CHAPTER 152: ZONING

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§ 152.001 TITLE.

This chapter shall hereinafter be known and cited as “Town of New Carlisle Zoning Ordinance,” and hereinafter referred to as the “Ordinance” or “this chapter.”

(Ord. 1221, § 1.01(a), passed 1-26-2010)

§ 152.002 STATUTORY AUTHORITY.

(A) This chapter is adopted pursuant to the authority contained in I.C. 36-7-4 et seq.
(B) Whenever any provision of this chapter refers to or cites a section of the Indiana Code and that section is later amended or superseded, this chapter shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.  
(Ord. 1221, § 1.01(b), passed 1-26-2010)

§ 152.003 PURPOSE.

In adopting this chapter, the Town Council has given reasonable consideration to, among other things: the Comprehensive Plan; current conditions and the character of current structures and uses in each district; the most desirable use for which the land in each district is adapted; the conservation of property values throughout the town; and responsible development and growth of the town, and hereby adopts this chapter for the purpose of:

(A) Securing adequate light, air, convenience of access, and safety from fire, flood, and other danger;

(B) Lessening or avoiding congestion in public ways;

(C) Promoting the public health, safety, comfort, morals, convenience, and general welfare;

(D) Guiding the future development of the town;

(E) Ensuring that residential areas provide healthful surroundings for family life;

(F) Ensuring that the needs of business and industry be recognized in future growth;

(G) Ensuring that growth be commensurate with and promotive of the efficient and economical use of public funds; and

(H) Otherwise accomplishing the purposes of I.C. 36-7-4 et seq.
(Ord. 1221, § 1.01(c), passed 1-26-2010)

§ 152.004 FINDINGS FOR ADOPTION OF THIS CHAPTER.

The Town Council, in adopting this chapter, finds that this chapter has paid reasonable regard to:

(A) The general policies and patterns of development set out in the Comprehensive Plan for the town;

(B) Current conditions and the character of current structures and uses in each district;
(C) The most desirable use for which the land in each district is adapted;

(D) The conservation of property values throughout the town; and

(E) The responsible development and growth of the town.
(Ord. 1221, § 1.01(d), passed 1-26-2010)

§ 152.005 EFFECTIVE DATE.

This chapter shall be effective at 12:01 a.m., on January 26, 2010.
(Ord. 1221, § 1.01(e), passed 1-26-2010)

§ 152.006 PRIOR OR CONFLICTING ORDINANCES.

The Zoning Ordinance for the Town of New Carlisle, St. Joseph County, Indiana, as previously adopted by the Town Council as Chapter 10, Article 1 of the 1992 Code, and all amendments thereto, are repealed as of the effective date of this chapter.
(Ord. 1221, § 1.01(f), passed 1-26-2010)

§ 152.007 SEPARABILITY.

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses, and phrases of this chapter are severable and, if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, the unconstitutionality or invalidity shall not affect any remaining sections, paragraphs, sentences, clauses or phrases of this chapter because the same would have been enacted without the incorporation into this chapter of the unconstitutional or invalid section, paragraph, sentence, clause, or phrase.
(Ord. 1221, § 1.01(g), passed 1-26-2010)

§ 152.008 EMINENT DOMAIN OR USE.

Nothing in this chapter or in any rules, regulations, or orders issued pursuant to this chapter shall be deemed to restrict or regulate or to authorize any unit of government, legislative body, Plan Commission, or Board of Zoning Appeals now or hereafter established, to restrict or regulate:

(A) United States of America. The exercise of the power of eminent domain by the United States of America or by any department or agency of the United States of America, or the use of property owned or occupied by the United States of America or any department or agency of the United States of America; or
(B) **State of Indiana.** The exercise of the power of eminent domain by the State of Indiana or by any agency of the State of Indiana, or the use of property owned or occupied by the State of Indiana or any agency of the State of Indiana.

(Ord. 1221, § 1.01(h), passed 1-26-2010)

**Statutory reference:**

*Similar provisions, see I.C. 36-7-4-1104*

§ 152.009 INTERPRETATION OF THIS CHAPTER/CONFLICT WITH OTHER ORDINANCES.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the health, safety, comfort, morals, convenience, and the general welfare of the public. In the case of any conflict or inconsistency between 2 or more provisions of this chapter (e.g., the restrictions set forth in an overlay district versus the restrictions set forth in a primary district) or any other ordinance of the town, the provision which imposes the greater or higher or more restrictive standard of performance shall control.

(Ord. 1221, § 1.01(i), passed 1-26-2010)

§ 152.010 JURISDICTION.

Upon both adoption of this chapter by the Town Council of the Town of New Carlisle and the effective date of this chapter, the Area Planning Commission of St. Joseph County shall be the duly authorized Plan Commission for the incorporated areas of the town pursuant to the Area Planning Law of the Indiana Code, and this chapter shall apply to all real property located within the corporate boundaries of the town.

(Ord. 1221, § 1.01(j), passed 1-26-2010)

§ 152.011 SUBDIVISION OF LAND.

The subdivision of land may occur in any and all districts established by this chapter. Whenever a subdivision occurs, the rules, regulations, and procedures of the town Subdivision Regulations, or any subsequently adopted replacement Subdivision Control Ordinance for the town shall apply.

(Ord. 1221, § 1.01(k), passed 1-26-2010)

§ 152.012 SCOPE AND APPLICATION.

Except as expressly provided otherwise in this chapter:

(A) No person may use or occupy any land, building, structure, or improvement or authorize or permit the use or occupancy of any land, building, structure, or improvement under his or her control except in accordance with the applicable provisions of this chapter;
(B) No land, building, structure, or improvement shall be used and no building, structure, or improvement shall be erected, reconstructed, or structurally altered, which is arranged, intended, or designed to be used for any purpose other than a use which is permitted in the district in which the land, building, structure, or improvement is located; and

(C) No building, structure or improvement shall be placed, erected, moved or structurally altered with respect to height, area, bulk, or setback except in compliance with the regulations of this chapter. (Ord. 1221, § 1.01(l), passed 1-26-2010)

§ 152.013 PRIVATE PROVISIONS.

The provisions of this chapter are not intended to nullify, abolish, or repeal any easement, covenant or other private agreement or restriction. (Ord. 1221, § 1.01(m), passed 1-26-2010)

§ 152.014 DETERMINATION OF LAND USES NOT LISTED IN THIS CHAPTER.

(A) It is recognized that this chapter may require interpretation to assign all possible uses to individual districts. Therefore, any use which is not specifically set forth in this chapter shall be reviewed by the Zoning Administrator for consistency with the intent set forth in each district and for compatibility with use characteristics typical of uses permitted within those districts. Based upon this review, the Zoning Administrator shall determine the appropriate district for any use which is not specifically set forth herein.

(B) In case of disagreement with the determination of the Zoning Administrator in assigning a use to an appropriate district, any aggrieved party may file an appeal with the Board of Zoning Appeals pursuant to the provisions of § 152.367.

(C) If either (C)(1) or (C)(2) is determined as follows, then that use shall be deemed to require the PUD District and shall be considered to be a permitted use only in a PUD District in which the use is specifically included and described in the PUD District ordinance:

(1) Determined by the Zoning Administrator that a particular use is not permitted in any residential, commercial/mixed use, industrial or other district provided for in this chapter and no appeal of the Zoning Administrator’s decision is filed with the Board of Zoning Appeals pursuant to the provisions of § 152.367; or

(2) Determined upon appeal that a particular use is not permitted in any residential, commercial/mixed use, industrial, or other district provided for in this chapter. (Ord. 1221, § 1.01(n), passed 1-26-2010)
§ 152.015 SAVING PROVISION FOR PENDING ENFORCEMENT ACTIONS.

Except as shall be expressly provided for in this chapter, the adoption of this chapter shall not:

(A) Nullify or make void any action pending under, or by virtue of, any prior Zoning Ordinance or Subdivision Control Ordinance;

(B) Discontinue, nullify, void, abate, modify or alter any penalty accruing or about to accrue under, or by virtue of, any prior Zoning Ordinance or Subdivision Control Ordinance;

(C) Affect the liability of any person, firm, or corporation under, or by virtue of, any prior Zoning Ordinance or Subdivision Control Ordinance;

(D) Waive any right of the town under any section or provision of any prior Zoning Ordinance or Subdivision Control Ordinance; or

(E) Vacate or annul any rights obtained by any person, firm, or corporation by lawful action of the town under, or by virtue of, any prior Zoning Ordinance or Subdivision Control Ordinance.

(Ord. 1221, § 1.01(o), passed 1-26-2010)

§ 152.016 TRANSITION RULES.

(A) Pending permit applications (per I.C. 36-7-4-1109).

(1) As used in this section, the term ZONING APPROVAL OR PERMIT shall include the following: an improvement location permit; a building permit; a certificate of occupancy; approval of site-specific development plan; approval of a primary plat or secondary plat; approval of a conditional use, special exception, or special use; or approval of a planned unit development.

(2) (a) For any full and complete application for a zoning approval or permit required by the prior existing Zoning Ordinance of the town and which application is pending on the effective date of this chapter, the granting of the zoning approval or permit, and the granting of any secondary, additional, or related permits or approvals required from the town, with respect to the general subject matter of the application of the permit, are governed for at least 3 years after the date of application by the statutes, ordinances, rules, development standards, and regulations in effect and applicable to the real estate when the application is filed, even if: before the issuance of the permit or while the permit approval process is pending; or before the issuance of any secondary, additional, or related permits or approvals or while the secondary, additional, or related permit or approval process is pending; the statutes, ordinances, rules, development standards, or regulations governing the granting of the permit or approval are changed by the General Assembly or the Town Council.

(b) However, this division (A)(2) shall not apply if the development or other activity to which the permit relates is not completed within 7 years after the development or activity is commenced.
(B) **Zone map amendments.** Any application for zone map amendment which has been filed with the Town Council and which application is full and complete under the provisions of the prior existing Zoning Ordinance of the town shall be allowed to continue to be processed to completion pursuant to the terms and conditions of the prior existing Zoning Ordinance of the town; provided, however:

1. If the proposed use would no longer be permitted in the proposed district as a result of changes to that district resulting from the adoption of this chapter, such application shall be deemed amended to request the district of this chapter in which the proposed use is first permitted; or

2. If the proposed district would no longer be in existence as a result of the adoption of this chapter, such application shall be deemed to be amended to request the district of this chapter which is most comparable to zoning classification requested in the application for zone map amendment.

(C) **Special exception use, variance of development standards.** Any application before the Board of Zoning Appeals (i.e., special exception use or variance of development standards) which has been filed with Board of Zoning Appeals of the town and which application is full and complete under the provisions of the prior existing Zoning Ordinance of the town shall be allowed to continue to be processed to completion pursuant to the terms and conditions of the prior existing Zoning Ordinance of the town. However:

1. If the application is no longer required by the terms of this chapter, the application shall be considered dismissed for lack of jurisdiction; or

2. If the proposed use or development requires additional approvals from the Board of Zoning Appeals pursuant to the terms and conditions of this chapter (and which additional approvals from the Board of Zoning Appeals were not required by the terms and conditions of the prior existing Zoning Ordinance of the town), the application shall be deemed amended to include only those additional approvals which are minimally required and within the jurisdiction of the Board of Zoning Appeals to approve for the proposed use or site plan for the development.

(Ord. 1221, § 1.01(p), passed 1-26-2010)

§ 152.017 AMENDMENTS TO THIS CHAPTER.

In its continuing administration of the purposes set forth in § 152.003 above, the Town Council of the town may find it reasonable and necessary to propose and adopt amendments to the text of this chapter or determine changes to the zone maps incorporated into this chapter. All such amendments shall be considered and adopted in compliance with I.C. 36-7-4-600 et seq., the provisions of this chapter, and any applicable Rules of Procedure subsequently adopted by the Area Plan Commission or the Town Council governing such procedures.

(Ord. 1221, § 1.01(q), passed 1-26-2010)
§ 152.018 COMPLIANCE REQUIRED FOR USE AND DEVELOPMENT OF REAL PROPERTY.

Compliance with the terms and provisions of this chapter shall be a prerequisite for the use and development of real property within the town. Failure to comply with the terms and provisions of this chapter shall be deemed to be a civil zoning violation enforceable by the Zoning Administrator, as provided for in I.C. 36-7-4 et seq., and §§ 152.405 through 152.413 of this chapter.

(Ord. 1221, § 1.01(r), passed 1-26-2010)

§ 152.019 EXEMPTIONS FOR TRANSPORTATION, COMMUNICATION, AND UTILITY LINES.

(A) Service easements, including but not limited to those providing for: roadways; railroad lines; pipelines; electric power lines, conduits or systems; telephone lines, conduits or systems; cable television lines, conduits or systems; water mains, lines valves or fire hydrants; sanitary sewer mains, lines, laterals, manhole structures or lift stations; drainage or storm sewer inlets, pipes or roof drains; and similar and comparable utility services and facilities, shall be exempt from the provisions of this chapter.

(B) Bus stations, park and ride facilities, railway terminals, gas storage tanks, power stations, utility substations, water treatment plants, pumping stations, water towers, sewage treatment plants and other facilities which generate, create, or process such transportation, communication, or utility services, shall be subject to all use and development standards regulations of this chapter.

(Ord. 1221, § 1.01(s), passed 1-26-2010)

§ 152.020 CLEAR SIGHT AREA REQUIREMENTS.

(A) Except for the TC District, no building, structure or improvement, including landscaping, shall be erected, placed, planted, or maintained so as to interfere with a clear sight area located between the heights of 3 feet and 10 feet above the crown of a street, driveway or alley.

(B) A “clear sight area” shall be established for all streets, whether public or private, in one of the following manners:
(1) At the intersection of streets, clear sight areas are formed at each corner by the street right-of-way lines and a line connecting points on the right-of-way lines located 25 feet away from the intersection of the street right-of-way lines. In the case of a round or corner-cut right-of-way, the measurement shall be taken from the intersection of the right-of-way lines extended; or

(2) At the intersection of a street with a driveway or alley, clear sight area shall be formed by the intersection of the street right-of-way line and the driveway surface edge or the right-of-way of the alley and a line connecting points 10 feet from the intersection of the street right-of-way line and the driveway surface edge or alley right-of-way.

(Ord. 1221, § 1.01(t), passed 1-26-2010)

§ 152.021 REQUIREMENTS FOR ALL PRIVATE STREETS AND PRIVATE ALLEYS.

All private streets and private alleys, when specifically authorized for use by the town through grant of a variance, development incentive, plat or subdivision waiver, shall be developed to the following standards.

(A) Pavement width for private streets. Minimum pavement width for that portion of a private street available for through traffic (i.e., exclusive of parking spaces):

(1) Residential Districts:

(a) One-way traffic: 12 feet; and

(b) Two-way traffic: 24 feet.

(2) Commercial/Mixed Use Districts or Industrial Districts:

(a) One-way traffic: 18 feet; and

(b) Two-way traffic: 36 feet.
(B) **Pavement width for private alleys.** Minimum pavement width for that portion of a private alley available for through traffic (i.e., exclusive of parking spaces):

(1) Residential Districts: 12 feet; and

(2) Commercial/Mixed Use Districts or Industrial Districts: 16 feet.

(C) **Depth and materials.** Minimum pavement depth and materials for that portion of a private street or private alley available for through traffic, as noted above, shall be as required by the town for public streets or public alleys. Curb sections shall be as required by the town for public streets or public alleys.

(D) **Emergency vehicles.** The geometric design of private streets or private alleys shall provide for the through movement or turnaround of emergency vehicles. Turnaround design may include cul-de-sac, hammerhead, or other design approved by the Town Board of Public Works.

(E) **Maintenance/services.** Prior to the issuance of an improvement location permit or obtaining secondary plat approval, the developer or subdivider shall file documentary assurances with the Town Council that all lots served by the private streets or private alleys shall be provided with the following services: regular trash pick-up; leaf pick-up; snow removal; daily mail delivery service; roadway maintenance and repair, including but not limited to driving surface, roadway subgrade, subsurface drainage, roadside drainage, curbs, sidewalks, street lights, street name signs, traffic-control signs, and traffic-control signals; and powers to enforce speed control and parking regulations. Such services shall be provided in accordance with the specifications approved by the Town Council, which shall include the establishment of a maintenance fund or escrow account by the developer or subdivider, which may be supplemented by regular or special assessments against each lot owner, provided the assessments are at reasonable and non-discriminatory rate of charge. Such documentary assurances shall be incorporated into the applicable final plat that is recorded in the office of the Recorder of St. Joseph County, or otherwise provided for through legally binding perpetual agreements as approved by the Town Council. (Ord. 1221, § 1.01(u), passed 1-26-2010)

§ 152.022 **EXEMPTION FOR ANTI-TERRORISM DEVICES AND PORTABLE TOWERS.**

Sensors and special devices specifically designed to monitor air quality and to alert governmental authorities of biological, chemical, or nuclear attack(s) shall be allowed on any building or structure, including telecommunications towers, subject to the final review of the Zoning Administrator. Integrated portable tower systems, which are specifically designed to monitor air quality and which may alert governmental authorities of biological, chemical, or nuclear attack(s), may be permitted on an emergency basis, subject to the final review of the Zoning Administrator with regard to location(s) and duration. (Ord. 1221, § 1.01(v), passed 1-26-2010)
§ 152.035 ESTABLISHMENT OF DISTRICTS.

(A) Districts. The following districts are hereby established for the corporate limits of the town, and land within those areas shall be designated on the Official Zone Map by the following symbols:

<table>
<thead>
<tr>
<th>General Use Districts</th>
<th>Symbol</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Districts</td>
<td></td>
</tr>
<tr>
<td>Single Family</td>
<td>R1</td>
</tr>
<tr>
<td>Single Family and 2 Family</td>
<td>R2</td>
</tr>
<tr>
<td>Multifamily</td>
<td>MF</td>
</tr>
<tr>
<td>Commercial/Town Center Districts</td>
<td></td>
</tr>
<tr>
<td>Office Buffer</td>
<td>OB</td>
</tr>
<tr>
<td>Local Business</td>
<td>LB</td>
</tr>
<tr>
<td>Community Business</td>
<td>CB</td>
</tr>
<tr>
<td>Town Center</td>
<td>TC</td>
</tr>
<tr>
<td>Industrial Districts</td>
<td></td>
</tr>
<tr>
<td>Light Industrial</td>
<td>LI</td>
</tr>
<tr>
<td>General Industrial</td>
<td>GI</td>
</tr>
<tr>
<td>Planned Unit Developments</td>
<td>PUD</td>
</tr>
</tbody>
</table>

(B) Overlay districts. Overlay districts are hereby established for the town as to be later determined by the Town Council.

(Ord. 1221, § 1.02(a), passed 1-26-2010)

§ 152.036 ORDER OF DISTRICTS.

The districts listed in § 152.035 above are ranked in the order from the “least intense” district on the top, through each successively “more intense” district as the list progresses to the bottom, except for the Planned Unit Development District, which shall not be considered part of the progression. PUDs
shall be ranked individually based upon the permitted uses authorized in each PUD and the district in which such permitted uses would otherwise be allowed as a matter of right.
(Ord. 1221, § 1.02(b), passed 1-26-2010)

§ 152.037 OFFICIAL ZONE MAP.

In order to carry out the purpose of this chapter and to allow a variety of uses in different districts which are appropriate in location, arrangement, and density to the character of the individual districts and the establishment of a well considered pattern of development for the town, all real property located within the corporate boundaries of the town are hereby divided into districts as shown on the Official Zone Map which, together with all explanatory matter, is incorporated by reference and declared to be a part of this chapter.
(Ord. 1221, § 1.02(c), passed 1-26-2010)

§ 152.038 IDENTIFICATION OF THE OFFICIAL ZONE MAP.

(A) An Official Zone Map for the town shall be maintained by the Executive Director. The Official Zone Map shall be maintained by the Executive Director as a paper hard copy or in electronic format.

(B) If the Official Zone Map is maintained as a paper hard copy, the Official Zone Map may be identified by the signature of the President of the Town Council and the signature of the Executive Director under the following words: “This is to certify that this is the Official Zone Map of the Town of New Carlisle, Indiana,” together with the date of adoption of this chapter.

(C) If the Official Zone Map is maintained in electronic format, the Executive Director shall be the custodian of the electronic format Official Zoning Map. The Executive Director may depict the Official Zone Map, in total or in part, in various formats and scales as appropriate to the need.
(Ord. 1221, § 1.02(d), passed 1-26-2010)

§ 152.039 OFFICIAL ZONE MAP CHANGES.

(A) If, after adoption of the Official Zone Map, the Town Council, in accordance with the provisions of this chapter and the I.C. 36-7-4-600 et seq., changes any of the district boundaries or other matter portrayed on the Official Zone Map, such changes shall be entered by Executive Director as follows: if hard copy, changes shall be depicted on a “working copy” of the Official Zone Map; or if electronic format, changes shall be entered to the electronic format Official Zone Map, which is maintained in the office of the Area Plan Commission. If the Official Zone Map is a hard copy, the working copy of the Official Zone Map shall be maintained as an interim representation of the actual zoning changes approved by the Town Council since the most recent adoption of an Official Zone Map. The working copy of the Official Zone Map or, if maintained in electronic format, a hard copy depiction
of the Official Zone Map, shall be available for public inspection and reference during all normal business hours. In case of discrepancy between changes noted on the working copy of the Official Zone Map and the official printed record of the Town Council, the official printed record of the Town Council shall control.

(B) In the event that the Official Zone Map becomes worn, damaged, destroyed, lost, or difficult to interpret, staff shall, on an as-needed basis, prepare a revised Official Zone Map for review and recommendation by the Area Plan Commission to the Town Council at a public hearing for which proper notice has been provided. A revised Official Zone Map shall incorporate all official actions of the Town Council related to matters depicted on the Official Zone Map since the adoption of the prior Official Zone Map. A revised Official Zone Map may also include revisions to correct drafting errors and changes in the base information related to subdivision plats or streets.

(C) The Area Plan Commission shall certify its recommendation of the revised Official Zone Map to the Town Council for official adoption by the Town Council. Any such revised Official Zone Map shall be identified as described above with the addition of the phrase: “As amended to and including the Town Council agenda of______________.”

(D) No change of any nature shall be made in the Official Zone Map, or matter shown thereon, except in conformity with the amendment procedures set forth in this chapter.
(Ord. 1221, § 1.02(e), passed 1-26-2010)

§ 152.040 RETENTION AND PRESERVATION OF RECORD.

Unless the prior Official Zone Map has been lost or completely destroyed, the prior Official Zone Map, along with all available records pertaining to its adoption or amendment, shall be retained and preserved in the office of the Area Plan Commission.
(Ord. 1221, § 1.02(f), passed 1-26-2010)

§ 152.041 INTERPRETATION OF THE OFFICIAL ZONE MAP.

Where uncertainty exists with respect to the boundaries of districts shown on the Official Zone Map, the following rules shall apply to the interpretation of those boundaries.

(A) Boundaries indicated as approximately following the centerlines of thoroughfares, highways, streets, or alleys shall be construed to follow the centerlines.

(B) Boundaries indicated as approximately following platted lot lines shall be construed to follow the platted lot lines.

(C) Boundaries indicated as approximately following the corporate boundary of the town shall be construed as following the corporate boundary of the town.
(D) Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks.

(E) Boundaries indicated as approximately following along a public right-of-way which is subsequently vacated shall be construed to follow the centerline of the vacated public right-of-way.

(F) Boundaries indicated as approximately following the centerlines of streams, rivers, lakes, or other bodies of water shall be construed as following the centerlines of those bodies of water.

(G) Boundaries indicated as approximately following floodplain lines shall be construed to follow the floodplain lines. If the floodplain lines are changed, either naturally or as permitted by law, and the floodplain line changes are documented and concurred with by the Town Engineer, the boundary shall be construed as moving with that change.

(H) Boundaries indicated as following the contours of certain elevations or soils of a particular type shall be construed as following the actual height or soil contour as determined by accepted surveying practices.

(I) Boundaries indicated as parallel to or extensions of features indicated in the divisions above shall be so controlled.

(J) Distances not specifically indicated on the Official Zone Map shall be determined by the scale of the map.

(K) Where a discrepancy exists between the depictions on the Official Zone Map and the text of a legal description accompanying an ordinance for zone map change duly adopted by the Town Council, the text of the legal description shall control.

(L) Where physical or cultural features existing on the ground do not agree with those shown on the Official Zone Map, or in other circumstances not covered above, the Executive Director shall interpret the boundaries. Any party dissatisfied with the interpretation of the Executive Director may appeal the interpretation to the Board of Zoning Appeals.

(Ord. 1221, § 1.02(g), passed 1-26-2010)

§ 152.042 ZONING OF NEWLY ANNEXED LAND TO THE TOWN.

(A) All real property annexed into the town after the effective date of this chapter shall be considered zoned to the R1 District of this chapter.

(B) In those instances in which the owner of real property proposed for annexation into the town desires annexation only if the zoning of the real property is zoned to a district other than R1, the owner may file a petition for zone map change which shall identify the real property and the requested district.
The petition shall be filed in compliance with the provisions of this chapter and any applicable procedures adopted by the Area Plan Commission. The Area Plan Commission shall consider the petition for zone map change and certify the petition for zone map change to the Town Council with a favorable recommendation, an unfavorable recommendation, or no recommendation. The Town Council shall consider the request for annexation and zone map change at a combined hearing and shall determine the annexation question and zone map change under a single combined vote. The Area Plan Commission and Town Council shall have all powers delegated to them by I.C. 36-7-4-600 et seq. and this chapter in determining the zone map change.

(C) The Area Plan Commission shall not be obligated to recommend approval, nor shall the Town Council be obligated to approve a request for zone map change which, in the sole discretion of the Area Plan Commission or Town Council, is not consistent with the Comprehensive Plan, the purpose and intent of this chapter, or the requirements for the approval of a zone map change contained in this chapter and state law.
(Ord. 1221, § 1.02(h), passed 1-26-2010)

NONCONFORMING LOTS, USES, BUILDINGS, STRUCTURES, OR SIGNS

§ 152.055 INTENT.

(A) Within the districts established by this chapter, there exist the following, which were legally established prior to the effective date of the adoption, revision, or amendment of this chapter, but which would be prohibited, regulated, or restricted under the provisions of this chapter:

(1) Nonconforming lots of record;

(2) Nonconforming buildings or structures;

(3) Nonconforming uses of land;

(4) Nonconforming uses within nonconforming buildings or structures; and

(5) Nonconforming signs.

(B) It is the intent of this chapter to permit these legally established nonconforming lots of record, buildings, structures, uses, and signs to continue until they are removed, but not to encourage their survival. It is further the intent of this chapter that legally established nonconforming buildings, structures, uses, and signs shall not:

(1) Be enlarged upon, expanded, or extended; or
(2) Be used as grounds for adding other buildings, structures, uses, or signs which are prohibited elsewhere in the same district.

(C) Nonconforming lots of record, nonconforming buildings or structures, nonconforming uses of land, nonconforming uses within nonconforming buildings or structures, and nonconforming signs that are either illegal or not legally established on the effective date of this chapter shall not become legally established by virtue of the enactment of this chapter.

(D) Nonconforming lots of record, nonconforming buildings or structures, nonconforming uses of land, nonconforming uses within nonconforming buildings or structures, and nonconforming signs which are in full compliance with the regulations of this chapter pertaining to the permitted uses and development standards of the district to which the real estate is zoned shall, after the effective date of this chapter, be considered validated as conforming lots of record, buildings, structures, uses, and signs for the purposes of interpreting and applying this chapter.

(Ord. 1221, § 1.03(a), passed 1-26-2010)

§ 152.056 INCOMPATIBILITY OF LEGALLY ESTABLISHED NONCONFORMING USES.

(A) Legally established nonconforming uses are declared by this chapter to be incompatible with permitted uses in the district in which the legally established nonconforming use is located.

(B) A legally established nonconforming use of a building or structure, or a legally established nonconforming use of land, shall not be extended, expanded, or enlarged after the effective date of this chapter.

(Ord. 1221, § 1.03(b), passed 1-26-2010)

§ 152.057 AVOIDANCE OF UNDUE HARDSHIP.

To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans for or construction of any building, structure, or sign, or the designation of use of any building or structure, for which an improvement location permit has been properly issued prior to the effective date of this chapter; provided that:

(A) The construction of the building, structure, or sign is commenced within 3 years of the effective date;

(B) Construction of the building, structure, or sign is diligently prosecuted to completion; and

(C) Construction of the building, structure, or sign shall be completed within 7 years of the issuance of the improvement location permit.

(Ord. 1221, § 1.03(c), passed 1-26-2010)
§ 152.058 LEGALLY ESTABLISHED NONCONFORMING LOTS.

(A) *Legally established nonconforming lots of record.* Any legally established lot recorded or any legally established platted lot recorded prior to the effective date of this chapter, having less than the required minimum lot area or minimum lot width required by the applicable district regulations of this chapter, shall be deemed a permitted exception to the minimum lot area or minimum lot width and may be used for any permitted use within the applicable district in which the lot is located, provided that all other development standards are met, and the lot must be in separate ownership and not of continuous frontage with other lots in the same ownership.

(B) *Legally established nonconforming lot frontage or lot area resulting from acquisition of right-of-way.* Any legally established lot in which the frontage of the lot or the area of the lot has been reduced below that which is required by the applicable district regulations of this chapter by the acquisition of right-of-way or access rights by a governmental entity shall be deemed a permitted exception to the minimum frontage requirements and may be used for any permitted use within the applicable district in which the lot is located, provided that all other development standards are met.

(Ord. 1221, § 1.03(d), passed 1-26-2010)

§ 152.059 LEGALLY ESTABLISHED NONCONFORMING BUILDINGS OR STRUCTURES (EXCLUDING SIGNS).

Where a legally established nonconforming building or structure exists on the effective date of this chapter that could not be built under the terms of this chapter by reason of restrictions on: gross floor area; lot coverage; building height limitations; front, side, and rear setbacks and yards; location on the lot; bulk; or other provisions of this chapter applicable to the building or structure, the building or structure may continue to exist so long as it remains otherwise lawful, subject to compliance with the following provisions:

(A) Such legally established nonconforming building or structure may not be enlarged, expanded or altered in a way which increases its nonconformity, provided the building or structure may be altered so as to decrease the extent of nonconformity;

(B) Should the legally established nonconforming building or structure, or legally established nonconforming portion of a building or structure, be damaged or destroyed by any means to the extent that restoration will exceed 50% of the cost of construction of the entire building or structure at the time the damage or destruction is reported, as determined pursuant to § 152.065 below, the building or structure shall not be reconstructed except in conformity with the provisions of this chapter; and

(C) Should such legally established building or structure be moved for any reason for any distance whatsoever, the legally established building or structure shall thereafter conform to the provisions of this chapter.

(Ord. 1221, § 1.03(e), passed 1-26-2010)
§ 152.060 LEGALLY ESTABLISHED NONCONFORMING USES OF LAND.

Where legally established nonconforming uses of land exist on the effective date of this chapter which would not be permitted by the provisions of this chapter, the uses may be continued so long as they remain otherwise lawful, provided that:

(A) Such legally established nonconforming uses shall not be enlarged, expanded, increased, or extended to occupy a greater area of land than was occupied on the effective date of this chapter;

(B) Such legally established nonconforming uses shall not be moved in whole or in part to any portion of the lot or parcel other than that occupied by the uses on the effective date of this chapter;

(C) No additional building or structure shall be erected in connection with such legally established nonconforming use of land; and

(D) A legally established nonconforming use may be changed to a less intense use permitted within the same district grouping pursuant to § 152.036 (i.e., from one use permitted in the various districts of §§ 152.115 through 152.125, to a less intense use listed within the various districts of §§ 152.115 through 152.125; but not from a use listed in 1 of the various districts of §§ 152.115 through 152.125 to a use listed in 1 of the various districts of §§ 152.080 through 152.090, provided all other regulations of this section are complied with.

(Ord. 1221, § 1.03(f), passed 1-26-2010)

§ 152.061 DISCONTINUATION OF LEGALLY ESTABLISHED NONCONFORMING USES OF LAND.

(A) Commercial/town center, industrial, or multifamily uses. If any legally established nonconforming commercial/town center, industrial, or multifamily use of land is either of the following, any subsequent use of the land shall conform to the provisions of this chapter:

(1) Abandoned for any period of time; or

(2) Discontinued for more than 12 consecutive months (except when a probate related court order or government action impedes access to the premises).

(B) Single family or 2 family uses. If any legally established nonconforming single family or 2 family use is converted to a permitted use in the district in which it is located, any subsequent use of the land shall conform to the provisions of this chapter.

(Ord. 1221, § 1.03(g), passed 1-26-2010)
§ 152.062 LEGALLY ESTABLISHED NONCONFORMING USES WITHIN LEGALLY
ESTABLISHED NONCONFORMING BUILDINGS OR STRUCTURES.

(A) If any legally established nonconforming use is located within a legally established nonconforming building or structure, and the legally established nonconforming building or structure becomes unsafe or unlawful by reason of physical condition and is razed, the legally established nonconforming use previously being conducted in the legally established nonconforming building or structure shall be extinguished and no longer permitted.

(B) If any legally established nonconforming use is located within a legally established nonconforming building or structure, and the legally established nonconforming building or structure is damaged or destroyed by any means to the extent that restoration will exceed 50% of the cost of construction of the entire building or structure at the time the damage or destruction is reported, as determined pursuant to § 152.065 below, the legally established nonconforming use previously being conducted in the legally established nonconforming building or structure shall be extinguished and no longer permitted.

(C) A legally established nonconforming use within a legally established nonconforming building or structure may be changed to a less intense use pursuant to § 152.036 (i.e., within §§ 152.115 through 152.125, or within §§ 152.412 through 152.147, but not from §§ 152.115 through 152.125 to §§ 152.080 through 152.090, provided all other regulations of this section are complied with. (Ord. 1221, § 1.03(h), passed 1-26-2010)

§ 152.063 REPAIRS AND MAINTENANCE OF LEGALLY ESTABLISHED
NONCONFORMING BUILDINGS OR STRUCTURES (EXCLUDING SIGNS).

(A) Ordinary repairs. On any legally established nonconforming building or structure, or portion of a building or structure containing a legally established nonconforming use, work may be done on ordinary repairs or on the repair or replacement of non-bearing walls, fixtures, wiring or plumbing, provided that the cubic feet content existing when the building or structure, or portion of a building or structure containing a legally established nonconforming use, became nonconforming shall not be increased. Nothing herein shall be deemed to prevent the strengthening, repairing, or restoring to safe condition of any building or structure, or part thereof, declared to be unsafe by any official charged with protecting the public safety, upon order of the official.

(B) Reconstruction prohibited. If a legally established nonconforming building or structure or portions of a building or structure containing a legally established nonconforming use becomes unsafe or unlawful by reason of physical condition and is razed, the building or structure shall not thereafter be rebuilt or used except in conformity with the provisions of this chapter.

(C) Remodeling. The gross floor area and the maximum building height devoted to the legally established nonconforming use shall not be increased, except as such increase is required to comply with other applicable federal, state, or local regulations (i.e., minor enlargements to accommodate ADA accessibility guidelines or current building codes).
(D) Parking area, outside storage area or outside operations area.

(1) A legally established nonconforming parking area, outside storage area or outside operations area may be maintained, repaired, or upgraded by hardsurfacing with asphalt or concrete, provided that:

(a) There is no increase in the total area occupied by the parking area, outside storage area or outside operations area; and

(b) If, in the discretion of the Zoning Administrator, the hardsurfacing would serve to reduce a potential negative impact of the existing parking area, outside storage area, or outside operations area on surrounding properties (e.g., reduction in fugitive dust emissions, noise, erosion, and the like).

(2) In case of disagreement with the determination of the Zoning Administrator, any aggrieved party may file an appeal with the Board of Zoning Appeals pursuant to the provision of § 152.367. Such hardsurfacing shall require an improvement location permit and shall also be subject to full review under and compliance with the storm drainage requirements of the town.

(Ord. 1221, § 1.03(i), passed 1-26-2010)

§ 152.064 LEGALLY ESTABLISHED NONCONFORMING SIGNS.

(A) Continued existence. Any legally established nonconforming sign may continue to exist, including the performance of normal and routine maintenance, so long as the sign remains otherwise lawful.

(B) Repair and maintenance. Legally established nonconforming signs may receive normal and routine repair and maintenance subject to the following provisions:

(1) A legally established nonconforming sign may not be enlarged, expanded, or altered in a way which increases its nonconformity;

(2) A legally established nonconforming sign erected pursuant to the grant of a variance of either a previously enacted zoning regulation or this chapter for number of signs, height of sign, setback of sign, or sign surface area may be altered so as to decrease the extent of nonconformity authorized by the grant of variance;

(3) Except as provided for in division (B)(2) above, the removal of a sign structure or a sign cabinet shall be deemed definitive evidence that the sign requires work beyond normal and routine repair and maintenance, and the sign shall not be repaired, maintained, or reconstructed except in conformity with the provisions of this chapter;

(4) If a legally established nonconforming sign is damaged or destroyed by any means to the extent that the repair or reconstruction of the sign exceeds 50% of the cost of construction of the entire
sign, determined pursuant to § 152.065 below, the legally established nonconforming sign shall not be reconstructed except in conformity with the provisions of this chapter;

(5) If the cost of normal and routine repair and maintenance of a legally established nonconforming sign exceeds 50% of the cost of construction of the entire sign, determined pursuant to § 152.065 below, the legally established nonconforming sign shall not be repaired, maintained, or reconstructed except in conformity with the provisions of this chapter; and

(6) Should a legally established nonconforming sign be moved for any reason for any distance whatsoever, the legally established nonconforming sign shall thereafter conform to the provisions of this chapter.

(C) Amortization of off-premises signs (i.e., billboards).

(1) Intent and purpose.

(a) Attractive and integrated design features tend to improve the image of the community, raise property values within the community, attract new business and residents to the community, and improve the overall quality of life of the community. Attention to urban design features, therefore, is determined by the Town Council to be in the best economic interest of the citizens and business owners of the town.

(b) Signs, due to their inherent visibility and incursion upon the landscape, represent a prominent design feature. The regulations contained in the sign regulations, §§ 152.230 through 152.236, were prepared in recognition of the impact of signs as a prominent urban design feature. The intent of the sign regulations of this chapter is, in part: to encourage the effective use of signs as a means of communication; to create a more attractive economic and business climate; to minimize the possible adverse effects of signs on nearby public and private property; to foster and improve the economic vitality of the community by enhancing and protecting the physical appearance of the community; and to promote the public health, safety, and general welfare of the community.

(c) The purpose of the regulations contained in this division (C) are intended to implement the intent set forth above.

(2) Impact of off-premises signs. It is hereby declared by the Town Council that off-premises signs have the greatest potential of all signs to have a significant negative impact on the urban design features of the town and the public health, safety, and general welfare of the community due to: sign surface area in relation to lot area; sign surface area in relation to size of buildings; sign surface area in relation to the sign surface area permitted for on-premises business signs; sign surface area in relation to the sign surface area of traffic-control signs; inherent needs for high visibility; and predominantly being located along highly traveled thoroughfares.

(3) Declaration of nonconforming off-premises signs. By operation of law, any off-premises sign which is in existence on the effective date of this chapter and which does not comply with the
provisions of §§ 152.230 through 152.236 is either a nonconforming off-premises sign or a legally established nonconforming off-premises signs.

(4) Declaration of legally established off-premises signs. A nonconforming off-premises sign shall be deemed to be a legally established nonconforming off-premises sign relative to both use and development standards if the following conditions apply:

(a) The off-premises sign was erected in compliance with regulations applicable on the date of erection;

(b) If a permit was required at the time of erection of the off-premises sign, the permit was issued in full compliance with all applicable regulations of the town Zoning Ordinance in effect at the time of issuance of the permit, and the off-premises sign was constructed, completed and maintained in full compliance with all applicable regulations of the town Zoning Ordinance in effect at the time of issuance of the permit;

(c) The off-premises sign existed prior to the date of adoption of this Zoning Ordinance;

(d) The off-premises sign has continued to exist from the date of adoption of this Zoning Ordinance to the present;

(e) The off-premises sign has not been abandoned; and

(f) The sign surface of the off-premises sign has not been left blank for a period of 365 consecutive days.

(5) Removal of nonconforming off-premises signs. Any nonconforming off-premises sign (i.e., an off-premises sign which was not in compliance with applicable sign regulations or grant of variance at the time of the construction, erection or placement of the sign) shall be subject to immediate enforcement pursuant to §§ 152.405 through 152.413.

(6) Removal of legally established nonconforming off-premises signs.

(a) Any legally established nonconforming off-premises sign which either: is not brought into compliance with the terms and conditions of §§ 152.230 through 152.236, sign regulations; or does not obtain the variance(s) necessary to establish the sign as a permitted sign under this chapter, shall be removed within 5 years of the effective date of this chapter.

(b) Any off-premises sign which becomes a legally established nonconforming off-premises sign by virtue of: any future amendment of this chapter; any future zone map amendment; or any annexation of lands into the corporate jurisdiction of the town, which either: is not brought into compliance with the terms and conditions of §§ 152.230 through 152.236 (as such regulations may be amended from time to time); or does not obtain the variance(s) necessary to establish the sign as a permitted sign under this chapter, shall be removed within 5 years of the amendment or annexation.
(c) Removal shall include the removal of the sign surface and any sign structure (including any sign cabinet, pole, base, foundation, support, tie rods, upright, bracing, or framework) which supports or is capable of supporting the sign surface.

(7) Maintenance of legally established nonconforming off-premises signs. Legally established nonconforming off-premises signs shall be subject to the provisions of division (B) above, regarding maintenance.
(Ord. 1221, § 1.03(j), passed 1-26-2010)

§ 152.065 DETERMINATION OF COST OF CONSTRUCTION.

In determining the reported cost of construction of a building or structure or the cost of construction of a sign, the Zoning Administrator may consider the following items:

(A) Building or structure: documentation prepared by and provided by the applicable insurance company responsible for adjusting the loss;

(B) Sign: documentation prepared by and provided by an appraiser licensed by the state to appraise the type of property involved; or

(C) Other documentary evidence relevant to reported cost of construction deemed appropriate by the Zoning Administrator.
(Ord. 1221, § 1.03(k), passed 1-26-2010)

§ 152.066 RECONSTRUCTION, REMODELING OR ENLARGEMENT OF A LEGALLY ESTABLISHED NONCONFORMING SINGLE FAMILY DWELLING OR 2 FAMILY DWELLING.

Notwithstanding any provision of this section to the contrary, any legally established nonconforming single family dwelling or 2 family dwelling may be either reconstructed if damaged or destroyed by fire, natural disaster, or for any other reasons; or remodeled or enlarged; provided that the remodeling or additions comply with the development standards of the applicable R1 or R2 District related to maximum lot coverage, minimum yards and building setbacks, maximum building height, and off-street parking.
(Ord. 1221, § 1.03(l), passed 1-26-2010)

§ 152.067 AGRICULTURAL NONCONFORMING USE.

An agricultural nonconforming use may be changed to another agricultural use without losing agricultural nonconforming use status; provided, however, the agricultural nonconforming use shall be:
(A) Maintained for at least any 3 years in a 5-year period;

(B) Maintained and operated in compliance with all state environmental and state health laws and rules; and

(C) Maintained and operated in compliance with all requirements of the St. Joseph County Zoning Ordinance applicable to conforming agricultural uses, as that ordinance may be amended from time to time.

(Ord. 1221, § 1.03(m), passed 1-26-2010)

RESIDENTIAL DISTRICTS

§ 152.080  R1 - SINGLE FAMILY DISTRICT.

(A) Intent. The R1 Single Family District is established to protect, promote and maintain the development of single family dwellings as well as to provide for limited public and institutional uses that are compatible with a residential neighborhood.

(B) Permitted uses.

(1) Primary uses. See Appendix A, Permitted Use Table.

(2) Special exception uses. See Appendix A, Permitted Use Table.

(3) Accessory uses. See § 152.083.

(4) Temporary uses. See § 152.084.

(5) Home occupations. See § 152.085.

(C) Development standards.

(1) Minimum lot area. With both public sewer and public water: 7,200 square feet.

(2) Minimum lot width. With both public sewer and public water: 60 feet.

(3) Minimum lot frontage. Single family dwellings: 30 feet on a public street; provided, however, that access shall be from either the public street or an abutting alley; provided further, however, if access is available from an alley which is open to the public for traffic, there shall be no access from the public street.
(4) *Maximum lot coverage.* Forty percent.

(5) *Minimum yards and building setbacks.*

(a) *Front.* A minimum front yard and building setback of 25 feet measured from the proposed right-of-way of all streets shall be provided along all streets.

(b) *Side.*


2. *Nonresidential uses.* A minimum side yard of 20 feet shall be provided along all side lot lines.

(c) *Corner side yard.* On corner lots, any yard which abuts a street right-of-way line shall be considered a front yard.

(d) *Rear.* A minimum rear yard shall be provided along all rear lot lines as follows:

1. Primary building: 25 feet.

2. Accessory building: 5 feet.

(6) *Maximum building height.*

(a) Primary building: 35 feet.

(b) Accessory building: 20 feet.

(7) *Landscaping.* See §§ 152.185 through 152.194.

(8) *Lighting.* See §§ 152.210 through 152.215.

(9) *Signs.* See §§ 152.230 through 152.236.

(10) *Parking.* See §§ 152.250 through 152.258.

(11) *Loading.* See §§ 152.270 through 152.277.

(12) *Greenway connection required.* If a subdivision abuts any portion of a greenway, a direct linkage from the subdivision to the greenway shall be provided.

(Ord. 1221, Art. 3.01, passed 1-26-2010)
§ 152.081  R2 - SINGLE FAMILY AND 2 FAMILY DISTRICT.

(A) Intent. The R2 - Single Family and 2 Family District is established to protect, promote and maintain the development of single family dwellings and 2 family dwellings in the town as well as to provide for limited public and institutional uses that are compatible with a residential neighborhood.

(B) Permitted uses.

(1) Primary uses. See Appendix A, Permitted Use Table.

(2) Special exception uses. See Appendix A, Permitted Use Table.

(3) Accessory uses. See § 152.083.

(4) Temporary uses. See § 152.084.

(5) Home occupations. See § 152.085.

(C) Development standards.

(1) Minimum lot area. With both public sewer and public water:

(a) Single family dwellings: 6,000 square feet; and

(b) Two family dwellings and other uses: 7,200 square feet.

(2) Minimum lot width. With both public sewer and public water:

(a) Single family dwellings: 60 feet.

(b) Two family dwellings and other uses: 60 feet.

(3) Minimum lot frontage.

(a) 1. Single family dwellings: 30 feet on a public street; or

2. Two family dwellings: 30 feet on a public street.

(b) Provided, however, that access shall be from either the public street or an abutting alley; provided further, however, if access is available from an alley which is open to the public for traffic, there shall be no access from the public street.

(4) Maximum lot coverage. Fifty percent.
(5) Minimum yards and building setbacks.

(a) Front. A minimum front yard and building setback of 25 feet measured from the proposed right-of-way of all streets shall be provided along all streets.

(b) Side.

1. Residential uses: a minimum side yard of 5 feet.

2. Nonresidential uses: a minimum side yard of 20 feet shall be provided along all side lot lines.

(c) Rear. A minimum rear yard shall be provided along all rear lot lines as follows.

1. Primary building: 20 feet.

2. Accessory building: 5 feet.

(d) Corner lots; requirements. On a corner lot, the least width of any side yard along the side street lot line shall be 10 feet. The Building Commissioner shall determine which yard abutting a street shall be considered a front yard and which yard abutting a street shall be considered a side yard.

(6) Maximum building height.

(a) Primary building: 35 feet.

(b) Accessory building: 20 feet.

(7) Landscaping. See §§ 152.185 through 152.194.

(8) Lighting. See §§ 152.210 through 152.215.

(9) Signs. See §§ 152.230 through 152.236.

(10) Parking. See §§ 152.250 through 152.258.

(11) Loading. See §§ 152.270 through 152.277.

(12) Greenway connection required. If a subdivision abuts any portion of a greenway, a direct linkage from the subdivision to the greenway shall be provided.

(Ord. 1221, Art. 3.02, passed 1-26-2010)
§ 152.082 MF - MULTIFAMILY DISTRICT.

(A) Intent. The MF - Multifamily District is established to protect, promote, and maintain the development of multifamily dwellings and to provide for limited public and institutional uses that are compatible with a multifamily residential neighborhood. The development standards are designed to promote the establishment of multifamily dwelling projects with on-site amenities.

(B) Permitted uses.

(1) Primary uses. See Appendix A, Permitted Use Table.

(2) Special exception uses. See Appendix A, Permitted Use Table.

(3) Accessory uses. See § 152.083.

(4) Temporary uses. See § 152.084.

(5) Home occupations. See § 152.085.

(C) Development standards. All uses permitted in the MF District shall conform to the following development standards.

(1) Utilities. Connection to public water and public sanitary sewer facilities shall be mandatory for development in this district.

(2) Minimum project frontage. One hundred fifty feet on a public street and gain access from the public street.

(3) Minimum setbacks and perimeter yard requirements. A minimum setback and perimeter yard shall be provided along all property lines of the project as follows:

   (a) Front. A minimum front yard and building setback of 25 feet measured from the proposed right-of-way of all streets shall be provided along all streets.

   (b) Side yards. Twenty-five feet.

   (c) Rear yards. Twenty-five feet.

(4) Use of minimum yards. All minimum yards shall be landscaped in compliance with the requirements for perimeter yard landscaping as set forth in §§ 152.185 through 152.194 and shall remain free from buildings or structures except where expressly permitted below or by §§ 152.083 through 152.090.
(a) **Minimum front yards.** May include: driveways; walkways with a maximum width of up to 6 feet; or signs as regulated by §§ 152.230 through 152.236, and shall otherwise be maintained as open space free from buildings or structures.

(b) **Minimum side yards.**

1. When abutting a Residential District, may include: driveways; interior access driveways; walkways with a maximum width of up to 6 feet; and shall otherwise be maintained as open space free from buildings or structures.

2. When abutting a Commercial/Town Center or Industrial District, may include: parking areas located no closer than 10 feet to a side lot line; driveways; interior access driveways; walkways with a maximum width of up to 6 feet, and shall otherwise be maintained as open space free from buildings or structures.

(c) **Minimum rear yards.**

1. When abutting a Residential District, may include: driveways; interior access driveways; walkways with a maximum width of up to 6 feet, and shall otherwise be maintained as open space free from buildings or structures.

2. When abutting a Commercial/Town Center or Industrial District, may include: parking areas located no closer than 10 feet to a rear lot line; driveways; interior access driveways; walkways with a maximum width of up to 6 feet; and shall otherwise be maintained as open space free from buildings or structures.

(5) **Minimum interior yards.** In projects containing 2 or more buildings, interior yards shall be provided as follows:

(a) Around buildings containing dwelling units, the greater of:

1. Ten feet; or

2. Five feet plus 1 additional foot for each 10 feet of aggregate length of any wall of a building.

(b) Around accessory buildings, structures, or uses: 5 feet.

(c) Interior yards shall be measured perpendicular to the building or structure at all points.

(d) The distance between buildings or structures shall be the sum of each applicable minimum interior yard.

(e) Interior yards shall not overlap any required perimeter yards.
(6) Use of interior yards.

(a) Around buildings containing dwelling units, required interior yards may be used for:

1. Individual interior access drives leading to attached garages serving individual dwelling units; provided, however, that a minimum 4-foot wide by 18-foot deep landscape strip shall be provided between the interior access drives;

2. Open space;

3. Foundation landscaping;

4. Walkways; or
5. Open balconies, uncovered porches and patios which do not project into the required interior yard by more than 50% of the depth of the required interior yard.

(b) Around accessory buildings or uses, required interior yards may be used for: open space; foundation landscaping; walkways; or interior access drives leading to parking spaces or overhead garage doors.

(7) Maximum building height.

(a) Primary building: 40 feet, but not to exceed 3 stories containing a dwelling unit.

(b) Accessory buildings or structures: the lesser of 25 feet or the height of the primary building.

(8) Landscaping. See §§ 152.185 through 152.194.

(9) Lighting. See §§ 152.210 through 152.215.

(10) Signs. See §§ 152.230 through 152.236.

(11) Parking. See §§ 152.250 through 152.258.

(12) Loading. See §§ 152.270 through 152.277.

(13) Greenway connection required. If the lot abuts any portion of a greenway, a direct linkage from the project to the greenway shall be provided.

(14) Developed recreational open space requirements. All multifamily projects shall provide developed recreational open space amenities as set forth below:

(a) Minimum area. Developed recreational open space areas equal to, at a minimum, 5% of the total lot area of the project shall be required. Developed recreational open space may include but not be limited to such facilities as: playgrounds; parks; tot lots; swimming pools; tennis, volleyball, or basketball courts; and common recreational buildings.

(b) Location and minimum dimension. Areas designated to comply with the developed recreational open space requirements:

1. Shall not overlap any required interior yards or perimeter yards; and

2. Shall maintain a minimum dimension of 50 feet at all locations.

(15) Requirements for all private streets, interior access driveways, and interior access drives for multifamily dwelling projects. Individual buildings and dwelling units located within a multifamily
dwelling project may be served by private streets, interior access driveways, and interior access drives developed in compliance with the standards set forth in § 152.021.

(16) Development standards for 2 family dwellings.

(a) Notwithstanding anything in this MF District to the contrary, a freestanding 2 family dwelling which is located on an individual lot and which is not part of a larger multifamily project shall be subject to the applicable development standards of the R2 District, provided the minimum lot area shall be 5,000 square feet and the minimum lot width shall be 60 feet.

(b) Two family dwellings which are interspersed with and located as part of a larger multifamily project shall comply with all the development standards specified in this division (C).

(Ord. 1221, Art. 3.03, passed 1-26-2010)

§ 152.083 ACCESSORY USES, BUILDINGS, AND STRUCTURES.

(A) Permitted accessory uses, buildings, and structures.

(1) Accessory uses, buildings, or structures shall be permitted in all Residential Districts; provided, however, that the primary use which is supported by the accessory use, building, or structure is a permitted use within the district to which a lot is zoned.

(2) Accessory uses, buildings, or structures shall not be permitted on a lot prior to the erection of the primary building.

(3) By way of example only, some typical accessory uses, buildings and structures in Residential Districts are: garages; carports; porches; decks; awnings; canopies; mini-barns/storage sheds; patios; outdoor fireplaces; bathhouses; cabanas; children’s playhouses; swings; game courts, including tennis or basketball courts; fences; parking areas; signs; swimming pools; hot tubs; radio sending and receiving antennas; and satellite dish antennas.

(B) Development standards for accessory uses, buildings, or structures in all Residential Districts.

(1) Accessory uses, buildings, or structures shall comply with all development standards of the applicable district unless an exception is specifically provided for in §§ 152.083 through 152.090.

(2) Accessory uses, buildings, or structures shall not encroach upon any platted or recorded easements unless specifically authorized by the terms of the easement or by written consent of the agency in whose favor the easement is granted.

(C) Additional development standards for accessory uses, buildings, or structures in any Residential District. Accessory uses, buildings, or structures permitted in any Residential District shall also comply with the following additional development standards.
(1) **Accessory buildings.**

(a) **Detached.** The total square foot area of a detached accessory building shall be less than the main floor area of the primary building containing a dwelling unit.

(b) **Attached.** The total floor area of accessory use portions of a primary building containing a dwelling unit shall be less than the main floor area of dwelling unit.

(c) **Maximum capacity of garage(s).** No garage or garages, in combination, whether attached or detached, shall exceed a capacity of 4 cars in total. Carports shall be included in determining the maximum capacity of a garage or garages.

(d) **Maximum number of accessory buildings.** The total number of detached accessory buildings on a lot shall not exceed 1 accessory building; provided, however, a storage shed with a total floor area of 120 square feet or less shall not count as an accessory building for the purposes of this division.

(e) **Location.** Detached accessory buildings shall not be located between the established front building line and the front lot line.

(2) **Swimming pools or hot tubs.**

(a) A swimming pool or hot tub shall not be located between any front lot line and the established front building line.

(b) A swimming pool or hot tub shall not be located in any minimum side yard or minimum rear yard for an accessory building.

(c) The swimming pool or hot tub, either above or below ground, shall comply with the applicable requirements of the Indiana Swimming Pool Code (675 I.A.C. 20) or the applicable town Building Code.

(d) No pool or hot tub shall be erected or constructed unless adequate distance from overhead electrical wires is provided in accordance with the National Safety Code and the National Electrical Code, current editions.

(e) Abandoned or unused swimming pools or hot tubs, situated on a premises which are not occupied for periods of 30 days or more, shall be drained or equipped with a cover adequate to prevent persons, children, or animals from danger or harm.

(f) All swimming pools or hot tubs, including associated decking and aprons over 30 inches above grade, shall be included in the calculation of maximum lot coverage.
(3) **Stoops, patios, porches, gazebos, and decks.**

(a) Stoops, patios, porches, gazebos, and decks over 30 inches above grade or which include a roof or roof-like structure (e.g., trellis, arbor, and the like) shall comply with all minimum yards and building setbacks, and maximum building height regulations of the applicable district for accessory structures.

(b) Notwithstanding anything in this chapter to the contrary, stoops, patios, porches, and decks less than 30 inches above grade and which do not include a roof or roof-like structure may be located in a:

1. Minimum front yard; provided, however, the stoop, patio, porch, or deck shall not encroach more than 8 feet into the minimum front yard; or

2. Minimum side yard or minimum rear yard.

(4) **Fences.** Fences typical of a residential setting, including but not limited to chain link, solid, shadow-box, stockade, architectural screen, lattice-work or masonry, shall be regulated by divisions (C)(4)(a) through (C)(4)(d) below. Other types of fences, including but not limited to barbed wire, electric, razor wire, or other similar types of security wire in any yard, shall be regulated by division (C)(4)(d) below.

(a) **Individual lots; front yards.**

1. Fences located in a minimum front yard or in the buildable area of a lot located between the front line of the primary building and the minimum front yard shall not exceed:
a. Thirty-six inches in height above grade, if the open space percentage of the fence is equal to or less than 70%; or

b. Forty-eight inches in height above grade if the open space percentage of the fence is greater than 70%.

2. Fences erected in the front yard shall be natural fences of hedges, trees, shrubbery, or an ornamental type, such as treated wood, painted wood, treated split rail, ornamental wrought iron, split rail, vinyl, brick, stone, open picket (with 40% open space between pickets in any front or corner side yard) and similar materials commonly used in urban residential applications as deemed appropriate by the Building Commissioner. Scrap lumber, plywood, sheet metal, plastic, or fiberglass sheets are expressly prohibited.

