CHAPTER 155: LAND USE AND DEVELOPMENT CODE; SUBDIVISION CONTROL CODE

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BASIC PROVISIONS

' 155.001 TITLE AND AUTHORITY.

(A) This chapter shall be formally known as the Lowell Land Use and Development Code and it may also be cited and referred to as the "code" or "this chapter".

(B) These codes shall be for the purpose of promoting the public health, safety and general welfare of the community and all of its citizens.

(C) These codes shall be under the authority of IC 36-7-4 as amended from time to time.
(Ord. 2013-02, passed 3-11-13)

' 155.002 DEFINED WORDS AND CONSTRUCTION.

(A) The definitions contained in this subchapter shall be observed and applied in the interpretation of all of this chapter.

(1) Words used in the present tense shall include the future;

(2) Words used in the singular number shall include the plural and the plural the singular;

(3) Words used in the masculine gender shall include the feminine;

(4) The word ***SHALL*** is mandatory, not discretionary;

(5) The word ***MAY*** is permissive;

(6) The word ***LOT*** shall include the words ***TRACT*** and ***PARCEL***;

(7) The word ***BUILDING*** or ***STRUCTURE*** includes any part thereof, and includes all other structures of every kind regardless of similarity to buildings;

(8) The phrase ***USED FOR*** shall include the phrase ***ARRANGED FOR***, ***DESIGNED FOR***, ***INTENDED FOR***, ***MAINTAINED FOR***, and ***OCCUPIED FOR***;

(9) The word ***PERSON*** includes a corporation, firm, partnership or similar, as well as an individual;

(10) All measured distances shall be to the nearest integral foot;

(11) Parenthetical words or statements are integral parts of the definitions in which they are located;

(12) Any words not defined in ' 155.006 shall be construed in their generally accepted meaning as defined by standard dictionaries.

(B) The following rules of construction shall apply to this chapter:

(1) This chapter includes, but is not limited to the Lowell Land Use and Development Code, the Lowell Subdivision Code, and the Lowell Building Regulations.

(2) This chapter has been adopted as a unified code, but each part may exist outside of this chapter if appropriate definitions are provided. The effective date and other basic and administrative provisions of each of the included codes is defined in those codes.

(C) The words generally used in this chapter are defined in ' 155.006 and shall be viewed in that context. (Ord. 2013-02, passed 3-11-13)

' 155.003 JURISDICTION.

This chapter shall apply to all land within the jurisdiction of the Lowell Plan Commission, being all portions of the incorporated town not in the ownership of the state or federal government and to any area for which the Lowell Plan Commission has established an extended jurisdiction consistent with the provisions of Indiana law. (Ord. 2013-02, passed 3-11-13)

' 155.004 PURPOSE.

This chapter is intended to guide the growth and development of the town in accordance with the Lowell Comprehensive Plan and for the following purposes:

(A) To secure adequate light, air, convenience of access; and safety from fire, floor, and other dangers.

(B) To promote the public health, safety, comfort, convenience, morals and general welfare.

(C) To plan for the future development of the town to the end:

(1) That the community grows only with adequate public ways, utilities, health, education, and recreation facilities;

(2) That the needs of agriculture, industry, and business be recognized in future growth;

(3) That residential areas provide healthful surroundings for family life;

(4) That the growth of the community is commensurate with and promotes the efficient and economical use of public funds; and

(5) That the community strives for high aesthetic value and quality planning and design. (Ord. 2013-02, passed 3-11-13)

' 155.005 INTENT.

The purpose of this chapter is to enable and qualify the implementation of the following policies.

(A) *The region.*

(1) That the region should retain its natural infrastructure and visual character derived from topography, woodlands, farmlands, riparian corridors and natural water features.

(2) That growth strategies should encourage in fill and redevelopment in parity with new communities.

(3) That development contiguous to urban areas should be structured in the neighborhood pattern and be integrated with the existing urban pattern.

(4) That development non-contiguous to urban areas should be organized in the pattern of clusters, traditional neighborhoods or towns, and commercial villages.

(5) That affordable housing should be distributed throughout the region to match job opportunities and to avoid concentrations of poverty.

(6) That transportation corridors should be planned and reserved in coordination with land use.

(7) That green corridors should be used to define and connect the urbanized areas.

(8) That the region should include a framework of transit, pedestrian, and bicycle systems that provide alternatives to the automobile.

(B) *The town.*

(1) That neighborhoods and commercial villages should be compact, pedestrian-oriented and mixed-use.

(2) That neighborhoods and regional centers should be the preferred pattern of development and that districts specializing in single-use should be the exception.

(3) That ordinary activities of daily living should occur within walking distance of most dwellings, allowing independence to those who do not drive.

(4) That interconnected networks of thoroughfares and pathways should be designed to disperse and reduce the length of automobile trips.

(5) That within neighborhoods, a range of housing types and price levels should be provided to accommodate diverse ages and incomes.

(6) That appropriate building densities and land uses should be provided within walking distance of future transit stops.

(7) That civic, institutional, and commercial activity should be embedded in downtowns or well-defined, mixed-use commercial villages, no isolated in remote single-use complexes.

(8) That schools should be sized and located to enable children to walk or bicycle to them.

(9) That a range of open space including parks, squares, and playgrounds should be distributed within neighborhoods and town center zones.

(C) *The block and the building.*

(1) That buildings and landscaping should contribute to the physical definition of thoroughfares as civic/public places.

(2) That development should adequately accommodate automobiles while respecting the pedestrian and the spatial form of public space.

(3) That the design of streets and buildings should reinforce safe environments, but not at the expense of accessibility.

(4) That architecture and landscape design should grow from local climate, topography, history, and building practice.

(5) That buildings should provide their inhabitants with a clear sense of geography an climate through energy efficient methods.

(6) That civic buildings and public gathering places should be provided locations that reinforce community identity and support self-government.

(7) That civic buildings should be distinctive and appropriate to a role more important than the other buildings that constitute the fabric of the town.

(8) That the preservation and renewal of historic buildings should be facilitated to affirm the continuity and evolution of society.

(9) That the harmonious and orderly evolution of urban areas should be secured through graphic codes that serve as guides for change.
(Ord. 2013-02, passed 3-11-13)

155.006 DEFINITIONS.

For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONMENT. The relinquishment of property or a cessation of the use of the property for a continuous period of one year by the owner with neither transferring rights to the property to another owner nor of resuming the use of the property.

ACCESSORY STRUCTURE. A structure which is subordinate to a primary structure in area, intent, and/or purpose; contributes to the comfort, convenience, or necessity of occupants of the primary building, structure, or principal use; does not alter or change the character of the premises; is located on the same lot as the primary building, structure, or use.

ADDITION. Any walled and roofed expansion to the perimeter of an existing structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

ADEQUATE PUBLIC FACILITIES (APF). Those public facilities included in the context of the Adequate Public Facilities Code that have the capacity to serve development without decreasing levels of service below a locally established minimum standard.

ADEQUATE PUBLIC FACILITY LETTER OF UNDERSTANDING. A letter from the Planning Commission to the developer which sets forth all terms, conditions and restrictions which must be satisfied for a finding of adequacy.

ADMINISTRATOR. The individual or group responsible for the implementation and enforcement of the codes. The Planning Director shall be the administrator for the zoning and subdivision codes.

ADULT BOOKSTORE, ADULT NOVELTY STORE, ADULT RETAIL STORE, ADULT VIDEO STORE. A commercial establishment which has significant or substantial portion of its stock-in trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space to the sale, or rental, for any form of consideration, of any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.

(2) Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

ADULT CABARET. A nightclub, bar, juice bar, restaurant bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

(1) Persons who appear semi-nude;

(2) Live performances which are characterized by the exposure of specified anatomical areas or specified sexual activities; or

(3) Films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of specified anatomical areas or specified sexual activities.

ADULT ENTERTAINMENT BUSINESS. See ***SEXUALLY ORIENTED BUSINESS***.

ADULT MOTEL. A motel, hotel, or similar commercial establishment which:

(1) Offers public accommodations, for any form of consideration, and which regularly provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas and which regularly advertise the availability of such material by means of a sign visible from the public right-of-way, or by means of any off-premise advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; and

(2) Offers a sleeping room for rent for a period of time less than ten hours.

ADULT MOTION PICTURE THEATER. A commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas are regularly shown for any form of consideration.

ADULT STRIP CLUB. See ***ADULT THEATER***.

ADULT THEATER. A theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of semi-nudity or live performances which are characterized by their emphasis upon the exposure of specified anatomical areas or specified sexual activities.

ADVERTISING DEVICE. An advertising sign, billboard or poster panel which directs attention to a business, commodity, service or entertainment not exclusively related to the premises where such signs is located or to direct attention to the business on which the premises or to a brand name of a product or commodity with which the business is specifically identified and which is sold on the premises.

ADVISORY PLAN COMMISSION. A plan commission serving local government jurisdictions established as defined under IC 36-7-1-2 and 36-7-4-202, as amended. The Lowell Plan Commission is an advisory plan commission and must follow all codes and regulations associated with Advisory Planning Law.

AGRICULTURE. The use of land for agriculture purposes, including farming, dairying, pasturage or livestock yard, apiculture, agriculture, horticulture, floriculture, viticulture, forestry and animal and poultry husbandry, and the necessary accessory uses. The operation of any accessory uses shall be secondary to that of the normal agricultural activities. ***AGRICULTURE*** shall not include stock yards, or the commercial feeding of garbage or offal to swine or other animals.

ALLEY. A public right-of-way, other than a street, road, crosswalk, or easement, that provides secondary access for the abutting property.

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

ALTERATION, STRUCTURAL. Any change in the supporting members of a building such as bearing walls, columns, beams or girders.

AMEND or AMENDMENT. Any repeal, modification, or addition to a regulation; or any new regulation.

ANIMAL HOSPITAL. A building or portion thereof designed or used for the care, observation or treatment of domestic animals.

ANTENNA. A structure or device that is used for the purpose of receiving and or transmitting signals, images, sounds, or information of any nature by radio, visual, or electromagnetic waves, including but not limited to directional or omnidirectional antennas, panels, and microwave or satellite dishes.

APARTMENT. One or more rooms in an apartment building, with private bath and kitchen facilities or combination apartment and commercial building, arranged, intended, designed or occupied on a rental basis as a dwelling unit of a single family, an individual, or a group individuals.

APARTMENT BUILDING. A multi-family housing structure designed and constructed to accommodate three or more apartments, in contrast to single- or two-family dwellings converted for multi-family use.

APPEAL. A request for a review of the Planning Director's interpretation of any provision of this chapter or request for a variance.

APPLICANT. The owner, owners, or legal representative of real estate who makes application to the town for action affecting the real estate owned thereby.

ARTERIAL ROAD. See ***ROAD, ARTERIAL***.

ATTACHED BUILDING. A building that is structurally connected to another building by a foundation, wall, or roof line. Carports, garages, porch awnings and the like shall be considered attached buildings.

AUTO REPAIR. Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame, or fender straightening or repair; and overall painting of vehicles.

AUTOMOBILE GAS (SERVICE) STATION. Any building or premises used for the dispensing, sale, or offering for sale at retail to the public, of automobile fuels stored only in underground tanks and located wholly within the lot lines; lubricating oil or grease for the operation of automobiles; and the sale and installation of tires, batteries, other minor accessories, and minor auto repair, but not including bulk plant, conducing of major auto repairs, automobile wrecking, or automobile sales.

AUTOMOBILE GRAVEYARD. A yard, field or other area used to store three or more unserviceable, inoperable, discarded, dismantled or partially dismantled, worn-out or junked motor vehicles, or parts of such vehicles. An automobile junkyard does not include any area used for temporary storage of vehicles, not exceeding 45 days, by an establishment or place of business which is primarily engaged in doing auto repair work.

AUTOMOBILE WRECKING YARD. See ***JUNK YARD***.

AWNING. A roof-like mechanism, retractable in operation, or fixed, and covered with flexible material which projects from the wall of a building.

BASE FLOOD ELEVATION (BFE). The elevation of the 1% annual chance flood.

BASEMENT. A story partly underground but having more than one-half of its clear height below finished grade.

BED AND BREAKFAST FACILITY. An individual owner-occupied residence containing no more than six guest rooms for hire, for lodging by prearrangement for periods not to exceed three

consecutive weeks and providing for occasional meals daily (usually breakfast) and not a hotel, boarding, lodging house, or motel.

BERM. A man-made, formed, earth mound of definite height and width used for landscaping and obscuring purposes, the intent of which is to provide a transition between uses of differing intensity.

BILLBOARD. See ***SIGN, OFF-PREMISE***.

BLOCK. Property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets, intersecting railroad, intersecting waterway, or the end of a dead end street.

BOARD OF ZONING APPEALS. The Lowell Board of Zoning Appeals or any division thereof.

BOARDING HOUSE. A building or part of a building that contains accommodation facilities for lodging, with or without meals reserved solely for the occupants thereof for a fee. ***BOARDING HOUSES*** do not include bed and breakfasts, multi-family dwellings, hotels or motels.

BOND. See ***PERFORMANCE SURETY***.

BUFFER, CONSERVATION. Any land in permanent vegetation, designed to intercept pollutant, stabilize stream banks and other riparian areas and manage other environmental concerns. Conservation buffers include: riparian buffers, filter strips, grassed waterways, shelter belts, windbreaks, living snow

fences, contour grass strips, cross-wind trap strips, shallow water areas for wildlife, field borders, herbaceous wind barriers, and vegetative barriers.

BUFFER LANDSCAPING. Any trees, shrubs, walls, fences, berms, space, or related landscaping features required by code on private lots, and privately maintained, for buffering lots from adjacent properties or public rights-of-way for the purpose of increasing visual or other aspects of privacy and aesthetics.

BUFFER YARDS. An area adjacent to front, side and rear property lines, measure perpendicularly from adjacent property lines and/or right-of-way lines, intended to provide attractive spaces to reduce the impacts of proposed uses on adjacent property or natural features and to screen incompatible uses from each other. Buffers also help to maintain existing trees or natural vegetation, to block or reduce noise, glare or other emissions and to maintain privacy. Buffer yards are in addition to (separate from) front, rear, or side yard setbacks.

BUILDING. A structure having a roof, supported by columns or walls, for the shelter, support, or enclosure of persons, property, or animals; and when separated by division walls from the ground up and without openings, each portion of such building shall be deemed as a separate building. Also includes the word ***PLOT***.

BUILDING, DETACHED. A building surrounded by open space on the same lot.

BUILDING, PRINCIPAL. A non-accessory building in which is conducted the principal use of the lot on which it is located.

BUILDING, RESIDENTIAL. A building which is arranged, designed, used, or intended to be used for residential occupancy by one or more families or lodgers and which includes, but is not limited to the following types:

(1) Single-family detached dwellings;

(2) Two-family dwellings;

(3) Single-family or two-family attached and semidetached dwellings developed initially under single ownership or unified control;

(4) Multiple-family dwellings.

BUILDING AREA. The horizontal area of the buildings on a lot, measure from the outside exterior walls, excluding open areas or terraces, unenclosed porches or decks, and architectural features that project less than two feet.

BUILDING CODE. The Indiana Building Code establishing and controlling the standards for constructing mechanical equipment, and all forms of permanent structures and related matters within the town. Also referred to herein as the Lowell Building Code.

BUILDING ENVELOPE. The area on a lot, established by the setback lines, in which building can occur.

BUILDING HEIGHT. See ***STRUCTURE HEIGHT***.

BUILDING LINE. The line nearest the front and across a lot establishing the minimum open space to be provided between the front line of a building or structure and the front lot line.

BULK. The cubic content of a building in relation to the area of the building site.

BUSINESS. The engaging in the purchase, sale, barter, or exchange of goods, wares, merchandise, or services; an occupation, employment, or enterprise which occupies time, attention, labor, and materials; or the maintenance or operation of offices, recreational, or amusement enterprises.

BUSINESS DISTRICT. Refers to the B1, B2, and TC Districts.

BZA. See ***BOARD OF ZONING APPEALS***.

CAMPGROUND AND RV PARK. Any site, lot, field, or tract of land designed with facilities for short term occupancy by recreational vehicles and other camping equipment but not including mobile homes.

CAPITAL IMPROVEMENT PLAN. A proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

CARPORT. An open-sided roofed automobile shelter, formed by extension of the roof from the side of a building.

CELLULAR COMMUNICATION EQUIPMENT. Antennas and other transmitting and/or receiving device or other associated devices used in the provision of telecommunications service.

CEMETERY. Includes any crematory, mausoleum, or mortuary operated in conjunction with and on the same tract as the cemetery.

CERTIFICATE OF OCCUPANCY. A certificate stating that the occupancy and use of a structure complies with the provisions of the Lowell Building Code and all other applicable regulations of the town.

CHILD CARE HOME.

(1) As defined by IC 12-7-2-28.6 and for the purposes of the zoning code, an establishment providing non-overnight care, supervision, and protection of children in private residences which is ancillary to the primary use as residential. A residential structure in which at least six children (not including the children for whom the provider is parent, stepparent, guardian, custodian, or other relative, or those which are at least age 14) 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 four hours but less than 24 hours in each of ten consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

(2) The term includes class I child care home and class II child care home as defined in IC 12-7-2-33.7 and 12-7-2-33.8.

CHILD CARE INSTITUTION. As defined by IC 12-7-2-29 and for the purposes of the zoning code:

(1) A residential facility with a capacity of not more than ten children that does not meet the residential structure requirements of a group home; or

(2) Operates under a license issued under IC 31-27;

(3) Provides for delivery of mental health services that are appropriate to the needs of the individual; and

(4) Complies with the rules adopted under IC 4-22-2 by the Division of Family and Children.

CLINIC. An establishment in which human patients are admitted for medical or dental study or treatment and in which the services of at least two physicians or dentists are provided.

CLUB OR LODGE, PRIVATE. A non-profit association of persons, who are bona fide members paying annual dues, which owns, hires, or leases a building or portion thereof; the use of such premises being restricted to members and their guests. (The affairs and management of such private club or lodge are conducted by a board of directors, executive committee, or similar body chosen by the members.)

COLLECTOR ROAD. See ***ROAD, COLLECTOR***.

CO-LOCATION SITE. A site on an existing or proposed telecommunication tower that can be used for the installation and/or mounting of antennas or radio or cellular communication equipment that operates on a different frequency from the initial user.

COMMISSION. See ***ADVISORY PLAN COMMISSION***.

COMMUNITY DEVELOPMENT DIRECTOR. See ***PLANNING DIRECTOR***.

COMMUNITY RATING SYSTEM (CRS). A program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

COMPREHENSIVE PLAN. Refers to the Lowell Comprehensive Plan. The plan includes goals, objectives and strategies for land use, growth management, transportation/thoroughfares, community facilities and services, environment concerns,

infrastructure, aesthetics and identity, economic development, and parks and recreation. The Plan was developed and adopted by the town pursuant to the IC 36-7-4-500 series and includes any part and/or policies separately adopted and any amendment to such plan and/or policies, or parts thereof.

CONDITION OF APPROVAL. Stipulations or provisions set forth as a prerequisite for approval of a petition.

CONDOMINIUM. Real estate lawfully subject to IC 32-25, (the Horizontal Property Law), by the recordation of condominium instruments, in which undivided interests in the common areas and facilities are vested in the condominium unit owners.

CONFINED (OR CONCENTRATED) ANIMAL FEEDING OPERATION (CAFO). A facility where livestock or poultry are fed in confinement for at least 45 days per year and crop or forage growth is not maintained in the area of confinement. If at any time during the period of animal confinement, through a combination of grazing, trampling or manure deposition no vegetative cover is evident in the confined area, this would constitute a lack of maintenance of crop or forage growth.

CONFORMING BUILDING OR STRUCTURE. Any building or structure which:

(1) Complies with all the regulations of this chapter or of any amendment hereto governing the zoning district in which building or structure is located;

(2) Is designed or intended for a conforming use.

CONSTRUCTION PLAN(S). The maps or drawings showing the specific location and design of improvements to be installed for a subdivision in accordance with the applicable requirements of the town.

CONTROLLED ACCESS HIGHWAY. A trafficway, including freeways, expressways, and other arterial streets, in respect to which owners or occupants of abutting property or lands and other persons have no legal right of access to or from the same, except at such points only and in such manner as may be determined by the public authority having jurisdiction over such trafficway.

COUNTY. Lake County, Indiana.

COURT. An open unoccupied space bounded on two or more sides by the exterior walls of a building or exterior walls and lot lines.

COVENANTS. Private and legal restrictions of various kinds on the usage of lots, typically within a subdivision and applied by the subdivider, that are recorded with the plat and deed. Covenants are not enforceable by the Plan Commission or its designees. However, they are enforceable in civil court by interested or affected parties.

CRITICAL FACILITY. A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

CUL-DE-SAC. A street having one end open to traffic and being permanently terminated by a vehicular turnaround.

CURB LEVEL. The level of the established curb in front of such building measured at the center of such front. (Where no curb level has been established, the pavement elevation at the street center line similarly measured, or the mean elevation of the finished lot grade immediately adjacent to a building shall be considered the ***CURB LEVEL***).

DAY CARE CENTER. See ***CHILD CARE CENTER***.

DEDICATION. The setting apart of land or interests in land for use by the municipality or public by code, resolution, or the recording of a plat.

DEMAND MANAGEMENT STRATEGIES OR TRANSPORTATION DEMAND MANAGEMENT STRATEGIES (TDM). Strategies aimed at channeling travel behavior rather than at expanding the transportation network to meet travel demand. Such strategies can include the promotion of work-hour changes, ride-sharing options, parking policies, or telecommuting.

DETACHED BUILDING. A building that has no structural connection with the principal building.

DEVELOPER. An individual, partnership, corporation (or agent thereof), or other entity that undertakes the responsibility for land development, particularly the designing of a subdivision plat or site development plan showing the layout of the land and the public improvements involved therein. In as much as the subdivision plat is merely a necessary means to the end of assuring a satisfactory development, the term ***DEVELOPER*** is intended to include the term ***SUBDIVIDER***, even though the personnel involved in successive stages of the project may differ.

DEVELOPMENT.

(1) Any man-made change to improved or unimproved real estate including but not limited to:

(a) Construction, reconstruction, or placement of a structure or any addition to a structure;

(b) Installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;

(c) Installation of utilities, erection of walls and fences, construction of roads, or similar projects;

(d) Construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;

(e) Mining, dredging, filling, grading, excavation, or drilling operations;

(f) Construction and/or reconstruction of bridges or culverts;

(g) Storage of materials; or

(h) Any other activity that might change the direction, height, or velocity of flood or surface waters.

(2) ***DEVELOPMENT*** does not include activities such as the maintenance of existing buildings and facilities such as painting, re-roofing; resurfacing roads, gardening, plowing, and similar agricultural practices.

DISTRICT. A section of the town for which uniform zoning regulations governing use, height, area, size, intensity of use of buildings and land, and open spaces about buildings, are established by the zoning code.

DOMESTIC PETS. Animals commonly used as household pets, protection, companions, and for the assistance of disabled persons. ***DOMESTIC PETS*** shall include animals that are cared for and treated in a manner acceptable for pet dogs, cats, and birds. ***DOMESTIC PETS*** shall include, but not be limited to, dogs, cats, parakeets, parrots, finches, spiders, guinea pigs, hamsters, gerbils, rats, mice, rabbits, aquarium fish, pot belly pigs, ferrets, and snakes if cared for in the manner described above.

