

TITLE 12

**COMPREHENSIVE PLAN
AND
ZONING ORDINANCE**

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Chapters:

- 12.02 Comprehensive Plan**
- 12.05 Zoning Ordinance**
- 12.07 Flood Insurance Program**
- 12.08 Flood Districts and Flood Damage Prevention**
- 12.10 Housing and Land Development Requirements**
- 12.12 Building Code**
- 12.18 Mobile Home Restrictions on Private Property**
- 12.19 Travel Campers, Mobile Homes, Travel Trailers Prohibited as Living
Quarters on Public Property**
- 12.20 Prohibiting the Construction of Chicken Houses and Slaughter
Houses**
- 12.25 Prohibiting the establishment or maintenance of a junk yard**

Chapter 12.02

COMPREHENSIVE PLAN

Chapter 12.05

ZONING ORDINANCE

Sections:

12.05.010	Adoption of Zoning Ordinance and Fee Schedule
12.05.020	Savings Clause
12.05.030	Effective Date

12.05.010 ADOPTION OF ZONING ORDINANCE AND FEE SCHEDULE. The Town Council of the Town of Orleans hereby adopts the Amended Zoning Ordinance, Title 12, including all amended forms, maps, and fees schedule, effective July 1, 2017, as follows:

Location Improvement Permit	\$50 plus \$0.10 per square foot
Mobile Home Park	\$50 plus \$50 per site
Home Occupation Application	\$50
Infill Development Application	\$25
Subdivision Application	\$100
Planned Unit Development (PUD) Application	\$100
Rezoning Application	\$50
Use Variance	\$50
Development Standards Variance	\$50
Special Exception Permit	\$50
Demolition (under 1,000 SF)	\$25
Demolition (over 1,000 SF)	\$50
Temporary Sign Application	\$50
Permanent Sign Application	\$100
Special Meeting	\$50
Fence	\$20

12.05.020 SAVINGS CLAUSE. The expressed or implied repeal or amendment of this ordinance or any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceeding are continued and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance has not been adopted.

12.05.030 EFFECTIVE DATE. This ordinance shall be in full force and effect from and after this approval by the Council of the Town of Orleans, Indiana. (Ord. 2017-3, May 18, 2017) (Ord. 2005-8, March 17, 2005) (Ord. 1994-9, April 21, 1994)

Chapter 12.07

FLOOD INSURANCE PROGRAM

Sections:

- 12.07.010 Enact land use and control measures consistent with the National Flood Insurance Program**
- 12.07.020 Responsibility and Authority**
- 12.07.030 Recordkeeping**
- 12.07.040 Official action(s) to carry out objectives of the program**

12.07.010 Enact land use and control measures consistent with the National Flood Insurance Program. The Orleans Town Council assures the Federal Insurance Administration that it will enact as necessary and maintain in force in those areas having flood, mudslide (i.e., mudflow), or flood-related erosion hazards, adequate land use and control measures with effective enforcement provisions consistent with the Criteria set forth in Section 59 et. Seq., of the National Flood Insurance Program Regulations. (Res. 03-2011, S1, Sept. 15, 2011)

12.07.020 Responsibility and Authority. Vests clerk with the responsibility, authority, and means to:

- (1) Assist the Administrator, at his/her request, in the delineation of the limits of the area having special flood, mudslide, or flood-related erosion hazards.
- (2) Provide information the Administrator may request concerning present uses and occupancy of the floodplain, mudslide or flood-related erosion areas.
- (3) Cooperate with Federal, State, and local agencies and private firms which undertake to study, survey, map, and identify floodplain, mudflow, or flood-related erosion areas, and cooperate with the neighboring communities with respect to management of adjoining floodplain, mudslide and/or flood-related erosion areas in order to prevent aggravation of existing hazards.
- (4) Submit, on forms provided by the Administrator, an annual report on the progress made during the past year within the community in the development and implementation of floodplain management measures.
- (5) Upon occurrence, notify the Administrator in writing whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area. Include an accurate corporate limit map suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority. The community

will use the Flood Insurance Rate Map or Flood Hazard Boundary Map published for the community from which land areas were annexed or from that political entity that previously had regulatory authority until the Administrator provides a map using the new corporate limits. (Res. 03-2011, S2, Sept. 15, 2011)

12.07.030 Recordkeeping. Appoints clerk to maintain for public inspection and to furnish upon request (for determining flood insurance premium rates), the following information on all new substantially improved structures constructed with the identified special flood hazard area:

- (1) the actual (as-built) lowest floor (including basement) elevation in relation to mean sea level;
- (2) any certificates of flood-proofing;
- (3) whether or not a building has a basement;
- (4) for all floodproofed structures, the elevation to which the structure has been floodproofed. (Res. 03-2011, S3, Sept. 15, 2011)

12.07.040 Official action(s) to carry out objectives of the program. Agrees to take such other official action as may be reasonably necessary to carry out the objectives of the program. (Res. 03-2011, S4, Sept. 15, 2011)

Chapter 12.08

FLOOD DISTRICTS AND FLOOD DAMAGE PREVENTION

Sections:

- 12.08.010 Statutory Authorization
- 12.08.020 Findings of Fact
- 12.08.030 Statement of Purpose
- 12.08.040 Objectives
- 12.08.200 Definitions

GENERAL PROVISIONS

- 12.08.300 Lands to which this Ordinance Applies
- 12.08.310 Basis for Establishing Regulatory Flood Data
- 12.08.320 Establishment of Floodplain Development Permit
- 12.08.330 Compliance
- 12.08.340 Abrogation and Greater Restrictions
- 12.08.350 Discrepancy between Mapped Floodplain and Actual Ground Elevations
- 12.08.360 Interpretation
- 12.08.370 Warning and Disclaimer of Liability
- 12.08.380 Penalties for Violation

ADMINISTRATION

- 12.08.400 Designation of Administrator
- 12.08.410 Permit Procedures
- 12.08.420 Duties and Responsibilities of the Floodplain Administrator

PROVISIONS FOR FLOOD HAZARD REDUCTION

- 12.08.500 General Standards
- 12.08.510 Specific Standards
- 12.08.520 Standards for Subdivision Proposals
- 12.08.530 Critical Facility
- 12.08.540 Standards for Identified Floodways
- 12.08.550 Standards for Identified Fringe
- 12.08.560 Standards for SFHAs without Established Base Flood Elevation and/or Floodways/Fringes
- 12.08.570 Standards for Flood Prone Areas