(b) Subdivision frontage. Fences shall not exceed 6 feet in height above grade when located along a perimeter street of a recorded, platted residential subdivision where individual lots do not have direct access to the perimeter street.

(c) All other fences. Fences located elsewhere on a lot shall not exceed:

1. Six feet in height above grade, if the open space percentage of the fence is equal to or less than 70%; or

2. Eight feet in height above grade if the open space percentage of the fence is greater than 70%.

(d) Fences, including but not limited to barbed wire, electric, razor wire, or other similar types of security wire fences:

1. Shall only be permitted for nonresidential uses, including but not limited to: utility sites such as water, sewer, electric, and gas main facilities; heating, ventilating, and air-conditioning equipment; restricted public access areas such as airports, sewer, and water treatment facilities; public safety facilities; public and private communication facilities such as wireless, radio, and television communication towers; and

2. Such fences shall not exceed 10 feet in height.

(e) All fences. All fences shall comply with the clear sight requirements of § 152.020.

(5) Satellite dish antennas in Residential Districts.

(a) The regulations of this section shall apply to satellite dish antennas in all Residential Districts which are greater than 1 meter (39.37 inches) in diameter. These regulations are intended to allow satellite dish antennas to be located in a manner that:
1. Does not unreasonably delay or prevent the installation, maintenance, or use of the antenna;

2. Does not unreasonably increase the cost of installation, maintenance, or use of the antenna; or

3. Preclude reception of an acceptable quality signal.

(b) The regulations of this section are intended to accomplish the following specific and clearly defined health, safety, and aesthetic objectives:

1. To promote the public health and safety by providing criteria for the placement of satellite dish antennas greater than 1 meter (39.37 inches) in diameter which ensure that all such installations are performed in a manner which limits endangerment of life and property on the site and on surrounding properties if the antennas should collapse or are felled by ice or high winds; and

2. To ensure the aesthetic harmony of residential areas by providing for a harmonious streetscape, consistent with the Comprehensive Plan, uncluttered by nonresidential structures, including guy wires, poles, masts, cables or other appurtenances which can create a visual blight offensive to those who reside, work, or travel in the town.

(c) The following regulations are intended to meet the above objectives without unnecessarily burdening the federal interests in ensuring the availability of satellite services and in promoting fair and effective competition among competing communication service providers. In any Residential District, satellite dish antennas greater than 1 meter (39.37 inches) in diameter shall be permitted as either ground mounted or roof mounted, provided that:

1. If ground mounted, satellite dish antennas shall:
   a. Not be located in any minimum front yard, minimum side yard, minimum rear yard, or between the established front building line and the front lot line; and
   b. Not exceed the maximum building height allowed for an accessory structure.

2. If roof mounted, satellite dish antennas shall:
   a. Not exceed the lesser of 5 feet above the peak of the roof or the maximum building height limit allowed for a primary building;
   b. Not extend beyond the horizontal limits of the roof area; and
   c. Be installed in accordance with applicable Building Codes. Furthermore, written documentation of such compliance, including load distribution within the building’s support structure, may be required.
(6) *Grade level improvements.* Grade level improvements which do not include a foundation shall be permitted as follows:

(a) In a minimum front yard: walkways and driveways.

(b) In a minimum side yard or minimum rear yard: walkways, and interior access drives; provided, however, that an interior access drive may only be located in 1 minimum side yard and shall not be less than 8 feet in width nor greater than 16 feet in width.

(7) *Game courts.* Game courts shall not be located in any minimum front yard, minimum side yard, minimum rear yard, or between the established front building line and the front lot line; provided, however, a permanent or temporary basketball goal may be located adjacent to a driveway or interior access drive in any minimum yard in any Residential District.

(8) *Trash containers.* Any trash container exceeding 36 cubic feet in capacity shall:
(a) Be screened on at least 3 sides by a building wall or a solid-walled enclosure, not less than 6 feet in height nor more than 10 feet in height above grade, equipped with an opaque screen gate, and any solid-walled portion of the enclosure shall be provided with foundation landscaping;

(b) Not be located between the front façade of the primary building and the front lot line; and

(c) Not be located in any minimum front yard, minimum side yard, or minimum rear yard.

(Ord. 1221, § 3.11(a), passed 1-26-2010)

§ 152.084 TEMPORARY USES, BUILDINGS, AND STRUCTURES.

(A) Permits required. A temporary use, building, or structure which is in compliance with the provisions of this section shall be allowed in any Residential District. A temporary use, structure, or building which will be converted into a permanent primary or accessory use after the cessation of the temporary use shall be required to obtain an improvement location permit prior to the establishment of the use or the construction of any structure or building. A temporary use, structure, or building which will be removed from the site upon cessation of the temporary use shall comply with the regulations contained in this section, and shall obtain an improvement location permit.

(B) Permitted temporary uses, buildings and structures. Temporary uses, buildings, or structures shall be permitted in any Residential District as follows.

(1) Permitted temporary uses. Including but not limited to: construction trailers; sales offices in portions of model homes; temporary signs (see §§ 152.230 through 152.236 for additional regulations); and garage sales (see division (G) below for additional regulations).

(2) Special exception temporary uses. Including but not limited to: sales office (freestanding); and temporary living quarters.
(C) **Duration.** Except as specifically provided otherwise in §§ 152.083 through 152.090, a temporary use, building, or structure shall be permitted for a period not to exceed 1 year. Except as specifically provided otherwise in §§ 152.083 through 152.090, the improvement location permit, if required, may be renewed 1 or more times by the Zoning Administrator, for good cause shown, for an additional period(s) not to exceed a total of 3 years beyond the original expiration date.

(D) **Compliance with development standards.** Any temporary use, building, or structure shall comply with all applicable development standards and setback requirements in the district in which the temporary use, building, or structure is located.

(E) **Additional development standards for temporary construction trailers or sales offices.**

1. Under-skirting shall be installed around the entire perimeter of the building or structure;

2. In the case of a new subdivision, shall be located on an approved lot, as shown on the primary plat;

3. In the case of a single lot development, shall be located on the lot in compliance with all minimum yard and setback requirements;

4. In the case of a redevelopment project, shall be located on the lot, plot, tract, or parcel of the redevelopment project in compliance with all minimum yard and setback requirements; and

5. Shall serve only lots or dwelling units within the primary plat, single lot development, or redevelopment project.

(F) **Cessation of use.** All buildings, structures, or debris associated with the temporary use shall be removed from the site immediately upon completion or cessation of the temporary use or expiration of the time period set forth above.

(G) **Regulations for garage sales/yard sales.** Notwithstanding any regulations above to the contrary, a garage sale may be conducted on a premises which includes a dwelling unit subject to the following regulations:

1. A garage sale/yard sale may be conducted 5 times each calendar year per lot and shall not exceed 5 consecutive days in duration;

2. A garage sale/yard sale shall only be conducted during the hours from sunrise to sunset;

3. All personal property exhibited outdoors during a garage sale/yard sale shall be placed within a building or structure or otherwise removed from the premises immediately following the end of the garage sale;
(4) Garage sale signs shall comply with the applicable provisions of § 152.231(L);

(5) Nothing in this section shall be construed to prohibit 1 or more owners or occupants from conducting a combined garage sale on 1 of the lots owned or occupied by the participants, provided that all other provisions of this section are complied with;

(6) A garage sale/yard sale or garage sale sign shall be exempt from the requirement of this chapter to obtain an improvement location permit for a temporary use; and

(7) Personal property exhibited outdoors during a garage sale/yard sale may be located in a minimum front yard, minimum side yard, or minimum rear yard; provided, however, the personal property shall not be located in any public right-of-way.

(H) Mobile classrooms. Mobile classrooms shall only be permitted as a temporary use in compliance with the following requirements:

(1) Mobile classrooms shall be for use by a religious use or any public or parochial school; and

(2) Mobile classrooms may be permitted for a period not to exceed 5 years from the date of issuance of an improvement location permit.

(Ord. 1221, § 3.11(b), passed 1-26-2010)

§ 152.085 HOME OCCUPATIONS.

(A) Intent. This section provides standards to ensure compatibility of home occupations with other permitted uses and with the residential character of the district and neighborhood in which the home occupation is located as well as clearly establishing the secondary or incidental status of home occupations in relation to the primary use of the lot for dwelling purposes.

(B) Required standards. Home occupations shall be permitted in all Residential Districts subject to the following standards:

(1) Home occupations shall be limited to family members residing within the dwelling and who make the dwelling their primary place of residence.

(2) The use of the dwelling unit for the home occupation shall be incidental and subordinate to the use for residential purposes by the occupants.

(3) There shall be no structural alterations to the interior of the dwelling to accommodate a home occupation which would render the dwelling undesirable for residential use.
(4) There shall be no structural additions, enlargements, or exterior alterations changing the residential appearance of the dwelling or the lot or other visible indications of the conduct of the home occupation.

(5) There shall be no additional or separate entrance to the dwelling for the purpose of conducting the home occupation.

(6) There shall be no internal or external alterations, construction features, or use of electrical or mechanical equipment which would change the fire rating of the structure.

(7) There shall be no outdoor storage of any kind related to the home occupation.

(8) All aspects of the home occupation shall be conducted within the dwelling structure in which the occupant makes his or her residence. No home occupation shall be conducted in any detached accessory building.

(9) There shall be no traffic generated by a home occupation which is greater in volume than that which would be normally expected in the residential area in which the home occupation is located.

(10) There shall be no equipment or process used in the home occupation which creates noise, vibration, glare, smoke, fumes, odors, or electrical interference detectable to the normal senses at any point beyond the lot line in such a manner as to annoy, disturb, frighten, or otherwise interfere with the use and quiet enjoyment of adjacent properties, or which creates water usage or the production of sewage other than domestic in nature.

(11) There shall be no electrical or mechanical equipment utilized in the home occupation which will create any visual or audible interference with radio or television reception or which will cause fluctuations in line voltage off the premises.

(12) The home occupation shall not involve the use of commercial vehicles for delivery of materials to or from the premises other than vehicles normally associated with residential home delivery (i.e., postal or parcel delivery vehicles).

(13) The dwelling shall not be altered in its appearance and the home occupation shall not be conducted in such a manner as to differentiate the dwelling from the residential character of the area by either use of materials, construction, separate entrances, lighting, signs, or other means.

(C) Prohibited home occupations. The following uses, by the nature of the investment or operation, have a pronounced tendency, once started, to rapidly increase beyond the limits specified above for home occupations and impair the use, value, and quiet enjoyment of adjacent residential properties. Therefore, the uses specified below and other similar or comparable uses shall not be permitted as home occupations:

(1) Antique, book, or gift shop;
(2) Appliance repair, large or small;

(3) Auto/vehicle repairs, major or minor;

(4) Bicycle repair of service;

(5) Dance studio;

(6) Dental office or clinic;

(7) Freight, trucking, or shipping;

(8) Lawn mower repair or service;

(9) Medical office or clinic;

(10) Painting of vehicles, trailers, boats, and the like;

(11) Photography studio;

(12) Private schools with organized classes;

(13) Restaurants, eating or drinking establishments;

(14) Upholstering;

(15) Television or radio repair;

(16) Tool or equipment rental;

(17) Tooling, welding or machine shop;

(18) Veterinary clinic, kennel, or stable; and

(19) Any use not in compliance with the intent and conditions set forth in this section.

(D) Permitted home occupations. By way of example, the following uses, when conducted in compliance with the conditions set forth above, qualify as permitted home occupations:

(1) Artist’s, musician’s, or writer’s studio;

(2) Cake making or decorating (not a catering or commercial bakery facility);
(3) Data processing, word processing, or transcription services;

(4) Dressmaking, millinery, sewing, or tailoring;

(5) Barber shop/beauty shop;

(6) Home school, including cottage schools;

(7) Personal office;

(8) Teaching or tutoring, including musical instruments or dance, when limited to 1 pupil at a time; and

(9) Other uses that comply with the intent and conditions set forth above in this section.
(Ord. 1221, § 3.11(c), passed 1-26-2010)

§ 152.086 PERFORMANCE STANDARDS.

All use in existence prior to the effective date of this chapter or established after the effective date of this chapter in any Residential District shall comply with the performance standards of the applicable municipal, state, or federal regulations pertaining to: vibration; smoke, dust, and particulate matter; noxious matter; odor; noise; heat; glare; or waste, and shall be subject to enforcement action by the applicable municipal, state, or federal agency responsible for monitoring and enforcing the regulations.
(Ord. 1221, § 3.11(d), passed 1-26-2010)

§ 152.087 ZONING VIOLATIONS IN RESIDENTIAL DISTRICTS.

(A) Use. The conduct of any activity in a Residential District that is not specifically enumerated as a permitted primary use or accessory use in that district, and which activity has not been legally established by a currently valid variance, special exception, or other approval grant.

(B) Development standards. Failure to comply with district development standards, including but not limited to landscaping, paving of parking areas, minimum parking space requirements, trash dumpster enclosure, fencing, or screening requirements.

(C) Approvals. The failure to comply with the terms, provisions or conditions of: a grant of variance or special exception; an approval of a development plan; or other approval grant authorized by this chapter.

(D) Large vehicles. No tractor, trailer, tractor-trailer combination, or vehicle (including but not limited to a tow truck, dump truck, flatbed truck, semi-trailer, and the like) equal to or in excess of 1-1/2
tons capacity, or which has a bed more than 8 feet long, may be parked upon any land or premises in any Residential District. However, the foregoing shall not apply to school buses used for the transportation of school children to and from school or to and from a school sponsored activity, between the hours of 8:00 a.m. and 5:00 p.m. any day except Saturdays, Sundays, and legal holidays on designated snow routes of a sufficient width as determined by the town. Nothing in this section is intended to affect the already regulated parking on designated snow routes during a snow emergency, or other areas in which parking is regulated by duly authorized signs.

(E) *Parking, storing, maintaining, or keeping of any recreational vehicle or recreational trailer in any Residential District.* Notwithstanding any provision in this chapter to the contrary, no recreational vehicle or recreational trailer shall be parked, stored, maintained, or kept on any property in any Residential District unless in compliance with the following:

1. Recreational vehicles or recreational trailers may be parked or stored:
   - Inside an accessory building or garage; or
   - Outside in such a manner that no part of any such recreational vehicle shall project into any:
     1. Minimum front yard for a primary building;
     2. Minimum side yard for a primary building; or
     3. Minimum rear yard for an accessory building.

2. Not more than a total of 2 recreational vehicles/recreational trailers shall be permitted to be parked or stored in the open on the same lot at any one time.

3. Parked or stored recreational vehicles shall not be occupied or used for living, sleeping, or housekeeping purposes in any Residential District.

(F) *Parking of vehicles; general.*

1. Notwithstanding anything in this chapter to the contrary, the parking of any motor vehicles of any size or nature for any period of time on a lot of record without a primary building also being located on the lot of record shall be a zoning violation.

2. If a primary building exists on a lot of record, parking on the lot of record shall be accessory to the use of the primary building located on the lot of record.

3. The prohibition against parking set forth above in this division (F) shall not apply to a “parking lot - accessory” authorized by the grant of a special exception.
(4) Notwithstanding anything in this chapter to the contrary, the parking of any vehicle within the required minimum front setback shall not be allowed unless the parking is on a legal, properly hard-surfaced driveway or parking space which has a durable and dust-free surface, as required by §§ 152.250 through 152.258.

(G) Parking of vehicles; family. In order to avoid congestion in the public ways, promote safety for vehicular and pedestrian traffic, and ensure that residential areas provide healthful surroundings for family life, no family, consisting of persons not related by blood, legal adoption or marriage, living and cooking together as a single housekeeping unit, shall consist of more persons who possess an automotive vehicle than the number of off-street parking spaces provided on-site in a garage, interior access drive, or driveway on the lot, plus the number of legal, on-street parking spaces located immediately adjacent to and on the same side of the street as the front lot line of the lot.

(Ord. 1221, § 3.11(e), passed 1-26-2010)

§ 152.088 ADDITIONAL DEVELOPMENT STANDARDS.

(A) Additions along a legally established nonconforming setback. The minimum front yard, minimum side yard, or minimum rear yard for any legally established nonconforming building having a setback which is less than that which is required by this chapter shall be allowed to expand 1 or more times along the legally established nonconforming setback.

(B) Additional front setback provisions.

(1) Public streets. In the case where the thoroughfare plan does not include a proposed right-of-way, or where the existing right-of-way is greater than the proposed right-of-way, the existing right-of-way line shall be used for setback measurement.

(2) Public streets and private streets.

(a) The minimum front yard and minimum building setback from the right-of-way line of a private street shall be the same as for “all other streets” in the applicable Residential District.

(b) The setback provisions of this chapter are subject to the following modification:

In any block in any Residential District contained in this chapter in which an existing front yard setback is established by existing, legally established nonconforming buildings or structures on more than 60% of the total number of lots within the same block face fronting on the same public street, the minimum front yard setback for any new building, structure, or addition along the block face shall be the average of that established front yards, if the average dimension is less than the minimum front yard setback established by this chapter.
(c) Any development permitted within a minimum front yard setback shall be those specified in the “Use of Minimum Yards” divisions of the applicable Residential District or by §§ 152.083 through 152.090.

(3) **Double frontage lots.**

(a) *Limited access highway rights-of-way.* That portion of a double frontage lot which abuts a limited access highway right-of-way shall be subject to setback and landscaping requirements of this chapter applicable to minimum rear yards.

(b) *All other streets.* That portion of a double frontage lot which abuts any perimeter street in which a “non-access easement” is provided for by a properly approved and recorded plat shall be subject to setback and landscaping requirements of this chapter applicable to minimum rear yards.

(4) **Enclosure of legally established nonconforming porches.** Legally established nonconforming porches which encroach no more than 8 feet into a minimum front yard, may be enclosed subject to compliance with the following regulations:

(a) Shall not exceed 17 feet or 2 stories in height;

(b) Enclosing walls shall contain windows over a minimum of 75% of the width of the outside wall and a minimum average window sash height of 50% of the room height; and

(c) Containing no interior partitions.

(C) **Setback regulations for laterally-supported extensions.** Notwithstanding any setback regulations of this chapter to the contrary, laterally-supported extensions, such as either division (C)(1) or (C)(2):

(1) Canopies, sills, belt courses, eaves, cornices, bay windows, roof overhangs, or other ornamental features, may extend a maximum of:

(a) Three feet into any minimum front yard or minimum rear yard; or

(b) Twelve inches into any minimum side yard.

(2) Open or enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers may extend a maximum of 5 feet into any minimum front yard, minimum side yard or minimum rear yard.

(D) **Height regulations for roof mounted or roof piercing structures.** The following regulations shall apply to the roof mounted or roof piercing structures in any Residential District:
(1) Parapet walls may exceed the maximum building height, provided the parapet wall does not exceed 4 feet in height above the roof line; and

(2) Roof mounted or roof piercing chimneys, cooling towers, elevator bulkheads, mechanical penthouses, stacks, water towers, radio or television antenna, ornamental towers, cupolas, domes, steeples, and spires may exceed the maximum building height, provided the structures do not exceed 25 feet in height above the roof line.

(E) Lot area and lot width regulations for legally established nonconforming lots of record. See § 152.058.

(F) Additional standards for manufactured home dwellings.

(1) Construction. All manufactured home dwellings shall comply with the following requirements:

(a) Compliance with federal standards. Each module of a manufactured dwelling home must bear a label certifying that it is built in compliance with the federal Manufactured Home Construction and Safety Standards Law of 1974 (42 U.S.C. 5401 et seq.);

(b) Date of construction. Each manufactured home dwelling shall have been constructed after January 1, 1981;

(c) Main floor area. Each manufactured home dwelling shall have at least 950 square feet of main floor area (exclusive of garages, carports, and open porches); and

(d) Multiple sections. Each manufactured home dwelling shall be composed of more than 1 section.

(2) Installation standards. All manufactured home dwellings shall be installed in compliance with the following requirements:

(a) Permanent perimeter enclosure required. Each manufactured home dwelling shall be set into an excavated area with crawl space walls or basement walls constructed in accordance with the terms of the Indiana One and Two Family Dwelling Code. The space between the floor joists of the manufactured home dwelling and the excavated under-floor grade shall be completely enclosed with a permanent perimeter enclosure, except for required openings; and

(b) Support system. All load-bearing foundations for a manufactured home dwelling shall be installed in conformance with the regulations of the Indiana One and Two Family Dwelling Code and with the manufacturer’s installation specifications.
(3) **Siding standards.** The siding materials used on all manufactured home dwellings shall be limited to the following:

(a) Residential horizontal aluminum lap siding;

(b) Residential horizontal vinyl lap siding;

(c) Wood-grain, weather resistant, pressboard siding;

(d) Stucco siding;

(e) Brick siding; or

(f) Stone siding.

(4) **Roofing standards.** The roofing materials used on all manufactured home dwellings shall be limited to the following:

(a) Asbestos shingles on a roof pitched according to the design specifications of the shingles;

(b) Fiberglass shingles on a roof pitched according to the design specifications of the shingles;

(c) Shake shingles on a roof pitched according to the design specifications of the shingles;

(d) Asphalt shingles on a roof pitched according to the design specifications of the shingles;

(e) Slate; or

(f) Tile.

(Ord. 1221, § 3.11(f), passed 1-26-2010)

§ 152.089 REQUIREMENTS FOR ALL PRIVATE STREETS AND PRIVATE ALLEYS.

See § 152.021.

(Ord. 1221, § 3.11(g), passed 1-26-2010)
§ 152.090 NEIGHBORHOOD RECYCLING COLLECTION POINTS.

A neighborhood recycling collection point may be established as an accessory use to a religious use, school, library, or other use containing not less than 20 parking spaces, provided that the area used for the neighborhood recycling collection point does not reduce the number of required off-street parking spaces for the primary use or special exception use below the minimum requirements established in §§ 152.250 through 152.258.

(Ord. 1221, § 3.11(h), passed 1-26-2010)

COMMERCIAL/TOWN CENTER DISTRICTS

§ 152.115 OB - OFFICE BUFFER DISTRICT.

(A) Intent. The OB - Office Buffer District is established to promote the development of small-scale office, professional, business, governmental, and quasi-governmental uses. Since the types of permitted uses in the OB District are typically less commercial in appearance and are architecturally more harmonious with residential structures, this district can serve as a buffer between Residential Districts and more intense Commercial or Industrial Districts. The OB District may also serve as a gradual and reasonable transition between major thoroughfares and Residential Districts. The OB District development standards are established to assure small-scale developments.

(B) Permitted uses.

(1) Primary uses. See Appendix A, Permitted Use Table.

(2) Special exception uses. See Appendix A, Permitted Use Table.

(3) Accessory uses. See § 152.119.

(4) Temporary uses. See § 152.120.

(5) Home occupations. See § 152.121.

(C) Development standards.

(1) Minimum lot width and frontage. Each lot shall have a minimum lot width and frontage on a public street of 35 feet.

(2) Yards and building setbacks.
(a) **Front.** A minimum front yard and building setback of 25 feet measured from the proposed right-of-way of all streets shall be provided along all streets.

(b) **Minimum side yard and setback.** The minimum side yard and setback for all lots shall be as follows:

1. Minimum side yard: 5 feet; or

(c) **Minimum rear yard and setback.** The minimum rear yard and setback for all lots shall be as follows:

1. Minimum rear yard: 15 feet.

(3) **Use of minimum yards and residential bufferyards.** All minimum yards and residential bufferyards shall be landscaped in compliance with the requirements for perimeter yard landscaping as set forth in §§ 152.185 through 152.194 and shall remain free from structures except where expressly permitted below:

   (a) Minimum front yards may include: parking areas, provided that no portion of the parking area may be located closer to the right-of-way than 15 feet; driveways; or signs as regulated by §§ 152.230 through 152.236, and shall otherwise be maintained as open space free from buildings or structures.

   (b) Minimum front residential bufferyards may include: driveways; or signs as regulated by §§ 152.230 through 152.236, and shall otherwise be maintained as open space free from buildings or structures;

   (c) Minimum side yards and rear yards may include: interior access driveways; or walkways or other pedestrian way connections to adjoining lots; provided that the remainder of the side yards shall be maintained as open space free from buildings or structures;

   (d) Minimum side residential bufferyards and rear residential bufferyards shall be maintained as open space free from buildings or structures.

(4) **Maximum building height.** Thirty-five feet.

(5) **Maximum gross floor area.** No building shall exceed 5,000 square feet of gross floor area.

(6) **Landscaping.** See §§ 152.185 through 152.194.
(7) **Lighting.** See §§ 152.210 through 152.215.

(8) **Signs.** See §§ 152.230 through 152.236.

(9) **Parking.** See §§ 152.250 through 152.258; provided, however, a lot in the OB District may include on-street parking located immediately adjacent to the lot, if the adjacent on-street parking is approved as to location and design by the Indiana Department of Transportation (if applicable) and the Town Board of Public Works. If on-street parking is provided, the amount of off-street parking required by this chapter for the lot shall be deemed to be reduced by the number of on-street parking spaces provided immediately adjacent to the lot.

(10) **Loading.** See §§ 152.270 through 152.277.

(11) **Greenway connection required.** If the lot abuts any portion of a greenway, a direct linkage from the project to the greenway shall be provided.

(12) **Outdoor operations.** All uses and operations (except off-street parking, off-street loading and delivery and walk-up customer service windows) shall be conducted completely within enclosed buildings, except for walk-up customer service windows or automated teller machines (ATMs), provided that the facilities are not freestanding and are set flush with the façade of the building.

(13) **Architecture.**

(a) **Additions to existing buildings.** All additions to existing buildings shall utilize building materials that are compatible and harmonious with the materials used on the existing building.

(b) **Exterior renovations, major additions and accessory buildings.** Exterior renovations, major additions and accessory buildings to existing buildings or facilities are encouraged to comply with the provisions in division (C)(13)(c) below, for new construction, however, the minimum requirement for exterior renovations, major additions and accessory buildings shall be the same as in division (C)(13)(a), above, for additions to existing buildings.

(c) **New construction.** In order to create variation and interest in the built environment, all new primary buildings shall comply with 1 of the following 2 sets of architectural regulations regarding building material and architectural features on each façade visible from a public street:

1. All brick (excluding window, display window, door, roofing, fascia and soffit materials), provided that the brick used on each applicable façade shall include:
   
   a. At least 2 architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, and the like); or
b. At least 2 colors of brick, with the secondary color constituting a minimum of 10% of the façade (excluding windows, display windows, doors, roofing, fascia or soffit materials); or

2. Two or more building materials (excluding window, display window, door and roofing materials), provided:

   a. **Primary building material.** The primary building material shall be either: brick; stone (limestone, granite, fieldstone, and the like); architectural pre-cast concrete, if the surface looks like brick or stone; or exterior insulation and finish system (E.I.F.S.) or equivalent, and shall constitute a minimum of 50% of each applicable façade.

   b. **Secondary building material.** The secondary building material shall constitute a minimum of 10% of the façade. Glass curtain wall or a faux window (not intended for use as a window or display window) may qualify as a secondary building material.

   c. **Architectural features.** In addition, the exterior building material selection shall be supplemented with the use of multiple colors, textures (e.g., rough, smooth, striated, and the like) or architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, and the like) on each façade visible from a public street.

(14) **Development standards for single family dwellings.** Notwithstanding anything in this OB District to the contrary, a single family dwelling shall be subject to the applicable development standards of the R2 District.

(15) **Development standards for 2 family dwellings.** Notwithstanding anything in this OB District to the contrary, a 2 family dwelling shall be subject to the applicable development standards of the R2 District.

(Ord. 1221, § 4.01, passed 1-26-2010)

§ 152.116 LB - LOCAL BUSINESS DISTRICT.

(A) **Intent.** The LB - Local Business District is established to provide for small businesses located outside of the town center and which provide for the full range of convenience uses necessary to meet the daily needs of nearby residential neighborhoods. Permitted uses within the LB Districts are regulated in character to assure harmonious development with the nearby Residential Districts served and are limited in size and scale to promote pedestrian access and neighborhood use.

(B) **Permitted uses.**

   (1) **Primary uses.** See Appendix A, Permitted Use Table.
(2) **Special exception uses.** See Appendix A, Permitted Use Table.

(3) **Accessory uses.** See § 152.119.

(4) **Temporary uses.** See § 152.120.

(C) **Development standards.**

(1) **Minimum lot width and frontage.** Each lot shall have a minimum lot width and frontage on a public street of 50 feet.

(2) **Minimum yards and building setbacks.**

   (a) **Front.** A minimum front yard and building setback of 25 feet measured from the proposed right-of-way of all streets shall be provided along all streets.

   (b) **Minimum side yard and setback.** Minimum side yard and setback shall be provided from the lot line as follows:

       1. Minimum side yard: 10 feet.

   (c) **Minimum rear yard and setback.** Minimum rear yard and setback shall be provided from the lot line as follows:

       1. Minimum rear yard: 10 feet.

(3) **Use of minimum yards and residential bufferyards.** All minimum yards and residential bufferyards shall be landscaped in compliance with the requirements for perimeter yard landscaping as set forth in §§ 152.185 through 152.194 and shall remain free from structures except where expressly permitted below:

   (a) Minimum front yards may include: parking areas, interior access drives, interior access driveways or gasoline sales areas, provided that no portion of the areas may be located closer to the right-of-way than 15 feet; driveways; or signs as regulated by §§ 152.230 through 152.236, and shall otherwise be maintained as open space free from buildings or structures;

   (b) Minimum front residential bufferyards may include: driveways; or signs as regulated by §§ 152.230 through 152.236, and shall otherwise be maintained as open space free from buildings or structures;
(c) Minimum side and rear yards: minimum side and rear yards may include: interior access driveways; walkways; or pedestrian ways, connecting to adjoining lots or developments provided that the remainder of the yards shall be maintained as open space free from buildings or structures; and

(d) Minimum side and rear residential bufferyards: minimum side and rear residential bufferyards may include interior access driveways connecting to adjoining lots or developments provided that the remainder of the residential bufferyards shall be maintained as open space free from buildings or structures.

(4) *Maximum building height.* Thirty-five feet.

(5) *Maximum gross floor area.*

(a) No freestanding use shall exceed 16,000 square feet in gross floor area;

(b) No individual and separately operated use in a multi-tenant building shall exceed 60,000 square feet of gross floor area; and

(c) No multi-tenant building shall exceed 80,000 square feet of total gross floor area.

(6) *Landscaping.* See §§ 152.185 through 152.194.

(7) *Lighting.* See §§ 152.210 through 152.215.

(8) *Signs.* See §§ 152.230 through 152.236.

(9) *Parking.* See §§ 152.250 through 152.258.

(10) *Loading.* See §§ 152.270 through 152.277.

(11) *Greenway connection required.* If the lot abuts any portion of a greenway, a direct linkage from the project to the greenway shall be provided.

(12) *Outdoor operations.* All uses and operations (except off-street parking, off-street loading and delivery, walk-up customer service windows, and drive-through customer service windows) shall be conducted completely within enclosed buildings, except where expressly permitted below:

(a) Outdoor seating for restaurants:

1. Shall not be located between a building line and a residential bufferyard;

2. Shall not be located in any required yard or any street right-of-way unless otherwise approved by the Indiana Department of Transportation and the town;
3. Shall be located adjacent to the business’ tenant bay or storefront façade;

4. Shall be included in the calculation of required foundation landscaping area and any applicable building foundation landscaping area and associated foundation landscaping shall be extended or relocated around the perimeter of the outdoor seating area;

5. Shall not exceed 25% of the gross floor area of the restaurant; and

6. Shall not block an entrance or exit to or from the business or building.

(b) Outdoor display or sales of merchandise:

1. Shall be accessory to the primary use;

2. Shall not exceed 10% of the gross floor area of each non-related and separately operated use;

3. Shall not be located in a required yard or required residential bufferyard; and

4. Shall not be located so as to interfere or conflict with sidewalks, walkways, pedestrian ways, entrances or exits to or from the business or building, required parking areas, required loading areas, driveways, interior access drives, interior access driveways, perimeter landscape yards, or foundation plantings.

(c) Gasoline pumps: provided that no outdoor operations other than the dispensing or installation of gasoline, oil, antifreeze and other similar products, and the performance of minor services for customers as related to the dispensing or installation are conducted on the site.

(d) Walk-up or drive-through customer service windows or automated teller machines (ATMs), provided that the facilities shall:

1. Be set flush with the façade of the building;

2. If freestanding, abut the façade of the building or be located within a service unit island under a drive-through canopy attached to the building; and

3. Be located so as to not interfere or conflict with sidewalks, pedestrian ways, entrances or exits to or from the business or building, parking areas, loading areas, driveways, interior access drives, interior access driveways, perimeter landscape yards, or foundation landscaping.

(13) Architecture.

(a) Additions to existing buildings. All additions to existing buildings shall utilize building materials that are compatible and harmonious with the materials used on the existing building.
(b) **Exterior renovations, major additions, and accessory buildings.** Exterior renovations, major additions, and accessory buildings to existing buildings or facilities are encouraged to comply with the provisions in division (c) below, for new construction, however, the minimum requirement for exterior renovations, major additions and accessory buildings shall be the same as in division (C)(13)(a) above, for additions to existing buildings.

(c) **New construction.** In order to create variation and interest in the built environment, all new primary buildings shall comply with 1 of the following 2 sets of architectural regulations regarding building material and architectural features on each façade visible from a public street:

1. All brick (excluding window, display window, door, roofing, fascia and soffit materials), provided that the brick used on each applicable façade shall include:
   a. At least 2 architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, and the like); or
   b. At least 2 colors of brick, with the secondary color constituting a minimum of 10% of the façade (excluding windows, display windows, doors, roofing, fascia, or soffit materials).

2. Two or more building materials (excluding window, display window, door and roofing materials), provided:
   a. **Primary building material.** The primary building material shall be either: brick; stone (limestone, granite, fieldstone, and the like); architectural pre-cast concrete, if the surface looks like brick or stone; or exterior insulation and finish system (E.I.F.S.) or equivalent, and shall constitute a minimum of 50% of each applicable façade.
   b. **Secondary building material.** The secondary building material shall constitute a minimum of 10% of the façade. Glass curtain wall or a faux window (not intended for use as a window or display window) may qualify as a secondary building material.
   c. **Architectural features.** In addition, the exterior building material selection shall be supplemented with the use of multiple colors, textures (e.g., rough, smooth, striated, and the like) or architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, and the like) on each façade visible from a public street.

(Ord. 1221, § 4.02, passed 1-26-2010)

§ 152.117 CB - COMMUNITY BUSINESS DISTRICT.

(A) **Intent.** The CB - Community Business District is established to provide a location for high volume and high intensity commercial uses. Activities in this district often include outdoor sales or outdoor operations. Developments within the CB District shall be coordinated to facilitate vehicular and pedestrian access from nearby Residential Districts.
(B) Permitted uses.

(1) Primary uses. See Appendix A, Permitted Use Table.

(2) Special exception uses. See Appendix A, Permitted Use Table.

(3) Accessory uses. See § 152.119.

(4) Temporary uses. See § 152.120.

(C) Development standards.

(1) Minimum lot width and frontage. Each lot or integrated center shall have a minimum lot width and frontage on a public street of 50 feet.

(2) Minimum yards and building setbacks.

(a) Front. A minimum front yard and building setback of 25 feet measured from the proposed right-of-way of all streets shall be provided along all streets.

(b) Minimum side yard and setback. Shall be provided from the lot line as follows:

1. Minimum side yard: 10 feet.


(c) Minimum rear yard and setback. Shall be provided from the lot line as follows:

1. Minimum rear yard: 10 feet.


(d) Minimum yards for out lots.

1. Out lots. Out lots within an integrated center shall provide a minimum yard of 5 feet along all lot lines in common with other out lots or 10 feet along all lot lines in common with the main portion of the integrated center.

2. Perimeter out lots. If any portion of an out lot abuts the perimeter of the integrated center, that portion of the out lot shall be required to comply with the applicable minimum front, side or rear yard requirements set forth above.

3. Integrated center. The main portion of the integrated center shall not be required to provide a minimum yard along the lot line in common with any out lot.
(3) Use of minimum yards and residential bufferyards. All minimum yards and residential bufferyards shall be landscaped in compliance with the requirements for perimeter yard landscaping as set forth in §§ 152.185 through 152.194 and shall remain free from structures, except where expressly permitted below:

(a) Minimum front yards may include: parking areas or gasoline sales areas, provided that no portion of the areas may be located closer to the right-of-way than 15 feet; driveways; or signs as regulated by §§ 152.230 through 152.236, and shall otherwise be maintained as open space free from buildings or structures;

(b) Minimum front residential bufferyards may include: driveways; or signs as regulated by §§ 152.230 through 152.236 and shall otherwise be maintained as open space free from buildings or structures;

(c) Minimum side and rear yards: minimum side yards and minimum rear yards may include: parking areas; interior access drives; interior access driveways; walkways; or pedestrian ways connecting to adjoining lots or developments, provided that the remainder of the yards shall be maintained as open space free from buildings or structures;

(d) Minimum side and rear yards for out lots: minimum side yards and minimum rear yards of an out lot may include: parking areas; interior access drives; interior access driveways; walkways; or pedestrian ways connecting to adjoining out lots or developments, provided that the remainder of the yards shall be maintained as open space free from buildings or structures;

(e) Minimum side and rear residential bufferyards: shall be maintained as open space free from buildings or structures.

(4) Maximum height. All buildings or structures (including transmission towers), 50 feet.

(5) Landscaping. See §§ 152.185 through 152.194.

(6) Lighting. See §§ 152.210 through 152.215.

(7) Sign. See §§ 152.230 through 152.236.

(8) Parking. See §§ 152.250 through 152.258.

(9) Loading. See §§ 152.270 through 152.277.

(10) Greenway connection required. If the lot abuts any portion of a greenway, a direct linkage from the project to the greenway shall be provided.
(11) **Outdoor operations.** All uses and operations (except off-street parking, off-street loading and delivery, walk-up customer service windows and drive-through customer service windows) shall be conducted completely within enclosed buildings, except where expressly permitted below:

(a) *Outdoor seating for restaurants:*

1. Shall not be located between a building line and a residential bufferyard;

2. Shall not be located in any required yard or any street right-of-way unless otherwise approved by the Indiana Department of Transportation and the town;

3. Shall be located adjacent to the business’ tenant bay or storefront;

4. Shall be included in the calculation of required foundation landscaping area and any applicable building foundation landscaping area and associated foundation landscaping shall be extended or relocated around the perimeter of the outdoor seating area;

5. Shall not exceed 25% of the gross floor area of the restaurant;

6. Shall not block an entrance or exit to or from the business or building; and

7. Shall be located so as to not interfere or conflict with sidewalks, walkways, pedestrian ways, required parking areas, required loading areas, driveways, interior access drives, interior access driveways, perimeter landscape yards, or foundation landscaping.

(b) *Vending machines:*

1. Shall abut the exterior wall of the building; and

2. Shall not be located in a required yard or required residential bufferyard.

(c) *Outdoor display or sales of merchandise:*

1. Shall be accessory to the primary use;

2. Shall not exceed the lesser of: 10% of the gross floor area; or 20,000 square feet, for each non-related and separately operated use;

3. Shall not be located in a required yard or required residential bufferyard; and

4. Shall be located so as to not interfere or conflict with sidewalks, walkways, pedestrian ways, entrances or exits to or from the business or building, required parking areas, required loading areas, driveways, interior access drives, interior access driveways, perimeter landscape yards, or foundation landscaping.
(d) **Gas pumps.** Gasoline pumps, provided that no outdoor operations other than the dispensing or installation of gasoline, oil, antifreeze and other similar products and the performance of minor services for customers as related to the dispensing or installation are conducted on the site.

(e) **Walk-up or drive-through customer service windows.** Walk-up or drive-through customer service windows or automated teller machines (ATMs), provided that the facilities shall be located so as to not interfere or conflict with sidewalks, walkways, pedestrian ways, entrances or exits to or from the business or building, parking areas, loading areas, driveways, interior access drives, interior access driveways, perimeter landscape yards, or foundation landscaping.

(12) **Architecture.**

(a) **Additions to existing buildings.** All additions to existing buildings shall utilize building materials that are compatible and harmonious with the materials used on the existing building.

(b) **Exterior renovations, major additions and accessory buildings.** Exterior renovations, major additions and accessory buildings to existing buildings or facilities are encouraged to comply with the provisions in division (C)(12)(c), below, for new construction, however, the minimum requirement for exterior renovations, major additions and accessory buildings shall be the same as in division (C)(12)(a), above, for additions to existing buildings.

(c) **New construction.** In order to create variation and interest in the built environment, all new primary buildings shall comply with 1 of the following 2 sets of architectural regulations regarding building material and architectural features on each façade visible from a public street:

1. All brick (excluding window, display window, door, roofing, fascia, and soffit materials), provided that the brick used on each applicable façade shall include:
   
   a. At least 2 architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, and the like); or
   
   b. At least 2 colors of brick, with the secondary color constituting a minimum of 10% of the façade (excluding windows, display windows, doors, roofing, fascia or soffit materials); or

2. Two or more building materials (excluding window, display window, door and roofing materials), provided:

   a. **Primary building material.** The primary building material shall be either: brick; stone (limestone, granite, fieldstone, and the like); architectural pre-cast concrete, if the surface looks like brick or stone; or exterior insulation and finish system (E.I.F.S.) or equivalent, and shall constitute a minimum of 50% of each applicable façade.
b. **Secondary building material.** The secondary building material shall constitute a minimum of 10% of the façade. Glass curtain wall or a faux window (not intended for use as a window or display window) may qualify as a secondary building material.

c. **Architectural features.** In addition, the exterior building material selection shall be supplemented with the use of multiple colors, textures (e.g., rough, smooth, striated, and the like) or architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, and the like) on each façade visible from a public street.

(Ord. 1221, § 4.03, passed 1-26-2010)

§ 152.118 TC - TOWN CENTER DISTRICT.

(A) **Intent.** The TC - Town Center District is established to promote the development of the original central village core of the town. The regulations are intended to encourage all the elements of a traditional village center, including: storefront retail; professional offices; and dwelling units located either in townhouse developments, in the upper stories of mixed-use buildings or in connection with a grade level business. The development standards in this district are designed to: encourage a pedestrian oriented design throughout the district; and maintain an appropriate pedestrian scale, massing, and relationship between buildings and structures within the district.

(B) **Permitted uses.**

(1) **Primary uses.** See Appendix A, Permitted Use Table.

(2) **Special exception uses.** See Appendix A, Permitted Use Table.

(3) **Accessory uses.** See § 152.119.

(4) **Temporary uses.** See § 152.120.

(5) **Home occupations.** See § 152.121.

(C) **Development standards.**

(1) **Minimum lot width and frontage.** Each lot shall have a minimum lot width and frontage on a public street of 30 feet.

(2) **Yards and building setbacks.**

(a) **Front.** All primary use buildings shall be located at the greater setback of the proposed right-of-way or existing right-of-way, subject to the following additional building placement regulations:
1. For sites containing 1 building: in elevation view from the street frontage, at least 50% of the length of the façade of the building facing a street shall be located at the greater setback of the proposed right-of-way or existing right-of-way;

2. For sites containing multiple buildings: in elevation view from the street frontage, at least 50% of the visible façades of the buildings facing a street shall be located at the greater setback of the proposed right-of-way or existing right-of-way; and

3. Parking areas and interior access drives shall not be located within 20 feet of the front lot line.

(b) Minimum side yard and setback. The minimum side yard and setback for all lots shall be as follows:

1. Minimum side yard: 0 feet; provided, however, if a side yard is provided along a side lot line not abutting an alley, the setback shall not be less than 5 feet.


(c) Minimum rear yard and setback. The minimum rear yard and setback for all lots shall be as follows:

1. Minimum rear yard: 10 feet.


(3) Use of minimum yards and residential bufferyards. All yards and residential bufferyards shall remain free from structures except where expressly permitted below:

(a) Front yards: where provided may include: driveways; or incidental signs as regulated by §§ 152.230 through 152.236 and shall otherwise be developed as plazas in compliance with the following requirements:
1. Shall be located adjacent to a building;

2. Shall be surfaced with concrete, brick, or other form of hardsurface paver appropriate for the proposed development, except for those areas used for trees, foundation landscaping, lawn area, or planters;

3. Shall maintain surface areas at a slope of less than 3%, surface areas may be stepped, where appropriate, as necessary to accommodate natural topography; and

4. The street frontage portion of the plaza perimeter shall include shade or ornamental trees planted with a maximum spacing of 40 feet on-center. If street trees have already been installed on an abutting lot, the on-center spacing shall be measured from the existing street trees.

(b) Minimum front residential bufferyards: may include driveways; or incidental signs as regulated by §§ 152.230 through 152.236; and shall otherwise be maintained as open space free from buildings or structures and shall be landscaped in compliance with the requirements for perimeter yard landscaping as set forth in §§ 152.185 through 152.194;

(c) Minimum side and rear yards: may include driveways, interior access driveways, parking areas, loading areas, walkways, or other pedestrian way connections to adjoining lots, provided that the remainder of the yards shall be maintained as open space free from buildings or structures and shall be landscaped in compliance with the requirements for perimeter yard landscaping as set forth in §§ 152.185 through 152.194; and

(d) Minimum side and rear residential bufferyards: may include:

1. Walkways or other pedestrian way connections to adjoining residential areas provided that the remainder of the yards shall otherwise be maintained as open space free from buildings or structures and shall be landscaped in compliance with the requirements for perimeter yard landscaping as set forth in §§ 152.185 through 152.194; or

2. Parking, as provided for in division (C)(9) below.
(4) **Building height.**

(a) Minimum front façade height: in the elevation view from the street frontage, all primary use buildings shall maintain a minimum height of 26 feet above grade and shall contain a minimum of 2 occupiable stories.

(b) Maximum building height: 40 feet; not to exceed 3 occupiable stories.

(5) **Maximum gross floor area.**

(a) For any use listed under the following headings, no single use, whether freestanding or contained in an integrated center, shall exceed 8,000 square feet of gross floor area:

<table>
<thead>
<tr>
<th>Clothing service</th>
<th>Personal services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Food sales and service</td>
<td>Recreation</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>Retail</td>
</tr>
</tbody>
</table>

(b) For any use listed under the following headings, no single use, whether freestanding or contained in an integrated center, shall exceed 50,000 square feet in gross floor area:

<table>
<thead>
<tr>
<th>Educational use</th>
<th>Public facilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Governmental use</td>
<td>Residential</td>
</tr>
<tr>
<td>Office/professional services</td>
<td>Utilities</td>
</tr>
</tbody>
</table>

(6) **Landscaping.** See §§ 152.185 through 152.194.

(7) **Lighting.** See §§ 152.210 through 152.215.

(8) **Signs.** See §§ 152.230 through 152.236.

(9) **Parking.** The following off-street parking provisions shall apply.

(a) **Non-dwelling uses.** Non-dwelling uses located in the TC District shall provide parking as provided below:

1. There shall be no required minimum number of off-street parking spaces for any non-dwelling use located in the TC District;

2. If off-street parking spaces are provided, 1 row of parking spaces may be located along and accessed directly from an alley abutting a side lot line or a rear lot line, provided that the design and location of the adjacent alley accessed parking is approved by the town; and
3. All other off-street parking areas provided in the TC District shall comply with the provisions of § 152.254.

(b) Dwelling uses. All dwelling uses located in the TC District shall provide parking spaces at a ratio of 1 parking space per dwelling unit. If such required parking spaces are located in an off-street parking area, the design of the off-street parking area shall comply with the requirements of § 152.254. However, the required parking spaces may be accessed directly from an alley abutting a side lot line or a rear lot line, provided the design and location of the adjacent alley accessed parking is approved by the town.

(10) Loading. See §§ 152.270 through 152.277.

(11) Outdoor operations. All uses and operations (except off-street parking, off-street loading and delivery, and walk-up customer service windows) shall be conducted completely within enclosed buildings, except where expressly permitted below:

(a) Outdoor seating for restaurants, provided that the outdoor seating:

1. Shall not be located in any street right-of-way unless otherwise approved by the town;

2. Shall be permitted only along the business’ tenant bay or storefront façade;

3. Maintain a useable sidewalk width of not less than 6 feet; and

4. Shall not block an entrance or exit to or from the business or building.

(b) Outdoor display or sales of merchandise:

1. Shall not be located in any street right-of-way unless otherwise approved by the town;

2. Shall maintain a useable sidewalk width of not less than 6 feet;

3. Shall be located against the building façade;

4. Shall be permitted only along the business’ tenant bay or storefront façade;

5. Shall not block an entrance or exit to or from the business or building;

6. Shall not exceed 10% of the gross floor area of each non-related and separately operated use; and

7. Shall be permitted only during the hours of operation of the business and shall be removed at the close of each business day.
(c) Walk-up customer service windows or automated teller machines (ATMs), provided that the facilities are not freestanding and are set flush with the façade of the building.

(d) Vending machines, provided that vending machines:

1. Shall not be located in any street right-of-way unless otherwise approved by the town;

2. Shall abut the exterior wall of the building;

3. Shall maintain a useable sidewalk width of not less than 6 feet; and

4. Shall not be located in a required yard or required residential bufferyard.

(12) Architecture. The intent of these architecture regulations is to encourage the development of buildings with simple, 3-dimensional forms that include the characteristic appearance and scale of early 1900s main streets and which are oriented to the main street through the town (U.S. 20/Michigan Street).

(a) Additions to existing buildings. All additions to existing buildings shall utilize building materials that are compatible and harmonious with the materials used on the existing building.

(b) Exterior renovations, major additions, and accessory buildings. Exterior renovations, major additions, and accessory buildings to existing buildings or facilities are encouraged to comply with the provisions in division (C)(12)(c) below, for new construction; however, the minimum requirement for exterior renovations, major additions, and accessory buildings shall be the same as in division (C)(12)(a) above, for additions to existing buildings; provided, however, the following additional regulations shall apply to all exterior renovations or building remodeling:

1. Any stone, brick, or other original masonry façade material shall not be covered with any kind or horizontal or vertical siding;

2. Any window or door openings in the façade shall not be boarded, blocked-in, or bricked-in; and

3. Any exterior renovation of a building façade that includes added horizontal or vertical siding over stone, brick, or other original masonry façade material shall include the removal of the horizontal or vertical siding and restore the original stone, brick, or other masonry façade.

(c) New construction. In order to create variation and interest in the built environment and to ensure that the size and scale of new development is consistent with the established character of the town, all new primary buildings shall comply with the following regulations.
1. One of the following 2 sets of architectural regulations regarding building material and architectural features on each façade visible from a public street:

   a. All brick (excluding window, display window, door, roofing, fascia, and soffit materials), provided that the brick used on each applicable façade shall include:

      i. At least 2 architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, and the like); or

      ii. At least 2 colors of brick, with the secondary color constituting a minimum of 10% of the façade (excluding windows, display windows, doors, roofing, fascia or soffit materials); or

   b. Two or more building materials (excluding window, display window, door and roofing materials), provided:

      i. **Primary building material.** The primary building material shall be either: brick; stone (limestone, granite, fieldstone, and the like); or architectural pre-cast concrete, if the surface looks like brick or stone, and shall constitute a minimum of 50% of each applicable façade.

      ii. **Secondary building material.** The secondary building material shall constitute a minimum of 10% of the façade. Glass curtain wall or a faux window (not intended for use as a window or display window) may qualify as a secondary building material.

      iii. **Architectural features.** In addition, the exterior building material selection shall be supplemented with the use of multiple colors, textures (e.g., rough, smooth, striated, and the like) or architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, and the like) on each façade visible from a public street.

2. **Trash enclosures.** All trash enclosures shall utilize 3 solid-walled sides. The materials of the 3 solid-walled sides of the enclosure shall be consistent and compatible with the materials of the primary building. Gates shall be located on the non-solid-walled side of the trash enclosure and shall be covered with a wood, simulated wood or a similar material painted a compatible color with the primary building. The opening of a trash enclosure shall not be oriented to or within 90 degrees from being parallel to any front lot line.

3. **Articulation.** In order to assure that new development in the town center maintains a scale and relationship to the street and sidewalk which can promote pedestrian activity in the downtown area, all buildings shall comply with the following design features:

   a. **Human scale.** Architectural elements such as colonnades, canopies, awnings, display windows, lighting, and variation in building materials may be used to create a human scale to buildings.
b. **Detailing.** Architectural detailing (i.e., variation in building materials, surface recesses, protrusions, cornices, and the like) shall be used to distinguish the ground floor from upper levels of a building. Such architectural detailing used to distinguish the ground floor from upper levels shall be no lower than 18 feet above grade.

c. **Vertical rhythm.** The vertical rhythm of architectural detailing on a building shall be consistent or compatible with the pattern established on adjacent buildings located within the same block face.

d. **Building entrances.** All buildings which front on U.S. 20/Michigan Street shall orient a main entrance to U.S. 20/Michigan Street.

4. **Mechanical equipment.**

a. **Roof mounted.** All roof mounted mechanical equipment shall be screened based upon an elevation view of the building on all sides.

b. **Ground mounted.** All ground mounted mechanical equipment shall be screened on all sides by: the building; screen walls or fences of a material and color which is compatible with the primary building; or evergreen or densely twigged hedge plants (with or without mounding) of a height at time of planting which is not less than the height of the mechanical equipment to be screened.

5. **Fenestration.**

a. **Ground floor:** window openings on the ground floor of a building shall occupy a minimum of 60% of the ground floor façade area (i.e., that portion of the façade located below 18 feet above grade).

b. **Upper floors:** window openings on the upper floors of buildings shall occupy no more than 40% of the entire upper floor façade area (i.e., that portion of the façade located above 18 feet above grade).

c. Any nonresidential building shall have windows (or faux windows) on the upper façade (i.e., that portion of the façade located below 18 feet above grade).

d. Window size and shape shall be compatible with those of adjacent buildings and shall have a generally vertical orientation.

e. Windows, doors, eaves, and parapets on a building shall be proportional and shall relate to one another.
(d) Awnings, canopies, and marquees.

1. Design: awnings, canopies and marquees shall be of a simple design intended to complement the architectural elements (storefront cornices, windows, or doors) of the building façade and shall not obscure significant architectural details of a building.

2. Materials:
   a. Awnings and canopies shall be constructed of high-quality canvas or canvas-like materials such as matte finish canvas or matte finish vinyl coated canvas.
   b. Awnings or canopies shall not utilize bubble, box, or shiny plastic or vinyl coated materials.
   c. Awnings or canopies shall not utilize any transparent or translucent vinyl.
   d. Awnings or canopies shall not utilize any wood.

3. Illumination:
   a. Wall mounted lighting, such as gooseneck lamps with a metal shade and decorative mounting over awnings or canopies, shall be permitted.
   b. Backlit or internally-illuminated vinyl or plastic awnings, canopies, or marquees shall be prohibited.

4. Clearance to grade: the bottom edge of the:
   a. Awning or canopy shall not be less than 8 feet, 6 inches above grade over a walkway;
b. Marquee shall not be less than 9 feet above grade over a walkway; or

c. Awning, canopy, or marquee shall not be less than 15 feet above grade over a driveway, interior access drive, or alley.

5. Projection from building: the maximum projection of an awning, canopy, or marquee shall not exceed 8 feet from or beyond the supporting building and shall not project beyond any walkway adjacent to the building.

6. Encroachment over public right-of-way: no awning, canopy, or marquee shall encroach into the air rights of any public street right-of-way unless approved by the town prior to the placement of the awning, canopy or marquee.

7. Signs on awnings, canopies, or marquees: see § 152.235.

(Ord. 1221, § 4.04, passed 1-26-2010)

§ 152.119 ACCESSORY USES, BUILDINGS, AND STRUCTURES.

(A) Permitted accessory uses, buildings, and structures. Accessory uses, buildings, or structures shall be permitted in all Commercial/Town Center Districts; provided, however, that the primary use which is supported by the accessory use, building, or structure is a permitted use within the district to which a lot is zoned.

(1) Accessory uses, buildings, or structures shall not be permitted on a lot, out lot, or main portion of an integrated center prior to the erection of the primary building on the lot, out lot, or main portion of the integrated center.

(2) By way of example only, some typical accessory uses, buildings, and structures in the Commercial/Town Center Districts are: fences, trash containers, recycling containers, drive-through facilities, gasoline pump islands, and canopies.

(B) Development standards for accessory uses, buildings, or structures in all Commercial/Town Center Districts.

(1) Accessory uses, buildings, or structures shall comply with all development standards of the applicable district unless an exception is specifically provided for in this section.

(2) Accessory uses, buildings, or structures shall not encroach upon any platted easements unless specifically authorized by the terms of the easement or by written consent of the agency in whose favor the easement is granted.

(C) Additional development standards for accessory uses, buildings, or structures in any Commercial/Town Center District. Accessory uses, buildings, or structures permitted in any
Commercial/Town Center District shall also comply with the following additional development standards:

(1) **Residential uses.** Accessory uses, buildings, or structures provided for any legally established residential uses located in any Commercial/Town Center District shall comply with the provisions of this division (C).

(2) **Fences (including chain link, solid, architectural screen, lattice-work, or masonry).**

   (a) Fences located in a minimum front yard or in the buildable area of a lot located between the front line of the primary building and the minimum front yard shall not exceed:

   1. Thirty-six inches in height above grade, if the open space percentage of the fence is equal to or less than 70%; or

   2. Forty-eight inches in height above grade if the open space percentage of the fence is greater than 70%.

   (b) Shall not exceed 8 feet in height above grade in a required side yard or a required rear yard;

   (c) Shall not include any barbed, electric, razor, or other similar types of security wire when located between the front façade of the primary building and the front lot line; and

   (d) Shall comply with the clear sight area requirements of this chapter, § 152.020.

(3) **Trash containers.** Trash containers exceeding 36 cubic feet shall:

   (a) Be screened on at least 3 sides by a building wall or a solid-walled enclosure, not less than 6 feet in height nor more than 10 feet in height above grade, equipped with an opaque screen gate, and any solid-walled portion of the enclosure shall be provided with foundation landscaping;
(b) Not be located between the front façade of the primary building and the front lot line; and

(c) Not be located in any minimum front yard, minimum side yard, minimum rear yard, minimum front residential bufferyard, minimum side residential bufferyard, or minimum rear residential bufferyard.

(4) **Parking areas.** Shall comply with the provisions of §§ 152.250 through 152.258.

(5) **Loading areas.** Shall comply with the provision of §§ 152.270 through 152.277.