DRIVES, PRIVATE. See ***ROAD, PRIVATE***.

DRIVE-IN ESTABLISHMENT. An establishment which offers merchandise, service, or entertainment to persons in motor vehicles.

DUPLEX. See ***DWELLING, TWO-FAMILY***.

DWELLING. A building or structure or portion thereof, conforming to all requirements applicable to the residential use districts of the zoning code and Lowell Building Code/Indiana Building Code used exclusively for residential occupancy, including single-family dwelling units, two-family dwelling units, and multifamily dwelling units, but excluding hotels, boarding houses, and lodging houses.

DWELLING, MANUFACTURED HOME TYPE I (DOUBLE-WIDE). A dwelling unit built in a factory, installed as a permanent residence, and bearing a seal of compliance with Federal Manufactured Housing Construction and Safety Standards (42 U.S.C.A. 5401 et seq.) which is at least 23 feet in width for its entire length, has at least 950 square feet of occupied space, has its wheels, axles, and towing chassis removed, and is installed and anchored on a permanent foundation and perimeter wall, according to the Indiana One and Two Family Dwelling Code, as amended, and its pitched roof and siding are of materials customarily used for site constructed dwellings.

DWELLING, MANUFACTURED HOME TYPE II (SINGLE-WIDE). A dwelling unit built in a factory, installed as a permanent residence, and bearing a seal of compliance with Federal Manufactured Housing Construction and Safety Standards which has at least 320 square feet of occupied space, has its wheels, axles, and towing chassis removed, and is installed and anchored on a permanent foundation and perimeter wall, according to the Indiana One and Two Family Dwelling Code, as amended, and its pitched roof and siding are of materials customarily used for site constructed dwellings.

DWELLING, MANUFACTURED HOME TYPE III. A dwelling unit built in a factory, installed as a permanent residence, and bearing a seal of compliance with Federal Manufactured Housing Construction and Safety Standards which has at least 320 square feet of occupied space, has its wheels, axles, and towing chassis removed, and is installed and anchored on a permanent foundation and perimeter wall, according to the Indiana One and Two Family Dwelling Code, as amended, and its pitched roof and siding are not of materials customarily used for site constructed dwellings.

DWELLING, MOBILE HOME. A transportable dwelling unit which is a minimum of eight feet in width and which is built on a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical system contained therein, and which was manufactured either:

(1) Prior to June 15, 1976, and bears a seal attached under Indiana Public Law 135, 1971, certifying that it was built in compliance with the standards established by the Indiana Administrative Building Council; or

(2) 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.

DWELLING, MODULAR. A dwelling unit wholly or in substantial part manufactured at an off-site location to be wholly or partially assembled on-site in accordance with and meeting the specifications of the Indiana One and Two Family Dwelling Code, as amended, and is installed and anchored on a permanent foundation with a character, roof pitch, and of materials customarily used for site constructed dwellings.

DWELLING, MULTI-FAMILY. A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING, SINGLE-FAMILY. A detached residential dwelling unit designed for and occupied by one family.

DWELLING, TWO-FAMILY. A residential building containing two dwelling units designed for occupancy by not more than two families.

DWELLING SITE. A site within a manufactured home park and/or mobile home park with required improvements and utilities that is leased for the long term placement of manufactured homes and/or mobile homes.

DWELLING UNIT. Any structure or portion thereof designed for or used for residential purposes as a self sufficient or individual unit by one family and having permanently installed sleeping, cooking, and sanitary facilities.

EASEMENT. A grant by a property owner to specific persons, the general public, corporations, utilities, or others, for a specified purpose.

EFFICIENCY UNIT. A dwelling unit consisting of one principal room exclusive of bathroom, hallway, closets, or kitchen and dining alcove directly off the principal room.

ELEEMOSYNARY INSTITUTION. A building or group of buildings devoted to public service and supported by a not-for-profit organization.

ELEVATED STRUCTURE. A non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

EMERGENCY CERTIFICATE. A certified statement that verifies a structure's elevation information.

EMERGENCY PROGRAM. The first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.

ENCROACHMENT. The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

ESTABLISHMENT, BUSINESS. A place of business carrying on operations, the ownership and management of which are separated and distinct from those of any other place of business located on the same lot. Direct access to each business establishment shall be separate and distinct access to any other business establishment, and in no case shall there be access to one such establishment from within another such establishment.

EXISTING CONSTRUCTION. Any structure for which the start of construction commenced before the effective date of the community's first floodplain ordinance.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the zoning code.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FAA. Federal Aviation Administration.

FAMILY. An individual, or two or more persons related by blood, marriage, or adoption, or a group of not more than four persons, not related by blood, marriage, or adoption, living together as a single housekeeping unit, but not including the residents of any apartment, hotel, or of a boarding house or lodging house serving more than two paying guests.

FARM. An area of at least ten acres used for agricultural operations, forestry, the operation of a tree or plant nursery, or the production of livestock and poultry as well as those properties classified by the Internal Revenue Service as a farm.

FARM ANIMAL UNIT. A method of measuring the relative impact of different types of animals.

FARM ANIMALS. Animals commonly used for transportation, food, skins, and other by-products. ***FARM ANIMALS*** include, but are not limited to horses, cattle, pigs, sheep, goats, mules, donkeys, miniature horses, miniature donkeys, camels, emu, ostrich, llamas, alpacas, rabbits, mink, fox, buffalo, chickens, turkeys, quail, pheasants, and other animals or fowl of similar characteristics.

FBFM. Flood Boundary and Floodway Map.

FCC. Federal Communications Commission.

FEEDLOTS. The confinement for any period of time of livestock or fowl, whether open or enclosed.

FEMA. Federal Emergency Management Agency.

FHBM. Flood Hazard Boundary Map.

FINAL PLAT. The final map, drawing or chart upon which the subdivider's plan of subdivision is presented, and which, if approved, will be submitted for recording among the land records for the town.

FINANCIAL COMMITMENT. That sources of private or public funds or combinations thereof have been identified which will be sufficient to finance public facilities necessary to support development and that there is reasonable assurance that such funds will be timely put to that end.

FINISHED FLOOR AREA. See ***FLOOR AREA, FINISHED***.

FIRM. Flood Insurance Rate Map.

FIVE-HUNDRED YEAR FLOOD (500-YEAR FLOOD). The flood that has a 0.2% chance of being equaled or exceeded in any year.

FLOOD. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM). An official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of a community, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as Zone A.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which FEMA has delineated both the areas of special flood hazard and the rich premium zones applicable to the community.

FLOOD INSURANCE STUDY. The official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

FLOOD PRONE AREA. Any land area acknowledged by a community as being susceptible to inundation by water from any source. (See ***FLOOD***).

FLOOD PROTECTION GRADE or THE FPG. The elevation of the regulatory flood plus two feet at any given location in the SFHA.

FLOODPLAIN. The relatively flat area or low land adjoining the channel of a river or stream which has been or may be covered by flood water. The floodplain includes the channel, floodway, and floodway fringe. Flood plain boundaries are to be determined by using the Floodway-Flood Boundary Maps of the Federal Insurance Administration/Federal Emergency Management Administration.

FLOODPLAIN MANAGEMENT. The operation of an overall program of correction and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulation, and open space plans.

FLOODPROOFING (DRY FLOODPROOFING). A method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

FLOODPROOFING CERTIFICATE. A form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a register professional engineer or architect.

FLOODWAY. The channel of a river or stream and those portions of the floodplain adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

FLOODWAY FRINGE. Those portions of the floodplain lying outside the floodway.

FLOOR AREA (for determining floor area ratio). The sum of the gross horizontal areas of the several floors of the building enclosed by an exterior wall, excluding however, attic, and basement floors, open porches, breezeways and garages.

FLOOR AREA, FINISHED. That portion of floor area constructed, completed, and usable for living purposes with normal living facilities which includes sleeping, dining, cooking, working, entertainment, common space living rooms, areas for personal hygiene, or combination thereof. Floor area or portion thereof used only for storage purposes and not equipped for the facilities mentioned above shall not be considered finished floor area.

FLOOR AREA, GROUND. That portion of finished floor area located on the first (or nearest ground level) floor of the dwelling unit. The main floor area of a primary structure does not include a garage, carport, deck, unfinished storage, patio, or open porch.

FLOOR AREA OF A BUILDING (for determining off-street parking and loading requirements). The sum of the gross horizontal areas of the several floors of the building, or portions thereof, devoted to a specific use; including accessory storage areas located within selling or working space such as counters, racks or closets; and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.

FLOOR AREA RATIO. The floor area of the building or buildings on a lot divided by the area of such lot.

FOUNDATION. The supporting member of a wall or structure.

FREEBOARD. A factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

FRONT LINE. With respect to a building, the foundation line that is nearest the front lot line.

FRONT LOT LINE. For an interior or through lot, the line marking the boundary between the lot and the abutting street right-of-way or a lake or watercourse; and for a corner lot, the line marking the boundary between the lot and each of the abutting streets.

FRONT YARD. The horizontal space between the nearest foundation of a building to the front lot line, extending to the side lines of the lot, and measured as the shortest distance from that foundation to the front lot line. For the purpose of determining the required front yard, the proposed right-of-way shall be used where it is greater than the existing right-of-way.

FRONTAGE. See ***LOT FRONTAGE***.

FUNCTIONALLY DEPENDENT FACILITY. A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

GARAGE, PRIVATE. An attached or detached structure whose principal use is to house motor vehicles or personal property for the accommodation of related dwelling units or related business establishments, including a carport, which is intended for or used for storing the private passenger vehicles of the family or families resident upon the premises, and in which no business, service, or industry connected directly or indirectly with the automotive vehicles is carried on, provided that not more than one-half of the space may be rented for the private passenger vehicles of persons not resident on the premises, except that all the space in a garage of one or two car capacity may be so rented.

GARAGE, PUBLIC. Any building where automotive vehicles are painted, repaired, rebuilt, reconstructed, or stored for compensation.

GOVERNMENT PROJECTS. Any building, structure, or alteration thereof paid for and used by the local, state or federal government entities.

GRADE LEVEL. The mean elevation of the ground surrounding the perimeter of a building or structure, calculated as an average of the highest and lowest elevations.

GROUND FLOOR AREA. See ***FLOOR AREA, GROUND***.

GROUND LEVEL. See ***GRADE LEVEL***.

GROUP HOME. A home or living environment intended to provide supervised services for groups of four or more residents. The care provided is similar to that provided at assisted living facilities or other medical facilities, but in a less restrictive environment.

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

HEIGHT. See ***STRUCTURE HEIGHT***.

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

HISTORIC STRUCTURE. Any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

HOME OCCUPATION #1. A business based in the dwelling of its owner or operator, with no articles sold or offered for sale except as may be produced by a member of the immediate family residing on the premises, which results in minimal (no impact to structure or surroundings) business practices within certain residential zoning districts. Further, the intent is not to allow the loss of the residential district's character or function as a residential area or neighborhood.

HOME OCCUPATION #2. A business based in the dwelling of its owner or, with no articles sold or offered for sale except as may be produced by a member of the immediate family residing on the premises, which results in moderate home business practices within certain residential zoning districts. Further, the intent is not to allow the loss of the residential district's character or function as a residential area or neighborhood.

HOSPITAL. An institution devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for three or more unrelated individuals suffering from illness, disease, injury, deformity, or other abnormal physical conditions. The term ***HOSPITAL*** does not apply to institutions operating primarily for treatment of insane persons, drug addicts, liquor addicts, and other types of cases necessitating restraint of patients, and the term ***HOSPITAL*** shall not include convalescent, nursing, shelter, or boarding homes.

HOTEL. A building in which lodging or board and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public. Compensation is usually assessed on a day-to-day basis.

IMPERVIOUS SURFACE. Any material that prevents absorption of stormwater into the ground.

IMPROVEMENT LOCATION PERMIT. A permit allowing a person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure or before starting any construction, excavation, or work within a subdivision within its jurisdiction, or the pursuit of changes to the condition of the land. Improvement location permits are issued pursuant to the regulations of the Lowell Building Code.

INCIDENTAL. A minor occurrence or condition which is customarily associated with a permitted use and is likely to ensue from normal operations.

INCREASED COST OF COMPLIANCE (ICC). The cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to

bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

INDIANA STATEWIDE TRANSPORTATION IMPROVEMENT PLAN (INSTIP). An annual document prepared by the Indiana Department of Transportation (INDOT) indicating state transportation projects which are planned for the following three-year period.

INDUSTRIAL DISTRICT. Refers to the LI, Light Industrial and HI, Heavy Industrial Zoning Districts.

INDUSTRIAL, GENERAL. The assembly, fabrication or processing of goods and materials using processes that ordinarily have greater than minimal impacts on the environment, or that otherwise do not constitute light manufacturing, and which may include open uses and outdoor storage. General manufacturing generally includes processing and fabrication of products made from extracted or raw materials.

INDUSTRIAL, LIGHT. The assembly, fabrication or processing of goods and materials using processes that ordinarily do not create noise, smoke, fume, odors, glare or health or safety hazards outside of the building or lot where such assembly, fabrication, or processing of goods are housed entirely within an enclosed building. Light manufacturing generally includes processing and fabrication of finished products predominantly from previously prepared materials.

INSTITUTIONAL FACILITY FOR THE DEVELOPMENTALLY DISABLED/MENTALLY ILL. A residential facility that provides care, supervision and protection and operates under a license issued under IC 12-28-4; provides for delivery of mental health services that are appropriate to the needs of the individual; and, complies with the rules adopted under IC 4-22-2 by the Division of Family and Children (For reference see IC 12-7-2).

INTERESTED PARTY. Interested parties shall include, but are not limited to, those persons, groups, property owners or other entities which are considered or consider themselves to be affected by a change in land use or the intended results of a petition.

INTERIOR LOT. See ***LOT, INTERIOR***.

INTERSTATE. See ***LIMITED ACCESS HIGHWAY***.

JUNK. An automobile, recreational vehicle, boat, truck, other motor vehicle, large appliances, furniture or like materials which has been damaged to such an extent that it cannot be operated under its own power or used and/or will require major repairs before being made usable. This could also include such a vehicle which does not comply with state or county vehicle laws or codes.

JUNK YARD. A place, usually outdoors, where waste or discarded property, other than organic matter, including but not limited to automobiles and farm implements and trucks, is accumulated and is or may be salvaged for reuse or resale; this shall not include any industrial scrap metal yard. The storage, dealing in or the permitting of the accumulation of significant quantities of combustible, organic or nonmetal scrap materials such as, but not limited to, wood, paper, rags, garbage, tires, bones and shattered glass on the premises of such an establishment will disqualify it from being classified as a scrap metal yard, and the same will be classified as a junk yard. No accumulation of vehicles or other herein described stored items shall be allowed to be accumulated or grandfathered into existence without specific submission and approval as a zoned junk yard or storage lot.

JURISDICTION. All land within the incorporated limits of Lowell, Indiana, not owned by the State of Indiana or federal government.

KENNEL. A place primarily for keeping four or more adult dogs, or other small animals that are ordinarily bred for sale as pets. Also could include temporary care facility for compensation.

LANDSCAPING. The improvement of a lot with grass, shrubs, trees, and other vegetation and/or ornamental objects. ***LANDSCAPING*** may include pedestrian walks, flower beds, berms, fountains and other similar natural and man-made objects designed and arranged to produce an aesthetically pleasing effect.

LEGAL NONCONFORMING LOT OF RECORD. Any legally established and recorded lot prior to the date specified in the subdivision control code, or its subsequent amendments, that no longer meet the lot specific development standards.

LEGAL NONCONFORMING SIGN. Any sign lawfully existing on the effective date of the zoning code, or amendment thereto, that does not conform to all the standards and regulations of the zoning code.

LEGAL NONCONFORMING USE. Any continuous, lawful use of structures, land, or structures and land in combination established prior to the effective date of the zoning code or its subsequent amendments that is no longer a permitted use in the district where it is located.

LETTER OF MAP AMENDMENT (LOMA). An amendment to the currently effective FEMA map that establishes that a property is not located in a special flood hazard area (SFHA). A LOMA is only issued by FEMA.

LETTER OF MAP REVISION (LOMR). An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

LETTER OF MAP REVISION BASED ON FILL (LOMR-F). An official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

LEVEL OF SERVICE (LOS). An established minimum capacity of public facilities or services that must be provided per unit of demand or other appropriate measure of need.

LIMITED ACCESS HIGHWAY. Any roadway that operates at a high service level, consists of limited access, is divided, carries region-wide traffic and is generally classified as part of the interstate system.

LOCAL ROAD. A road designed primarily to provide access to abutting properties and discourage through traffic.

LOCAL STREET. See ***LOCAL ROAD***.

LODGING HOUSE. See ***BOARDING HOUSE***.

LOT. A contiguous area of land separated from other areas of land by separate description (including a recorded deed, a subdivision plat or record of survey map, or by metes and bounds) for purpose of sale, lease, transfer of ownership or separate use. It may be a single parcel separately described or a combination of such parcels when adjacent to one another and used as one lot.

LOT, BUILDABLE. Any lot upon which a building or structure is allowed to be constructed and occupied by the regulations of the town. Generally, the lot shall have frontage on and access to an improved street, meet minimal setbacks, and have all necessary utilities available.

LOT, CORNER. A lot situated at the intersection of two streets or which fronts a street on two or more sides forming an interior angle of less than 135 degrees.

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LOT, DEVELOPED. A lot with buildings or structures.

LOT, IMPROVED. See ***LOT, BUILDABLE***.

LOT, INTERIOR. A lot other than a corner lot with frontage on only one street other than an alley.

LOT, THROUGH. A lot fronting on more than one street, other than an alley, or abutting more than one streets which do not intersect at the boundaries of the lot. Also includes lots fronting on both a street and a watercourse or lake.

LOT COVERAGE. The area of a lot occupied by the principal building and any accessory structures.

LOT DEPTH. The horizontal distance between the front and rear lot lines.

LOT FRONTAGE. All property of a lot fronting on a street right-of-way or common, private drive, as measured between side lot lines.

LOT OF RECORD. A lot which is a part of a subdivision recorded in the office of the County Recorder, or a parcel or lot described by metes and bounds, and a description of which has been so recorded.

LOT WIDTH. The distance as measured between the side lot lines at the front setback line.

LOWEST ADJACENT GRADE. The lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

LOWEST FLOOR. The lowest of the following:

(1) The top of the basement floor;

(2) The top of the garage floor, if the garage is the lowest level of the building;

(3) The top of the first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings; or

(4) The top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless: the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) having a total area of one square foot for every two square feet of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one foot above grade; or such enclosed space shall be usable for the parking of vehicles and building access.

MAJOR PLAT. See ***SUBDIVISION, MAJOR***.

MAJOR SUBDIVISION. See ***SUBDIVISION, MAJOR***.

MANEUVERING SPACE. An open space in a parking area which: is immediately adjacent to a parking space; is used for and/or is necessary for turning, backing or driving forward a motor vehicle into such parking space, but is not used for the parking of or storage of motor vehicles.

MANUFACTURED HOME. See ***DWELLING, MANUFACTURED HOME***.

MANUFACTURED HOME PARK. A parcel of land containing two or more dwelling sites, with required improvements and utilities, that are leased for long-term placement of mobile home dwellings and/or manufactured home dwellings, and shall include any street used or intended for use as part of the facilities

of such manufactured home park. A manufactured home park does not involve sales of mobile home dwellings or manufactured home dwellings in which unoccupied units are parked for inspection or sale.

MAP PANEL NUMBER. The four-digit number followed by a letter suffix assigned by FEMA on a flood map. The first four digits represent the map panel, and the letter suffix represents the number of times the map panel has been revised. (The letter "A" is not used by FEMA, the letter "B" is the first revision).

MARKER (SURVEY). A stake, pipe, rod, nail, or any other object which is not intended to be a permanent point for record purposes.

MARKET VALUE. The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

MARQUEE or CANOPY. A roof-like structure of a permanent nature which projects from the wall of a building and may overhang into a required yard.

MASTER PLAN. See ***COMPREHENSIVE PLAN***.

METROPOLITAN PLANNING PLAN ORGANIZATION (MPO). The Metropolitan Planning Organization (MPO) is the designated transportation planning agency for the region or county consisting of local governments within the region containing one or more counties which have common transportation interest. The Northwestern Indiana Regional Planning Commission is the MPO for Lake County.

MICRO WIND ENERGY CONVERSION SYSTEM. A building-mounted wind system that projects no more than 15 feet above the highest point of the roof and a maximum rotor diameter of ten feet. Micro wind systems are subject to regulations in all zoning districts.

MITIGATION. Sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is two fold: to protect people and structures, and to minimize the cost of disaster response and recovery.

MOBILE HOME. See ***DWELLING, MOBILE HOME***.

MOBILE HOME PARK. See ***MANUFACTURED HOME PARK***.

MODULAR HOME. See ***DWELLING, MODULAR HOME***.

MONUMENT (SURVEY). A permanent physical structure which marks the location of a corner or other survey point.

MOTEL. An establishment consisting of a group of attached or detached living or sleeping accommodations with bathroom and closet space, located on a single zoning lot, and designed for use by transient automobile tourists, in which ingress and egress to and from rooms is made through individual exterior entrances. A motel furnishes customary services such as maid service and laundering of linen, telephone, secretarial, or desk service, and the use and upkeep of furniture.

MOTOR HOME. See ***RECREATIONAL VEHICLE***.

MOTOR VEHICLE. Any passenger vehicle, truck, tractor, tractor-trailer, truck-trailer, trailer, or semitrailer propelled or drawn by mechanical power.

MOTORIZED ATV/OFF ROAD VEHICLE OR MOTOR BIKES. A motorized vehicle whose primary purpose and design is for usage other than transportation and generally off improved road surfaces. Also may be referred to as "not street legal". Vehicles designed for use on challenging terrain and/or contests of speed and skill in adverse conditions. Examples include, but are not limited to; dune buggies, motor cross bikes, off road motorcycles, quad-runners, three wheelers.

MURAL. A painting on the side of a building, wall, or structure; or a painting on the ground or the ceiling of a building or structure. A mural that does not function as a sign is not regulated by this chapter. Murals that function as a sign are regulated in this chapter as a wall sign.

NAMEPLATE. Non-illuminated sign flush with the front of the building indicating the name or address of a building, or the name of an occupant thereof and the practice of a permitted occupation therein.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP). The federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the federal government and the private insurance industry.

NATIONAL GEODETIC VERTICAL DATUM (NGDV) OF 1929. Corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

NET USABLE. That portion of land capable of being used after public right-of-way is excluded.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the zoning code.

NONCONFORMING BUILDING. A building, structure, or portion thereof, which was designed, erected, or structurally altered such that it does not conform to the regulations of the zoning district in which it is located.

NONCONFORMING LOT OF RECORD. A lot which was created such that it does not conform to the regulations of the zoning district in which it is located.

NONCONFORMING SIGN. A sign or portion thereof, which was designed, erected, or structurally altered such that it does not conform to the regulations of the zoning district in which it is located.

NONCONFORMING USE. A use of land, buildings, or structures which does not conform with the use regulations of the zoning district in which it is located.

NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88). Adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

NOXIOUS MATTER OR MATERIALS. That which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals.