VARIANCE PROCEDURES

- 12.08.600 Designation of Variance and Appeals Board
- 12.08.610 Duties of Variance and Appeals Board
- 12.08.620 Variance Procedures
- 12.08.630 Conditions for Variances
- 12.08.640 Variance Notification
- 12.08.650 Historic Structure
- 12.08.660 Special Conditions
- 12.08.700 Severability
- 12.08.800 Effective Date

12.08.010 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 Orleans does hereby adopt the following floodplain management regulations. (Ord. 2014-4, Article 1, SA, May 15, 2014) (Ord. 2011-09, Article 1, SA, Dec. 13, 2011)

12.08.020 Findings of Fact.

- (1) The flood hazard areas of the Town of Orleans are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, inadequately flood-proofed, or otherwise unprotected from flood damages. (Ord. 2014-4, Article 1, SB, May 15, 2014) (Ord. 2011-09, Article 1, SB, Dec. 13, 2011)

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

- (1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.
- (2) Require that uses vulnerable to floods, including facilities which serve such uses be protected against flood damage at the time of initial construction.
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.
- (4) Control filling, grading, dredging, and other development which may increase erosion or flood damage.
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- (6) Make federally subsidized flood insurance available for structures and their contents in the Town by fulfilling the requirements of the National Flood Insurance Program. (Ord. 2014-4, Article 1, SC, May 15, 2014) (Ord. 2011-09, Article 1, SC, Dec. 13, 2011)

12.08.040 Objectives. The objectives of this ordinance are:

- (1) To protect human life and health.
- (2) To minimize expenditure of public money for costly flood control projects.
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- (4) To minimize prolonged business interruptions.
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.
- (6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas. (Ord. 2014-4, Article 1, SD, May 15, 2014) (Ord. 2011-09, Article 1, SD, Dec. 13, 2011)

12.08.200 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 Elevation (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 the 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) **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.

"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.

- (16) **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).
- (17) **Elevation Certificate** is a certified statement that verifies a structure's elevation information.
- (18) **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.
- (19) **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.
- (20) **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).
- (21) **FEMA** means the Federal Emergency Management Agency.
- (22) **Flood** means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.
- (23) **Flood Boundary and Floodway Map (FBFM)** means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.
- (24) **Flood 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.
- (25) **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.

- (26) **Flood Prone Area** means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See "Flood")
- (27) **Flood Protection Grade (FPG)** is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (see "Freeboard")
- (28) **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.
- (29) **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.
- (30) **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.
- (31) **Floodproofing (dry floodproofing)** is a method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.
- (32) **Floodproofing certificate** is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.
- (33) **Floodway** is the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.
- (34) **Freeboard** means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to

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

- (35) **Fringe** is those portions of the floodplain lying outside the floodway.
- (36) **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.
- (37) **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.
- (38) **Historic structures** means any structures individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
- (39) **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.
- (40) **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 an automatic adoption clause.
- (41) **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.
- (42) **Lowest adjacent grade** means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.
- (43) **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.

- (44) **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."
- (45) **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.
- (46) **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.
- (47) **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.
- (48) **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.
- (49) **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.
- (50) **New construction** means any structure for which the "start of construction" commenced after the effective date of the community's first floodplain ordinance.
- (51) **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.
- (52) **Non-boundary river floodway** means the floodway of any river or stream other than a boundary river.
- (53) **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.

- (54) **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.
- (55) **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".
- (56) **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.
- (57) **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.
- (58) **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.
- (59) **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.
- (60) **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 location is as defined in 12.08.310 of this chapter and Article 3 (B) of the Ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".
- (61) **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

- (62) **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.
- (63) **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 Orleans are generally identified as such on the Orange County, Indiana and Incorporated Areas Flood Insurance Rate Map dated May 19, 2014 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).
- (64) **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 not 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.
- (65) **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.
- (66) **Substantial damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

- (67) **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".
- (68) **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.
- (69) **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.
- (70) **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.
- (71) **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.
- (72) **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.
- (73) **Zone** means a geographical area shown on a FIRM that reflects the severity or type of flooding in the area.
- (74) **Zone A** (see definition for A zone)
- (75) **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. 2014-4, Article 2, May 15, 2014) (Ord. 2011-09, Article 2, Dec. 13, 2011)

General Provisions.

12.08.300 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 Orleans. (Ord. 2014-4, Article 3, SA, May 15, 2014) (Ord. 2011-09, Article 3, SA, Dec. 13, 2011)

12.08.310 Basis for Establishing Regulatory Flood Data. This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below.

- (1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the Town of Orleans shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Orange County, Indiana and Incorporated Areas and the corresponding Flood Insurance Rate Map dated May 19, 2014 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.
- (2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the Town of Orleans, delineated as an "A Zone" on the Orange County, Indiana and Incorporated Areas Flood Insurance Rate Map dated May 19, 2014 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.
- (3) 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.
- (4) 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. 2014-4, Article, 3, SB, May 15, 2014) (Ord. 2011-09, Article 3, SB, Dec. 13, 2011)

12.08.320 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. 2014-4, Article 3, SC, May 15, 2014) (Ord. 2011-09, Article 3, SC, Dec. 13, 2011)

12.08.330 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. 2014-4, Article 3, SD, May 15, 2014) (Ord. 2011-09, Article 3, SD, Dec. 13, 2011)

12.08.340 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. 2014-4, Article 3, SE, May 15, 2014) (Ord. 2011-09, Article 3, SE, Dec. 13, 2011)

12.08.350 Discrepancy between Mapped Floodplain and Actual Ground Elevations.

- (1) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.
- (2) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
- (3) If the elevation (natural grade) of the site in question is above the base flood elevation 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. 2014-4, Article 3, SF, May 15, 2014) (Ord. 2011-09, Article 3, SF, Dec. 13, 2011)

12.08.360 Interpretation. In the interpretation and application of this ordinance all provisions shall be:

- (1) Considered as minimum requirements.
- (2) Liberally construed in favor of the governing body.
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 2014-4, Article 3, SG, May 15, 2014) (Ord. 2011-09, Article 3, SG, Dec. 13, 2011)

12.08.370 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 Orleans, 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. 2014-4, Article 3, SH, May 15, 2014) (Ord. 2011-09, Article 3, SH, Dec. 13, 2011)

12.08.380 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 Orleans. All violations shall be punishable by a fine not exceeding \$2,500.00.

- (1) A separate offense shall be deemed to occur for each day the violation continues to exist.
- (2) 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.
- (3) Nothing herein shall prevent the Town from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible. (Ord. 2014-4, Article 3, SI, May 15, 2014) (Ord. 2011-09, Article 3, SI, Dec. 13, 2011)

Administration.