(6) **Signs.** Shall comply with the provisions of §§ 152.230 through 152.236.

(7) **Drive-through facilities.** Shall be so designed that:

   (a) Drive-through lanes do not conflict with the safe and efficient flow of traffic into and out of required parking spaces or loading spaces;

   (b) Drive-through lanes have a “bail out” capability for all vehicles which have entered the drive-through lane;

   (c) The minimum drive-through facility standards include:

       1. A drive-through lane with a minimum width of 10 feet measured from the furthest point of projection of a drive-through facility from the building or structure; and

       2. A “bail out” lane with a minimum width of 12 feet measured from and running parallel to the full length of the drive-through lane;
(d) If a “bail out” lane also serves as an interior access drive providing access to parking spaces, the “bail out” lane/interior access drive shall be limited to a 1-way traffic pattern following the direction of the drive-through lane;

(e) If a parking area is developed beyond the “bail out” lane, the parking area shall be separated from the “bail out” lane by a curbed island having a minimum width of 3 feet;

(f) Provide at least 5 waiting spaces including the first occurrence of any ordering, pick-up or service facility; and

(g) Provide sufficient room for at least 1 waiting space after exiting the last pick-up or service facility.

(8) Gasoline dispensers and pump island canopies. Gasoline dispensers and pump island canopies shall:

(a) Not be located within any minimum front yard, side yard, rear yard, front residential bufferyard, side residential bufferyard or rear residential bufferyard unless specifically authorized in the “Use of Minimum Yards and Residential Bufferyards” division of the applicable district; and

(b) Shall be provided with adequate on-site maneuverability so as to avoid any interference with through traffic on any public right-of-way.
(Ord. 1221, § 4.11(a), passed 1-26-2010)
§ 152.120 TEMPORARY USES, BUILDINGS, AND STRUCTURES.

(A) Permits required. A temporary use, building, or structure which is in compliance with the provisions of this section, shall be allowed on a lot or out lot in any Commercial/Town Center District. A temporary use, structure, or building which will be converted into a permanent primary or accessory use after the cessation of the temporary use shall be required to obtain an improvement location permit prior the establishment of the use or the construction of any structure or building. A temporary use, structure, or building which will be removed from the site upon cessation of the temporary use shall comply with the regulations contained in this section, and shall obtain an improvement location permit.

(B) Permitted temporary uses, buildings, and structures. By way of example only, permitted temporary uses, buildings, and structures include: construction trailers, sales offices, mobile offices, and temporary seasonal retail sales.

(C) Duration. Except as specifically provided otherwise in this section, a temporary use, building, or structure shall be permitted for a period not to exceed 1 year. Except as specifically provided otherwise in this section, the improvement location permit, if required, may be renewed 1 or more times by the Zoning Administrator, for good cause shown, for an additional period(s) not to exceed a total of 3 years beyond the original expiration date.

(D) Compliance with development standards. Any temporary use, building, or structure shall comply with all applicable development standards and setback requirements in the district in which the temporary use, building, or structure is located. Temporary construction trailers, temporary freestanding sales offices, and other temporary uses which shall not be converted into a permanent primary or accessory use, shall be exempt from the requirement to provide a hard surfaced parking area.

(E) Cessation of use. All buildings, structures, or debris associated with the temporary use shall be removed from the site immediately upon completion or cessation of the temporary use or expiration of the time period set forth above.

(F) Additional regulations for temporary seasonal retail sales uses. Any temporary seasonal retail sales use, structure, or building shall also comply with the following regulations:

1. The use or structure shall comply with all setback requirements applicable to off-street parking spaces on the site;

2. A minimum of 3 off-street parking spaces shall be provided on-site for the temporary seasonal retail sales use;

3. The location of the temporary seasonal retail sales use and its required amount of parking spaces shall not interfere with any required parking spaces or safe and efficient flow of vehicular and pedestrian traffic around the parking area for the permanent primary use of the site;
(4) Signs for the temporary seasonal retail sales shall comply with the provisions of §§ 152.230 through 152.236 regarding temporary signs; and

(5) Notwithstanding the provisions above to the contrary, seasonal retail sales uses shall not exceed 45 consecutive days per occurrence nor a total of 120 days during any calendar year.
(Ord. 1221, § 4.11(b), passed 1-26-2010)

§ 152.121 HOME OCCUPATIONS.

Home occupations undertaken in connection with a legally established residential use located in any Commercial/Town Center District shall comply with the provisions of § 152.085.
(Ord. 1221, § 4.11(c), passed 1-26-2010)

§ 152.122 PERFORMANCE STANDARDS.

All use in existence prior to the effective date of this chapter or established after the effective date of this chapter in any Commercial/Town Center District shall comply with the performance standards of the applicable municipal, state, or federal regulations pertaining to: vibration; smoke, dust, and particulate matter; noxious matter; odor; noise; heat; glare; or waste, and shall be subject to enforcement action by the applicable municipal, state, or federal agency responsible for monitoring and enforcing the regulations.
(Ord. 1221, § 4.11(d), passed 1-26-2010)

§ 152.123 ZONING VIOLATIONS IN COMMERCIAL/TOWN CENTER DISTRICTS.

The following shall be deemed violations of this chapter and shall be enforceable by the town as set forth in §§ 152.405 through 152.413:

(A) The conduct of any activity in a Commercial/Town Center District that is not specifically enumerated as a permitted primary use or accessory use in that district, and which activity has not been legally established by a currently valid variance, special exception, or other approval grant;

(B) Failure to comply with district development standards, including but not limited to landscaping, paving of parking areas, minimum parking space requirements, trash dumpster enclosure, fencing or screening requirements; or

(C) The failure to comply with the terms, provisions, or conditions of: a grant of variance or special exception; an approval of a development plan; an approval of a conditional use district; or other approval grant authorized by this chapter.
(Ord. 1221, § 4.11(e), passed 1-26-2010)
§ 152.124 ADDITIONAL DEVELOPMENT STANDARDS.

(A) Additions along a legally established nonconforming setback.

(1) The minimum front yard, minimum side yard, or minimum rear yard for any legally established nonconforming building having a setback which is less than that which is required by this chapter shall be allowed to expand 1 or more times along the legally established nonconforming setback provided the applicant can demonstrate that:

(a) All other applicable development standards, except the 1 legally established nonconforming building setback to be expanded upon, are in compliance with the requirements of the district;

(b) A minimum of 2 of the other applicable development standards will be brought into compliance with the requirements of the district; or

(c) A minimum of 4 of the other applicable development standards will be reduced as to their extent of nonconformity by the maximum extent feasible given site constraints and such that, in the determination of the Zoning Administrator, conditions on the lot will be improved.

(2) For the purposes of this division (A), other applicable development standards shall include the following divisions of each district: use of minimum yards and residential bufferyards; maximum building height; landscaping; lighting; signs; parking; loading; greenway connection; and outdoor operations.

(3) The provisions of this division (A) shall not be applicable to any lot which includes a side residential bufferyard or a rear residential bufferyard (i.e., abuts a Residential District on along a side lot line or a rear lot line).

(B) Additional front setback provisions.

(1) Public streets. In the case where the thoroughfare plan does not include a proposed right-of-way, or where the existing right-of-way is greater than the proposed right-of-way, the existing right-of-way line shall be used for setback measurement.

(2) Public streets and private streets.

(a) The minimum front yard and minimum building setback from the right-of-way line of a private street shall be the same as for a local public street in the applicable Commercial/Town Center District.

(b) The setback provisions of this chapter are subject to the following modification:
In any block in any Commercial/Town Center District contained in this chapter in which an existing front yard setback is established by existing, legally established buildings or structures on more than 60% of the total number of lots within the same block face fronting on the same public street, the minimum required front yard setback for any new building, structure, or addition along the block face shall be the average of the established front yards if the dimension is less than the minimum front yard setback established by this chapter.

(c) Any development permitted within a required front yard shall be those specified in the “Use of Minimum Yards and Residential Bufferyards” divisions of the applicable Commercial/Town Center District.

(C) Setback regulations for laterally-supported extensions. Notwithstanding any setback regulations of this chapter to the contrary, laterally-supported extensions, such as:

(1) Canopies, sills, belt courses, eaves, cornices, bay windows, roof overhangs, or other ornamental features, may extend:

(a) A maximum of 12 inches into any minimum front yard, minimum side yard, or minimum rear yard; or

(b) For a building with a setback of less than 3 feet, a maximum of 12 inches into a public right-of-way, subject to the upon approval of the Indiana Department of Transportation (if applicable) and the town.

(2) Open or enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers may extend:

(a) A maximum of 5 feet into any minimum front yard, minimum side yard or minimum rear yard; or

(b) For a building with a setback of less than 3 feet, a maximum of 3-1/2 feet into a public right-of-way, subject to the upon approval of the Indiana Department of Transportation (if applicable) and the town.

(D) Height regulations for roof mounted or roof piercing structures. The following regulations shall apply to the roof mounted or roof piercing structures in any Commercial/Town Center District:

(1) Parapet walls may exceed the maximum building height, provided the parapet wall does not exceed 4 feet in height above the roof line; and
(2) Roof mounted or roof piercing chimneys, cooling towers, elevator bulkheads, mechanical penthouses, stacks, stage towers, scenery lofts, water towers, radio or television antenna, ornamental towers, cupolas, domes, steeples and spires, may exceed the maximum building height, provided the structures do not exceed 25 feet in height above the roof line. 
(Ord. 1221, § 4.11(f), passed 1-26-2010)

§ 152.125 REQUIREMENTS FOR ALL PRIVATE STREETS AND PRIVATE ALLEYS.

See § 152.021.
(Ord. 1221, § 4.11(g), passed 1-26-2010)

INDUSTRIAL DISTRICTS

§ 152.140 LI - LIGHT INDUSTRIAL DISTRICT.

(A) Intent. The LI - Light Industrial District is established to provide for development of office/warehouse, warehouse/distribution, wholesale, assembly and manufacturing or processing facilities which are clean, quiet, free of hazardous or objectionable elements such as noise, odor, dust, smoke, or glare. Permitted uses in this district tend to generate heavy traffic, require extensive community facilities, and may require limited amounts of outdoor storage. The LI District is also intended to function as a transitional district between the more intense general Industrial Districts and other less intense districts.

(B) Permitted uses.

(1) Primary uses. See Appendix A, Permitted Use Table.

(2) Special exception uses. See Appendix A, Permitted Use Table.

(3) Accessory uses. See § 152.142.

(4) Temporary uses. See § 152.143.

(C) Development standards.

(1) Minimum lot width and frontage. Each lot or industrial park shall have a minimum lot width and frontage on a public street of 100 feet.
(2) Minimum yards and minimum building setbacks.

(a) Front: a minimum front yard and building setback of 30 feet measured from the proposed right-of-way of all streets shall be provided along all streets.

(b) Minimum side yard and setback: shall be provided from the lot line as follows:
   1. Minimum side yard: 10 feet.

(c) Minimum rear yard and setback: shall be provided from the lot line as follows:
   1. Minimum rear yard: 10 feet.
   2. Minimum rear residential bufferyard: 50 feet.

(3) Use of minimum yards and residential bufferyards. All minimum yards and residential bufferyards shall be landscaped in compliance with the requirements for perimeter yard landscaping as set forth in §§ 152.185 through 152.194 and shall remain free from structures except where expressly permitted below:

(a) Minimum front yards may include: parking areas, loading areas, interior access drives, or interior access driveways, provided that no portion of the area may be located closer to the right-of-way than 25 feet; or signs as regulated by §§ 152.230 through 152.236, and shall be otherwise maintained as open space free from buildings or structures;

(b) Minimum front residential bufferyards may include: driveways; or signs as regulated by §§ 152.230 through 152.236, and shall otherwise be maintained as open space free from buildings or structures;

(c) Minimum side and rear yards may include: interior access driveways connecting to adjoining lots provided that the remainder of the yards shall be maintained as open space free from buildings or structures;

(d) Minimum side and rear residential bufferyards: shall be landscaped with grass and shrubbery, trees, or hedge, or in combination with other suitable ground cover materials and maintained as open space free from buildings or structures; and

(e) Minimum yards for lots within the same industrial park: along all lot lines in common with other lots located within the same industrial park (see graphic below):
1. **Intent.** This provision is intended to provide more flexibility in the use of a minimum side yard (division (C)(3)1.a. below) or rear yard (division (C)(3)1.b. below) on lots within an industrial park when those minimum side yards or rear yards abut other interior lots in the same industrial park. The use of yards along lot lines located around the perimeter of the industrial park shall comply with the applicable use of side yards and rear yards as specified in divisions (C)(3)(a) through (C)(3)(d) above.

a. Use of side yards on lots interior to an industrial park (either of the following divisions (C)(3)1.a.i. or (C)(3)1.a.ii. applies): the portion of a minimum side yard on a lot interior to an industrial park:

i. Located between the front lot line and minimum front building setback line may include: driveways; or interior access driveways connecting to adjoining lots; or

ii. Located behind the minimum front building setback line may include: parking areas; loading areas; interior access driveways; interior access drives; trash containers; or outdoor storage.
b. Use of rear yards on lots interior to an industrial park: the portion of a minimum rear yard on a lot interior to an industrial park may include parking areas, loading areas, interior access driveways, interior access drives, or outdoor storage.

2. Remaining area. Provided, however, that the remainder of the yards shall be maintained as open space free from buildings or structures, and that the area of each such minimum yard that would have been devoted to perimeter yard landscaping and the amount of landscape material that would have been required to be installed in the perimeter yard landscaping, if not complying with the special provisions of this division (C), are provided elsewhere on each of the affected lots as either additional foundation landscaping, additional interior parking area landscaping or additional front perimeter landscape yard landscaping, and documentary assurances are provided on the final plat or by other legally binding instrument which binds the adjoining lots to be developed in compliance with the special provisions of this division allowing such minimum yards to be used for parking areas, loading areas, interior drives or interior access drives subject to the provision of such additional foundation landscaping area or additional interior parking area landscaping.

(4) Maximum building height. Sixty feet or 5 stories; provided, however, that the setback for that portion of any building, or structure which is in excess of 35 feet shall be increased by 1 foot for each 1 foot of the height of the building or structure above 35 feet until the maximum height of the building or structure is allowed.

(5) Landscaping. See §§ 152.185 through 152.194.

(6) Lighting. See §§ 152.210 through 152.215.

(7) Signs. See §§ 152.230 through 152.236.

(8) Parking. See §§ 152.250 through 152.258.

(9) Loading. See §§ 152.270 through 152.277.

(10) Outdoor storage and operations.

(a) Operations. All operations, servicing and processing (except outdoor storage, off-street parking, and off-street loading) shall be conducted within completely enclosed buildings.

(b) Storage. All storage of materials or products shall be either:

1. Within completely enclosed buildings; or

2. Within a defined storage area in compliance with the following:
a. Location of outdoor storage:
   i. Along limited access highways: shall not be located within a minimum front yard; and
   ii. Along all other streets: shall not be located between the front lot line and the established front building line.

b. Screening: outdoor storage areas shall be screened from view from all lot lines by buildings or:
   i. A chain link, lattice, or similar type fencing with an open space of 30% or greater, supplemented by a Type C Screening landscaping (see § 152.187, Table, Note C for details) located between the edge of the outdoor storage area and lot line; or
   ii. An ornamental, solid wall, architectural screen, masonry, or similar type fence with an open space of less than 30%, including entry/exit gates made of materials compatible with the fence, supplemented by a Type A or B Screening landscaping (see § 152.187, Table, Note B for details) located between the edge of the outdoor storage area and the lot line.

c. Height of fence: the height above grade of the fence shall be at least 6 feet and shall not exceed 10 feet.

d. Height of outdoor storage: outdoor storage of materials or products shall not exceed the height of the fence.

e. Surface of outdoor storage area: all outdoor storage areas shall be surfaced with a durable, dust-free surface of concrete or asphalt surface which meets or exceeds the minimum specifications prescribed by the Town Council.

   (c) Amount of outdoor storage. The total area devoted to outdoor storage shall not exceed 20% of the gross floor area of all buildings on the lot; provided, however, outdoor storage in excess of 20% of the gross floor area of all buildings on the lot may be approved as a special exception use.
   (Ord. 1221, § 5.01, passed 1-26-2010)

§ 152.141 GI - GENERAL INDUSTRIAL DISTRICT.

   (A) Intent. The GI - General Industrial District is established to provide for development of manufacturing and processing facilities or facilities which may require substantial amounts of outdoor storage or outdoor operations. Permitted uses in this district tend to generate heavy traffic and require extensive community facilities. Permitted uses in this district may require extensive amounts of outdoor
storage or outdoor operations. The permitted uses provided for in this district should be separated from Residential Districts or low intensity commercial/mixed use districts by less intense Industrial Districts.

(B) Permitted uses.

(1) Primary uses. See Appendix A, Permitted Use Table.

(2) Special exception uses. See Appendix A, Permitted Use Table.

(3) Accessory uses. See § 152.142.

(4) Temporary uses. See § 152.143.

(C) Development standards.

(1) Minimum lot width and frontage. Each lot or industrial park shall have a minimum lot width and frontage on a public street of 150 feet.

(2) Minimum yards and minimum building setbacks.

(a) Front: a minimum front yard and building setback of 30 feet measured from the proposed right-of-way of all streets shall be provided along all streets.

(b) Minimum side yard and setback: shall be provided from the lot line as follows:

   1. Minimum side yard: 10 feet.

   2. Minimum side residential bufferyard: 100 feet; provided, however, a minimum side residential bufferyard may be reduced to 50 feet through the provision of additional landscaping in an amount equal to a Type B Partial Screening landscaping being added to the required Type C Full Screening landscaping required by this district (see § 152.187, Table, Notes B and C for details).

(c) Minimum rear yard and setback: shall be provided from the lot line as follows:

   i. Minimum rear yard: 10 feet.

   ii. Minimum rear residential bufferyard: 100 feet, provided, however, a minimum side residential bufferyard may be reduced to 50 feet through the provision of additional landscaping in an amount equal to a Type B Partial Screening landscaping being added to the required Type C Full Screening landscaping required by this district (see § 152.187, Table, Notes B and C for details).

(3) Use of minimum yards and residential bufferyards. All minimum yards and residential bufferyards shall be landscaped in compliance with the requirements for perimeter yard landscaping as
set forth in §§ 152.185 through 152.194 and shall remain free from structures except where expressly permitted below:

(a) Minimum front yards may include: parking areas, loading areas, interior access drives, or interior access driveways, provided that no portion of the area may be located closer to the right-of-way than 25 feet; or signs as regulated by §§ 152.230 through 152.236, and shall be otherwise maintained as open space free from buildings or structures;

(b) Minimum front residential bufferyards may include: driveways; or signs as regulated by §§ 152.230 through 152.236, and shall otherwise be maintained as open space free from buildings or structures;

(c) Minimum side and rear yards may include: interior access driveways connecting to adjoining lots provided that the remainder of the yards shall be maintained as open space free from buildings or structures;

(d) Minimum side and rear residential bufferyards: shall be landscaped with grass and shrubbery, trees, or hedge, or in combination with other suitable ground cover materials and maintained as open space free from buildings or structures;

(e) Minimum yards for lots within the same industrial park: along all lot lines in common with other lots located within the same industrial park: (see graphic below):
1. Intent. This provision is intended to provide more flexibility in the use of a minimum side yard or rear yard on lots within an industrial park when those minimum side yards or rear yards abut other interior lots in the same industrial park. The use of yards along lot lines located around the perimeter of the industrial park shall comply with the applicable use of side yards and rear yards as specified in divisions (a) through (d) above.

   a. **Use of side yards on lots interior to an industrial park.** The portion of a minimum side yard on a lot interior to an industrial park:

      i. Located between the front lot line and minimum front building setback line may include: driveways; or interior access driveways connecting to adjoining lots; or

      ii. Located behind the minimum front building setback line may include: parking areas; loading areas; interior access driveways; interior access drives; trash containers; or outdoor storage; or

   b. **Use of rear yards on lots interior to an industrial park.** The portion of a minimum rear yard on a lot interior to an industrial park may include parking areas, loading areas, interior access driveways, interior access drives or outdoor storage;

2. Provided, however, that the remainder of the yards shall be maintained as open space free from buildings or structures, and that the area of each such minimum yard that would have been devoted to perimeter yard landscaping and the amount of landscape material that would have been required to be installed in such perimeter yard landscaping, if not complying with the special provisions of this division (C), are provided elsewhere on each of the affected lots as either additional foundation landscaping, additional interior parking area landscaping or additional front perimeter landscape yard landscaping, and documentary assurances are provided on the final plat or by other legally binding instrument which binds the adjoining lots to be developed in compliance with the special provisions of this division (C) allowing the minimum yards to be used for parking areas, loading areas, interior drives or interior access drives subject to the provision of such additional foundation landscaping area or additional interior parking area landscaping.

   (4) **Maximum building height.** Unlimited; provided, however, that the setback for that portion of any building or structure which is in excess of 35 feet shall be increased by 1 foot for each 1 foot of the height of the building or structure above 35 feet.

   (5) **Landscaping.** See §§ 152.185 through 152.194.

   (6) **Lighting.** See §§ 152.210 through 152.215.

   (7) **Signs.** See §§ 152.230 through 152.236.

   (8) **Parking.** See §§ 152.250 through 152.258.
(9) **Loading.** See §§ 152.270 through 152.277.

(10) **Outdoor storage and operations.**

(a) **Operations.** All operations, servicing and processing located within 300 feet of a Residential District boundary (except outside storage, off-street parking and off-street loading) shall be conducted within completely enclosed buildings.

(b) **Storage.** All storage of materials or products shall be either:

1. Within completely enclosed buildings; or

2. Within a defined storage area in compliance with the following:

   a. **Location of outdoor storage.** Outdoor storage shall not be permitted in any minimum front yard, minimum side yard, minimum rear yard, minimum front residential bufferyard, minimum side residential bufferyard or minimum rear residential bufferyard.

   b. **Screening.** Outdoor storage areas shall be screened from view from all lot lines by buildings, or:

      i. A chain link, lattice, or similar type fencing with an open space of 30% or greater, supplemented by a Type C Screening landscaping (see § 152.187, Table, Note C for details) located between the edge of the outdoor storage area and lot line; or

      ii. An ornamental, solid wall, architectural screen, masonry or similar type fence with an open space of less than 30%, including entry/exit gates made of materials compatible with the fence, supplemented by a Type B Screening landscaping (see § 152.187, Table, Note B for details) located between the edge of the outdoor storage area and the lot line.

   c. **Height of fence.** The height above grade of the fence shall be at least 6 feet and shall not exceed 10 feet.

   d. **Height of outdoor storage.**

      i. Within 300 feet of a Residential District: shall not exceed the height of the fence; or

      ii. Three hundred feet or more from a Residential District: may exceed the height of the fence.

(c) **Amount of outdoor storage and operations.** The total area devoted to outdoor storage and operations shall not be limited, provided:
1. All regulations of this division (C)(10) are complied with; and

2. Outdoor storage or operations in excess of 50% of the total lot area shall be approved as a special exception use.
(Ord. 1221, § 5.02, passed 1-26-2010)

§ 152.142 ACCESSORY USES, BUILDINGS, AND STRUCTURES.

(A) Permitted accessory uses, buildings, and structures. Accessory uses, buildings, or structures shall be permitted in all Industrial Districts; provided, however, that the primary use which is supported by the accessory use, building, or structure is a permitted use within the district to which a lot is zoned.

(1) Accessory uses, buildings, or structures shall not be permitted on a lot, out lot, integrated center, or industrial park prior to the erection of a primary building on the lot, out lot, integrated center, or industrial park.

(2) By way of example only, some typical accessory uses, buildings, and structures in the Industrial Districts are: fences, trash containers, and recycling containers.

(B) Development standards for accessory uses, buildings, or structures in all Industrial Districts.

(1) Accessory uses, buildings, or structures shall comply with all development standards of the applicable district unless an exception is specifically provided for in this section.

(2) Accessory uses, buildings, or structures shall not encroach upon any platted easements unless specifically authorized by the terms of the easement or by written consent of the agency in whose favor the easement is granted.

(C) Additional development standards for accessory uses, buildings, or structures in any Industrial District. Accessory uses, buildings, or structures permitted in any Industrial District shall also comply with the following additional development standards:

(1) Residential uses. Accessory uses, buildings, or structures provided for any legally established residential uses located in any Industrial District shall comply with the provisions of § 152.083(C).

(2) Fences (including chain link, solid, architectural screen, lattice-work, or masonry).

(a) Shall not exceed 6 feet in height above grade if located between the front façade of the primary building and the front lot line;

(b) Shall not exceed 10 feet in height above grade in a required side yard or a required rear yard;
(c) Shall not include any barbed, electric, razor, or other similar type of security wire when located between the front façade of the primary building and the front lot line; and

(d) Shall comply with the clear sight area requirements of this chapter, § 152.020.

(3) Trash containers. Trash containers exceeding 36 cubic feet shall:

(a) Be screened on at least 3 sides by a building wall or a solid-walled enclosure, not less than 6 feet in height nor more than 10 feet in height above grade, equipped with an opaque screen gate, and any solid-walled portion of the enclosure shall be provided with foundation landscaping as specified in §§ 152.185 through 152.194;

(b) Not be located between the front façade of the primary building and the front lot line; and

(c) Not be located in any minimum front yard, minimum side yard, minimum rear yard, minimum front residential bufferyard, minimum side residential bufferyard or minimum rear residential bufferyard, unless specifically listed as an authorized use of minimum yards in the applicable district.

(4) Signs. Shall comply with the regulations of §§ 152.230 through 152.236.

(5) Parking areas. Shall comply with the regulations of §§ 152.250 through 152.258.

(6) Loading areas. Shall comply with the regulations of §§ 152.270 through 152.277.

(7) Drive-through facilities. Shall be so designed that:

(a) Drive-through lanes do not conflict with the safe and efficient flow of traffic into and out of required parking spaces or loading spaces;
(b) Drive-through lanes have a “bail out” capability for all vehicles which have entered the drive-through lane;

(c) The minimum drive-through facility standards include:

1. A drive-through lane with a minimum width of 10 feet measured from the furthest point of projection of a drive-through facility from the building or structure; and

2. A “bail out” lane with a minimum width of 12 feet measured from and running parallel to the full length of the drive-through lane.

(d) If a “bail out” lane also serves as an interior access drive providing access to parking spaces, the “bail out” lane/interior access drive shall be limited to a 1-way traffic pattern following the direction of the drive-through lane;

(e) If a parking area is developed beyond the “bail out” lane, the parking area shall be separated from the “bail out” lane by a curbed island having a minimum width of 3 feet;

(f) Provide at least 5 waiting spaces including the first occurrence of any ordering, pick-up or service facility; and

(g) Provide sufficient room for at least 1 waiting space after exiting the last pick-up or service facility.

(8) Gasoline dispensers and pump island canopies. Gasoline dispensers and pump island canopies shall:
(a) Not be located within any minimum front yard, side yard, rear yard, front residential bufferyard, side residential bufferyard or rear residential bufferyard unless specifically authorized in the “Use of Minimum Yards and Residential Bufferyards” division of the applicable district; and

(b) Shall be provided with adequate on-site maneuverability so as to avoid any interference with through traffic on any public right-of-way.

(Ord. 1221, § 5.11(a), passed 1-26-2010)

§ 152.143 TEMPORARY USES, BUILDINGS, AND STRUCTURES.

(A) Permits required. A temporary use, building, or structure which is in compliance with the provisions of this section, shall be allowed on a lot or out lot in any Industrial District. A temporary use, structure, or building which will be converted into a permanent primary or accessory use after the cessation of the temporary use shall be required to obtain an improvement location permit prior the establishment of the use or the construction of any structure or building. A temporary use, structure, or building which will be removed from the site upon cessation of the temporary use shall comply with the regulations contained in this section, and shall obtain an improvement location permit.

(B) Permitted temporary uses, buildings, and structures. By way of example only, permitted temporary uses, buildings, and structures include construction trailers and leasing offices.

(C) Duration. Except as specifically provided otherwise in this section, a temporary use, building, or structure shall be permitted for a period not to exceed 1 year. Except as specifically provided otherwise in this section, the improvement location permit, if required, may be renewed 1 or more times by the Zoning Administrator, for good cause shown, for an additional period(s) not to exceed a total of 3 years beyond the original expiration date.

(D) Compliance with development standards. Any temporary use, building, or structure shall comply with all applicable development standards and setback requirements in the district in which the temporary use, building, or structure is located. Temporary construction trailers, freestanding leasing offices, and other temporary uses which shall not be converted into a permanent primary or accessory use, shall be exempt from the requirement to provide a hard surfaced parking area.

(E) Cessation of use. All buildings, structures, or debris associated with the temporary use shall be removed from the site immediately upon completion or cessation of the temporary use or expiration of the time period set forth above.

(Ord. 1221, § 5.11(b), passed 1-26-2010)

§ 152.144 PERFORMANCE STANDARDS.

All uses in existence prior to the effective date of this chapter or established after the effective date of this chapter in any Industrial District shall comply with the performance standards of the applicable
municipal, state, or federal regulations pertaining to: vibration; smoke, dust, and particulate matter; noxious matter; odor; noise; heat; glare; or waste, and shall be subject to enforcement action by the applicable municipal, state, or federal agency responsible for monitoring and enforcing the regulations.  
(Ord. 1221, § 5.11(c), passed 1-26-2010)

§ 152.145 ZONING VIOLATIONS IN INDUSTRIAL DISTRICTS.

The following shall be deemed violations of this chapter and shall be enforceable by the town as set forth in §§ 152.405 through 152.413:

(A) The conduct of any activity in an Industrial District that is not specifically enumerated as a permitted primary use or accessory use in that district, and which activity has not been legally established by a currently valid variance, special exception, or other approval grant;

(B) Failure to comply with district development standards, including but not limited to landscaping, paving of parking areas, minimum parking space requirements, trash dumpster enclosure, fencing, or screening requirements; or

(C) The failure to comply with the terms, provisions or conditions of: a grant of variance or special exception; an approval of a development plan; an approval of a conditional use district; or other approval grant authorized by this chapter.

(Ord. 1221, § 5.11(d), passed 1-26-2010)

§ 154.146 ADDITIONAL DEVELOPMENT STANDARDS.

(A) Additions along a legally established nonconforming setback.

(1) The minimum front yard, minimum side yard, or minimum rear yard for any legally established nonconforming building having a setback which is less than that which is required by this chapter shall be allowed to expand 1 or more times along such legally established nonconforming setback provided the applicant can demonstrate that:

(a) All other applicable development standards, except the 1 legally established nonconforming building setback to be expanded upon, are in compliance with the requirements of the district;

(b) A minimum of 2 of the other applicable development standards will be brought into compliance with the requirements of the district; or

(c) A minimum of 4 of the other applicable development standards will be reduced as to their extent of non-conformity by the maximum extent feasible given site constraints and such that, in the determination of the Zoning Administrator, conditions on the lot will be improved.
(2) For the purposes of this division (A), other applicable development standards shall include the following divisions of each district: use of minimum yards and residential bufferyards; maximum building height; landscaping; lighting; signs; parking; loading; greenway connection; and outdoor operations.

(3) The provisions of this division (A) shall not be applicable to any lot which includes a side residential bufferyard or a rear residential bufferyard (i.e., abuts a Residential District on along a side lot line or a rear lot line).

(B) Additional front setback provisions.

(1) Public streets. In the case where the thoroughfare plan does not include a proposed right-of-way, or where the existing right-of-way is greater than the proposed right-of-way, the existing right-of-way line shall be used for setback measurement.

(2) Public streets and private streets.

(a) The minimum front yard and minimum building setback from the right-of-way line of a private street shall be the same as for a local public street in the applicable Industrial District.

(b) The setback provisions of this chapter are subject to the following modification:

In any block in any Industrial District contained in this chapter in which an existing front yard setback is established by existing, legally established buildings or structures on more than 60% of the total number of lots within the same block face fronting on the same public street, the minimum required front yard setback for any new building, structure or addition along the block face shall be the average of the established front yards if the dimension is less than the minimum front yard setback established by this chapter.

(3) Any development permitted within a required front yard shall be those specified in the “Use of Minimum Yards and Residential Bufferyards” divisions of the applicable Industrial District.

(C) Setback regulations for laterally-supported extensions. Notwithstanding any setback regulations of this chapter to the contrary, laterally-supported extensions, such as canopies, sills, belt courses, eaves, cornices, bay windows, roof overhangs or other ornamental features, may extend a maximum of 12 inches into any minimum front yard, minimum side yard, or minimum rear yard.

(D) Height regulations for roof mounted or roof piercing structures. The following regulations shall apply to the roof mounted or roof piercing structures in any Industrial District:

(1) Parapet walls may exceed the maximum building height, provided the parapet wall does not exceed 4 feet in height above the roof line; and
(2) Roof mounted or roof piercing chimneys, cooling towers, elevator bulkheads, mechanical penthouses, stacks, stage towers, scenery lofts, water towers, radio or television antenna, ornamental towers, cupolas, domes, steeples, and spires, may exceed the maximum building height, provided the structures do not exceed 25 feet in height above the roof line.

(Ord. 1221, § 5.11(e), passed 1-26-2010)

§ 152.147 REQUIREMENTS FOR ALL PRIVATE STREETS AND PRIVATE ALLEYS.

See § 152.021.

(Ord. 1221, § 5.11(f), passed 1-26-2010)

PLANNED UNIT DEVELOPMENT DISTRICT

§ 152.165 INTENT.

(A) The Planned Unit Development (PUD) District is designed and intended to: encourage creativity and innovation in the design of developments; provide for more efficient use of land; permit special consideration of property with outstanding natural or topographical features; facilitate use of the most appropriate construction techniques in the development of land; and provide for any individual land use not otherwise specified elsewhere in this chapter. The PUD District encourages imaginative uses of open space, promotes high standards in design and construction, and furthers the purposes of the Comprehensive Plan.

(B) The PUD District is not intended for the development of residential subdivisions or other developments which are provided for as a matter of right within any district of this chapter.

(Ord. 1221, § 6(a), passed 1-26-2010)

§ 152.166 PERMITTED USES, DEVELOPMENT STANDARDS, AND MINIMUM REQUIREMENTS.

(A) Permitted uses.

(1) Primary uses in the PUD District shall be any use or range of uses specified in the PUD District ordinance establishing the district, either in text form or as noted in the preliminary plan filed with the petition for zone map change, or any combination thereof. Primary uses, by way of example, may include any residential, commercial, or industrial land use, or any individual land use or combination of land uses deemed appropriate for the real estate.

(2) Accessory uses, home occupations, or temporary uses, unless otherwise specified in the petition for zone map change to the PUD District and incorporated into the PUD District ordinance
establishing the district, shall be permitted in a manner customarily associated with the primary use specified in the PUD District ordinance.

(B) Development standards.

(1) Development standards applicable to a PUD shall be those standards specified in the PUD District ordinance establishing the district, either in text form or as noted on the preliminary plan filed with the petition for zone map change, or any combination thereof. Every petition for zone map change to the PUD District shall specify development standards applicable to each permitted use in the PUD and, at a minimum, shall adopt or include a variation of each development standard that is applicable to each such use in the district in which each use is first permitted. In any case in which an applicable development standard has not been specified in the petition for zone map change to the PUD District, the development standard shall be that which is specified in the district in which the use is first permitted unless the petition for zone map change to the PUD District contains: a statement that the petitioner does not want an otherwise applicable development standard for any permitted use in the PUD to be applicable; an alternate development standard; and the statement and alternate development standard are included in the PUD District ordinance establishing the district.

(2) Accessory uses, home occupations or temporary uses, unless otherwise specified in the PUD District ordinance and the petition for zone map change, shall be subject to the development requirements or development standards specified in the district which imposes the highest standard for site development on the associated primary use (i.e., minimum yards, minimum bufferyards, landscaping, lighting, architectural and site design requirements, and the like). If the petitioner does not want an otherwise applicable development requirement or development standard for any accessory use, home occupation or temporary use in the development to be applicable, then the petition for zone map change shall contain a statement to that effect.

(3) Area requirements. Minimum area requirements: There shall be no minimum area requirement for the filing of a petition for zone map change to the PUD District; provided, however, for any petition which does not exceed the following divisions (a) and (b), the petitioner shall file a statement with the petition for zone map change to the PUD District as to why a PUD District is required and how the proposed PUD District meets the intent of this section:

(a) In-fill development: 5 acres; and

(b) All other developments: 20 acres.

(Ord. 1221, Art. 6(b), passed 1-26-2010)

§ 152.167 PROCEDURE FOR APPROVAL OF A PLANNED UNIT DEVELOPMENT.

(A) Generally.

(1) The complete review and approval process for a Planned Unit Development consists of 3 elements:
(a) Concept plan review;
(b) Zone map change and preliminary plan approval; and
(c) Secondary approval.

(2) To facilitate the use of this PUD District, a petitioner may elect to proceed with each element listed above separately or may elect to combine certain elements for joint approval as set forth in division (D)(2), below. If a petitioner elects to combine certain elements, all elements elected to be combined shall be docketed before the Area Plan Commission for a joint hearing.

(3) If filed separately, the procedure for filing for approval of a zone map change shall be the same as that required for any other petition for zone map change before the Area Plan Commission, except as otherwise provided for in this section. The procedure for filing for secondary approval is set forth in this section.

(B) Filing of a concept plan for review by staff.

(1) The petitioner shall submit a concept plan, which may be supplemented with a written description of the proposed PUD, for review by the staff prior to filing a petition for zone map change to the PUD District.

(2) Staff shall review the proposed concept plan taking into consideration information regarding the terrain of the site and any unique natural features of the site. In doing so, the review by staff may include, but shall not be limited to, the following:

(a) Protection of unique topographical features on the site, including, but not limited to, slopes, streams, natural water features, floodways, floodplains, and regulated drains;

(b) Protection and preservation of wooded areas, individual trees of significant size, wetlands, or other environmentally sensitive features;

(c) Development of common areas, open space or recreational areas (passive or active) accessible to the residents or users of the PUD by way of sidewalks, footpaths, or combined walkways/bikeways;

(d) A more efficient use of the land including the reduction of land area disturbed for utility lines and motor vehicle access;

(e) Creation of innovative residential and business environments;

(f) Minimize the alteration of the natural site features through the design and situation of individual lots, streets, and buildings;
(g) Diversity and originality in lot layout;

(h) Utilization of individual building designs which achieve an enhanced relationship between the development and the land;

(i) The extent to which a project is not otherwise provided for by any primary zoning district without significant variances of permitted use regulations or development standards; and

(j) Relationship to surrounding properties.

(3) The Executive Director shall notify the petitioner of any staff comments related to the design of the proposed concept plan submitted for review within 15 business days of the submittal. Upon receipt of staff comments, the petitioner may either: modify the proposed concept plan and resubmit a revised concept plan for a second round of review by staff; or file a petition for zone map change as set forth below.

(4) Notwithstanding anything contained in this chapter to the contrary, neither the staff’s review of the proposed concept plan submitted for review nor staff’s comments to the petitioner relating thereto shall be considered a denial, approval, or decision concerning the proposed concept plan.

(C) Filing petition for zone map change.

(1) Petition. A PUD District ordinance petition shall contain a preliminary plan that satisfies the requirements below, and shall specify in either general terms or detailed terms the permitted uses and development standards that will apply to the real property included in the petition.

(2) Detailed terms. A preliminary plan which includes a detailed description of all development requirements that apply to the proposed PUD on any of the site plans, building elevations, landscape plans, sign plans, or any other plan required by this chapter in sufficient detail to fulfill the requirements for the issuance of an improvement location permit, shall be deemed to have expressed, in detailed terms, the development requirements that apply.

(3) General terms. All preliminary plans or submittals which do not comply with the requirements above for detailed terms shall be deemed to have expressed the development requirements that apply to the proposed PUD in general terms only and shall require the secondary approval, as set forth below, prior to the issuance of an improvement location permit.

(4) Preliminary plan. A preliminary plan shall satisfy the following requirements:

(a) Preliminary plan contents:

1. A drawing, map, plan, or other graphic representation of the overall development which:
a. Depicts the location of proposed land uses and maximum land use densities; and

b. Expresses development standards in either general terms or detailed terms.

2. Proposed layout of streets, open space, and other basic elements of the development;

3. Proposals for handling traffic, parking, sewage disposal, drainage, tree preservation, and other pertinent development features;

4. The current zoning of the area proposed to be developed as well as the current zoning of the adjacent land;

5. A proposed breakdown of sections to be contained in the overall development along with a statement as to the order and timing of development;

6. All public and private streets and pedestrian ways within 200 feet of the site;

7. North arrow, written and graphic scale, general location map; and

8. Percentage of site devoted to open space.

(b) The preliminary plan shall be drawn to a scale of not more than 1 inch = 100 feet and shall be on plan sheets that shall not exceed 24 inches by 36 inches in size.

(c) Determination by the Area Plan Commission: In its determination of the appropriateness of the proposed PUD and whether to recommend approval of the zone map change to the Town Council, the Area Plan Commission shall pay reasonable regard to the extent to which the proposal:

1. Accomplishes the intent set forth in § 152.165, above; and

2. Provides for the protection or provision of the site features and amenities outlined in division (B), above.

(D) Preliminary plan approval and secondary approval.

(1) Preliminary plan approval. If the preliminary plan expresses development standards in general terms, as described above, secondary approval as set forth in division (F) of this section, below, shall be required prior to the issuance of an improvement location permit for any development pursuant to the PUD District ordinance.
(2) **Combined preliminary plan approval and secondary approval.** If the preliminary plan expresses development standards in detailed terms, as described above, the petitioner may also request secondary approval in connection with the approval of the zone map change to the PUD District, provided that any such approval shall be conditioned upon the Town Council adopting the zone map change to the PUD District. The requirements for a secondary approval are set forth in division (F), below. If the preliminary plan expresses the development standards in detailed terms, as described above, the PUD District ordinance must specify any plan documentation or supporting information that must be supplied before an improvement location permit may be issued for development of real property in the Planned Unit Development District.

(E) **Commitments, conditions or surety.**

(1) **Commitments.** Commitments may be permitted or required of the owner of the real property in connection with: a zone map change for a PUD District; a secondary approval of a PUD; or a modification of permitted uses or development requirements of a PUD, as set forth in § 152.366(D).

(2) **Conditions.** Conditions may be imposed on the approval of a PUD District which are reasonably necessary to assure compliance with the permitted use, development standards and minimum requirements of the PUD District ordinance.

(3) **Surety.** Bonds, letters of credit or other written assurance may be required which are reasonably necessary to guarantee the timely completion of a public improvement required by the proposed by the PUD District ordinance. The bond, letter of credit, or other written assurance shall be satisfactory to the Executive Director, shall run to the Board of Public Works and shall be provided prior to the issuance of permits required for the public improvement.

(F) **Secondary approval.**

(1) **Secondary approval required.** Secondary approval is required in the PUD District as a prerequisite to the issuance of an improvement location permit for development of any real property in the district.

(2) **Secondary approval.**

(a) Secondary approval authority is hereby delegated to the Executive Director. The Executive Director shall have a period of not more than 15 business days in which to review the proposed secondary approval application and either:

1. Render a decision of approval or denial concerning the secondary approval; or

2. Request, in writing, additional information from the applicant. If additional information is requested, the Executive Director shall have an additional period of 15 business days to review the information from the date the requested information is received.
(b) The Executive Director may seek the advice and comment of the Executive Committee of the Area Plan Commission or other staff members, as deemed appropriate, prior to making a decision.

(c) Any decision of the Executive Director under this chapter, may be appealed by any interested party to the Area Plan Commission in accordance with the procedures of § 152.171.

(d) If, in the sole discretion of the Executive Director, there are questions regarding how the application for secondary approval fulfills the intent of the PUD District ordinance or how the secondary approval expresses in detailed terms the general terms approved as part of the preliminary plan and zone map change to the PUD District, the Executive Director may refer the proposed secondary approval to the Area Plan Commission for review and determination.

(3) Proceedings/notice. The proceedings required for secondary approval shall be the same as those required by this Zoning Ordinance for the review and issuance of an improvement location permit.

(4) Supporting documentation.

(a) Before the issuance of a secondary approval, the petitioner must file an application requesting secondary approval and submit plans consisting of the following:

1. Area map insert showing the general location of the proposed development referenced to major streets and section lines;

2. Location map showing the names of all metes and bounds property owners, boundary lines of recorded subdivisions, zoning, and land uses of adjacent properties;

3. Proposed name of the PUD;

4. Legal description of the real estate;

5. Boundary lines of the proposed PUD;

6. Location and name of all existing and proposed public or private streets, roads, access easements, and rights-of-way within 200 feet of the real estate;

7. Location of all existing and proposed utility facilities and easements, including, but not limited to: sanitary sewer, water, storm water management, electric, gas, telephone and cable within 200 feet of the real estate;

8. Layout, number, and dimension of all lots and out lots with zoning setback lines;

9. Location, delineation, and elevation of all floodway and floodway fringe areas within the boundaries of the PUD;
10. Drainage plan;

11. Landscape plan;

12. Sign plan;

13. An erosion control plan for all areas of site disturbance;

14. Topographic contour every 2 feet superimposed upon the proposed site plan portion of the site covered by the submitted plans;

15. Proposed elevation of all building pads within the proposed development;

16. All improvements to street system, on-site and off-site;

17. Sidewalk plan or alternate plan for walkways or other pedestrian ways;

18. Plans and specifications for all infrastructure improvements required or proposed in the PUD;

19. Areas reserved for park, conservation, wetland, common area, lake, or other similar uses;

20. Proposed covenants, conditions, and restrictions, if any;

21. The character and approximate density of all proposed uses and structures in the plan area;

22. Any other information specified elsewhere in this chapter as a prerequisite to the issuance of an improvement location permit; and

23. Any other information requested in writing by the Executive Director or Area Plan Commission in connection with the preliminary plan approval or requested in writing by the Executive Director within 15 business days of filing.

(b) The Area Plan Commission or Executive Director, during secondary approval review, shall specify any additional plan documentation or supporting information beyond that required by this division (F), which must be supplied before an improvement location permit may be issued for the development of any real estate located in the PUD District.

(5) Required findings.

(a) The Area Plan Commission or Executive Director may issue a secondary approval only upon a finding that:
1. The plans submitted for secondary approval satisfy the permitted uses and development standards specified in the PUD District ordinance establishing the PUD District;

2. The plans submitted for secondary approval accomplish the intent set forth in § 152.165, above; and

3. The plans submitted for secondary approval provide for the protection or provision of the site features and amenities outlined in division (B), above.

(b) Written findings of each determination to approve or disapprove a secondary approval. If the Area Plan Commission makes a determination regarding a secondary approval, the written findings shall be signed by the President of the Area Plan Commission. If the Executive Director makes a determination regarding a secondary approval, the written findings shall be signed by the Executive Director.

(c) The secondary approval and written findings, upon approval, shall be sealed with the Seal of the Area Plan Commission and retained in the office of the Area Plan Commission to be used in its continuing administration of the PUD.

(Ord. 1221, § 6(c), passed 1-26-2010)

§ 152.168 MODIFICATION OF PRELIMINARY PLAN OR SECONDARY APPROVAL.

(A) Minor modifications to a preliminary plan or secondary approval which have already received approval from the Area Plan Commission or the Executive Director and which do not involve: the designation of additional land uses; and/or an encroachment into any drainage easement, regulated drain setback, or floodplain, may be authorized by the Executive Director without a public hearing in its continuing administration of the PUD if, in the determination of the Executive Director, the requested minor modifications do not adversely impact the purpose or intent of the overall development.

(B) If the Executive Director determines that the proposed modification is of such a nature as to adversely impact the purpose or intent of the overall development, or if the proposed modification includes: the designation of additional land uses; and/or an encroachment into any drainage easement, regulated drain setback, or floodplain, petitioner shall be required to file a new petition for zone map change.

(Ord. 1221, § 6(d), passed 1-26-2010)

§ 152.169 SECONDARY PLAT APPROVAL.

The process for the approval and recording of a secondary plat for any development in a PUD approved pursuant to this subchapter shall be issued in a manner consistent with that for any other subdivision within the town as set forth in the Subdivision Control Ordinance for the town and with any
additional requirements or commitments entered into in connection with the approval of the preliminary plan pursuant to this subchapter. The approval and recording of a secondary plat is required prior to the issuance of an improvement location permit for any improvements on a lot.
(Ord. 1221, § 6(e), passed 1-26-2010)

§ 152.170 MAINTENANCE OF COMMON OPEN SPACE.

In those PUD Districts in which open space, common areas, or recreation areas are provided for the use and enjoyment of residents or users of the PUD District, the petitioner shall file documentary assurances that the permanent dedication and continuous maintenance of open space, common areas, or recreation areas shall be made in accordance with the approved preliminary plan and secondary approval, and that the open space, common areas, and recreation areas shall be made available to the residents and users of the overall development in the PUD at a reasonable and non-discriminatory rate of charge. Such documentary assurances shall be incorporated into the secondary plat that is recorded in the office of the St. Joseph County Recorder or otherwise provided for through legally binding perpetual agreements as approved by the Area Plan Commission and the Town Council. The open space shall perpetually run with the PUD and shall not be developed or separated from the overall development in the PUD at a later date (unless no development of any portion of the PUD which is benefitted by the open space, common areas or recreation areas has occurred and the entire area subject to the PUD is presented for zone map change).
(Ord. 1221, § 6(f), passed 1-26-2010)

§ 152.171 APPEALS OF EXECUTIVE DIRECTOR’S DECISIONS.

(A) Appeal process. Any order, requirement, decision, or determination by the Executive Director regarding a secondary approval, or a modification of a preliminary plan or secondary approval, may be appealed to the Area Plan Commission by any person claiming to be adversely affected by that order, requirement, decision, or determination.

(B) Procedures. The procedures for such an appeal are as follows.

1. Every appeal shall be filed within 30 days from the order, requirement, decision, or determination.

2. All appeals shall be determined by the Area Plan Commission at a public hearing for which:

   (a) The party bringing the appeal has provided stamped envelopes for the owner of the real estate and all abutting property owners in accordance with the Area Plan Commission Resolution No. 168-06, as the same may be amended from time to time, regarding notice for rezoning petitions; and

   (b) Notice has been mailed to the owner of the real estate and all abutting property owners by the Area Plan Commission.
(3) The Area Plan Commission hearing shall be de novo, in the same manner as though the application was originally filed with the Area Plan Commission.

(4) The decision of the Area Plan Commission with respect to a secondary approval, or a modification of a preliminary plan or secondary approval, shall be a final decision that may be reviewed only by certiorari procedures as provided in I.C. 36-7-4-1016.

(Ord. 1221, § 6(g), passed 1-26-2010)

LANDSCAPE REGULATIONS

§ 152.185 INTENT.

Landscaping is an essential element of the site design process and is an important feature in promoting the public health, safety, comfort, general welfare and the quality of life of the town. Landscaping is intended to: reduce the negative impacts of higher intensity land uses on less intense adjacent land uses; provide visual and noise buffering between higher intensity districts and less intense districts; lessen the impact of development on the environment by reducing glare and heat buildup; promote energy conservation; and break up large expanses of paved areas so as to reduce impervious surface area, storm water runoff, and the level of pollutants from non-point sources.

(Ord. 1221, Art. 8, passed 1-26-2010)

§ 152.186 GENERAL LANDSCAPING PROVISIONS.

(A) Applicability. Within the town, all new developments and all additions to existing development (i.e., building additions, parking area expansions, and the like) shall provide landscaping as required by this subchapter for the new development or addition.

(B) Location of landscaping. Required landscaping areas shall consist of 4 locations on a site:

(1) Perimeter yards or residential bufferyards, as applicable;

(2) Foundation landscaping;

(3) Interior landscaping of off-street parking areas; and

(4) Perimeter screening off-street parking areas.

(C) Types of landscape screening. Three types of landscape screening are provided for in this subchapter and are intended to provide a progression of screening options suitable to a variety of landscaping and buffering needs between land uses and districts. The 3 types of landscape screening are:
(1) **Type A: Open.** The Type A: Open landscaping creates a pleasant visual experience but provides a minimal visual or sound barrier. Therefore, Type A: Open landscaping is intended for use on lots where the district of the abutting lots includes permitted uses with similar intensities, lights, sounds, and regular operations and would have minimal, if any, negative impact on adjacent properties. Type A: Open landscaping requires a majority of the landscape materials to be of a shade tree variety with flexibility to add color, interest, or heavier visual screening, if desired;

(2) **Type B: Partial Screening.** The Type B: Partial Screening landscaping creates a partial visual and sound barrier and is intended for use on lots where the district of the abutting lots includes permitted uses that may be similar in land use intensity, but may still contain lights, sounds, and regular operations which may adversely impact adjacent properties. Type B: Partial Screening landscaping requires the use of evergreen trees to provide year-round buffering while allowing flexibility to add color and interest with deciduous trees or shrubs/hedge plants; and

(3) **Type C: Full Screening.** The Type C: Full Screening landscaping shall be designed to create a substantial visual barrier from grade to at least 6 feet above grade at time of planting. Type C: Full Screening landscaping should also provide a sound barrier effect. Type C: Full Screening landscaping is intended to be placed on lots in higher intensity districts which abut lots located in lesser intense districts that may be adversely impacted by the lights, sounds, and regular operations of the higher intensity district. Type C: Full Screening landscaping requires significant use of evergreen trees to provide year-round buffering while allowing flexibility to add color and interest with deciduous trees or shrubs/hedge plants. Any evergreen species that drops its lower branches (e.g., white pines, and the like) shall not be permitted as a “evergreen” tree in a Type C: Full Screening landscape area.

(D) **Utility easement landscaping.** In those instances where overhead utilities are located within required yards or required residential bufferyards, plant material selections shall be limited to small growing trees which typically do not exceed 25 feet in height at maturity. Appropriate utility easement plant materials include: ornamental trees, such as the redbud, dogwood, and crabapple; or evergreen trees (narrow spread), such as the emerald green arborvitae. See § 152.194 for additional limitations.

(E) **Live vegetation.** All trees and shrubs required by this subchapter shall be living vegetation.
(F) *Ground cover.* Ground cover within landscape areas may consist of: grasses; preserved existing natural vegetation (i.e., thickets); or mulch, chipped bark, or other natural forms of ground cover. Loose stone, rock or gravel may be used as a landscaping accent, but shall not exceed 20% of the area of the required landscape area in which it is used.

(G) *Alternate landscape plan approval.* The Zoning Administrator may approve alternate landscape materials or landscape design options as set forth in § 152.194.

(H) *Man-made elements.* Landscaping may consist, in part, of walls, berms, and fences. When used, these elements shall be combined with live vegetation per the requirements of § 152.194.

(I) *Credit for preservation of existing trees, vegetation and man-made elements.* It is highly encouraged that existing landscaping elements be considered for incorporation into the overall landscape requirements. Credit is provided per § 152.194.

(Ord. 1221, § 8.01(a), passed 1-26-2010)

§ 152.187 LANDSCAPING OF REQUIRED PERIMETER YARDS AND RESIDENTIAL BUFFERYARDS.

(A) *Front yard and front residential bufferyard landscaping in all Commercial/Town Center Districts, Industrial Districts, Residential Districts for multifamily dwelling.* The front yard of any lot located in any Commercial/Town Center District, Industrial District, or Residential Districts for multifamily dwellings and which yard is not occupied by improvements permitted in the division “Use of Minimum Yards and Residential Bufferyards” in the applicable district shall be landscaped with trees as provided below and appropriate ground cover:

1. *Deciduous shade trees.* A minimum of 1 shade tree planted for every 40 feet of the applicable lot line. The trees may be evenly spaced at 40 feet on center or grouped together; provided however, in no case shall spacing between trees exceed 80 feet; or

2. *Deciduous ornamental trees.* A minimum of 1 ornamental tree planted for every 25 feet of the applicable lot line. The trees may be evenly spaced at 25 feet on center or grouped together; provided however, in no case shall spacing between trees exceed 50 feet.

(B) *Side residential bufferyard and rear residential bufferyard landscaping in all Commercial/Town Center Districts, Industrial Districts, and Residential Districts for special exception uses.* The side residential bufferyard or rear residential bufferyard located in a Commercial/Town Center District; Industrial District; or Residential District occupied by a special exception use, and which is not occupied by improvements permitted in the division “Use of Minimum Yards and Residential Bufferyards” in the applicable district, shall consist of either Type A: Open, Type B: Partial Screening, or Type C: Full Screening as specified below and in Table 152.187: Side and Rear Residential Bufferyard Landscaping.

(C) *Residential bufferyards in the R1 Single Family Residential Districts, R2 Single and 2 Family Residential District, and MF Multifamily District for permitted nonresidential uses.* Landscaping
Zoning

required in any portion of a front residential bufferyard, side residential bufferyard or rear residential bufferyard which is not occupied by improvements permitted in the division “Use of Minimum Yards and Residential Bufferyards” in the applicable district, shall consist of Type A: Open.

<table>
<thead>
<tr>
<th>Table 152.187: Side and Rear Residential Bufferyard Landscaping</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Zoning of Adjacent Property</strong></td>
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<tr>
<td><strong>Zoning of Subject Property</strong></td>
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<tr>
<td><strong>SE</strong>&lt;sup&gt;(1)&lt;/sup&gt;</td>
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<td>-----------------------</td>
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<tr>
<td>R1</td>
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<tr>
<td>R2</td>
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<tr>
<td>MF</td>
</tr>
<tr>
<td>PUD&lt;sup&gt;(3)&lt;/sup&gt;</td>
</tr>
</tbody>
</table>

<sup>(1)</sup> Special exception use located in a Residential District; or other Special Use Districts.

<sup>(2)</sup> Landscaping may be Type A: Open. Type B: Partial Screening or Type C: Full Screening and shall be determined as part of the review and determination of the Planned Unit Development.

<sup>(3)</sup> Residential portion of a PUD.

A - Type A: Open landscaping. See division (A), above.

B - Type B: Partial Screening landscaping shall contain a minimum of 2 evergreen trees for every 25 feet of the length of a lot line which abuts a Residential District or a residential portion of a PUD District. The trees shall be evenly spaced.

C - Type C: Full Screening landscaping shall contain a minimum of 4 evergreen trees for every 30 feet of the length of a lot line which abuts a Residential District or a residential portion of a PUD District. The trees shall be evenly spaced in a staggered double row where the rows are not more than 12.5 feet apart.

(Ord. 1221, § 8.01(b), passed 1-26-2010)

§ 152.188 FOUNDATION LANDSCAPING.