NURSING HOME. A private home for the care of the aged or infirm, or any other person in need of nursing care and which does not contain equipment for surgical care or for treatment of disease or injury, and is not primarily designed for mental patients or alcoholics.

ODOROUS MATTER. Matter or material that yields an odor which is offensive in any way.

OFFICIAL ZONING MAP. A map of Lowell, Indiana, that legally denotes the boundaries of zoning districts as they apply to the properties within the planning jurisdiction.

OFF-SITE IMPROVEMENTS. Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval, upon which is located improvements required by or related to the property to be subdivided.

ONE HUNDRED YEAR FLOOD (100-YEAR FLOOD). A 1% annual chance of flood.

OPEN SALES LOT. Land used or occupied for the purpose of buying or selling merchandise stored or displayed out-of-doors. (Such merchandise includes, but is not limited to, passenger cars, trucks, motor scooters, motorcycles, boats, and monuments).

OPEN SPACE. An area of land not covered by buildings, parking structures, or accessory uses except for recreational structures. ***OPEN SPACE*** may include nature areas; streams and flood plains; meadows or open fields containing baseball, football, and soccer fields, golf courses, swimming pools, bicycle paths, etc. ***OPEN SPACE*** does not include street rights-of-way, platted lot area, private yard, patio areas, or land scheduled for future development.

OUTDOOR STORAGE. See ***STORAGE, OUTDOOR***.

OWNER. Any person, group, of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land, or their legal representative.

PARCEL. See ***LOT***.

PARENT TRACT. A parent tract's actual location, shape, and size is determined by the official record of the last transfer of ownership occurring prior to December 31, 2000. Multiple lots owned by one person, persons in partnership, or a company shall each be considered one parent tract. Easements shall not constitute a separation of two or more pieces of land owned by one person, persons in partnership, or a business. A lot of record with an existing public road that splits it shall be considered two parent tracts.

PARKING SPACE, AUTOMOBILE. Space within a public or private parking area for the storage of one passenger automobile or commercial vehicle under a one and one-half ton capacity.

PARTICIPATING COMMUNITY. Any community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

PARTICULATE MATTER. Dust, smoke, or any other form of air-borne pollution in the form of minute separate particles.

PAVED. A durable surface for parking, driving, riding or similar activities that utilizes asphalt, concrete, brick, paving blocks or similar material. Crushed gravel, stone, rock, or dirt, sand or grass are not permitted as a paved surface.

PERFORMANCE SURETY. An amount of money or other negotiable security paid by the subdivider, developer, or property owner or his surety to the town which guarantees that the subdivider will perform all actions required by the town regarding an approved plat or other land development, and provides that if the subdivider, developer, or property owner defaults and fails to comply with the provisions of approval, the subdivider, developer, or property owner or his surety will pay damages up to the limit of the surety, or the surety will itself complete the requirements of the approval.

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

PERSON. A corporation, firm, partnership, association, organization, unit of government, or any other group that acts as a unit, as well as a natural person.

PETITIONER. Any person or group of persons, developer or developers, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land, or their legal representative.

PHYSICAL MAP REVISION (PMR). An official republication of a community's FEMA map to effect changes to base (100-year flood) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur

as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

PLAN. See ***COMPREHENSIVE PLAN***.

PLAN COMMISSION. See ***ADVISORY PLAN COMMISSION***.

PLANNING DEPARTMENT. A department within the town government that performs the administrative function for the Planning Commission and other functions as directed by the Planning Commission and/or Town Council. Also known as ***COMMUNITY DEVELOPMENT DEPARTMENT***.

PLANNING DIRECTOR. The person appointed by and/or delegated the responsibility for the administration of the Zoning and subdivision control code regulations by the Advisory Plan Commission, or his designees. Also known as ***COMMUNITY DEVELOPMENT DIRECTOR***.

PLANNING JURISDICTION. The area that a municipality has planning authority as drawn by each community in compliance with IC 36-7-4 et seq. For the planning jurisdiction of town see ' 155.003.

PLAT. A map or chart that shows a division of land and is intended to be filed for record.

PLAT, FINAL. The final plat, pursuant to IC 36-7-4-700 series, is the plat document in recordable form. A final plat shall substantially conform with the preceding primary plat, or section thereof. The final plat and plans are not subject to public notices and public hearings. Final plat approval is an administrative function to be carried out in the manner prescribed by the written rules of the Advisory Plan Commission.

PLAT, PRELIMINARY. The preliminary plat, pursuant to IC 36-7-4-700 series, is the plat and plans upon which the approval of a proposed subdivision are based. The preliminary plat and plans shall be subject to public notice and public hearing according to law and according to Plan Commission rules.

PORCH. A roofed-over structure projecting out from the wall or walls of a main structure and commonly open to the weather in part.

POST-FIRM CONSTRUCTION. Construction or substantial improvement that started on or after the effective date of the initial FIRM of the community or after December 31, 1974, whichever is later.

PRACTICAL DIFFICULTY. A difficulty with regard to one's ability to improve land stemming from regulations of the zoning code. A practical difficulty is not a hardship, rather it is a situation where the owner could comply with the regulations within the zoning code, but would like a variance from the development standards to improve his site in a practical manner. For instance, a person may request a variance from a side yard setback due to a large tree which is blocking the only location that would meet the development standards for a new garage location.

PRE-FIRM CONSTRUCTION. Construction or substantial improvement that started on or before the effective date of the initial FIRM of the community or after December 31, 1974, whichever is later.

PRELIMINARY PLAT. See ***PLAT, PRELIMINARY***.

PRIMARY BUILDING/STRUCTURE. The building or structure in which the primary use of the lot or premises is located or conducted. With respect to residential uses, the primary building or structure shall be the main dwelling.

PRIMARY USE. The main use of land or buildings as distinguished from an accessory use. A principal use may be either a permitted use or a special use.

PRIVATE ROAD. See ***ROAD, PRIVATE***.

PROBATION. A means of formally notifying participating communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

PROFESSIONAL OFFICE. An office used by members of a recognized profession such as architects, artists, dentists, engineers, lawyers, musicians, physicians, surgeons or pharmacists, and real estate or insurance agents and brokers.

PROPERTY OWNER OF RECORD. The person(s) identified as the property owner on the most recent list prepared and maintained by the Lake County Assessor's Office.

PUBLIC IMPROVEMENTS. Any storm drainage facility, street, highway, parkway, sidewalk, pedestrian-way, tree, lawn, off-street parking area, lot improvement, utility, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

PUBLIC ROAD. All property dedicated or intended for public highway, freeway, or roadway purpose and subject to public use therefor.

PUBLIC SAFETY AND NUISANCE. Anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, basin, or canal.

PUBLIC SEWER SYSTEM. A community sewer system including collection and treatment facilities owned and maintained by a municipality or sewer utility.

PUBLIC UTILITY. Any firm, or corporation duly authorized to furnish under regulation to the public, electricity, gas, steam, telephone, fiber optics, transportation, water, or sewerage systems.

PUBLIC WATER SYSTEM. A community water supply system including existing and new wells and/or surface water sources and intakes, treatment facilities, and distribution lines and including such of the above facilities owned and maintained by a municipality or utility.

PUBLIC WORKS AGREEMENT. A contract, between the developer and the town, to complete the necessary improvements in accordance with the approved plans and specifications by a given date.

PUBLIC/PRIVATE PARKING AREA. A group of parking spaces in an open area not including any part of a street or alley, designed or used for temporary parking of motor vehicles.

RACETRACK. Any venue for the sport of racing or competing where participants drive, ride, or control motorized or non-motorized vehicles. A racetrack may or may not have areas for spectators. ***RACETRACK*** includes, but is not limited to oval track racing, drag racing, bicycle racing, motorcross, tractor pulling, go-cart racing, remote control airplane flying, and similar uses.

REAR LOT LINE. The lot line that is opposite the front lot line and farthest from it, except that for a triangular or other irregularly-shaped lot, the line ten feet long, parallel to the front lot line, and wholly within the lot, that is farthest from the lot line.

REAR YARD. The horizontal space between the nearest foundation of a building to a rear lot line and that rear lot line, extending to the side lines of the lot, and measured as the shortest distance from the foundation to the rear lot line. The rear yard of a corner lot shall be that yard at the opposite end of the lot from the front yard.

RECREATIONAL VEHICLE PARK.

(1) Any site, lot, field, or tract of land under single ownership, ownership of two or more people, owner-occupied, or corporate ownership designed with facilities for short-term seasonal or recreational, not for permanent year-round or family residency occupancy for recreational vehicles only.

(2) Types of recreational vehicle parks:

(a) *Type 1: Transient over-night camping.* Cater to traveling RV public where campers usually occupy sites for one to three nights.

(b) *Type 1a: Primitive unimproved camping.* Sites generally without electric or water available except at central sites.

(c) *Type 2: Recreational/seasonal non-permanent camping.* Lots rented for RV campers to remain on site all year round but which prohibit off season occupancy. An RV park owner or manager enforces occupancy restrictions. Individual lots are not subject to buildable lot and setback restrictions but the campground, taken as a whole, must comply with size restrictions listed for campgrounds.

(d) *Type 3: Owner-occupied seasonal camping.* Lots which are owned by individual RV owners and RV campers remain on-site all year round but which prohibit lots from being occupied during the off-season. The elected officers of an association of lot owners enforce occupancy restrictions. Individual lots are not subject to buildable lot and setback restrictions but the campground, taken as a whole, must comply with size restrictions listed for campgrounds.

RECREATIONAL VEHICLE. A vehicle which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projections;

(3) Designed to be self-propelled by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

(5) A temporary dwelling for travel, recreation and vacation use including but not limited to:

(a) ***TRAVEL TRAILER:*** A vehicle identified by the manufacturer as a travel trailer, built on a chassis eight feet or less wide and 30 feet or less long and designed to move on the highway.

(b) ***PICK-UP COACH:*** A structure designed to be mounted on a truck chassis or cut-down car.

(c) ***MOTOR HOME:*** A self-propelled vehicle with a dwelling constructed as an integral part of the vehicle.

(d) ***CAMPING TRAILER:*** A canvas, folding structure, built on a chassis with wheels and designed to move along the highway.

(e) ***TENT:*** A collapsible shelter of canvas or other material stretched and sustained by poles and used for camping outdoors.

REGIONAL AND LOCAL TRANSPORTATION PLANS. The transportation plan for the regionally (or county) designated transportation system which is produced by the regional transportation planning organization.

REGIONAL TRANSPORTATION PLAN ORGANIZATION (MPO). See ***METROPOLITAN PLANNING ORGANIZATION***.

REGISTERED LAND SURVEYOR. A land surveyor properly licensed or registered through reciprocity permitted to practice in the State of Indiana.

REGISTERED PROFESSIONAL ENGINEER. An engineer properly licensed or registered through reciprocity permitted to practice in the State of Indiana.

REGULAR PROGRAM. The phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

REGULATORY FLOOD. The flood having a 1% probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission and the Federal Emergency Management Agency. The ***REGULATORY FLOOD*** is also known by the term ***BASE FLOOD***.

REGULATORY FLOODWAY. The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge peak flow of the regulatory flood of any river or stream and, is that area covered by floodwaters in significant downstream motion or covered by significant volumes of stored water during the occurrence of the regulatory flood.

REPETITIVE LOSS. Flood-related damages sustained by a structure on two separate occasions during a ten-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the structure at the time of each such flood event.

REPLAT. Any change in a map of an approved or recorded subdivision plat.

RESIDENTIAL DISTRICT. Refers to the R1, R2, R3, and MH Districts.

RESIDENTIAL FACILITY FOR THE DEVELOPMENTALLY DISABLED/MENTALLY ILL. A residential facility which provides residential services for mentally ill individuals as described in IC 12-28-4 (7-10). No two residential facilities for the mentally ill shall be within 3,000 feet of one another in the town planning jurisdiction as stated in Indiana Code.

REST HOME. See ***NURSING HOME***.

RE-SUBDIVISION. A change in a recorded subdivision plat if such change affects any street layout or area reserved thereon for public use or any lot line or easement; or if it affects any map or plan legally recorded.

RIGHT-OF-WAY. A strip of land occupied or intended to be occupied by transportation facilities, public utilities, or other special public uses. Rights-of-way intended for any use involving maintenance by a public agency shall be dedicated to the public use by the maker of the plat on which such right-of-way is established.

RIGHT TO FARM. The state law or local code which protects farmers and farm operations from public and private nuisance lawsuits. A private nuisance interferes with an individual's use and enjoyment of the property. Public nuisances involve actions that injure the public at large.

RINGELMAN CHART. One which is described in the U.S. Bureau of Mines Information Circular 6888, and on which are illustrated graduated shades of gray for use in estimating the light-obscuring capacity of smoke and smoke density.

RINGELMAN NUMBER. Designation of the area on the Ringelman Chart that coincides most nearly with the visual density of emission or the light-obscuring capacity of the smoke.

ROAD. Any vehicular route that:

(1) Is an existing state, county, or municipal roadway;

(2) Is shown upon a plat approved pursuant to law;

(3) Is approved by other official action; or

(4) Is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a planning board and the grant to such board to review plats;

(5) Includes the land between the street lines, whether improved or unimproved.

ROAD, COLLECTOR. A road designed to facilitate the collection of traffic from local streets and to provide circulation within neighborhood areas and convenient ways to reach arterial streets.

ROAD, PRIMARY ARTERIAL. A road with access control, restricted parking, and that collects and distributes traffic to and from collectors.

ROAD, PRIVATE. Vehicular streets and driveways which are wholly within private property except where they intersect with other streets within public rights-of-way and are maintained by the owner(s).

ROAD, PUBLIC. All property dedicated or intended for public highway, freeway, or roadway purpose or subject to public easements therefor.

ROOF MOUNTED ANTENNA. Any device attached to a building, or structure that is used for wireless telecommunications service. (Not included in these definitions are AM radio, non commercial but residential type radio, TV, ham two-way radio, short-wave radio, antennas and satellite dishes but which may be included in other sections of the zoning code).

ROADSIDE STAND. A structure for the display and sale of agricultural products, with no space for customers within the structure itself.

R.O.W. See ***RIGHT-OF-WAY***.

SALVAGE YARD. See ***SCRAP METAL YARD***.

SATELLITE DISH/ANTENNA. An apparatus capable of receiving communications from a transmitter relay located in a planetary orbit, or broadcasted signals from transmitting towers.

SCHOOL. A public or private institution which offers instruction in any of the branches of learning and study comparable to that taught in the public schools under the Indiana school laws, including pre-kindergarten, kindergarten, elementary school, and junior and senior high schools, but excluding trade, business, or commercial schools.

SCRAP METAL YARD. A general industrial use established independent or ancillary to and connected with another general industrial use, which is concerned exclusively in new and salvaged metal pipes, wire, beams, angles, rods, machinery, parts, filings, clippings, and all other metal items of every type, and which acquires such items incidental to its connection with the other general industrial use or by purchase, consignment or bailment which stores, grades, processes, melts, cuts, dismantles, compresses, cleans, or in any way prepares said items for reuse by the connected other general industrial use or for storage, sale or shipment and use in other industries or businesses including open hearth, electric furnaces and foundry operations; such an establishment shall not include junk yards or automobile graveyards.

SECTION 1316. That section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

SEMI-NUDE MODEL STUDIO. Any place where a person, who regularly appears in a state of

semi-nudity is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons, except in cases where the activity is:

(1) Limited to participants of a class for which students must enroll at least three days in advance of the class;

(2) Operated by a college, junior college, or university supported entirely or partly by taxation, or whose educational programs provide credit transferable to a college, junior college, or university supported entirely or partly by taxation; and

(3) Inside a structure which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing.

SETBACK. The minimum horizontal distance between the building line and a lot line or right-of-way.

SEXUAL ENCOUNTER ESTABLISHMENT. A commercial establishment, that as one of its principle business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of specified sexual activities or when one or more of the persons is semi-nude. The definition of ***SEXUAL ENCOUNTER ESTABLISHMENT*** shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

SEXUALLY ORIENTED BUSINESS. An adult arcade, adult bookstore, adult novelty store, adult video store, adult retail store, adult cabaret, adult motel, or adult entertainment call-out service in the form of semi-nude dancing or exhibition, adult motion picture theater, adult theater, semi-nude model studio, or sexual encounter establishment.

SEXUALLY ORIENTED ENTERTAINMENT ACTIVITY. The sale, rental, trade, or exhibition for any form of consideration, of books, videos, films, video cassettes, video discs, magazines, periodicals, or live performances which are characterized by an emphasis on the exposure or display of specified sexual activities or specified anatomical areas.

SFHA or SPECIAL FLOOD HAZARD AREA. Those lands within the jurisdiction of the town that are subject to inundation by the regulatory flood. The SFHAs of the town are generally identified as such on the Flood Insurance Rate Map of the county prepared by the Federal Emergency Management Agency and dated October 18, 1983. The SFHAs of those parts of unincorporated Lake County that are within the extraterritorial jurisdiction of the town or that may be annexed into the town are generally identified as such on the Flood Hazard Boundary Map prepared for Lake County by the Federal Emergency Management Agency and dated September 2, 1981.

SHARED HOUSING. Any dwelling unit which the owner allows to be occupied by unrelated persons living as a single housekeeping unit, provided that the number of occupants does not exceed twice the number of bedrooms, and that the total number of unrelated occupants does not exceed four regardless of the number of bedrooms.

SIDE LOT LINE. A lot boundary line other than a front or rear lot line.

SIDE YARD. The horizontal space between the nearest foundation of a building to the side lot line and that side lot line, unoccupied other than by architectural appurtenances projecting not more than 24 inches into that space; steps or terraces not higher than the level of the first floor of the building; and open lattice-enclosed fire escapes, fireproof outside stairways and balconies projecting not over 24 inches into that space.

SIGN. Any name, identification, description, display, or illustration which is affixed to, painted, or represented directly or indirectly upon a building, structure, or piece of land, and which directs attention to an object, product, place, activity, person, institution, organization, or business. A ***SIGN*** shall not include:

(1) The display of official court or public office notices;

(2) The flag, emblem, or insignia of a nation, political unit, school, or religious group; or

(3) One located completely within an enclosed building, except signs located behind window areas intended to be viewed from outside the building.

SIGN, ADVERTISING. A sign which directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where such sign is located or to which it is affixed.

SIGN, BUSINESS. A sign which directs attention to a business or profession or to a commodity, service, or entertainment sold or offered upon the premises where such sign is located or to which it is affixed.

SIGN, FLASHING. An illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such a sign is in use. (A revolving illuminated sign shall be considered to be a flashing sign).

SIGN, FREESTANDING. A sign mounted on a pole or similar structure and not attached to a building.

SIGN, GROSS AREA OF. The entire area within a single continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between any adjacent elements of same. (Such perimeter shall not include any structural elements lying outside the limits of such sign and not forming an integral part of the display).

SIGN, GROUND. A sign in which the bottom edge of the sign is permanently affixed to the ground. A monument sign is another name for a ground sign.

SIGN, MURAL. A sign painted onto the side of a building, wall, ground, or structure. A mural sign is regulated as a wall sign in the zoning code. Murals not meeting the definition of a sign are not regulated by the zoning code.

SIGN, OFF-PREMISE. A sign which directs attention to a business, commodity, service, organization, or entertainment conducted, sold, or offered elsewhere than upon the premises where such sign is located or to which it is affixed. This includes billboard and outdoor advertising signs.

SIGN, PORTABLE. Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A or T-frames; menu or sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in normal day-to-day operations of the business.

SIGN, PROJECTING. A sign attached to and supported exclusively by a building which extends out from the building wall at an angle.

SIGN, TEMPORARY. An on-premise advertising or identification device not fixed to a permanent foundation, for the purpose of conveying information, knowledge, or ideas to the public about a subject related to the activities on the premises upon which it is located.

SIGN, WALL. A sign attached to the wall of a building with the sign face parallel to the face of the wall on which it is attached, and which projects from the wall surface less than 12 inches. Wall signs shall not extend beyond the edges of the wall or roofline (see ***SIGN, PROJECTING***).

SIGN, WINDOW. Any sign applied or painted on, affixed to, or hung near a window and intended to be or exclusively visible from the exterior of a building. In calculating the gross area of a window sign, any perimeter decoration, including appliques, light strips, and neon tubes, and any oblique, semi-transparent, or lighted background, shall be included in determining the sign extents.

SITE DEVELOPMENT PLAN (SITE PLAN). The plan indicating the location of existing and proposed buildings, structures, paved areas, walkways, vegetative cover, landscaping and screening within a site proposed for development which is to be submitted to the Plan Commission and/or staff for approval prior to the release of improvement location permits on the site.

SMALL WIND ENERGY CONVERSION SYSTEM. A small wind energy conversion system has a maximum height of 120 feet and a maximum rotor diameter of 30 feet.

SMOKE UNIT. The number obtained when the smoke density in Ringelmann Numbers is multiplied by the time of emission in minutes. (For the purpose of this calculation:

(1) A Ringelmann density reading shall be made at least once a minute during the period of observation;

(2) Each reading is then multiplied by the time in minutes during which it is observed;

(3) The various products are then added together to give the total number of smoke units observed during the entire observation period).

SOUND LEVEL METER. An instrument standardized by the American Standards Association for measurement of the intensity of sound.

SPECIAL EXCEPTION. A use not classifiable in the customary zoning districts; or a use which may not under circumstances be inharmonious in zoning districts where not normally permitted; or a use requiring special consideration of its probable effect upon property and uses in its vicinity, which nevertheless may be permitted in specific controlled situations in accordance with the terms of this chapter.

SPECIAL FLOOD HAZARD AREA. See ***SFHA***.

SPECIAL USE. A use that is designated by the zoning code as being permitted in the district concerned if it meets special conditions, is found to be appropriate and upon application, is specifically authorized by the Board of Zoning Appeals. Also know as a special exception.

SPECIAL USE HORSE/EQUESTRIAN. The total number of horses stabled on a property which is not

zoned for agriculture or commercial equestrian usage shall not exceed one animal per primary family group member plus one.

SPECIFIED ANATOMICAL AREAS. The human genitals, anus, cleft of the buttocks, or the female breast.

SPECIFIED SEXUAL ACTIVITY. Refers to any of the following:

(1) Sex acts, normal or perverted, including intercourse, oral copulation, masturbation, or sodomy; or

(2) Excretory functions as part of or in connection with any of the activities described in division (1) above.

STABLE, PRIVATE. A building or structure which is located on a lot on which a dwelling is located, and which is designed, arranged, used, or intended to be used for housing saddle horses or ponies primarily for the use of occupants of the dwelling, but in no event for hire. Horses shall be subject to the animal unit/acreage restrictions for the available pasture space.

STORAGE, OUTDOOR. The outdoor accumulation of goods, junk, cars, busses, tractor trailers, railroad cars, equipment, products, or similar materials for permanent or temporary holding.

STORY. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding 14 feet in height shall be considered as an additional story for each 14 feet or fraction thereof. (A basement having more than one-half the clear floor-to-ceiling height above grade shall be considered a story.)

STORY, HALF. A space under a sloping roof which has the line of intersection of roof decking and wall, not more than three feet above the top level of the story below. (In such space, not more than 60% of the floor area is completed for a principal or accessory use).

STREET. A partially or fully improved public right-of-way which requires more or less permanent location on the ground or attached to something having a permanent location on the ground, except public utility communication and electrical transmission lines and equipment and facilities supporting the same and/or incidental thereto.

