are required:
- A. In addition to the requirements of Section 10.15.050(2)(D), 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:
1. Construction or placement of any structure having a floor area greater than 400 square feet.
  2. Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).
  3. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.
  4. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
  5. 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.
  6. Reconstruction or repairs made to a repetitive loss structure.
  7. Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.
- B. **Residential Structures.** 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 provide in accordance with the standards of Section 10.15.050(2)(D).
- C. **Non-Residential Structures.** New construction or substantial improvement of any commercial, industrial, or non-residential

structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with the standards of Section 10.15.050(2)(D). Structures located in all “A Zones” may be floodproofed in lieu of being elevated if done in accordance with the following:

1. A Registered Professional Engineer or Architect shall verify 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 Section 10.15.040(3)(A)(12).
2. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

D. **Elevated Structures.** New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

1. Elevated structures with 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. Designs must meet the following minimum criteria:
  - (a) Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
  - (b) The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
  - (c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they

permit the automatic flow of floodwaters in both directions.

- (d) 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).
- (e) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- (f) The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.

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

1. The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.
2. The fill shall extend 10 feet beyond the foundation of the structure before sloping below the BFE.
3. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
4. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
5. The top of the lowest floor including basements shall be at or above the FPG.

F. **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:

1. These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood:
  - (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.
  - (b) Fully enclosed areas formed by foundation and other exterior walls below the FPG 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 as required for elevated structures in Section 10.15.050(2)(D).
  - (c) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
2. These requirements apply 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:
  - (a) 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.
  - (b) Fully enclosed areas formed by foundation and other exterior walls below the PFG 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 as required for elevated structures in Section 10.15.050(2)(D).

(c) Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

3. Recreational vehicles placed on a site shall either:

(a) be on site for less than 180 days;

(b) 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

(c) meet the requirements for “manufactured homes” as stated earlier in this section.

G. **Accessory Structures.** Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:

1. Shall not be used for human habitation.

2. Shall be constructed of flood resistant materials.

3. Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.

4. Shall be firmly anchored to prevent flotation.

5. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.

6. Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 10.15.050(2)(D).

H. **Above Ground Gas or Liquid Storage Tanks.** All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement. (Ord. 2015-03, S5B, Mar. 11, 2015)

(3) **Standards for Subdivision Proposals.**

- A. All subdivision proposals shall be consistent with the need to minimize flood damage.
- B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- D. 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 (50) lots or five (5) acres.
- E. All subdivision proposals shall minimize development in this SFHA and/or limit density of development permitted in the SFHA.
- F. All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders). (Ord. 2015-03, S5C, Mar. 11, 2015)

(4) **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 provide to all critical facilities to the extent possible. (Ord. 2015-03, S5D, Mar. 11, 2015)

(5) **Standards for Identified Floodways.**

- A. Located within SFHAs, established in Section 10.15.030(2), 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 14-28-26 allows construction of a non-substantial addition/improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the 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 for the fill is required from the Indiana Department of Natural Resources.)

- B. No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization 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 Section 10.15.050 of this chapter 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.
  - C. No development shall be allowed, which acting alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.
  - D. For all projects involving channel modifications or fill (including levees) the Town shall submit the date and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12. (Ord. 2015-03, S5E, Mar. 11, 2015)
- (6) **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 Section 10.15.050 of this chapter have been met. The key provision is that the top of the lowest

floor of any new or substantially improved structure shall be at or above the FPG. (Ord. 2015-03, S5F, Mar. 11, 2015)

(7) **Standards for SFHAs without Established Base Flood Elevation and/or Floodways/Fringes.**

A. Drainage area upstream of the site is greater than one square mile:

1. 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.
2. No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway (including letters of authorization) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.
3. Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) 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 Section 10.15.050 of this ordinance have been met.

B. Drainage area upstream of the site is less than one square mile:

1. 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 floodplain and one-percent annual chance flood elevation for the site.
2. Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the

provisions contained in Section 10.15.050 of this ordinance have been met.

C. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the regulatory flood more than 0.14 of one foot and shall not increase flood damages or potential flood damages. (Ord. 2015-03, S5G, Mar. 11, 2015)

(8) **Standards for Flood Prone Areas.** All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per Section 10.15.050. (Ord. 2015-03, S5H, Mar. 11, 2015) (Ord. 94-1, Apr. 6, 1994)

#### **10.15.060 Variance Procedures.**

(1) **Designation of Variance and Appeals Board.** The Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this ordinance. (Ord. 2015-03, S6A, Mar. 11, 2015) (Ord. 94-1, S10, April 6, 1994) (Ord. 2-1988, S8, Nov. 2, 1988) (Ord. 1-1987, S8, Aug. 5, 1987)

(2) **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 Spencer County Circuit Court. (Ord. 2015-03, S6B, Mar. 11, 2015)

(3) **Variance Procedures.** In passing upon such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and;

- A. The danger of life and property due to flooding or erosion damage.
- B. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- C. The importance of the services provided by the proposed facility to the community
- D. The necessity of the facility to a waterfront location, where applicable.
- E. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.

- F. The compatibility of the proposed use with existing and anticipated development.
- G. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- H. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- I. The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
- J. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges. (Ord. 2015-03, S6C, Mar. 11, 2015)

(4) **Conditions for Variances.**

- A. Variances shall only be issued when there is:
  - 1. A showing of good and sufficient cause.
  - 2. A determination that failure to grant the variance would result in exceptional hardship.
  - 3. 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.
- B. No variance for a residential use within a floodway subject to Section 10.15.050(5) or (7)(A) of this chapter may be granted.
- C. Any variance granted in a floodway subject to Section 10.15.050(5) or (7)(A) of this ordinance will require a permit from the Indiana Department of Natural Resources.
- D. Variances to the Provisions for Flood Hazard Reduction of Section 10.15.050(2), 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.

- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - F. 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.
  - G. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See Section 10.15.060(5)).
  - H. 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 Section 10.15.060(5)). (Ord. 2015-03, S6D, Mar. 11, 2015)
- (5) **Variance Notification.** Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the flood protection grade shall be given written notice over the signature of a community official that:
- A. The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and;
  - B. Such construction below the flood protection grade increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance. (Ord. 2015-03, S6E, Mar. 11, 2015)

- (6) **Historic Structure.** Variances may be issued for the repair or rehabilitation of “historic structures” upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an “historic structure” and the variance is the minimum to preserve the historic character and design of the structure. (Ord. 2015-03, S6F, Mar. 11, 2015)

- (7) **Special Conditions.** Upon the consideration of the factors listed in Section 10.15.060, 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. 2015-03, S6G, Mar. 11, 2015)

## Chapter 10.20

### MOBILE OR MANUFACTURED HOUSING

#### Sections:

- 10.20.010**      **Establishing zoning regulations**
- 10.20.020**      **Location permit required for trailers**
- 10.20.030**      **Penalty for violation**

**10.20.010 Establishing zoning regulations.** An ordinance establishing comprehensive zoning regulations for the Town of Gentryville, Indiana, and providing for the administration thereof. (Ord. 1972-A-4, Oct. 3, 1972)

**10.20.020 Location permit required for trailers.** Be it ordained by the Board of Trustees of the Town of Gentryville under authority of Chapter 174, Acts of 1947 General Assembly of the State of Indiana and all acts amendatory thereto:

That no mobile or manufactured housing shall be located within the town limits of Gentryville until a permit has been issued by the Town Clerk. No single-wide mobile home shall be permitted within 250 feet of the centerline of U.S. Highway 231 (Indiana State Highway 45-62) extending through the Town of Gentryville and Indiana Highway 162, extending from U.S. Highway 231 (Indiana State Highway 45-62) to the East corporate limits. No permit can be issued to mobile or manufactured housing which has a model year 10 or more years prior to the year that a request is submitted for approval by the Zoning Board. No permit can be issued until site has been inspected by the Town Building Inspector or his assistant. Permit for mobile or manufactured housing shall be \$60.00. Said fee will be used for payment to the Zoning Inspector (\$50.00) and bookkeeping fee of (\$10.00) per permit.

No new building shall be constructed without building permit. Before permit is issued sketch and description of property on which building is to be erected and sketch and description of building shall be presented and approved by zoning board.

Alterations which increase the occupancy or area of building shall be considered new buildings. (Ord. unnumbered, S1, Feb. 7, 2001) (Ord. 98-01, Jan. 7, 1998) (Ord. 3-96, Dec. 30, 1996) (Ord. 4-95, Oct. 4, 1995) (Ord. 1972-A-4, Oct. 3, 1972)

**10.20.030 Penalty for violation.** Penalties for violation of the ordinance or for utility companies for connecting services to such buildings or house trailers shall be as follows:

Any person violating any of the provisions of this ordinance shall be fined not more than three hundred dollars (\$300.00), to which may be added imprisonment for not more than 180 days. (Ord. 1972-A-4, Oct. 3, 1972)

## Chapter 10.43

### APPOINTING A RESIDENT OF GENTRYVILLE TO THE SPENCER COUNTY AREA PLAN COMMISSION

#### Sections:

- 10.43.010 Intent to cooperate with county to establish a single and unified planning and zoning body**
- 10.43.020 Representation on the Spencer County Area Plan Commission**
- 10.43.030 Establishment Date**
- 10.43.040 Compensation for attending meetings**

**10.43.010 Intent to cooperate with county to establish a single and unified planning and zoning body.** The Board of Trustees of the Town of Gentryville declares its intent to establish the Spencer County Area Planning Department by adopting the Area Planning Law, Indiana Code 18-7-4-101 ---- 18-7-4-1213, and declares its intent to cooperate with the Board of Commissioners of Spencer County and the Boards of Trustees of the towns within Spencer County to establish a single and unified planning and zoning body. (Ord. 1980-1, S1, March 10, 1980)

**10.43.020 Representation on the Spencer County Area Plan Commission.** Pursuant to Indiana Code 18-7-4-211, the representation on the Spencer County Area Plan Commission shall be as follows:

- (1) One (1) town board member from each participating town, selected by his respective Board of Trustees;
- (2) The county agricultural agent;
- (3) The county surveyor;
- (4) One (1) county councilman appoint by the County Council;
- (5) One (1) county commissioner appointed by the Board of Commissioners;
- (6) Two (2) representatives of the school corporations, one appointed by each school corporation superintendent; and,
- (7) Two (2) citizen members appointed by the Board of Commissioners, one of whom shall be the owner and operator of a farm within Spencer County, and the other shall reside in an unincorporated town and not be the owner or operator of a farm. (Ord. 1980-1, S2, March 10, 1980)



**10.43.030 Establishment Date.** The date for the establishment of the Spencer County Area Planning Department shall be April 1, 1980. (Ord. 1980-1, S3, March 10, 1980)

**10.43.040 Compensation for attending meetings.** Compensation for attending meetings of the Spencer County Area Planning Department by the Gentryville member will be specified in a later Ordinance for Additional Appropriations. (Ord. 1980-1, S4, March 10, 1980)