Foundation landscaping shall be provided for all new buildings and building additions in all districts (except for the following: buildings in the TCD - Town Center District; and single family dwellings or 2 family dwellings) in compliance with the following requirements.

(A) Foundation landscaping shall be applicable to any elevation of a new building or building addition which is:
(1) Over 35 feet in width; and

(2) Includes the main or primary customer entrance or is oriented toward a front yard.

(B) (1) When required, foundation landscaping shall be provided at a rate of:

(a) One shade tree for every 50 feet of width of the applicable elevation;

(b) One ornamental tree or 1 evergreen tree for every 35 feet of width of the applicable elevation; or

(c) Ten hedge plants or shrubs for every 50 feet of width of the applicable elevation.

(2) The above rates of foundation landscaping may be combined or prorated, as necessary, based upon the length of the applicable elevation.

(C) Foundation landscaping areas shall maintain a minimum dimension of 6 feet in the smallest dimension, with a minimum of 36 square feet of foundation landscaping area provided for each tree and for every 2 hedge plants or shrubs.

(D) Location: foundation landscaping areas shall be located along or adjacent to each applicable building elevation; provided, however, where a portion of the building elevation is devoted to pedestrian ingress/egress, vehicular ingress/egress, loading or drop-off zones, foundation landscaping areas may be aggregated into 1 or more locations along or abutting the building elevation.

(E) Relationship to buildings: foundation landscaping areas shall be located:

(1) Adjacent to the building; or
(2) So as to begin within 15 feet of the building (i.e., to allow for a walkway or similar improvements adjacent to the building).
(Ord. 1221, § 8.01(c), passed 1-26-2010)

§ 152.189 INTERIOR OFF-STREET PARKING AREA LANDSCAPING.

All new surface, off-street parking areas containing 30 parking spaces or more, and all expanded surface off-street parking areas which are increased by 30 parking spaces or more, whether the increase occurs at 1 time or in successive stages, shall be subject to the following regulations.

(A) All such off-street parking areas shall include at least 1 required interior landscape island for every 15 parking spaces (or fraction thereof), or 5,000 square feet of off-street parking area, whichever yields the greater number.

(B) Each required interior landscape island shall measure a minimum of 8 feet by 18 feet.

(C) Each required interior landscape island shall contain a minimum of 1 deciduous shade tree, 1 deciduous ornamental tree, or 1 evergreen tree.

(D) Interior landscape islands shall be located at the end of parking bays so as to define vehicular and pedestrian traffic patterns.

(E) All trees shall comply with the size at time of planting as indicated in Table 152.191: Minimum Size at Time of Planting.

(F) Area devoted to interior landscape islands shall be in addition to any required perimeter yard landscaping, foundation landscaping, or parking area screening required by this subchapter.

(G) Off-street parking areas shall include areas used for the parking or display or automobiles, boats, truck, or farm equipment associated with a dealership or leasing business.
(H) Off-street parking areas shall not include areas used for semi-truck loading areas, semi-truck maneuvering areas, and semi-truck parking areas. (Ord. 1221, § 8.01(d), passed 1-26-2010)

§ 152.190 OFF-STREET PARKING AREA SCREENING.

(A) The regulations of this section shall apply to all new surface, off-street parking areas, and expanded surface off-street parking areas for any use except a single family dwelling or 2 family dwelling.

(B) In addition to perimeter yard landscaping, foundation landscaping, and interior parking area landscaping, if an off-street parking area is located: between a front building line and a front lot line; between a side building line and any required side residential bufferyard; or between a rear building line and any required rear residential bufferyard, the edge of the parking area facing the front lot line, side residential bufferyard, or rear residential bufferyard shall be screened by a compact row of shrubs/hedge plants planted 3 feet on-center across the front of the parking area located between the front lot line, side residential bufferyard, or rear residential bufferyard and the edge of the parking area. Minimum planting size shall meet the requirements of Table 152.191 for hedge plants/shrubs, and be maintained at a maximum allowable growth height of 36 inches. (Ord. 1221, § 8.01(e), passed 1-26-2010)

§ 152.191 MINIMUM PLANT MATERIAL SIZES AT TIME OF PLANTING.

All plant materials specified by this subchapter shall comply with the minimum sizes at time of planting as specified in Table 152.191: Minimum Size at Time of Planting.
Table 152.191: Minimum Size at Time of Planting

<table>
<thead>
<tr>
<th>Plant Category</th>
<th>Minimum Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deciduous shade tree (a.k.a. Overstory tree)</td>
<td>2-1/2 in. caliper at 6 in. above the ground</td>
</tr>
<tr>
<td>Deciduous ornamental tree (a.k.a. Understory tree)</td>
<td>1-1/2 in. caliper at 6 in. above the ground</td>
</tr>
<tr>
<td>Evergreen tree</td>
<td>6 ft. high</td>
</tr>
<tr>
<td>Evergreen tree (narrow spread)*</td>
<td>4 ft. high</td>
</tr>
<tr>
<td>Hedge plants/shrubs</td>
<td>24 in. high</td>
</tr>
</tbody>
</table>

* Evergreen tree (narrow spread), such as arborvitae, may only be used as an alternate plant material subject to the provisions of § 152.194.

(Ord. 1221, § 8.01(f), passed 1-26-2010)

§ 152.192 INSTALLATION OF LANDSCAPING.

All landscaping required by this subchapter shall be installed prior to the issuance of a final certificate of occupancy for the use on the real estate. If seasons, weather conditions, or other conditions beyond the applicant’s control create a situation which is not appropriate for the installation of landscaping immediately prior to the issuance of a final certificate of occupancy, the Zoning Administrator may issue a temporary certificate of occupancy pending the installation of landscaping required by this subchapter not later than 3 months after the start of the next planting season after the use of the real estate is commenced. The start of planting seasons shall be March 15 and August 15 of each year.

(Ord. 1221, § 8.01(g), passed 1-26-2010)

§ 152.193 MAINTENANCE OF LANDSCAPING.

(A) The owner shall be responsible for the replacement of any required planting which is removed or dies after the date of planting. The replacement shall occur within 3 months after the start of the next planting season.

(B) Failure to maintain required landscape areas shall constitute a violation of this chapter enforceable under the provisions of §§ 152.405 through 152.413.

(Ord. 1221, § 8.01(h), passed 1-26-2010)
§ 152.194 ALTERNATE LANDSCAPE PLAN APPROVAL.

The Zoning Administrator, upon request by an applicant, shall have the authority to approve an alternate landscape plan prepared in accordance with the following requirements:

(A) *Redistribution of plant materials.* The Zoning Administrator may approve a redistribution of plant materials required for perimeter yard landscaping to other locations on the lot, or, a redistribution of plant materials required for a foundation landscaping area to other locations on the lot. The Zoning Administrator shall not have the authority to modify the landscape requirements of this subchapter pertaining to required residential bufferyards.

(B) *Credit for preservation of existing trees and vegetation.* In order to encourage the preservation of existing trees and vegetation, the Zoning Administrator may approve a preservation landscape plan which utilizes the designation of 1 or more “Tree Save Areas” in lieu of new plantings within a required yard, a required residential bufferyard, a required foundation landscaping area, or an interior parking area island. The preservation landscape plan shall:

(1) Demonstrate that sufficient trees or vegetation shall be preserved to equal or exceed the level of screening required by the basic provisions of this subchapter; and

(2) Provide that, in the event trees designated for saving in the “Tree Save Area” are damaged or die within 3 years of completion of construction on the site, replacement trees shall be planted in the designated “Tree Save Area” sufficient to provide landscaping which is, at a minimum, equivalent to the minimum requirements of this subchapter for new plantings.

(C) *Alternatives for front yard, side yard, and rear yards in all Commercial/Town Center Districts, Industrial Districts, Residential Districts for multifamily dwellings and along a limited access highway.* In order to provide flexibility and creativity in landscape designs, the Zoning Administrator may approve the following plant substitutions in a required front yard, side yard, or rear yard.

(1) Hedge plants or shrubs may be substituted for a maximum of 25% of the required number of shade trees (rounded down to the nearest whole number) at a rate of 10 hedge plants or shrubs for each shade tree so replaced.

(2) Hedge plants or shrubs may be substituted for a maximum of 25% of the required number of ornamental trees (rounded down to the nearest whole number) at a rate of 6 hedge plants or shrubs for each ornamental tree so replaced.

(3) Evergreen trees may be substituted for ornamental trees at a rate of 1 evergreen tree for each ornamental tree so replaced.

(4) Evergreen trees may be substituted for shade trees at a rate of 3 evergreen trees for every 2 shade trees so replaced.
(5) Ornamental trees and shade trees may be substituted with each other at a rate of 3 ornamental trees for every 2 shade trees.

(6) Evergreen trees (narrow spread) may be substituted for evergreen trees at a rate of 3 evergreen trees (narrow spread) for each evergreen tree.

(D) Residential bufferyard landscaping alternatives. In order to provide flexibility and creativity in landscape designs, the Zoning Administrator may approve the following plant substitutions in a residential bufferyard.

(1) Hedge plants or shrubs may be substituted for a maximum of 10% of the required number of evergreen trees (rounded down to the nearest whole number) at a rate of 10 hedge plants or shrubs for each evergreen tree so replaced.

(2) Ornamental trees may be substituted for a maximum of 10% of the required number of evergreen trees (rounded down to the nearest whole number) at a rate of 1 ornamental tree for each evergreen tree so replaced.

(3) Shade trees may be substituted for a maximum of 10% of the required number of evergreen trees (rounded down to the nearest whole number) at a rate of 1 shade tree for each evergreen tree so replaced.

(4) Evergreen trees (narrow spread) may be substituted for a maximum of 10% of the required number of evergreen trees (rounded down to the nearest whole number) at a rate of 4 evergreen trees (narrow spread) for each evergreen tree.

(5) In no case shall the total combined percentage of hedge plants or shrubs, shade trees, ornamental trees, or evergreen trees (narrow spread) which are substituted for evergreen trees exceed 25%.

(E) Foundation landscape alternatives. In order to provide flexibility and creativity in landscape designs, the Zoning Administrator may approve a foundation landscape plan which includes any combination of shade trees, ornamental trees, evergreen trees, or hedge plants/shrubs, provided that the total amount of plant materials along the building remains proportional to the base requirements of § 152.188(B).

(F) Parking area screening alternatives. In order to provide flexibility and creativity in landscape designs, the Zoning Administrator may approve a parking area screening plan which includes hedge plants or shrubs in combination with an ornamental or decorative fence, a masonry wall, or an earthen berm, provided that:

(1) Between a front building line and a front lot line:
(a) The ornamental or decorative fence or masonry wall is not less than 24 inches in height nor more than 36 inches in height, with an open space percentage equal to or less than 70%; or

(b) The earthen berm is not less than 24 inches in height nor more than 36 inches in height; or

(2) Between a side building line and any required side residential bufferyard or between a rear building line and any required rear residential bufferyard:

(a) The ornamental or decorative fence or masonry wall is not less than 3 feet in height nor more than:

1. Six feet in height if the open space of the fence is less than 20%; or

2. Ten feet in if the open space of the fence is 20% or greater; or

(b) The earthen berm has a minimum height of not less than 4 feet and a maximum height not to exceed 10 feet; and

(3) The total number of shrubs/hedge plants shall not be reduced by more than 50% of the number of shrubs/hedge plants required in § 152.190, above.

(G) Fence, wall, or berm alternatives. In order to provide flexibility and creativity in landscape designs, the Zoning Administrator may approve a fence, wall, or berm installed in compliance with the following regulations as a substitute for up to 50% of the number of shade trees, ornamental trees or evergreen trees required to be installed in a perimeter yard or residential bufferyard pursuant to § 152.187.

(1) Fence or wall in a front yard or front residential bufferyard. An ornamental, decorative fence or masonry wall may be used in conjunction with the landscaping required in a front yard, front residential bufferyard, or in a Residential District for a special exception use, provided the fence or wall used in a front yard shall:

(a) Maintain a minimum height of 3 feet with a maximum open space of 20%;

(b) Not exceed 3 feet in height if the open space of the fence is less than 20%; or

(c) Not exceed 4 feet in height if the open space of the fence is less than 50% but greater than 20%.

(2) Fence or wall in a side yard, rear yard, side residential bufferyard, rear residential bufferyard, or in Residential Districts for special exception uses. An ornamental, decorative fence or masonry wall may be used in conjunction with the landscaping in a required side yard, rear yard, side
residential bufferyard, rear residential bufferyard or in a Residential District for a special exception use, provided the fence or wall shall not exceed:

(a) Maintain a minimum height of 6 feet with a maximum open space of 20%;

(b) Six feet in height if the open space of the fence is less than 20%; and/or

(c) Ten feet in height in any Commercial/Town Center District or Industrial District if the open space of the fence is less than 50% but greater than 20% or greater.

(3) Berm regulations.

(a) Berm in a front yard or front residential bufferyard. An undulating earthen berm, may be used in conjunction with the landscaping required in a front yard, front residential bufferyard or in a Residential District for a special exception use, provided the berm shall have a maximum height not to exceed:

1. Residential District or Commercial/Town Center District: 3 feet; or
2. Industrial District: 6 feet.

(b) Berm in a side yard, rear yard, side residential bufferyard, or rear residential bufferyard. An undulating earthen berm may be used in conjunction with the landscaping in a required side yard, rear yard, side residential bufferyard, rear residential bufferyard, or in a Residential District for a special exception use, provided the berm shall have a minimum height of not less than 4 feet and a maximum height not to exceed 10 feet.

(c) Construction of berm. A berm utilized as a landscaping element shall be constructed in accordance with the following regulations:

1. Each berm shall have a minimum crown width of 2 feet;
2. Each berm shall have a side slope of not greater than 3 feet horizontal to 1 foot vertical (3:1);

3. Each berm shall be planted and covered with live vegetation; and

4. A retaining wall may be used on the side of the berm facing away from the public right-of-way or away from the side lot line or rear lot line.

(d) General regulations for a fence, wall, or berm. A fence, wall, or berm may be used as an element of a landscape plan subject to the following regulations.

1. Location of fence, wall, or berm. A fence, wall, or berm shall be located in such a manner as to not interfere with any regulations of clear sight area requirements in § 152.020.

2. Design of fence, wall, or berm. A fence, wall, or berm shall be designed to not interfere with any walkway or pedestrian/bikeway system serving the site.

(H) Interior landscape island design alternatives. The Zoning Administrator may approve a design in which the area devoted to individual interior landscape islands may be aggregated into 1 or more larger landscape islands. When aggregated into 1 or more larger landscape islands, such larger landscape islands shall, at a minimum, include the number of trees and area of landscaping as required for individual interior landscape islands, and shall function to: preserve existing trees; create boulevard treatments; create landscape features; create common open space areas for passive recreational activities; or define vehicular and pedestrian traffic patterns.

(I) Appeals. If the Zoning Administrator disapproves of a proposed alternative landscape plan, the applicant may, within 5 business days, appeal the Zoning Administrator’s decision by filing an administrative appeal with the Board of Zoning Appeals, stating the reasons and justification for the appeal. The petition shall be filed consistent with the provisions of § 152.367 and any applicable Rules of Procedure.

(Ord. 1221, § 8.01(i), passed 1-26-2010)
§ 152.210 INTENT.

The lighting regulations contained in this subchapter are intended to provide for the erection, design, or placement of outdoor light fixtures which: provide for illumination levels on individual lots which are adequate for the safe and efficient movement of individuals or vehicles to and from a lot and within a lot (i.e., areas that are dangerous if unlit, such as stairs, intersections, or changes in grade); are designed to protect against the spillover of light onto abutting properties which may negatively impact occupants of abutting properties; and are designed to protect against objectionable glare onto public rights-of-way which may impair the vision of motorists.
(Ord. 1221, Art. 8.02, passed 1-26-2010)

§ 152.211 GENERAL REQUIREMENTS.

All outdoor light fixtures on a lot shall comply with the following regulations:

(A) Applicability. The lighting regulations contained in this subchapter, unless specifically stated otherwise, are applicable only to any: Residential District for a multifamily project or any special exception use; Commercial/Town Center District; Industrial District; Planned Unit Development District; or special use district contained in this chapter.

(B) Minimum setback. Notwithstanding anything in this chapter to the contrary for the “Use of Minimum Yards” or “Use of Minimum Yards and Residential Bufferyards” for any district, a freestanding outdoor light fixture may be located within a required front yard, side yard, rear yard, front residential bufferyard, side residential bufferyard, or rear residential bufferyard, provided that the freestanding outdoor light fixture is located adjacent to the interior edge of the yard or residential bufferyard and adjacent to a permitted driveway, parking area, interior access drive, interior access driveway, or other outdoor use area requiring illumination.

(C) Lighting standards. Outdoor light fixtures shall comply with the standards set forth in Table 152.211: Lighting Standards.

(D) Mounting of fixtures (except in Industrial Districts). Full cutoff, cutoff and semi-cutoff outdoor light fixtures shall be mounted parallel to the ground and shall utilize a rigid mounting arm with no built-in uptilt and no adjustment feature.

(E) Height of fixtures. All outdoor light fixtures used to illuminate a particular area on a lot (i.e., a parking area; a loading area; or an entry way, sidewalk or walkway areas) shall, within those areas, be of uniform size, design, and height.
Table 152.211: Lighting Standards

<table>
<thead>
<tr>
<th>District</th>
<th>Type of Fixture</th>
<th>Maximum Combined Height of Pole and Base</th>
<th>Maximum Wattage</th>
</tr>
</thead>
<tbody>
<tr>
<td>All districts</td>
<td>Non-cutoff(1)</td>
<td>20 ft.</td>
<td>100</td>
</tr>
<tr>
<td></td>
<td>Semi-cutoff</td>
<td>30 ft.</td>
<td>400</td>
</tr>
<tr>
<td></td>
<td>Cutoff</td>
<td>35 ft.</td>
<td>400</td>
</tr>
<tr>
<td></td>
<td>Full cutoff</td>
<td>40 ft.</td>
<td>1,000</td>
</tr>
</tbody>
</table>

(1) Non-cutoff outdoor light fixtures shall be limited to locations along walkways, driveways, interior access drives, interior access driveways and outdoor seating areas.

(F) Power supply. Outdoor light fixtures located on light poles shall be provided power by underground wiring.

(G) Wall pack lights. Wall pack outdoor light fixtures shall be subject to the following regulations:

(1) Except in Industrial Districts, wall pack outdoor light fixtures located on a front or side elevations of a building or structure shall be full cutoff.
(2) In all Commercial/Town Center or Industrial Districts, wall pack outdoor light fixtures oriented toward a residential bufferyard and an abutting Residential District shall be full cutoff.

(3) Low intensity (i.e., 100 watts or less), architectural style wall pack outdoor light fixtures (which may be cutoff, semi-cutoff, or non-cutoff) may be used to accent architectural elements of the building or structure or to illuminate entrance areas.

(H) Vehicular canopy light fixtures. Outdoor light fixtures located under a vehicular canopy of drive-through structures (e.g., gasoline service station canopies, bank drive-through canopies, and the like) shall be full cutoff fixtures with a maximum intensity of 400 watts.

(I) Awning and canopy lighting. Awnings and canopies used for building accents over doors, windows, walkways, and the like, may be internally illuminated or back-lit (i.e., lit from underneath or behind); provided, however, that the primary material is opaque and that translucent material is limited to the actual text or logo of the sign, if any, incorporated into the awning or canopy.

(J) Glare on public right-of-way. Flag and statue lights, architectural lights, floodlights, or sign lighting shall be so directed and shielded that the light element is not visible from any point along an adjacent public right-of-way.

(K) Floodlights. Outdoor light fixtures equipped with floodlights may only be permitted on a lot as follows:

(1) Floodlights shall be focused on the primary building or the area of the lot located between the floodlight and the primary building; or

(2) Floodlights shall be shielded to the extent that the main beam from the luminaire is not visible from or causes any glare onto adjacent properties or rights-of-way.

(L) Lighting plans. The following information, at a minimum, shall be provided for all lighting plans submitted in connection with an application for an improvement location permit:

(1) A site plan which includes the outline of buildings, structures, and other improvements (e.g., parking areas, loading areas, interior access drives, and the like) on the lot and the location of all outdoor light fixtures; and

(2) A description of the outdoor light fixtures, including but not limited to manufacturer’s or electric utility catalog specifications sheets, drawings, or photometric report, which indicate:

   (a) The outdoor light fixture classification (e.g., cutoff, semi-cutoff, full cutoff, or non-cutoff);
(b) Mounting height of freestanding outdoor light fixtures; and

(c) Wattage proposed for each outdoor light fixture.
(Ord. 1221, § 8.02(a), passed 1-26-2010)

§ 152.212 SPECIAL REGULATIONS FOR SPORT AND ATHLETIC FIELD LIGHTS.

Notwithstanding anything in this subchapter to the contrary, the following special regulations shall apply to sport and athletic field lights. Freestanding outdoor light fixtures for sport and athletic fields:

(A) Shall not exceed 110 feet in height above grade; and

(B) Shall be of a type and manufacturer that offers a spill and glare control package and shall be fitted with the manufacturer’s spill and glare control package.
(Ord. 1221, § 8.02(b), passed 1-26-2010)

§ 152.213 EXEMPT LIGHTS.

(A) Holiday decorations. Outdoor light fixtures used for holiday decorations.

(B) Public lighting. All outdoor light fixtures originating from public areas and ways, including but not limited to parks, rights-of-way, public art, or other public facilities, that are installed for the benefit of the public health, safety, and welfare.

(C) Fossil fuel lights. All outdoor light fixtures producing light directly from the combustion of fossil fuels (i.e., kerosene lanterns or gas lamps).

(D) Construction/emergency lighting. All outdoor light fixtures provided in connection with construction work or the abatement of an emergency situation necessitating the lighting, provided that the use of such outdoor light fixtures is discontinued during hours when construction activity or emergency abatement is not in progress and that the outdoor light fixtures are removed upon completion of the construction activity or the abatement of the emergency.

(E) Internal illumination of signs. All outdoor light fixtures which are completely enclosed within a sign cabinet and which provide illumination only for a sign face.

(F) Single family dwelling or 2 family dwelling lots. All outdoor light fixtures used for the illumination of personal property; provided, however, that the outdoor light fixtures shall be subject to the performance standards in § 152.086(G) regarding glare.
(Ord. 1221, § 8.02(c), passed 1-26-2010)
§ 152.214 TEMPORARY LIGHTS.

(A) Temporary lights permitted.

(1) The following types of outdoor light fixtures may be approved on a temporary basis by the Zoning Administrator prior to placement or use.

(a) Civic events. Temporary outdoor light fixtures used for civic events.

(b) Special events. Temporary outdoor lighting fixtures for such activities as circuses, fairs, carnivals, sporting events, and the like.

(2) Such temporary lights shall not be installed more than 30 days prior to the civic event or special event and shall be removed not more than 15 days after the civic event or special event.

(B) Searchlights. Notwithstanding anything contained in § 152.215 to the contrary, temporary outdoor light fixtures used in connection with a civic event or special event may include 1 portable, rotating searchlight; provided, however, that the temporary outdoor light fixture:

(1) Shall not be permitted for more than 3 occurrences during a calendar year;

(2) Shall not be used for a period of more than 2 consecutive days during a civic event or special event;

(3) Shall not be operated between the hours of 12:00 a.m. midnight and 8:00 a.m.; and

(4) Shall otherwise comply with all other applicable provisions of this subchapter.
(Ord. 1221, § 8.02(d), passed 1-26-2010)

§ 152.215 PROHIBITED LIGHTS.

(A) Flashing lights. Any lights that flash, move, revolve, rotate, scintillate, blink, flicker, vary in intensity or color, or use intermittent electrical pulsation.

(B) Floodlights. Floodlights not in compliance with the regulations set forth above, or other form of outdoor light fixtures not specifically authorized by this subchapter (including but not limited to stringer lights), that are ground mounted or attached to light poles, and used to illuminate the site, buildings, or structures.

(C) Outdoor strings of lights. Outdoor strings of lights, including but not limited to those used to outline lot lines or outdoor display areas; provided, however, outdoor strings of lights may be allowed when complying with § 152.213(A), holiday decorations.
(Ord. 1221, § 8.02(e), passed 1-26-2010)
§ 152.230 INTENT.

(A) These sign regulations are intended to: encourage the effective use of signs as a means of communication; encourage signs which, by their design, are integrated with and harmonious to the buildings and sites which they occupy; eliminate excessive and confusing sign displays; maintain and improve the appearance of the town as an attractive place in which to live and conduct business; safeguard and enhance property values by minimizing the possible adverse effects of signs on nearby public and private property; support and complement the land use objectives of the Comprehensive Plan and this chapter; protect public and private investment in buildings and open spaces; eliminate potential hazards to motorists and pedestrians resulting from signs; establish reasonable limits on the number, time, and manner (including but not limited to the spacing, materials, and size of signs) to avoid sign clutter; and promote the public health, safety, morals, and general welfare of the town.

(B) The regulations contained in this subchapter shall apply to the location, erection, and maintenance of signs in any district regulated by this chapter.

(Ord. 1221, Art. 8.03, passed 1-26-2010)

§ 152.231 EXEMPT SIGNS.

Unless otherwise specifically stated, signs that comply with the provisions contained in this section shall be exempt from all other provisions of this chapter, except that the clear sight area provisions specified in § 152.020 shall apply.

(A) Building lighting. Highlighting of structural/architectural elements of buildings, such as roof lines, doors, window or wall edges, by illumination shall not be considered a sign; provided, however, if the highlighting or outlining contains text or logos, the items shall be considered signs and regulated by this chapter according to the sign type and district in which it is located. In no case shall the building lighting be flashing or animated.

(B) Flags. Reserved for future use.

(C) Non-logo features. Integral, decorative, or architectural features of buildings, so long as the features or works do not contain logos, letters, or trademarks, except as noted in division (E)(4) below.

(D) Interior signs. Signs located:

(1) Within the interior of any building, or within an enclosed lobby or court of any building; or
(2) Located within the inner or outer lobby, court, or entrance of any theater, that are not viewable or intended to be viewable from the public right-of-way and do not qualify as window signs.

(E) Miscellaneous signs. Including but not limited to:

(1) Signs only giving property identification, names, or numbers of occupants, and containing 2 square feet or less in sign surface area;

(2) Signs posted on private property only to identify or warn about “Private Property,” “Private Parking,” “No Trespassing,” or “Danger” from animals and containing 2 square feet or less in sign surface area;

(3) Signs only indicating the location of public telephones and restrooms, underground public utilities, or similar location signs and containing 4 square feet or less in sign surface area; and

(4) Signs which are integral to the building and only indicating the name of the building, date of erection, monumental citations, commemorative tablets and the like, when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type construction and made an integral part of the building.

(F) Official signs.

(1) Signs authorized by a government or governmental unit which give traffic, directional, or warning information;

(2) Signs of public service companies indicating danger; and

(3) Signs erected by or on the order of a public officer in the performance of his or her public duty which aids service or safety.

(G) Public signs and public notices. Signs required or specifically authorized for a public purpose by any law, statute or ordinance, which may be any type, number, area, height above grade, location or illumination required by the law, statute or ordinance under which the signs are erected.

(H) Holiday displays. Holiday displays which contain no commercial message, are primarily decorative in nature, and are clearly incidental and commonly associated with any national or religious holiday, and which are erected not more than 30 days prior to the start of the holiday and removed no more than 15 days after the holiday.

(I) Tombstones.

(J) Works of art. Three-dimensional works of art (statuary, sculptures), and 2-dimensional works of art (i.e., murals) that clearly are artistic in nature and which do not promote on-site activities or commercial interests; provided, however:
(1) Two-dimensional works of art which exceed 5% of the side or rear façade of a building on which they are placed shall receive approval as a wall sign; and

(2) Two-dimensional works of art, regardless of size, shall not be permitted on the front façade of any building.

(K) Window signs. Window signs, provided that the signs shall not exceed the lesser of:

(1) Twenty-five percent of the area of the window; provided, in the case of multi-pane windows, the surface area of the window shall be the combined surface area of the individual panes; or in the case of a glass curtain wall, the surface area of the window shall be the combined surface area of the individual glass panels; or

(2) Twelve square feet in sign surface area.

(L) Temporary signs. In addition to the type, number, sign surface area, setback, and height regulations for signs specified for each district, temporary signs (i.e., signs typically related to sale or lease, construction, grand openings, political campaigns, and the like) shall be allowed subject to the following regulations:

(1) General regulations applicable to all temporary signs.

(a) Time. Temporary signs may be erected for 1 of the following time periods:

1. Special events. Temporary signs may be erected, placed, or located in connection with a special event not more than 30 days prior to the start of a special event and shall be removed not more than 15 days after the end of the special event. A special event related sign shall not be erected, placed or located more than 2 times during a calendar year; or

2. Non-special event. Temporary signs not in connection with a special event may be erected, placed, or located not more than 2 times during a calendar year and shall not exceed 45 days in duration.

(b) Place. Temporary signs shall comply with the following location requirements:

1. A temporary sign shall comply with the clear sight area regulations of § 152.020;

2. A temporary sign shall not be located within any public right-of-way;

3. A temporary sign, if a freestanding sign, shall be located in compliance with all setback regulations for a permanent sign; and
4. A temporary sign, if a wall sign, shall be located in compliance with the regulations for a permanent wall sign.

   (c) **Manner.** Temporary signs shall be placed in the following manner.

   1. A temporary sign shall be permitted on a lot only upon prior authorization by the owner of the lot.

   2. Any sign which meets the chapter definition of an on-premises business sign or an outdoor advertising sign shall not be considered or allowed as a temporary sign.

   3. A temporary sign shall not be illuminated.

(2) **Temporary freestanding sign, R1 or R2 District.** Temporary freestanding sign for any individual lot in any R1 District or R2 District:

   (a) **Number.** One temporary freestanding sign shall be permitted for each street or limited access highway which abuts the lot; and

   (b) **Manner.** Temporary signs:

   1. Shall not exceed 6 square feet in sign surface area; and

   2. Shall not exceed 4 feet in height above grade.

(3) **Temporary freestanding sign, MF, Commercial/Town Center, or Industrial Districts.** Temporary freestanding sign for any MF District, Commercial/Town Center District or Industrial District or for any single or 2 family subdivision development in the R1 District or R2 District:

   (a) **Number.**

   1. One additional freestanding sign shall be permitted for each street or limited access highway which abuts the lot or integrated center; and

   2. Exception: more than 500 feet. When a lot or integrated center abuts the same street or limited access highway for more than 500 feet, 1 additional freestanding temporary sign shall be permitted on that street or limited access highway, provided that:

      a. Minimum separation between freestanding temporary signs along the same street or limited access highway shall be 300 feet;

      b. The additional freestanding temporary sign shall be oriented to the street or limited access highway which abuts the lot or integrated center for more than 500 feet;
c. The minimum separation between freestanding temporary signs, regardless of orientation of the freestanding temporary signs, shall be 100 feet; and

d. The total sign surface area of all freestanding temporary signs shall not exceed 200 square feet.

(b) Manner. Temporary signs:

1. Shall not exceed 8 feet in height above grade; and

2. Shall not exceed 32 square feet in sign surface area.

(4) Temporary window sign. Temporary window sign, in all districts shall not exceed the lesser of:

(a) Twenty-four square feet in surface area; or

(b) Five percent of the window on which it is placed or through which it is viewed; provided, in the case of multi-pane windows, the surface area of the window shall be the combined surface area the individual panes; or in the case of a glass curtain wall, the surface area of the window shall be the combined surface area of the individual glass panels.

(5) Special time and manner regulations for A-frame, T-frame, menu board, or sandwich board signs. Notwithstanding anything above to the contrary, temporary signs which are A-frame, T-frame, menu board, or sandwich board signs shall be subject to the following time and manner regulations:

(a) Time: may be erected, placed or located outside of a business establishment on a daily basis;

(b) Time: shall only be displayed during business hours;

(c) Manner: shall be within 10 feet of the main customer entrance to the business establishment and shall not be located in any public right-of-way;

(d) Manner: shall not exceed 6 square feet in sign surface area; and

(e) Manner: shall not exceed a maximum height of 4 feet above grade.

(Ord. 1221, § 8.03(a), passed 1-26-2010)

§ 152.232 PROHIBITED SIGNS.

The following signs shall be prohibited in all districts.
(A) Signs located on, in or above the right-of-way of any street or alley, except for: official signs or signs erected on behalf of or pursuant to authorization of a governmental body; and projecting signs as expressly permitted by later sections of this subchapter.

(B) Signs which interfere with street intersections. No sign, permanent or temporary, shall be erected so that it interferes with the sight distance as specified in § 152.020.

(C) Signs which interfere with, obstruct the view of, imitate, copy, purport to be, or may be confused with any authorized official sign, traffic sign, traffic signal, or traffic-control device.

(D) Portable signs, including but not limited to: A-frame, T-frame, menu board, and sandwich board signs (except as expressly authorized by § 152.231(L)(5)); signs on portable trailer frames; and signs attached to or painted on a vehicle parked and visible from the public right-of-way; provided, however, a vehicle which is used in the normal day-to-day operation of a business use shall not be considered a portable sign if the vehicle is parked beside or behind the building in which the use is located, or if the sign on the vehicle contains less than 9 square feet in sign surface area.

(E) Windblown devices, including but not limited to any banner, pennant, spinner, streamer, propeller, disc, moored blimp, gas balloon, or flag that is designed to inform or attract attention (except for exempt flags as set forth in § 152.231).

(F) Signs attached to trees.

(G) Signs attached to utility poles, except for signs erected on behalf of or pursuant to authorization of a governmental body or the utility company having jurisdiction over the poles.

(H) Signs that bear or contain statements, words, or pictures of an obscene, pornographic, immoral character, or which contain advertising matter which is untruthful or will offend public morals or decency.
(I) Any sign that obstructs or substantially interferes with any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress, or egress to any building.

(J) Any changeable copy sign, including without limitation an electronic variable message sign on which the message changes more than 6 times per minute.

(K) Any rotating beam, beacon, intermittent light, lights of changing degrees of intensity, or flashing illumination in connection with any sign surface, except as part of an electronic variable message sign on which the message does not change more than 6 times per minute.

(L) Roof signs.

(M) Any other type of sign located on private property outside of a public right-of-way not expressly permitted by this subchapter.

(Ord. 1221, § 8.03(b), passed 1-26-2010)

§ 152.233 ON-PREMISES SIGNS: R1, R2, AND MF DISTRICTS.

(A) Single family dwellings, 2-family dwellings, residential facilities for the mentally ill, residential facilities for the developmentally disabled, and child care home uses. Single family dwellings, 2 family dwellings, residential facilities for the mentally ill, residential facilities for the developmentally disabled, and child care home uses shall be permitted 1 monument identification sign or 1 building identification sign for each street or limited access highway which abuts the lot, indicating only the name or address of occupant, provided:

1. The maximum sign surface area shall not exceed 2 square feet;

2. The maximum height above grade for a monument sign shall not exceed 4 feet;

3. The sign shall be constructed of a material(s) which blends in with the residential character of the neighborhood, such as but not limited to, wood or stone;

4. The sign shall not be illuminated, either internally or externally;

5. The sign shall not encroach into any public right-of-way; and

6. The sign shall comply with the clear sight area regulations of § 152.020.

(B) Multifamily dwelling uses. Multifamily dwelling uses shall be permitted 1 monument identification sign or 1 building identification sign for each street or limited access highway which abuts the lot, provided:
(1) The sign shall not exceed 32 square feet in sign surface area;

(2) The maximum height above grade for a monument sign shall not exceed 5 feet;

(3) The sign shall not be internally illuminated;

(4) The sign shall indicate only the name, address of the management thereof, or associated information;

(5) The sign shall maintain a minimum front yard setback of 10 feet from the proposed right-of-way, and shall maintain a minimum side yard setback and minimum rear yard setback consistent with the requirements for an accessory structure in the district to which the real estate is zoned; and

(6) The sign shall comply with the clear sight area regulations of § 152.020.

(C) Recorded, platted residential subdivisions. Two monument identification signs shall be permitted at each entrance to a recorded, platted residential subdivision provided:

(1) The signs shall be constructed of ornamental metal, stone masonry, or other permanent material;

(2) The signs shall indicate only the name of the subdivision;

(3) The signs shall not exceed 24 square feet in sign surface area each;

(4) The maximum height above grade shall not exceed 8 feet;

(5) The sign shall not be internally illuminated;

(6) The signs shall not encroach into any public right-of-way;

(7) The sign shall comply with the clear sight area regulations of § 152.020; and

(8) Only 1 sign shall be permitted in each quadrant of an intersection.

(D) Nonresidential and other uses permitted by special exception when located in a Residential District. The following regulations shall apply to all nonresidential and other uses permitted in the Residential Districts by special exception.

(1) Freestanding identification signs.

(a) Type of signs. Freestanding identification signs shall be monument signs.
(b) Number of signs. One freestanding identification sign shall be permitted for each street or limited access highway which abuts the lot.

(c) Maximum sign surface area of freestanding identification signs.

1. School, religious use, or nursing home: 32 square feet.

2. All other nonresidential or other uses permitted by special exception: 16 square feet.

(d) Minimum front yard setback, side yard setback, and rear yard setback for freestanding identification signs.

1. Front yard setback, all streets: 10 feet from proposed right-of-way.

2. Side yard setback and rear yard setback: the minimum side yard setback or rear yard setback for a freestanding identification sign shall be the same as required for an accessory structure in the applicable district.

(e) Maximum height of freestanding identification signs. The maximum height of a monument identification sign shall not exceed 5 feet in height above grade.

(2) Building identification signs.

(a) Type of signs. Building identification signs shall be wall signs. In addition, awning signs, canopy signs or marquee signs may be permitted subject to the provisions of § 152.233(E), below.

(b) Number of building identification signs. There shall be no limit to the number of building identification signs, provided that the total sign surface area of all building identification signs located on a building shall not exceed the maximum sign surface area for the building.

(c) Maximum sign surface area of building identification signs. The total sign surface area of all building identification signs oriented to an individual façade shall not exceed:

1. Front façade. Five percent of the total area of a front façade of a building; and

2. Side façade and rear façade. Three percent of a side or rear façade of a building; provided, however, that for any side façade or rear façade of a building oriented toward a customer parking area, street, or limited access highway, the maximum sign surface area of 5% shall apply.

(3) Incidental signs.

(a) Type of signs. Incidental signs shall be monument or wall signs.
(b) Number of signs.

1. If a lot has 1 driveway, 2 incidental directional signs shall be permitted at the driveway entrance or exit;

2. If a lot has more than 1 driveway, 1 incidental directional sign shall be permitted for each driveway; and

3. One incidental directional sign or 1 incidental parking and loading sign shall be permitted at each critical turning point along an interior access drive when required to safely direct vehicular traffic (e.g., to direct vehicular traffic to: a drive-up window; a customer or employee parking area; or a delivery or loading area).

(c) Maximum sign surface area of incidental signs. Incidental signs shall not exceed 2 square feet in sign surface area.

(d) Minimum front yard setback, side yard setback, and rear yard setback for freestanding incidental signs.

1. Front yard setback. Three feet from proposed right-of-way.

2. Side yard setback and rear yard setback. The minimum side yard setback or rear yard setback for a freestanding incidental sign shall be the same as required for an accessory structure in the applicable district.

(e) Maximum height of incidental signs. The maximum height of an freestanding incidental monument sign shall not exceed 4 feet in height above grade.

(E) Awning sign, canopy sign, or marquee sign. Wherever a building identification sign is permitted in a Residential District, the use of an awning sign, canopy sign, or marquee sign shall be allowed subject to the following provisions:

(1) Total area. The total area of the awning, canopy, or marquee (i.e., the combined 2-dimensional surface area of all sides of the awning, canopy, or marquee) shall not exceed the sign surface area allocated to the façade of the building upon which the awning, canopy, or marquee is attached.

(2) Sign surface. The portion of the awning, canopy, or marquee which includes a sign surface shall not exceed:

(a) Fifty percent of the total area of an awning or canopy; or

(b) Seventy-five percent of the total area of a marquee.
(3) **Clearance to grade.** The bottom edge of the:

(a) Awning or canopy shall not be less than 8 feet, 6 inches above grade over a walkway:

(b) Marquee shall not be less than 9 feet above grade over a walkway; or

(c) Awning, canopy, or marquee shall not be less than 15 feet above grade over a driveway, interior access drive, or alley.

(4) **Projection from building.** The maximum projection of an awning, canopy, or marquee shall not exceed 8 feet from or beyond its supporting building and shall not project beyond any walkway adjacent to the building.

(5) **Marquee sign.** A marquee sign may include a non-changeable copy sign attached to or mounted on top of a marquee, subject to the sign surface area limitations set forth above.

(6) **Encroachment over public right-of-way.** No awning, canopy, or marquee shall encroach into the air rights of any public street right-of-way.

(F) **Suspended signs.** Suspended signs shall be permitted on any building containing 2 or more individual, non-related, and separately operated uses subject to the following regulations:

(1) There shall be no more than 1 suspended sign per front façade of the structure or tenant space of each grade-level tenant;

(2) The maximum sign surface area of a suspended sign shall not exceed 5 square feet; and

(3) All portions of the suspended sign or sign structure shall be not less than 8 feet, 6 inches above finished grade.

(Ord. 1221, § 8.03(c), passed 1-26-2010)

§ 152.234 **ON-PREMISES SIGNS: OB, LB, AND CB DISTRICTS AND ALL INDUSTRIAL DISTRICTS.**

(A) **Single use sites; freestanding identification signs.**

(1) **Type of signs.** Freestanding identification signs shall be either monument signs or pole signs in compliance with Table 152.234B: Maximum Height and Type of Sign, below.

(2) **Number of signs.** Freestanding identification signs shall be permitted at a rate of 1 freestanding identification sign for every 500 feet, or portion thereof, that a single use site abuts a street, provided that:
(a) The number of freestanding identification signs shall be calculated independently for each street which the single use site abuts;

(b) The minimum separation between freestanding identification signs on the single use site, regardless of the street to which the freestanding identification sign is oriented, shall be 100 feet;

(c) The minimum separation between freestanding identification signs oriented toward the same street shall be 300 feet;

(d) In the case of multiple freestanding identification signs, each freestanding identification sign shall be oriented toward the street by virtue of which the multiple freestanding identification signs are permitted; and

(e) The total sign surface area of all freestanding identification signs shall not exceed the maximum sign surface area permitted below.

(3) Maximum sign surface area of freestanding signs.

(a) Maximum sign surface area shall apply individually to each street.

(b) The maximum sign surface area shall not exceed that specified in Table 152.234A: Maximum Sign Surface Area, below:

<table>
<thead>
<tr>
<th>Frontage</th>
<th>OB</th>
<th>LB</th>
<th>CB</th>
<th>LI/GI</th>
</tr>
</thead>
<tbody>
<tr>
<td>≤500 ft.</td>
<td>32 sq. ft.</td>
<td>64 sq. ft.</td>
<td>100 sq. ft.</td>
<td>64 sq. ft.</td>
</tr>
<tr>
<td>&gt;500 ft.- ≤1,000 ft.</td>
<td>32 sq. ft. (^{(1)})</td>
<td>100 sq. ft. (^{(1)})</td>
<td>150 sq. ft (^{(1)})</td>
<td>100 sq. ft (^{(1)})</td>
</tr>
<tr>
<td>&gt;1,000</td>
<td>48 sq. ft. (^{(2)})</td>
<td>200 sq. ft. (^{(2)})</td>
<td>300 sq. ft. (^{(2)})</td>
<td>200 sq. ft. (^{(2)})</td>
</tr>
</tbody>
</table>

\(^{(1)}\) Sign surface area may be all in 1 freestanding sign or divided between all permitted freestanding signs.

\(^{(2)}\) Sign surface area may be all in 1 freestanding sign or divided between all permitted freestanding signs, provided that the maximum sign surface area for any individual freestanding sign shall not exceed 75% of the maximum listed.
(4) **Minimum front setback, side setback and rear setback for freestanding identification signs.**

(a) **Front setback.** The minimum front yard setback or front residential bufferyard setback for any freestanding identification sign shall be 5 feet from the proposed right-of-way.

(b) **Side setback or rear setback.** The minimum side yard setback, minimum rear yard setback, minimum side residential bufferyard setback or minimum rear residential bufferyard setback for a freestanding identification sign shall be the same as required for any building or structure.

(5) **Maximum height of freestanding identification signs.** The maximum height above grade of freestanding identification signs shall not exceed that specified in Table 152.234B: Maximum Height and Type of Sign, below:

<table>
<thead>
<tr>
<th>Table 152.234B: Maximum Height and Type of Sign</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Maximum Height and Type of Sign, Freestanding Signs for Single Use Sites</strong></td>
</tr>
<tr>
<td><strong>Type of Sign</strong></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Monument sign</td>
</tr>
<tr>
<td>Pole sign - when oriented toward any street</td>
</tr>
</tbody>
</table>

**NOTE:** NA = Not Allowed/not permitted

(B) **Integrated centers; freestanding identification signs.**

(1) **Type of signs.** Freestanding identification signs shall be either monument signs or pole signs in compliance with Table 152.234D: Maximum Height and Type of Sign, below.

(2) **Number of signs.**

(a) Freestanding identification signs shall be permitted at a rate of 1 freestanding identification sign for every 500 feet, or portion thereof, that an integrated center abuts a street, provided that:

1. The number of freestanding identification signs shall be calculated independently for each street which the integrated center abuts;

2. The minimum separation between freestanding identification signs on the single use site, regardless of the street to which the freestanding identification sign is oriented, shall be 100 feet;
3. The minimum separation between freestanding identification signs oriented toward the same street shall be 300 feet;

4. In the case of multiple freestanding identification signs, each freestanding identification sign shall be oriented toward the street by virtue of which the multiple freestanding identification signs are permitted; and

5. The total sign surface area of all freestanding identification signs shall not exceed the maximum sign surface area permitted below.

(b) Any freestanding identification sign for an integrated center shall include the name of the integrated center and the sign shall allocate a minimum of 10% of the sign surface area to the name of the integrated center.

(3) Maximum sign surface area of freestanding signs for an integrated center.

(a) Maximum sign surface area shall apply individually to each street which abuts the integrated center.

(b) The maximum sign surface area shall not exceed that specified in Table 152.234C: Maximum Sign Surface Area, below:

<table>
<thead>
<tr>
<th>Frontage</th>
<th>CB</th>
<th>LI/GI</th>
</tr>
</thead>
<tbody>
<tr>
<td>≤500 ft.</td>
<td>140 sq. ft.</td>
<td>64 sq. ft.</td>
</tr>
<tr>
<td>&gt;500 ft.−≤1,000 ft.</td>
<td>300 sq. ft. (1)</td>
<td>150 sq. ft. (1)</td>
</tr>
<tr>
<td>&gt;1,000</td>
<td>600 sq. ft. (2)</td>
<td>300 sq. ft. (2)</td>
</tr>
</tbody>
</table>

(1) Sign surface area may be all in 1 freestanding sign or divided between all permitted freestanding signs.

(2) Sign surface area may be all in 1 freestanding sign or divided between all permitted freestanding signs, provided that the maximum sign surface area for any individual freestanding sign shall not exceed 75% of the maximum listed.

(4) Minimum front yard setback, minimum side yard setback, and minimum rear yard setback for freestanding identification signs.
(a) *Front setback.* The minimum front yard or front residential bufferyard shall be 5 feet from the proposed right-of-way.

(b) *Side setback and rear setback.* The minimum side yard setback, minimum rear yard setback, minimum side residential bufferyard setback, or minimum rear residential bufferyard setback for a freestanding identification sign shall be the same as required for any building or structure.

(5) *Maximum height of freestanding identification signs.* The maximum height above grade of freestanding identification signs shall not exceed that specified in Table 152.234D: Maximum Height and Type of Sign, below:

<table>
<thead>
<tr>
<th>Type of Sign</th>
<th>Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>CB</td>
</tr>
<tr>
<td>Monument sign</td>
<td>20 ft.</td>
</tr>
<tr>
<td>Pole sign, when oriented toward any street</td>
<td>40 ft.</td>
</tr>
</tbody>
</table>

(C) *Out lots in an integrated center; freestanding identification signs.*

(1) *Number of freestanding identification signs for out lots.* In addition to the freestanding identification signs permitted above for an integrated center, individual out lots within an integrated center may qualify for an individual monument sign as set forth below:

(a) 1. If business identification wall signs are located on 0, 1, or 2 façades of the building located on the out lot, 1 monument identification sign may be located on the out lot; or

2. If business identification wall signs are located on 3 or more façades of the building located on the out lot, 0 monument identification signs may be located on the out lot.

(b) If an out lot abuts more than 1 street, 1 additional monument identification sign shall be permitted for each street which abuts the out lot. If an out lot qualifies for an additional monument identification sign, the minimum separation between the additional monument identification sign and any other permitted freestanding identification sign, regardless of orientation of the signs, shall be 100 feet.

(c) In the LI District and GI District, each lot shall be considered an out lot and may qualify for a freestanding identification sign, subject to the limitations listed above in this division.

(2) *Maximum sign surface area of freestanding monument identification signs on out lots.* The maximum sign surface area of freestanding monument identification signs on out lots shall not exceed that specified in Table 152.234E: Sign Surface Area and Height, below:
Table 152.234E: Sign Surface Area and Height
Freestanding Signs for Out Lots in Integrated Centers

<table>
<thead>
<tr>
<th>Regulation</th>
<th>CB</th>
<th>LI/GI</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sign surface area</td>
<td>48 sq. ft.</td>
<td>32 sq. ft.</td>
</tr>
<tr>
<td>Height</td>
<td>6 ft.</td>
<td>4 ft.</td>
</tr>
</tbody>
</table>

(3) Minimum front yard setback, side yard setback, and rear yard setback for freestanding monument identification signs on out lots.

(a) Front yard setback. The minimum front yard setback or front residential bufferyard setback for any freestanding monument identification sign on an out lot shall be 5 feet from the proposed right-of-way.

(b) Side yard setback or rear yard setback. The minimum side yard setback, rear yard setback, side residential bufferyard setback, or rear residential bufferyard setback for a freestanding identification sign shall be the same as required for any building or structure.

(4) Maximum height of freestanding monument identification signs on out lots. The maximum height above grade of freestanding monument identification signs on out lots shall not exceed that specified in Table 152.234E: Sign Surface Area and Height, above.

(D) Building identification signs.

(1) Type of signs. Building identification signs shall be limited to wall signs. In addition, awning signs, canopy signs or marquee signs may be permitted subject to the provisions of division (D)(4), below.

(2) Number of building identification signs. There shall be no limit to the number of building identification signs per façade, provided that the total sign surface area of all building signs located on each building façade shall not exceed the maximum sign surface area for the building façade upon which the signs are located.

(3) Maximum sign surface area of building identification signs.

(a) The total sign surface area of all building identification signs oriented to an individual façade shall not exceed as follows in divisions (D)(3)(a)1. and 2.; provided, however, that for any side façade or rear façade of a building oriented toward a customer parking area or street, the maximum sign surface area for a front façade shall apply:
1. *Front façade.*
   a. OB Districts: 5% of the total area of the front façade of the structure or tenant space; or
   b. LB, CB, LI, and GI Districts: 10% of the total area of the front façade of the structure or tenant space.

2. *Side façade and rear façade.*
   a. OB Districts: 3% of the side façade or rear façade of the structure or tenant space; or
   b. LB, CB, LI, and GI Districts: 5% of the side façade or rear façade of the structure or tenant space.

   (b) The linear measurement of a business identification sign shall not exceed 80% of the linear width of the façade of the structure or tenant space on which the sign is located.

(4) *Awning sign, canopy sign, or marquee sign.* Wherever a wall sign is permitted in a Commercial District or Industrial District, the use of an awning sign, canopy sign, or marquee sign shall be allowed subject to the following provisions.

   (a) *Total area.* The total area of the awning, canopy, or marquee (i.e., the combined 2-dimensional surface area of all sides of the awning, canopy, or marquee) shall not exceed the sign surface area allocated to the façade of the building upon which the awning, canopy, or marquee is attached.

   (b) *Sign surface.* The portion of the awning, canopy, or marquee which includes a sign surface shall not exceed:

   1. Fifty percent of the total area of an awning or canopy; or
   2. Seventy-five percent of the total area of a marquee.

   (c) *Clearance to grade.* The bottom edge of the:

   1. Awning or canopy shall not be less than 8 feet, 6 inches above grade over a walkway;
   2. Marquee shall not be less than 9 feet above grade over a walkway; or
3. Awning, canopy, or marquee shall not be less than 15 feet above grade over a driveway, interior access drive, or alley.

   (d) **Projection from building.** The maximum projection of an awning, canopy, or marquee shall not exceed 8 feet from or beyond its supporting building and shall not project beyond any walkway adjacent to the building.

   (e) **Marquee sign.** A marquee sign may include a non-changeable copy sign attached to or mounted on top of a marquee, subject to the sign surface area limitations set forth above.

   (f) **Encroachment over public right-of-way.** No awning, canopy, or marquee shall encroach into the air rights of any public street right-of-way unless approved by the Indiana Department of Transportation (if applicable) and the town.

(E) **Incidental signs.**

   (1) **Type of signs.** Incidental signs shall be monument signs or wall signs.

   (2) **Number of signs.**

      (a) If a lot or integrated center has 1 driveway incidental directional signs shall be permitted at the driveway entrance or exit;

      (b) If a lot or integrated center has more than 1 driveway, 2 incidental directional signs shall be permitted for each driveway;

      (c) One incidental directional sign or 1 incidental parking and loading sign shall be permitted at each critical turning point along an interior access drive when required to safely direct vehicular traffic (e.g., to direct vehicular traffic to a drive-through facility, a customer or employee parking area, or a delivery or loading area); and

      (d) If a lot is occupied by a use which includes a drive-through facility, 1 menu board shall be permitted adjacent to the drive-through facility as an incidental directional sign to announce the selection of services or products available at the drive-through facility and the prices thereof.

   (3) **Maximum sign surface area of incidental signs.**

      (a) Incidental signs shall not exceed:

         1. OB and LB Districts: 2 square feet in sign surface area per sign; and

         2. CB, LI, and GI Districts: 6 square feet in sign surface area per sign.
(b) Notwithstanding anything contained in this section to the contrary, a menu board sign permitted as an incidental directional sign adjacent to the drive-through facility shall not exceed 48 square feet in sign surface area.

(4) Minimum front yard setback, side yard setback, and rear yard setback for freestanding incidental signs.

(a) Front yard setback or front residential bufferyard setback: 3 feet from the proposed right-of-way.

(b) Side yard setback, rear yard setback, side residential bufferyard setback, and rear residential bufferyard setback: the same as required for any building or structure.

(5) Maximum height of incidental signs.

(a) The maximum height of a freestanding incidental monument sign shall not exceed 4 feet in height above grade.

(b) Notwithstanding anything contained in this section to the contrary, the maximum height of a menu board sign permitted as a freestanding incidental directional monument sign adjacent to a drive-through facility shall not exceed 7 feet in height above grade.

(F) Suspended signs in integrated centers. Suspended signs shall be permitted on any building containing 2 or more individual, non-related, and separately operated uses subject to the following regulations.

(1) There shall be no more than 1 suspended sign per front façade of the structure or tenant space of each grade-level tenant.

(2) The maximum sign surface area of a suspended sign shall not exceed 5 square feet.

(3) All portions of the suspended sign or sign structure shall be not less than 8 feet, 6 inches above finished grade.

(G) Outdoor display area signs. Outdoor display areas shall be permitted additional signs as specified below:

(1) Outdoor display area signs shall be limited to banner signs:

(a) Which are mounted on light poles located on the lot and within or adjacent to the outdoor display area; and

(b) Which are mounted to the light poles with upper and lower horizontal supports.
(2) Individual outdoor display area banner signs shall not exceed the maximum dimensions specified below, either:

(a) Three feet in width by 8 feet in height; or

(b) Three and one-half feet in width by 5-1/2 feet in height.

(3) All individual outdoor display area banner signs placed on a lot shall be of the same dimensions, shall be oriented on the side of the light poles facing toward the outdoor display area, and shall be placed at the same relative location on all light poles;

(4) No light pole shall contain more than 1 banner sign;

(5) The total surface area of all outdoor display area banner signs shall not exceed a ratio of 3 square feet per 1,000 square feet of outdoor display area; and

(6) Outdoor display area banner signs may announce the name of the business, operation, manufacturer, product, or items on display.

(Ord. 1221, § 8.03(d), passed 1-26-2010)

§ 152.235 ON-PREMISES SIGNS: TC DISTRICT.

(A) Freestanding identification signs. Freestanding identification signs shall not be permitted within the TC - Town Center District.

(B) Building identification signs.

(1) Lower level building identification signs.

(a) Building identification signs located on the first 18 feet of building height or the actual building height, whichever is less, shall be considered lower level building identification signs. Lower level building identification signs shall be limited to: wall signs; awning signs, canopy signs or marquee signs subject to the provisions of division (B)(4), below; or projecting signs subject to the provisions of division (B)(3), below.

(b) The total sign surface area of all lower level building identification signs oriented to an individual façade shall not exceed:

1. Front façade. Five percent of the total area of the first 18 feet or the actual building height, whichever is lesser, of front façade of a building; and

2. Side façade and rear façade. Five percent of the total area of the first 18 feet or the actual building height, whichever is lesser, of a side or rear façade of a building.
(2) Upper level building identification signs.

(a) Building identification signs located above the first 18 feet of building height shall be considered upper level building identification signs. Upper level building identification signs shall be limited to wall signs or, projecting signs subject to the provisions of division (B)(3), below.

(b) The total sign surface area of all upper level building identification signs oriented to an individual façade shall not exceed:

1. **Front façade.** Three percent of the total area of the front façade of a building located above 18 feet above grade; and

2. **Side and rear façades.** Three percent of the total area of a side or rear façade of a building located above 18 feet above grade.

(3) Projecting building identification signs.

(a) **Maximum height of projecting building identification signs.** Projecting building identification signs shall not extend above the roof line.

(b) **Sign surface area.**

1. **Total area.** The sign surface area of a projecting building identification sign shall not exceed the sign surface area allocated to either: lower level building identification signs; or upper level building identification signs, whichever is applicable based upon the location on façade of the building upon which the projecting building identification sign is attached.
2. *Sign split between upper and lower levels.* In the case of a projecting building identification sign located partially as a lower level sign and partially as an upper level sign, the sign surface area regulations regarding upper level building identification signs shall apply.

3. *Corner lots.* In the case of a projecting building identification sign located on the corner of a building oriented toward the intersection of 2 or more streets, the corner projecting building identification sign shall count against the total sign surface area of building identification signs authorized on the smaller front façade.