STRUCTURAL ADEQUACY. Determination by Town Engineer that the pavement cross section (or bridge design) is of sufficient depth and design to carry the increased traffic volume generated by the proposed development, including the heavy construction vehicles which will be present, without causing undue failure of the infrastructure.

STRUCTURAL ALTERATION. A change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as the addition, removal, or alteration of bearing walls, columns, beams, girders, or foundations. Also, substantial roofing and siding work when repairs are made to the structure beneath.

STRUCTURE. A structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, stadiums, platforms, radio towers, sheds, storage bins, fences, and display signs or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180)days.

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STRUCTURE HEIGHT. The vertical distance measured from the lot ground level to the highest point of the roof.

SUBDIVISION. The division of a lot, tract or parcel of land into two or more lots, parcels, sites or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or for building development. It includes resubdivision and when appropriate to the context, relates to the process of resubdividing or to the land or territory subdivided.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred substantial damage regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of an historic structure, provided that the alteration will not preclude the structures continued designation as an historic structure.

SURETY. See ***PERFORMANCE SURETY***.

SWIMMING POOL. A self-contained body of water at least 18 inches deep and eight feet in diameter or width and used for recreational purposes. It may be above or below ground level, and shall be considered an accessory structure/use.

TEMPORARY USE/STRUCTURE. A land use or structure established for a limited and fixed period of time with the intent to discontinue such use or structure upon the expiration of the time period.

THEATER. A facility for audio and visual productions and performing arts, excluding adult motion picture theaters and adult entertainment businesses.

THOROUGHFARE PLAN. The official plan adopted as part of the Lowell Comprehensive Plan, March 20, 2001, or as subsequently amended, which includes a street plan, sets forth the location, alignment, dimensions, identification, and classification of existing and proposed streets, and other thoroughfares. All proposed right-of-way widths shall be treated as front property lines for the purpose of determining front yards and front setbacks except where the existing right-of-way is greater than the proposed right-of-way in which case the existing right-of-way shall be used. In no case shall there be any structures or signs located in the proposed right-of-way.

THOROUGHFARE PLAN/STREET CLASSIFICATION WIDTHS. The following widths shall be used to determine the proposed rights-of-way for street classification in the Lowell Thoroughfare Plan unless a specific width is delineated by another section of the development code:

(1) Arterial 100 feet;

(2) Collector 80 feet;

(3) Local 60 feet.

TOURIST CAMP. A parcel or tract of land containing facilities for locating three or more trailers or mobile homes, and for use only by transients remaining less than one month, whether or not a charge is made. (Not including an open sales lot in which automobiles or unoccupied trailers are parked for the purposes of inspection or sale).

TOURIST HOME. A dwelling in which not more than nine sleeping rooms are provided or offered to transient guests for compensation (Not including a hotel, apartment hotel, or motel). A ***TOURIST HOME*** is not considered an accessory use or a home occupation.

TOWER. A ground pole, spire, structure, or combination thereof including supporting lines, cables, wires, braces, and masts intended primarily for the purpose of mounting an antenna, a meteorological device, or other similar apparatus above ground for use as a wireless telecommunications facility. (Not included in these definitions are AM radio, non-commercial but residential type radio, TV, ham two-way radio, shortwave radio, antennas and satellite dishes but which may be included in other sections of this zoning code.)

TOWN. Lowell, Indiana.

TRAILER. Trailers designed for human dwellings can be divided into RV or mobile homes. To be classified as a RV trailer it must be less than 400 square feet and a trailer of 400 square feet or more is classified as a mobile - single wide). Trailers used for construction or sales offices should not be considered the same as RV or as mobile homes.

TRANSPORTATION FACILITIES. Capital facilities related to air, water, or land transportation.

TRANSPORTATION IMPROVEMENT PLAN (TIP). An annual document prepared by the Lake County Commissioners indicating local and state transportation projects which are planned for the following three-year period.

TRANSPORTATION LEVEL OF SERVICE STANDARDS. A measure that describes the operational condition of the travel stream and acceptable adequacy requirements. Such standards may be expressed in terms such as speed and travel time, freedom to maneuver, traffic interruptions, comfort, convenience, geographic accessibility, and safety. For example, a transportation measure of capacity is a standardized index of relative service provided by a road or highway ranging from "A" to "F" with "A" representing free, unobstructed flow and "F" representing a forced flow beyond capacity of the facility as defined in the Highway Capacity Manual published by the Transportation Research Board (Special Report #209).

USE. The purposes for which land, building, or structure thereon is designed, arranged, or intended, or for which it is occupied, maintained, let, or leased.

USE, PERMITTED. A use which may be lawfully established in a particular district or districts (provided it conforms with all requirements, regulations, and performance standards, if any, of such district).

USE, PRINCIPAL. The main use of land or buildings as distinguished from a subordinate or accessory use. (May be either permitted or special).

USE, SPECIAL. A use (either public or private) which, because of its unique characteristics, cannot be properly classified as a permitted use in any particular district or districts.

VARIANCE. A minimum departure from the strict application of the specific requirements of this chapter granted by the Board of Zoning Appeals in accordance with the terms of this chapter for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same vicinity or district.

VARIANCE, DEVELOPMENT STANDARDS. A specific approval granted by a Board of Zoning Appeals in the manner prescribed by the zoning code, to deviate from the development standards (such as height, bulk, area) that the code otherwise prescribes.

VARIANCE, USE. The approval of a use other than that prescribed by the zoning code.

VARIETY STORE. A retail establishment that sells a multitude of consumer goods.

VEHICLE. A device used as a mode of transportation of persons and/or goods including but not limited to automobiles, semi-tractor trailers, all types of trailers, snowmobiles, recreational vehicles, motorcycles and like devices.

VEHICLE, INOPERABLE. A vehicle which due to mechanical defect or failure or incorrect or unapparent licensing is not physically or legally able to be operated.

WATER SURFACE ELEVATION. The height, in relation to the NAVD 88 or NGVD of floods of various magnitudes and frequencies in the floodplains of riverine areas.

WATERCOURSE. A lake, river, creek, stream, wash, channel or other topographical feature on or over which waters flow at least periodically. ***WATERCOURSE*** includes specifically designated areas in which substantial flood damage may occur.

WETLAND. An area that is inundated or saturated by surface or ground water at a frequency and duration that under normal circumstances supports a prevalence of hydrophytic vegetation.

WHOLESALE ESTABLISHMENT. A business establishment engaged in selling to retailers or jobbers rather than consumers.

WIND ENERGY CONVERSION SYSTEM (WECS). The equipment that converts and then stores or transfers energy from wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, wind tower, transformer, turbine, vane, wind farm collection system, wire, or other component used in the system.

WIND TOWER. The monopole, freestanding, or guyed structure that supports the energy capture, conversion, storage and transfer components of a WECS.

WIRELESS TELECOMMUNICATIONS FACILITY. A wireless telecommunications facility consists of the tower, antennas, electronics equipment and all other structures in conjunction with the tower and antenna.

WIRELESS TELECOMMUNICATIONS SERVICES. Licensed public commercial telecommunications services, including but not limited to cellular, digital, personal communication services (PCS), enhanced specialized mobilized radio (ESMR), paging, and other similar services that are marketed to the general public.

YARD. An open space on the same lot with a building or structure, unoccupied and unobstructed from 30 inches above the general ground level to the sky, except as otherwise permitted. (A yard extends along a lot line, and to a depth or width specified in the yard requirements for the zoning district in which such lot is located).

YARD, CORNER SIDE. A side yard which adjoins a public street, road, or highway.

YARD, FRONT. A yard extending along the full length of the front lot line between the side lot lines.

YARD, INTERIOR SIDE. A side yard which is located immediately adjacent to another lot or to an alley separating such side yard from another lot.

YARD, REAR. A yard extending along the full length of the rear lot line between the side lot lines.

YARD, SIDE. A yard extending along a side lot line from the front yard to the rear yard.

YARD, TRANSITIONAL. A yard which must be provided on a lot in a Business District which adjoins a lot in a Residential District, or a yard which must be provided on a lot in a Manufacturing District which adjoins a lot in either a Residential or Business District.

ZONING DISTRICT. See ***DISTRICT***.

ZONING MAP. See ***OFFICIAL ZONING MAP***. (Ord. 2013-02, passed 3-11-13)

' 155.007 COMPLIANCE.

No structure shall be located, erected, constructed, reconstructed, moved, altered, converted, or enlarged; nor shall any structure or land be used or existing use be expanded, except in full compliance with all provisions of this chapter and after the lawful issuance of all permits and certificates required by this chapter.
(Ord. 2013-02, passed 3-11-13)

' 155.008 SEVERABILITY.

If any provision of this chapter or the application of any provision to particular circumstances is held unconstitutional or invalid by the courts, the remainder of the chapter or the application of such provision to other circumstances shall not be affected.
(Ord. 2013-02, passed 3-11-13)

' 155.009 INTERPRETATION.

The provisions of this chapter shall be held to be the minimum requirements for the protection of the health, safety, comfort, morals, convenience, and general welfare of the people at large, and are designed to encourage the establishment and maintenance of reasonable community standards for the physical environment. If two or more provisions within this chapter are in conflict or are inconsistent with one another, then the provision which is most restrictive shall control.
(Ord. 2013-02, passed 3-11-13)

' 155.010 APPLICATION.

When this chapter along with private covenants, private contracts, commitments, permits, agreements, state laws, federal laws or other regulations regulates a structure or parcel of land, the greater restriction shall control. In no instance shall this chapter be interpreted as altering or negating any other applicable regulations.
(Ord. 2013-02, passed 3-11-13)

' 155.011 SAVING PROVISION.

This chapter shall not be construed as eliminating or reducing any action now pending under, or by virtue of, an existing law or previous zoning code. Also, this chapter shall not be construed as discontinuing, reducing, modifying, or altering any penalty accruing or about to accrue.
(Ord. 2013-02, passed 3-11-13)

' 155.012 REPEALER.

The Lowell, Indiana Zoning Code dated 1978 and its associated Zoning Map and any revisions are hereby repealed. This Lowell, Indiana, Zoning Code and the referenced and updated Official Zoning Map replace the repealed Code.
(Ord. 2013-02, passed 3-11-13)

' 155.013 TRANSITION RULES.

(A) Any application for an improvement location permit that has been filed pursuant to the Lowell Building Code with the Plan Commission or its designees and is full and complete, prior to the effective date of this chapter, shall be regulated by the terms and conditions of the zoning code that was in place at the time of filing. However, all administrative procedures and penalties shall follow those set forth by this zoning code.

(B) Any application for a zoning map amendment that was filed with the Plan Commission or its designees, and is full and complete prior to the effective date of this chapter, shall continue through the process to completion pursuant to the terms and conditions of the zoning code that was in place at the time of filing. However, if the proposed use would no longer be permitted in the proposed zoning district or the proposed zoning district no longer exists in this zoning code, the Planning Director shall amend the application such that the request for rezoning would accomplish the same end goal for the applicant.

(C) Any application before the Board of Zoning Appeals (i.e. special use, use variance, development standards variance) that has been filed with the Board of Zoning Appeals or its designees and is full and complete, prior to the effective date of this chapter, shall continue the process pursuant to the terms and conditions of the zoning code that was in place at the time of filing, provided that:

(1) If such application is no longer required by the terms of this chapter, the application will be dismissed; or

(2) If the proposed use or development requires additional approvals from the Board of Zoning Appeals pursuant to the terms of this chapter that were not required under the previous zoning code, the application will be amended to include only those additional approvals that are now required and within the jurisdiction of the Board of Zoning Appeals.

(D) All variances, special uses (special exceptions), rezonings, and other petitions regulated by this chapter which were approved prior to the effective date of this chapter and not executed through the proper receipt of an improvement location permit issued pursuant to the Building Code shall expire and become void one year after the effective date of this chapter.

(1) All improvement location permits issued pursuant to the Building Code prior to the effective date of this chapter shall be void one year after their date of issue if construction has not begun.

(2) Improvement location permits issued pursuant to the Building Code prior to the effective date of this chapter for which construction has begun shall become void if construction is abandoned for a period of six consecutive months or if, in the opinion of the Planning Director, construction has otherwise ceased.

(3) All approvals which expire and/or become void shall comply with all applicable provisions of this chapter if re-issued.
(Ord. 2013-02, passed 3-11-13)

' 155.014 AMENDMENTS.

(A) In accordance with IC 36-7-4-602, the Town Council may amend or partially repeal the text of this chapter or they may amend the official zoning map of this chapter as follows:

(1) The Town Council or the Plan Commission may initiate a proposal to amend or partially repeal the text according to the procedure of IC 36-7-4-602(b) and 36-7-4-607 and according to the Plan Commission rules and procedures.

(2) The Town Council, Plan Commission, or at least 50% of the affected property owners may initiate a petition to change the official zoning map according to the procedure of IC 36-7-4-602(c) and 36-7-4-608 and according to the Commission rules and procedures and the requirements of " 155.150 through 155.155.

(B) In its review of the text and zoning map amendments, the Plan Commission and Town Council shall pay reasonable regard to:

(1) The most recently adopted comprehensive plan;

(2) Current conditions and the character of structure and uses in each district;

(3) The most desirable use for which the land in each district is adapted;

(4) The conservation of property values throughout the jurisdiction;

(5) Responsible development and growth; and

(6) The public health safety and welfare.
(Ord. 2013-02, passed 3-11-13)

ZONING DISTRICTS ESTABLISHED

' 155.020 ESTABLISHMENT OF STANDARD DISTRICTS.

For the purpose of this chapter, the planning jurisdiction is divided into the following zoning districts for the general uses as stated. These districts shall be indicated on the official zoning map and labeled using the two-digit codes noted below. Each of the zoning districts stands alone and is not part of a hierarchy system of zoning. For example, uses permitted in the B1 district are not permitted in the B2 district unless expressly listed as such in the B2 district. Only those uses and development standards which are expressly permitted and noted for each district apply to that district.

(A) *AG - Agriculture:* This district is established primarily for agricultural uses. The intent of this district is to promote and protect agricultural uses while providing limited low density rural residential development and related commercial activity.

(B) *R1 - Residence District:* This district is established to provide for the low density development of large single-family detached homes on medium-sized lots.

(C) *R2 - Residence District:* This district is established to provide for the medium density development of medium-sized single-family detached homes on medium-sized lots.

(D) *R3 - Residence District:* This district is established to provide for the medium density development of two to four family, paired patios, townhomes, multi-family, etc.

(E) *R4 - Residence District:* This district is established to provide for the high density development of two or greater multi-family housing units.

(F) *MH - Manufactured Home Park:* This district is established to provide for the development of lease-lot residential parks which provide dwelling sites for mobile and type III manufactured homes.

(G) *PB - Professional Business:* This district is established to provide for the development of office and service businesses which result in low impact.

(H) *B1 - General Business District:* This district is established to provide for the development of small to medium-scale businesses that provide products and services primarily to local customers.

(I) *B2 - Highway Business District:* This district is established to provide for the development of highway-oriented businesses that require direct exposure to large numbers of consumers, provide products that require direct access to transit routes for delivery, or provide products and services to traveling consumers.

(J) *TC - Town Center District:* This district is established to provide for the development of a traditional, mixed-use central business district with small-scale retail and services uses in addition to residential dwellings on upper floors.

(K) *LI - Light Industrial District:* This district is established to provide for the development of small business parks, warehousing, and assembly facilities.

(L) *HI - Heavy Industrial District:* This district is established to provide for the development of manufacturing and waste disposal facilities.
(Ord. 2013-02, passed 3-11-13)

' 155.021 STANDARD DISTRICT LAND USES.

Specific land uses are either permitted, non-permitted or a special use (special exception) in each zoning district. The town's permitted and special uses for each district are noted in the permitted use and special use sections of '' 155.030 through 155.043.
(Ord. 2013-02, passed 3-11-13)

' 155.022 UNLISTED OR QUESTIONABLE LAND USES.

Any use not listed as a permitted or special use is considered a non-permitted use unless the Planning Director makes a determination otherwise. The Planning Director may determine into which category any questionable use be placed if it is not specifically listed but similar to another use that is a permitted or special use. This determination may be appealed to the Board of Zoning Appeals.
(Ord. 2013-02, passed 3-11-13)

' 155.023 RIGHT TO FARM.

In conformance with state and federal law, all farming agricultural and silvicultural activities engaged in practices and operations normally accepted, shall be held blameless by adjoining land uses.
(Ord. 2013-02, passed 3-11-13)

' 155.024 ANNEXATION.

(A) Property annexed into the Town of Lowell will be placed in the town zoning district which most closely matches the permitted uses and regulations of the property's Lake County zoning district at the time of annexation.

(B) Agriculturally zoned property shall be exempt from the requirement to connect to town utilities, until there is a change of use, change in zoning, or the property is subdivided.

(C) The town hereby incorporates and confirms the Indiana Right-to-Farm Law, IC 32-30-6-9, in its entirety.

(D) Agriculturally zoned property shall not be rezoned without the consent of the property owner.

(E) Agriculturally zoned property which is annexed is exempt from the minimum ten acres size requirement.
(Ord. 2013-02, passed 3-11-13)

ZONING DISTRICT INTENT, USES AND STANDARDS

' 155.030 AG DISTRICT.

(A) *Intent, permitted uses, special uses and conditional uses.*

(1) *Intent.*

(a) The AG District is intended to provide a land use category for agricultural activities. The provisions that regulate this land use district should protect, promote and maintain areas in Lake County primarily for farming operations. The Plan Commission and Board of Zoning Appeals should strive to protect this district from conflicting land uses, non-agriculture oriented businesses, and any use that may inflict significant environmental impacts or be injurious to the agriculture community.

(b) If land is subdivided to other uses, all right-to-farm laws shall be in effect for neighboring agricultural uses.

(2) *Permitted uses.*

(a) *Agricultural uses.*

1. Grazing/pasture land;

2. Livestock;

3. Agricultural crop production;

4. Agricultural crop processing;

5. Agricultural product storage;

6. Agricultural product sales, distribution, and storage;

7. Farm implement storage;

8. Animal boarding;

9. Livestock auction/sale facility retail sales;

10. Commercial greenhouse;

11. Farmers market;

12. Farm equipment sales and service;

13. Seasonal farm worker housing.

(b) *Residential uses.*

1. Dwelling, single-family;

2. Child day-care home;

3. Manufactured home (type I);

4. Home occupation (type I);

5. Dwelling, modular;

6. Residential facility for developmentally disabled/mentally ill.

(c) *Institutional/public uses.*

1. Natures preserve;

2. Passive recreation trail;

3. Communication/utilities;

4. Utility substation;

5. Public wellfield/pump house;

6. Water tower;

7. Micro wind energy conversion system;

8. Small wind energy conversion system.

(3) *Special uses.*

(a) *Residential uses.*

1. Dwelling, single-family (accessory, as an additional dwelling);

2. Home occupation (type II);

3. Bed and breakfast facility.

(b) *Business uses.*

1. Recreation uses (large scale).

(c) *Industrial uses.*

1. Agricultural waste (methane) gas recovery.

(d) *Institutional/public uses.*

1. Parks and recreation uses;

2. Church or other place of worship.

(e) *Communication/utilities.*

1. Wireless telecommunications facility/ tower;

2. Water tower;

3. Commercial renewable electricity generating facility/tower.

(f) *Agricultural uses.*

1. Confined animal feeding operation.

(4) *Use notes and subdivision specifications.*

(a) The Use Matrix in ' 155.043 provides detailed use listings.

(b) The flood hazard provisions of this chapter shall apply to all districts as specified in ' 155.079.

(c) The subdivision of land in this district shall be consistent with the specifications of the subdivision control code, '' 155.190 et seq.

(B) *District standards.*

Lot Disposition		
Lot area	10 acres min.	
Lot width	200' min.	
Lot coverage	20% max.	
Lot frontage	50' lot width min.	
Building Disposition		
Primary Structure		
Front setback (adjacent to)	Arterial	100'
	Collector	80'
	Local road	80'
Side setback	25' each side min.	
	50' total	

Building Disposition (Cont'd)	
Primary Structure (Cont'd)	
Rear setback	25' min.
Living area	1,350 sq. ft.
Ground floor area	>40% of living area
Wells (if applicable)	Installed >50% inside property line
Connection to sewer and water	If possible, lot area depends on sanitary type
Common open space	n/a
Accessory Structure	
Side setback	25' min.
Rear setback	25' min.
Structures	
Number of Structures	
Primary	1 max.
Accessory	5 max.
Structure Heights	
Primary	2 stories/35' max.
Accessory	2 stories/25' max.
All agriculture related structures are exempt	
All telecommunications facilities shall conform to the requirements of '' 155.070 through 155.095	
All wind energy conversion systems shall conform to the requirement of '' 155.070 through 155.095	
Parking	
Spaces required	As needed
Configuration	n/a
Other Issues	
May use public water, sewer or private well and septic systems	

development of medium density residential neighborhoods. The Plan Commission and Board of Zoning Appeals should strive to integrate this type of neighborhood with higher density residential

Applicable Development Standards (" 155.070 - 155.095)			
Lot/yard	155.073	Home occupation	155.084
Height	155.074	Adult-oriented use	155.085
Accessory	155.075(A)	Telecom facility	155.086(A)
Buffer yard	155.076	Mobile/mfg home	155.087
Environmental	155.078	Public improvement	155.088
Flood hazard area	155.079	Temporary	155.089
Parking	155.080(A)	Fence and wall	155.090(A)
Entrance/drive	155.082(A)	Outdoor lighting	155.093
Sight visibility	155.083	Wind energy	155.095

(Ord. 2013-02, passed 3-11-13)

' 155.031 R1 RESIDENTIAL DISTRICT.

(A) *Intent, permitted uses, special uses and conditional uses.*

(1) *Intent.* The R1 District is intended to provide for the development of large single-family detached homes on medium-sized lots. The provisions that regulate this land use district should provide for the

developments and neighborhoods serving commercial facilities. This district should be protected from conflicting land uses and be located in proximity to AG districts in a way that does not inhibit farming practices. The Plan Commission and Board of Zoning Appeals should strive to promote an average net density of 2.0 to 2.5 dwelling units per acre community-wide in the R1 District.

(2) *Permitted uses.*

(a) *Agricultural uses.*

1. Agricultural crop production;

2. Agriculture crop processing (of materials produced on-site);

3. Agriculture crop storage (of materials produced on-site);

4. Farm implement storage (operable implements used in the farming operation - not for sale).

(b) *Residential uses.*

1. Dwelling, single-family;

2. Dwelling, modular;

3. Child day-care home;

4. Home occupation (type I);

5. Residential facility for developmentally disabled/mentally ill.

(c) *Institutional/public uses.*

1. Nature preserve;

2. Passive recreation trail.

(d) *Communication/utilities.*

1. Micro wind energy conversion system.

(3) *Special uses.*

(a) *Recreational uses.*

1. Dwelling, single-family (accessory, as an additional dwelling);

2. Assisted living/retirement facility;

3. Nursing home;

4. Home occupation (type II);

5. Bed and breakfast facility;

6. Group home.

(b) *Institutional/public uses.*

1. Parks and recreation uses;

2. Institutional uses (small scale);

3. School;

4. Police, fire, or rescue station;

5. Government office/facility;

6. Church or other place of worship.

(c) *Communication/utilities.*

1. Utility substation;

2. Public wellfield/pump house;

3. Water tower;

4. Wireless telecommunications facility/ tower.

(4) *Use notes and subdivision specifications.*

(a) The Use Matrix in ' 155.043 provides detailed use listings.