12.08.400 Designation of Administrator. The Town Council of the Town of Orleans hereby appoints the Zoning Administrator to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator. (Ord. 2014-4, Article 4, SA, May 15, 2014) (Ord. 2011-09, Article 4, SA, Dec. 13, 2011)

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

- (1) Application Stage.
 - A. A description of the proposed development.
 - B. Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
 - C. A legal description of the property site.

- D. A site development plan showing existing and proposed development locations and existing and proposed land grades.
 - E. Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.
 - F. Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.
 - G. Description of the extent to which any watercourse will be altered or 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 then to FEMA as a Letter of Map Revision. (See Article 4, Section C. (6) in the Ordinance or 12.08.420 (6) of this Chapter for additional information.)
- (2) Construction Stage. 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.
- 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 direction 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.
- (3) Finished Construction. 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. 2014-4, Article 4, SB, May 15, 2014) (Ord. 2011-09, Article 4, SB, Dec. 13, 2011)

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

Duties and Responsibilities of the Floodplain Administrator shall include, but 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 Article 5, Section E and G (1) of this ordinance (12.08.540 and 12.08.560(1) 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 Article 4 Section B (12.08.410).
- (12) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with Article 4 Section B (12.08.410).
- (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. 2014-4, Article 4, SC, May 15, 2014) (Ord. 2011-09, Article 4, SC, Dec. 13, 2011)

Provisions for Flood Hazard Reduction.

12.08.500 General Standards. In all SFHAs and known flood prone areas the following provisions are required:

- (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.

- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
- (4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment, 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.
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (9) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance. (Ord. 2014-4, Article 5, SA, May 15, 2014) (Ord. 2011-09, Article 5, SA, Dec. 13, 2011)

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

- (1) In addition to the requirements of Article 5, Section A (12.08.500), all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
 - A. Construction or placement of any structure having a floor area greater than 400 square feet.
 - B. 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).
 - C. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to it's before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.
 - D. Installing a travel trailer or recreational vehicle on a site for more

than 180 days.

- E. Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.
- F. Reconstruction or repairs made to a repetitive loss structure.
- G. Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.

(2) **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 be provided in accordance with the standards of Article 5, Section B (4), (12.08.510(4)).

(3) **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 floodwaters shall be provided in accordance with the standards of Article 5, Section B (4), (12.08.510(4)). Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

- A. A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in Article 4, Section C (12), (12.08.420(12)).
- B. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

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

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.

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

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

the FPG.

(6) **Standards for Manufactured Homes and Recreational Vehicles.**

Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:

- A. 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:
 - 1. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - 2. 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 Article 5, Section B 4, (12.08.510(4)).
 - 3. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
- B. 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:
 - 1. 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.
 - 2. 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 Article 5, Section B 4, (12.08.510(4)).

3. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.
- C. Recreational vehicles placed on a site shall either:
1. be on site for less than 180 days;
 2. be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
 3. meet the requirements for "manufactured homes" as stated earlier in this section.
- (7) **Accessory Structures.** Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such structures must meet the following standards:
- A. Shall not be used for human habitation.
 - B. Shall be constructed of flood resistant materials.
 - C. Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
 - D. Shall be firmly anchored to prevent flotation.
 - E. Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the FPG.
 - F. 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 Article 5, Section B 4, (12.08.510(4)).
- (8) **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. 2014-4, Article 5, SB, May 15, 2014) (Ord. 2011-09, Article 5, SB, Dec. 13, 2011)

12.08.520 Standards for Subdivision Proposals.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.

- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty (50) lots or five (5) acres.
- (5) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.
- (6) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders). (Ord. 2014-4, Article 5, SC, May 15, 2014) (Ord. 2011-09, Article 5, SC, Dec. 13, 2011)

12.08.530 Critical Facility. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible. (Ord. 2014-4, Article 5, SD, May 15, 2014) (Ord. 2011-09, Article 5, SD, Dec. 13, 2011)

12.08.540 Standards for Identified Floodways. Located within SFHAs, established in Article 3, Section B, (12.08.310) are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of 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)

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 Article 5 (12.08.500-12.08.570) of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

No development shall be allowed, which acting alone or in combination with existing or future development, 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.

For all projects involving channel modifications or fill (including levees) the Town shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12. (Ord. 2014-4, Article 5, SE, May 15, 2014) (Ord. 2011-09, Article 5, SE, Dec. 13, 2011)

12.08.550 Standards for Identified Fringe. If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Article 5 (12.08.500-12.08.570) of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG. (Ord. 2014-4, Article 5, SF, May 15, 2014) (Ord. 2011-09, Article 5, SF, Dec. 13, 2011)

12.08.560 Standards for SFHAs without Established Base Flood Elevation and/or Floodways/Fringes.

- (1) Drainage area upstream of the site is greater than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

No action shall be taken by the Floodplain Administrator until either a permit for construction in 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.

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 Article 5 (12.08.500-12.08.570) of this ordinance have been met.

- (2) Drainage area upstream of the site is less than one square mile:

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

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Article 5 (12.08.500-12.08.570) of this ordinance have been met.

- (3) 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. 2014-4, Article 5, SG, May 15, 2014) (Ord. 2011-09, Article 5, SG, Dec. 13, 2011)

12.08.570 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 Article 5 (12.08.500-12.08.570). (Ord. 2014-4, Article 5, SH, May 15, 2014) (Ord. 2011-09, Article 5, SH, Dec. 13, 2011)

Variance Procedures.

12.08.600 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. 2014-4, Article 6, SA, May 15, 2014) (Ord. 2011-09, Article 6, SA, Dec. 13, 2011)

12.08.610 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 Orange County Circuit Court. (Ord. 2014-4, Article 6, SB, May 15, 2014) (Ord. 2011-09, Article 6, SB, Dec. 13, 2011)

12.08.620 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;

- (1) The danger of life and property due to flooding or erosion damage.
- (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- (3) The importance of the services provided by the proposed facility to the community.
- (4) The necessity to the facility of a waterfront location, where applicable.
- (5) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
- (6) The compatibility of the proposed use with existing and anticipated development,
- (7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- (8) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (9) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.
- (10) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges. (Ord. 2014-4, Article 6, SC, May 15, 2014) (Ord. 2011-09, Article 6, SC, Dec. 13, 2011)

12.08.630 Conditions for Variances.

- (1) Variances shall only be issued when there is:
 - A. A showing of good and sufficient cause.
 - B. A determination that failure to grant the variance would result in exceptional hardship.
 - C. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- (2) No variance for a residential use within a floodway subject to Article 5, Section E or Section G (1) of this ordinance, 12.08.540 or 12.08.560(1) of

this chapter) may be granted.