(c) *Maximum number of projecting building identification signs.*

1. *Front façade.* One projecting building identification sign shall be permitted for each 200 feet in width of a front façade of a building oriented toward a street. Whenever more than 1 projecting building identification sign is permitted, the minimum separation between projecting building identification signs oriented toward the same street shall be 100 feet.

2. *Corner lots.* In the case of a building located on a corner lot, a projecting building identification sign may be located at the corner of the building oriented toward the intersection of 2 or more streets; provided, however, that no other projecting building identification signs shall be located on the same building within 100 feet of a corner projecting building identification sign, regardless of orientation.

(d) *Maximum projection from building for projecting building identification signs.*

1. *Projection from building.* No projecting building identification sign or sign structure supporting a projecting building identification sign shall extend more than 5 feet from or beyond its supporting building.

2. *Distance from curb.* No projecting building identification sign or sign structure shall not extend any closer to an imaginary perpendicular vertical plane located at the street pavement line, curb, or outside edge of sidewalk than 3 feet.

3. *Encroachment over right-of-way.* Projecting building identification signs in compliance with the above regulations may project into the air rights of a public right-of-way if approval for the encroachment into the air rights of a public right-of-way is obtained from the town, prior to the placement of the projecting building identification sign.

(e) *Minimum height above grade for a projecting building identification sign.* The bottom edge of a projecting building identification sign shall not be less than 10 feet above grade over a walkway or 15 feet above grade over a driveway.

(4) *Awning sign, canopy sign or marquee sign.* Wherever a lower level building identification sign is permitted, the use of an awning sign, canopy sign or marquee sign shall be allowed subject to the following provisions:
New Carlisle - Land Usage

(a) **Sign surface.** The portion of the awning, canopy or marquee which includes a sign surface shall not exceed 5% of the area of the applicable façade and further shall not exceed:

1. Fifty percent of the total area of an awning or canopy; or
2. Seventy-five percent of the total area of a marquee.

(b) **Relative size.** No building identification sign located on an awning, canopy or marquee shall occupy more than 80% of the width of the awning, canopy, or marquee.

(c) **Marquee sign.** A marquee sign shall be limited to theater uses and may include a non-changeable copy sign attached to or mounted on top of a marquee, subject to the sign surface area limitations set forth above.

(5) **Suspended signs.** Suspended signs shall be permitted on any building containing an awning or canopy sign subject to the following regulations.

(a) There shall be no more than 1 suspended sign per front façade of the structure or tenant space of each grade-level tenant.

(b) The maximum sign surface area of a suspended sign shall not exceed 5 square feet, which shall not be counted against the maximum permitted sign surface area for lower level building identification signs.

(c) All portions of the suspended sign or sign structure shall be not less than 8 feet, 6 inches above finished grade.

(C) **Incidental signs.**

(1) **Type of signs.** Incidental signs shall be monument signs or wall signs.

(2) **Number of signs.**

(a) If a lot has 1 driveway, 2 incidental directional signs shall be permitted at the driveway entrance or exit;

(b) If a lot has more than 1 driveway, 1 incidental directional sign shall be permitted for each driveway; and

(c) One incidental directional sign or 1 incidental parking and loading sign shall be permitted at each critical turning point along an interior access drive when required to safely direct vehicular traffic (e.g., to direct vehicular traffic to: a drive-up window; a customer or employee parking area; or a delivery or loading area).
(3) **Maximum sign surface area of incidental signs.** The maximum sign surface area of incidental signs shall not exceed 4 square feet in sign surface area per sign.

(4) **Minimum front yard setback, side yard setback, and rear yard setback for freestanding incidental signs.** There shall be no minimum required front yard setback, side yard setback, or rear yard setback for freestanding incidental signs; provided, however, such signs shall not encroach into any public right-of-way.

(5) **Maximum height of freestanding incidental signs.** The maximum height of a freestanding incidental monument sign shall not exceed 4 feet in height above grade.

(D) **General regulations for signs in the TC - Town Center District.**

(1) **Illumination.**

   (a) No sign located in the TC - Town Center District shall be internally illuminated.

   (b) Sign illumination, if provided, shall be provided by way of:

   1. Wall or structure mounted decorative sconces or coach lights which are architecturally compatible with the building;

   2. Wall or structure mounted gooseneck lamps with a metal shade and decorative mounting which are architecturally compatible with the building;

   3. Wall-wash lights mounted behind opaque individual letters or elements; or

   4. Shielded up-lights mounted in an open area beneath the sign.

(2) **Design.**

   (a) **Sign band.** Building identification signs installed above storefronts or on the ground floor façade should form a clearly articulated band and be integrated into the overall building façade design.

   (b) **Architectural detail.** Building identification signs shall be designed so as to not interfere with architectural details or interrupt the rhythm of columns or fenestration.

   (c) **Maximum size of letters or logos.** The maximum size of any individual letter or logo used as part of any building identification sign shall not exceed 2.5 feet in any horizontal or vertical dimension.

(Ord. 1221, § 8.03(e), passed 1-26-2010)
§ 152.236 OFF-PREMISES SIGNS.

(A) Districts allowed. Off-premises signs shall only be permitted in the CB - Community Business Districts, LI - Light Industrial Districts, and GI - General Industrial Districts established under this chapter.

(B) Types of signs. Off-premises signs shall be limited to pole signs.

(C) Sign surface area for off-premises signs.

(1) Arterial streets. The maximum sign surface area for off-premises signs oriented toward an arterial street shall be 672 square feet.

(2) All other streets. The maximum sign surface area for off-premises signs oriented toward any street not classified as an arterial street shall be 300 square feet.

(3) Number of displays. An off-premises sign shall not contain more than 2 displays or messages per sign surface.

(4) Temporary extensions. Temporary extensions or embellishments integrally incorporated into the sign surface and having: a vertical height of no more than 4 feet above the top of the main portion of the sign; a maximum horizontal dimension of no more than 1 foot beyond the sides of the main portion of the sign; or a maximum vertical dimension of no more than 1 foot below the bottom of the main portion of the sign, with a maximum combined area not to exceed 200 square feet in additional sign surface area may be added to a 672-square-foot off-premises sign.

(5) Concealment of sign supports. The backs of off-premises signs shall be: concealed by another sign surface; screened by suitable architectural treatment; or painted to blend with the surrounding (and maintained as such), so that the supports, tie rods, bracing, or framework which supports the sign surface is screened from view.

(6) Empty displays prohibited. Empty sign surfaces, or signs without a display or message covering the entire sign surface, shall be prohibited. This regulation shall apply individually to each display surface.

(D) Distance between off-premises signs.

(1) Linear spacing/all streets. The minimum separation between off-premises signs located along and oriented toward the same street shall be 750 feet.

(2) Measurement of linear spacing. The method of measurement of the spacing between off-premises signs oriented toward the same street shall be along the centerline of the street to which the
off-premises sign is oriented, from the point in the centerline closest to the leading edge of the off-premises sign.

(3) **Radial spacing.** In no event shall an off-premises sign be located closer than 300 feet from any other off-premises sign regardless of location or orientation.

(E) **Maximum height of off-premises signs.** The maximum height of an off-premises pole sign shall not exceed 35 feet above grade.

(F) **Minimum front yard setback, side yard setback, and rear yard setback of off-premises signs.**

(1) **Front yard setback.** The minimum front yard setback shall be the same as required for any building or structure.

(2) **Side yard setback and rear yard setback.** The minimum side yard setback or minimum rear yard setback for an off-premises sign shall be the same as required for any building or structure.

(G) **Separation from certain districts or uses.**

(1) **Linear spacing.** The minimum distance between an off-premises sign and a Residential District, Town Center District, public park - active or passive, residential use, religious use, private or parochial school, or designated historic landmark shall be 200 feet, measured along the centerline of the street to which the off-premises sign is oriented, from the point in the centerline closest to the leading edge of the off-premises sign to the point in the centerline nearest district boundary or lot line of a use specified herein.

(2) **Radial spacing.** The minimum distance between an off-premises sign and a Residential District, Town Center District, public park - active or passive, residential use, religious use, private or parochial school, or designated historic landmark shall be 100 feet, measured perpendicular from the nearest edge of the sign surface to the nearest district boundary or lot line of a use specified herein.

(H) **Construction of off-premises signs.** The supports, uprights, bracing, and framework of an off-premises sign shall be of steel construction.

(I) **Separations/jurisdictional boundaries.** The lineal and radial separation distances contained in this section shall not be limited by jurisdictional boundaries. Required separation distances for proposed off-premises signs located within the corporate limits of the town shall also be maintained from off-premises signs located in adjacent municipalities or jurisdictional areas.

(Ord. 1221, § 8.03(f), passed 1-26-2010)
§ 152.250 INTENT.

These off-street parking regulations are intended to provide for the provision of off-street parking areas which are adequate to support the needs of proposed uses and future uses of a site while at the same time assuring that the design and construction of the off-street parking areas meet minimum design standards necessary to promote efficient circulation and prevent undue traffic congestion.
(Ord. 1221, Art. 8.04, passed 1-26-2010)

§ 152.251 APPLICABILITY.

(A) Parking for buildings, structures, or uses. All new development, additions to buildings or structures, or conversions of use for which an improvement location permit is required by this chapter in any district shall provide required off-street parking areas in accordance with the regulations of this subchapter. Such off-street parking areas may be provided in either a surface parking area or a parking garage. If off-street parking areas are provided in a parking garage, the parking garage shall be located in compliance with the development standards of the applicable district of this chapter regarding: minimum yards and setbacks; landscaping of perimeter yards and residential bufferyards (§ 152.187); and foundation landscaping (§ 152.188).

(B) Exceptions to off-street parking regulations for any TC District. A site in the TC District may include on-street parking located immediately adjacent to the site, if the adjacent on-street parking is approved as to location and design by the Indiana Department of Transportation (if applicable) and the town. If on-street parking is provided, the amount of off-street parking required by this chapter for the site shall be deemed to be reduced by the number of on-street parking spaces provided immediately adjacent to the site.
(Ord. 1221, § 8.04(a), passed 1-26-2010)

§ 152.252 EXISTING PARKING AREAS.

Existing off-street parking areas shall not be reduced below the minimum requirement for such use as required by this chapter. Any off-street parking areas existing prior to the effective date of this chapter which were already below the standards established by this chapter shall not be further reduced.
(Ord. 1221, § 8.04(b), passed 1-26-2010)

§ 152.253 LOCATION OF PARKING AREAS.

(A) Off-street parking areas shall be located:
(1) On the same lot as the building, structure, or use served by the off-street parking area;

(2) Within the same integrated center, business park, or industrial park as the building, structure, or use served by the off-street parking area; or

(3) Within 500 feet of the building, structure or use served by the off-street parking area, provided that the off-site location for the off-street parking area is approved by the Town Council as a special exception use where:

   (a) The off-street parking area shall be located within a district which permits the use for which the off-street parking is provided; and

   (b) A written agreement, properly drawn and executed by the parties concerned, approved as to form by the Town Attorney, and recorded in the office of Recorder for St. Joseph County assuring the availability of the off-street parking area is filed with the Board of Zoning Appeals as part of the request for approval of the special exception.

   (B) In addition to the above location requirements, the location of off-street parking areas in Residential Districts shall not be located in violation of the provisions set forth in § 152.087.
   (Ord. 1221, § 8.04(c), passed 1-26-2010)

§ 152.254 DESIGN AND CONSTRUCTION OF OFF-STREET PARKING AREAS.

The design and construction of all required off-street parking areas shall be in compliance with the stricter of the regulations contained in this section, or the minimum specifications prescribed by the town.

(A) Design of parking areas.

(1) Layout. The layout of all off-street parking areas shall be in compliance with 1 of the options set forth below:

   (a) Option 1: in the Architectural Graphic Standards, Tenth Edition, or most current edition, for a level of service “A” or “B”; or

   (b) Option 2: in the Table 152.254: Parking Lot Design, below:
Table 152.254: Parking Lot Design

<table>
<thead>
<tr>
<th>Angle of Parking Space</th>
<th>Minimum Width of Parking Space</th>
<th>Minimum Depth of Parking Space</th>
<th>Minimum Width of Maneuvering Aisle</th>
</tr>
</thead>
<tbody>
<tr>
<td>61° - 90°</td>
<td>9 ft.-0 in.</td>
<td>20 ft.-0 in.</td>
<td>24 ft.-0 in.</td>
</tr>
<tr>
<td>46° - 60°</td>
<td>9 ft.-0 in.</td>
<td>19 ft.-0 in.</td>
<td>18 ft.-0 in. (1 way)</td>
</tr>
<tr>
<td>45°</td>
<td>8 ft.-6 in.</td>
<td>18 ft.-0 in.</td>
<td>15 ft.-0 in. (1 way)</td>
</tr>
<tr>
<td>Parallel</td>
<td>8 ft.-0 in.</td>
<td>22 ft.-0 in.</td>
<td>12 ft.-0 in. (1 way)</td>
</tr>
</tbody>
</table>

Example of Parallel Parking Regulations

Example of Parking Lot Design Regulations

(2) Landscaping. Except for individual single family dwellings or 2 family dwellings, the layout of all off-street parking areas shall comply with the design related regulations contained in §§ 152.189 and 152.192.
(3) **Definition of off-street parking spaces.** Except individual single family dwellings or 2 family dwellings, all off-street parking spaces shall be:

(a) Identified by painted lines (minimum 4 inches in width), raised curbs, or other means to indicated individual spaces; and

(b) Provided with a raised curb, wheel stops, or other devices to ensure that motor vehicles do not encroach beyond the off-street parking area or into a required yard.

(B) **Surface of off-street parking areas.** All required off-street parking areas and any driveway, interior access driveway, or interior access drive to and from the off-street parking areas shall be hard surfaced with asphalt, concrete, pervious concrete, or other material to provide a durable, dust-free surface, which meets or exceeds the minimum specifications prescribed by the town, provided, however, a temporary or seasonal use permitted by the district in which the temporary or seasonal use is located may use an unimproved or gravel surface for the duration of the temporary or seasonal use. If a temporary gravel surface is provided, the gravel shall be removed and the off-street parking area shall be returned to its prior condition immediately upon cessation of the temporary or seasonal use. (Ord. 1221, § 8.04(d), passed 1-26-2010)

§ 152.255 MINIMUM NUMBER OF REQUIRED OFF-STREET PARKING SPACES.

Off-street parking for all uses shall be provided in accordance with the minimum requirements set forth in Table 152.256: Minimum ADA Parking Spaces and § 152.258, Required Off-Street Parking, below. When the computation of required off-street parking spaces results in a fraction of 1/2 or greater, the number of required off-street parking spaces shall be rounded up to the next whole number.

(A) **Increase in intensity of use.** Additional off-street parking spaces shall be required whenever: a change of use of a building, structure, or lot; or an addition to any unit of measurement specified herein (i.e., dwelling units, gross floor area, seating capacity, number of employees, and the like), results in an increase in the minimum number of required off-street parking spaces to an extent of 15% or more than the number of off-street parking spaces existing on the effective date of this chapter on the single use site, integrated center, or industrial park, as the case may be, whether the total increase occurs at 1 time or in successive stages.

(B) **Units of measurements.**

(1) **Employees.** The number of employees shall be compiled based upon the maximum number of persons employed on the premises at any 1 time on an average day or average night, whichever is greater.

(2) **Gross floor area.** Gross floor area shall be determined per the definition of gross floor area in § 152.426.
(3) **Seating capacity/building capacity.** Seating or building capacity shall be based upon the determination of the Fire Chief/Building Code regarding maximum building capacity.

(C) **Reduction for combined off-street parking areas.**

(1) Where an integrated center or industrial park proposes uses with dissimilar peak time parking demands are proposed, an alternate parking plan may be approved in connection with the issuance of an improvement location permit in which a combined off-street parking area is provided. The total number of off-street parking spaces which are developed in a shared off-street parking area may be adjusted as indicated in Table 152.255: Parking Reduction Percentages, below.

(2) The minimum total number of off-street parking spaces to be initially improved under an alternate parking plan shall be the greatest total number of off-street parking spaces calculated under the following scenarios:

<table>
<thead>
<tr>
<th>Use</th>
<th>Weekday</th>
<th>Weekend</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Daytime (6:00 a.m. to 6:00 p.m.)</td>
<td>Evening (6:00 p.m. to 6:00 a.m.)</td>
</tr>
<tr>
<td>Hotel/motel</td>
<td>75%</td>
<td>100%</td>
</tr>
<tr>
<td>Office/ professional service</td>
<td>100%</td>
<td>10%</td>
</tr>
<tr>
<td>Industrial</td>
<td>100%</td>
<td>10%</td>
</tr>
<tr>
<td>Food sales and service</td>
<td>50%</td>
<td>100%</td>
</tr>
<tr>
<td>Retail</td>
<td>60%</td>
<td>90%</td>
</tr>
<tr>
<td>Recreation</td>
<td>40%</td>
<td>100%</td>
</tr>
<tr>
<td>Other</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>

**Parking Reduction Example:** Assume an integrated center including an office building, multiple retail uses, and movie theater which, under the basic minimum requirements of this chapter, would be required to provide a total of 225 off-street parking spaces as set forth below.
Parking Reduction Example

<table>
<thead>
<tr>
<th></th>
<th>Basic Minimum</th>
<th>Weekday Daytime</th>
<th>Weekday Evening</th>
<th>Weekend Daytime</th>
<th>Weekend Evening</th>
<th>Weekend Nighttime</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office</td>
<td>50</td>
<td>50</td>
<td>5</td>
<td>5</td>
<td>3*</td>
<td>3*</td>
</tr>
<tr>
<td>Retail</td>
<td>100</td>
<td>60</td>
<td>90</td>
<td>100</td>
<td>70</td>
<td>5</td>
</tr>
<tr>
<td>Theater</td>
<td>75</td>
<td>40</td>
<td>75</td>
<td>60</td>
<td>75</td>
<td>8*</td>
</tr>
<tr>
<td>TOTAL</td>
<td>225</td>
<td>150</td>
<td>170</td>
<td>165</td>
<td>148</td>
<td>16</td>
</tr>
</tbody>
</table>

* Note: Numbers have been rounded up per the requirements of § 152.255.

Result: Under an alternate parking plan approval, the minimum total number of off-street parking spaces may be reduced from 225 off-street parking spaces to 170 off-street parking spaces (the reduction alternative which requires the greatest number of off-street parking spaces).

(Ord. 1221, § 8.04(e), passed 1-26-2010)

§ 152.256 REQUIRED PARKING FOR THE DISABLED.

(A) Every off-street parking area and parking garage available to the public shall have parking spaces reserved for the use of physically handicapped persons as specified in Table 152.256: Minimum ADA Parking Spaces, below (as required by ADA Accessibility Guidelines for Buildings and Facilities, Chapter 4.1.2 (5)(a), published in the Federal Register, Volume 56, No. 144, dated July 26, 1991); provided, however, facilities which provide medical care and other services to persons with mobility impairments shall provide ADA parking spaces as follows:

1. Outpatient units and facilities: 10% of the total number of off-street parking spaces; and

2. Units and facilities that specialize in treatment services for persons with mobility impairments: 20% of the total number of off-street parking spaces.

(B) Minimum ADA parking spaces:

<table>
<thead>
<tr>
<th>Total Parking Spaces Required</th>
<th>Minimum Number of Reserved Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 - 25</td>
<td>1</td>
</tr>
<tr>
<td>26 - 50</td>
<td>2</td>
</tr>
</tbody>
</table>
Table 152.256: Minimum ADA Parking Spaces

<table>
<thead>
<tr>
<th>Total Parking Spaces Required</th>
<th>Minimum Number of Reserved Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>51 - 75</td>
<td>3</td>
</tr>
<tr>
<td>76 - 100</td>
<td>4</td>
</tr>
<tr>
<td>101 - 150</td>
<td>5</td>
</tr>
<tr>
<td>151 - 200</td>
<td>6</td>
</tr>
<tr>
<td>201 - 300</td>
<td>7</td>
</tr>
<tr>
<td>301 - 400</td>
<td>8</td>
</tr>
<tr>
<td>401 - 500</td>
<td>9</td>
</tr>
<tr>
<td>501 - 1,000</td>
<td>2% of the total number of off-street parking spaces</td>
</tr>
<tr>
<td>1,001 and over</td>
<td>20, plus 1 for each 100 off-street parking spaces over 1,000</td>
</tr>
</tbody>
</table>

(Ord. 1221, § 8.04(f), passed 1-26-2010)

§ 152.257 BICYCLE RACKS.

In order to encourage alternative means of transportation, any off-street parking area which contains in excess of 50 parking spaces shall provide a bicycle rack capable of parking a minimum of 10 bicycles. The bicycle rack shall be so located as to provide reasonable visibility and security while not interfering with the safe and efficient movement of pedestrians or motor vehicles about the lot.  
(Ord. 1221, § 8.04(g), passed 1-26-2010)

§ 152.258 REQUIRED OFF-STREET PARKING TABLE.

All uses shall provide a minimum number of off-street parking spaces as indicated below.

<table>
<thead>
<tr>
<th>Use</th>
<th>Parking Spaces Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ambulance and armored car service</td>
<td>1 parking space per vehicle plus 1 parking space per on-duty employee</td>
</tr>
<tr>
<td>Amusement centers, skating rinks, pools, natatoriums, exhibition halls</td>
<td>1 parking space per 100 square feet of floor area in public use</td>
</tr>
<tr>
<td>Use</td>
<td>Parking Spaces Required</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Amusement park</td>
<td>5 parking spaces per 1,000 square feet of gross floor area within buildings plus 1.5 parking spaces per 1,000 square feet of site area accessible to the public, exclusive of the parking area</td>
</tr>
<tr>
<td>Assembly facilities without fixed seats, including dance halls, martial arts schools, aerobic and exercise centers, and similar studios or centers</td>
<td>1 parking space per every 25 square feet of floor area in public use</td>
</tr>
<tr>
<td>Automobile, motorcycle, truck, bus, RV and boat sales</td>
<td>1 parking space per 300 square feet of sales floor area in excess of 1,000 square feet plus 1 parking space per 2,000 square feet of open area</td>
</tr>
<tr>
<td>Automotive repair or service facility</td>
<td>5 parking spaces per 1,000 square feet of gross floor area devoted to retail sales of automotive supplies or parts, plus 2 parking spaces per service bay (a service bay shall not be considered a parking space), plus 3 customer parking spaces</td>
</tr>
<tr>
<td>Bar, tavern, nightclub, cabaret, and other establishments for the sale of beer or intoxicating liquor for consumption on the premises</td>
<td>1 parking space per every 3 persons based upon the maximum number of persons that can be accommodated at the same time in accordance with design capacity</td>
</tr>
<tr>
<td>Barber shop/beauty shop/hair salon/manicure shop/tanning salon</td>
<td>3 parking spaces per each customer seat or service station</td>
</tr>
<tr>
<td>Boarding houses</td>
<td>1 parking space per 2 guest rooms plus 1 parking space for owner or manager</td>
</tr>
<tr>
<td>Bowling alleys</td>
<td>5 parking spaces per alley. If, in addition, there are other uses or accessory uses located within or operated in conjunction with the bowling alley, such as restaurants, bars, taverns, nightclubs, and the like, additional parking spaces, calculated based upon the parking requirements for that specific use, shall be provided (calculation shall be based upon the total square feet of gross leasable floor area for such uses located within or operated in conjunction with the bowling alley)</td>
</tr>
<tr>
<td>Broadcasting, movie or video producing or recording studios</td>
<td>1 parking space per 200 square feet of gross floor area</td>
</tr>
<tr>
<td>Use</td>
<td>Parking Spaces Required</td>
</tr>
<tr>
<td>-------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Car washes</td>
<td>Stacking spaces per wash bay, as required for a drive-through facility, plus 3.5 parking spaces per 1,000 square feet of gross floor area devoted to office or retail sales</td>
</tr>
<tr>
<td>Casinos, approved hotels or buildings wherein gambling games are conducted</td>
<td>1 parking space per each employee plus 1 parking space per each 3 persons based upon the maximum number of persons that can be accommodated at the same time in accordance with the design capacity</td>
</tr>
<tr>
<td>College/university</td>
<td>1 parking space per 2 employees, plus 1 parking space per every 10 students based upon the maximum number of students that can be accommodated in accordance with the design capacity, or 1 parking space per 5 seats in the main auditorium, whichever is greater</td>
</tr>
<tr>
<td>Commercial, trade, or business schools</td>
<td>40 parking spaces per each 1,000 square feet of classrooms</td>
</tr>
<tr>
<td>Child care centers</td>
<td>1 parking space per employee plus 3 additional parking spaces</td>
</tr>
<tr>
<td>Financial institutions/banks</td>
<td>1 parking space per 200 square feet of gross floor area, plus parking spaces as required for each walk-up, drive-through, or freestanding bank machine</td>
</tr>
<tr>
<td>Financial institutions/banks - freestanding bank machines, walk-up or drive-through</td>
<td>1 parking space for each walk-up, drive-through or freestanding bank machine, plus stacking spaces as required for a drive-through facility for any drive-through or freestanding bank machine accessible from an automobile</td>
</tr>
<tr>
<td>Funeral homes and mortuaries</td>
<td>1 parking space per every 50 square feet of gross floor area in service rooms</td>
</tr>
<tr>
<td>Gasoline stations and public garages</td>
<td>1 parking space per each employee, plus 2 parking spaces for each service bay</td>
</tr>
<tr>
<td>Grocery store</td>
<td>5 parking spaces per 1,000 square feet of gross floor area</td>
</tr>
<tr>
<td>Gun clubs, skeet, target or archery ranges</td>
<td>1 parking space per every 2 employees, plus 1 parking space per shooting position</td>
</tr>
<tr>
<td>Use</td>
<td>Parking Spaces Required</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Hardware/paint/home improvement store</td>
<td>5 parking spaces per 1,000 square feet of gross floor area</td>
</tr>
<tr>
<td>Hospitals, sanitariums, rehabilitation centers and emergency medical</td>
<td>1 parking space per every 4 patient beds, plus 1 parking space per every 2 employees, plus 1 parking space per staff doctor</td>
</tr>
<tr>
<td>care service centers</td>
<td></td>
</tr>
<tr>
<td>Hotels and motels</td>
<td>1 parking space per guest room, plus 2 parking spaces at office or registration area. If, in addition to guest rooms, there are other uses or accessory uses located within or operated in conjunction with the hotel or motel, such as ballrooms, meeting rooms, dining areas, retail stores, auditoriums, bars, restaurants, taverns, nightclubs, and the like, additional parking spaces, calculated based upon the parking requirements for that specific use, shall be provided (calculation shall be based upon the total square feet of gross leasable floor area for such uses located within or operated in conjunction with the hotel or motel)</td>
</tr>
<tr>
<td>Laundromats</td>
<td>1 parking space per every 2 washing machines, plus 1 parking space per every 2 employees</td>
</tr>
<tr>
<td>Libraries, museums and art galleries</td>
<td>10 parking spaces, plus 1 parking space per every 300 square feet of gross floor area over 2,000 square feet</td>
</tr>
<tr>
<td>Industrial: assembly or manufacturing</td>
<td>1 parking space for each 1,000 square feet of gross floor area devoted to such use. If, in addition, there is space devoted to office, retail or other uses specified elsewhere in these regulations, parking required for the additional use shall also be provided</td>
</tr>
<tr>
<td>Industrial: warehouse or distribution</td>
<td>1 parking space for each 3,000 square feet of gross floor area. If, in addition, there is space devoted to office, retail or other uses specified elsewhere in these regulations, parking required for the additional use shall also be provided</td>
</tr>
<tr>
<td>Medical and dental clinics</td>
<td>5 parking spaces per each doctor</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Use</th>
<th>Parking Spaces Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mobile home parks</td>
<td>1.5 parking spaces per mobile home park lot plus there shall be a conveniently located area for visitor parking at a ratio of 1/2 space per lot; provided, however, in no case shall there be less than 25 parking spaces provided per mobile home park</td>
</tr>
<tr>
<td>Nursing, convalescent, rest homes, residential facilities for the developmentally disabled, and other health homes and institutions</td>
<td>1 parking space per every 4 beds plus 1 parking space per every 2 employees, plus 1 parking space per staff doctor</td>
</tr>
<tr>
<td>Off-track pari-mutuel wagering facility</td>
<td>1 parking space per each employee, plus 1 parking space per every 3 persons based upon the maximum number of persons that can be accommodated at the same time in accordance with the design capacity</td>
</tr>
<tr>
<td>Offices and office buildings</td>
<td>3.5 parking spaces per 1,000 square feet of gross floor area</td>
</tr>
<tr>
<td>Private clubs, dormitories, fraternities, sororities, and lodges - with sleeping rooms</td>
<td>2 parking spaces per every 3 sleeping rooms or 1 parking space per every 5 members, whichever is greater</td>
</tr>
<tr>
<td>Private clubs, fraternities, sororities, and lodges - no sleeping rooms</td>
<td>1 parking space per every 5 members</td>
</tr>
<tr>
<td>Publishing establishments, newspaper or printing shops</td>
<td>2 parking spaces per 1,000 square feet of gross floor area, plus 3.5 parking spaces per 1,000 square feet devoted to office or related retail activities</td>
</tr>
<tr>
<td>Railroad or motor bus passenger stations or heliports</td>
<td>1 parking space per every 50 square feet of gross floor area, plus 1 parking space per every 2 employees</td>
</tr>
<tr>
<td>Refuse dumps or landfills</td>
<td>1 parking space per employee</td>
</tr>
<tr>
<td>Religious uses - churches or temples</td>
<td>1 parking space per every 4 seats in the main sanctuary, auditorium, or assembly room</td>
</tr>
<tr>
<td>Residential: Multifamily, including apartment houses</td>
<td>2 parking spaces per dwelling unit</td>
</tr>
<tr>
<td>Residential: Single Family</td>
<td>1 parking space per dwelling unit</td>
</tr>
<tr>
<td>Residential: 2 Family</td>
<td>2 parking spaces per dwelling unit</td>
</tr>
<tr>
<td><strong>Use</strong></td>
<td><strong>Parking Spaces Required</strong></td>
</tr>
<tr>
<td>---------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td>Restaurants: family restaurant, family restaurant with lounge, fast food restaurant</td>
<td>1 parking space per each 3 customer seats based upon the maximum number of persons that can be accommodated at the same time in accordance with design capacity (including outdoor seating areas) (minimum of 5 parking spaces required)</td>
</tr>
<tr>
<td>Restaurants: drive-in restaurant</td>
<td>1 parking space per customer service unit, plus 10 parking spaces per 1,000 square feet of gross floor area (minimum of 4 additional parking spaces required)</td>
</tr>
<tr>
<td>Restaurants: drive-through only (no seating)</td>
<td>1 parking space per one employee (minimum of 5 parking spaces required)</td>
</tr>
<tr>
<td>Retail - integrated centers</td>
<td>&lt; 400,000 sq. ft. - If the total gross leasable floor area of an integrated center is less than 400,000 square feet, 4 parking spaces per 1,000 square feet of gross leasable floor area shall be required</td>
</tr>
<tr>
<td></td>
<td>400,000 - 600,000 sq. ft. - If the total gross leasable floor area of an integrated center is greater than 400,000 square feet, but less than 600,000 square feet, 4.5 parking spaces per 1,000 square feet of gross leasable floor area shall be required</td>
</tr>
<tr>
<td></td>
<td>&gt; 600,000 sq. ft. - If the total gross leasable floor area of an integrated center is greater than 600,000 square feet, 5 parking spaces per 1,000 square feet of gross leasable floor area shall be required</td>
</tr>
<tr>
<td>Provided, however:</td>
<td></td>
</tr>
<tr>
<td>(1) In no case shall any integrated center provide less than 5 parking spaces; and</td>
<td></td>
</tr>
<tr>
<td>Retail - integrated centers (Cont’d)</td>
<td>(2) The following individual uses: grocery store; hardware/paint/home improvement store; theaters; bowling alley; bar; tavern; nightclub; cabarets; or other establishments for the sale of beer or intoxicating liquor for consumption on the premises, shall provide parking spaces as required for the individual use by this section, and the calculation shall be separate from the calculation of the gross leasable floor area calculation of the integrated center</td>
</tr>
<tr>
<td><strong>Use</strong></td>
<td><strong>Parking Spaces Required</strong></td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Retail - single use sites</td>
<td>&lt; 100,000 sq. ft. - 3.5 parking spaces per 1,000 square feet of gross floor area, provided, however, that in no case shall any individual use provide less than a total of 5 parking spaces</td>
</tr>
<tr>
<td></td>
<td>100,000 sq. ft. and over - 2.5 parking spaces per 1,000 square feet of gross floor area</td>
</tr>
<tr>
<td>Schools: nursery, elementary and junior high schools</td>
<td>1 parking space per classroom and office or 1 parking space per every 10 seats in auditorium, whichever is greater</td>
</tr>
<tr>
<td>Schools: senior high schools</td>
<td>1 parking space per every 10 classroom seats, plus 1 parking space per every 2 staff members</td>
</tr>
<tr>
<td>Service or repair establishments</td>
<td>3.5 parking spaces per every 1,000 square feet of gross floor area</td>
</tr>
<tr>
<td>Theatres, auditoriums, gymnasiums, stadiums, arenas, convention halls, and places of assembly with fixed seats</td>
<td>1 parking space per every 5 seats, plus 1 parking space per every 2 employees</td>
</tr>
<tr>
<td>Veterinary hospitals, animal kennels and pounds</td>
<td>1 parking space per every 400 square feet of gross floor area</td>
</tr>
<tr>
<td><strong>Minimum parking required</strong></td>
<td>Except for residential uses, in no case shall any individual, non-related and separately operated use provide less than 3 parking spaces</td>
</tr>
<tr>
<td><strong>Uses not specified</strong></td>
<td>For any use not specified above, specific requirements shall be determined by the Zoning Administrator and shall be based upon requirements for similar uses, expected demand and traffic generated by the proposed use, and other information from appropriate traffic engineering and planning criteria</td>
</tr>
</tbody>
</table>

(Ord. 1221, Art. 8.04, passed 1-26-2010)
OFF-STREET LOADING REGULATIONS

§ 152.270 INTENT.

These off-street loading regulations are intended to provide for the provision of off-street loading areas which are adequate to support the needs of the proposed use and future uses of a site while at the same time assuring that the design and construction of such off-street loading areas meet minimum design standards necessary to provide efficient circulation and prevent undue traffic congestion.
(Ord. 1221, Art. 8.05, passed 1-26-2010)

§ 152.271 LOADING FOR BUILDINGS, STRUCTURES, OR USES.

All commercial/town center or industrial development or conversions of use for which an improvement location permit is required by this chapter shall provide off-street loading areas in accordance with the regulations in this subchapter.
(Ord. 1221, § 8.05(a), passed 1-26-2010)

§ 152.272 DESIGN AND CONSTRUCTION OF LOADING AREAS.

(A) The design and construction of all required loading spaces or excess loading spaces shall be in compliance with the stricter of the regulations contained in this section, or the minimum specifications prescribed by the town.

(B) The following standards shall apply to the design of off-street loading areas.

(1) Loading space dimensions. A required or excess off-street loading space shall be at least 12 feet in width by at least 60 feet in length, exclusive of aisle and maneuvering space, and shall have a vertical clearance of at least 14 feet.

(2) Minimum aisle width. Each required off-street loading space shall open directly upon an aisle or interior access drive with a width of at least 35 feet and creating a total maneuvering area, inclusive of the loading space, of at least 105 feet, unless subject to the provisions of division (B)(4) below regarding excess loading spaces.
(3) **Maneuvering.** Each maneuvering area, aisle and interior access drive utilized to access a required loading space or an excess loading space shall be so designed and located as to provide safe and efficient ingress/egress to each loading space and so that trucks do not back from or into a public street, or onto an adjoining property (unless the subject property and the adjoining property are located within the same integrated center or industrial park and such maneuvering area is subject to a recorded easement allowing the maneuvering).

(4) **Design of excess loading areas.** Any use which provides loading spaces at a rate of greater than 4 loading spaces, and more than 2 times the minimum required by this chapter, shall provide a total maneuvering area of at least 105 feet which is separate and distinct from the minimum aisle width requirement of 35 feet.
(5) *Alternate design for loading areas.* In those instances where insufficient area exists to provide for perpendicular loading spaces as allowed by division (B)(2) or division (B)(4) above, angled or parallel loading spaces may be proposed, provided:

(a) The design of the loading area shall include either a 1-way traffic pattern or orients the loading spaces so that traffic flow from the loading spaces is in the direction of traffic movement on the side of aisle on which the loading spaces are located;

(b) The loading spaces are accessed by an aisle or interior access drive having a width of not less than 35 feet plus sufficient maneuvering area outside of the aisle of the interior access drive, based upon the angle of the loading spaces, to provide safe and efficient maneuverability; and

(c) The design of the angled or parallel loading spaces shall be subject to the approval of the Public Works Director/Town Engineer.

(Ord. 1221, § 8.05(b), passed 1-26-2010)

§ 152.273 LOCATION OF OFF-STREET LOADING SPACES.

(A) All off-street loading spaces shall be located on the same lot as the use served.

(B) No off-street loading spaces shall be located between the front lot line and the front façade of any portion of the building served; provided, however, in the case of a double frontage lot, off-street loading spaces may be located between a front lot line of a perimeter street and the rear of the building served if: no access is provided across the front lot line; and the yard between the off-street loading spaces and the front lot line is landscaped in compliance with the regulations of §§ 152.185 through 152.194 for a Type C: Full Screening landscaping.

![Diagram of Locations for Off-Street Loading Spaces](image-url)
(C) All off-street loading spaces shall be oriented toward a side lot line or rear lot line.

(D) No off-street loading spaces shall be located in a required side yard, required rear yard, required side residential bufferyard or required rear residential bufferyard.

(E) Office, professional services, retail, or other non-industrial uses may provide 1 required loading space per building in a “pull-off” loading area located adjacent to an interior access drive. A “pull-off” loading area shall not be subject to the prohibition against being located between the front lot line and front façade of any portion of the building served set forth in division (C) above.

(Ord. 1221, § 8.05(c), passed 1-26-2010)
§ 152.274 USE OF REQUIRED LOADING AREA.

Space allocated for required or excess off-street loading spaces and associated maneuverability shall not be used to satisfy off-street parking space requirements.
(Ord. 1221, § 8.05(d), passed 1-26-2010)

§ 152.275 SURFACE OF LOADING AREAS.

All off-street loading areas and the ingress/egress to and from such off-street loading areas located on the lot shall be hard surfaced with asphalt, concrete or other material to provide a durable, dust-free surface.

(Ord. 1221, § 8.05(e), passed 1-26-2010)

§ 152.276 SPECIAL REGULATIONS FOR GASOLINE SERVICE STATIONS.

The site design of any gasoline service station shall provide for the safe and efficient ingress and egress to the site for fuel delivery vehicles and an area for the fuel delivery vehicles to park while unloading which does not interfere with or impede ingress or egress to or from any public street.
(Ord. 1221, § 8.05(f), passed 1-26-2010)
§ 152.277 MINIMUM NUMBER OF OFF-STREET LOADING SPACES.

Off-street loading spaces for all buildings or uses shall be provided in accordance with the minimum requirements set forth in the table below.

<table>
<thead>
<tr>
<th>Use</th>
<th>Gross Floor Area of Building (Square Feet)*</th>
<th>Required Number of Loading Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office/professional service</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Up to 10,000</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>10,000 - 100,000</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>100,000 - 200,000</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Each additional 200,000 or portion thereof</td>
<td>1 additional</td>
<td></td>
</tr>
<tr>
<td>Retail</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Up to 10,000</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>10,000 - 25,000</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>25,000 - 60,000</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>60,000 - 120,000</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Each additional 100,000 or portion thereof</td>
<td>1 additional</td>
<td></td>
</tr>
<tr>
<td>Industrial</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Up to 10,000</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>10,000 - 40,000</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>40,000 - 100,000</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>100,000 - 200,000</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Each additional 200,000 or portion thereof</td>
<td>1 additional</td>
<td></td>
</tr>
<tr>
<td>Other nonresidential</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Up to 10,000</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>10,000 - 100,000</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>Each additional 100,000 or portion thereof</td>
<td>1 additional</td>
<td></td>
</tr>
</tbody>
</table>

* Interpretation of numbers: Number ranges shall be interpreted as follows: “Over #,###, and less than or equal to #,###”.

(Ord. 1221, § 8.05(g), passed 1-26-2010)
§ 152.290 INTENT AND POLICY.

(A) Intent. This subchapter creates the framework for the siting of wireless telecommunications facilities in a manner which: protects the public health, safety, and general welfare of the community; provides comprehensive service to the community; protects the community from visual clutter; is compatible with existing and future land use; and preserves significant view corridors.

(B) Policy. The following policy statements are set forth to provide guidance to wireless communication facility providers in the placement of wireless telecommunication facilities within the town. It is hereby declared that the town telecommunications policies for the corporate limits of the town shall be to:

1. Facilitate the comprehensive provision of wireless telecommunication services to the residents and businesses of the town;

2. Maximize the use of existing and approved telecommunication towers, buildings, and structures to accommodate new wireless telecommunication antennas in order to minimize the number of telecommunication towers needed to comprehensively serve the community;

3. Minimize the number, height, obtrusiveness, and the visual impacts of telecommunications towers, associated equipment, and buildings;

4. Encourage wireless telecommunication facilities to be located in areas which are least disruptive to residential, park, open space, and greenway uses and to be as unobtrusive and invisible as reasonably possible;

5. Ensure that the height of telecommunications towers has the least visual impact and is no greater than required to achieve service area requirements and potential co-location;

6. Site telecommunications towers to minimize locations which are visually solitary or prominent when viewed from residential areas or any public way;

7. Site telecommunications towers at locations which are obscured by vegetation, tree cover, topographic features, buildings, or other structures to the maximum extent feasible;

8. Protect views of and vistas from architecturally or historically significant structures and historically significant landscapes so that these architectural or historical resources are not impaired or diminished by the placement of telecommunications towers; and
(9) Avoid potential damage to adjacent properties from telecommunication towers failure through structural design standards and setback requirements.
(Ord. 1221, § 9.01(a), passed 1-26-2010)

§ 152.291 WIRELESS TELECOMMUNICATIONS FACILITIES REQUIREMENTS.

(A) Applicability. Notwithstanding any other provision of this chapter to the contrary, wireless telecommunications facilities, when such are permitted by and in compliance with federal law and the laws of the State of Indiana (including but not limited to non-interference with public safety telecommunications), shall be regulated and governed by the regulations and requirements of this section.

(B) Amateur radio exemption. This section shall not apply to nor be construed to apply to amateur radio operators who are licensed to operate a radio or transmitter by the Federal Communications Commission under Part 97 of the Federal Communications Commission’s Rules.

(C) Compliance with other laws. A telecommunications tower shall be erected and operated in compliance with the most current Federal Communication Commission and Federal Aviation Administration rules and regulations and other applicable federal and state standards. All telecommunications towers shall comply with all ordinances of the town not in conflict with this section.
(Ord. 1221, § 9.01(b), passed 1-26-2010)

§ 152.292 SITING HIERARCHY OF WIRELESS TELECOMMUNICATIONS FACILITIES.

Development of wireless telecommunications facilities shall be in accordance with the following siting alternatives hierarchy. The order of ranking, from highest to lowest, shall be from division (A), to division (B), to division (C), outlined below. Where a lower ranked alternative is proposed, the applicant must demonstrate by substantial evidence that higher ranked options are not technically feasible or available.

(A) Co-location. The co-location of antenna on existing telecommunication towers and associated equipment or buildings shall comply with the following regulations:

(1) The co-location or placement of new telecommunications antennas upon existing telecommunications towers are hereby declared as permitted uses in all districts and may be issued an improvement location permit provided all development standards outlined in § 152.293(B) are met.

(2) Associated equipment or buildings, when located within an existing compound area that is in compliance with this chapter, may be issued an improvement location permit provided all development standards outlined in § 152.293(C), below, are met.
(B) Existing structure or building utilization. The utilization of existing structures and buildings for placement of antenna and associated equipment or buildings, including surface mounted and roof mounted applications of telecommunication antennas on existing buildings and structure mounted applications of telecommunication antennas on water towers, electric-line transmission towers, or other existing structures, shall comply with the following regulations:

(1) The placement of new telecommunications antennas upon existing structures and buildings are hereby declared as permitted uses in all districts and may be issued an improvement location permit provided all development standards outlined in § 152.293(B), below, are met.
(2) Associated equipment or buildings, when located within an existing building or compound area that is in compliance with this chapter, may be issued an improvement location permit provided all development standards outlined in § 152.293(C) - Associated Equipment or Buildings and Compound Area Requirements below are met.

(C) New telecommunications tower locations. New telecommunications towers and associated equipment or buildings shall comply with the following regulations:

(1) Where permitted. Wireless telecommunications facilities requiring the construction of a telecommunications tower, building, or structure are hereby declared as special exception uses in and requiring the approval of a special exception prior to the issuance of an improvement location permit, provided, however, no new telecommunications tower shall be located within 500 feet of a Residential District or use unless the applicant can demonstrate through the materials required by division (C)(4) of this section, that there are no other locations, buildings, or structures beyond 500 feet of a Residential District or use which are available and which can provide the necessary wireless telecommunications services to the residents and businesses of the town.

(2) Alternatives exhausted. The applicant for a wireless telecommunications facility special exception shall demonstrate that they have exhausted all efforts to locate the proposed telecommunications antennas upon existing telecommunications towers, buildings, or structures in the geographical area of the proposed telecommunications antennas. In the event that a wireless communications provider claims that efforts to locate the proposed telecommunications antennas upon existing telecommunications towers, buildings, or structures failed because of the demanded lease amount of the owner of an existing telecommunications tower, the dispute over fair market value shall be settled as set forth in division (C)(3), below.
(3) **Fair market value.** In the event of dispute between wireless telecommunications providers regarding the fair market value of rental for a co-location on an existing telecommunications tower which is subject to a requirement to provide co-location at a reasonable and nondiscriminatory basis and at a cost not materially exceeding fair market value, the applicant, at the applicant’s cost, shall select an independent appraiser to determine fair market value of the rental. In the event of a dispute over the appraisal results, the wireless telecommunication providers shall employ a new appraiser subject to the approval of the Zoning Administrator. The new appraisal shall be performed at the expense of the wireless telecommunication providers involved in the dispute. The expense of the new appraisal shall be equally shared between the wireless telecommunication providers and the results shall be conclusive.

(4) **Additional special exception filing requirements.** In addition to the requirements specified in § 152.367(I) and any applicable Rules of Procedure, all applications for a special exception for a new telecommunications tower location shall include the following:

(a) A service plan for the town. The service plan shall demonstrate efforts to minimize the size and number of telecommunications tower locations throughout the geographical area, taking into consideration existing technology. The service plan shall include, but not be limited to the following information:

1. A narrative detailing:
   a. The reason of need (coverage, capacity, new users, and the like) for a telecommunications tower or wireless communication facility at the requested site;
   b. The nature of any existing wireless communication facility sites indicated on the map required by division (C)(4)(a)2., below, shall be documented (i.e., freestanding structure with available heights noted, roof mounted applications, existing telecommunications towers with information regarding co-location opportunities or limitations, service providers utilizing each such wireless communication facility site, and the like); and
   c. The manner in which the proposed placement will promote the town telecommunications policies.

2. a. A map of the town identifying the following:
   i. All existing telecommunications towers; and
   ii. All structures or buildings within a 1-mile radius of the proposed site that have a height equal to or greater than the height of the proposed telecommunications tower minus 30 feet.

   b. In the event that a telecommunications tower is proposed within 1 mile of the boundary of the town, the map shall include the information required above for all areas within 1 mile of the proposed telecommunications tower.
3. a. If the applicant is a licensed provider of wireless communication services, the applicant shall supply individual coverage maps of the town jurisdiction, which:

   i. Identify all existing locations utilized by the licensed provider’s network and reflects the current coverage levels to the town; and

   ii. Identify the proposed coverage levels of the licensed provider’s network after the installation of the proposed wireless telecommunication facility.

b. In the event that the licensed provider proposes multiple sites, a separate coverage map for each additional wireless telecommunication facility, and an overall coverage map based upon all proposed wireless telecommunication facilities shall be provided.

   (b) A certification, in a manner acceptable to the town, from the owner of the telecommunications tower or the property on which the telecommunications tower is located, that the telecommunications tower is available for use by another wireless telecommunications provider on a reasonable and nondiscriminatory basis and at a cost not exceeding the fair market value for the use of the facilities.

   (c) A designation by the owner of the telecommunications tower or the property on which the telecommunications tower is located of an area which is set aside for the equipment of future users of the telecommunications tower and is located:

      1. Within the proposed compound area; or

      2. Within a separate compound area located on the same lot and located no further from the telecommunications tower than the distance from the telecommunications tower to the proposed compound area plus 50 feet.

   (d) Color photo simulations showing the site of the proposed telecommunications tower with a photo-realistic representation of the proposed telecommunications tower as it would appear viewed from the closest Residential District and from adjacent public right-of-way, and photographs of the same views as in the photo simulations showing the current appearance of the site without the proposed telecommunications tower.

(Ord. 1221, § 9.01(c), passed 1-26-2010)

§ 152.293 DEVELOPMENT STANDARDS.

In addition to complying with the requirements for a special exception use for the district in which the lot is located, all wireless telecommunications facilities shall comply with the following additional development standards.
(A) *Telecommunication tower and antenna array.*

(1) *Height.* The maximum height of a telecommunications tower, including antenna array, shall be less than 200 feet above grade.

(2) *Telecommunications tower type.* All new telecommunications towers shall be of a tapering monopole construction unless a determination is made in connection with a special exception request that an alternative design would better blend into the surrounding environment and is approved as a waiver of development standards as provided for and regulated in § 152.367(I).

(3) *Guys and guy anchors.* If a guyed telecommunication tower is approved, all guys and guy anchors shall be located within the buildable area of the lot and shall not be located within any required yard or required residential bufferyard.

(4) *Security fencing.* The base of a telecommunications tower and all guy anchors shall be enclosed by security fencing. This fencing shall conform with the requirements detailed in division (C)(1), below.

(5) *Structural design.* A telecommunications tower shall be designed and built so as to:

(a) Be capable of use by at least 2 wireless communications providers for a telecommunications tower less than 80 feet in height;
(b) Be capable of use by 3 or more wireless communications providers for a telecommunications tower of 80 feet in height or greater;

(c) Accommodate antenna arrays consisting of 9 to 12 antennas for each antenna array, provided, however, this regulation shall not apply to slick antenna applications;

(d) Locate the antenna arrays within 15 vertical feet of each other;

(e) Have no more than 3 degrees of twist and sway at the top elevation; and

(f) Provide internal cable routing for all tapering monopole telecommunication towers.

(6) Antenna arrays and types. To minimize adverse visual impacts, the antenna type used shall be in accordance with the following alternatives hierarchy. The order of ranking, from highest to lowest, shall be (a), (b), (c), (d), and (e), outlined below. Where a lower ranked alternative is proposed, the applicant must demonstrate by substantial evidence that higher ranked options are not technically feasible or available:

(a) Flagpole antenna (with or without a flag, as appropriate to the setting) (see § 152.231 for information regarding flags);

(b) Slick antennas or stealth antennas other than flagpole antennas;

(c) Panel antennas, also known as directional or sectored antennas;

(d) Whip antennas; and

(e) Dish antennas.
(7) **Signs.** No lettering, symbols, images, trademarks, signs (including banners, pennants, or streamers), or advertising shall be placed on or affixed to any part of a telecommunications tower, antenna array or antenna, other than as required by Federal Communications Commission regulations regarding telecommunications tower registration or other applicable law.

(8) **Safety.** Telecommunications towers shall be constructed to minimize potential safety hazards. Telecommunications towers shall be constructed so as to meet or exceed the most recent EIA-222 standards, and prior to issuance of an improvement location permit, the Zoning Administrator shall be provided with an engineer’s certification that the telecommunications tower’s design meets or exceeds the EIA-222 standards. Guyed telecommunications towers shall be located in such a manner that if the telecommunications tower should fall along its longest dimension, the telecommunications tower will remain within the lot lines and avoid dwelling units, habitable structures, public street rights-of-way, utility lines, and other telecommunications towers.

(9) **Lights.** No signals, lights, or other illumination (including holiday lights or outdoor strings of lights) shall be permitted on telecommunications towers unless required by the Federal Communications Commission, the Federal Aviation Administration, or the town. When incorporated into the approved design of the telecommunications tower, outdoor light fixtures used to illuminate ball fields, parking areas, or similar areas, in compliance with the requirements of §§ 152.210 through 152.215 of this chapter, may be attached to the telecommunications tower.

(10) **Modifications.** If any additions, changes, or modifications are to be made to a telecommunications tower, the Zoning Administrator shall have the authority to require proof, through the submission of engineering and structural data, that the addition, change, or modification conforms to structural wind load and all other requirements of the current Building Code adopted by the town.

(B) **Telecommunications antennas mounted on existing buildings or structures.**

(1) **Roof-mount.** Roof mounted telecommunications antennas are permitted on buildings and structures in all districts, except for single family dwellings or 2 family dwellings, without a special exception, provided:

(a) A non-whip antenna:

1. Does not exceed the height of the building by more than 10 feet; and
2. Shall be no closer than 10 feet to the perimeter of the building.

(b) A whip antenna:

1. Does not exceed the height of the building by more than 15 feet; and
2. Shall be no closer than 15 feet to the perimeter of the building.
(c) Prior to installation of a roof mounted telecommunications antenna or equipment, the Zoning Administrator shall be provided with an engineer’s certification that the roof will support the proposed telecommunications antenna or associated roof mounted equipment.

(2) Surface mount. Surface mounted telecommunications antennas are permitted on buildings or structures in all districts without a special exception, provided:

(a) The antenna is of the non-whip antenna type;

(b) The non-whip antenna is mounted flush with the exterior of the building or structure so that it projects no more than 30 inches from the surface of the building or structure to which it is attached; and

(c) The non-whip antenna’s appearance is designed to blend with the color or texture of the surrounding surface of the building or structure.

(3) Other existing structures. Telecommunications antennas are permitted on existing utility, lighting, telecommunications towers and other structures in all districts without a special exception, provided:

(a) The existing utility, lighting, telecommunications towers, and other structure exceeds 50 feet in height above grade;

(b) The telecommunications antenna does not exceed the height of the structure by more than 10 feet if a non-whip antenna, or 15 feet if a whip antenna; and

(c) Existing structures may be rebuilt if necessary to support the load of the new telecommunications antenna without further zoning proceedings provided:
1. If the structure to be rebuilt is not an existing telecommunications tower, the rebuilt structure shall comply with all applicable regulations of the district in which the structure is located; or

2. If the structure to be rebuilt is an existing telecommunications tower, the new telecommunications tower shall:
   
a. Not exceed the height of the existing telecommunications tower; and

b. Comply with all other regulations contained in this section for the erection of a new telecommunications tower, except that a special exception shall not be required.

(4) Application. When an application for an improvement location permit to locate a telecommunications antenna on an existing building or other structure is made, the Zoning Administrator shall be provided with color photo simulations showing the site of the existing structure with a photo-realistic representation of the proposed telecommunications antenna and the existing structure or any proposed reconstruction of the structure as it would appear viewed from the closest Residential District and from adjacent public right-of-way. The applicant shall also submit photographs of the same views as in the photo simulations showing the current appearance of the site without the proposed telecommunications antenna.

(C) Associated equipment or buildings and compound area requirements.

(1) Fencing and landscaping of ground mounted associated equipment or buildings.

(a) Fencing required. The compound area and all guy anchors shall be secured with a board-on-board or chain link fence of not less than 6 feet in height nor more than 10 feet in height. A security wire (barbed, razor, and the like) may be located on the telecommunications tower-side of the fence but shall not extend above the top of the fence. A chain link fence, if used, shall be black vinyl coated.

(b) Landscaping required. Landscaping shall be installed around the perimeter of the fenced compound area running the full length of all sides of the compound area or building, except for entry gates or doors. The type of landscaping required shall be based upon the open space of the fence. If the fence has an open space of:

1. Fifty percent or greater, a 10-foot wide landscaping strip running the full length of all sides of the compound area or building, except for entry gates or doors, with 4 evergreen trees for every 30 feet shall be installed on the outside of the fenced area;

2. Less than 50% but greater than 20%, a 10-foot wide landscaping strip running the full length of all sides of the compound area or building, except for entry gates or doors, with 2 evergreen trees for every 25 feet shall be installed on the outside of the fenced area; or
3. Twenty percent or less, a 10-foot wide landscaping strip running the full length of all sides of the compound area or building, except for entry gates or doors, with 1 ornamental tree (minimum 1-1/2 inch caliper) planted for every 25 feet shall be installed on the outside of the fenced area.

(c) Interior access drives or walkways that lead to the entry into the compound area or building shall be hard-surfaced with asphalt or concrete.

(2) Exterior materials and roof pitch of associated equipment or buildings.

(a) Associated equipment buildings, whether ground or roof mounted and not enclosed by a fence providing a complete sight barrier (i.e., a fence with zero open space), shall be similar in color, exterior material, and character to the main or adjoining building or structure. If ground mounted the roof pitch of the associated equipment building shall match the pitch of any existing building or structure.

(b) When an equipment building is located on a lot that does not contain an existing building or structure and is not enclosed by a fence providing a complete sight barrier (i.e., a fence with zero open space), the exterior material shall be either brick or stone. The roof pitch shall not be less than a 3-foot vertical rise for each 12-foot horizontal run nor greater than a 12-foot vertical rise for each 12-foot horizontal run.  
(Ord. 1221, § 9.01(d), passed 1-26-2010)

§ 152.294 ABANDONMENT AND REMOVAL OF TELECOMMUNICATIONS TOWERS, ANTENNA ARRAYS, ASSOCIATED EQUIPMENT, AND BUILDINGS.

(A) Abandonment. Telecommunications towers, antenna arrays, associated equipment, and buildings which have not been used for a period of 1 year shall be deemed abandoned and shall be removed from the site.
(B) Notice required. The owner of the telecommunications tower and the last service provider to use a telecommunications tower shall notify the Zoning Administrator within 30 days that use of a telecommunications tower has been discontinued.

(C) Security.

(1) Every telecommunications tower owner and all service providers shall establish a cash security fund, bond or irrevocable letter of credit to secure the payment of removing the telecommunications towers, antenna arrays, associated equipment and buildings that have been determined to be abandoned, or found to be in noncompliance with this chapter, and to provide the town a fund from which to deduct fines and penalties for noncompliance with this chapter or other applicable laws in the following amounts.