(b) The flood hazard provisions of this chapter shall apply to all districts as specified in ' 155.079.

(c) The subdivision of land in this district shall be consistent with the specifications of the subdivision control code, '' 155.190 et seq.

(B) *District standards.*

Lot Disposition		
Lot area	>15,000 sq. ft.	
Lot width	100' min.	
Lot coverage	35% max.	
Lot frontage	70% lot width min.	
Building Disposition		
Primary Structure		
Front setback (adjacent to)	Arterial	50'
	Collector	40'
	Local road	30'
Side setback	10' each side min.	
	20' total	
Rear setback	25' min.	
Living area	1,800 sq. ft.	
Ground floor area	>40% of living area	
Wells (if applicable)	Installed >50' inside property line	

Building Disposition (Cont'd)	
Primary Structure (Cont'd)	
Connection to sewer and water	If possible, lot area depends on sanitary type
Common open space	n/a
Accessory Structure	
Side setback	5' min.
Rear setback	15' min.
Structures	
Number of Structures	
Primary	1 max.
Accessory	2 max.
Structure Heights	
Primary	2 stories/35' max.
Accessory	1 story/16' max.
All agriculture related structures are exempt	
All telecommunications facilities shall conform to the requirements of " 155.070 through 155.095	
All wind energy conversion systems shall conform to the requirement of " 155.070 through 155.095	
Parking	
Spaces required	2
Configuration	n/a
Other Issues	
May use public water, sewer or private well and septic systems	

Applicable Development Standards (" 155.070 - 155.095)			
Lot/yard	155.073	Adult-oriented use	155.085
Height	155.074	Telecom facility	155.086
Accessory	155.075(A),(B)	Mobile/mfg home	155.087
Buffer yard	155.076	Public improvement	155.088
Environmental	155.078	Temporary	155.089
Flood hazard area	155.079	Fence and wall	155.090
Parking	155.080	Landscaping	155.091
Entrance/drive	155.082	Outdoor lighting	155.093
Sight visibility	155.083	Streetscape	155.094
Home occupation	155.084	Wind energy	155.095

(Ord. 2013-02, passed 3-11-13)

' 155.032 R2 RESIDENTIAL DISTRICT.

(A) *Intent, permitted uses, special uses and conditional uses.*

(1) *Intent.* The R2 District is intended to provide for the development of medium-sized

single-family detached homes on medium-sized lots. The provisions that regulate this land use district should provide for the development of medium density

residential neighborhoods. The Plan Commission and Board of Zoning Appeals should strive to integrate this type of neighborhood with lower and higher density residential developments and neighborhood-serving commercial facilities. This district should be protected from conflicting land uses and be located in proximity to AG Districts in a way that does not inhibit farming practices. The Plan Commission and Board of Zoning Appeals should strive to promote an average net density of 2.5 to 4.0 dwelling units per acre community-wide in the R2 district.

(2) *Permitted uses.*

(a) *Agricultural uses.*

1. Agricultural crop production;

2. Agricultural crop processing;

3. Agricultural crop storage;

4. Farm implement storage.

(b) *Residential uses.*

1. Single-family detached;

2. Dwelling, modular;

3. Child day-care home;

4. Home occupation (type I);

5. Residential facility for developmentally disabled/mentally ill.

(c) *Institutional/public uses.*

1. Nature preserve;

2. Passive recreation trail;

3. Public structures and uses in accord with the intent of this district.

(d) *Communication/utilities.*

1. Micro wind energy conversion system.

(3) *Special uses.*

(a) *Residential uses.*

1. Dwelling, single-family (accessory as additional dwelling);

2. Assisted living/retirement facility;

3. Nursing home;

4. Group home;

5. Home occupation (type II);

6. Bed and breakfast facility.

(b) *Institutional/public uses.*

1. Parks and recreation uses;

2. Institutional uses (small-scale);

3. Police, fire, or rescue station;

4. Government office/facility;

5. School;

6. Church or other place of worship.

(c) *Communication/utilities.*

1. Utility substation;

2. Public well field/pump house;

3. Water tower;

4. Wireless telecommunications facility/tower.

(4) *Use notes and subdivision specifications.*

(a) The Use Matrix in ' 155.043 provides detailed use listings.

(b) The flood hazard provisions of this chapter shall apply to all districts as specified in ' 155.079.

(c) The subdivision of land in this district shall be consistent with the specifications of the subdivision control code, '' 155.190 et seq.

(B) *District Standards.*

Lot Disposition		
Lot area	>10,800 sq. ft.	
Lot width	80' min.	
Lot coverage	40% max.	
Lot frontage	70% lot width min.	
Building Disposition		
Primary Structure		
Front setback (adjacent to)	Arterial	50'
	Collector	40'
	Local road	30'
Side setback	8' each side min.	
	16' total	
Rear setback	30' min.	
Living area	1,350 sq. ft.	
Ground floor area	>40% of living area	

Building Disposition (Cont'd)	
Primary Structure (Cont'd)	
Wells (if applicable)	Installed >50' inside property line
Connection to sewer and water	If possible, lot area depends on sanitary type
Common open space	n/a
Accessory Structure	
Side setback	5' min.
Rear setback	15' min.
Structures	
Number of Structures	
Primary	1 max.
Accessory	2 max.
Structure Heights	
Primary	2 stories/35' max.
Accessory	1 story/16' max.
All agriculture related structures are exempt	
All telecommunications facilities shall conform to the requirements of '' 155.070 through 155.095	
All wind energy conversion systems shall conform to the requirement of '' 155.070 through 155.095	
Parking	
Spaces required	2
Configuration	n/a
Other Issues	
May use public water, sewer or private well and septic systems	

Applicable Development Standards (" 155.070 - 155.095)			
Lot/yard	155.073	Adult-oriented use	155.085
Height	155.074	Telecom facility	155.086
Accessory	155.075(A),(B)	Mobile/mfg home	155.087
Buffer yard	155.076	Public improvement	155.088
Environmental	155.078	Temporary	155.089
Flood hazard area	155.079	Fence and wall	155.090
Parking	155.080	Landscaping	155.091
Entrance/drive	155.082	Outdoor lighting	155.093
Sight visibility	155.083	Streetscape	155.094
Home occupation	155.084	Wind energy	155.095

(Ord. 2013-02, passed 3-11-13)

' 155.033 R3 RESIDENTIAL DISTRICT.

(A) *Intent, permitted uses, special uses and conditional uses.*

(1) *Intent.* The R-3 District is intended to provide for the development of multiple-family dwelling units, including apartments, townhomes, and condominiums. The provisions that regulate this land use district should provide for the development of high density residential neighborhoods. The Plan Commission and Board of Zoning Appeals should strive to integrate this type of neighborhood with lower density residential developments and neighborhood-

serving commercial facilities. This district should be protected from conflicting land uses and be located in proximity to infrastructure and community facilities that will support demand for services and traffic generation. The Plan Commission and Board of Zoning Appeals should strive to promote an average net density of seven to ten dwelling units per acre community-wide in the R3 district.

(2) *Permitted uses.*

(a) *Agricultural uses.*

1. Agricultural crop production;

2. Agricultural crop processing;

3. Agricultural crop storage;

4. Farm implement storage.

(b) *Residential uses.*

1. Two to four-family attached or semi-detached;

2. Child day-care home;

3. Home occupation (type I);

4. Residential facility for developmentally disabled/mentally ill.

(c) *Institutional/public uses.*

1. Nature preserve;

2. Passive recreation trail;

3. Public structures and uses in accord with the intent of this district.

(d) *Communication/utilities.*

1. Micro wind energy conversion system.

(3) *Special uses.*

(a) *Residential uses.*

1. Dwelling, single-family (accessory as additional dwelling);

2. Assisted living/retirement facility;

3. Nursing home;

4. Group home;

5. Home occupation (type II);

(b) *Institutional/public uses.*

1. Parks and recreation uses;

2. Institutional uses (small-scale);

3. Police, fire, or rescue station;

4. Government office/facility;

5. School;

6. Church or other place of worship.

(c) *Communication/utilities.*

1. Utility substation;

2. Public well field/pump house;

3. Water tower;

4. Wireless telecommunications facility/tower.

(4) *Use notes and subdivision specifications.*

(a) The Use Matrix in ' 155.043 provides detailed use listings.

(b) The flood hazard provisions of this chapter shall apply to all districts as specified in ' 155.079.

(c) The subdivision of land in this district shall be consistent with the specifications of the subdivision control code, '' 155.190 et seq.

(B) *District Standards.*

Lot Disposition		
Lot area	>12,000 sq. ft.	
Lot width	100' min.	
Lot coverage	40% max.	
Lot frontage	70% lot width min.	
Building Disposition		
Primary Structure		
Front setback (adjacent to)	Arterial	30'
	Collector	30'
	Local road	30'
Side setback	8' each side min.	
	16' total	
Rear setback	30' min.	
Living area	1,150 sq. ft.	
Lot area/unit	6,000 sq. ft. min.	
Wells (if applicable)	Installed >50' inside property line	
Connection to sewer and water	If possible, lot area depends on sanitary type	
Accessory Structure		
Side setback	5' min.	
Rear setback	15' min.	

Structures	
Number of Structures	
Primary	1 max.
Accessory	2 max.
Structure Heights	
Primary	2 stories/35' max.
Accessory	1 story/16' max.
All agriculture related structures are exempt	
All telecommunications facilities shall conform to the requirements of " 155.070 through 155.095	
All wind energy conversion systems shall conform to the requirement of " 155.070 through 155.095	
Parking	
Spaces required	2/unit
Configuration	n/a
Other Issues	
May use public water, sewer or private well and septic systems	

Lot/yard	155.073	Adult-oriented use	155.085
Height	155.074	Telecom facility	155.086
Accessory	155.075(A),(B)	Mobile/mfg home	155.087
Buffer yard	155.076	Public improvement	155.088

Applicable Development Standards (" 155.070 - 155.095)	

Applicable Development Standards (" 155.070 - 155.095)			
Environmental	155.078	Temporary	155.089
Flood hazard area	155.079	Fence and wall	155.090
Parking	155.080	Landscaping	155.091
Entrance/drive	155.082	Outdoor lighting	155.093
Sight visibility	155.083	Streetscape	155.094
Home occupation	155.084		

(Ord. 2013-02, passed 3-11-13)

' 155.034 R4 MULTIPLE-FAMILY RESIDENTIAL AND PUD DISTRICTS.

(A) *Intent, permitted uses, special uses, conditional uses.*

(1) *Intent.* The R-4 District is intended to provide for the development of multiple-family dwelling units, including apartments, townhomes, and condominiums. The provisions that regulate this land use district should provide for the development of high density residential neighborhoods. The Plan Commission and Board of Zoning Appeals should strive to integrate this type of neighborhood with lower density residential developments and neighborhood- serving commercial facilities. This district should be protected from conflicting land uses and be located in proximity to infrastructure and community facilities that will support demand for services and traffic generation. The Plan Commission and Board of Zoning Appeals should strive to promote an average net density of seven to ten dwelling units per acre community-wide in the R4 district.

(2) *Permitted uses.*

(a) *Agricultural uses.*

1. Agricultural crop production;

2. Agricultural crop processing;

3. Agricultural crop storage;

4. Farm implement storage.

(b) *Residential uses.*

1. Dwelling, modular;

2. Two to four-family attached or semi-detached;

3. Dwelling, multi-family;

4. Child day-care home;

5. Home occupation (type I);

6. Residential facility for developmentally disabled/mentally ill.

(c) *Institutional/public uses.*

1. Nature preserve;

2. Passive recreation trail;

3. Public structures and uses in accord with the intent of this district.

(d) *Communication/utilities.*

1. Micro wind energy conversion system.

(3) *Special uses.*

(a) *Residential uses.*

1. Dwelling, single-family (accessory as additional dwelling);

2. Assisted living/retirement facility;

3. Nursing home;

4. Group home;

5. Home occupation (type II);

(b) *Institutional/public uses.*

1. Parks and recreation uses;

2. Institutional uses (small-scale);

3. Police, fire, or rescue station;

4. Government office/facility;

5. School;

6. Church or other place of worship.

(c) *Communication/utilities.*

1. Utility substation;

2. Public well field/pump house;

3. Water tower;

4. Wireless telecommunications facility/tower.

(4) *Use notes and subdivision specifications.*

(a) The Use Matrix in ' 155.043 provides detailed use listings.

(b) The flood hazard provisions of this chapter shall apply to all districts as specified in ' 155.079.

(c) The subdivision of land in this district shall be consistent with the specifications of the subdivision control code, '' 155.190 et seq.

(B) *District Standards.*

Lot Disposition		
Lot area	20,000 sq. ft.	
Lot width	150' min.	
Lot coverage	40% max.	
Lot frontage	70% lot width min.	
Building Disposition		
Primary Structure		
Front setback (adjacent to)	Arterial	50'
	Collector	50'
	Local road	50'
Side setback	15' each side min.	
	30' total	
Rear setback	30' min.	
Living area	960 sq. ft.	
Lot area/unit	6,000 sq. ft. min.	
Wells (if applicable)	Installed >50' inside property line	
Connection to sewer and water	If possible, lot area depends on sanitary type	
Accessory Structure		
Side setback	5' min.	
Rear setback	15' min.	
Structures		
Number of Structures		
Primary	1 max.	
Accessory	2 max.	
Structure Heights		
Primary	2 2 stories/40' max.	
Accessory	1 story/16' max.	

All agriculture related structures are exempt
All telecommunications facilities shall conform to the requirements of " 155.070 through 155.095
All wind energy conversion systems shall conform to the requirement of " 155.070 through 155.095

Parking	
Spaces required	As needed
Configuration	n/a
Other Issues	
May use public water, sewer or private well and septic systems	

Applicable Development Standards (" 155.070 - 155.095)			
Lot/yard	155.073	Adult-oriented use	155.085
Height	155.074	Telecom facility	155.086
Accessory	155.075(A),(B)	Mobile/mfg home	155.087
Buffer yard	155.076	Public improvement	155.088
Environmental	155.078	Temporary	155.089
Flood hazard area	155.079	Fence and wall	155.090
Parking	155.080	Landscaping	155.091

Entrance/drive	155.082	Outdoor lighting	155.093
Sight visibility	155.083	Streetscape	155.094
Home occupation	155.084		

(Ord. 2013-02, passed 3-11-13)

' 155.035 MH MANUFACTURED HOME DISTRICT.

(A) *Intent, permitted uses, special uses and conditional uses.*

(1) *Intent.* The MH District is intended to provide a land use district for manufactured home parks in the community as attractive and decent affordable housing. Manufactured home parks shall be in accordance with IC 16-11-27-1 et. seq., Rule 410 IAC 6-6 and their subsequent amendments, the State Board of Health requirements, and the requirements of this chapter. This district should be within close proximity to parks, open space, services and retail establishments and avoid locations near conflicting land uses. The Plan Commission and Board of Zoning Appeals should strive to promote an average net density of five to seven dwelling units per acre community-wide in the MH district.

(2) *Permitted uses.*

(a) *Agricultural uses.*

1. Agricultural crop production;

2. Agricultural crop processing;

3. Agricultural crop storage;

4. Farm implement storage.

(b) *Residential uses.*

1. Mobile home;

2. Manufactured home (type I);

3. Manufactured home (type II);

4. Manufactured home (type III);

5. Home occupation (type I);

6. Residential facility for developmentally disabled/mentally ill.

(c) *Institutional/public uses.*

1. Public structures and uses in accord with the intent of this district;

2. Nature preserve;

3. Passive recreation trail.

(d) *Communication/utilities.*

1. Micro wind energy conversion systems.

(3) *Special uses.*

(a) *Residential uses.*

1. Dwelling, single-family (accessory as additional dwelling);

2. Home occupation (type II);

3. Child day-care home.

(b) *Institutional/public uses.*

1. Parks and recreation uses;

2. Institutional uses (small-scale);

3. Police, fire, or rescue station;

4. Government office/facility;

5. School;

6. Church or other place of worship.

(c) *Communication/utilities.*

1. Utility substation;

2. Public well field/pump house;

3. Water tower;

4. Wireless telecommunications facility/tower.

(4) *Use notes and subdivision specifications.*

(a) The Use Matrix in ' 155.043 provides detailed use listings.

(b) The flood hazard provisions of this chapter shall apply to all districts as specified in ' 155.079.

(c) The subdivision of land in this district shall be consistent with the specifications of the subdivision control code, '' 155.190 et seq.

(B) *District standards.*

Lot Disposition		
Lot area	10 acres min.	
Lot width	500' min.	
Lot coverage	65% max.	
Lot frontage	70% lot width min.	
Building Disposition		
Primary Structure		
Front setback (adjacent to)	Arterial	50'
	Collector	50'
	Local road	50'
Side setback	30' each side min.	
	60' total	
Rear setback	30' min.	
Living area	960 sq. ft.	
Lot area/unit	6,000 sq. ft.	

Building Disposition (Cont'd)	
Overall Lot (Cont'd)	
Wells (if applicable)	Not allowed
Connection to sewer and water	Must use public water and sewer, or approved private well and septic tank systems
Common open space	10% useable min.
Dwelling Site	
Side/rear setback	10' min. per side
Front setback	>10' from interior road
Dwelling site size	6,000 sq. ft.
Dwelling site width	50'
Dwelling site depth	2.4 x lot width
Structures	
Dwelling Units	
Living area/unit	>750 sq. ft.
Primary structures	No maximum
Structure Heights	
Primary	24' max.
Accessory	15' max.
All agriculture related structures are exempt	
All telecommunications facilities shall conform to the requirements of '' 155.070 through 155.095	
All wind energy conversion systems shall conform to the requirement of '' 155.070 through 155.095	
Parking	
Spaces required	2/unit
Configuration	Within bldg. envelope
Other Issues	
All individual lots must be accessible from internal access roads	

Applicable Development Standards (" 155.070 - 155.095)			
Lot/yard	155.073	Adult-oriented use	155.085
Height	155.074	Telecom facility	155.086
Accessory	155.075	Mobile/mfg home	155.087
Buffer yard	155.076	Public improvement	155.088
Environmental	155.078	Temporary	155.089
Flood hazard area	155.079	Fence and wall	155.090
Parking	155.080	Landscaping	155.091
Entrance/drive	155.082	Outdoor lighting	155.093
Sight visibility	155.083	Streetscape	155.094
Home occupation	155.084	Wind energy	155.095

(Ord. 2013-02, passed 3-11-13)

' 155.036 PB PROFESSIONAL BUSINESS DISTRICT.

(A) (1) *Intent, permitted uses, special uses and conditional uses.* The PB District is intended to provide a land use category for small to medium-scale office uses that provide services primarily to local customers. The provisions that regulate this land use district should promote appropriate commercial uses that are clearly non-conflicting with residential areas of the town. The Plan Commission and Board of Zoning Appeals should strive to use this district selectively, in areas where small-scale office centers are appropriate to service neighborhoods. The Plan Commission and Board of Zoning Appeals should also strive to

exclude uses from the PB" district that have an adverse effect on existing or future adjacent neighborhoods.

(2) *Permitted uses.*

(a) *Agricultural uses.*

1. Agricultural crop production;

2. Agricultural crop processing;

3. Agricultural crop storage;

4. Commercial greenhouse;

5. Farmers market;

6. Agricultural product sales, distribution, storage;

7. Farm implement storage.

(b) *Communication/utilities.*

1. Utility substation;

2. Water tower;

3. Micro wind energy conversion systems.

(c) *Institutional/public uses.*

1. Police, fire or rescue station;

2. Institutional uses (medium scale);

3. Passive recreation trail;

4. Church or other place of worship.

(d) *Business uses.*

1. Personal service uses;

2. Office uses.

(3) *Special uses.*

(a) *Residential uses.*

1. Dwelling, single-family (accessory as additional dwelling);

2. Dwelling, single-family (upper floors);

3. Dwelling, two-family (upper floors);

4. Dwelling, multi-family (upper floors.

(b) *Institutional/public uses.*

1. Institutional uses (small scale);

2. Parks and recreation uses;

3. Government office/facility;

4. School.

(c) *Communication/utilities.*

1. Wireless telecommunications facility/tower;

2. Small wind energy conversion systems.

(4) *Use notes and subdivision specifications.*

(a) The Use Matrix in ' 155.043 provides detailed use listings.

(b) The flood hazard provisions of this chapter shall apply to all districts as specified in ' 155.079.

(c) The subdivision of land in this district shall be consistent with the specifications of the subdivision control code, '' 155.190 et seq.

(B) *District standards.*

Lot Disposition		
Lot area	>5,000 sq. ft.	
Lot width	70' min.	
Lot coverage	65% max.	
Lot frontage	100% lot width	
Building Disposition		
Primary Structure		
Front setback (adjacent to)	Arterial	30'
	Collector	30'
	Local road	30'
Side setback	15' each side	
	30' total	
Rear setback	15' min.	
Lot area/unit	5,000 sq. ft. min.	
Connection to sewer and water	Required	
Common open space	n/a	
Accessory Structure		
Side setback	5' min.	
Rear setback	5' min.	
Structures		
Number of Structures		
Primary	1 max.	
Accessory	1 max.	

Structures (Cont'd)	
Structure Heights	
Primary	3 stories/35' max.
Accessory	1 story/16' max.
All telecommunications facilities shall conform to the requirements of " 155.070 through 155.095	
All wind energy conversion systems shall conform to the requirement of " 155.070 through 155.095	
Parking	
Spaces required	2/1,000 sq. ft. usable
Configuration	n/a

Applicable Development Standards (" 155.070 - 155.095)			
Lot/yard	155.073	Sight visibility	155.083
Height	155.074	Adult-oriented use	155.085
Accessory	155.075(A), (C)	Telecom facility	155.086
Buffer yard	155.076	Public improvement	155.088
Performance	155.077	Temporary	155.089
Environmental	155.078	Fence and wall	155.090
Flood hazard area	155.079	Landscaping	155.091
Parking	155.080(C), (D)	Large-scale retail	155.092
Loading	155.081	Outdoor lighting	155.093
Entrance/drive	155.082	Wind energy	155.095

(Ord. 2013-02, passed 3-11-13)

' 155.037 B1 GENERAL BUSINESS DISTRICT.

(A) *Intent, permitted uses, special uses and conditional uses.*

(1) *Intent.* The B1 District is intended to provide a land use category for small to medium-scale commercial uses that provide products and services primarily to local customers. The provisions that regulate this land use district should promote appropriate commercial uses that are clearly non-conflicting with residential areas of the town. The town=s Plan Commission and Board of Zoning Appeals should strive to use this district selectively, in areas where small-scale commercial centers are appropriate to service neighborhoods. The Plan Commission and Board of Zoning Appeals should also strive to exclude businesses from the B1 district that have an adverse effect on existing or future adjacent neighborhoods.