- (3) Any variance granted in a floodway subject to Article 5, Section E or Section G (1) of this ordinance (12.08.540 or 12.08.560(1) of this chapter) will require a permit from the Indiana Department of Natural Resources
- (4) Variances to the Provisions for Flood Hazard Reduction of Article 5, Section B, (12.08.510) may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
- (7) Any 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 Article 6, Section 12.08.640).
- (8) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See Article 6, Section 12.08.640). (Ord. 2014-4, Article 6, SD, May 15, 2014) (Ord. 2011-09, Article 6, SD, Dec. 13, 2011)

12.08.640 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:

- (1) 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;
- (2) 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. 2014-4, Article 6, SE, May 15, 2014) (Ord. 2011-09, Article 6, SE, Dec. 13, 2011)

12.08.650 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. 2014-4, Article 6, SF, May 15, 2014) (Ord. 2011-09, Article 6, SF, Dec. 13, 2011)

12.08.660 Special Conditions. Upon the consideration of the factors listed in Article 6, and the purposes of this ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance. (Ord. 2014-4, Article 6, SG, May 15, 2014) (Ord. 2011-09, Article 6, SG, Dec. 13, 2011)

12.08.700 Severability. If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance. (Ord. 2014-4, Article 7, May 15, 2014) (Ord. 2011-09, Article 7, Dec. 13, 2011)

12.08.800 Effective Date. This ordinance shall be in full force and effect on May 19, 2014. (Ord. 2014-4, Article 8, May 15, 2014) (Ord. 2011-09, Article 8, Dec. 13, 2011)

Chapter 12.10

HOUSING AND LAND DEVELOPMENT REQUIREMENTS

Sections:

- 12.10.010 Definitions**
- 12.10.020 Required right-of-way for streets**
- 12.10.030 Street specifications**
- 12.10.040 Placement of utilities prior to street paving**

12.10.010 Definitions. For the purposes of this ordinance, the following definitions shall apply:

- (1) "Building" means a roof structure for the shelter, support, enclosure of protection of persons, animals, or property.
- (2) "Dwelling" means a building or part of a building that is used primarily as a place of abode, including a mobile home.
- (3) "Lot" means a parcel, tract or area of land accessible by means of a street or place, abutting upon a street or place.
- (4) "Housing Development" means a parcel, tract or area of land owned by any person or persons or firm or corporation the owner of which shall sell five (5) or more lots for the purpose of constructing five (5) or more dwellings or other structures thereof, or shall construct five (5) or more dwellings or other structures thereon for the purpose of selling the same.
- (5) "Undeveloped Areas" means areas and tracts of land within the corporate limits of the Town of Orleans, Indiana, in which no streets have been opened in order to give access thereto for the purpose of laying out lots and the construction of dwellings and other structures as herein defined. (Ord. 1992-4, S1, June 18, 1992)

12.10.020 Required right-of-way for streets. All housing projects or developments for the construction of houses and other structures as herein defined, within the corporate limits of the town in areas presently undeveloped, a minimum right of way of sixteen (16) feet shall be established for each street which may be opened in said development, in the event that no street has heretofore been opened therein. Said new street shall be graded and proper drainage provided by the owner of the real estate, over and upon which a street shall be laid out whether or not said street shall have heretofore been dedicated to the public use but unopened or whether it shall be dedicated to the public use at the time of the commencement of said project or development. All street preparation shall be at the expense of the owner of the land or the owner of the land adjacent to such street should the same have been dedicated but not opened. (Ord. 1992-4, S2, June 18, 1992)

12.10.030 Street specifications. All such streets shall be paved as follows: first spread crushed stone at least seven (7) inches deep, then four (4) inches thereof to be of number two (2) stone, and then three (3) inches of number seventy-three (73) stone. (Ord. 1992-4, S3, June 18, 1992)

12.10.040 Placement of utilities prior to street paving. The land owner of any street opened up in a new housing development in said town as herein defined or the land owners abutting on such street, in the event that the same shall have been previously dedicated but not opened, shall cause the laying of said sewer lines and water lines through and under such street prior to the paving. This shall be subject to the approval of the town council of said Town. (Ord. 1992-4, S4, June 18, 1992)

Chapter 12.12

BUILDING CODE

Sections:

12.12.010	Title
12.12.020	Purpose
12.12.030	Definitions
12.12.040	Scope
12.12.050	Authority
12.12.060	Severability
12.12.070	Effect of Adoption on Prior Ordinance
12.12.080	Building Permit Required
12.12.090	Application for Building Permit
12.12.100	Issuance of Building Permit
12.12.110	Certificate of Occupancy
12.12.120	General Authority to make Inspections and Investigations
12.12.130	Inspections by Fire Department
12.12.140	Withhold Issuance of Permits
12.12.150	Revoke a Building Permit
12.12.160	Stop-Work Order
12.12.170	Civil Action
12.12.180	Monetary Penalty
12.12.190	Right of Appeal
12.12.200	Adoption of Rules by Reference
12.12.210	Lifting Devices Located within a Private Residence
12.12.220	Use of Engineered Roof Trusses and Floor Joists
12.12.230	Effective Date

ARTICLE I. GENERAL REQUIREMENTS

12.12.010 Title. This ordinance and all material included herein by reference shall be known as the "Building Code of Orleans, Indiana." (Ord. 2012-03, S1, May 17, 2012)

12.12.020 Purpose. The purpose of this ordinance is to protect the life, public safety, health and general welfare of the citizens of Orleans, Indiana, and shall be construed in such a manner as to effectuate this purpose. (Ord. 2012-03, S2, May 17, 2012)

12.12.030 Definitions. Unless otherwise clearly indicated by its context, the words and terms defined in this section shall have the specified meanings.

- (1) "Building Commissioner", as used in this ordinance, includes individuals employed by the Building Department that are authorized to represent the Building Commissioner.