(a) The amount to be provided for each telecommunications tower shall be 125% of the cost of construction based upon a licensed engineer’s estimate of the cost of construction of the telecommunications tower.

(b) The amount for each antenna array on the telecommunications tower shall be 125% of the cost of construction based upon a licensed engineer’s estimate of the cost of installation of the antenna array.

(2) Any reduction in the security fund provided, because of deductions of fines, penalties, or removal costs, shall be replenished to the total of the required amount within 30 days after notice from the town of the amount deducted and the deficiency created hereby.

(D) Refund. Within a reasonable period of time, not to exceed 3 months after the telecommunications tower and/or antenna array is removed, any remaining funds on deposit with the town pursuant to this section, after application and above all expenses provided for herein, shall be refunded to the appropriate owner or provider who created the security fund.

(Ord. 1221, § 9.01(e), passed 1-26-2010)

§ 152.295 LIMITATIONS ON SPECIAL EXCEPTIONS.

(A) A special exception which does not fully comply with the telecommunications policies contained herein for telecommunications towers may be granted upon a determination that such a grant better accomplishes the telecommunications policies set out in this section than would a strict application of these telecommunication policies. Such deviations from the town telecommunications policy shall be no greater than necessary to accomplish those policies.

(B) A special exception which does not comply with the development standards of this subchapter may only be granted upon:
(1) Approval of a waiver of development standards as provided for in § 152.367(I) and regulated in § 152.367(H); or

(2) Separate application for and approval of a variance of development standards filed for and obtained in accordance with the requirements of § 152.367 and any applicable Rules of Procedure. (Ord. 1221, § 9.01(f), passed 1-26-2010)

SPECIAL REGULATIONS FOR RESIDENTIAL FACILITIES FOR THE MENTALLY ILL

§ 152.305 LOCATIONS.

A residential facility for the mentally ill as defined in this chapter and by I.C. 12-7-2-167 may not be located within 3,000 feet of another residential facility for the mentally ill, as measured between lot lines. (Ord. 1221, Art. 9.02, passed 1-26-2010)

SPECIAL REGULATIONS FOR CONTROLLED USES

§ 152.330 CONTROLLED USES GENERALLY.

Controlled uses are hereby recognized as having objectionable secondary impacts. A concentration of controlled uses in a particular area can increase the impact of those objectionable secondary impacts to the point where a deleterious impact is created on area properties. In order to prevent the concentration of controlled uses and to prevent such deleterious impacts from leading to the development of blighted areas, any controlled use, in addition to the permitted use and development standard regulations specified in any primary zoning district, shall also be subject to the following additional regulations of this subchapter. (Ord. 1221, Art. 9.03, passed 1-26-2010)

§ 152.331 ADDITIONAL DEVELOPMENT STANDARDS FOR CONTROLLED USES.

Controlled uses shall be subject to the following additional development standards:

(A) Spacing regulations.
(1) **General.** No building or lot may be used and no building may be erected, moved, structurally altered or enlarged for any controlled use, if the building or lot is located within 1,000 feet of any 2 of the following divisions (A)(1)(a) through (d); provided, however, a controlled use may be structurally altered for the purposes of constructing, enlarging, or refurbishing kitchen, food service, restroom, or indoor storage areas, if the structural alterations are performed within the existing building; and the seating capacity or patron service area is not increased:

(a) Controlled uses;

(b) Family restaurant with lounge;

(c) Any business establishment with 4 or more amusement devices; or

(d) Cabaret - family.

(2) **Adult businesses.** No adult business shall be located within 500 feet of any:

(a) District of any other planning and zoning jurisdiction which allows any dwelling use as a primary use;

(b) Lot being legally established for a dwelling use, religious use, school use or park use; or

(c) Any of the following districts:

1. In the Town of New Carlisle:

<table>
<thead>
<tr>
<th>District</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>R1</td>
<td>Single Family District</td>
</tr>
<tr>
<td>R2</td>
<td>Single Family and 2 Family District</td>
</tr>
<tr>
<td>MF</td>
<td>Multifamily District</td>
</tr>
<tr>
<td>OB</td>
<td>Office/Buffer District</td>
</tr>
<tr>
<td>LB</td>
<td>Local Business District</td>
</tr>
<tr>
<td>CB</td>
<td>Community Business District</td>
</tr>
<tr>
<td>TC</td>
<td>Town Center District</td>
</tr>
<tr>
<td>PUD</td>
<td>Planned Unit Development District (that does not specifically include adult businesses as permitted uses)</td>
</tr>
</tbody>
</table>

2. In St. Joseph County:
(3) **Tattoo, body piercing, scarifying, and branding establishments.** No tattoo, body piercing, scarifying, and branding establishment shall be located within 500 feet of:

(a) Any religious use; or

(b) Any public or parochial school for children in any grades from K through 12.

(4) **Gun sales or gunsmith shops.** No firearms or ammunition shall be sold in any gun sales or gunsmith shops within 200 feet of any:

(a) Any public or parochial school for children in any grades from K through 12;

(b) Child care center; or

(c) Child care ministry.

(B) **Measurement of distance.** Measurement of distance for controlled uses shall be as follows:

(1) **Single use sites.** All measurements shall be from the lot lines of the lot or out lot occupied by the controlled use.

(2) **Integrated centers.** All measurements shall be from the perimeter walls of the tenant space occupied by the controlled use.

(3) **Straight line.** All distance measurements shall be measured in a straight line, without regard to intervening buildings, structures, or objects.
(C) Exterior display for adult businesses. Notwithstanding any other provisions of this chapter to the contrary, all exterior displays for an adult business shall comply with the following regulations.

(1) View from right-of-way. No adult business shall be conducted in any manner that permits the observation of any material depicting, describing, or relating to specified sexual activities or specified anatomical areas by display, decorations, sign, show window, or other opening from any public right-of-way.

(2) Number of signs. Not more than 1 business wall sign shall be permitted for an adult business and the business wall sign shall be permitted only on the front façade of the building. In addition to the 1 permitted business wall sign, an adult business may be permitted not more than 1 freestanding sign structure (i.e., a pole sign, a pylon sign, or a ground sign) if permitted by §§ 152.230 through 152.236, and any amendments thereto, and if the freestanding sign meets all of the requirements of the district in which it is located. All other sign structures shall be prohibited.

(3) Sign surface area. The sign surface area of a business wall sign for an adult business shall not exceed 16 square feet. The maximum sign surface area of a freestanding sign structure (i.e., a pole sign, a pylon sign, or a ground sign), where permitted, shall not exceed 48 square feet.

(4) Lighting. Signs and sign structures may be illuminated, provided, however, the illumination shall not be by way of exposed neon, exterior lighting (e.g., spot or flood lights) or any flashing or animated lights (either interior to the sign, on the exterior of the sign, or as a border to the sign).

(D) Continuation of nonconforming use. This section is subject to the provisions of §§ 152.055 through 152.067.
(Ord. 1221, § 9.03(a), passed 1-26-2010)

§ 152.332 DEFINITIONS FOR ADULT BUSINESSES.

The following terms related to adult businesses shall be defined as set forth below. All other terms shall have the meanings set forth in §§ 152.425 and 152.426 of this chapter.

ADULT BUSINESS. An adult bookstore, adult motion picture theater, adult mini motion picture theater, adult motion picture arcade, adult cabaret (a.k.a. Class B cabaret), adult drive-in theater, adult live entertainment arcade, adult motel, or adult service establishment.

ADULT BOOKSTORE. An establishment having as a preponderance of its stock-in-trade or its dollar volume in trade, books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records, or other forms of visual or audio representations which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.
**ADULT CABARET** (a.k.a. **CLASS B CABARET**). Any cabaret, nightclub, bar, tavern, restaurant or similar establishment, not including a 21 and over cabaret, a family cabaret, family restaurant, or family restaurant with lounge, which features:

(1) Persons who appear in a state of semi-nudity;

(2) Live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers where the performances are distinguished or characterized by the exposure of specified anatomical areas or by emphasis on specified sexual activities;

(3) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons; or

(4) Persons who engage in lewd, lascivious, or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

**ADULT DRIVE-IN THEATER.** An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats in which a preponderance of the total presentation time is devoted to the showing of materials distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons.

**ADULT LIVE ENTERTAINMENT ARCADE.** Any building or structure which contains or is used for commercial entertainment where the patron directly or indirectly is charged a fee to view from an enclosed or screened area or booth a series of live dance routines, strip performances, or other gyrational choreography which performances are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas.

**ADULT MINI MOTION PICTURE THEATER.** An enclosed building with a capacity of more than 5 but less than 50 persons, used for presenting films, motion pictures, video cassettes, slides, or similar photographic reproductions in which a preponderance of the total presentation time is devoted to the showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

**ADULT MOTEL.** A hotel, motel, or similar establishment offering public accommodations for any form of consideration which provides patrons, upon request, with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
**ADULT MOTION PICTURE ARCADE.** Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-reducing devices are maintained to show images to 5 or fewer persons per machine at one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

**ADULT MOTION PICTURE THEATER.** An enclosed building with a capacity of 50 or more persons used for presenting films, motion pictures, video cassettes, slide or similar photographic reproductions in which a preponderance of the total presentation time is devoted to showing of materials which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

**ADULT SERVICE ESTABLISHMENT.** Any building, structure, premises, or other facility, or any part thereof, under common ownership or control which provides a preponderance of services involving specified sexual activities or display of specified anatomical areas.

**ENLARGEMENT OF AN ADULT BUSINESS.** An increase in the size of the building, structure, or premises in which the adult business is conducted by either construction or use of:

1. An adjacent building;
2. An additional building; or
3. The construction or use of any portion of an adjacent building or additional building, whether located on the same or an adjacent lot or parcel of land.

**ESTABLISHING AN ADULT BUSINESS.** Any of the following:

1. The opening or commencement of an adult business as a new business;
2. The conversion of an existing business, whether or not an adult business, to any of the adult businesses defined herein;
3. The addition of any of the features of 1 or more of the adult businesses defined herein to an existing business;
4. The addition of any of the adult businesses defined herein to any other existing adult business; or
5. The relocation of any adult business.

**NONCONFORMING ADULT USE.** Any building, structure, or land legally established as an adult business prior to the effective date of this chapter, but which would be prohibited, regulated, or restricted under the provisions of this chapter.
**RECONSTRUCTION OF AN ADULT BUSINESS.** The rebuilding or restoration of any nonconforming adult business use which was damaged or partially destroyed by an exercise of the power of eminent domain, or by fire, flood, wind, explosion, or other calamity, or act of God if the damage or destruction exceeds 50% of the fair market value of the building, structure, or the facilities affected.

**RESUMPTION.** The reuse or reoccupation of a nonconforming adult business use which has been discontinued for a period of 6 or more consecutive months.

**SERVICES INVOLVING SPECIFIED SEXUAL ACTIVITIES OR DISPLAY OF SPECIFIED ANATOMICAL AREAS** (as used to define an “adult service establishment”). Any combination of 2 or more of the following activities:

(1) The sale or display of books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, tapes, records, or other forms of visual or audio representations which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas;

(2) The presentation of films, motion pictures, video cassettes, slides, or similar photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons;

(3) The operation of coin- or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors or other image producing devices to show images to 5 or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas; or

(4) Live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers, or similar entertainers, where the performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

**SPECIFIED ANATOMICAL AREAS.** Any of the following:

(1) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolae; or

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES.** Any of the following:

(1) Human genitals in a state of sexual stimulation or arousal;

(2) Acts of human masturbation, sexual intercourse, or sodomy;
(3) Fondling or other erotic touching of human genitals, pubic regions, buttocks, or female breasts;

(4) Flagellation or torture in the context of a sexual relationship;

(5) Masochism, erotic or sexually oriented torture, beating, or the infliction of pain;

(6) Erotic touching, fondling, or other such contact with an animal by a human being; or

(7) Human excretion, urination, menstruation, vaginal, or anal irrigation as part of or in connection with any of the activities set forth in divisions (1) through (6) of this definition.

**STRUCTURAL ALTERATION OF AN ADULT BUSINESS.** Any change which would prolong the life of the supporting members of a building or structure such as bearing walls, columns, beams or girders, except such changes as are ordered made pursuant to the provisions of the Unsafe Building Law, I.C. 36-7-9-1, and any amendments thereto.
(Ord. 1221, § 9.03(b), passed 1-26-2010)

**SPECIAL REGULATIONS FOR WIND ENERGY CONVERSION SYSTEMS**

§ 152.345 INTENT.

This subchapter creates the framework for the siting of wind energy conversion systems, which convert the power of the wind into the generation of electricity. It is the intent of this subchapter to:

(A) Facilitate the comprehensive provision of wind energy conversion systems ("WECS") to the residents and businesses of town;

(B) Minimize the height, obtrusiveness, and the visual impacts of WECS, and all associated equipment and buildings;

(C) Encourage WECS to be located in such a manner as to minimize their impact to residential uses; public parks, open space, and greenways; and streams, creeks, and rivers;

(D) Ensure that the height of WECS have the least visual impact, and are no greater than required to achieve their designated service;

(E) Protect views of and vistas from architecturally or historically significant structures and historically significant landscapes so that these architectural or historical resources are not impaired or diminished by the placement of WECS; and
(F) Avoid potential damage to adjacent properties from the failure of a WECS, through structural
design standards and setback requirements.
(Ord. 1221, § 9.04A., passed 1-26-2010)

§ 152.346 WIND ENERGY CONVERSION SYSTEMS; GENERALLY.

(A) Classification. WECS shall be classified as either:

(1) A small wind energy conversion system (“SWECS”), designed and installed exclusively
for the on-site use of any associated electric power generation; or

(2) A wind energy facility (“WEF”), designed and installed exclusively for off-site use of any
associated electric power generation.

(B) Districts permitted. A SWECS is permitted in all zoning districts as an accessory use; a WEF
is permitted as a special use in designated zoning districts.

(C) Building permit. A building permit is required for the installation of all WECS.

(1) Building permit applications for a SWECS shall be accompanied, at a minimum, by:

(a) Standard manufacturer’s drawings of the engineering specifications for the installation
requirements of the wind turbine structure, including the tower, base, and footings. This analysis is
frequently supplied by the manufacturer;

(b) A statement that the system shall comply with all applicable rules and regulations of
the electric service provider for the property and the Indiana Utility Regulatory Commission;

(c) A plot plan showing the location of the SWECS relative to all property lines, on-site
structures, off-site structures within 1.5 times the height of the SWECS, utility locations (such as but not
limited to overhead utilities, transformers, and junction boxes), and measured distances from all streams,
creeks, rivers, public parks, public open space and greenways, and historic preservation districts;

(d) Certification that the installer of the SWECS is certified by the manufacturer of the
SWECS, and has received the necessary training to properly and safely install the SWECS. Owner-installed SWECS will require an affidavit certifying that the installation will comply with the
manufacture’s specifications and the requirements of the electric service provider of the property; and

(e) A drawing of the electrical components in sufficient detail to allow for a determination
that the manner of installation conforms to the National Electrical Code. This information is frequently
supplied by the manufacturer.
(2) Building permit applications for a WEF shall be accompanied by a certification of the approval of the special use by the County Council.

(D) Compliance with other laws and ordinances. All WECS shall comply with all federal, state and local laws and ordinances not in conflict with this division, including, but not limited to placement in floodplains and historic preservation districts.

(E) Compliance with Federal Aviation Agency (FAA) regulations. WECS must comply with any applicable FAA regulations, including any necessary approvals for installations close to airports.

(F) Electric utility notification. No WECS shall be installed until evidence has been given that the utility company has been informed of the customer’s intent to install an interconnected, customer-owned WECS. Off-grid systems shall be exempt from this requirement.

(G) Signs. No WECS turbine, tower, or associated building or structure may be used to advertise or promote any product or service. No word or graphic representation that may be construed as advertising, other than appropriate warning signs and the manufacturers technical information, shall be placed on a wind turbine, tower, or other associated building or structure.

(H) Signal disturbance. Generators and alternators should be constructed so as to prevent the emission of radio and television signals. Upon a complaint of any signal disturbance, the operation of the WECS shall cease. The owner/operator shall correct any signal disturbance problem that is identified before the operation of the system can resume.

(I) Appearance, color, and finish. The exterior surface of any visible components must be a non-reflective, neutral color, and blend into the surrounding environment as practical as possible. White or light grey is the color of preference unless the manufacturer’s color preference is proven to better blend into the environment. Rotors (blades) or vanes may be painted black to better assist in the prevention of ice build-up. Decorative items, such as flags, streamers, and holiday and commemorative decorations are prohibited.

(J) Lighting. No WECS shall be artificially lighted, unless required by the FAA or appropriate authority.

(K) Support tower. The tower component of any WECS shall be one that is recommended and certified by the manufacturer.

(1) A building-mounted SWECS must be firmly anchored to the building (roof or wall) according to the manufacturer’s recommendations. Additional support brackets or cables must be anchored to the structure on which the SWECS is located.

(2) A WECS mounted on a self-supporting tower shall be on a tower that is of monopole design and does not require the use of guy wires or any other means of lateral support.

(Ord. 1221, § 9.04B., passed 1-26-2010)
§ 152.347 SMALL WIND ENERGY CONVERSION SYSTEMS; DEVELOPMENT STANDARDS.

(A) Accessory use. A SWEC may be installed as an accessory use to a primary use. No SWEC shall be installed on any property without the existence of a primary use.

(B) Minimum lot size, number, maximum height. The minimum lot size, the maximum number of SWECs on a lot or parcel, and the maximum height of a SWEC shall be as specified in Table 152.347, below:

<table>
<thead>
<tr>
<th>District</th>
<th>Minimum Lot/Parcel Size</th>
<th>Maximum Number of SWECs</th>
<th>Maximum Height</th>
</tr>
</thead>
<tbody>
<tr>
<td>R1 Single Family</td>
<td>1 acre</td>
<td>1</td>
<td>60 ft.</td>
</tr>
<tr>
<td>R1 Single Family</td>
<td>10 acres</td>
<td>2</td>
<td>60 ft.</td>
</tr>
<tr>
<td>R2 Single Family and 2 Family</td>
<td>1 acre</td>
<td>1</td>
<td>60 ft.</td>
</tr>
<tr>
<td>MF Multifamily</td>
<td>1 acre</td>
<td>2</td>
<td>60 ft.</td>
</tr>
<tr>
<td>O/B Office Buffer</td>
<td>1 acre</td>
<td>1</td>
<td>60 ft.</td>
</tr>
<tr>
<td>LB Local Business</td>
<td>1 acre</td>
<td>2</td>
<td>60 ft.</td>
</tr>
<tr>
<td>CB Community Business</td>
<td>1 acre</td>
<td>2</td>
<td>60 ft.</td>
</tr>
<tr>
<td>TC Town Center</td>
<td>1 acre</td>
<td>1</td>
<td>60 ft.</td>
</tr>
<tr>
<td>LI and GI Industrial</td>
<td>1 acre</td>
<td>1</td>
<td>80 ft.</td>
</tr>
<tr>
<td>LI and GI Industrial</td>
<td>2 acre</td>
<td>2</td>
<td>80 ft.</td>
</tr>
<tr>
<td>LI and GI Industrial</td>
<td>3 acre</td>
<td>3</td>
<td>80 ft.</td>
</tr>
</tbody>
</table>

(C) Height. The height of a SWECs shall be measured from 1 foot above ground level to the highest extension of the blade, rotor, or vane. The minimum distance between the ground and the blade, rotor, or vanes shall be 10 feet, as measured at the lowest point of the arc of the blade, rotor, or vane.

(D) Noise. SWECs shall not exceed 60 decibels (dB), as measured at the closest property line. However, the 60 dB standard may be exceeded during short-term events such as utility outages and/or severe windstorms.

(E) Survival speed. SWECs shall be rated by the manufacturer as having a minimum survival wind speed of 100 miles per hour.
(F) **Setback.** The minimum setback of a SWEC shall meet all of the following, measured from the edge of the support tower:

1. Two hundred feet from public parks, public open space, public greenway, historic preservation districts, streams, and rivers, measured from the nearest property lines, district lines, and/or the top of any stream or river bank;
2. One-half the height of the to the nearest occupied off-site structure; and
3. Ten feet from any side and rear property line. Any property line adjacent to a street shall be deemed a front yard and meet the location requirements in the illustrations below.

(G) **Location on property.** The location of a SWECS on a property shall be in accordance with division (F), above, and with Illustrations 1 and 2 below.
(H) Abandonment. A SWEC that is out of service for a continuous 24-month period will be deemed to have been abandoned and shall be removed. Maintenance events which require extended periods of time beyond a 24-month period shall be brought to the attention of the Building Department.
(Ord. 1221, § 9.04C., passed 1-26-2010)

§ 152.348 WIND ENERGY FACILITY; GENERAL.

(A) Special exception use required. A wind energy facility (WEF) is allowed in designated districts only as a special use, and after a public hearing by the Area Board of Zoning Appeals and approval by the County Council.

(B) Preliminary site development project meeting required. A WEF is a unique facility having to meet specific location and technical requirements. A preliminary site development project meeting is required with the local agencies, and where at a minimum, the following information is to be provided:

(1) The location of the WEF identified on an aerial photograph, and the property tax ID numbers of the properties involved;

(2) The number and specifications of the wind turbines;

(3) The method and route of transportation of all equipment;

(4) The construction timeline and the production life of the WEF;

(5) A site plan showing the location of floodplains; wetlands; forested areas; on-site structures; structures within 500 feet of the development site; streams and legal ditches; utility lines, cables, and pipelines; and

(6) Developer’s determination of public infrastructure needs.
(Ord. 1221, § 9.04D., passed 1-26-2010)

§ 152.349 WIND ENERGY FACILITY; APPROVAL.

(A) In addition to the requirements of division (B) of this section, the developer of the WEF shall provide all applicable information under § 152.346, and any additional information requested from the preliminary site development project meeting.

(B) Applications for WEF as a special use shall be accompanied by the items outlined under § 152.367(I) in addition to the following:

(1) A site plan showing, at a minimum:
(a) North arrow, written and graphic scale, general location map;

(b) Legal description;

(c) The location and height (including the top of the arc of the blade) of the wind turbines;

(d) The location of all other supporting structures such as but not limited to sheds, offices, operation and maintenance facilities, drives, and parking areas;

(e) Location of all structures on adjacent properties within 300 feet of all property lines;

(f) Topography lines at 2-foot intervals;

(g) Location of all natural features such as streams, ditches, floodplain, wetlands, and tree canopy;

(h) Drainage and soil erosion control, including location of all drainage tiles; and

(i) Location of all utilities and utility corridors, such as but not limited to electric transmission lines, natural gas pipe lines, petroleum pipe lines, fiber optic lines, sewer lines, and water lines.

(2) A site development report, including but not limited to the following items:

   (a) The schedule and phasing of construction; the transportation route for the delivery of and the maintenance of all equipment; provisions for the repair of any public infrastructure such as roads, ditches, and culverts;

   (b) A statement describing the service area and the primary customers of the WEF;

   (c) Statements indicating that all utilities have been contacted relative to the location and construction of the WEF along with their responses and requirements;

   (d) Technical details of the facility and individual wind turbines, including but not limited to height of all wind turbines; power generation capacity; long-term maintenance and replacement requirements; survival wind speed, and any other information deemed appropriate by the developer, and the professional staff of town;

   (e) An analysis of how the WEF will effect the operations of other facilities such as radio and television transmissions, cell phone transmissions, and radar transmissions;

   (f) A statement outlining the security arrangements that will be placed on the site;
(g) An analysis of the maximum decibel levels to be anticipated at all property lines and at all inhabitable structures within 300 feet of all property lines;

(h) The maintenance plan that has been established for the WEF; and

(i) A decommissioning plan outlining the method, timing, and cost of the removal of 1 or more of the wind turbines upon the termination, abandonment, discontinuation, decommissioning; or cessation of 1 or more of the wind turbines, or complete cessation of the operations of the WEF.

(3) Other information.

(a) A list of all adjacent property owners within 300 feet of the project boundary lines, along with stamped and addressed envelopes; and

(b) Reports from the following agencies and responses to any concerns raised by the respective agencies:

   1. Indiana Department of Environmental Management;
   2. Indiana Department of Natural Resources;
   3. Town Building Inspector;
   4. Town Engineer; and

(C) Any project-specific agreements, such as public infrastructure improvements or a payment-in-lieu-of-taxes agreement, must be approved prior to final project approval.

(D) Liability insurance covering bodily injury and property damage naming the town as an additional insurer with limits of at least $2,000,000 per occurrence and $5,000,000 in the aggregate, with a deductible of no more than $5,000.

(Ord. 1221, § 9.04E., passed 1-26-2010)

§ 152.350 WIND ENERGY FACILITY; ABANDONMENT, DISCONTINUATION, OR DECOMMISSIONING OF WIND TURBINES AND REMOVAL OF WIND ENERGY FACILITIES.

(A) Abandonment and/or decommissioning. Wind turbines, wind energy facilities, and all associated equipment and buildings which have not been used for a continuous 24 months from the last day of any
known transmission of energy shall be deemed abandoned and shall be removed from the site per the
decommissioning plan. Maintenance events which require extended periods of time beyond a 24-month
period shall be brought to the attention of the Building Inspector.

(B) Security fund. The wind energy facility owner shall establish a cash security fund, bond or
irrevocable letter of credit to secure the payment of removing any abandoned wind energy facility,
including the wind turbines and associated equipment and buildings that have been determined to be
abandoned or found to be in noncompliance with this chapter, and to provide the town with a fund from
which to deduct fines and penalties for noncompliance with this chapter or other applicable laws in the
amount of 125% of the cost of construction of the wind energy facility based upon a licensed engineer’s
estimate of the cost of construction. Any reduction in the security fund provided because of deductions
of fines, penalties, or removal costs shall be replenished to the total of the required amount within 30
days after notice from the town of the amount deducted and the deficiency created hereby. Within a
reasonable period of time, not to exceed 3 months after the wind turbine facility is removed, any
remaining funds on deposit with the town pursuant to this chapter, after application and above all
expenses provided for herein, shall be refunded to the appropriate owner or provider who created the
security fund.
(Ord. 1221, § 9.04F., passed 1-26-2010)

ADMINISTRATION

§ 152.365 TOWN COUNCIL.

In order to effectuate the purpose of this chapter regarding the implementation of the Comprehensive
Plan and this chapter, the Town Council shall, to the fullest extent permitted by applicable law, including
without limitation I.C. 36-7-4 et seq. have the powers and duties to:

(A) Approve, reject, or amend a Comprehensive Plan, or segment thereof, certified to it by the Area
Plan Commission;

(B) Initiate amendments to the text of this chapter;

(C) Adopt, reject, or amend proposals to amend or partially repeal the text of this chapter;

(D) Initiate amendments to the text of the town Subdivision Control Ordinance;

(E) Adopt, reject, or amend proposals to amend or partially repeal the text of the town Subdivision
Control Ordinance;

(F) Adopt or reject proposals to amend zone maps;
(G) Adopt, reject, or modify a PUD District ordinance;

(H) Approve or disapprove all petitions for special exception uses after receiving such petitions from the Board of Zoning Appeals with a favorable recommendation, unfavorable recommendation, or no recommendation; and

(I) Such additional powers and duties as may be set forth for the Town Council elsewhere in this chapter or Indiana state law.

(Ord. 1221, § 10.01, passed 1-26-2010)

§ 152.366 AREA PLAN COMMISSION.

(A) Establishment. The area planning law is hereby re-adopted and the Area Plan Commission is hereby reestablished as the Plan Commission for the Town of New Carlisle, Indiana, in accordance with I.C. 36-7-4-200 et seq.

(B) Membership, qualifications and terms. The membership of the Area Plan Commission, the qualification of its members, and the terms of membership shall be in accordance with I.C. 36-7-4-200 et seq.

(C) Duties and powers. The Area Plan Commission is hereby vested with the duties and powers imposed upon and granted to an Area Plan Commission under the area planning law, including without limitation the powers and duties listed below. To effectuate the purposes of this chapter, the Area Plan Commission may, to the fullest extent permitted by applicable laws:

(1) Supervise and make rules for the administration of the affairs of the Planning Department;

(2) Prescribe uniform rules pertaining to investigations and hearings, and other matters authorized by Indiana planning and zoning laws;

(3) Keep a complete record of all departmental proceedings;

(4) Record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the Planning Department;

(5) Prepare, publish and distribute reports, ordinances and other material related to the Area Plan Commission activities authorized by state law or this chapter;

(6) Adopt a seal;

(7) Certify to all official acts;
(8) Supervise the fiscal affairs of the Planning Department;

(9) Prepare and submit an annual budget and be limited in all expenditures to the provisions made for expenditures by the legislative bodies of participating municipalities or the Board of Commissioners of St. Joseph County;

(10) Prescribe the qualifications of, with the consent of the Executive Director, fix the compensation of the employees of the Planning Department, which compensation shall conform to salaries and compensations fixed before that time by the Board of Commissioners of St. Joseph County;

(11) Delegate authority to its employees to perform ministerial acts in all cases except where final action of the Area Plan Commission is necessary;

(12) Designate a hearing examiner or a committee of the Commission to conduct any public hearing required to be held by the Area Plan Commission;

(13) Appoint a plat committee to hold hearings on and approve plats and replats on behalf of the Area Plan Commission;

(14) Make recommendations to the Town Council concerning:

   (a) The adoption of the Comprehensive Plan and amendments to the Comprehensive Plan;

   (b) The adoption of this chapter, a text amendment to this chapter, a replacement Zoning Ordinance, or the town Subdivision Control Ordinance;

   (c) The adoption or amendment of a PUD District ordinance; and

   (d) Zone map changes.

(15) Render decisions concerning and approve plats or replats of subdivisions;

(16) Assign street numbers to lots and structures or renumber lots and structures on streets or highways within the Area Plan Commission’s jurisdiction to conform with the numbers of structures on streets within cities within St. Joseph County. The Area Plan Commission hereby delegates the assignment of street numbers to the Town Clerk-Treasurer;

(17) The naming or renaming of streets when performed in connection with a plat or replat (the naming or renaming of streets within the corporate limits of the town, when not performed in connection with a plat or replat, shall be within the jurisdiction of the Town Council);

(18) Render decisions concerning development plans and amendments to development plans;
Establish advisory committees of citizens interested in problems of planning and zoning which shall report to the Area Plan Commission and shall make inquiries and reports only on the subject and problems specified in the resolution establishing the advisory committee of citizens by the Area Plan Commission;

Establish an executive committee which may act in the name of the Area Plan Commission as set forth in I.C. 36-7-4-408;

Negotiate for grants-in-aid and agree to terms and conditions attached to the grants-in-aid;

Establish a schedule of reasonable fees to defray the administrative costs connected with:

- Processing and hearing administrative appeals and petitions for zone map change, special exception uses, variances, planned unit developments, and development plan approvals;
- Issuing improvement location permits; and
- Other official actions taken under this chapter.

Invoke any legal, equitable, or special remedy available under this chapter or applicable law for the enforcement of the provisions of this chapter or actions taken hereunder; and

Exercise all powers conferred on it by state law, local ordinance, or rule in the manner so prescribed. This subchapter shall not be construed as a limitation on those powers.

Commitments.

1. Requirement of commitments by the Area Plan Commission.

The Area Plan Commission may, when in the discretion of the Area Plan Commission it is deemed necessary either: to assure the compatibility of a proposed development with surrounding properties; or to minimize the potential for the occurrence of detrimental affects from any attributes of a proposed development on surrounding properties, require or allow the owner of a parcel of property to make written commitments concerning the use or development of the subject property in connection with:

1. A development plan approval as provided for in this chapter;

2. A recommendation to the Town Council regarding a zone map change to any district classification contained in this chapter;

3. A recommendation to the Town Council regarding a PUD District ordinance;
4. A secondary approval of a PUD; or

5. A modification of permitted uses or development requirements of a PUD.

(b) The commitments shall be reduced to writing in recordable form and signed by the owner(s) of the real estate. The commitments shall be in effect for:

1. As long as the zone map applicable to the parcel remains unchanged;

2. The parcel is designed as a PUD under §§ 152.165 through 152.171; or

3. Modified or terminated as provided below.

(c) Commitments required or allowed in connection with a zone map change or the adoption of a PUD District ordinance shall be voted upon by the Town Council as certified by the Area Plan Commission.

(d) The commitments shall authorize their recording by staff in the office of the Recorder of St. Joseph County upon the final approval of the applicable petition. The staff shall be reimbursed by the petitioner for any and all fees associated with the recording of the commitments.

(e) Following the recording of the commitments, staff shall return the original recorded commitments to petitioner and shall retain a copy of the recorded commitments in its file.

(f) The Area Plan Commission, Town Attorney, Zoning Administrator, appropriate enforcement official, owners of all parcels of ground located within 300 feet of the real estate and all owners of real estate within the area included in the petition who were not petitioners for approval, and other specially affected persons designated in such commitments shall be entitled to enforce the commitments pursuant to I.C. 36-7-4-1015 or as otherwise provided by applicable law.

(g) The commitments required or allowed by the Area Plan Commission shall be in substantially the form set forth in Appendix B-1 of this chapter.

(2) Modification or termination of commitments by the Area Plan Commission.

(a) Commitments required or allowed by the Area Plan Commission may be modified or terminated by a decision of the Area Plan Commission.

(b) Any modification or termination of the commitments shall not be effective until:

1. Reduced to writing;

2. Approved by the Area Plan Commission;
3. Executed and notarized by the present owner(s) of the real estate; and


(c) The modification or termination of commitments shall be in substantially the form set forth in Appendix B-2 of this chapter.

(d) Procedures to be followed regarding form of filing, public hearing and notice, and reasons for modification or termination shall be those set forth in § 152.391.

(Ord. 1221, § 10.02, passed 1-26-2010)

§ 152.367 BOARD OF ZONING APPEALS.

(A) Establishment and jurisdiction. The Board of Zoning Appeals for St. Joseph County, is hereby re-established in accordance with I.C. 36-7-4-900 et seq. The Board of Zoning Appeals for the shall have exclusive authority over all matters set forth under I.C. 36-7-4-900 et seq., within the corporate limits of the Town of New Carlisle.

(B) Membership, qualifications, and terms. The membership of the Board of Zoning Appeals, the qualification of its members, and the terms of membership shall be in accordance with I.C. 36-7-4-900 et seq.

(C) Duties and powers. The Board of Zoning Appeals shall have the duty and power to:

(1) Hear and determine appeals from and review any order, requirement, decision, or determination made by staff, hearing officer, or administrative official under this chapter;

(2) Hear and determine appeals from and review any order, requirement, decision, or determination made by an administrative board or other body except the Area Plan Commission in relation to the enforcement of this chapter;

(3) Hear and determine appeals from and review any order, requirement, decision, or determination made by an administrative board or other body except the Area Plan Commission in relation to the enforcement of those provisions of this chapter requiring the procurement of an improvement location permit or a certificate of occupancy;

(4) Hear and make a favorable recommendation, unfavorable recommendation or no recommendation to the Town Council on all special exception uses in accordance with the provisions of division (I), below; and

(5) Hear and determine all variances from development standards of this chapter.
(D) **Conditions.**

(1) The Board of Zoning Appeals, in connection with its making of a favorable recommendation, unfavorable recommendation or no recommendation to the Town Council regarding the approval of a special exception use, may recommend that the Town Council impose certain reasonable conditions as a part of the Town Council’s approval of any special exception use.

(2) Such conditions may include any reasonable site, development, operational standards, performance standards, requirements, and restrictions (including duration of approval) deemed necessary to ensure compliance with the findings of fact determinations.

(E) **Amendments.** The Board of Zoning Appeals, in connection with making a determination on a variance of development standards, may accept amendments to a petition which, in the sole discretion of the Board of Zoning Appeals, are necessary for the Board of Zoning Appeals to make the determination and findings of fact required by division (H), below.

(F) **Commitments.**

(1) The Board of Zoning Appeals may recommend or the Town Council may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel in the case of a petition for a special exception use.

(2) The Board of Zoning Appeals may permit or require the owner of a parcel of property to make a written commitment concerning the development of that parcel in the case of a petition for a variance of development standards.

(3) Such commitments may include any reasonable site, development, operational standards, performance standards, requirements, and restrictions (including duration of approval) deemed necessary to ensure compliance with the findings of fact determinations.

(4) All such commitments shall be in recordable form and shall be recorded in the office of the County Recorder and shall take effect upon the granting of the special exception use or variance. A recorded commitment shall be binding on the owner of the parcel, each subsequent owner, and each other person acquiring an interest in the parcel.

(5) The commitments shall be in substantially the form set forth in Appendix B-3 of this chapter.

(6) A recorded commitment may be modified or terminated only by a decision of the Board of Zoning Appeals.

(7) The modification or termination of commitments shall be in substantially the form set forth in Appendix B-4 of this chapter.
(8) Procedures to be followed regarding form of filing, public hearing and notice, and reasons for modification or termination shall be those set forth in § 152.391.

(9) By recommending, permitting or requiring commitments, the Board of Zoning Appeals does not obligate itself to make a favorable recommendation nor does the Town Council obligate itself to approve or deny any request.

(10) This section does not affect the validity of any covenant, easement, equitable servitude, or other land use restriction created in accordance with law.

(G) Rules.

(1) The Board of Zoning Appeals shall adopt rules concerning: the filing of appeals; applications for special exception uses and variances; the giving of notice; the determination of interested parties to receive notice; the conduct of hearings; the creation, form, recording, modification, enforcement, and termination of commitments; and the designation of which specially affected persons and classes of specially affected persons are entitled to enforce commitments.

(2) Rules adopted by the Board of Zoning Appeals shall be printed and made available to all applicants and other interested persons.

(H) Variance of development standards. A variance from any of the development standards of this chapter may only be approved upon the Board of Zoning Appeals making a written determination and adopting appropriate findings of fact, based upon the evidence presented at a public hearing, that:

(1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and

(3) The strict application of the terms of this chapter would result in practical difficulties in the use of the property.

(I) Special exceptions.

(1) Statement of purpose. Certain land uses, while they may be generally appropriate in certain districts and under certain circumstances, may have characteristics and locational impacts which, if inappropriately located, may have a detrimental effect upon other land uses within the district and the town. It is therefore recognized that such land uses should be regulated in order to preserve property values, as well as promote the public health, safety, comfort, community moral standards, convenience, and general welfare of the town.
(2) *Uses permitted by special exception.* Only those uses identified in each individual district as uses permitted by special exception shall be permitted by special exception in each district.

(3) *Grant of a special exception.*

(a) The Board of Zoning Appeals is hereby authorized to hear and make a favorable recommendation, unfavorable recommendation or no recommendation to the Town Council on a petition for a special exception use.

(b) The Town Council shall, within 60 days of a recommendation by the Board of Zoning Appeals, vote on the petition for a special exception use.

(c) All petitions for a special exception use shall comply with the following requirements:

1. **Petition for special exception.** A petition for special exception shall be initially filed with the Board of Zoning Appeals in accordance with the requirements for the filing of a variance, except as such requirements may be modified in this section. The petition shall include proposed detailed findings of fact pursuant to division (I)(3)(c)4., below, in support of the determinations required to be made.

2. **Waiver of development standards.** A petition for special exception may contain a request to waive development standards of the district determined to be inappropriate for the individual special exception use. The waiver may only be approved if the waiver is specifically requested in the petition and specifically approved at the public hearing. Any development standards which are waived in this manner shall require additional findings as specified in division (H) of this section, above, for the grant of a variance of development standards.

3. **Basis of review of a special exception use.**

   a. In reviewing a special exception petition with regard to compliance with the required findings of fact, the Board of Zoning Appeals and Town Council shall give consideration to the particular needs and circumstances of each special exception application and shall examine the following items as they relate to the proposed use:

      i. Topography and other natural site features;
      
      ii. Zoning of the site and surrounding properties;
      
      iii. Driveway locations and street access;
      
      iv. On-site and off-site accommodations for vehicular and pedestrian circulation patterns;
v. Amount, location, and design of parking areas and loading areas;

vi. Building character, including height, intensity, materials, and architecture;

vii. Landscaping, screening, and buffering of adjacent properties;

viii. Compatibility of the proposed use, site design, and architecture with the district in which the use is proposed to be located;

ix. Extent to which the proposed use, site design, and architecture comply with the regulations and development standards that would be applicable if the site were zoned to a Commercial/Town Center District or Industrial District of this chapter which would permit the proposed use as a primary use;

x. Open space and other site amenities; and

xi. Availability and adequacy of streets, sanitary facilities, potable water, storm water management system, and other utilities.

b. The Board of Zoning Appeals and the Town Council shall find that the above items are dealt with appropriately by the petition for special exception use such that divisions (I)(3)(c)4. and (I)(3)(c)5., below, are complied with.

c. In addition to the requirements of this division (I)(3), special exception uses shall be subject to any additional development standards as determined by the Town Council.

4. Findings of fact for a special exception. A special exception may only be granted upon making a written determination and adopting appropriate findings of fact, based upon the evidence presented at a public hearing, that:

   a. The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;

   b. The proposed use will not injure or adversely affect the use of the adjacent area or property values therein;

   c. The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein; and

   d. The proposed use is compatible with the recommendations of the town Comprehensive Plan.
5. **Requirements for the grant of a special exception.** The grant of a special exception shall comply with the following requirements.

a. The proposed use shall conform to all development standards of the applicable zoning district (unless a waiver of the development standards is requested as part of the special exception petition and approved as set forth above).

b. The proposed use shall conform to all conditions or commitments attached to the grant of the special exception.

(J) **Other powers.** The Board of Zoning Appeals shall exercise all powers conferred on it by state law, local ordinance, or rule in the manner so prescribed. This section shall not be construed as a limitation on those powers.

(Ord. 1221, § 10.03, passed 1-26-2010)

§ 152.368 **STAFF AGENCIES.**

(A) **Establishment.** The Office of the Area Plan Commission of St. Joseph County, is hereby reestablished as the Planning Department for the Town of New Carlisle.

(B) **Administration of Planning and Zoning Authority.** The Office of the Area Plan Commission is hereby delegated the authority to perform all ministerial acts of the Area Plan Commission not required by law to be performed by the Area Plan Commission or the Board of Zoning Appeals within the town.

(C) **Duties and powers of the Executive Director and Zoning Administrator.**

(1) It shall be the duty of the Executive Director to supervise the general administration of the Planning Department.

(2) It shall be the duty of the Executive Director to receive and review all applications required by this chapter for zone map changes, development plan approvals, and planned unit developments.

(3) It shall be the duty of the Zoning Administrator to enforce and administer this chapter, receive and review all applications required by this chapter for determination by the Board of Zoning Appeals, and issue improvement location permits.

(4) The Executive Director shall, when requested by the Area Plan Commission or Board of Zoning Appeals, or when the interests of the town so require, make investigations in connection with matters referred to in this chapter and render written reports on the same.
(5) The Executive Director shall keep the records of the Planning Department, including, without limitation, records of applications and reports rendered. The Executive Director shall maintain records of all final determinations, decisions, and recommendations of the Area Plan Commission.

(6) The Town Clerk-Treasurer shall maintain records including, without limitation, records of all permits issued, certificates issued, and notice or orders issued.

(7) The St. Joseph County/City of South Bend Building Department shall maintain records including, without limitation, records of all: applications before the Board of Zoning Appeals; and final determinations, decisions, and recommendations of the Board of Zoning Appeals.

(8) The Executive Director shall transmit to the Area Plan Commission the recommendation of the Planning Department on all applications, petitions, or matters requiring official action by the Area Plan Commission.

(9) The St. Joseph County/City of South Bend Building Department shall transmit to the Board of Zoning Appeals technical advice on all applications, petitions, or matters requiring official action by the Board of Zoning Appeals.

(10) The Executive Director shall transmit to the Board of Zoning Appeals the recommendation of the Planning Department on applications, petitions, or matters requiring official action by the Board of Zoning Appeals.

(11) The Executive Director shall maintain the Official Zone Maps and designate on the Official Zone Maps all map amendments granted under the terms of this chapter.

(12) The Executive Director shall provide and maintain information for the public relative to all matters arising out of this chapter.

(13) The Executive Director may designate staff to assist in the daily administration of the duties and responsibilities set forth in this chapter.

(14) The Executive Director shall perform such other duties as the Area Plan Commission may direct in accordance with the provisions of this chapter.

(D) Zoning Administrator. The Zoning Administrator is hereby charged with the administration of this chapter and, in particular, shall have the jurisdiction, authority, and duties described below:

(1) To conduct preliminary consultations with potential applicants regarding development proposals regulated by this chapter;

(2) To review all improvement location permit applications for compliance with the provisions of this chapter; and
(3) To issue improvement location permits upon a determination that the permit application is in full compliance with all terms and provisions of this chapter, the town Subdivision Control Ordinance, and all other duly adopted applicable ordinances, rules, or regulations of the town.

(Ord. 1221, § 10.04, passed 1-26-2010)

**DEVELOPMENT REVIEW PROCEDURES**

§ 152.385 INTENT.

The development review procedures for the town are intended to provide for the protection of the public health, safety, morals, and general welfare of the residential and business citizens of the town by providing for the thorough review of all permit applications and development petitions so that informed decisions regarding the permit applications and development petitions may be rendered while balancing the needs of the development community for the timely review of those permit applications and development petitions.

(Ord. 1221, Art. 10.05, passed 1-26-2010)

§ 152.386 IMPROVEMENT LOCATION PERMITS.

(A) Improvement location permit required. No building, structure, improvement, sign, or use of land may be altered, changed, enlarged, placed, erected, or located, unless the building, structure, improvement, sign, or use and its location conform to the provisions of this chapter and an improvement location permit for the alteration, change, placement, erection, or location of the building, structure, improvement, sign, or use has been issued.

(B) Duration of improvement location permit.

(1) An improvement location permit shall be valid for a period of 1 year after date of issuance.

(2) The Zoning Administrator shall have the power to extend the period of validity of any improvement location permit one or more times, provided, however, the total time period of all extension(s) shall not exceed 6 months.

(C) Review of improvement location permit application.

(1) Improvement location permits for single family and 2 family dwellings and related accessory buildings or structures. The Zoning Administrator may take up to 5 business days to study an application for an improvement location permit. During this 5-business day period, the Zoning
Administrator may consult with other staff or appropriate technical consultants. If, after the 5-day period, the Zoning Administrator has not requested any additional information or stated any objections in writing to the applicant, and the proposed building, structure, or improvement, and the proposed use conform in all respects to the provisions of this chapter, the Zoning Administrator shall issue the improvement location permit.

(2) *Improvement location permits for all: multifamily, commercial/town center, industrial or special exception buildings, structures, improvements or uses; signs; and accessory buildings, structures or improvements related to multifamily, commercial/town center, industrial, or special exception uses.*

The Zoning Administrator may take up to 15 business days to study the application for an improvement location permit. During the 15-day period, the Zoning Administrator may consult with other staff or appropriate technical consultants. If, after the 15-day period, the Zoning Administrator has not requested any additional information or stated any objections in writing to the applicant, and the proposed building, structure, improvement or sign, and the proposed use conform in all respects to the provisions of this chapter, the Zoning Administrator shall issue the improvement location permit.

(3) *Improvement location permits for buildings, structures, improvements, signs, or uses authorized by variance.* In addition to the requirements above, an improvement location permit for a building, structure, improvement, sign, or use authorized by variance shall not be issued until:

(a) Receipt by the Zoning Administrator of written notice from the Board of Zoning Appeals that the application therefor has been approved by the Board of Zoning Appeals; and

(b) A determination by the Zoning Administrator that the improvement location permit application is in full compliance with the terms of any conditions which may have been imposed by the Board of Zoning Appeals and commitments which may have been made by the owner.

(4) *Improvement location permits for buildings, structures, improvements, signs, or uses authorized by special exception.* In addition to the requirements above, an improvement location permit for a building, structure, improvement, sign or use authorized by special exception shall not be issued until:

(a) Receipt by the Zoning Administrator of written notice from the Town Council that the application therefor has been approved by the Town Council; and

(b) A determination by the Zoning Administrator that the improvement location permit application is in full compliance with the terms of any conditions which may have been imposed by the Town Council and commitments which may have been made by the owner.

(D) *Appeal of determination.* Any determination by the Zoning Administrator concerning the issuance of an improvement location permit may be appealed to the Board of Zoning Appeals by any party claiming to be adversely affected by that decision.
(E) **Record of permits.** A record of all improvement location permits shall be kept on file in the office of the Zoning Administrator and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected and shall be available for public inspection and copying as provided by applicable state law.

(F) **Amended improvement location permit.** When a builder, developer, or owner of any building, structure, improvement, or sign for which an improvement location permit has been obtained, for any reason, proposes that the construction of the building, structure, improvement, or sign deviate from the plans filed with the improvement location permit application and approved by the Zoning Administrator, the builder, developer, or owner shall make application for an amended improvement location permit. The Zoning Administrator shall review the application for the amended improvement location permit in accordance with the procedures set forth above to determine compliance of the amended improvement location permit application with the provisions of this chapter and any other applicable conditions, commitments, or restrictions. If the amended improvement location permit application is found to be in compliance, the Zoning Administrator shall issue an amended improvement location permit. Any determination by the Zoning Administrator with respect to an amended improvement location permit shall be subject to the same appeal rights and procedures as set forth above for an initial application for an improvement location permit.

(G) **Revocation in event of violation.** If the Zoning Administrator determines that construction or development is proceeding or has proceeded in violation of any applicable law, ordinance, rule, regulation, site plan, or condition approval, or that the improvement location permit has been issued in violation of any applicable law, ordinance, rule, regulation, site plan, zoning commitment, or condition of approval, the Zoning Administrator may revoke the improvement location permit. In the event that an improvement location permit is revoked, the Zoning Administrator shall send written notice of the revocation to the permit applicant.

(H) **Fees.** Fees for improvement location permits shall be as established by the Town Council. (Ord. 1221, § 10.05(a), passed 1-26-2010)

§ 152.387 COMPLIANCE WITH OTHER LAWS, ORDINANCES, RULES, OR REGULATIONS.

The issuance of an improvement location permit does not substitute for or supersede the requirement to obtain approvals specified in other laws, ordinances, rules, and regulations, as the same may be amended from time to time, before the construction of any building, structure, improvement or sign, including, but not limited to:

(A) Town Building Code;

(B) Town Subdivision Control Ordinance;

(C) Any other applicable federal, state or local law, ordinance, rule, or regulation, including, but not limited to:
(1) Rule 5 Erosion Control Regulations;

(2) Driveway permit regulations for the town; and

(3) State or federal environmental permits.

(Ord. 1221, § 10.05(b), passed 1-26-2010)

§ 152.388 APPLICATION FORM AND PLAN REQUIREMENTS.

(A) All improvement location permit applications shall comply with the form of application specified by the town. When an improvement location permit is required by this chapter, additional site plans, landscape plans, lighting plans, sign plans, and building elevations, as described below, may be required to determine compliance with the requirements of this chapter.

(B) (1) A site plan for a single family dwelling or a 2 family dwelling on a platted lot:

(a) North arrow;

(b) Address of the lot;

(c) Scale (not more than 1 inch = 100 feet);

(d) Legal description of the lot;

(e) Names, centerlines, and right-of-way widths of all streets, alleys, thoroughfares, public ways, water ways, or railroad rights-of-way abutting or within the lot;

(f) The location and dimensions of all buildings, structures, or improvements currently existing on the lot;

(g) Structures proposed for demolition should be indicated as such;

(h) The location and dimensions of all proposed buildings, structures or improvements, including fences, sheds, paved areas, storage areas, parking areas (indicate if parking is hard surfaced). Cross-hatch or shade lightly all proposed buildings;

(i) Location of any proposed or existing driveway and its width at the property line (any connection to an alley must also be indicated);

(j) The distance from lot lines for all existing and proposed buildings, structures or improvements (this distance is measured as a line from the point where the building, structure or improvement is closest to the property line. This measurement is taken perpendicular to the property line.).;
(k) The height of the existing and proposed buildings, structures or improvements; and

(l) All other information required by the Zoning Administrator for the proper administration of this chapter.

(2) The Zoning Administrator may waive or relax any of the site plan requirements listed above, as circumstances dictate.

(C) (1) A site plan for any commercial/town center, industrial, or special exception use:

(a) North arrow;

(b) Address of the site;

(c) Scale (not more than 1 inch = 100 feet);

(d) The actual shape, size, and dimensions of the lot;

(e) Area map or sketch to indicate the location of the lot;

(f) Names, centerlines, and right-of-way widths of all streets, alleys, thoroughfares, public ways, water ways, or railroad rights-of-way abutting or within the lot;

(g) The location and dimensions of all buildings, structures, improvements or signs currently existing on the lot;

(h) Structures proposed for demolition should be indicated as such;

(i) The location and dimensions of all proposed buildings, structures, improvements, or signs, including fences, sheds, paved areas, storage areas, parking areas (indicate if parking is hard surfaced). Cross-hatch or shade lightly all proposed buildings;

(j) Location of any proposed or existing driveway and its width at the property line. (Any connection to an alley must also be indicated);

(k) If applicable, location of all existing and proposed freestanding signs on the site. See division (E), below, for requirements regarding proposed signs;

(l) The distance from lot lines for all existing and proposed buildings, structures, improvements or signs. (This distance is measured as a line from the point where the building, structure, improvement or sign is closest to the property line. This measurement is taken perpendicular to the property line.);

(m) The height of the existing and proposed buildings, structures or improvements;
(n) The number of dwelling units (if applicable) of existing and proposed buildings or structures;

(o) The current and proposed use to be made of all buildings, structures, improvements, or lands within the lot (e.g., parking area, loading area, residence, office, outdoor storage);

(p) Locational engineering information regarding all utilities to provide service to the buildings or structures on the lot;

(q) The location and dimensions of all off-street parking areas and off-street loading areas and facilities;

(r) The location, size, and dimension of all fences, walls, or other screening and buffering devices;

(s) Site data summary (a text summary in table format describing: square footage of existing and proposed buildings; existing, proposed, and required parking; existing, proposed, and required loading; proposed and permitted maximum building height; accommodation of drainage, sanitary sewer, water, and other utility services; legal description; lighting; and landscaping);

(t) The seal of the registered professional engineer or architect responsible for the site plan; and

(u) All other information required by the Zoning Administrator for the proper administration and enforcement of this chapter.

(2) The Zoning Administrator may waive or relax any of the site plan requirements listed above, as circumstances dictate.

(D) Building elevations.

(1) (a) Address of the site;

(b) Proposed name of the development;

(c) Scale;

(d) Elevations for each façade of the building;

(e) Specification or sample of the type and color of building materials to be used for all wall, window, roof, and other architectural features; and

(f) Any other information requested in writing by the Zoning Administrator.
(2) The Zoning Administrator, in its sole discretion, may waive or relax any of the building elevation requirements listed above, as circumstances dictate.

(E) Sign plan.

(1) (a) Address of the site;

(b) Proposed name of the development;

(c) Scale;

(d) (Freestanding signs): a site plan indicating the location of any existing or proposed freestanding signs;

(e) (Wall signs): a site plan indicating the location of any building upon which a sign is to be mounted, with the location of the signs indicated;

(f) Elevation of proposed signs including size, materials, and color;

(g) Illumination details for proposed signs;

(h) Placement, size, color, and illumination details for any proposed wall sign; and

(i) Any other information requested in writing by the Zoning Administrator.

(2) The Zoning Administrator, in its sole discretion, may waive or relax any of the sign plan requirements listed above, as circumstances dictate.

(F) Landscape plan.

(1) (a) Address of the site;

(b) Proposed name of the development;

(c) Scale (not more than 1 inch = 100 feet);

(d) The location of any existing or proposed freestanding signs;

(e) Outline of all existing or proposed buildings or structures, including parking areas and loading areas;

(f) Boundary lines of the site;
(g) Location of all floodway and floodway fringe areas within the boundaries of the site;

(h) All existing elevations and proposed land contour lines having at least 2-foot intervals;

(i) Proposed sidewalk, walkway, or alternate plan for pedestrian ways;

(j) Size, species, and spacing (on center) of all proposed trees, landscaping and ground cover;

(k) Location of existing trees in required yards and required residential bufferyards, indicating type and size of trees and whether the trees are to be removed or preserved;

(l) Description of methods to preserve trees without injury and with sufficient area for the root system to sustain the tree;

(m) Description of protective care and physical restraint barriers at the drip line to prevent alteration, compaction or increased depth of the soil in the root system area prior to and during groundwork and construction; and

(n) Any other information requested in writing by the Zoning Administrator.

(2) The Zoning Administrator, in his or her sole discretion, may waive or relax any of the landscape plan requirements listed above, as circumstances dictate.

(G) **Lighting plan.**

(1) (a) North arrow;

(b) Address of the site;

(c) Scale (not more than 1 inch = 100 feet);

(d) Proposed name of the development;

(e) Boundary lines of the site including all dimensions of the site;

(f) Outline of buildings, structures, and other improvements (e.g., parking areas, loading areas, interior access drives, and the like) on the lot and the location of all outdoor light fixtures;

(g) A description of the outdoor light fixtures, including but not limited to manufacturers or electric utility catalog specifications sheets, drawings, or photometric report, which indicate:

1. The outdoor light fixture classification (e.g., cutoff, semi-cutoff, full cutoff, or non-cutoff);
2. Mounting height of freestanding outdoor light fixtures; and

3. Wattage proposed for each outdoor light fixture.

(h) If architectural building lighting is proposed, indicate the location, type, and intensity of lighting on each building façade; and

(i) Any other information requested in writing by the Zoning Administrator.

(2) The Zoning Administrator, in his or her sole discretion, may waive or relax any of the lighting plan requirements listed above, as circumstances dictate.

(Ord. 1221, § 10.05(c), passed 1-26-2010)

§ 152.389 ZONING ORDINANCE AMENDMENT PROCEDURES.

(A) Text amendments. The procedures and requirements for the preparation and consideration of proposal to amend or partially repeal the provisions of this chapter shall be as follows:

(1) Text of Zoning Ordinance. The Town Council may, from time to time, upon its own motion or upon the petition of the Area Plan Commission, amend or partially repeal the text of this chapter in accordance with the provisions of I.C. 36-7-4-602 et seq.

(2) Town Council action. In the case of proposal to amend or partially repeal the text of this chapter or in the case of a zone map change, the Town Council may act upon the amendment only after a report has been presented by the Area Plan Commission after public notice and hearing in accordance with the provisions of I.C. 36-7-4-604 et seq.