(2) *Permitted uses.*

(a) *Agricultural uses.*

1. Agricultural crop production;

2. Agricultural crop processing;

3. Agricultural crop storage;

4. Commercial greenhouse;

5. Farmers market;

6. Agricultural product sales, distribution, storage;

7. Farm implement storage.

(b) *Communication/utilities.*

1. Utility substation;

2. Water tower;

3. Micro wind energy conversion systems.

(c) *Institutional/public uses.*

1. Police, fire or rescue station;

2. Institutional uses (medium scale);

3. Passive recreation trail;

4. Church or other place of worship.

(d) *Business uses.*

1. Personal service uses;

2. Office uses;

3. Retail uses (small scale);

4. Retail uses (medium scale);

5. Recreation uses (small scale);

6. Recreation uses (medium scale);

7. Auto-oriented uses (small scale).

(3) *Special uses.*

(a) *Residential uses.*

1. Dwelling, single-family (accessory as additional dwelling);

2. Dwelling, single-family (upper floors);

3. Dwelling, two-family (upper floors);

4. Dwelling, multi-family (upper floors).

(b) *Institutional/public uses.*

1. Institutional uses (small scale);

2. Institutional uses (large scale);

3. Parks and recreation uses;

4. Government office/facility;

5. School.

(c) *Business uses.*

1. Alcohol-related uses;

2. Auto-oriented uses (medium scale);

3. Retail uses (large scale).

(d) *Communication/utilities.*

1. Wireless telecommunications facility/tower;

2. Small wind energy conversion systems.

(4) *Use notes and subdivision specifications.*

(a) The Use Matrix in ' 155.043 provides detailed use listings.

(b) The flood hazard provisions of this chapter shall apply to all districts as specified in ' 155.079.

(c) The subdivision of land in this district shall be consistent with the specifications of the subdivision control code, '' 155.190 et seq.

(B) *District standards.*

Lot Disposition		
Lot area	>5,000 sq. ft.	
Lot width	70' min.	
Lot coverage	65% max.	
Lot frontage	100% lot width	
Building Disposition		
Primary Structure		
Front setback (adjacent to)	Arterial	40'
	Collector	35'
	Local road	30'
Side setback	15' each side min.	
	30' total	
Rear setback	15' min.	
Lot area/unit	5,000 sq. ft. min.	
Connection to sewer and water	Required	
Common open space	n/a	
Accessory Structure		
Side setback	5' min.	
Rear setback	5' min.	
Structures		
Number of Structures		
Primary	1 max.	
Accessory	1 max.	
Structure Heights		
Primary	3 stories/35' max.	
Accessory	1 story/16' max.	
All telecommunications facilities shall conform to the requirements of '' 155.070 through 155.095		
All wind energy conversion systems shall conform to the requirement of '' 155.070 through 155.095		

Parking	
Spaces required	2/1,000 sq. ft. usable
Configuration	n/a

Applicable Development Standards (" 155.070 - 155.095)			
Lot/yard	155.073	Sight visibility	155.083
Height	155.074	Adult-oriented use	155.085
Accessory	155.075(A), (C)	Telecom facility	155.086
Buffer yard	155.076	Public improvement	155.088
Performance	155.077	Temporary	155.089
Environmental	155.078	Fence and wall	155.090
Flood hazard area	155.079	Landscaping	155.091
Parking	155.080(C), (D)	Large-scale retail	155.092
Loading	155.081	Outdoor lighting	155.093
Entrance/drive	155.082	Wind energy	155.095

(Ord. 2013-02, passed 3-11-13)

' 155.038 B2 HIGHWAY BUSINESS DISTRICT.

(A) *Intent, permitted uses, special uses and conditional uses.*

(1) *Intent.* The B2 District is intended to

provide a land use category for commercial uses that are appropriate for locations along highways. The provisions that regulate this land use district should make the district compatible with the agriculture

district and environmentally sensitive areas. This district should be used along highways and at interchanges. The Plan Commission and Board of Zoning Appeals should strive to provide for highway-oriented business and services while minimizing light pollution, large parking lots along the major roadways, hazardous traffic patterns, traffic conflicts, and excessive use of signs in the B2 District. The use of access roads/frontage roads should be required for all commercial uses in this district. Further, road cuts onto arterial or collector roads should be restricted.

(2) *Permitted uses.*

(a) *Agricultural uses.*

1. Agricultural crop production;

2. Agricultural crop processing;

3. Agricultural crop storage;

4. Commercial greenhouse;

5. Farmers market;

6. Agricultural product sales, distribution, storage;

7. Farm implement storage;

8. Farm equipment sales and services.

(b) *Institutional/public uses.*

1. Police, fire or rescue station;

2. Institutional uses (medium scale);

3. Passive recreation trail.

(c) *Communication/utilities.*

1. Utility substation;

2. Wireless telecommunications facility/tower;

3. Water tower;

4. Micro wind energy conversion systems;

5. Small wind energy conversion systems.

(d) *Business uses.*

1. Corporate office uses;

2. Auto-oriented uses (small scale);

3. Auto-oriented uses (medium scale);

4. Auto-oriented uses (large scale);

5. Retail uses (large scale).

(3) *Special uses.*

(a) *Business uses.*

1. Alcohol-related uses;

2. Recreation uses (small scale);

3. Recreation uses (medium scale);

4. Office uses;

5. Retail uses (small scale);

6. Retail uses (medium scale);

7. Recreation uses (large scale);

8. Personal service uses.

(b) *Institutional/public uses.*

1. Parks and recreation uses;

2. Institutional uses (small scale);

3. Institutional uses (large scale);

4. Government office/ facility;

5. School;

6. Church or other place of worship.

(4) *Use notes and subdivision specifications.*

(a) The Use Matrix in ' 155.043 provides detailed use listings.

(b) The flood hazard provisions of this chapter shall apply to all districts as specified in ' 155.079.

(c) The subdivision of land in this district shall be consistent with the specifications of the subdivision control code, '' 155.190 et seq.

(B) *District standards.*

Lot Disposition		
Lot area	.5 acre min.	
Lot width	150' min.	
Lot coverage	80% max.	
Lot frontage	100' min.	
Building Disposition		
Primary Structure		
Front setback (adjacent to)	Arterial	50'
	Collector	40'
	Local road	25'
Side setback	25' each side	
	50' total	
Rear setback	25' min.	
Lighting	Light bleed must not extend beyond building envelope	
Connection to sewer and water	Required	
Common open space	n/a	
Accessory Structure		
Side setback	5' min.	
Rear setback	5' min.	
Structures		
Number of Structures		
Primary	1 max.	
Accessory	2 max.	
Structure Heights		
Primary	3 stories/35' max.	
Accessory	1 story/16' max.	
Signage must be ground level		

All telecommunications facilities shall conform to the requirements of " 155.070 through 155.095	
All wind energy conversion systems shall conform to the requirement of " 155.070 through 155.095	
Parking	
Spaces required	2/1,000 sq. ft. usable
Configuration	n/a

Sight visibility	155.083		

(Ord. 2013-02, passed 3-11-13)

Applicable Development Standards (" 155.070 - 155.095)			
Lot/yard	155.073	Adult-oriented use	155.085
Height	155.074	Telecom facility	155.086
Accessory	155.075(A), (C)	Public improvement	155.088
Buffer yard	155.076	Temporary	155.089
Performance	155.077	Fence and wall	155.090
Environmental	155.078	Landscaping	155.091
Flood hazard area	155.079	Large-scale retail	155.092
Parking	155.080(C), (D)	Outdoor lighting	155.093
Loading	155.081	Streetscape	155.094
Entrance/drive	155.082	Wind energy	155.095

' 155.039 TOWN CENTER DISTRICT.

(A) *Intent, permitted uses, special uses and conditional uses.*

(1) *Intent.* The TC District is intended to provide a land use category for small scale mixed uses typical of a traditional small town downtown area. The district seeks to reinforce traditional character and scale while promoting pedestrian-oriented, mixed-use development with continuous storefronts lining the public sidewalk. Mixed-use development can include retail shops, professional services, offices, restaurants, and upper-floor residential.

(2) *Permitted uses.*

(a) *Agricultural uses.*

1. Farmers market.

(b) *Residential uses.*

1. Dwelling, single-family (upper floors);

2. Dwelling, two-family (upper floors);

3. Dwelling, multi-family (upper floors);

4. Bed and breakfast facility;

5. Boarding house.

(c) *Institutional/public uses.*

1. Institutional uses (medium scale);

2. Passive recreation trail;

3. Police, fire, or rescue station;

4. Church or other place of worship.

(d) *Business uses.*

1. Personal service uses;

2. Office uses;

3. Retail uses (small scale);

4. Corporate offices;

5. Recreation uses (small scale);

6. Retail uses (medium scale).

(e) *Communication/utilities.*

1. Micro wind energy conversion system.

(3) *Special uses.*

(a) *Residential uses.*

1. Dwelling, single-family (accessory as additional dwelling);

2. Dwelling, two-family;

3. Dwelling, multi-family.

(b) *Institutional/public uses.*

1. Institutional uses (small scale);

2. Institutional uses (large scale);

3. Parks and recreation uses;

4. Government office/facility;

5. School.

(c) *Business uses.*

1. Alcohol-related uses;

2. Recreation uses (medium scale);

3. Funeral home;

4. Mortuary establishments.

(d) Communication/utilities.

1. Wireless telecommunications facility/tower;

2. Water tower.

(4) *Use notes and subdivision specifications.*

(a) The Use Matrix in ' 155.043 provides detailed use listings.

(b) The flood hazard provisions of this chapter shall apply to all districts as specified in ' 155.079.

(c) The subdivision of land in this district shall be consistent with the specifications of the subdivision control code, '' 155.190 et seq.

(B) *District standards.*

Lot Disposition	
Lot area	>5,000 sq. ft.
Lot width	30' min.
Lot coverage	100% max.
Lot frontage	80% lot width.

Building Disposition		
Primary Structure		
Front setback (adjacent to)	Arterial	0'
	Collector	0'
	Local road	0'
Side setback	0' each side.	
	0' total	
Rear setback	0	
Living area	800 sq. ft.	
Lot area/unit	5,000 sq. ft. min. 8,000 sq. ft. max.	
Connection to sewer and water	Required	
Common open space	n/a	
Accessory Structure		
Side setback	5' min.	
Rear setback	5' min.	
Structures		
Number of Structures		
Primary	1 max.	
Accessory	1 max.	
Structure Heights		
Primary	3 stories 20' min./35' max.	
Accessory	1 story/16' max.	
All telecommunications facilities shall conform to the requirements of " 155.070 through 155.095		
All wind energy conversion systems shall conform to the requirement of " 155.070 through 155.095		
Parking		
Spaces required	None	
Configuration	n/a	

Applicable Development Standards (" 155.070 - 155.095)			
Lot/yard	155.073	Adult-oriented use	155.085
Height	155.074	Telecom facility	155.086
Accessory	155.075(A), (C)	Public improvement	155.088
Buffer yard	155.076	Temporary	155.089
Environmental	155.078	Fence and wall	155.090
Flood hazard area	155.079	Landscaping	155.091
Parking	155.080(D), (F)	Outdoor lighting	155.093
Entrance/drive	155.082	Streetscape	155.094
Sight visibility	155.083	Wind energy	155.095

(Ord. 2013-02, passed 3-11-13)

' 155.040 LI LIGHT INDUSTRIAL DISTRICT.

(A) *Intent, permitted uses, special uses and conditional uses.*

(1) *Intent.* The LI District is intended to provide a land use category for assembly, warehousing, and other light industrial operations. The provisions that regulate this land use district should make the district compatible with the B1, B2, and AG Districts and

environmentally sensitive areas. This district should be used in combination with the B2 district in areas with convenient access to major transportation routes. The

Plan Commission and

Board of Zoning Appeals should strive to provide for light industrial operations while minimizing light pollution, large parking lots along the major roadways, hazardous traffic patterns, and traffic conflicts in the LI district.

(2) *Permitted uses.*

(a) *Agricultural uses.*

1. Agricultural crop production;

2. Agricultural crop processing;

3. Agricultural crop storage;

4. Agricultural product sales, distribution, storage;

5. Farm implement storage;

6. Farm equipment sales and services.

(b) *Business uses.*

1. Adult oriented uses;

2. Corporate offices;

3. Truck stops.

(c) *Industrial uses.*

1. Industrial uses (low impact)

(d) *Institutional/public uses.*

1. Nature preserve;

2. Passive recreation trail;

3. Police, fire, or rescue station.

(e) *Communication/utilities.*

1. Micro wind energy conversion system;

2. Small wind energy conversion system.

(3) *Special uses.*

(a) *Agricultural uses.*

1. Grazing/pasture land;

2. Livestock;

3. Confined animal feeding operation;

4. Livestock auction/sale facility;

5. Commercial greenhouse.

(b) *Residential uses.*

1. Private air strip.

(c) *Business uses.*

1. Kennel/small animal boarding;

2. Office uses.

(d) *Institutional/public uses.*

1. Institutional uses (medium scale);

2. Institutional uses (large scale);

3. Government office/facility;

4. School.

(e) *Communication/utilities.*

1. Utility substation;

2. Sewage treatment plant;

3. Wireless telecommunication facility/tower;

4. Commercial renewable electricity generating facility/tower (wind, solar).

(4) *Use notes and subdivision specifications.*

(a) The Use Matrix in ' 155.043 provides detailed use listings.

(b) The flood hazard provisions of this chapter shall apply to all districts as specified in ' 155.079.

(c) The subdivision of land in this district shall be consistent with the specifications of the subdivision control code, '' 155.190 et seq.

(B) *District standards.*

Lot Disposition		
Lot area	>25,000 sq. ft.	
Lot width	150' min.	
Lot coverage	70% max.	
Lot frontage	100' min.	
Building Disposition		
Primary Structure		
Front setback (adjacent to)	Arterial	35'
	Collector	35'
	Local road	35'
Side setback	25' each side min.	
	50' total	
Rear setback	25' min.	

Building Disposition (Cont'd)	
Primary Structure (Cont'd)	
Lighting	Light bleed must not extend beyond building envelope
Connection to sewer and water	Required
Common open space	n/a
Accessory Structure	
Side setback	n/a
Rear setback	n/a
Structures	
Number of Structures	
Primary	1 max.
Accessory	n/a
Structure Heights	
Primary	40' max.
Accessory	n/a
Signage must be ground level	
All telecommunications facilities shall conform to the requirements of '' 155.070 through 155.095	
All wind energy conversion systems shall conform to the requirement of '' 155.070 through 155.095	
Parking	
Spaces required	2/1,000 sq. ft. usable
Configuration	n/a

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Applicable Development Standards (" 155.070 - 155.095)			
Lot/yard	155.073	Sight visibility	155.083
Height	155.074	Adult-oriented use	155.085
Accessory	155.075(A), (C)	Telecom facility	155.086(A), (C)
Buffer yard	155.076	Public improvement	155.088
Performance	155.077	Temporary	155.089
Environmental	155.078	Fence and wall	155.090
Flood hazard area	155.079	Landscaping	155.091
Parking	155.080(A),(C), (D)	Outdoor lighting	155.093
Loading	155.081	Streetscape	155.094
Entrance/drive	155.082	Wind energy	155.095

(Ord. 2013-02, passed 3-11-13)

' 155.041 HI HEAVY INDUSTRIAL DISTRICT.

(A) *Intent, permitted uses, special uses and conditional uses.*

(1) *Intent.* The HI District is intended to provide a land use category for a variety of industrial operations. The provisions that regulate this land use district should make the district compatible with the B1, B2 and LI Districts and environmentally sensitive areas. This district should be used in combination with the LI district in areas with convenient access to major transportation routes. The Plan Commission and Board of Zoning Appeals should strive to provide for industrial operations while minimizing light pollution, large parking lots along major roadways, hazardous traffic patterns, and traffic conflicts in the HI district.

(2) *Permitted uses.*

(a) *Agricultural uses.*

1. Agricultural crop production;

2. Agricultural crop processing;

3. Agricultural crop storage;

4. Farm implement storage.

(b) *Industrial uses.*

1. Industrial uses (low impact);

2. Mineral extraction and processing;

3. Industrial uses (high impact);

4. Agriculture crop processing and storage (of materials produced off-site).

(c) *Institutional/public uses.*

1. Nature preserve;

2. Passive recreational trail.

(d) *Communication/utilities.*

1. Utility substation;

2. Water tower;

3. Sewage treatment plant;

4. Wireless telecommunication facility/tower;

5. Commercial renewable electricity generating facility/tower (wind, solar);

6. Micro wind energy conversion system;

7. Small wind energy conversion system.

(3) *Special uses.*

(a) *Agricultural uses.*

1. Grazing/pasture land;

2. Livestock.

(b) *Residential uses.*

1. Private air strip

(c) *Industrial uses.*

1. junk/salvage yard;

2. Volatile/explosive uses;

3. Agricultural waste gas recovery.

(4) *Use notes and subdivision specifications.*

(a) The Use Matrix in ' 155.043 provides detailed use listings.

(b) The flood hazard provisions of this chapter shall apply to all districts as specified in ' 155.079.

(c) The subdivision of land in this district shall be consistent with the specifications of the subdivision control code, '' 155.190 et seq.

(B) *District standards.*

Lot Disposition	
Lot area	2 acres
Lot width	250' min.

Lot Disposition (Cont'd)		
Lot coverage	70% max.	
Lot frontage	100' min.	
Building Disposition		
Primary Structure		
Front setback (adjacent to)	Arterial	75'
	Collector	50'
Side setback	40' each side	
	80' total	
Rear setback	40' min.	
Lighting	Light bleed must not extend beyond building envelope	
Connection to sewer and water	Required	
Common open space	n/a	
Accessory Structure		
Side setback	n/a	
Rear setback	n/a	
Structures		
Number of Structures		
Primary	1 max.	
Accessory	n/a	
Structure Heights		
Primary	40' max.	
Accessory	n/a	
Signage must be ground level		
All telecommunications facilities shall conform to the requirements of '' 155.070 through 155.095		
All wind energy conversion systems shall conform to the requirement of '' 155.070 through 155.095		
Parking		
Spaces required	2/1,000 sq. ft. usable	
Configuration	n/a	

Applicable Development Standards (" 155.070 - 155.095)			
Lot/yard	155.073	Sight visibility	155.083
Height	155.074	Adult-oriented use	155.085
Accessory	155.075(A), (C)	Telecom facility	155.086(A), (C)
Buffer yard	155.076	Public improvement	155.088
Performance	155.077	Temporary	155.089
Environmental	155.078	Fence and wall	155.090
Flood hazard area	155.079	Landscaping	155.091
Parking	155.080(A),(C), (D)	Outdoor lighting	155.093
Loading	155.081	Streetscape	155.094
Entrance/drive	155.082	Wind energy	155.095

(Ord. 2013-02, passed 3-11-13)

' 155.042 PUD PLANNED UNIT DEVELOPMENT DISTRICT.

(A) *Purpose.*

(1) The purpose of this subchapter is to provide greater design flexibility in the development of land when consistent with the Comprehensive Plan and intent of the zoning ordinance. The use of planned unit developments shall be encouraged when such use promotes a harmonious variety of uses, and/or

provides for an economy of shared services and facilities, and/or are compatible with surrounding areas and/or foster the creation of attractive, healthful, efficient and stable environments for living, shopping or working.

(2) The Planned Unit Development District regulations and procedures may apply to the redevelopment of presently developed lands, or the development of open or vacant lands, and may apply to parcels of relatively small size as well as large-scale developments and their relationship with other surrounding uses and the overall characteristics of the area in which it is to be located.

(3) Planned Unit Development District regulations are intended to encourage innovations in land development techniques so that the growing demands of the community may be met with greater flexibility and type, design and layout of sites and buildings and by the conservation and more efficient use of open spaces and other amenities generally enhancing the quality of life.

(4) Planned Unit Development District projects should also encourage a more efficient use of land, which reflects the changes in technology of land development so that the resulting economies may accrue to the benefit of the community at large.

(5) To that end, the regulations and development guidelines contained in this chapter as to use, bulk, yards and height may be waived or modified to provide relief therefrom to allow unconventional development in the specific planned unit development project. The community may then benefit from such desirable but unconventional developments and be protected and insured through the limitations and conditions placed upon and made part of the ordinance granting the specific planned unit development district.

(B) *Classification.* Planned unit developments may be classified in the following designations:

(1) *Planned Unit Development - Residential.* Any development consisting of not less than five acres in which more than 80% of the interior floor area of all buildings to be included in the development is used for residential purposes and/or those accessory purposes customarily related to residential use.

(2) *Planned Unit Development - Business.* Any development consisting of not less than five acres in which all of the interior floor area of all buildings to be included in the development is to be used for business or commercial purposes.

(3) *Planned Unit Development - Industrial.* Any development consisting of not less than ten acres in which more than 80% of the interior floor area of all buildings to be included in the development is used for industrial or industrial purposes or such accessory uses customarily relating to industrial or industrial uses, with balance of such interior floor area, if any, being intended for such business or commercial uses as reasonably relate to the support or convenience of the intended industrial or industrial uses or their occupants.

(4) *Planned Unit Development - Mobile Home Park.* Any development consisting of not less than 75 mobile home sites of not less than 4,500 square feet each in which more than 80% of the interior floor area of all the mobile homes and all the other buildings combined in the development is used for mobile home residence or such accessory uses customarily related to mobile homes, with the balance of such interior floor area, if any, being intended for such business, commercial and community uses as reasonably relate to the support or convenience of the mobile home park residents.

(C) *Organization of proposals.* Any person, corporation, partnership or association having an ownership interest in a proposed development, or any group of owners united in interest, acting jointly, and in pursuance to an agreement to carry out the proposal in separate ownership may propose a planned unit development district in accordance with the procedures hereinafter established, where such individual owner or group of owners in making such proposal intends to act as developer or sponsor of the development if the planned unit development ordinance is adopted and indicates the requisite capabilities to carry out such proposal. A parcel, or site proposed for a planned unit development need not be under single ownership where the proposed development consists of a group of structures or improvements capable of being developed separately but in accordance with a single, unitary plan, and in which the separate owners have given their expressed intentions to enter into such private agreements between or among themselves as will facilitate their mutual enterprise, and assure its completion as planned to the satisfaction of the Plan Commission.

(D) *Filing procedure.* The general and specific procedures for filing for a Planned Unit Development District are as set forth in the following:

(1) A petition and all other documents required for the requested planned unit development district shall be submitted, which petition shall be signed by the owner or owners of all real estate involved in the petition for the planned unit development district, or which petition shall have attached thereto the notarized consent of all such owners to the filing of such petition.

(2) The PUD petition shall include preliminary plan and plat for any area proposed for development. Sixteen copies of said plan and plat shall be filed with the Plan Commission. The preliminary plan and plat shall include:

(a) The proposed layout of streets, open space and other basic elements of the plan.

(b) Identification of location and types of structures and their use categories within the area, including proposed densities of said uses.

(c) Proposals for handling traffic, parking, water supply, sewage disposal, storm drainage, tree preservation and removal, landscaping, lighting, signage and other pertinent development features.

(d) A separate location map to scale shall show the boundary line of adjacent land and the existing zoning of the area proposed to be developed as well as the adjacent land.

(e) The condominium declaration (if applicable), a document creating an owners' association and any covenants which are to be made part of the Planned Unit Development District as well as the order and estimated time of development.

(f) A statement of the proposed order of development of the major elements of the project, including whether the development will be accomplished in phases, and, if so, the order and content of each phase.

(g) An environmental and/or community impact study, conducted by a qualified individual, if required by the Plan Commission.