- (2) "Class 1 Structure" has the meaning ascribed thereto in IC 22-12-1-4.
- (3) "Class 2 Structure" has the meaning ascribed thereto in IC 22-12-1-5.
- (4) "Construction" has the meaning ascribed thereto in IC 22-12-1-7.
- (5) "Industrialized building system" has the meaning ascribed thereto in IC 22-12-1-14.
- (6) "Manufactured home" has the meaning ascribed thereto in IC 22-12-1-16.
- (7) "Mobile structure" has the meaning ascribed thereto in IC 22-12-1-17.
- (8) "Person" has the meaning ascribed thereto in IC 22-12-1-18.
- (9) "Structure" means both Class 1 and Class 2 structures, unless specifically stated otherwise.
- (10) "Vehicular bridge" has the meaning ascribed thereto in IC 22-12-1-26. (Ord. 2012-03, S3, May 17, 2012)

12.12.040 Scope.

- (1) All Construction shall be accomplished in compliance with the provisions of this Building Ordinance.
- (2) Pursuant to IC 22-13-2-6, this Building Ordinance shall not apply to industrialized building systems or mobile structures certified under IC 22-15-4; however, the provisions of this Building Ordinance and the rules promulgated by the Fire Prevention and Building Safety Commission do apply to any Construction related to an industrialized building system or mobile structure not certified under IC 22-15-4.
- (3) Pursuant to IC 22-13-2-9, this Building Ordinance is not applicable to regulated amusement devices, regulated boilers, regulated pressure vessels, or regulated lifting devices. (Ord. 2012-03, S4, May 17, 2012)

12.12.050 Authority. The Building Commissioner is hereby authorized and directed to administer and enforce the following:

- (1) All of the provisions of this Building Ordinance.
- (2) Variances granted in accordance with IC 22-13-2-11.
- (3) Orders issued under IC 22-12-7. (Ord. 2012-03, S5, May 17, 2012)

12.12.060 Severability. Should any provision (section, clause, phrase, word, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions be given the effect intended in adopting this ordinance. To this end, the provisions of this ordinance are severable. (Ord. 2012-03, S6, May 17, 2012)

12.12.070 Effect of Adoption on Prior Ordinance. The expressed or implied repeal of amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Such rights, liabilities, and other proceedings are continued and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted. (Ord. 2012-03, S7, May 17, 2012)

ARTICLE II. BUILDING PERMITS

12.12.080 Building Permit Required. Construction is prohibited unless in conformity with a valid building permit obtained from the Building Commissioner prior to commencement of Construction. (Ord. 2012-03, S8, May 17, 2012)

12.12.090 Application for Building Permit.

- (1) Any person required to have a building permit shall submit a complete application to the Building Commissioner and Planning Administrator.
- (2) This application shall be submitted on a form prepared by the Building Commissioner and Planning Administrator, and shall contain the following:
 - A. Information that the Building Commissioner and Planning Administrator determine to be necessary to locate and contact the applicant.
 - B. A clear and understandable copy of detailed plans and specifications drawn to scale which indicate in a precise manner the nature and location of all Construction to be accomplished.
 - C. A plot plan drawn to scale; provided, however, such plot plan shall not be required in this instance where all such Construction is to occur entirely within an existing Structure. This plot plan shall reflect the location of the Structure in relation to existing property lines and shall show streets, curbs and sidewalks and proposed changes or additions to such streets, curbs and sidewalks.
 - D. If required by Indiana law or any rule of the Fire Prevention and Building Safety Commission, a copy of a Construction Design Release for the Construction to be done that has been issued by the Building Law Compliance Officer pursuant to IC 22-15-3.

E. Any additional information that the Building Commissioner and Planning Administrator find to be necessary to determine that the Construction will conform to all applicable building and fire safety laws and will not violate any other applicable ordinances or laws.

F. The fee established by the Orleans Town Council.

- (3) Application for a building permit shall be made by the person entitled to obtain the permit or by an employee or agent of that person. The Building Commissioner and Planning Administrator may require that such an employee or agent provide written authority to apply for a permit. (Ord.2012-3,S9, May 17, 2012)

12.12.100 Issuance of Building Permit. The Building Commissioner shall issue a building permit to a person after the person has submitted a complete application, including any applicable fee, provided that the proposed Construction will conform to all applicable building and fire safety laws and will not violate any other applicable ordinances or laws. (Ord. 2012-03, S10, May 17, 2012)

12.12.110 Certificate of Occupancy. No certificate of occupancy for any Structure shall be issued unless such Structure was constructed in Compliance with the provisions of this Building Ordinance. It shall be unlawful to occupy any Structure unless a full, partial, or temporary certificate of occupancy has been issued by the Building Commissioner. (Ord. 2012-03, S11, May 17, 2012)

ARTICLE III. INVESTIGATIONS AND INSPECTIONS OF CONSTRUCTION ACTIVITIES

12.12.120 General Authority to make Inspections and Investigations.

- (1) All Construction shall be subject to periodic inspections by the Building Commissioner irrespective of whether a building permit has been or is required to be obtained.
- (2) The Building Commissioner may at any reasonable time go in, upon, around or about the premises where any Structure subject to the provisions of this Building Ordinance or to the rules of the Fire Prevention and Building Safety Commission is located for the purposes of inspection and investigation of such structure. Such inspection and investigation may be made before and/or after construction on the project is completed for the purposes of determining whether the structure meets building standards and procedures, and ascertaining whether the construction and procedures have been accomplished in a manner consistent with this Building Ordinance and the rules of the Fire Prevention and Building Safety Commission. (Ord. 2012-03, S12, May 17, 2012)

12.12.130 Inspections by Fire Department. The Building Commissioner and the Fire Department shall work cooperatively to conduct inspections and investigations to promote compliance with fire safety laws (The Fire Department has independent authority to conduct inspections and take enforcement action under IC 36-8-17). (Ord. 2012-03, S13, May 17, 2012)

ARTICLE IV. ENFORCEMENT AND PENALTIES

12.12.140 Withhold Issuance of Permits.

- (1) Whenever a person which is either an applicant for a building permit or an obtainer of a building permit owes fees (including checks returned for insufficient funds, permit fees owed to the Town of Orleans, or inspection fees owed to the Town of Orleans, the Building Commissioner may withhold the issuance of subsequently requested permits until such time that the debt is satisfied.
- (2) Whenever a person applies for a building permit for a Structure that is not being used or constructed in conformance with applicable provisions of an applicable zoning ordinance or other ordinance relating to land use, the Building Commissioner is authorized to withhold the issuance of requested permit(s) until such time that the property is brought into conformance with applicable ordinances. (Ord. 2012-03, S14, May 17, 2012)

12.12.150 Revoke a Building Permit. The Building Commissioner may revoke a building permit when any of the following are applicable:

- (1) The application, plans or supporting documents contain a false statement or misrepresentation as to a material fact.
- (2) The application, plans or supporting documents reflect lack of compliance with building standards and procedures.
- (3) There is failure to comply with the Building Ordinance.
- (4) The Structure for which the building permit has been issued is not being used or constructed in conformance with an applicable zoning ordinance or other ordinance relating to land use. (Ord. 2012-03, S15, May 17, 2012)