(3) Town Council may initiate proposal. The Town Council may initiate and also require the Area Plan Commission to: prepare a proposal to amend or partially repeal the text of this chapter; or consider and recommend a proposal for zone map change, and submit the amendment to a public hearing by the Area Plan Commission within 60 days after formal written request by the Town Council.

(4) Review procedure and time limits. The procedure for the referral of a proposed amendment to the Area Plan Commission and the time limits for action by the Area Plan Commission and the Town Council shall be as set forth in I.C. 36-7-4-607 et seq.

(B) Zone map amendments (a.k.a. rezoning petitions). The procedures and requirements for the preparation and consideration of proposal to amend zone maps shall be as follows:

(1) Zone map change. Proposals to change the zone maps, whether by incorporating an additional map or by amending or deleting a map, incorporated by reference into this chapter may be initiated by the Town Council, the Area Plan Commission, or by a petition of the owners of property
of at least 50% of the area involved in the petition in accordance with the provisions of I.C. 36-7-4-602 et seq.

(2) Filing of proposal. A proposal for zone map change (a/k/a rezoning petition) shall be filed in the office of the Town Council. The proposal shall be on forms substantially as provided by the town and available from the Area Plan Commission.

(3) Required plans. Each proposal for zone map change shall be accompanied by 6 copies of a proposed site plan which conforms generally to the requirements set forth in § 152.388, above.

(4) Referral to Area Plan Commission. The Town Council shall refer a proposal for zone map change to the Area Plan Commission for public hearing and recommendation.

(5) Supplemental plans. Depending on the nature of the proposal, the Executive Director shall have the authority to request the submission of other supplemental information, including, but not limited to building elevations, sign plans, landscape plans, lighting plans, or traffic studies. If requested, such additional building elevations, sign plans, landscape plans, or lighting plans shall conform to the requirements set forth in § 152.388, above.

(6) Certification. After public hearing, the Area Plan Commission shall certify the proposal with:

   (a) A favorable recommendation;

   (b) An unfavorable recommendation; or

   (c) No recommendation.

(7) Commitments. The certification of a proposal by the Area Plan Commission to the Town Council may include written commitments as set forth in § 152.366(D). Such commitments may include: limitations upon certain uses; requirements for specific building or parking area setback or screening; requirements for specific site design features or project amenities; or requirements that development conform with site plans, building elevations, sign plans, landscape plans, or lighting plans which were submitted in connection with the proposal.

(8) The Town Council may adopt or reject the proposal for zone map change, as certified. (Ord. 1221, § 10.05(d), passed 1-26-2010)

§ 152.390 VARIANCE AND SPECIAL EXCEPTION PROCEDURES.

The procedures and requirements for the preparation and consideration of petition for a variance of development standards or a special exception use shall be as follows:
(A) **Petitions.** Petitions for a variance of development standards or for a special exception use shall be filed in office of the St. Joseph County/City of South Bend Building Department/the Town Clerk-Treasurer of the Town of New Carlisle, Indiana. The proposal shall be on the form provided, available in the office of the Building Commissioner/from the town.

(B) **Town referral.** Each petition for a variance of development standards or for a special exception use shall include a letter from the town describing the nature of the variance or special exception required.

(C) **Required plans.** Each petition for a variance of development standards or for a special exception use shall be accompanied by a site plan which conforms to the requirements set forth in § 152.388, above.

(D) **Supplemental plans.** Depending on the nature of the petition, the Zoning Administrator shall have the authority to request the submission of plans of operation, traffic studies, radio frequency studies, or other supplemental information including, but not limited to building elevations, sign plans, landscape plans or lighting plans. If requested, the additional building elevations, sign plans, landscape plans or lighting plans shall conform to the requirements set forth in § 152.388, above.

(E) **Variance of development standards.** The Board of Zoning Appeals, at a public hearing, shall hear and determine all variances of development standards.

(F) **Special exception uses.** Upon receipt of a petition for a special exception use, the St. Joseph County/City of South Bend Building Department shall forward a copy of the petition to the town. The Board of Zoning Appeals, at a public hearing, shall hear and make a favorable recommendation, unfavorable recommendation or no recommendation to the Town Council on all special exception uses. The Town Council shall, approve or disapprove all petitions for special exception uses within 60 days after the Board of Zoning Appeals makes its recommendation. If the Town Council does not vote to deny the petition for a special exception use within 60 days, the petition is approved.

(Ord. 1221, § 10.05(e), passed 1-26-2010)

§ 152.391 MODIFICATION OR TERMINATION OF COMMITMENTS.

In those instances where a property owner wishes to request that commitments which were entered into in connection with a development plan approval, zone map change, PUD District ordinance, secondary approval of a PUD, modification of permitted uses or development requirements of a PUD, variance, or a special exception, be modified or terminated, the request for modification or termination shall comply with the following requirements:

(A) **Form of filing.** Such request shall be filed as an “Petition for Modification or Termination of Commitments” with the body which permitted or required the commitments (i.e., the Area Plan Commission or the Board of Zoning Appeals).
(1) In the case of a modification or termination of commitments permitted or required by the Area Plan Commission, the petition shall be on forms provided by the office of the Area Plan Commission.

(2) In the case of a modification or termination of commitments permitted or required by the Board of Zoning Appeals, the petitions shall be on forms provided by the St. Joseph County/City of South Bend Building Department/the Town Clerk-Treasurer.

(B) Public hearing and notice. Each request for modification or termination of commitments shall be determined after a public hearing. The notification requirements and other procedural requirements for conducting the public hearing on a modification or termination of commitments shall be the same as for the initial public hearing at which the commitments were originally permitted or required.

(C) Reasons for modification or termination. The petitioner or property owner shall be responsible for presenting convincing evidence to the Area Plan Commission or the Board of Zoning Appeals as to the reasons, need, or justification for the proposed modification or termination of commitments.

(Ord. 1221, § 10.05(f), passed 1-26-2010)

ENFORCEMENT

§ 152.405 AUTHORITY.

The Zoning Administrator of the town is hereby designated to enforce the terms and provisions of this chapter in accordance with state law.

(Ord. 1221, Art. 11(a), passed 1-26-2010)

§ 152.406 ALLEGED VIOLATIONS.

Whenever the Zoning Administrator of the town receives a complaint or has reason to suspect that an alleged violation of the terms and provisions of this chapter is occurring, the Zoning Administrator shall investigate the complaint or suspicion and shall take whatever action is warranted in accordance with the provisions of this subchapter.

(Ord. 1221, Art. 11(b), passed 1-26-2010)

§ 152.407 RESPONSIBILITY FOR VIOLATIONS.

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists, directs, creates, or maintains any
situation that is in violation of the terms and provisions of this chapter, may be held responsible for the violation, suffer the penalties, and be subject to the remedies herein provided. 
(Ord. 1221, Art. 11(c), passed 1-26-2010)

§ 152.408 INSPECTION OF PROPERTY; RIGHT OF ENTRY.

(A) Zoning Administrator may enter upon any building, structure, or land or part thereof at any reasonable time for the purpose of inspecting all buildings, structures, or lands located within the corporate limits of the town for the purpose of carrying out their duties in the enforcement of this chapter. Prior to entering upon any premises, the Zoning Administrator shall furnish sufficient identification and information to enable the owner, tenant, or occupant to determine the purpose of the inspection and that the person conducting the inspection is an authorized representative of the town.

(B) In the event that entry is denied by the owner, tenant, or occupant of a premises, the Zoning Administrator may make application to any court of competent jurisdiction for the issuance of a search warrant. The application shall identify the premises upon which entry is sought and the purpose for which entry is desired. The application shall state the facts giving rise to the belief that a condition which is in violation of this chapter exists on the premises, or that such a violation in fact exists and must be abated, and that the condition or violation is not a lawful nonconforming use to the best of the affiant’s belief. Any warrant issued pursuant to the application shall order the owner, tenant, or occupant to permit entry to the Zoning Administrator for the purposes stated therein.
(Ord. 1221, Art. 11(d), passed 1-26-2010)

§ 152.409 CEASE AND DESIST ORDER.

The Zoning Administrator is empowered to issue a cease and desist order requiring the suspension of land improvement of any kind when any of the following circumstances exist:

(A) A site improvement is occurring without an improvement location permit or any other permit required by this chapter having first been obtained;

(B) A site improvement is occurring in violation of:

(1) The terms, conditions, or provisions of this chapter;

(2) The terms and conditions of an improvement location permit;

(3) The terms and conditions of any other permit required as a pre-requisite to the issuance of an improvement location permit;

(4) The terms, provisions, conditions, or commitments of a variance or special exception use;
(5) Other approval grant authorized by this chapter; or

(6) Other applicable federal, state, or local law or ordinance.

(C) The cease and desist order shall be posted on the property in a conspicuous place, or personally delivered to the owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists, directs, creates, or maintains any situation that is in violation of the terms and provisions of this chapter and state the conditions under which construction or other activity may be resumed. The Zoning Administrator shall meet with the recipient of a cease and desist order upon request to explain the conditions under which construction or other activity may be resumed.

(D) In addition to any other remedies available pursuant to any other applicable law and this chapter, the Town Attorney, Zoning Administrator, or appropriate enforcement official may institute a lawsuit in a court of competent jurisdiction to enforce the provisions of a cease and desist order, including but not limited to injunctive relief.

(Ord. 1221, Art. 11(e), passed 1-26-2010)

§ 152.410 VIOLATIONS.

Subject to the provisions of §§ 152.055 through 152.067 on nonconforming lots, uses, buildings, structures of signs, each of the following shall constitute a zoning violation which may be enforced by the town in accordance with the provisions set forth in § 152.411 below:

(A) The location, erection, or maintenance of any sign not specifically permitted by this chapter;

(B) The failure to obtain an improvement location permit when one is required by the terms and provisions of this chapter;

(C) The outdoor storage of junk, trash, or debris in any district, the provisions of which do not specifically permit such a use;

(D) (1) The parking or storage in any district, the provisions of which do not specifically permit such a use, of any:

   (a) Motor vehicle used or designed for use in pulling, towing, hauling, transporting; or

   (b) Motor vehicle or separate trailer as a temporary or permanent base, platform or support for equipment, machinery, materials, or other goods (including but not limited to stake body trucks, dump trucks, trucks, or tractors having dual real wheels or more than 2 axles, semi-trailer tractors, semi-trailers and trailers having dual real wheels or more than 1 axle or having an overall length of more than 12 feet).
(2) However, this provision does not apply to motor vehicles which do not exceed 3/4 ton load classification in size and which are the primary source of transportation for an individual whose primary place of residence is the particular dwelling at which the commercial motor vehicle is parked on a regular basis.

(E) The outdoor storage or display of merchandise or goods in any district the provisions of which do not specifically permit such a use or in violation of the district development standards regulating such a use;

(F) The conduct of any activity in a Residential District that is not specifically enumerated as a permitted primary or accessory use in that district, and which activity has not been legally established by a currently valid special exception use or other approval grant;

(G) Failure to comply with district development standards, including but not limited to landscaping, paving of parking areas, minimum parking space requirements, minimum loading space requirements, trash dumpster enclosure, fencing, landscaping, or screening requirements;

(H) The failure to comply with:

(1) The terms, provisions, conditions, or commitments of a variance grant or special exception use grant;

(2) The terms of commitments made in connection with a zoning map change or the approval of a development plan;

(3) The terms, provisions, or conditions of any other permit required as a prerequisite to the issuance of a improvement location permit; or

(4) Other approval grant authorized by this chapter;

(I) The violation of a cease and desist order issued pursuant to this subchapter; and

(J) Failure to comply with any other provisions of this chapter or other applicable federal, state, or local law or ordinance.
(Ord. 1221, Art. 11(f), passed 1-26-2010)

§ 152.411 REMEDIES OR PENALTIES FOR VIOLATION.

(A) Generally.

(1) Any owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who commits, participates in, assists, directs, creates, or
maintains any situation that is in violation of the terms and provisions of this chapter as defined in § 152.410, above, may be issued a citation by the Zoning Administrator.

(2) Subject to the provisions of divisions (B) and (C), below, each day a zoning violation remains uncorrected is a distinct and separate zoning violation subject to an additional citation and fine in the amount prescribed in this chapter.

(B) Procedures for initial notice of zoning violation or citation.

(1) The Zoning Administrator may issue a notice of zoning violation to a person (i.e., any owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person) who commits a zoning violation or allows a zoning violation to be committed on real estate in which the person has a possessory interest. The notice of zoning violation may be served by: personal service; certified mail, return receipt requested; registered mail; or by posting the notice in a conspicuous place on the property where the violation occurs, and shall serve as notice that a zoning violation has been committed.

(2) No citation shall be issued unless notice as required by division (B)(1) above has been provided at least 10 days before the citation is issued, in order to allow the person receiving notice an opportunity to correct the violation and to come into compliance with the terms and provisions of this chapter, provided, however, the service of a notice of zoning violation and the provision of time to correct the zoning violation is not required before issuing a citation for: violation of a cease and desist order issued pursuant to § 152.409; or violation of § 152.293(A)(7) or (A)(9) regarding signs or lights located on a wireless telecommunications facility. If upon re-inspection, the zoning violation remains unabated, a second notice of zoning violation may be served, or a citation accompanied by the fines as specified in § 152.412, below, may be issued.

(C) Action after second notice or citation. A person (i.e., any owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person) who is served with a second notice of zoning violation or receives a citation shall have 10 days from service of a second notice of zoning violation or receipt of citation to take 1 of the following actions:

(1) The person may elect to file a petition for zoning map change, variance, special exception use or development plan approval to correct the violation, in which case the person must indicate the intent to file such a petition on the served second notice or citation and return a copy to the Zoning Administrator or appropriate enforcement official. During the pendency of the petition the issuance of additional notices or citations and additional monetary fines as prescribed in § 152.412, shall be stayed. A person who files the petition within the time period shall pursue the petition in an expeditious and diligent manner. If the petition is denied, withdrawn or dismissed and the zoning violation continues, then a lawsuit may be commenced by the Town Attorney, Zoning Administrator, or appropriate enforcement official as provided by applicable laws; or

(2) The person or any other interested party may elect to appeal the decision of the enforcement official pursuant to § 152.367(C) as an Administrative Appeal before the Board of Zoning Appeals.
(D) **Legal action for failure to correct violation.** If an owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who is served with a second notice of zoning violation or receives a citation fails to either correct the violation or take such actions to come into compliance within 10 days as set forth in division (B) above, then the Town Attorney, Zoning Administrator, or appropriate enforcement official may institute legal action in a court of competent jurisdiction to enforce the terms and conditions of this chapter, including but not limited to: enforcement of a cease and desist order as provided in § 152.409; assessment and collection of fines as provided in § 152.412; or the pursuit of injunctive and other equitable relief and remedies available under state law.

(Ord. 1221, Art. 11(g), passed 1-26-2010)

§ 152.412 FINES.

Monetary fines for zoning violations shall be assessed as set forth in §§ 152.440 through 152.446 and the Fee Schedule, Chapter 98.

(Ord. 1221, Art. 11(h), passed 1-26-2010)

§ 152.413 ADDITIONAL REMEDIES.

(A) Seeking a penalty as authorized in this section does not preclude the designated enforcement entity from seeking alternative and additional relief from the Court in the same action, or from seeking injunctive relief or any other remedy in a separate action for the enforcement of this chapter available under applicable state law.

(B) In the event that a violation of this chapter is determined to exist by a court of competent jurisdiction, the owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who commits, participates in, assists, directs, creates, or maintains any situation that is in violation of the terms and provisions of this chapter shall be liable to the town for the town’s reasonable attorney fees in accordance with state law.

(Ord. 1221, Art. 11(i), passed 1-26-2010)

**DEFINITIONS AND INTERPRETATION**

§ 152.425 INTERPRETATION OF TERMS OR WORDS.

The language of this chapter shall be interpreted in accordance with the following regulations:

(A) The word “person” includes a firm, association, organization, partnership, trust, limited liability company, corporation, or other legal entity, as well as an individual;
(B) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular, in each case, if the context so requires;

(C) The word “shall” is mandatory, the word “may” is permissive;

(D) The words “used” or “occupied” include the words “intended,” “designed,” “constructed,” “altered,” or “arranged” to be used or occupied;

(E) The word “lot” includes the words “plot,” “tract,” or “parcel;” and

(F) Where a regulation involves 2 or more items, conditions, provisions or events connected by the conjunction “and,” “or,” or “either... or,” the conjunction shall be interpreted as follows:

   (a) “And” indicates that all the connected items, conditions, provisions or events shall apply;

   (b) “Or” indicates that the connected items, conditions, provisions or events may apply singly or in any combination; and

   (c) “Either... or” indicates that all the connected items, conditions, provisions or events shall apply singly but not in combination.

(G) The terms “more intense” and “less intense” are terms used herein to describe relationships between particular districts. This relationship is based upon the uses permitted within each district. A “more intense” district permits more uses or a greater density of uses than a “less intense” district. District intensity groupings progress from Agricultural, to Residential, to Commercial/Town Center, to Industrial Districts, in the sequence listed within each group of districts from least intense to the most intense.

(Ord. 1221, § 12.01, passed 1-26-2010)

§ 152.426 DEFINITIONS.

The following terms or words used in the text of this chapter shall have the following meanings, unless a contrary meaning is either required by the context of a particular sentence or phrase or specifically prescribed in a particular sentence or phrase.

ABANDONED. A condition that exists after a voluntary act or failure to act by the owner of a nonconforming use which evidences that the owner neither claims nor retains the right to exercise the nonconforming use.

ACCESS. The way in which vehicles ingress and egress a lot from a street fronting along the lot.

ACCESS DRIVE. That area within the right-of-way between the pavement edge or curb and the right-of-way line to provide ingress and egress to and from a lot.
ACCESSORY (STRUCTURE, BUILDING, OR USE). A subordinate structure, building, or use that is customarily associated with, and is appropriately and clearly incidental and subordinate in use, size, bulk, area and height to the primary structure, building, or use, and is located on the same lot as the primary building, structure, or use.

ACCESSORY PARKING LOT. See PARKING LOT, ACCESSORY.

ADULT BUSINESS. See §§ 152.330 through 152.332.

ADULT CABARET. See CABARET, ADULT.

AGRICULTURAL NONCONFORMING USE. An agricultural use of land that is not permitted under this chapter, including any amendments hereto.

AGRICULTURAL USE. An operation which consists of the following uses, individually or in combination: the production of livestock or livestock products, commercial aquaculture, equine or equine products, land designated as a conservation reserve plan, pastureland, poultry or poultry products, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, bees and apiary products, tobacco, or other agricultural crops; uses accessory to agricultural operations on the site; or uses accessory to agricultural operations in the area.

ALLEY, PRIVATE. A private right-of-way for public use as a secondary means of public access to a lot otherwise abutting upon a public street or private street and not intended for traffic other than public services and circulation to and from the lot.

ALLEY, PUBLIC. Any public right-of-way which has been dedicated or deeded to and accepted by the public for public use as a secondary means of public access to a lot otherwise abutting upon a public street and not intended for traffic other than public services and circulation to and from the lot.

AMUSEMENT ARCADE. Any establishment which keeps, maintains, or operates for hire on the premises 4 or more amusement devices, including by way of example: automatic baseball court, shooting gallery, pinball machines, tenpin machines, electronic or video game machines, prize machines, and the like. An establishment which has 4 or more amusement devices, and which establishment does not dedicate and/or derive its business and/or income primarily from these amusement devices, shall not be considered a controlled use.

AMUSEMENT CENTER. Any indoor and/or outdoor establishment which keeps, maintains, or operates for hire on the premises 1 or more recreational activities, including by way of example: go-cart tracks, skateboard facilities, water slides, model car or model railroad tracks, ice and roller skating rinks, and the like. Establishments of this type generally charge fees for each activity, and may include food, beverage, amusement arcade, and waiting areas.

AMUSEMENT PARK. A primarily outdoor establishment which keeps, maintains, and operates on the premises 1 or more recreational activities, including by way of example: roller coasters, water
slides, merry-go-rounds, plays, dance shows, and any and all assortment of mechanical rides, amusement booths, restaurants, and snack areas. Establishments of this type generally have controlled access to the entire facility, and have a general admission charge. Selected venues within the park may have additional fees and/or charges and may include elements of an amusement arcade and an amusement center.

**ANTENNA.** Any structure or device designed and used to:

1. Receive direct broadcast satellite service, including direct-to-home satellite services;
2. Receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services;
3. Receive radio or television broadcast signals; or
4. Collect or radiate electromagnetic waves, including both directional antennas, such as panel antenna, and dish antenna, and omnidirectional antennas, such as whip antennas, but not including satellite earth stations.

**ANTENNA ARRAY.** A structure attached to a telecommunications tower that supports a telecommunications antenna.

**ANTENNA, DISH.** A dish shaped device which may be freestanding or mounted on a building or structure and is designed to receive direct broadcast satellite service.

**ANTENNA, FLAGPOLE.** A telecommunications tower designed to appear and function as a large diameter flagpole where panel antenna are integrally designed into and located inside of a telecommunications tower and are not visible from the exterior. A **FLAGPOLE ANTENNA** may or may not include flying of a flag. **FLAGPOLE ANTENNA** may be ground mounted or roof mounted.

**ANTENNA, NON-WHIP.** An antenna which is not a whip antenna, such as dish antennas, panel antennas, and the like.

**ANTENNA, PANEL.** A flat, rectangular antenna or antenna array designed to concentrate a radio signal in a particular area. Panel antenna are also known as directional antenna or sectored antenna.

**ANTENNA, RADIO/TELEVISION.** A wire or combination of wires and support structures designed for directly transmitting electric waves (broadcast radio or television) into space, or receiving them therefrom.

**ANTENNA, SLICK.** Panel antennas that are mounted directly to tapering monopole telecommunications tower where the furthest point of the panel antenna is no greater than 18 inches from the exterior of the tapering monopole telecommunications tower.
**Zoning**

*ANTENNA, STEALTH.* An antenna or antenna array placed on or in an existing or proposed building, structure, or telecommunications tower and designed or placed in a manner intended to disguise, hide, or minimize the appearance of the antenna or antenna array. A **STEALTH ANTENNA** may or may not have a secondary function (e.g., bell tower, church steeple, spire, flagpole, clock tower, cupola, and the like). **STEALTH ANTENNA** may include, but are not limited to: flagpole antenna; slick antenna; or a surface-mount antenna with a color and appearance that is compatible with or blends with the color and materials of the surface of the building or structure to which the surface-mount antenna is attached.

*ANTENNA, TELECOMMUNICATION.* An antenna used to provide a telecommunications service.

*ANTENNA, WHIP.* An omnidirectional dipole antenna of cylindrical shape which is no more than 6 inches in diameter.

*APPROVED HOTEL.* See **HOTEL, APPROVED**.

*AREA BOARD OF ZONING APPEALS.* The Board of Zoning Appeals having jurisdiction over all real property within the town.

*AREA PLAN COMMISSION.* The Area Plan Commission of St. Joseph County, established pursuant to the Area Planning Law of the state.

*ARTIFICIAL LAKE.* Either:

1. An artificially created body of water which is not required in connection with a storm water management system; or

2. That portion of an artificially created body of water developed in connection with a storm water management system which exceeds the capacity required to manage the 100-year storm event.

*ASSEMBLY* (when used in reference to an industrial operation). The fitting together of previously manufactured parts or sub-assemblies, that does not require additional manufacturing or machining, into a finished item or unit.

*AUTHORIZED AGENT.* Any party duly authorized in writing by the owner of a subject parcel to act on the owner’s behalf with respect to any development petition, including but not limited to a petition for: zone map change; platting of a subdivision; development plan approval; variance; special exception use; or vacation of land in a plat.

*AUTOMOBILE REPAIR, MAJOR.* Servicing and repairs which include muffler repair or installation, brake repair or installation, shock replacement, transmission repair, tire recapping, motor overhaul, or body or fender repair work (not including the dismantling or wrecking of motor vehicles, or the storage of inoperable, damaged, or wrecked vehicles, other than those awaiting immediate repair).
AUTOMOBILE REPAIR, MINOR. Servicing and repairs limited to tune-ups, oil changes, sale and installation of lubricants, tires, batteries, and other minor maintenance operations.

AWNING. A roof-like cover, often of fabric, metal, plastic, fiberglass, or glass designed and intended for protection from the weather or as a decorative embellishment, and which is supported by and projects from a wall or roof of a building or structure over a window, door, sidewalk, walkway, or the like.

BANNER. See SIGN, BANNER.

BAR. A premises used primarily for the sale or dispensing of liquor by the drink for on-site consumption, and where packaged liquor may be sold or food may be available for consumption on the premises as accessory to the primary use.

BASEMENT. That portion of a building with an interior vertical height clearance of not less than 78 inches and having 1/2 or more of its interior vertical height clearance below grade level.

BED & BREAKFAST. The commercial leasing of bedroom(s) for guest(s) within a private, owner-occupied, single family dwelling unit or 2 family dwelling unit. Such leasing provides temporary accommodations, typically including a morning meal, to overnight guests for a fee. The leasing may also provide for the temporary accommodation of daytime meetings or receptions for guests for a fee. The leasing caters largely to tourists and the traveling public.

BILLIARD HALL. See POOL HALL.

BINGO. A game of chance as defined in I.C. 4-32.2-2-3, and all other games of chance or other allowable events as regulated by I.C. 4-32.2.

BLOCK. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines, or municipal boundary lines.

BLOCK FACE. The frontage of a block, which may contain 1 or more lots, along 1 side of a public street or private street between intersections.
BOARD OF ZONING APPEALS. See AREA BOARD OF ZONING APPEALS.

BOARDING HOUSE. A building or part of a building, other than hotels, motels, restaurants, bed & breakfast, or multifamily dwellings, containing accommodation facilities in common where lodging, typically with meals reserved solely for the occupants thereof, is provided, whether or not for compensation.

BUFFERYARD. See RESIDENTIAL BUFFERYARD.

BUFFERYARD, FRONT. See RESIDENTIAL BUFFERYARD, FRONT.

BUFFERYARD, REAR. See RESIDENTIAL BUFFERYARD, REAR.

BUFFERYARD, SIDE. See RESIDENTIAL BUFFERYARD, SIDE.

BUILDABLE AREA. The area of a lot remaining after the minimum yard and lot area requirements of this chapter have been met and in which development may occur subject to compliance with all applicable development standards.
BUILDING. Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods, or materials of any kind or nature.

BUILDING COMMISSIONER. The Building Commissioner of the Town of New Carlisle.

BUILDING HEIGHT. The vertical distance measured from the average elevation of the proposed finished grade at the front of the building or structure to the highest point of the building (typically the roof) or structure; provided, however, appurtenances such as chimneys, spires, cupolas, steeples, antenna attached to a building or structure shall not be included in the calculation of building height.

BUILDING LINE. A line parallel to any front lot line, side lot line, or rear lot line which passes through the nearest point of any building or structure.

BUILDING LINE, FRONT. A line parallel to any front lot line which passes through the nearest point of any building or structure and terminates at the point of contact with any side lot line.

BUILDING LINE, REAR. A line parallel to any rear lot line which passes through the nearest point of any building or structure and terminates at the point of contact with any side lot line.

BUILDING LINE, SIDE. A line parallel to any side lot line which passes through the nearest point of any building or structure and terminates at the point of contact with any front lot line or rear lot line.

BUILDING MATERIAL. Exterior surface materials, exclusive of materials used for: windows; doors; roofing; fascia; soffit; balconies; railings; handrails; stairs; foundations; vents; and support beams or columns less than 18 inches in width.

BUILDING PERMIT. A permit issued in compliance with the terms and provisions of the Building Code for the town.

BUS. A motor vehicle designed for carrying more than 10 passengers, exclusive of the driver.

BUSINESS. An enterprise involving selling, storing or processing goods or commodities or the rendering of services.

BUSINESS DAY. A day when the offices of the town and the Area Plan Commission of St. Joseph County are open to the public for the transaction of business for the entire period of its normal operating hours.

CABARET. A commercial establishment where persons congregate for the purpose of eating, drinking, dancing or singing and where live musical or live entertainment is provided.

CABARET, 21 & OVER (a.k.a. CLASS A CABARET). Any cabaret, not including an adult cabaret or a family cabaret, or family restaurant with lounge, which has on the premises an area where:
(1) Alcoholic beverages are sold, bartered, exchanged, given away, or furnished; and

(2) From which minors are excluded pursuant to I.C. 7.1-5-7-9, 7.1-5-7-10 and 7.1-5-7-11.

**CABARET, ADULT** (a.k.a. **CLASS B CABARET**). See § 152.332.

**CABARET, FAMILY** (a.k.a. **CLASS C CABARET**). Any cabaret in which minors are not excluded pursuant to I.C. 7.1-5-7-9, 7.1-5-7-10, and 7.1-5-7-11, and which is not a 21 & over cabaret, an adult cabaret, or a family restaurant with lounge.

**CALIPER.** The diameter of a tree trunk, measured in inches, at 6 inches above the ground.

**CANOPY.** A roof-like cover, often of fabric, metal, plastic, fiberglass, or glass on a support, which is supported in total or in part, from the ground and providing shelter over, for example, a doorway, outside walk, interior access drive, or parking area.

**CANOPY, VEHICULAR.** A roofed, open, drive-through structure designed to provide temporary shelter for vehicles and vehicle occupants while receiving a business service.

**CARE GIVER.** See **DWELLING, CARE GIVER.**

**CARE RECEIVER.** See **DWELLING, CARE RECEIVER.**

**CARPORT.** A roofed structure designed and intended to shelter the automotive vehicle of occupant or owner of the premises, with at least 1 side open to the weather.

**CASINO.** A building, facility or room where any gambling games, not operated by a qualified organization are conducted. (For reference see I.C. 4-32.2 et seq.)

**CERTIFICATE OF OCCUPANCY.** A certificate issued authorizing an occupancy under the local Building Codes of the town.
CHILD CARE. A service that provides for the care, health, safety, and supervision of a child’s social, emotional, and educational growth.

CHILD CARE CENTER. A nonresidential building where at least 1 child receives child care from a provider:

(1) While unattended by a parent, legal guardian, or custodian;

(2) For regular compensation; and

(3) For more than 4 hours but less than 24 hours in each of 10 consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

CHILD CARE HOME.

(1) A residential structure in which at least 6 children (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative or any child who is at least 14 years of age and does not require child care) at any time receive child care from a provider:

(a) While unattended by a parent, legal guardian, or custodian;

(b) For regular compensation; and

(c) For more than 4 hours but less than 24 hours in each of 10 consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

(2) The term includes:

(a) A Class I child care home; and

(b) A Class II child care home as defined in state law.

CHILD CARE MINISTRY. Child care operated by a church or religious ministry that is a religious organization exempt from federal income taxation under Section 501 of the Internal Revenue Code.

CHILD CARE PROGRAM, SCHOOL AGE. A program operated by a school corporation or a nonprofit organization that offers care to children who are at least 5 years of age but less than 15 years of age for the following periods of time:

(1) Before or after the school day, or both;

(2) When school is not in session; or
(3) When school is in session for students who are enrolled in a half-day kindergarten program.

**CLASS A CABARET.** See **CABARET - 21 AND OVER.**

**CLASS B CABARET.** See **CABARET - ADULT.**

**CLASS C CABARET.** See **CABARET - FAMILY.**

**CLUB.** An association or corporation:

1. Organized, in good faith, under authority of law;

2. Maintaining, in good faith, a membership roll of paid-up membership:

3. Owning, leasing, or occupying an establishment operated solely for objects of a nation, social, patriotic, religious, political, or athletic nature, or the like;

4. Not operated for pecuniary gain;

5. With property and advantages of the organization belonging to its members;

6. Where the sale or provision of alcoholic beverages, if undertaken, is done pursuant to a club permit issued by the State Alcoholic Beverage Commission.

**CO-LOCATION.** The placement of 2 or more antenna or antenna arrays by telecommunication service providers on a common support structure.

**COMMITMENT.** A legally binding, written restriction on the use and development of real estate entered into in connection with a petition for: zoning map change; development plan approval; special exception; or variance.

**COMPREHENSIVE PLAN.** The Comprehensive Plan for the town or any supplemental or replacement comprehensive plan subsequently recommended by the Area Plan Commission and adopted by the Town Council pursuant to state law.

**CONCEPT PLAN.** An informal site plan of a proposed subdivision, project, planned unit development or other development intended to convey the scope, content and nature of a proposed development, but lacking sufficient detail to determine compliance with chapter requirements.

**CONCEPT PLAN REVIEW.** A cursory review of a concept plan or sketch plan for a proposed subdivision, project, planned unit development or other development in which staff provides initial review comments to a prospective petitioner on the design and layout of a proposed subdivision, project, planned unit development or other development.
CONDOMINIUM. A building, group of buildings, or portion thereof, in which units are owned individually, and the structure, common areas, or facilities are owned by all the owners on a proportional, undivided basis. (For reference see I.C. 32-25.)

CONFORMING. The state of being in compliance with the permitted use or development standards regulations of the district to which the real estate is zoned pursuant to this chapter.

CONTROLLED USE. Any use recognized as having objectionable secondary impacts. See §§ 152.330 through 152.332 and Appendix A for a listing of CONTROLLED USES.

COTTAGE BUSINESS/RESIDENTIAL. A business operated out of the same building or tenant space as the primary dwelling unit of the proprietor when located in a district which permits such mixed-use occupancy.

COTTAGE SCHOOL. A private school which:

(1) Provides educational services for a maximum of 6 children at a time;

(2) Is operated in a residential property; and

(3) Provides educational instruction for students between and including grades K - 12.

COUNTRY CLUB. Land area and buildings containing golf courses, recreational facilities, clubhouse, and customary accessory uses, open only to members and their guests.

CUTOFF. A luminaire where light distribution does not exceed:

(1) Two and one-half percent above an angle of 90 degrees; and

(2) Ten percent at an angle between 80 degrees and 90 degrees.

CUTOFF, FULL. A luminaire equipped with a light fixture (i.e., lamp, lens, reflective surface, and the like) that does not protrude below the bottom edge of the light fixture and is designed so that:

(1) No light is emitted above an angle of 90 degrees; and

(2) Light distribution does not exceed 10% at an angle between 80 degrees and 90 degrees.

CUTOFF, NON. A luminaire where light distribution is unrestricted.

CUTOFF, SEMI. A luminaire where light distribution does not exceed:

(1) Five percent above an angle of 90 degrees; and
(2) Twenty percent at an angle between 80 degrees and 90 degrees.

DECK. A ground-supported, unenclosed, platform accessory structure, usually constructed of wood, of which any permanent horizontal area(s) of the platform is raised above grade level and is designed and intended for the recreational enjoyment of the occupant(s) and guest(s) of the primary use or structure.

DETAILED TERMS. The uses and development standards specified in a PUD District ordinance with sufficient information from which to determine if an improvement location permit application is in compliance with the use, area and bulk regulations specified in the PUD District ordinance. Specific information including but not limited to: permitted uses; gross density; frontage; setbacks; minimum yards; use of yards; building height; parking area requirements; loading area requirements; landscaping requirements; signs; open space; building design and appearance requirements; and the like, is provided.

DEVELOPED RECREATIONAL OPEN SPACE. The total horizontal area of those portions of a lot which are located outside of any required yard and which are set aside and developed for the recreational use and enjoyment of all residents of a project.

DEVELOPMENT PETITION. Any petition or review process required by this chapter prior to the issuance of a improvement location permit, including but not limited to petitions for: zone map changes; variances; special exception uses; primary plats; secondary plats; re-plats; vacations; or development plans.

DEVELOPMENT PLAN. Specific plans development of property filed in connection with development incentives review under the terms of this chapter. A DEVELOPMENT PLAN may include but not be limited to: a site plan; landscape plan; signs; lighting plans; building elevations; and pedestrian and vehicular circulation plans, which are reasonably necessary to depict or describe certain information and data as required by this chapter.

DEVELOPMENT REQUIREMENTS. Permitted uses, development standards and any additional requirement specified in this chapter which must be satisfied in connection with the approval of a development plan.

DEVELOPMENT STANDARDS. Area, bulk, height, setback, parking, loading, landscaping, lighting, performance standards, building materials, pedestrian and vehicular circulation, and other applicable regulations of a district contained in this chapter which govern the physical development of real estate.

DIRECTOR. See EXECUTIVE DIRECTOR.

DISTRICT. Any zoning district or overlay district applicable to a section of the territory within the jurisdiction of this chapter.
**DISTRICT, OVERLAY.** A section of the territory within the jurisdiction of this chapter in which additional requirements are imposed on certain properties within one or more underlying zoning district.

**DISTRICT, ZONING.** A section of the territory within the jurisdiction of this chapter for which uniform regulations over the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land, including, but not limited to: permitted uses; height; area; size; and intensity of use of buildings, structures, land, and open spaces about buildings or structures, are established by this chapter.

**DRAINAGE POND.** An artificially created body of water which is required in connection with a storm water management system.

**DRIVE, INTERIOR ACCESS.** A way for internal vehicular movement in and around an individual lot or integrated center.

**DRIVE-THROUGH FACILITY.** A feature of an establishment which typically includes an opening in the exterior of the building, or the use of pneumatic dispatch or similar devices, which encourage or permit customers to receive goods or services while remaining in or on a motor vehicle.

**DRIVEWAY.** Access for vehicular egress/ingress between the right-of-way of a public street or private street and the minimum required setback line on a lot.

**DRIVEWAY, INTERIOR ACCESS.** A way for vehicular egress/ingress between the minimum required setback lines of separate lots or between lots within the boundaries of an integrated center.
**Zoning**

**DWELLING.** Any building, or portion of a building, which is designed or used primarily for residential purposes, including a single family dwelling, 2 family dwelling, and multifamily dwelling but not including hotels, motels, boarding houses, lodging houses, and bed & breakfast.

**DWELLING, ACCESSORY.** A dwelling unit which is subordinate and incidental to the primary use of a lot for a single family dwelling.

**DWELLING, CARE GIVER.** A second dwelling unit located on a lot in a Residential District which permits only 1 single family dwelling as a matter of right and which is:

1. Occupied by a family who provides weekly assistance to the family residing in the permitted single family dwelling; and

2. Approved by the Board of Zoning Appeals through the grant of a special exception.

**DWELLING, CARE RECEIVER.** A second dwelling unit located on a lot in a Residential District which permits only 1 single family dwelling as a matter of right and which is:

1. Occupied by a family who receives weekly assistance from the family residing in the permitted single family dwelling; and

2. Approved by the Board of Zoning Appeals through the grant of a special exception.

**DWELLING, MANUFACTURED HOME.** A dwelling unit which is fabricated in one or more modules at a location other than the home site, by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process.

**DWELLING, MOBILE.** A movable or portable dwelling unit that:

1. Is fabricated in 1 or more modules at a location other than the home site, by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process;

2. Is designed for occupancy by 1 family;

3. Is erected or located as specified by the town Building Code; and

4. Was either:

   a. Constructed prior to June 15, 1976; or

   b. Constructed subsequent to or on June 15, 1976 and bears a seal, certifying that it was built in compliance with the Federal Mobile Home Construction and Safety Standards law.
**DWELLING, MODULAR HOME.** A dwelling unit which is fabricated in 1 or more modules at a location other than the home site by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process, provided that the dwelling unit must have been built in compliance with the Indiana One and Two Family Dwelling Code and the Town Building Code.

**DWELLING, MULTIFAMILY.** A building consisting of 3 or more dwelling units, including condominiums, with varying arrangements of entrances and party walls.

**DWELLING, SINGLE FAMILY.** An individual, detached building containing 1 dwelling unit which is either:

1. Built in compliance with the Indiana One and Two Family Dwelling Code and the Town Building Code;
2. A modular dwelling; or
3. A manufactured home dwelling.

**DWELLING, TWO FAMILY.** A building consisting of 2 dwelling units which may be either attached side by side or one above the other, and each dwelling unit having a separate or combined entrance.

**DWELLING UNIT.** A room or group of rooms designed and equipped exclusively for use as living quarters for only 1 family and its household employees, including provisions for sleeping, lawful cooking, and sanitary facilities. The term shall include mobile dwellings, modular dwellings and manufactured dwellings but shall not include recreational vehicles.


**ELECTRONIC VARIABLE MESSAGE SIGN (EVMS).** See SIGN, ELECTRONIC VARIABLE MESSAGE.

**ESCORT.** A person who, for consideration, agrees or offers to act as a date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**ESCORT AGENCY.** A person or business who furnishes, offers to furnish, or advertises to furnish escorts as a primary business purpose for a fee, tip, or other compensation.

**EXECUTIVE DIRECTOR.** The Executive Director of the Area Plan Commission of St. Joseph County, or the designee of the Executive Director of the Area Plan Commission of St. Joseph County.
**FAÇADE.** That portion of any exterior elevation of a building, extended from grade to the top of the parapet wall or eaves, and extending the entire width of the building elevation.

**FAÇADE, FRONT.** The façade of a building which is oriented toward a front lot line of the lot on which the building is located.

**FAÇADE, REAR.** The façade of a building oriented toward a rear lot line of a lot on which the building is located.

**FAÇADE, SIDE.** The façade of a building oriented toward a side lot line of a lot on which the building is located.

**FAMILY.** One or more persons related by blood, marriage, legal adoption, foster care or guardianship, living and cooking together as a single housekeeping unit, exclusive of incidental domestic servants and temporary, non-compensating guests; or not more than 2 persons not so related, living and cooking together as a single housekeeping unit. A person or persons residing with a family as hereinabove defined by reasons of placement by a publicly licensed placement agency shall be considered as members of that **FAMILY.**

**FAMILY RESTAURANT.** See **RESTAURANT, FAMILY.**

**FAMILY RESTAURANT WITH LOUNGE.** See **RESTAURANT, FAMILY, WITH LOUNGE.**

**FLAG.** See **SIGN, FLAG.**

**FLOOR AREA.**

(1) For single family dwellings and 2 family dwellings, the sum of all horizontal surface areas of all floors of all roofed portions of a building enclosed by and within the surrounding exterior walls or roofs, or the centerline(s) of party walls separating the buildings or portions thereof. The floor area of such a building shall exclude all areas with a vertical height clearance less than 78 inches, exterior open balconies, and open porches.

(2) For multifamily dwellings, the sum of all horizontal surface areas of all floors of all roofed portions of all buildings enclosed by and within the surrounding exterior walls or roofs, or the centerline(s) of party walls separating the buildings or portions thereof. However, the floor area of such a building shall not include the following:

   (a) All areas with a vertical height clearance less than 78 inches;

   (b) All exterior open balconies and open porches;

   (c) Floor area or basement floor area devoted to off-street parking or off-street loading, including aisles, ramps, and maneuvering space;
(d) Floor area or basement floor area provided for recreational uses, available to occupants of 2 or more dwelling units within a project; or

(e) Basement **FLOOR AREA** provided for storage facilities, allocated to serve individual dwelling units with a project.

**FLOOR AREA, FINISHED.** That portion of floor area constructed, completed and usable for living purposes with normal living facilities which includes sleeping, dining, cooking, sanitary, or combination thereof. A floor area or portion thereof used only for storage purposes and not equipped with the facilities mentioned above shall not be considered **FINISHED FLOOR AREA.**

**FLOOR AREA, GROSS.**

(1) For dwelling units, the total area, computed on a horizontal plane inclusive of finished basements, attached garages, entrances, hallways, stairways, and other enclosed areas, but exclusive of unfinished basements, cellars, and attics.

(2) For commercial or industrial buildings or structures, the sum of all horizontal surface areas of all floors of a building or structure measured from the exterior faces of the exterior walls or from the centerline of walls separating abutting buildings or structures.

**FLOOR AREA, GROSS LEASABLE.** The portion of the gross floor area which is designated for the exclusive use and occupancy of a tenant.

**FLOOR AREA, MAIN.** That portion of the finished floor area located on the first floor of the dwelling unit.

**FOUNDATION LANDSCAPING.** Landscaping installed along or in relation to the perimeter foundation of a building or structure.

**FOUNDATION LANDSCAPING AREA.** The area along or in proximity to the perimeter foundation of a building or structure which is required to be set aside for the installation of foundation landscaping.

**FRATERNITY HOUSE.** A building containing sleeping rooms, bathrooms, common rooms, and a central kitchen and dining room maintained exclusively for fraternity members and their guests or visitors and affiliated with an instruction of higher learning.

**FRONT FAÇADE.** See **FAÇADE, FRONT.**

**FRONTAGE.** The line of contact of an abutting property with the street right-of-way along a front lot line which allows unobstructed, direct access to the lot.

**FRONTAGE STREET** or **FRONTAGE ROAD.** See **STREET, FRONTAGE.**
FULL CUTOFF. See CUTOFF, FULL.

GAMBLING GAME. Any of the activities governed by the State Gaming Commission as a wagering device set forth in I.C. 4-33-2-9, as it may be amended from time to time.

GAME COURT. In Residential Districts, a type of recreation facility which consists of an unpaved or paved, accessory, surface area of ground open and essentially unobstructed to the sky, on the same lot as the primary building, designed and intended for the playing of a recognized sport as an accessory, recreational activity by the occupants and guests of the primary building, which may include fencing, screening, nets, goals, or other necessary appurtenances required for recreational use.

GARAGE. An accessory building to a residential use, or an enclosed area attached to or integrated into a residential building, which is primarily designed and intended to be used for the storage of the private vehicle(s) for the occupant(s) of the residence and is not a separate commercial enterprise available to the general public.

GARAGE, PARKING. See PARKING GARAGE.

GARAGE SALE. A public or private sale conducted by the owner or occupier of a premises of 6 or more items of personal property owned by the owner or occupier of the premises, which personal property was not acquired by the owner or occupier for the purpose of resale.

GASOLINE SERVICE STATION. Any building, land area or other premises or portion thereof, used or intended to be used for the retail dispensing or sales of vehicular fuels, which may include as an accessory use: minor automotive repairs; the sale and installation of lubricants, tires, or batteries; car washes; and similar uses. The establishments shall provide a facility where gasoline and other motor fuels are stored and subsequently dispensed by means of fixed, approved dispensing equipment by customers or employees.

GENERAL TERMS. The uses and development standards expressed in a PUD District ordinance (such as designations of areas in terms of: units per acre; multifamily; retail; office; and the like) which do not provide sufficient information from which to be able to determine if an improvement location permit application for a particular development is in compliance with the use, area and bulk regulations for the PUD District ordinance. Detailed information regarding: permitted uses; gross density; frontage; setbacks; minimum yards; use of yards; building height; parking requirements; loading requirements; landscaping requirements; sign information; open space; building design and appearance requirements; and the like, are not specified.

GLARE. The harsh appearance of a direct source of light as discernible from adjacent properties and which causes annoyance, discomfort or loss of visual performance and visibility.

GOLF COURSE. A tract of land laid out for at least 9 holes for playing the game of golf and improved with tees, greens, fairways and hazards, and may include a clubhouse or shelter (with ancillary pro shop, food service, locker room facilities, fitness center, and the like). See also COUNTRY CLUB.
GRADE. The average level of the finished surface of the ground 5 feet from the building, structure or proposed building pad; provided, however, when referring to “street grade” the term GRADE shall mean the slope of a street specified in percentage (%) terms.

GREENBELT. An open space along the perimeter of a development, subdivision or project which is maintained in its natural vegetative state and which, at a minimum, contains sufficient vegetation to meet or exceed perimeter landscape yard requirements.

GREENWAY. May include any of the following:

(1) A linear open space established along either a natural corridor (i.e., a riverfront, stream valley or ridge line) or over land (i.e., along a railroad right-of-way, a canal, a scenic road, or other route) converted to or available for recreational use;

(2) Any natural or landscaped course for pedestrian or bicycle passage; or

(3) An open space connector linking parks, natural features, cultural features, or historic sites with each other or with residential, employment or shopping areas, which are designated on an officially adopted plan of the town or the county.

GROUP HOME. A residential facility for children which, in addition to providing food and shelter, may also provide some combination of personal care, social services, counseling services, or transportation to residents and is licensed by the state.

GROUP RESIDENCES. A residential facility which, in addition to providing food and shelter, may also provide some combination of personal care, social services, counseling services or transportation to residents. GROUP RESIDENCES would include student housing, halfway houses, work release houses or any other similar form of residential facility for individuals which do not qualify as a family or any other form of residential facility expressly provided for in this chapter.

GUN AND GUNSMITH SHOPS. Any location where firearms or ammunition are being sold or repaired as the primary business items.

HALF STORY. See STORY, HALF.

HEDGE PLANT. A woody plant of relatively low height (not exceeding 10 to 12 feet in height), branching from the base.

HISTORIC LANDMARK. A building, structure, object, district, land use, area or site of historical significance and designated as an historic landmark on the historic preservation plan.

HISTORIC PRESERVATION. The research protection, maintenance, restoration, rehabilitation, reconstruction or development of historic landmarks and Historic Preservation Districts. For the purposes of this chapter, this definition shall apply to the preservation of exterior features only.
**HISTORIC PRESERVATION COMMISSION.** The Historic Preservation Commission established under the provisions of this chapter.

**HISTORIC PRESERVATION DISTRICT.** A geographically definable area with a significant consideration of buildings, structures, sites, spaces, or objects unified by past events, physical development, design, setting, materials, workmanship, a sense of cohesiveness, or related historic association and designated as an historic preservation district on the historic preservation plan.

**HOME OCCUPATION.** An occupation or business activity carried on within a legally established dwelling unit by a resident of the dwelling.

**HOTEL.** Any building or group of buildings containing 5 or more rooms without direct entrance to or from the outside, designed or intended to be occupied for sleeping purposes by guests for a fee, often with general kitchen and dining room facilities provided within the building or an accessory building, and which caters to the traveling public.

**HOTEL, APPROVED.** A hotel where gambling may be conducted, and contains: at least 250 rooms, or a lesser number established by the State Gaming Commission; an indoor public space used for exhibit space; meeting rooms; banquet rooms; restaurants; lobbies; lounges or bars; show theaters; parking areas; and shops. This definition shall also include the definition of “approved hotel” contained in I.C. 4-33-2-3, as that definition may be amended from time to time.

**IMPROVEMENT.** Any man-made, immovable item which becomes part of, placed upon, or is affixed to real estate.

**IMPROVEMENT LOCATION PERMIT.** A permit stating that the proposed erection, construction, enlargement, or moving of a building or structure, and uses thereof, complies with the provisions of this chapter, or a building permit which includes a site plan review or which authorizes the proposed erection, construction, enlargement, or movement of any sign.

**INCIDENTAL.** A minor occurrence or condition which is customarily associated with a permitted use and is likely to ensue from normal operations.

**INDUSTRIAL PARK.** An integrated center zoned for and primarily used by industrial businesses. See **INTEGRATED CENTER.**

**INTEGRATED CENTER.** An area of development (commercial/town center, industrial, or any combination of commercial/town center, industrial, and residential uses) of 1 or more lots or out lots, comprised of:

(1) Two or more individual, non-related and separately operated uses in 1 building sharing common site facilities;
(2) One or more buildings containing non-related and separately operated uses occupying a common site, which utilizes 1 or a combination of common site facilities, such as driveways, parking areas, loading areas, interior access drives, maintenance, and similar common services; or

(3) One or more buildings containing non-related and separately operated uses occupying individual sites, which are interrelated by the utilization of 1 or a combination of common facilities, such as driveways, internal public street or private street network developed in accordance with an approved master plan or preliminary plan of a subdivision, parking areas, loading areas, maintenance, or other services.

**INTERIOR YARD.** See YARD, INTERIOR.

**JUNK YARD.** Any place at which personal property:

(1) Is or may be salvaged for reuse, resale, or reduction or similar disposition;

(2) Is owned, possessed, collected, accumulated, dismantled, or assorted (including but not limited to: used or salvaged base metal or metals, their compounds or combinations; used or salvaged rope, bags, paper, rags, glass, rubber, lumber, millwork, brick and similar property except animal matter; and used motor vehicles, machinery or equipment which does not carry a current, valid license); or

(3) Is used, owned, or possessed for the purpose of wrecking or salvaging parts therefrom.

**LAWFUL COOKING.** A room or area in which food may be prepared and cooked and which contains the following:

(1) A kitchen sink in good working condition and properly connected to an approved water supply and approved sewer/septic system. The sink must provide an adequate amount of water under pressure, both unheated and heated to no more than 120°F;

(2) Cabinets, shelves, counters, or tables used for storage of food, eating, drinking, or cooking equipment and utensils shall be of sound condition furnished with surfaces that are easily cleanable and that will not impart any harmful effect to food; and

(3) A stove, oven, or microwave oven for cooking food and a refrigerator for safe storage of food at temperatures less than 45°F. These appliances shall be properly installed with all necessary connections for safe, sanitary, and efficient operation and shall be maintained in good working condition.

**LEGALLY ESTABLISHED.** The condition of being in compliance with all applicable development regulations at the time of recording, construction or erection of a lot, building, structure, use, or sign.

**LEGALLY ESTABLISHED NONCONFORMING.** See NONCONFORMING BUILDING OR STRUCTURE, LEGALLY ESTABLISHED OR NONCONFORMING USES, LEGALLY ESTABLISHED.
**LIQUOR STORE.** A retail establishment whose primary business, in terms of gross floor area or sales, is related to the sale of alcoholic beverages. A grocery store or drug store which sells alcoholic beverages, but whose sales of such beverages is incidental to the overall gross floor area or sales receipts of the business, shall not be considered a **LIQUOR STORE.**

**LOADING AREA.** Any area maintained and intended for the maneuvering and temporary parking of vehicles while transferring goods or materials to and from a facility. **LOADING AREA** includes the loading space and maneuvering area required to enter the loading space.

**LOADING, OFF-STREET.** A loading area located completely on a lot and accessed via interior access drives, interior access driveways, access drives, or driveways in which no individual loading spaces gain direct access to a public street or private street.

**LOADING SPACE.** A hard-surfaced, off-street area used for the temporary parking of a commercial vehicle while transferring goods or materials to and from a facility.

**LOT.**

(1) A piece, parcel, plot, or tract of land designated by its owner or developer to be used, developed or built upon as a unit under single ownership or control and may consist of:

(a) A single lot of record; or

(b) A combination of complete lots of record.

(2) For purpose of this definition, the ownership of a **LOT** is further defined to include:

(a) The person(s) who holds either fee simple title to the property or is a life tenant as disclosed in the records of the assessor; or

(b) A long-term lessee (but only if the lease is recorded among the records of the St. Joseph County Recorder and has a term (exclusive of non-exercised extensions and renewals) of at least 25 years remaining before its expiration at the time of applying for a permit).

(3) Provided, however, for the purposes of the Subdivision Control Ordinance, the term **LOT** shall mean that portion of a subdivision which is proposed to be recorded in the office of the St. Joseph County Recorder as a **LOT OF RECORD.**

**LOT AREA.** The total area of a lot bounded on all sides by any front lot line, rear lot line, and side lot line, provided, however, **LOT AREA** shall not include: any area lying within the right-of-way of any public street or private street or easement for surface access into the subject lot or adjoining lots; or land reserved for drainage pond, wetland, or lands subject to periodic flooding. No part of the minimum lot area required under the applicable district, commitment, variance grant, or development plan approval may be satisfied by land that is under water.
**LOT, CORNER.** A lot abutting 2 or more streets at their intersections, or upon 2 parts of the same street forming an interior angle of less than 135 degrees.

**LOT COVERAGE.** The total ground area within the lot or project covered by the primary structure plus any accessory structures (including decks over 30 inches above grade, above-ground pools, in-ground pools, garages, carports, storage sheds, or any under roof areas), excluding driveways, walkways, fences, grade level decks and patios, and walls not attached in any way to a roof.

**LOT DEPTH.** The distance from the midpoint of the front lot line to the midpoint of the rear lot line.

**LOT, DOUBLE FRONTAGE.** A lot abutting 2 parallel streets, or abutting 2 streets which do not intersect at the boundaries of the lot.

**LOT, INTERIOR.** A lot which is not a corner lot or a double frontage lot.

**LOT LINE.** The line of separation of a lot from any abutting street or adjoining lot.
LOT LINE, FRONT. The lot line separating a lot from any abutting street or limited access highway.

LOT LINE, REAR. A lot line which is opposite and most distant from the front lot line, or in the case of a triangularly shaped lot, a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line. However, in the case of a corner lot, any lot line which intersects with a front lot line shall not be considered a REAR LOT LINE.

LOT LINE, SIDE. Any lot line not designated as a front lot line or rear lot line.

LOT OF RECORD. A lot which is part of a final plat recorded in the office of the Recorder of St. Joseph County, or for which a deed has been so recorded prior to May 6, 1958.

LOT WIDTH. The full width of a lot measured along the minimum front yard and minimum building setback line required by this chapter.

LUMINAIRE. A complete lighting unit consisting of a lamp or lamps together with the parts designed to distribute light on any property, to position and protect the lamps and to connect the lamps to the power supply.

LUMINOUS TUBE LIGHTING. Gas-filled tubing which, when subjected to high voltage, becomes luminescent in a color characteristic of the particular gas used, e.g., neon, argon, and the like.

MANUFACTURE. The mechanical or chemical transformation of materials or substances into new products or into a useable form. MANUFACTURE may include the creation of products (including subsequent assembly of previously manufactured parts), or the blending of materials such as lubricating oils, plastics, resins, or liquors.

MANUFACTURED HOME DWELLING. See DWELLING, MANUFACTURED HOME.

MANUFACTURING RETAILER. A food sales and service establishment which where food or beverage products are produced in a limited quantity (not industrial manufacturing) sufficient to support on-site sales as a primary or accessory portion of the on-site business. Examples include confectioners, bakeries and brew pubs.

MASSAGE. The manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping by hand or mechanical device.

MASSAGE BUSINESS. Any establishment or business wherein massage is practiced, including message therapy by a licensed health professional and establishments commonly known as health clubs, physical culture studios, massage studios, or massage parlors. Any MASSAGE BUSINESS which involves any specified anatomical areas or any specified sexual activities shall be deemed an adult business.
**MASTER PLAN.** A drawing, map, plan, or other graphic representation of an overall project, drawn to an appropriate scale by hand or other drawing method, but containing sufficient detail to depict the patterns proposed for an overall project and to determine general compliance with the use and development standards provisions of this chapter.

**MAXIMUM BUILDING HEIGHT.** The height which a building or structure may not exceed. See also **BUILDING HEIGHT.**

**MET TOWER.** A meteorological tower used for the measurement of wind speed.

**MINI (SELF STORAGE) WAREHOUSE.** A building or structure designed and used for the purpose of renting or leasing individual storage spaces to occupants who are to have access to such for the purpose of storing and removing personal property.