(3) The preliminary plan shall be presented to the Plan Commission at the regularly scheduled meeting with copies for each member thereof and additional file copies for a total of ten copies drawn to a scale ratio not to exceed 100 feet =1 inch. The preliminary plan may include any additional graphics, which will help to explain the features of the development. The Plan Commission shall then schedule the preliminary plan for a public hearing, in accordance with the provisions of this chapter and applicable state law. The preliminary plan shall also be provided to the following checkpoint agencies for their review and comment:

(a) Lowell Dept. of Public Works;

(b) Lowell Police Department;

(c) Lowell Fire Department;

(d) Lowell Parks Department;

(e) Tri-Creek School Corporation;

(f) Lake County Soil and Water Conservation District.

(4) After assignment of a docket number and prior to the date of the public hearing on the preliminary plan as established by the Plan Commission, the Administrator shall meet with the petitioner regarding the preliminary plan and checkpoint agency comments. Checkpoint agency personnel may attend this meeting to provide additional comments and/or clarifications thereto. After such consultation the petitioner may make modifications to the petition. The Administrator may require revision to the preliminary plan if the modifications are deemed to be substantive. Such revised preliminary plans shall be made available to the members of the Plan Commission at least ten days prior to the date of the public hearing thereon.

(E) *Preliminary plan hearing.*

(1) The petition, if and as modified, shall be heard by the Plan Commission as a petition under the planned unit development district provisions of the zoning ordinance, and subject to the procedures applicable thereto. The Plan Commission shall schedule and convene a public hearing on the proposed development in accordance with the requirements of this chapter. The Plan Commission may recommend approval or disapproval of the plan and may impose any reasonable condition(s) with its affirmative recommendation. If disapproval is recommended, the application shall not be certified to the Town Council. If approval is recommended, the preliminary plan shall be stamped "Approved Preliminary Planned Unit Development" and be signed by the President and Secretary of the Plan Commission. One copy shall be permanently retained in the files of the Plan Commission, one copy shall be returned to the petitioner and one copy and all conditions shall be certified as described below.

(2) The approved preliminary planned unit development shall then be certified to the Town

Council for adoption as a Planned Unit Development District pursuant to the laws governing proposals to change zoning maps. Upon adoption by the legislative body, the petitioner shall prepare the final detailed plan.

(F) *Approval of the final detailed plan.* The procedures for approval of the final detailed plan shall be as follows:

(1) After adoption of an ordinance by the Council to establish a Planned Unit Development District and before any development takes place, the petitioner shall file with the Plan Commission a minimum of six sets of the final detailed plan specifying the location, composition and engineering features of all restrictive covenants, condominium declaration and/or the creation of a homeowners association, along with financial assurance for the satisfactory installation of all public improvements in the form of bonds or such other assurances as are required in the normal procedures of platting pursuant to the provisions of " 155.190 et seq., Subdivision Control Code. The Plan Commission shall then approve said final detailed plans by duly adopted motion upon an affirmative finding that the final detailed plan is consistent with the approved preliminary planned unit development as adopted and passed by the Town Council upon rezoning. Having so once approved the final detailed plan, the Plan Commission shall have no further review or act thereon, except as to enforcement, except as to an amendatory ordinance, and except as to hereafter provided for.

(2) The approved preliminary planned unit development may provide for the development of the property involved in phases. If such phasing is included as a part of the approval of the preliminary plan, the petitioner may submit partial final detailed plans, which correspond to the phases involved. Such partial final detailed plans, when approved, shall be treated in the same manner as approved final detailed plans for an entire planned unit development.

(3) The approved final detailed plan or phase thereof shall be stamped "Approved Final Detailed Planned Unit Development" and be signed by the President and Secretary of the Plan Commission with one copy permanently retained in the files of the Plan Commission following recordation as specified in division (H) below.

(4) Unless extended by the Plan Commission pursuant to division (K) below, approval of the first phase of the final detailed plan shall be obtained within 12 months of preliminary approval, and approval of the balance of the final detailed plan shall be obtained within five years after adoption of the Planned Unit Development District by the Town Council.

(5) In the event that approval of a final detailed plan is not obtained within 12 months of initial application, the Plan Commission may initiate an amendment to remove "Planned Unit Development District" designation and rezone the property to another land use designation.

(6) Approval of a final detailed plan shall expire after a period of five years from the approved phasing of the preliminary plan unless the development is 50% completed in terms of public improvements including streets, parks, walkways, utility installations and sanitary sewers. Determination of the amount of completion shall be made by the Plan Commission upon a recommendation of the Administrator. Following expiration of the final detailed plan, the town shall declare the bond to be in default and cause all public improvements to be installed according to the final detailed plan.

(G) *Covenants and maintenance.* The Plan Commission shall require and accept covenants and restriction to the use of property in the planned unit development as follows:

(1) All covenants required by the Plan Commission shall be set forth in detail and provide for a provision for the release of such restriction by

execution of a document so stating and suitable for recording, signed by the Plan Commission President and Secretary upon authorization by the Plan Commission and all of the owners of property in the area involved in the petition for whose benefit the covenant was created. Such covenants shall provide that their benefits run to the Plan Commission and shall be specifically enforceable by the Plan Commission in addition to the property owners.

(2) The Plan Commission shall require the recording of such covenants for any reasonable public or semi-public purpose, including but not limited to, the allocation of land by the petitioner for public thoroughfares, parks, schools, recreational facilities, and other cited pubic and semi-public purposes. Such covenants shall provide that if a governmental unit or agency thereof does not proceed with acquisition of the allocated land within a specific period of time, the covenants shall automatically terminate. If such termination does occur, the petitioners shall then submit for approval by the Plan Commission a modified final detailed plan for such land, otherwise consistent with the approved preliminary planned unit development.

(3) The Plan Commission shall require the recording of covenants for any other reasonable purpose, including but not limited to, imposing standards for the development of property in a planned unit development. Such development standards may include, but are not limited to, requirements as to the following:

(a) Lot area;

(b) Floor area;

(c) Ratios of floor space to land space;

(d) Areas in which structures may be built (buildable area);

(e) Open space;

(f) Setback lines and minimum yards;

(g) Building separations;

(h) Height of structures;

(i) Signs;

(j) Off-street parking and loading space;

(k) Design standards (including landscaping requirements);

(l) Phasing of development.

(4) Adequate provision shall be made for a private organization with direct responsibility to, and control by, the property owners involved to provide for the operation and maintenance of all common facilities, including private streets, jointly shared by such property owners if such facilities are a part of the planned unit development, and, in such instances legal assurances shall be provided and recorded which show that the private organization is self-perpetuating.

(5) Common facilities, which are not dedicated to the public, shall be maintained to standards assuring continuous and adequate maintenance. Common facilities not dedicated to the public shall be operated and maintained at no expense to any governmental unit.

(6) All private streets shall be maintained by the aforementioned private organization in such a manner that adequate access is provided at all times to vehicular traffic so that fire, police, health, sanitation and public utility vehicles can serve the properties contiguous or adjacent thereto, and so that said vehicles will have adequate turning area. All streets and roadways not dedicated to the public shall be operated and maintained at no expense to any governmental unit.

(H) *Recording.*

(1) All approved final detailed planned unit development plans and plats and any modifications thereof shall be recorded in the Office of the Lake

County Recorder within one year after approval, but before any development takes place. The certification of recording shall be kept on file with the plans and plats. Failure to record shall automatically void the approval of the final detailed planned unit development.

(2) Upon the completion of all development, the developer shall submit exact measurements, as to the location of buildings or structures erected during the development. The developer shall submit a copy of the approved final detailed plan unit development to the Administrator as an amended final detailed plan unit development. The exact measurements shall be shown on said amended plan. Once satisfied that the measurements are substantially the same as was indicated on the original final detailed planned unit development, the Administrator shall approve, date and sign said amended final detailed planned unit development, which the developer shall then record.

(I) *Permit.* An improvement location permit shall be issued for a Planned Unit Development District upon full compliance with the approved final detailed planned unit development.

(J) *Construction.* No construction or installation work shall be done on any public improvements until the petitioner has, at least 24 hours in advance, notified the appropriate governmental inspector(s) of his intention to begin such work, in order that inspections may be made as the work progresses. All development shall be in conformity with the approved and recorded final detailed planned unit development and any material deviations from the approved and recorded final detailed planned unit development shall be subject to the appropriate enforcement action as provided for in this chapter.

(K) *Extensions, abandonment, and expiration.* Extensions of the time for accomplishing any matters set forth herein may be granted by the Plan Commission at a public hearing for good cause shown. Abandonment shall have occurred when no improvements have been subsequent to pursuant to the approved final detailed planned unit development for 12 consecutive months. Upon the abandonment of a development authorized under this section, or upon the expiration of five years from the date of the approval of a final detailed planned unit development for a development which has not been completed, an amendment may be initiated as provided by law to the zoning map so that the land will be zoned into a category or categories which most nearly approximate the intended use in accordance with the Comprehensive Land Use Plan.

(L) *Limitation of rezoning.* The Plan Commission shall not initiate any amendments to the zoning map concerning the property involved in a planned unit development before completion of the development as long as the development is in conformity with the approved final detailed planned unit development and is proceeding in accordance with the time requirements imposed herein.
(Ord. 2013-02, passed 3-11-13)

' 155.043 LAND USE MATRIX.

P = Permitted Use	*S = Special Use*			*N = Not Permitted*								
	AG	***R1***	***R2***	***R3***	***R4***	***MH***	***PB***	***B1***	***B2***	***TC***	***LI***	***HI***
Agricultural Uses												
Confined animal feeding	P	N	N	N	N	N	N	N	N	N	N	N
Grazing/pasture land	P	N	N	N	N	N	N	N	N	N	S	S
Livestock	P	N	N	N	N	N	N	N	N	N	S	S
Animal boarding	P	N	N	N	N	N	N	N	N	N	N	N
Livestock auction/sale facility	P	N	N	N	N	N	N	N	N	N	S	N
Agricultural crop production (standard crops, orchards, plant nursery, winery, cider mill)	P	P	P	P	P	P	P	P	P	N	P	P
Retail sales (of crops produced on-site)	P	N	N	N	N	N	N	N	N	N	N	N
Agricultural crop processing (of materials produced on-site)	P	P	P	P	P	P	P	P	P	N	P	P
Agricultural product storage (of materials produced on-site)	P	P	P	P	P	P	P	P	P	N	P	P
Commercial greenhouse	P	N	N	N	N	N	P	N	N	N	S	N
Farmers market (for products grown off-site)	P	N	N	N	N	N	P	N	N	P	N	N
Agricultural products sales, distribution and storage (agricultural seed and/or fertilizer sales, farm co-op facility)	P	N	N	N	N	N	P	N	N	N	P	N
Farm implement storage (operable implements)	P	P	P	P	P	P	P	P	P	N	P	P
Farm equipment sales and service	P	N	N	N	N	N	N	N	P	N	P	N
Seasonal farm worker housing	P	N	N	N	N	N	N	N	N	N	N	N
Residential Uses												
Dwelling, single-family	P	P	P	P	N	N	N	N	N	N	N	N
Dwelling, single-family (accessory, as an additional dwelling)	S	S	S	S	S	S	S	S	N	S	N	N
Dwelling, mobile home	N	N	N	N	N	P	N	N	N	N	N	N
Dwelling, manufactured home (type I)	P	N	N	N	N	P	N	N	N	N	N	N
Dwelling, manufactured home (type II)	N	N	N	N	N	P	N	N	N	N	N	N
Dwelling, manufactured home (type III)	N	N	N	N	N	P	N	N	N	N	N	N

P = Permitted Use	***S = Special Use***				***N = Not Permitted***							
	AG	***R1***	***R2***	***R3***	***R4***	***MH***	***PB***	***B1***	***B2***	***TC***	***LI***	***HI***
Residential Uses (Cont'd)												
Dwelling, modular	P	P	P	P	P	N	N	N	N	N	N	N
Dwelling, single-family (upper floors)	S	N	N	N	N	N	S	S	N	P	N	N
Dwelling, two-family	N	N	N	P	P	N	N	N	N	S	N	N
Dwelling, two-family (upper floors)	N	N	N	N	N	N	S	S	N	P	N	N
Dwelling, multi-family	N	N	N	P	P	N	N	N	N	S	N	N
Dwelling, multi-family (upper floors)	N	N	N	N	N	N	S	S	N	P	N	N
Residential facility for the developmentally/ mentally disabled	P	P	P	P	P	P	N	N	N	N	N	N
Group home	S	S	S	S	S	N	N	N	N	N	N	N
Assisted living/retirement facility	N	S	S	S	S	N	N	N	N	N	N	N
Nursing home	N	S	S	S	S	N	N	N	N	N	N	N
Child day-care home	P	P	P	P	P	S	N	N	N	N	N	N
Home occupation (type I)	P	P	P	P	P	P	N	N	N	N	N	N
Home occupation (type II)	S	S	S	S	S	S	N	N	N	N	N	N
Bed and breakfast facility	S	S	S	N	P	N	N	N	N	P	N	N
Boarding house	N	N	N	N	N	N	N	N	N	P	N	N
Private air strip	N	N	N	N	N	N	N	N	N	N	S	S
Business Uses												
Adult-oriented uses (including clubs, theaters, bookstores)	N	N	N	N	N	N	N	N	N	N	P	N
Corporate offices	N	N	N	N	N	N	P	S	P	P	P	S
Auto-oriented uses - small scale (gas station, drive through ATM, restaurant with drive through service, gas station with convenience shopping/restaurant	N	N	N	N	N	N	N	P	P	N	N	N
Auto-oriented uses - medium scale (bus station, auto repair and body shop, car wash, vehicle detailing/accessory shop, oil changing facility	N	N	N	N	N	N	N	S	P	N	N	N
Truck stop	N	N	N	N	N	N	N	N	N	N	P	N
Kennel/small animal boarding	N	N	N	N	N	N	N	N	N	N	S	N

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P = Permitted Use	*S = Special Use*			*N = Not Permitted*								
	AG	***R1***	***R2***	***R3***	***R4***	***MH***	***PB***	***B1***	***B2***	***TC***	***LI***	***HI***
Business Uses (Cont'd)												
Alcohol related uses (bar, tavern, night club, liquor store)	N	N	N	N	N	N	N	S	S	S	N	N
Recreation uses - small scale (billiard/ pool/ arcade room, video/DVD store, banquet hall, bowling alley, theater (movie and/or live performance)	N	N	N	N	N	N	N	P	S	P	N	N
Recreation uses - medium scale (driving range, miniature golf course, skating rink, swimming pool, health spa/retreat center, public tennis courts)	N	N	N	N	N	N	N	P	S	N	N	N
Recreation uses - large scale (golf course, commercial athletic courts and fields, riding stables, public fishing facility, camp ground, RV park)	S	N	N	N	N	N	N	N	S	N	N	N
Personal service uses (photographic studio, dance or martial arts studio, barber, beauty shop, tanning salon, dry cleaners, self service laundry, fitness center, tailor/pressing shop, shoe repair)	N	N	N	N	N	N	P	P	S	P	N	N
Office uses (veterinary office/hospital, radio/TV station, print shop/copy center, medical dental clinic, business/financial services office, bank/credit union/financial services institution, investment firm, secretarial services, general services office, design services, insurance office, law office, real estate office, title company, travel agency, medical/dental office, accounting office)	N	N	N	N	N	N	P	P	S	P	S	N
Retail uses - small scale (ice cream shop, restaurant (w/o drive through service), delicatessen, bakery (retail), art gallery, craft/fabric shop, flower shop, gift shop, convenience shop (w/o gas pumps), news dealers/bookstore, music/instrument shop, record/CD store, coffee shop)	N	N	N	N	N	N	N	P	S	P	N	N
Retail uses - medium scale (butcher/meat locker, pharmacy, jewelry store, antique shop, apparel/footwear shop, auto part sales (w/o on-site repair service), garden shop, sporting goods, pet shop, variety store, building finishes store (paint windows, wallpaper))	N	N	N	N	N	N	N	P	S	P	N	N

P = Permitted Use	*S = Special Use*				*N = Not Permitted*							
	AG	***R1***	***R2***	***R3***	***R4***	***MH***	***PB***	***B1***	***B2***	***TC***	***LI***	***HI***
Business Uses (Cont'd)												
Retail uses - large scale (grocery/ supermarket, department store, furniture store, home electronics/appliance store, office supply store, building supply store, "big box" retailer)	N	N	N	N	N	N	N	S	P	N	N	N
Institutional/Public Uses												
Parks and recreation uses (nature center, park, public athletic courts & fields, playground)	S	S	S	S	S	S	S	S	S	S	N	N
Nature preserve	P	P	P	P	P	P	N	N	N	N	P	P
Passive recreation trail	P	P	P	P	P	P	P	P	P	P	P	P
Institutional uses - small scale (institutional facility for developmentally disabled, institutional facility for the mentally ill, child and/or adult day-care facility)	N	S	S	S	S	S	S	S	S	S	N	N
Police, fire or rescue station	N	S	S	S	S	S	P	P	P	P	P	N
Institutional uses - medium scale (funeral home/mortuary, cemetery, public parking lot, crematory, armory, library, museum, post office, recreation center, community center, service/fraternal/labor organization office and meeting hall)	N	N	N	N	N	N	P	P	P	P	S	N
Institutional uses - large scale (trade or business school, university of college, hospital, helipad/heliport, fairgrounds/race track)	N	N	N	N	N	N	N	S	S	S	S	N
Church or other place of worship	S	S	S	S	S	S	P	P	S	P	N	N
Government office/facility	N	S	S	S	S	S	S	S	S	S	S	N
School (primary through secondary)	N	S	S	S	S	S	S	S	S	S	S	N
Industrial Uses												
Mineral extraction/mining and processing	N	N	N	N	N	N	N	N	N	N	N	P

P = Permitted Use	*S = Special Use*				*N = Not Permitted*							
	AG	***R1***	***R2***	***R3***	***R4***	***MH***	***PB***	***B1***	***B2***	***TC***	***LI***	***HI***
Industrial Uses (Cont'd)												
Industrial uses - low impact (wholesale facility, distribution facility, bakery (commercial), warehouse/packaging facility, assembly facility, boat/RV storage facility, mini-warehouse storage facility, engineering/ research laboratory, food production/ processing, data processing center, printing/ publishing facility, contractor offices/ workshop, tree trimming office/ workshop, tool and die shop, welding shop, auction house or lot, lumber yard)	N	N	N	N	N	N	N	N	N	N	P	P
Industrial uses - high impact (bottled gas storage/distribution, incinerator, manufacturing/fabrication facility, inert chemical manufacturing/bulk storage)	N	N	N	N	N	N	N	N	N	N	N	P
Agricultural crop production/storage (materials produced off-site)	N	N	N	N	N	N	N	N	N	N	S	P
Junk yard/scrap metal yard/sanitary landfill/refuse dump/recycling facility	N	N	N	N	N	N	N	N	N	N	N	S
Explosive/volatile uses (bulk fuel/petroleum storage, refineries, explosives manufacturing and storage, volatile chemical manufacturing/bulk storage)	N	N	N	N	N	N	N	N	N	N	N	S
Agricultural waste (methane) gas recovery	S	N	N	N	N	N	N	N	N	N	N	S
Communication/Utility Uses												
Utility substation	P	S	S	S	S	S	P	P	P	N	P	P
Public wellfield/pumphouse	P	S	S	S	S	S	N	N	N	N	N	N
Sewage treatment plant	P	N	N	N	N	N	N	N	N	N	P	P
Wireless telecommunications facility/tower	S	S	S	S	S	S	S	S	P	S	P	P
Water tower	S	S	S	S	S	S	P	P	P	S	P	P
Fossil fuel electricity generating facility	N	N	N	N	N	N	N	N	N	N	N	S
Commercial renewable electricity generating facility/tower (wind, solar)	S	N	N	N	N	N	N	N	N	N	P	P
Micro wind energy conversion system	P	P	P	P	P	P	P	P	P	P	P	P
Small wind energy conversion system	P	N	N	N	N	N	S	S	P	N	P	P

(Ord. 2013-02, passed 3-11-13)

SECTORS AND SPECIAL DISTRICTS

' 155.050 ESTABLISHED.

(A) Sector and special district plans shall the integrate the largest practical geographic area according to the sector intent, following property lines.

(B) Sector and special district plans shall be prepared by the Planning Office and/or consultants under its supervision. The process shall involve citizen participation and the approval of the Legislative Body.
(Ord. 2013-02, passed 3-11-13)

' 155.051 CONSERVATION DISTRICT.

General provisions.

(A) The Conservation District shall consist of open space that should be, but is not yet, protected from development that the town would like to see protected because the land is unsuitable for settlement due to topography, hydrology, vegetation or unique natural value.

(B) The preservation of land within the Conservation District may be used to exceed the permitted densities of the traditional zoning districts, by the granting of a density bonus or a transfer of development rights.

(C) Upon the dedication of land within the Conservation District, for use as density bonus, ownership of the development shall be conferred to the municipality or county receiving the development, and rezoned accordingly.

(D) The Conservation District shall consist of the aggregate of the following categories:

(1) Floodplain;

(2) Steep slopes;

(3) Open space to be acquired;

(4) Corridors to be acquired;

(5) Buffers to be acquired;

(6) Legacy woodland;

(7) Legacy farmland;

(8) Legacy viewsheds
(Ord. 2013-02, passed 3-11-13)

ZONING MAP

' 155.060 OFFICIAL ZONING MAP.

The zoning map for Lowell, Indiana, officially labeled "Lowell Zoning Map," is hereby included as part of this chapter. The map may also be known as and referred to as the official zoning map.
(Ord. 2013-02, passed 3-11-13)

' 155.061 OFFICIAL ZONING MAP COPIES.

Copies of the official zoning map may be made and distributed to interested persons. The official zoning map copies shall be labeled as copies and have the date which they were last modified printed on them.
(Ord. 2013-02, passed 3-11-13)

' 155.062 LOCATION OF THE OFFICIAL ZONING MAP.

The official zoning map will be located in the office of the town Plan Commission.
(Ord. 2013-02, passed 3-11-13)

' 155.063 ZONING DISTRICT BOUNDARIES.

The zoning district boundaries shall be shown on the official zoning map. The abbreviations for the zoning districts appearing in this chapter shall be used to identify the zoning districts on the official zoning map.
(Ord. 2013-02, passed 3-11-13)

' 155.064 REGULAR REVISIONS.

The official zoning map should be formally revised annually, or as the Plan Commission determines necessary. During interim periods of time, hand drawn lines and text on the official zoning map will be appropriate to note zoning changes. Copies may be made after the amendments are noted, and each copy shall be noted as an update with the "date last changed" noted on the map. Other revisions may be made to correct drafting or other errors or omissions in the prior map, but shall not have the effect of amending the official zoning map except as adopted by the Town Council.
(Ord. 2013-02, passed 3-11-13)

' 155.065 DAMAGED, DESTROYED OR LOST OFFICIAL ZONING MAP.

In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Town Council may, by resolution, adopt a new official zoning map which shall, to the extent possible, duplicate the accuracy of the damaged, destroyed or lost map.
(Ord. 2013-02, passed 3-11-13)

' 155.066 OFFICIAL ZONING MAP STANDARDS.

District boundaries on the official zoning map shall be interpreted as follows:

(A) District boundaries shown within the lines of roads, easements, and transportation rights-of-way shall be deemed to follow the center lines.