12.12.160 Stop-Work Order.

- (1) The Building Commissioner may issue an order requiring suspension of the pertinent Construction (stop-work order) in accordance with this section.
- (2) The stop work order shall:
 - A. Be in writing

- B. State with specificity the Construction to which it is applicable and the reason for its issuance.
 - C. Be posted on the property in a conspicuous place.
 - D. If practicable, be given to:
 - 1. The person doing the Construction; and
 - 2. To the owner of the property or the owner's agent.
 - E. The stop work order shall state the conditions under which Construction may be resumed.
- (3) The Building Commission may issue a stop work order if:
- A. Construction is proceeding in an unsafe manner, including, but not limited to, in violation of any standard set forth in this Building Ordinance or any state law pertaining to safety during Construction.
 - B. Construction is occurring in violation of this Building Ordinance or in such a manner that if Construction is allowed to proceed, there is a reasonable probability that it will be substantially difficult to correct the violation.
 - C. Construction for which a building permit is required is proceeding without a building permit being in force.
- (4) The issuance of a stop work order shall in no way limit the operation of penalties provided elsewhere in this Building Ordinance. (Ord. 2012-03, S16, May 17, 2012)

12.12.170 Civil Action. Pursuant to IC 36-1-6-4, the City may initial a civil action in a court of competent jurisdiction to restrain any person from violating a provision of this Building Ordinance. (Ord. 2012-03, S17, May 17, 2012)

12.12.180 Monetary Penalty. Any person violating any provision of this Building Ordinance may be subject to a fine in any sum not exceeding two thousand five hundred dollars (\$2,500). The assessment of a monetary penalty shall in no way limit the operation of the penalties provided elsewhere in this Building Ordinance. (Ord. 2012-03, S18, May 17, 2012)

12.12.190 Right of Appeal. Any person aggrieved by an order issued under this Building Ordinance shall have the right to petition for review of any order of the Building Commissioner. Such a person may file a petition using either, or both, of the following procedures:

- (1) Appeal to the Fire Prevention and Building Safety Commission.
 - A. A person aggrieved by an order issued under this Building Ordinance may appeal to the Fire Prevention and Building Safety Commission, in accordance with IC 22-13-2-7.
 - B. The Commission may modify or reverse any order issued by the Municipality that covers a subject governed by IC 22-12, IC 22-13, IC 22-14, IC 22-15, a fire safety or a building rule.
 - C. The Fire Prevention and Building Safety Commission must review orders that concern a Class 2 Structure if the person aggrieved by the order petitions for the review under IC 4-21.5-3-7 within thirty (30) days after the issuance of the order.
 - D. The Fire Prevention and Building Safety Commission may review all other orders issued under this Building Ordinance.
 - E. The review of an order by the Fire Prevention and Building Safety Commission does not suspend the running of the time period under any statute in which a person must petition a court for judicial review of the order.
- (2) Appeal to an Established Local Administrative Body or Court.

Pursuant to IC 36-7-8-9, a person aggrieved by a decision of the Building Department may appeal as in other civil actions. The appellant must, by registered mail, give the Municipality Executive a fifteen (15) day written notice of his or her intention to appeal. This notice must concisely state the appellant's grievance. If, pursuant to IC 36-1-6-9, the Municipality has established by ordinance to hear appeals of orders issued under ordinances, then a person aggrieved by an order may petition for review with this administrative body in accordance with said ordinance. If no such administrative body exists, then the person may petition a court for judicial review of the order. (Ord. 2012-03, S19, May 17, 2012)

ARTICLE V. MINIMUM CONSTRUCTION STANDARDS

12.12.200 ADOPTION OF RULES BY REFERENCE.

- (1) Pursuant to IC 22-13-2-3(b), the rules of the Indiana Fire Prevention and Building Safety Commission as set out in the following Articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this code and shall include any later amendments to those rules.
 - A. Article 13 — Building Codes
 - B. Article 14 — Indiana Residential Codes

- C. Article 16 — Indiana Plumbing Codes
 - D. Article 17 — Indiana Electrical Code
 - E. Article 18 — Indiana Mechanical Code
 - F. Article 19 — Indiana Energy Conservation Code
 - G. Article 20 — Indiana Swimming Pool Code
 - H. Article 22 — Indiana Fire Code
 - I. Article 25 — Indiana Fuel Gas Code
 - J. Article 28— NFPA Standards
- (2) Two (2) copies of the above rules incorporated by reference are on file in the office of the clerk for the legislative body for public inspection as required by IC 36-1-5-4.
 - (3) The Building Commissioner and the Fire Prevention and Building Safety Commission may grant a variance to the fire safety laws and building laws adopted in this Building Ordinance. Pursuant to IC 22-13-2-7(b), a variance granted by the Building Commissioner is not effective until it has been approved by Fire Prevention and Building Safety Commission. (Ord. 2012-03, S20, May 17, 2012)

12.12.210 LIFTING DEVICES LOCATED WITHIN A PRIVATE RESIDENCE.

- (1) Pursuant to IC 22-12-1(b)(12), lifting devices, such as elevators and wheelchair lifts, located within a private residence are not regulated lifting devices. Therefore, the following standards applicable to lifting devices located within a private residence are incorporated by reference:
 - A. Part 5.3, Private Residence Elevators, ANSI/ASME A17.1-2000, Safety Code for Elevators and Escalators published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016.
 - B. Part 5.4, Private Residence Inclined Elevators, ANSI/ASME A17.1-2000, Safety Code for Elevators and Escalators published by the American Society of Mechanical Engineers. Three Park Avenue, New York, New York, 10016.
 - C. Section 5, Private Residence Vertical Platform Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers. Three Park Avenue, New York, New York,

10016.

- D. Section 6, Private Residence Inclined Platform Lifts, ASME A18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers. Three Park Avenue, New York, New York, 10016.
- E. Section 7, Private Inclined Stairway Lifts, ASMEA18.1a, 2001 (Addenda to ASME 18.1-1999), Safety Standard for Platform and Stairway Chair Lifts, published by the American Society of Mechanical Engineers, Three Park Avenue, New York, New York, 10016.

- (2) Two (2) copies of the above lifting device standards incorporated by reference are on file in the office of the Clerk for the legislative body for public inspection as required by IC 36-1-5-4. (Ord. 2012-03, S21, May 17, 2012)

ARTICLE VI. USE OF ENGINEERED ROOF TRUSSES AND FLOOR JOISTS.