**MINOR.** A person less than 21 years of age.

**MOBILE DWELLING.** See **DWELLING, MOBILE.**

**MOTEL.** Any building or group of buildings containing 5 or more rooms with at least 25% of all rooms having direct entrance to and from the outside without the necessity of passing through the main lobby of the building(s), designed and intended to be occupied for sleeping purposes by guests for a fee, where general kitchen and dining room facilities may be provided within the building or an accessory building, and which caters to the traveling public.

**NEIGHBORHOOD RECYCLING COLLECTION POINT.** A site where individuals bring household recyclable materials to either drop off without compensation, or, to redeem the materials for monetary compensation. Beyond any limited sorting, no other processing of the materials takes place at the site. All materials are stored completely within the structure while awaiting periodic shipment to the processing facilities. While these collection points may be developed as freestanding sites, they typically are accessory uses sharing the site of a larger primary use. Possible structures for this type of operation include such recycling containers as “igloos,” reverse vending machines, trailers, or similar structures.
**NIGHTCLUB.** An establishment: offering liquor by the drink or food for on-site consumption; and in which music, dancing, or entertainment is conducted.

**NONCONFORMING.** The state of not being in compliance with the permitted use or development standards regulations of the district to which the real estate is zoned pursuant to this chapter.

**NONCONFORMING BUILDING OR STRUCTURE.** Any building or structure erected or constructed but which fails to conform to the present requirements of the district.

**NONCONFORMING BUILDING OR STRUCTURE, LEGALLY ESTABLISHED.** Any continuous, lawfully established building or structure erected or constructed:

1. Prior to the time of adoption, revision or amendment of this chapter but which fails by reason of the adoption, revision or amendment to conform to the present requirements of the district;

2. Pursuant to a granted variance; or

3. Prior to a right-of-way acquisition or access rights acquisition by a governmental entity but which fails by reason of the right-of-way acquisition or access rights acquisition by a governmental entity to conform to the present requirements of the district.

**NONCONFORMING USE.** Any land use which fails to conform to the present requirements of the district.

**NONCONFORMING USE, LEGALLY ESTABLISHED.** Any continuous, lawful land use having commenced:

1. Prior to the time of adoption, revision, or amendment of this chapter but which fails by reason of the adoption, revision, or amendment to conform to the present requirements of the district; or

2. Pursuant to a granted variance.

**NON-CUTOFF.** See CUTOFF, NON.

**NON-WHIP ANTENNA.** See ANTENNA, NON-WHIP.

**OCCUPANCY.** The use to which a building or premises is devoted.

**OFF-STREET.** An area, typically set aside for parking or loading, which is located on private property and does not occur in the right-of-way of any public street or private street.

**ON-STREET.** An area, typically set aside for parking or loading, which is located within the right-of-way of any public street or private street.
**OPEN SPACE.** A lot, a portion of a lot or common area set aside as a playground, plaza, park, parkway, greenbelt, residential bufferyard, or other landscape area and maintained free from buildings or structures, except for those structures which are directly related to and essential to the use of the open space for recreational purposes, including, but not limited to swimming pools, play equipment for youngsters, game courts, and picnic tables. In the case of individual residential lots, open space shall be an area landscaped with grass, trees, shrubbery, or other suitable vegetative ground cover and maintained free from buildings or structures.

**OUT LOT.**

(1) The portion of land in an integrated center, industrial park, or other planned development which does not contain the central or primary building of the development and is:

(a) Usually located adjacent to a street or frontage street; and

(b) Is intended for the development of a smaller, additional, and separate building or buildings.

(2) In an integrated center or industrial park where there is no clearly identifiable central or primary building of the development, or where individual lots are developed independently of each other, each lot shall be considered an OUT LOT; provided, however, for the purposes of the Subdivision Control Ordinance, the term OUT LOT shall mean a non-buildable portion of a subdivision.

**OUTDOOR DISPLAY AREA.** The part of lot used for the display of merchandise or goods available for purchase or lease from the business located on that lot.

**OUTDOOR LIGHT FIXTURE.** Any outdoor electrically powered illuminating devices, outdoor light, or reflective or refractive surfaces, lamps, and similar devices, including all parts used to distribute the light or protect the lamp, permanently installed or portable, used for flood lighting, general illumination, or location identification.

**OUTDOOR STORAGE.** See STORAGE, OUTDOOR.

**PARK.** An open space designed and used by the public for passive or active recreational use.

**PARK, ACTIVE.** An open space improved with active recreational facilities, including but not limited to: tennis or basketball courts; softball, baseball, football, or soccer fields; slides; playgrounds, and the like, and maintained for the continued use and enjoyment of area residents.

**PARK, PASSIVE.** An open space improved with passive features, including but not limited to park benches, picnic tables, gazebos, and the like, and maintained for the continued use and enjoyment of area residents.
**PARKWAY.** An open space entirely bounded by street or pedestrian rights-of-way within a developed area.

**PARKING AREA.** Any area other than an open exhibition or display area (not inclusive of interior access drives, driveways, interior access driveways and access drives) intended for the temporary storage of automotive vehicles, including parking spaces and the area allocated to the egress/ingress of automotive vehicles to and from the actual parking space.

**PARKING GARAGE.** Any building or structure designed and intended for the storage of motor vehicles for compensation.

**PARKING LOT.** The primary use or accessory use of a lot or a portion of a lot for the parking of automotive vehicles.

**PARKING LOT, ACCESSORY.** The use of a lot in a Residential District as a parking lot where the parking lot is accessory to a permitted use which is either: located on an adjacent lot in a Commercial/Town Center District or Industrial District; or located in a Commercial/Town Center District or Industrial District separated from the lot in a Residential District by a street or alley not over 30 feet in width. Such **ACCESSORY PARKING LOTS** are intended to create an effective buffer between residential uses and a commercial/town center or industrial use and, where practical, are developed in compliance with all off-street parking standards and all landscaping standards applicable parking lots in a Commercial/Town Center District or Industrial District.

**PARKING, OFF-STREET.** A parking area located completely on a lot and accessed via interior access drives, interior access driveways, access drives, or driveways in which no individual parking spaces gain direct access to a public street or private street.

**PARKING, ON-STREET.** A parking area located partially or completely within the right-of-way of a public street or private street.

**PARKING SPACE.** That portion of the parking area used only for the temporary placement of an operable motor vehicle.

**PATIO.** A hard-surfaced area accessory structure to a primary use or structure of which the horizontal area is at grade level with at least 1 side open to the weather and essentially unobstructed to the sky. This area is specifically designed and intended for the recreational enjoyment of the occupant(s) and guest(s) of the primary use or structure and is not designed or intended for use by automotive vehicles.

**PENNANT.** See **SIGN, PENNANT.**

**PERFORMANCE BOND.** A legally binding agreement whereby the developer or subdivider posts a surety for the construction of improvements, installations, and lot improvements required by this
chapter, any other applicable ordinances of the town, and any requirements, covenants, conditions, or commitments which may be imposed pursuant to this chapter.

**PERMITTED USE.** The use of land or the use of a building or structure on land which is allowed, either as a matter of right or under limited conditions (i.e., as a special exception use, an accessory use, a home occupation, or a temporary use) in the district applicable to the land.

**PLAN COMMISSION.** A commission established pursuant to I.C. 36-7-4 et seq., and which is responsible for: making recommendations regarding adoption and amendments to the Comprehensive Plan; making recommendations regarding adoption or text amendments of the initial zoning ordinance, replacement zoning ordinance, and subdivision control ordinance; making recommendations regarding adoption or amendment of a PUD District ordinance; making recommendations regarding zone map changes; rendering decisions concerning plats, re-plats and amendments to plats; making determinations regarding development plans; and other duties or powers authorized by I.C. 36-7-4 et seq., and ordinance. See also **AREA PLAN COMMISSION.**

**PLAN REVIEW COMMITTEE (PRC).** A committee of technical consultants established to provide the Executive Director, Building Commissioner/Zoning Administrator with technical assistance in the review of plans for compliance the provisions of this chapter and other applicable rules and regulations of federal, state, or local agencies.

**PLANNED UNIT DEVELOPMENT.** A site to be developed, operated, or maintained as a single entity and containing 1 or more residential areas, public areas, quasi-public areas, commercial areas or industrial areas, and containing a range of uses as specified in the PUD District ordinance.

**PLAYGROUND.** An open space which contains an active recreational area with a variety of facilities, including equipment for younger children, game courts, and fields for games.

**PLAZA.** An open space that may be improved and landscaped, usually surrounded by streets or buildings.

**POOL HALL or BILLIARD HALL.** Any establishment which keeps, maintains or operates for hire on the premises 4 or more pool or billiard tables.

**PORCH.** A roofed accessory structure with at least 1 side exposed to the weather, supported from the ground and attached to or part of a building at the area of entrance or exit to the building.

**PRELIMINARY PLAN.** A drawing, map, plan, or other graphic representation of a planned unit development, drawn to an appropriate scale by hand or other drawing method, but containing sufficient detail to depict the general land use patterns, major street network, and generalized infrastructure proposals proposed for the planned unit development. A **PRELIMINARY PLAN** may be supplemented with text to provide sufficient details to determine applicable permitted use and development standards provisions for the planned unit development.
**PRIMARY BUILDING.** The building in which the primary permitted use of the lot is conducted.

**PRIMARY USE.** A permitted use of land or a permitted use of a building or structure on land which is allowed as a matter of right in the district applicable to the land, subject only to compliance with the development standards applicable to that district.

**PROJECT.** A single use site, integrated center, mixed use development, single family dwelling subdivision, 2 family dwelling subdivision, multifamily development, or any other form of development of real estate.

**PROJECT AREA.** The total land area of a site, less area included in: the existing right-of-way or proposed right-of-way of a perimeter street; and the area included in floodway or other undevelopable portions of the site.

**PROPOSED SITE PLAN.** A plan drawn to scale, showing uses and structures proposed for a parcel of land, as required by this chapter.

**PUD.** See **PLANNED UNIT DEVELOPMENT.**

**PUD DISTRICT ORDINANCE.** A petition for zone map change which designates a parcel of real property as a planned unit development, specifies uses or a range of uses permitted in the planned unit development, specifies development requirements in the planned unit development, specifies plan documentation and supporting information that may be required prior to development in a planned unit development, and specifies any limitations applicable to the planned unit development.

**REAR FAÇADE.** See **FAÇADE, REAR.**

**RECREATIONAL VEHICLE.** A vehicular-type portable structure without permanent foundation that can be towed, hauled, or driven and primarily designed as a temporary living accommodation for recreational, camping, and travel use, including but not limited to: travel trailers, truck campers, camping trailers, self-propelled motor homes; personal watercraft; and boats.

**RECYCLING CONTAINER.** A receptacle designed and intended for the collection of cleaned, sorted, solid household waste products, including, but not limited to glass, plastic, metal, and paper.

**RECYCLING FACILITY.** A recycling operation involving further processing (relative to a neighborhood recycling collection point) of materials to improve the efficiency of subsequent hauling. Such a facility typically features sorting, the use of a crushing apparatus, and the storage of the material until it is shipped out.

**RELIGIOUS USE.** A land use and all buildings and structures associated therewith devoted primarily to the purpose of divine worship together with reasonably related accessory uses, which are subordinate to and commonly associated with the primary use, which may include but are not limited to educational, instructional, social, residential, or child care ministry uses.
**RESIDENTIAL BUFFERYARD.** A front yard, side yard, or rear yard of a nonresidential land use on a lot which faces or abuts a Residential District or residential land use designation within a planned unit development. A **RESIDENTIAL BUFFERYARD** may include landscape plantings, fences, walls, or berms required to provide screening or buffering for adjacent residential properties. A **RESIDENTIAL BUFFERYARD** shall not apply to any front yard abutting a limited access highway.

**RESIDENTIAL BUFFERYARD, FRONT.** The front yard of a nonresidential land use on a lot which faces or abuts a Residential District. See also **RESIDENTIAL BUFFERYARD.**

**RESIDENTIAL BUFFERYARD, REAR.** The rear yard of a nonresidential land use on a lot which faces or abuts a Residential District. See also **RESIDENTIAL BUFFERYARD.**

**RESIDENTIAL BUFFERYARD, SIDE.** The side yard of a nonresidential land use on a lot which faces or abuts a Residential District. See also **RESIDENTIAL BUFFERYARD.**

**RESOURCE RECOVERY.** The processing of solid waste into commercially valuable materials or energy.

**RESTAURANT, DRIVE-IN.** Any family restaurant or fast food restaurant designed to permit or facilitate the serving of food or beverages directly to, or permitted to be consumed by patrons in or on motor vehicles parking or stopped on the premises.

**RESTAURANT, DRIVE-THROUGH.** Any family restaurant or fast food restaurant designed to permit or facilitate the serving of food or beverages directly to patrons in or on motor vehicles at a drive-through facility.

**RESTAURANT, FAMILY.** Any establishment whose main business function is the retail sale of food for consumption on the premises, and which does not have on the premises an area from which minors are excluded pursuant to I.C. 7.1-5-7-9, 7.1-5-7-10, and 7.1-5-7-11 or pursuant to any policy of the establishment.

**RESTAURANT, FAMILY, WITH LOUNGE.** Any family restaurant which has on the premises an area constituting not more than 25% of the gross floor area from which minors are excluded pursuant to I.C. 7.1-5-7-9, 7.1-5-7-10, and 7.1-5-7-11 or pursuant to any policy of the establishment.

**RESTAURANT, FAST FOOD.** An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, on-premises or off-premises.

**RIGHT-OF-WAY.** Specific and particularly described land, property, or interest therein devoted to and subject to the lawful use, typically as a thoroughfare for passage of pedestrians, vehicles, or utilities, as set forth in a written grant, declaration, or conveyance that is recorded in the office of the Recorder of St. Joseph County.
**Zoning**

**RIGHT-OF-WAY, EXISTING.** The total right-of-way width of a street as created or expanded by the most recent grant, declaration, or conveyance that is recorded in the office of the Recorder of St. Joseph County.

**RIGHT-OF-WAY, PRIVATE.** Specific and particularly described strip of privately-held land devoted to and subject to use for general transportation purposes or conveyance of utilities, whether or not in actual fact improved or actually used for those purposes, as set forth in a written grant, declaration, or conveyance that is recorded in the office of the Recorder of St. Joseph County.

**RIGHT-OF-WAY, PROPOSED.** The recommended right-of-way width for a street based upon that street’s classification in the thoroughfare plan for the town, as shown in the Comprehensive Plan.

**RIGHT-OF-WAY, PUBLIC.** Specific and particularly described strip of land, property, or interest therein dedicated to and accepted by the municipality, county or state to be devoted to and subject to use by the general public for general transportation purposes or conveyance of utilities whether or not in actual fact improved or actually used for those purposes, as set forth in a written grant, declaration, or conveyance that is recorded in the office of the Recorder of St. Joseph County.

**ROOF MOUNT.** The placement of an antenna, antenna array, or flag pole on the roof of an existing building or structure.

**SECONDARY APPROVAL.** A review of a planned unit development required when the development requirements of a planned unit development are expressed only in general terms in the PUD District ordinance.

**SEMI CUTOFF.** See CUTOFF, SEMI.

**SEMI-TRAILER.** A freight trailer, tanker, or other large vehicles or machinery with a forward portion designed to be supported by a fifth wheel device of a truck tractor when in motion.

**SETBACK.** That distance measured perpendicularly from the lot line to the closest point of the building, structure, sign structure, parking area, or any other permanent improvement.

**SETBACK LINE.** A line that establishes the minimum distance that a building, structure, or portion thereof, can be located from a lot line or right-of-way line.

**SETBACK, MAXIMUM.** The largest distance allowed by this chapter from a front lot line for the location of a building, structure, or any other permanent improvement (excluding parking areas).

**SETBACK, MINIMUM.** The smallest distance required by this chapter from a lot line to the closest point of a building, structure, sign structure, parking area, loading area, storage area, or any other permanent improvement. A **MINIMUM SETBACK** may be a minimum front setback, minimum side setback, or minimum rear setback. The distance shall be measured perpendicularly from the lot line.
**SETBACK, MINIMUM FRONT.** The minimum distance required by this chapter from a front lot line to the closest point of the building, structure, sign structure, parking area, loading area, storage area, or any other permanent improvement. The distance shall be measured perpendicularly from the front lot line.

**SETBACK, MINIMUM REAR.** The minimum distance required by this chapter from a rear lot line to the closest point of the building, structure, sign structure, parking area, loading area, storage area, or any other permanent improvement. The distance shall be measured perpendicularly from the rear lot line.

**SETBACK, MINIMUM SIDE.** The minimum distance required by this chapter from a side lot line to the closest point of the building, structure, sign structure, parking area, loading area, storage area, or any other permanent improvement. The distance shall be measured perpendicularly from the side lot line.

**SIDE FAÇADE.** See **FAÇADE, SIDE**.

**SIDEWALK.** A defined pedestrian way which is typically constructed of concrete, separated from and located parallel to the improved surface of a public street or private street, and located within a right-of-way of the street.

**SIGN.** Any object, device, display, structure, fixture, placard, announcement, declaration, demonstration or insignia, or part thereof, used to draw attention; provide direction, information, identification; or advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

**SIGN, A-FRAME.** A portable sign containing 2 sign faces and whose framing is hinged at the apex at an angle less than 45 degrees.

**SIGN, ADVERTISING.** See **SIGN, OFF-PREMISES**.

**SIGN, ANIMATED.** Any sign, or any portion thereof, which moves, assumes any motion, uses a change in lighting to depict motion or create a special effect or scene, or gives the illusion of moving.

**SIGN, AWNING.** Any sign or graphic printed on or in some fashion attached directly to the material of an awning.

**SIGN, BALLOON.** A temporary sign consisting of a bag made of lightweight material which is either filled with a gas lighter than air; or continuously filled with blown air, and designed to rise or float in the atmosphere or is attached to the ground or a building.

**SIGN, BANNER.** A sign of lightweight fabric or similar material mounted to a pole or building at 2 opposite edges or 4 corners.
**SIGN, BUILDING.** Any sign placed upon or supported by a building, including, by way of example but are not limited to wall signs, projecting signs, awning signs, canopy signs, marquee signs, suspended signs, and roof signs.

**SIGN CABINET.** The frame of an internally illuminated sign which contains and supports the sign face. **SIGN CABINET** does not apply to painted signs or 1-piece, non-illuminated, individual letter signs.

**SIGN, CANOPY.** Any sign or graphic printed on or in some fashion attached directly to a canopy.

**SIGN, CHANGEABLE COPY.** A sign, or portion thereof, where the message copy includes characters, letters, or illustrations that can be physically altered without altering the primary surface of the sign. The message copy of a **CHANGEABLE COPY SIGN** may be changed manually in the field or through remote electronic or electric techniques. Methods of changing the message copy include the use of:

1. Changeable letters, numbers, symbols, and similar characters;
2. Changeable pictorial panels; or
3. Rotating panels or other similar devices. See also **SIGN, ELECTRONIC VARIABLE MESSAGE.**

**SIGN, ELECTRONIC VARIABLE MESSAGE (EVMS).** A sign, or portion thereof, where the message copy includes characters, letters or illustrations that can be changed or rearranged electronically without touching or physically altering the primary surface of the sign. Message copy may be changed in the field or from a remote location.

**SIGN FACE.** See **SIGN SURFACE.**

**SIGN, FLAG.** A sign of lightweight fabric or similar material mounted to a pole or building at 1 edge or 2 corners.

**SIGN, FREESTANDING.** A sign that is attached to, erected on or supported by some structure (such as a pole, mast, or frame) that is not itself an integral part of or attached to a building or structure where the principal function of the building or structure is something other than the support of a sign. See also **SIGN, MONUMENT** and **SIGN, POLE.**

**SIGN, GROUND.** See **SIGN, MONUMENT.**

**SIGN, INCIDENTAL.** A sign relating to the lot or use thereof which provides information or directions necessary or convenient for visitors coming on the lot, including but not limited to signs marking entrances and exits, parking areas, circulation direction, restrooms and pickup or delivery areas.
**SIGN, MARQUEE.** Any sign or graphic printed on or attached directly to a marquee.

**SIGN, MENU BOARD.** A permanent sign located in connection with a drive-through facility, which is oriented toward motor vehicles located in a drive-through lane, and which provides information to the occupants of motor vehicle, related to the products and services available at the drive-through facility.

**SIGN, MONUMENT.** Any freestanding sign constructed in or on the ground surface with its sign display surface extending upward from the ground surface and which has the lowest portion of the sign display surface elevated by no more than the lesser of 5 feet above grade or 1/2 the overall height above grade.

**SIGN, NONCONFORMING.** A sign which qualifies as a legally established nonconforming structure.
**SIGN, OFF-PREMISES.** A sign which directs attention to an activity, business, entertainment, commodity, product, profession or service conducted, manufactured, offered, or sold at a location other than the premises on which the sign is located.

**SIGN, ON-PREMISES.** A sign which directs attention to an activity, business, entertainment, commodity, product, profession, or service conducted, manufactured, offered, or sold on the premises where the sign is located.

**SIGN, OUTDOOR ADVERTISING.** See **SIGN, OFF-PREMISES SIGN.**

**SIGN, OUTDOOR DISPLAY AREA.** A sign located within an outdoor display area and which directs attention to or provides information about the display area or the good, products, or merchandise on display.

**SIGN, PENNANT.** A sign of lightweight plastic, fabric, or other similar material which is suspended from a rope, wire or string, usually in a series, and which is designed to move in the wind.

**SIGN, POLE.** Any freestanding sign which has its supportive structure(s) anchored in the ground and which has the lowest portion of its sign display surface elevated by more than 10 feet above the grade.

**SIGN, PORTABLE.** Any sign or sign structure not securely attached to the ground or other permanent structure, or a sign designed to be transported from place to place, including but not limited to signs transported by means of wheels; a sign attached to A- or T-frames; a temporary menu and sandwich board sign; a balloon used as a sign; table or patio umbrellas which include a sign; and a sign attached to or painted on a vehicle parked and visible from the public right-of-way, unless the vehicle is used in the normal day-to-day operation of the business.

**SIGN, PROJECTING.** Any sign which is affixed to a building or wall in such a manner that the leading edge extends more than 18 inches beyond the surface of the building or wall face.
SIGN, PYLON. See SIGN, MONUMENT.

SIGN, ROOF. Any sign erected on or wholly constructed upon a roof of any building and supported solely on the roof structure.

SIGN, SPANDREL. Any sign that is a part of or attached to the spandrel.

SIGN STRUCTURE. Any structure including any pole, base, foundation, support, tie rods, upright, bracing, or framework which supports or is capable of supporting any sign.
SIGN SURFACE. The surface of the sign upon, against, or through which the message of the sign is exhibited.

SIGN SURFACE AREA. The area of a sign surface (which is also the sign surface area of a wall sign or other sign with only 1 sign face). Sign surface area shall be computed by using the smallest area contained within 1, 2, or 3 distinct squares, rectangles, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which the sign is placed, but not including any supporting framework, bracing 24 inches in width or less, or any decorative fence or wall when the fence or wall otherwise meets the applicable regulations of this chapter and is clearly incidental to the display itself.

SIGN, SUSPENDED. Any sign that is suspended from the underside of a horizontal plane surface and is connected to the horizontal plane surface.

SIGN, T-FRAME. A portable sign utilizing an inverted “T” style of framing to support the sign.

SIGN, TEMPORARY. Any sign or sign structure which is not permanently affixed or installed, and is intended to be displayed for limited periods only. Examples of TEMPORARY SIGNS include but are not limited to signs erected or placed in connection with the following activities or occurrences: sale or lease of real estate; announcement of pending construction; special event; political campaign; garage sale; home improvement/remodeling; model home; and seasonal/holiday signs.

SIGN, WALL. Any sign attached to or erected on a wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of the wall, within 18 inches of the wall, and containing only 1 sign surface.

SIGN, WIND. A sign of lightweight fabric or similar material attached at one end to a pole or similar apparatus so as to swing freely, inflate, and flutter by movement of the wind.
**SIGN, WINDOW.** Any sign placed inside of and within 2 feet of a window; or upon a window; and is intended to be seen from the exterior of the window.

**SINGLE USE SITE.** An area of development (commercial/mixed use or industrial) on 1 lot occupied by 1 business. Any commercial/mixed use or industrial development which does not qualify as an integrated center.

**SKETCH PLAN.** A graphic representation of a project or subdivision, drawn to an appropriate scale by hand or other drawing method, and capable of depicting the general pattern proposed for the development of a project or subdivision.

**SMALL WIND ENERGY CONVERSION SYSTEM (SWECS).**

(1) A wind energy conversion system consisting of a wind turbine with its associated tower and control or conversion electronics, which has a rated capacity of not more than 10 kilowatts (kW) each, and whose dual purpose is to:

(a) Primarily reduce on-site consumption of utility power; and

(b) Produce clean, on-site energy for homes, farms, and businesses.

(2) A SMALL WIND ENERGY CONVERSION SYSTEM can consist of a system either designed to be firmly anchored into the ground using a self-supporting tower, or firmly anchored to the sides or roof of the primary or accessory structure, or a combination thereof.

**SORORITY HOUSE.** A building containing sleeping rooms, bathrooms, common rooms, and a central kitchen and dining room maintained exclusively for sorority members and their guests or visitors and affiliated with an instruction of higher learning.

**SPANDREL.** A roof-like structure that covers the gasoline pump dispenser, serves as a second-tier canopy, may be a lighting source for the dispensing area, may identify the gasoline pumps by numerical or other designation, and may display signs.

**SPECIAL EVENT.** Any of the following occurrences: commencement of construction; fairs, carnivals, circus or festivals; grand openings; Independence Day; Labor Day; listing of properties for sale or lease; Memorial Day; posting of notices at the direction of a governmental agency; Presidents’ Day; Veterans’ Day; or other occurrence officially recognized by the town as a special event for the town.

**SPECIAL EXCEPTION USE.** The use of land or the use of a building or structure on land which is allowed in the district applicable to the land only through the grant of a special exception.

**STAFF.** Shall include: the Executive Director of the Area Plan Commission; the Building Commissioner for the Town of New Carlisle; the Zoning Administrator for the Town of New Carlisle;
any employee of the Area Plan Commission; any attorney, agent or designee of the Executive Director of the Area Plan Commission; any attorney, agent, or designee of the Building Commissioner for the Town of New Carlisle; any attorney, agent, or designee of the Zoning Administrator; or any other employee of the Town of New Carlisle related to the review, recommendation, or approval process for development.

**STORAGE, OUTDOOR.** The storage of any product, goods, equipment, machinery, vehicles, boats, supplies, building materials or commodities, including raw, semi-finished and finished materials for a period of time in excess of 1 week, the storage of which is not accessory to a residential use; provided, however, that vehicular parking and the display of automobiles, boats, trucks or farm equipment associated with a legally established dealership shall not be deemed **OUTDOOR STORAGE.**

**STORY.** The part of a building, with an open height of no less than 78 inches, except a mezzanine, included between the upper surface of one floor and the lower surface of the next floor, or if there is no floor above, then the ceiling next above. A basement shall constitute a **STORY** only if it provided finished floor area. A **STORY** shall not include a mechanical penthouse.

**STORY, HALF.** A story under a gable, gambrel or hip roof, to wall plates of which on at least 2 opposite exterior walls, are not more than 2 feet above the floor of the story.

**STREET.** Any public right-of-way or private right-of-way, with the exception of alleys, essentially open to the sky and open and dedicated to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, lane, road, drive, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for those purposes. A **STREET** may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking spaces, and similar features.

**STREET, FRONTAGE.** A street located along side and generally parallel with a more heavily traveled street and which provides access to abutting property or properties.

**STREET, PRIVATE.** A privately-held right-of-way, with the exception of alleys, essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, easement, road, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a right-of-way for those purposes. A **PRIVATE STREET** may be comprised of pavement, shoulders, curbs, sidewalks, parking spaces, and similar features.

**STREET, PUBLIC.** A publicly dedicated, accepted, and maintained right-of-way, with the exception of alleys, which has been improved to town standards and is essentially open to the sky and open to the general public for the purposes of vehicular and pedestrian travel affording access to abutting property, whether referred to as a street, lane, road, drive, expressway, arterial, thoroughfare, highway, or any other term commonly applied to a public right-of-way for those purposes. A **PUBLIC STREET** may be comprised of pavement, shoulders, gutters, curbs, sidewalks, parking spaces, and similar features.
**STRUCTURE.** Anything constructed or erected, the use of which requires location on the ground, or attachment to something having a fixed location on the ground. Among other things, **STRUCTURES** include buildings, mobile homes, fences, walls, parking areas, loading areas, towers, antenna and signs.

**STRUCTURE MOUNT.** The placement of an antenna or antenna array on an existing structure such as a water tower, athletic field light standards, or electric-line transmission towers.

**SUBDIVIDER.** The owner, developer, or authorized agent of the owner or developer of real estate, who is responsible for all designs, reservations, and improvements related to the petition for primary or secondary plat approval or the development of a subdivision.

**SUBDIVISION.** The division of a parcel of land into 2 or more lots, parcels, sites, units, plats, or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any and all other plans, terms, and conditions, including resubdivision. **SUBDIVISION** includes the division or development of land opened for residential and nonresidential uses, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument.

**SUBDIVISION, MAJOR.** Any of the following:

1. A subdivision of a tract of land into 4 or more parcels or lots, including any remainder of the original tract, for single family or 2 family dwelling purposes; or

2. Any subdivision which involves the creation of new streets, extension of water lines or sewer lines, or the creation of public improvements; or

**SUBDIVISION, MINOR.** A subdivision of a tract of land into less than 4 parcels or lots, including any remainder of the original tract, which does not involve the creation of new streets, extension of water lines or sewer lines, or the creation of public improvements.

**SUBDIVISION, NONRESIDENTIAL INCREMENTAL.** A subdivision of a tract of land, including any remainder of the original tract, for any commercial, industrial, or special exception use which is submitted for primary and secondary plat approval through the incremental plat approval process.

**SUB-LOTS.** Portions of a lot of record created in connection with the transfer of ownership of individual dwelling units in a 2 family or multifamily dwelling.
**SURFACE MOUNT.** The placement of an antenna or antenna array on the existing or proposed surface of a building or structure.

**TAVERN.** See BAR.

**TATTOO, BODY PIERCING, SCARIFYING, AND BRANDING ESTABLISHMENTS.** All types of businesses where services are provided which include: deliberately scarring, burning, or pricking the skin so as to leave a mark or a color that cannot be removed without a surgical procedure. This includes: figurative tattooing; permanent coloring; scarifying and branding; and the piercing of the human body to create a permanent hole (excluding ear piercing services).

**TELECOMMUNICATIONS.** The transmission between or among points specified by the user of information of the user’s choosing, without change in the form or content of the information as sent and received.

**TELECOMMUNICATIONS ANTENNA.** See ANTENNA, TELECOMMUNICATIONS.

**TELECOMMUNICATIONS SERVICE.** The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

**TELECOMMUNICATIONS TOWER.** A structure more than 10 feet tall, built primarily to support 1 or more telecommunications antennas.

**TEMPORARY LIVING QUARTERS.** A manufactured home dwelling or mobile dwelling located on a lot and intended to serve as a temporary dwelling unit for a care giver; care receiver; or family in the process of building a permanent single family dwelling on a lot.

**TEMPORARY SEASONAL RETAIL SALES.** A temporary use established for a fixed period of time, for the retail sale of seasonal products, including but not limited to such items as food, Christmas trees, pumpkins, and live plants. A TEMPORARY SEASONAL RETAIL SALES use may or may not involve the construction or alteration of any permanent building or structure.

**TEMPORARY USE.** A land use established for a limited and fixed period of time with the intent to discontinue the use upon the expiration of the time period.

**THOROUGHFARE PLAN.** That portion of the Town Comprehensive Plan, or other officially adopted plan of the town, which sets forth recommendations for major street alignments and street classifications.

**TOBACCO STORE.** A retail establishment whose primary business, in terms of gross floor area or sales, is related to the sale of tobacco products. A grocery store, convenience store, gasoline service station or drug store which sells tobacco products, but whose sales of the products is incidental to the overall gross floor area or sales receipts of the business, shall not be considered a TOBACCO STORE.
**TOWN.** The Town of New Carlisle, Indiana.

**TOWN ENGINEER.** The Town Engineer of the Town of New Carlisle.

**TOWNHOUSE.** A multifamily dwelling with: all dwelling units constructed in a row; with each dwelling unit having an individual front and rear ingress and egress; and no dwelling unit located over another dwelling unit.

**TRAILER.** A non-automotive vehicle designed to be hauled on the road.

**TRANSFER STATION.** A facility where solid waste is transferred from a vehicle or container to another vehicle or container for transportation. The term does not include the following:

1. A facility where the solid waste that is transferred has been generated by the facility; or
2. A recycling facility.

**TRUCK.** A motor vehicle designed, used, or maintained primarily for the transportation of property.

**TRUCK TERMINAL.** An area and buildings used for the temporary parking of motor freight vehicles or trucks of common carriers during unloading and loading of cargo or freight and where cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation.

**TRUCK TRACTOR.** A truck equipped with a fifth wheel device for the towing of a semi-trailer, tanker, or other vehicles or machinery.

**UNDERGROUND FACILITIES.** An accessory structure which is at least 75% subterranean, utilized for storage of personal property or as a temporary shelter for people, such as a storm cellar or fallout shelter.

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

**USE, PERMITTED.** See PERMITTED USE.

**VARIANCE.** Permission granted by the Board of Zoning Appeals to depart from the literal requirements of this chapter.

**VEHICULAR CANOPY.** See CANOPY, VEHICULAR.

**WAGERING, OFF-TRACK PARI-MUTUEL FACILITY.** A location, other than a racetrack, authorized by the Indiana Horse Racing Commission, at which pari-mutuel wagering is conducted.
WAIVER/WAIVED. Permission granted in connection with the approval of a development plan; the approval of a primary plat for a subdivision; or a special exception, to allow a deviation from the development standards or development requirements of this chapter.

WALKWAY. A defined pedestrian way, typically improved with concrete or asphalt, which provides for pedestrian movement on private property. A WALKWAY may or may not be located in an pedestrian easement.

WAREHOUSE. A building or structure, including but not limited to a distribution center and truck terminal, for the storage and/or transfer of goods, materials, or products awaiting shipment to another location for wholesale or retail trade.

WHIP ANTENNA. See ANTENNA, WHIP.

WINDBLOWN DEVICE. Any banner, pennant, spinner, streamer, propeller, disc, moored blimp, gas balloon, or flag that is designed to inform or attract attention, whether or not the device carries a message, all or part of which is set in motion by or remains inflated by wind, mechanical, electrical, or any other means.

WIND ENERGY CONVERSION SYSTEM. Any combination of equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the system. A WIND ENERGY CONVERSION SYSTEM includes but is not limited to a small wind conversion system and a wind energy facility.

WIND ENERGY FACILITY. An electricity generating facility consisting of 1 or more commercially-rated wind turbines under common ownership or operating control, and whose main purpose is to supply electricity to off-site customer(s), and includes but is not limited to substations, MET towers, cables/wires and operations and maintenance buildings accessory to the facility. Also known as a WIND FARM or a WIND POWER PLANT.

WIRELESS TELECOMMUNICATIONS FACILITY. Any facility constructed by or constructed for use by a licensed wireless telecommunication service provider and which consists of the equipment and structures involved in the receiving and transmitting of electromagnetic waves associated with wireless telecommunication services.

YARD. An open space, unobstructed to the sky, extending fully across the lot while situated between the front lot line, side lot line, or rear lot line and the established front building line, side building line, or rear building line.

YARD, AGGREGATE SIDE. The total combined distance of both side yards on an individual interior lot or double frontage lot.
**YARD, FRONT.** An open space, unobstructed to the sky, extending fully across the lot while situated between the front lot line and the established front building line.

**YARD, INTERIOR.** An open space, unobstructed to the sky, extending out from the wall of a multifamily dwelling.

**YARD, MINIMUM.** An open space unobstructed to the sky, extended fully across the lot situated between a lot line and a setback line. **MINIMUM YARD** may be a front yard, a side yard, or a rear yard, depending on which lot line the minimum yard abuts and is measured from.

**YARD, PERIMETER.** An open space, unobstructed to the sky, extending fully across the lot while situated between any front lot line, side lot line, and rear lot line and the minimum front setback, minimum side setback, and minimum rear setback.

**YARD SALE.** See **GARAGE SALE.**

**YARD, SIDE.** An open space, unobstructed to the sky, extending fully across the lot while situated between a side lot line and the established side building line.

**YARD, REAR.** An open space, unobstructed to the sky, extending fully across the lot while situated between the rear lot line and the established rear building line.

**ZONING ADMINISTRATOR.** The individual(s) designated by the Town Council in this chapter as having the responsibility for the interpretation and administration of this chapter. (Ord. 1221, § 12.02, passed 1-26-2010)
§ 152.440 INTENT.

This subchapter establishes the monetary fines for zoning violations which may be assessed against those who violate the terms and conditions of this chapter.
(Ord. 1221, Art. 14, passed 1-26-2010)

§ 152.441 ALL RESIDENTIAL DISTRICTS.

(A) The monetary fine for the first citation for a zoning violation shall be as set forth in the Fee Schedule, Chapter 98. Monetary fines as set forth in the Fee Schedule, Chapter 98 shall apply for each subsequent citation:

<table>
<thead>
<tr>
<th>Second Citation</th>
<th>Minimum as set forth in the Fee Schedule, Chapter 98</th>
</tr>
</thead>
<tbody>
<tr>
<td>Third Citation</td>
<td>Minimum as set forth in the Fee Schedule, Chapter 98</td>
</tr>
<tr>
<td>Each additional</td>
<td>Not to exceed a $300 increase in the previously assessed monetary fine, to a maximum monetary fine for each citation as set forth in the Fee Schedule, Chapter 98</td>
</tr>
</tbody>
</table>

(B) Each day that a zoning violation remains uncorrected shall constitute a violation which may result in the issuance of a subsequent citation.
(Ord. 1221, Art. 14(a), passed 1-26-2010)

§ 152.442 ALL COMMERCIAL/TOWN CENTER DISTRICTS AND ALL INDUSTRIAL DISTRICTS.

(A) The monetary fine for the first citation for a zoning violation shall be as set forth in the Fee Schedule, Chapter 98. The following monetary fines shall apply for each subsequent citation:

<table>
<thead>
<tr>
<th>Second Citation</th>
<th>Minimum fine per day that the zoning violation remains uncorrected, as set forth in the Fee Schedule, Chapter 98</th>
</tr>
</thead>
<tbody>
<tr>
<td>Third Citation</td>
<td>Minimum fine per day that the zoning violation remains uncorrected, as set forth in the Fee Schedule, Chapter 98</td>
</tr>
</tbody>
</table>
(B) Each day that a zoning violation remains uncorrected shall constitute a violation which may result in the issuance of a subsequent citation.
(Ord. 1221, Art. 14(b), passed 1-26-2010)

§ 152.443 ALL WIRELESS TELECOMMUNICATIONS FACILITIES.

(A) Notwithstanding the provisions of § 152.413(A) or (B), to the contrary, the monetary fine for the first citation for a zoning violation of § 152.293(A)(7) or § 152.293(A)(9) regarding signs or lights located on a wireless telecommunications facility shall be as set forth in the Fee Schedule, Chapter 98.

(B) The following monetary fines shall apply for each subsequent day that the zoning violation remains uncorrected:

<table>
<thead>
<tr>
<th>Second Day</th>
<th>Minimum and maximum as set forth in the Fee Schedule, Chapter 98</th>
</tr>
</thead>
<tbody>
<tr>
<td>Third Day</td>
<td>Minimum and maximum as set forth in the Fee Schedule, Chapter 98</td>
</tr>
<tr>
<td>Fourth Day</td>
<td>Minimum and maximum as set forth in the Fee Schedule, Chapter 98</td>
</tr>
<tr>
<td>Fifth Day</td>
<td>Minimum and maximum as set forth in the Fee Schedule, Chapter 98</td>
</tr>
<tr>
<td>Additional Days</td>
<td>Minimum fine, not to exceed an increase of $300 per day in the previously assessed monetary fine for each day that the zoning violation remains uncorrected, to a maximum monetary fine for each zoning violation as set forth in the Fee Schedule, Chapter 98 per day that the zoning violation remains uncorrected</td>
</tr>
</tbody>
</table>

(Ord. 1221, Art. 14(d), passed 1-26-2010)
§ 152.444 PAYMENT OF ALL FINES PRESCRIBED BY THIS SUBCHAPTER FOR ZONING VIOLATIONS.

All fines prescribed by this subchapter for zoning violations shall be paid as follows:

(A) To the General Fund of the town; and

(B) The person making the payment shall receive a receipt stating the amount and purpose for which the fine has been paid, a duplicate of which shall be made a part of the records of the town.

(Ord. 1221, Art. 14(d), passed 1-26-2010)

§ 152.445 FAILURES OF PERSON WHO RECEIVES A CITATION; ENFORCEMENT.

If a person who receives a citation fails to do the following divisions (A) through (C) of this section, the Town Attorney, Zoning Administrator, or appropriate enforcement official may file a lawsuit as provided by applicable law to enforce the terms and provisions of this chapter:

(A) Pay the assessed fine within:

(1) In a Residential District, 14 days after the issuance of a citation;

(2) In a Commercial/Town Center District or Industrial District, 7 days after the issuance of a citation; or

(3) For a wireless telecommunications facility, 5 days after the issuance of a citation or day upon which a fine has accrued.

(B) File a petition as prescribed in § 152.411(C)(1); or

(C) Give notice of his or her intention to stand trial as prescribed in § 152.411.

(Ord. 1221, Art. 14(e), passed 1-26-2010)

§ 152.446 VIOLATIONS IN A PLANNED UNIT DEVELOPMENT (PUD) DISTRICT.

In the event of a citation for a zoning violation in a Planned Unit Development District, fines shall be assessed based upon the use authorized for the property on which the violation has occurred. Any property approved for residential uses only shall be assessed as if the property was located in a Residential District. Any property approved for commercial/town center development or industrial uses shall be assessed as if the property was located in a Commercial/Town Center District or an Industrial District. Any property used for a wireless telecommunications facility shall be assessed as specified above for a wireless telecommunications facility.

(Ord. 1221, Art. 14(f), passed 1-26-2010)
APPENDIX A: PERMITTED USE TABLE

KEY:
- **P** = Permitted use
- **SE** = Special exception use
- **-** = Not permitted
- **CU** = Controlled use

<table>
<thead>
<tr>
<th>Use</th>
<th>R1</th>
<th>R2</th>
<th>MF</th>
<th>OB</th>
<th>LB</th>
<th>CB</th>
<th>TC</th>
<th>LI</th>
<th>G1</th>
<th>PUD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abrasive, asbestos, metallic, and nonmetallic mineral products, manufacture of</td>
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<td>Adult business (Controlled use - See §§ 152.330-152.332)</td>
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<td>SE</td>
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<tr>
<td>Aerobics studio</td>
<td>P</td>
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<td>P</td>
<td>P</td>
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<tr>
<td>Agriculture seed sales</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Airport and landing fields - public or private</td>
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<tr>
<td>Amusement arcade (Controlled use - See §§ 152.330-152.332)</td>
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<td>P</td>
<td>P</td>
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<td>Amusement park</td>
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<tr>
<td>Antique shop</td>
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<td>Apparel shop</td>
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<tr>
<td>Appliance store</td>
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<tr>
<td>Appliances, manufacturing and assembly</td>
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<tr>
<td>Architect</td>
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<td>Art gallery</td>
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<td>Artificial lake</td>
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<td>Artist office</td>
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<td>Arts and craft store</td>
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<td>Asphalt products</td>
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<td>Asphaltic paving materials preparation</td>
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<td>Use</td>
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<tr>
<td>Assembly or repair of previously manufactured parts, sub-assemblies or components</td>
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<td>Assembly halls</td>
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<tr>
<td>Assisted living facility</td>
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<td>Athletic fields</td>
<td>SE</td>
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<td>Audio or video tape products or equipment</td>
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<tr>
<td>Automobile - painting and customizing</td>
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<tr>
<td>Automobile - parts sales (new)</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Automobile quick oil change facility</td>
<td>P</td>
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<td>SE</td>
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### New Carlisle - Land Usage

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(Ord. 1221, Art. 13, passed 1-26-2010)
APPENDIX B: FORMS

Appendix

B-1 Area Plan Commission Commitments
B-2 Area Plan Commission Modification of Commitments
B-3 Board of Zoning Appeals Commitments
B-4 Board of Zoning Appeals Modification of Commitments
B-5 Consent Form
B-6 Consent Form

APPENDIX B-1: AREA PLAN COMMISSION COMMITMENTS

NOTE: The Town of New Carlisle Zoning Ordinance requires the use of this form in recording commitments made with respect to Zone Map Changes or Planned Unit Developments in accordance with I.C. 36-7-4-613 or I.C. 36-7-4-615.

COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH A ZONE MAP CHANGE OR PLANNED UNIT DEVELOPMENT REQUIRED BY THE TOWN OF NEW CARLISLE ZONING ORDINANCE

In accordance with I.C. 36-7-4-613 or I.C. 36-7-4-615, the Owner of the real estate located in the Town of New Carlisle, Indiana which is described below, makes the following COMMITMENTS concerning the use and development of the following described parcel of real estate:

LEGAL DESCRIPTION:

STATEMENT OF COMMITMENTS:

1.

2.

3.
These COMMITMENTS shall run with the land, be binding on the Owner of the above-described real estate, subsequent owners of the above-described real estate and other persons acquiring an interest therein. These COMMITMENTS may be modified or terminated by a decision of the Area Plan Commission of St. Joseph County made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the approval of petition #________ pursuant to the Town of New Carlisle Zoning Ordinance, and shall continue in effect until:

(i) the real estate is rezoned; or (ii) modified or terminated by the Area Plan Commission of St. Joseph County.

These COMMITMENTS may be enforced jointly or severally by:

1. The Area Plan Commission of St. Joseph County;
2. The Town of New Carlisle, Indiana;
3. Owners of all parcels of ground adjoining the real estate within 300 feet of the subject parcel and all owners of real estate within the area included in the petition who were not petitioners for approval; and
4. __________________________________________________________________
   __________________________________________________________________

The undersigned hereby authorizes the Executive Director of the Area Plan Commission of St. Joseph County to record this Commitment in the office of the Recorder of St. Joseph County, Indiana, upon final approval of petition #__________.

IN WITNESS WHEREOF, Owner has executed this instrument this ____ day of ____________ , ________.

(Individual Owner)

Signature ______________ (Seal)     Signature ________________ (Seal)
Printed ________________     Printed ______________________

(Organization Owner)

_________________________________
By ______________________________
Printed __________________________
Title ____________________________
Zoning

(Individual Acknowledgment)

STATE OF_____________ )
COUNTY OF___________ ) SS:

Before me, a Notary Public in and for said County and State, personally appeared ________________________, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this _____ day of____________, _______.

Signature __________________________
Printed ____________________________

County of Residence ________________
My Commission expires: ____________

(Organization Acknowledgment)

STATE OF_____________ )
COUNTY OF___________ ) SS:

Before me, a Notary Public in and for said County and State, personally appeared ________________, the__________ of ________________, a(n)__________. Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument in such capacity and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this ________ day of ______, _______________.

Signature __________________________
Printed ____________________________

County of Residence ______________________________
My Commission expires: __________________________

This instrument was prepared by ______________________.

(Ord. 1221, Exh. A, passed 1-26-2010)
APPENDIX B-2: AREA PLAN COMMISSION MODIFICATION OF COMMITMENTS

NOTE: The Town of New Carlisle Zoning Ordinance requires the use of this form in recording commitment modification(s) or termination(s) with respect to a Zone Map Change or Planned Unit Development in accordance with I.C. 36-7-4-613 or I.C. 36-7-4-615.

COMMITMENTS MODIFYING OR TERMINATING EXISTING COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH A ZONE MAP CHANGE OR PLANNED UNIT DEVELOPMENT

In accordance with I.C. 36-7-4-613 or I.C. 36-7-4-615, the Owner of the real estate located in the Town of New Carlisle, Indiana, which is described below, makes the following modification(s) or termination(s) of commitment(s) concerning the use and development of the following described parcel of real estate:

LEGAL DESCRIPTION:

STATEMENT OF MODIFICATION OR TERMINATION OF COMMITMENTS:

1.

2.

3.

These MODIFICATION OR TERMINATION OF COMMITMENTS shall run with the land, be binding on the Owner of the above-referenced real estate, subsequent owners of the above-referenced real estate and other persons acquiring an interest therein. These COMMITMENTS may be modified or terminated by a decision of the Area Plan Commission of St. Joseph County made at a public hearing after proper notice has been given.

MODIFICATION OR TERMINATION OF COMMITMENTS contained in this instrument shall be effective upon adoption of modification or termination approved by the Area Plan Commission of St. Joseph County in petition #_________________: (i) the real estate is rezoned; or (ii) modified or terminated by the Area Plan Commission of St. Joseph County.

These COMMITMENTS may be enforced jointly or severally by:
1. The Area Plan Commission of St. Joseph County;

2. The Town of New Carlisle, Indiana;

3. Owners of all parcels of ground adjoining the real estate within 300 feet of the subject parcel and all owners of real estate within the area included in the petition who were not petitioners for approval; and

4. ________________________________________________________________

_________________________________________________________________

The undersigned hereby authorizes the Executive Director of the Area Plan Commission of St. Joseph County to record this MODIFICATION OR TERMINATION OF COMMITMENTS in the office of the Recorder of St. Joseph County, Indiana, upon final approval petition #_______ by the Area Plan Commission of St. Joseph County.

IN WITNESS WHEREOF, Owner has executed this instrument this _____ day of _____, __________.

(Individual Owner)

Signature ___________________________ (Seal)    Signature ___________________________ (Seal)
Printed ___________________________    Printed ___________________________

(Organization Owner)

_________________________________________________________________

By ______________________________
Printed ___________________________
Title _____________________________

(Individual Acknowledgment)

STATE OF ___________ )
    ) SS:
COUNTY OF ___________ )
Before me, a Notary Public in and for said County and State, personally appeared ________________________, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this _____ day of __________, ______.

Signature __________________________

Printed ____________________________

County of Residence ________________

My Commission expires: __________

(Organization Acknowledgment)

STATE OF ___________ )
 ) SS:
COUNTY OF ______________ )

Before me, a Notary Public in and for said County and State, personally appeared ________________________, the ____________ of ____________, a(n) ____________, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument in such capacity and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this ________ day of ______, _______________.

Signature __________________________

Printed ____________________________

County of Residence ______________________________

My Commission expires: __________________________

This instrument was prepared by ________________________.

(Ord. 1221, Exh. B, passed 1-26-2010)
APPENDIX B-3: BOARD OF ZONING APPEALS COMMITMENTS

COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE
MADE IN CONNECTION WITH A SPECIAL EXCEPTION OR A VARIANCE GRANT FROM THE TERMS OF THE ZONING ORDINANCE

In accordance with I.C. 36-7-4-921, the Owner of the real estate located in the Town of New Carlisle, St. Joseph County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of the following described parcel of real estate:

LEGAL DESCRIPTION:

STATEMENT OF COMMITMENTS:

1.

2.

3.

4.

These COMMITMENTS shall be binding on the Owner, subsequent owners of the above-described real estate, and other persons acquiring an interest in the above-described real estate.

These COMMITMENTS may be modified or terminated by a decision of the Town of New Carlisle Board of Zoning Appeals made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the grant of petition #________________ by the Town Council/Board of Zoning Appeals.

These COMMITMENTS may be enforced jointly or severally by:

1. The Town of New Carlisle, Indiana;

2. Owners of all parcels of ground adjoining the real estate within 300 feet from the subject property, and all owners of real estate within the area included in the petition who were not
petitioners. Owners of real estate entirely located outside the Town of New Carlisle are not included, however; and

3. ________________________________________________________________
   __________________________________________________________________

The undersigned hereby authorizes the Clerk of the Town Council / Secretary of the Board of Zoning Appeals to record this Commitment in the office of the Recorder of St. Joseph County, Indiana, upon final approval of petition #__________.

IN WITNESS WHEREOF, Owner has executed this instrument this _______ day of __________, ____________.

(Individual Owner)

Signature __________________ (Seal)           Signature ____________________ (Seal)
Printed ____________________________          Printed __________________________

(Organization Owner)

________________________________________
By ________________________________
Printed ____________________________
Title _____________________________

(Individual Acknowledgment)

STATE OF__________     )
) SS:
COUNTY OF__________     )

Before me, a Notary Public in and for said County and State, personally appeared __________________, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this _____ day of ____________, ______.
Zoning

Signature ________________

Printed ________________

County of Residence ________________

My Commission expires: __________

(Organization Acknowledgment)

STATE OF_____________ )
) SS:
COUNTY OF___________ )

Before me, a Notary Public in and for said County and State, personally appeared
____________, the ____________ of ____________, a(n) ____________, Owner(s) of the real
estate described above who acknowledged the execution of the foregoing instrument in such capacity and
who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this _______ day of ______, ________________.

Signature __________________________

Printed __________________________

County of Residence _______________________________

My Commission expires: ____________________________

This instrument was prepared by ______________________.

(Ord. 1221, Exh. C, passed 1-26-2010)
APPENDIX B-4: BOARD OF ZONING APPEALS MODIFICATION OF COMMITMENTS

COMMITMENTS MODIFYING OR TERMINATING EXISTING COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH A SPECIAL EXCEPTION OR A VARIANCE FROM THE TERMS OF THE ZONING ORDINANCE

In accordance with I.C. 36-7-4-921, the Owner of the real estate located in the Town of New Carlisle, St. Joseph County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of the following described parcel of real estate:

LEGAL DESCRIPTION:

STATEMENT OF MODIFICATION OR TERMINATION OF COMMITMENTS existing in Instrument Number ___________ as recorded in the office of the Recorder of St. Joseph County, Indiana, as made in connection with petition #________________:

1. 
2. 
3. 
4. 

These modified COMMITMENTS shall be binding on the Owner of the above-described real estate, subsequent owners of the above-described real estate, and other persons acquiring an interest in the above-described real estate.

These modified COMMITMENTS may be further modified or terminated by a decision of the Board of Zoning Appeals made at a public hearing after proper notice has been given.

Modified COMMITMENTS contained in this instrument shall be effective upon the adoption of modification or termination approved by the Board of Zoning Appeals in petition #________________.

These COMMITMENTS may be enforced jointly or severally by:

1. The Town of New Carlisle, Indiana;
2. Owners of all parcels of ground adjoining the real estate to a depth of 300 feet from the subject property, and all owners of real estate within the area included in the petition who were not petitioners. Owners of real estate entirely located outside of the Town of New Carlisle are not included, however; and

3. _________________________________________________________________

The undersigned hereby authorizes the Secretary of the Board of Zoning Appeals to record this Commitment in the office of the Recorder of St. Joseph County, Indiana, upon final approval of modification and/or termination of commitment(s) by the Board of Zoning Appeals in petition #______________.

IN WITNESS WHEREOF, Owner has executed this instrument this ______ day of ____________,________.

(Individual Owner)

Signature _______________ (Seal) Signature _______________ (Seal)
Printed _______________ Printed _______________

(Organization Owner)

_________________________________
By ______________________________
Printed _________________________
Title ___________________________

(Individual Acknowledgment)

STATE OF___________ )
COUNTY OF___________ ) SS:

Before me, a Notary Public in and for said County and State, personally appeared ________________________, Owner(s) of the real estate described above who acknowledged the
execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this _____ day of ____________, ________.

Signature __________________________

Printed ____________________________

County of Residence ________________

My Commission expires: ____________

(Organization Acknowledgment)

STATE OF_____________ )
) SS:
COUNTY OF___________ )

Before me, a Notary Public in and for said County and State, personally appeared ________________, the____________ of ____________, a(n) ____________, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument in such capacity and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this ________ day of ______, ________________.

Signature __________________________

Printed ____________________________

County of Residence ______________________________

My Commission expires: _______________________

This instrument was prepared by _____________________.

(Ord. 1221, Exh. D, passed 1-26-2010)
APPENDIX B-5: CONSENT FORM

TOWN COUNCIL/AREA PLAN COMMISSION/BOARD OF ZONING APPEALS
FOR THE
TOWN OF NEW CARLISLE, ST. JOSEPH COUNTY, INDIANA

CONSENT FORM

The undersigned, ________________________________ , being the owner of the property commonly known as __________________________, hereby authorizes __________________________ to file land development petitions necessary for the aforementioned address.

This consent shall (check one):

remain in effect until revoked by a written statement filed with the Town Council / Area Plan Commission / Board Of Zoning Appeals.

remain in effect until ________________.

remain in effect until these land development petitions are resolved.

By: ___________________________
Printed: ___________________________
Title: ___________________________
Date: ___________________________

STATE OF INDIANA,
COUNTY OF ST. JOSEPH, SS:

Subscribed and sworn to before me this

_______ day of _________________, 20_____

Notary Public

Printed Name of Notary Public

My Commission expires: _______________________
My County of residence: _______________________

(Ord. 1221, Exh. E, passed 1-26-2010)
APPENDIX B-6: CONSENT FORM

TOWN COUNCIL/AREA PLAN COMMISSION/BOARD OF ZONING APPEALS
FOR THE
TOWN OF NEW CARLISLE, ST. JOSEPH COUNTY, INDIANA

CONSENT FORM

The undersigned, ________________________________________, being the owner of the property
commonly known as __________________________________, hereby authorizes
________________________________________ to file land development petitions necessary for the
aforementioned address.

This consent shall (check one):

remain in effect until revoked by a written statement filed with the Town Council/
Area Plan Commission/Board Of Zoning Appeals.

remain in effect until ________________________ .

remain in effect until these land development petitions are resolved.

__________________________________ __________________________________
Signature(s) of Owner(s) Signature(s) of Owner(s)

STATE OF INDIANA, STATE OF INDIANA,
COUNTY OF ST. JOSEPH, SS: COUNTY OF ST. JOSEPH, SS:
Subscribed and sworn to before me this
_______ day of ________, 20____

__________________________________ __________________________________
Notary Public Notary Public

Printed Name of Notary Public Printed Name of Notary Public
My Commission expires: ______________ My Commission expires: ______________
My County of residence: ______________ My County of residence: ______________

(Ord. 1221, Exh. F, passed 1-26-2010)
New Carlisle - Land Usage