12.12.220 USE OF ENGINEERED ROOF TRUSSES AND FLOOR JOISTS.

- (1) This article applies only to new construction of a Class 1 structure and a Class 2 structure.
- (2) A. As used in this article, "engineered lumber roof trusses and/or floor joists" refers to a structural assembly that:
 - 1. is fabricated from:
 - (a) Wood
 - (b) light gauge metal
 - (c) other component materials; or
 - (d) any combination of materials described in clauses A through C;
 - 2. has less mass cross sectional area than sawn lumber members that would be used in an equivalent application;
 - 3. is assembled from combustible or noncombustible materials, or both; and

4. is not a vertical member and supports a roof or floor, or both.
 - B. The term does not include a structural assembly that provides a minimum of one (1) hour fire resistance when tested in accordance with ASTM Standard E119.
 - C. As used in this article, "owner" means a person having control or custody of any structure to which this article applies.
- (3)
- A. A structure that contains engineered lumber roof trusses and/or floor joists must have a placard affixed to the structure that meets the requirements of this article.
 - B. The placard shall use green coding and lettering that identifies both of the following:
 1. The types of engineered lumber roof trusses and floor joists used in the structure, including truss or engineered lumber.
 2. The location of engineered lumber roof trusses and/or floor joists used in the structure including floor joist or truss roof systems.
 - C. The placard may not be:
 1. smaller than three and one-half (3½) inches by four one-half (4½) inches; and
 2. larger than five (5) inches by five and one-half (5½) inches.
- (4)
- A. The placard must be permanently affixed:
 1. Below the structure's electrical meter, if the structure has electrical service; or
 2. on the left side of the front entrance four (4) to six (6) feet above the ground, if the structure does not have electrical service.
- (5)
- A. An applicant for a building permit must indicate on the application:
 1. the types of engineered lumber roof trusses and/or floor joist used in the structure;
 2. the location of the engineered lumber roof trusses and/or floor joist used in the structure; and

- B. The application for a building permit must include a place on the form for providing the information under subsection A.
- (6) A. An applicant for a building permit shall not be issued a building permit unless the individual at the time of the application is issued a placard by the Building Commissioner.
- B. A fee, not to exceed five dollars (\$5.00), shall be charged for each placard issued.
- (7) The Building Commissioner shall not
 - 1. approve a structure on final inspection; or
 - 2. issue a certificate of occupancy for a structure;

Unless a placard is affixed to the structure that meets the requirements of article.

- (8) A. Not later than ten (10) business days after issuing a building permit, the Building Commissioner shall send written notification to the local fire department and the 911 telephone call center that has jurisdiction in the area where the structure is located. The notification shall be sent by certified mail, return receipt requested.
- B. The notification must include the following information:
 - 1. The street address of the property.
 - 2. The name of the municipality and county in which the structure is located.
 - 3. The types of engineered lumber roof trusses and/or floor joists used in the structure.
 - 4. The location of the engineered lumber roof trusses and/or floor joists by area within the structure.
- (9) Upon receiving a copy of the notification under section (8) of this article, the chief of the fire department or the chief's designee shall:
 - 1. post the information in a conspicuous place for all emergency personnel;
 - 2. provide the information to any fire department providing mutual aid; and
 - 3. for Class 1 structures only, add the structure to the

inspection file for follow up on a timely basis for inspection.

(10) Upon receiving a notification under section (8) if this article, the 911 telephone call center shall maintain the information on each property by the address of the property, that uses engineered lumber roof trusses and/or floor joist. When dispatching to the listed address, the dispatcher shall notify the responding units of the information.

(11) A. If:

1. the Building Commissioner provided written notice to an owner that the owner has failed to install or maintain a placard on the structure in violation of this article; and

2. the owner fails to correct the violation not later than ten (10) business days after receiving the written notice;

The owner is liable for a civil penalty of not more than one hundred dollars (\$100.00) per day during the period beginning ten (10) business days after the owner receives written notice of the violation from the unit and until the date the violation is corrected. A penalty imposed under this ordinance may not exceed three thousand dollars (\$3,000.00) per structure per year. (Ord. 2012-03, S22, May 17, 2012)

ARTICLE VII. EFFECTIVE DATE

12.12.230 EFFECTIVE DATE. This Building Ordinance shall be in full force and effect from and after the date on which both of the following have occurred:

(1) The Orleans Town Council has adopted this ordinance.

(2) The Fire Prevention and Building Safety Commission of Indiana has approved of this ordinance as required by IC 36-7-8-3 and IC 22-13-2-5. (Ord. 2012-03, S23, May 17, 2012)

Chapter 12.18

MOBILE HOME RESTRICTIONS ON PRIVATE PROPERTY

Sections:

12.18.010	Definitions
12.18.020	Restrictions
12.18.030	Liability
12.18.040	Penalties
12.18.050	Repealer
12.18.060	Effect date

12.18.010 Definitions. As used in Ordinance 1989-2, the following terms shall have the following meanings:

- (1) "Mobile home" means any vehicle including the equipment sold as a part of a vehicle, which is so constructed as to permit its being used as a conveyance upon public streets or highways by either self-propelled or not self-propelled means, which is designed, constructed or reconstructed, or added to by means of an enclosed addition or room in such manner as will permit the occupancy thereof as a dwelling for one or more persons, which is both used and occupied as a dwelling having no foundation other than wheels, jacks, skirting, or other temporary supports.
- (2) "Parcel" means the entirety of a contiguous quantity of real estate owned by the same person, persons, entity, entities, or combination thereof, and by the same tenancies.
- (3) "Owner" means one who holds an estate or interest in real estate according to the records in the office of the Recorder of Orange County, Indiana. "Owner" specifically does not include a mortgagee. (Ord. 1989-2, S1, May 4, 1989) (Ord. 1980-3, SI, Sept. 11, 1980)

12.18.020 Restrictions. Within the Corporate Limits of the Town of Orleans:

- (1) An owner of a parcel of less than six thousand four hundred (6,400) square feet shall not cause or allow to be placed thereon one (1) or more mobile homes.
- (2) An owner of a parcel of six thousand four hundred (6,400) square feet or more shall not cause or allow to be placed thereon more than one (1) mobile

home for each nonoverlapping area of six thousand four hundred (6,400) square feet therein.

- (3) An owner of a parcel which lawfully contains more than one mobile home under Section 12.18.020(2). of this Chapter shall not cause or allow any portion of said mobile homes to be placed closer than twelve (12) feet together.
- (4) An owner of a parcel which lawfully contains one or more mobile homes under Section 12.18.020(2). of this Chapter shall not cause or allow any portion of any said mobile home or homes to be placed closer than six (6) feet from any property line of said parcel. (Ord. 1989-2, S2, May 4, 1989) (Ord. 1980-3, SII, Sept. 11, 1980)

12.18.030 Liability. Multiple owners of a parcel that is in violation of Section 12.18.020(1), 12.18.020(2), 12.18.020(3), or 12.18.020(4) of this Chapter shall be jointly and severally liable for penalties hereunder. (Ord. 1989-2, S3, May 4, 1989)

12.18.040 Penalties. A person who violates Section 12.18.020(1), 12.18.020(2), 12.18.020(3), or 12.18.020(4) of this Chapter shall be subject to a fine not to exceed fifty dollars (\$50.00) for each day of the violation. (Ord. 1989-2, S4, May 4, 1989) (Ord. 1980-3, SIII, Sept. 11, 1980)

12.18.050 Repealer.

- (1) Ordinance No. 1980-3 is hereby repealed in its entirety, and
- (2) All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. (Ord. 1989-2, S5, May 4, 1989)

12.18.060 Effective Date. This ordinance shall be effective upon passage, and the penalty shall be effective upon publication as required by law. (Ord. 1989-2, S6, May 4, 1989)

Chapter 12.19

TRAVEL CAMPERS, MOBILE HOMES, TRAVEL TRAILERS PROHIBITED AS LIVING QUARTERS ON PUBLIC PROPERTY

Sections:

12.19.010	Definitions
12.19.020	Restrictions for human occupancy
12.19.030	Restrictions for sales
12.19.040	Penalty

12.19.010 Definitions.

- (1) "Travel Camper" means a mobile living unit designed to be mounted upon and conveyed by another vehicle. (Ord. 1995-2, S1(a), Feb. 16, 1995)
- (2) "Mobile Home" means a dwelling unit with living quarters suitable for human use, factory-built and factory assembled, designed for conveyance, 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 unit complete and ready for occupancy. (Ord. 1995-2, S1(b), Feb. 16, 1995)
- (3) "Travel Trailer" means a mobile home not exceeding eight feet in width nor more than thirty-three feet in length. (Ord. 1995-2, S1(c), Feb. 16, 1995)

12.19.020 Restrictions for human occupancy. It shall be unlawful to park for purposes of human occupancy any travel camper, mobile home, or travel trailer within the Town Square Park, or upon any public street or other area designated for public parking immediately adjacent thereto in the Town of Orleans, Indiana. (Ord. 1995-2, S2, Feb. 16, 1995)

12.19.030 Restrictions for sales. No travel campers, mobile homes, or travel trailers shall be parked for purposes of sales within the Town Square Park, but may be parked for those purposes only at curbside. Only tents and knock-down type booths are permitted on the lawn of the Town Square Park. (Ord. 1995-2, S3, Feb. 16, 1995)

12.19.040 Penalty. Judgment of up to Twenty-Five Hundred Dollars (\$2,500.00) may be entered for each violation of this ordinance. (Ord. 1995-2, S4, Feb. 16, 1995)

Chapter 12.20

PROHIBITING THE CONSTRUCTION OF CHICKEN HOUSES AND SLAUGHTER HOUSES

Sections:

12.20.010 Unlawful to construct a chicken house or slaughter house

12.20.020 Violation and penalties

12.20.030 Validity

12.20.010 Unlawful to construct a chicken house or slaughter house. It shall be unlawful for any person, firm, or corporation to build, construct or establish a chicken house or slaughter house of the purpose of raising or dealing in the purchase or sale of livestock, chickens, or other farm animals within the corporate limits of the Town of Orleans. (Ord. 1960-2, S1, December 6, 1960)

12.20.020 Violations and Penalties. Any person violating the provisions of this ordinance shall be fined in the justice of the peace or circuit court the sum of no less than \$1.00 nor more than \$500.00 or be imprisoned 30 days in the county jail or may be punished by fine and imprisonment. Each offense shall be a separate and additional violation and punishable as such. (Ord. 1960-2, S2, December 6, 1960)

12.20.030 Validity. If any section, sub-section, sentence, clause, or phase of this ordinance is, for any reason, held to be unconstitutional, such decisions shall not affect the validity of the remaining portion of this ordinance. The Town Officials of the Town of Orleans, Indiana, hereby declare that they would have passed this ordinance and each section, sub-section, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, sub-section, sentences, clauses, or phrases be declared unconstitutional. (Ord. 1960-2, S3, December 6, 1960)

Chapter 12.25

PROHIBITING THE ESTABLISHMENT OR MAINTENANCE OF A JUNK YARD

Sections:

- 12.25.010 Title
- 12.25.020 Definitions
- 12.25.030 General provisions
- 12.25.040 Penalties
- 12.25.050 Effective date

12.25.010 Title. This Ordinance (Chapter) shall be known as the "Junk Yard Ordinance of the Town of Orleans, Indiana." (Ord. 1979-1, SI, May 3, 1979)

12.25.020 Definitions. As used in this Ordinance (Chapter) the following terms shall be defined as follows:

- (1) "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junk, dismantled or wrecked automobiles or parts thereof, iron steel, and other old or scrap ferrous or non-ferrous materials.
- (2) "Automobile Graveyard" shall mean an establishment of place of business which is intended, used, or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles of motor vehicle parts.
- (3) "Junk Yard" shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or selling junk, or for the maintenance or operation of an automobile graveyard.
- (4) "Person" shall mean any individual, firm, partnership, corporation, group or association. (Ord. 1979-1, SII, May 3, 1979)

12.25.030 General Provisions. That it shall hereafter be and it is hereby declared to be unlawful for any person to erect or construct, establish or maintain, alter, or cause of permit to be erected, constructed, established, maintained or altered on any premises which in corporate limits of the Town of Orleans, Indiana, any building, buildings or parcel of land which shall be used for, or designed or maintained to be used for junk yard or automobile graveyard. (Ord. 1979-1, SIII, May 3, 1979)

12.25.040 Penalties. Any person who constructs, erects or establishes or who begins the erection, construction, establishment or alteration of any such building or parcel of land on any premises within the corporate limits of the Town of Orleans, Indiana, shall be fined not less than five dollars nor more than one hundred dollars. Each day any violation of this ordinance continues shall be deemed a separate offense. (Ord. 1979-1, SIV, May 3, 1979)

12.25.050 Effective Date. This ordinance shall be in full force and effect after its passage. Provided, however that any currently existing Automobile Graveyard, operated as a commercial business at the time of the passage of this ordinance, shall be exempt from the provisions hereof, as to the real estate actually used for the operation thereof at the time of said passage. (Ord. 1979-1, SV, May 3, 1979)