(B) District boundaries indicated as following section or fractional sectional lines, platted lot lines, or county or county corporation lines shall be construed as following such lines.

(C) District boundaries indicated as parallel to or extensions of the above listed features shall be construed as so.

(D) District boundaries indicated as approximately following the center line of streams, rivers, or other bodies of water shall be construed to follow such center lines.

(E) Where a district boundary line divides a lot at the time such line is adopted, the district in which the majority of the area of the property is included shall apply to the entire property. In cases where a property is divided equally between two or more zoning districts, the most restrictive district shall apply to the entire property. The Planning Director or the official designee shall determine the applicable zoning for properties divided into several zoning districts consistent with this section.

(F) If the Planning Director cannot definitely determine the location of a district boundary by such center lines, by scale or dimensions stated on the official zoning map, or by the fact that it does not clearly coincide with a property line, immediate action on any application shall be refused and the Plan Commission shall interpret the location of the district boundary with reference to the scale of the official zoning map and the purposes set forth in all relevant provisions of this chapter.

(G) Any ruling of the Planning Director or official designee pertaining to the district boundaries may be appealed to the Board of Zoning Appeals.
(Ord. 2013-02, passed 3-11-13)

' 155.067 EFFECT OF VACATION ON ZONING.

Whenever any street, alley, public way, railroad right-of-way, waterway, or other similar area is vacated by proper authority, the zoning districts adjoining each side of vacated areas shall be extended automatically to the center of the vacated area. All areas included in the vacation shall then be subject to all appropriate regulations of the extended zoning districts. In the event of a partial vacation, the adjoining zoning district, or zoning district nearest the portion vacated, shall be extended automatically to include all of the vacated area. The resolution of any disputes as to the exact zoning district boundaries shall be determined by the Planning Director or the official designee. Appeals of the Planning Director's determination may be brought before the Board of Zoning Appeals
(Ord. 2013-02, passed 3-11-13)

DEVELOPMENT STANDARDS

' 155.070 INTRODUCTION.

All structures, land uses, land use changes, structural alterations, structural relocations, structural additions, and structural enlargements that are constructed, created, established, or otherwise occur after the effective date of this chapter (except as may otherwise be provided within this chapter) shall be subject to all development standards and regulations for the applicable zoning district.
(Ord. 2013-02, passed 3-11-13)

' 155.071 EXPANSION OR MODIFICATION OF EXISTING USES AND STRUCTURES.

No structure, parking area, or other site feature regulated by this chapter shall be enlarged, altered, or expanded unless the minimum improvements required by this subchapter are provided to the property to the extent of its alteration or expansion. In the case of a substantial expansion, the portion of the site affected must meet the requirements of this subchapter. An alteration or expansion to an existing property is substantial when the area or square footage of the expanded or altered land (including property used for building space, parking, or storage) or structure, respectively, exceeds 25% of the area or square footage of the existing land or structure, exclusive of the alteration or expansion.
(Ord. 2013-02, passed 3-11-13)

' 155.072 DEVELOPMENT STANDARDS THAT APPLY.

Under the sections of this subchapter that follow are development standards arranged by category. The standards for each district are set forth in " 155.030 through 155.041.
(Ord. 2013-02, passed 3-11-13)

' 155.073 LOT/YARD STANDARDS.

These lot/yard standards apply to the following districts: AG, R1, R2, R3, R4, MH, PB, B1, B2, TC, LI, HI.

(A) *Legal nonconforming lots.* All existing lots in conflict with the lot/yard regulations at the effective date of this chapter shall be considered legal nonconforming lots.

(B) *General requirements.* Except as provided in this chapter, no building or structure shall be erected, altered, enlarged or reconstructed unless such alteration, enlargement, or reconstruction conforms with the lot/yard regulations of the district in which it is located, as follows:

(1) *Front yard setbacks.* The minimum front yard setbacks shall be as noted in the district standards provisions of " 155.030 through 155.041.

(2) *Side yard setbacks.* The minimum side yard setbacks shall be as noted in the district standards provisions of " 155.030 through 155.041.

(3) *Rear yard setbacks.* The minimum rear yard setbacks shall be as noted in the district standards provisions of " 155.030 through 155.041.

(4) *Lot areas.* The minimum and maximum lot areas shall be as noted in the district standards provisions of " 155.030 through 155.041.

(5) *Lot width.* The minimum lot width shall be as noted in the district standards provisions of " 155.030 through 155.041.

(6) *Lot frontage.* The minimum lot frontage shall be as noted in the district standards provisions of " 155.030 through 155.041.

(7) *Lot depth.* Lots shall be of sufficient depth to accommodate all minimum setbacks, minimum lot area, and any applicable minimum primary structure requirements.

(8) *Public utility requirements.* The public utility requirements shall be as noted in the district standards provisions of " 155.030 through 155.041.

(9) *Lot coverage.* The maximum lot coverage shall be as noted in the district standards provisions of " 155.030 through 155.041.

(10) *Living and ground floor areas.* The minimum dwelling unit and ground floor living areas shall be as noted in the district standards provisions of " 155.030 through 155.041.

(11) *Primary structures.* The maximum number of residential and/or primary structures per lot shall be as noted in the district standards provisions of " 155.030 through 155.041.

(C) *Setback standards.* No portion of an any structure or material for sale stored outdoors is allowed to be located within the required setbacks. Structures shall include, but not be limited to garages, carports, balconies, roofs, decks, chimneys, cornices, bay windows, eaves, fire escapes, steps, and platforms above normal grade level. Parking spaces, interior drives, other vehicle use areas and sidewalks shall be permitted within the required setbacks at normal grade level subject to the requirements of this chapter.
(Ord. 2013-02, passed 3-11-13)

' 155.074 HEIGHT STANDARDS.

The height standards section apply to the following districts: AG, R1, R2, R3, R4, MH, PB, B1, B2, TC, LI, HI.

(A) The maximum height permitted shall be as noted in the district standards provisions of " 155.030 through 155.041.

(B) No structure may be erected or changed so as to make its height greater than specified in the applicable zoning district, except as noted below. Exceptions to the height standards include:

(1) The following structures may exceed the permitted height regulations by twofold, but shall not exceed a total height from grade level of 75 feet:

(a) Church steeples;

(b) Water towers; and

(c) Utility transmission towers.

(2) The following structures may exceed the permitted height standards by up to 15 feet, but shall be completely shielded from view by design features of the building:

(a) Necessary mechanical appurtenances; and

(b) Elevator bulkheads.

(3) The height of telecommunication towers and antenna shall meet the requirements of ' 155.086.

(4) Any non-residential building or structure permitted as a special use in R1 or R2 shall not exceed 35 feet; however, such height may be increased to a maximum of 45 feet provided that for every foot of height in excess of 35 feet, there shall be added to all yard requirements one corresponding foot of width and depth.
(Ord. 2013-02, passed 3-11-13)

' 155.075 ACCESSORY USE/STRUCTURE STANDARDS.

(A) The accessory use/structure standards apply to the following districts: AG, R1, R2, R3, R4, MH, PB, B1, B2, TC, LI, HI.

(1) No accessory structures shall be placed in any required setbacks and shall otherwise comply with all development standards for the zoning district in which they are located.

(a) In residential districts, an accessory building may be erected in the rear quarter of the lot and shall be located no less than five feet from the rear lot line; and no less than five feet from an interior lot line.

(2) All accessory uses and structures shall be permitted only in association with, and on the same lot as, the primary use or structure. Accessory uses and structures shall not be permitted to be located, placed, or established on any lot prior to a building permit being obtained for the principal building. No accessory building shall be used prior to the principal building or use, except as a construction facility for such principal use during construction. At no time shall it be used for residential purposes.

(3) Accessory structures are not deemed to include swing sets, mailboxes, lamp posts, doghouses, tree houses, and other such incidentals except as otherwise stated in this chapter.

(4) The following accessory structures are permitted, subject to all applicable requirements of this chapter:

(a) Antennas and satellite dishes;

(b) Attached and detached decks and patios;

(c) Gazebos;

(d) Mini-barns, sheds, and other storage buildings;

(e) Dumpsters; and

(f) Similar structures related to the primary use.

(5) Accessory structures shall comply with the following location requirements:

(a) No accessory structures shall encroach on any platted easement without written consent of the agency the easement belongs to or is managed by.

(b) No accessory structures shall be placed in any operable septic fields.

(c) A minimum separation of ten feet shall be provided between an accessory structure and any principal structure or other accessory structure.

(d) All accessory structures, with the exception of gazebos and decks, shall only be located to the rear of the primary structure except in the case of corner or through lots; in which case, the structures may be placed to the side of the primary structure, maintaining a minimum setback from the right-of-way line equal to one-half the distance required for the principal structure.

(6) No vehicle may be used as an accessory structure in any district.

(7) Barns and other similar agricultural buildings shall be considered primary structures on property used for agricultural purposes. All other structures on property used for agriculture, including dwellings, shall be considered accessory structures.

(8) Accessory structures and uses permitted as special uses are specified for each zoning district in " 155.030 through 155.043.

(B) These accessory use/structure standards apply to the following districts: R1, R2, R3, R4.

(1) Accessory structures shall comply with the following requirements:

(a) On a residential lot on which the primary structure includes an attached garage, up to two accessory structures are permitted with a maximum combined floor area of 400 square feet. Each accessory structure shall have a maximum floor area of 200 square feet.

(b) On a residential lot on which the primary structure does not include an attached garage,

up to two accessory structures are permitted. One structure being 900 square feet, or two structures totaling 900 square feet are permitted.

(C) These accessory use/structure standards section apply to the following districts: B1, B2, LI, HI, PB.

(1) Outdoor storage shall be permitted as an accessory use subject to the following requirements:

(a) In the B1, General Business; B2, Highway Business; LI, Light Industrial; and HI, Heavy Industrial districts outdoor storage shall be limited as follows:

1. B1. Outdoor storage shall be limited to seasonal sales of finished products;

2. B2. Outdoor storage shall be limited to seasonal sales of finished products;

3. LI. Outdoor storage shall be limited to finished products;

4. HI. Outdoor storage of finished products and materials used in production shall be permitted; and

5. PB. Outdoor storage shall be limited to seasonal sales of finished products.

(2) Outdoor storage of vehicles being stored at auto repair facilities and junk yards shall be consistent with the parking standards of ' 155.080.
(Ord. 2013-02, passed 3-11-13)

' 155.076 BUFFER YARD STANDARDS.

The buffer yard standards apply to the following districts: AG, R1, R2, R3, R4, MH, PB, B1, B2, TC, LI, HI.

(A) The general purpose of a buffer yard is to soften the potential conflicts between the potential uses in one zoning district and the potential uses in another adjacent district by using setbacks and landscaping. The potential degree (or intensity) of conflict (or potential conflict) between two zoning districts determines the extent of buffer yard required.

(B) The following matrix determines the type of buffer yard which shall be installed by the subject development entirely on the subject property.

(C) The following general buffer yard standards will apply to all buffer yards.

(1) The buffer yard standards only apply along the property lines where the two conflicting zoning districts meet.

(2) The developer or owner of the subject property is responsible for installing the buffer yard. The adjacent property owner shall not have to participate in installing the buffer yard.

(3) No buffer yard or required landscape materials shall be placed within any right-of-way or septic field.

(4) All required buffer yard areas shall be provided entirely on the subject property and shall be in addition to setbacks required by this chapter.

(5) All required buffer yard trees shall be irregularly spaced and designed to provide the appearance of a natural landscape unless otherwise specified by this chapter. However, no two trees shall be placed within ten feet of one another.

(6) All portions of the buffer yard not planted with trees, shrubs or other landscaped materials shall be covered with grass or other ground covering vegetation.

(7) No landscaping required by this section may be used to satisfy the minimum requirements of any other provisions of this chapter.

(8) All landscape materials must be properly maintained, and kept in a neat and orderly appearance, free from all debris and refuse. All unhealthy or dead plant material shall be removed by the end of the next planting season.

(9) Sites which require a buffer yard shall satisfy the following standards:

(a) Less than two acres - buffer yard 1;

(b) Between two and five acres - buffer yard 2;

(c) Over five acres - buffer yard 3.

Buffer Yard Requirements

The buffer yard type indicated on the table below shall be provided on the subject property where...

...the zoning district for the subject property is...	...and the adjoining property is zoned:											
	AG	R1	R2	R3	R4	MH	PB	B1	B2	TC	LI	HI
AG												
R1												
R2												
R3												
R4		X	X									
MH		X	X	X								
PB												
B1		X	X	X								
B2		X	X	X								

Buffer Yard Requirements												
The buffer yard type indicated on the table below shall be provided on the subject property where...												
...the zoning district for the subject property is...	...and the adjoining property is zoned:											
	AG	R1	R2	R3	R4	MH	PB	B1	B2	TC	LI	HI
TC												
LI		X	X	X	X	X	X	X		X		
HI	X	X	X	X	X	X	X	X	X	X		

(D) The required buffer yards shall meet the following minimum requirements:

(1) *Buffer yard type 1.* Buffer yard type 1 shall include a minimum setback of ten feet in addition to the yard setback otherwise required by this Code. In addition, one deciduous canopy tree must be planted in the buffer yard for every 30 feet of contiguous boundary between the subject and adjoining properties.

(2) *Buffer yard type 2.* Buffer yard type 2 shall include a minimum setback of 20 feet in addition to the yard setback otherwise required by this chapter. In addition, one deciduous canopy tree and two evergreen trees shall be planted in the buffer yard for every 25 feet of contiguous boundary between the subject and adjoining properties.

(3) *Buffer yard type 3.* Buffer yard type 3 shall include a minimum setback of 25 feet in addition to the yard setback otherwise required by this chapter, and a row of deciduous canopy trees shall be planted parallel to the property line within the buffer yard with one tree placed every 20 feet long the boundary between the subject and adjoining properties, or a five- foot tall opaque wooden fence or brick or stone wall, a five-foot tall undulating mound planted with shrubs, or a row of evergreen trees shall be placed parallel to the property line within ten feet of the row of canopy trees along the boundary between the subject and adjoining properties.

(a) If an undulating mound is used to fulfill the requirements, one shrub for every ten feet of continuous boundary shall be planted on the mound. All required shrubs shall measure 18 inches in height measured from grade at the time of planting.

(b) If a row of evergreen trees is used to meet the requirements, one tree shall be placed every ten feet along the property boundary.
(Ord. 2013-02, passed 3-11-13)

' 155.077 PERFORMANCE STANDARDS.

The performance standards apply to the following districts: B1, B2, LI, HI, PB. All uses placed into operation after the effective date of this chapter should comply with the following general performance standards in the interests of protecting public health, safety, and general welfare and lessening damage to property. No use on a property should exhibit obnoxious characteristics to the extent that it constitutes a public nuisance or interferes with reasonable enjoyment of neighboring properties. No use in

existence on the effective date of this chapter should be altered or modified to conflict with these standards. The "Right to Farm" laws may supersede these guidelines as they pertain to farming and agricultural uses.

(A) *Air pollution.* No use on a property should release fly ash, dust, smoke, vapors, noxious, toxic or corrosive matter or other air pollutants in such concentration as to be detrimental to health, animals, vegetation or property, or conflict with public air quality standards.

(B) *Electrical disturbance.* No use on a property should cause electrical disturbance adversely affecting radio, television or other equipment in the vicinity.

(C) *Fire protection.* Fire fighting equipment and prevention measures acceptable to the local Fire Departments should be readily available and apparent when any activity involving the handing and storage of flammable or explosive materials is conducted.

(D) *Noise.* No use on a property should produce noise in such a manner as to be objectionable because of volume, frequency, intermittence, beat, shrillness, or vibration. Such noise should be muffled or otherwise controlled so as not to become detrimental. Public safety sirens and related apparatus used solely for public purposes shall be exempt from this standard.

(E) *Odor.* No use on a property should emit across lot lines any gas or matter with a bad odor in such quantity as to be readily detectable at any point along such lines.

(F) *Vibration.* No use on a property should cause vibrations detectable beyond lot lines without the aid of instruments.

(G) *Heat and glare.* No use on a property should produce heat and glare in such a manner as to create a hazard to neighboring property. No such heat or glare interfere with the reasonable enjoyment of neighboring property, or the safety of transportation routes.

(H) *Waste matter.* No use on a property should accumulate within the lot or discharge waste matter beyond the lot lines.

(I) *Water pollution.* No use on a property should produce erosion or other pollutants in such a quantity as to be detrimental to adjacent properties or to conflict with public water quality standards.

(J) *Traffic.* No use on a property should cause excessive vehicular traffic on adjoining roads.

(K) *Visual character.* No use on a property should adversely impact the general visual or aesthetic character of the neighboring properties or disrupt the general or aesthetic character of the area.
(Ord. 2013-02, passed 3-11-13)

' 155.078 ENVIRONMENTAL STANDARDS.

The environmental standards apply to the following districts: AG, R1, R2, R3, R4, MH, PB, B1, B2, TC, LI, HI. The following standards pertain to environmental concerns in the town. Some of the following standards refer to state regulations. This is not to imply that the town is enforcing state regulations; state regulations are referred to in order to make the affected property owners aware that they exist and need to be complied with in addition to local law.

(A) *Land suitability.* No land shall be used, or structure erected where the land is unsuitable for such use or structure due to slopes greater than 10%, adverse soil or rock formation, erosion susceptibility, low percolation rate or bearing strength, or any other feature as determined by the Planning Director, Town Engineer, or County Health Department likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of the community.

(B) *Preservation of natural/historic features.* Existing natural and historic features which would add value to the development of the town such as trees,

streams, vistas, lakes, historical landmarks, and similar irreplaceable assets, when possible, should be preserved through harmonious and careful design. Land to be developed shall be designed and improved as far as practical in conformity to existing topography in order to minimize storm water runoff, and conserve the natural cover and soil.

(C) *Landscaping.* Any part or portion of a non-farm parcel which is not used for structures, loading or parking spaces, sidewalks and accessory uses shall be landscaped or left in a natural state. If landscaped, it shall be planted with an all season ground cover and shall be landscaped with trees and shrubs in accordance with the requirements of this chapter and shall be in keeping with natural surroundings.

(D) *Cut/fill grade.* No cut or fill grade shall exceed a slope of 4/1 or 25%. This provision shall apply to all cuts and fills exceeding 100 square feet in exposed surface area, including cuts or fills on land naturally exceeding 3/1 in slope.

(E) *Treatment of fill.* Material used for fill where permitted by this chapter and/or by the IDEM, IDNR, or other governmental agency, shall be promptly covered and seeded.

(F) *Erosion prevention.* All land, regardless of slope, from which structures or natural cover has been removed or otherwise destroyed, shall be appropriately graded and seeded within a reasonable time frame after the removal or destruction of said natural cover, not to exceed 60 days, to prevent erosion.

(G) *Surface water.* It shall be the responsibility of the owner of any lot or parcel of land developed for any use other than for agriculture to provide for adequate surface water drainage. Existing natural surface drainage should be utilized. Whenever the evidence available indicates that the natural surface drainage is inadequate, the owner shall provide the parcel with an adequate surface water drainage system which shall be integrated into the drainage pattern of surrounding properties. Swales are required to be placed in an easement to prohibit future filling or constructing. On-site detention for a 100-year storm event shall be required unless a written statement by a licensed engineer indicates that it is not necessary to prevent harm to adjoining properties. All drainage plans are subject to review and approval by the Town Engineer.

(H) *Drainage.* Drainage swales (ditches) along dedicated roadways and within the right-of-way or on dedicated drainage easements are not to be altered, except for maintenance as originally constructed and as approved by the town or the Indiana Department of Transportation. Driveways may be constructed over these swales as permitted by the appropriate agency.

(I) *Regulated drain setbacks.* No permanent structures other than a fence may be erected, and if erected in violation of this section, no such structure may be used if its location is within 75 feet of the center line of any regulated tile ditch, or within 75 feet of the existing top of bank of any regulated open ditch or tile unless approved by the Town Engineer and Lake County Drainage Board.

(J) *Projects affecting regulated drains.* Regulated drains are under the jurisdiction of the Lake County Drainage Board. The Lake County Drainage Board or Town Engineer shall review and approve all development or projects directly affecting a regulated open ditch or tile per IC 36-9-27.

(K) *Alterations to bodies of water.* No alteration of the shoreline or bed of a river, wetland, or public lake shall be made until appropriate written approval is obtained from the Indiana Department of Natural Resources, and Army Corps of Engineers, the Indiana Department of Environmental management; and the provisions of this chapter are complied with.

(L) *Retention, detention, and pond edges.* All retention, detention, and pond edges must be maintained with a buffer of natural plantings within 20 feet of the peak elevation. The use of "rip-rap" or any other engineered hard edges shall not exceed 5% of lineal feet of the total edge of any retention facility, detention facility, or pond.

(M) *Code compliance/hazardous waste.* All development must be in compliance with IC Title 13, as amended, as it relates to hazardous waste, low level nuclear waste, underground storage tanks, waste tires, and other applicable chapters of IC Title 13.

(N) *Code compliance/environmental quality.* All development must be in compliance with IC Title 13, as amended, as it relates to air pollution control, water pollution control, solid waste management, and other applicable chapters of IC Title 13.

(O) *Waste/debris.* No waste materials such as garbage, rubbish, household appliances, inoperable vehicles, furniture designed for interior use, gasoline, oil, flammables, soils, tars, chemicals, greases, dead plant material, noxious weeds, industrial or agricultural waste, or any other material of such nature, quantity, obnoxiousness, toxicity, or temperature so as to contaminate, pollute, or harm water bodies or ground water, provide a habitat for disease carrying animals and insects, or represent a public safety hazard shall be deposited, located, stored, or discharged outside on any lot; nor shall such waste be allowed to accumulate within structures in a manner that is inconsistent with applicable regulations for the storage of such materials.

(P) *Fuel storage.* No highly flammable or explosive liquids, solids, or gasses specified by the State Fire Marshal shall be stored except in accordance with the rules established by the State Fire Marshal.
(Ord. 2013-02, passed 3-11-13)

' 155.079 FLOOD HAZARD AREA STANDARDS.

The flood hazard area standards apply to the following districts: AG, R1, R2, R3, R4, MH, PB, B1, B2, TC, LI, HI.

(A) *Purpose.* The purpose of this section is to guide development in flood hazard areas in order to reduce the potential for loss of life and property, reduce the potential for health and safety hazards, and to reduce the potential for extraordinary public expenditures for flood protection and relief. Under the authority granted to local units of government to control land use within their jurisdiction, which includes taking into account the effects of flooding, the town adopts these flood hazard area standards in order to accomplish the following:

(1) To prevent unwise developments from increasing flood or drainage hazards to others;

(2) To protect new buildings and major improvements to buildings from flood damage;

(3) To protect human life and health from the hazards of flooding;

(4) To lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations;

(5) To minimize prolonged business interruptions;

(6) To ensure that potential home buyers are notified that property is in a flood area;

(7) To maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas; and

(8) To make federally subsidized flood insurance available for structures and their contents in the town by fulfilling the requirements of the National Flood Insurance Program.

(B) *Disclaimer of liability.* The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on available information derived from engineering and

scientific methods of study. Larger floods can and will occur on rare occasions.

(C) *Duties of the Planning Director or designated appointee.* The Planning Director or designated appointee shall review all development and subdivision proposals to ensure compliance with this chapter, including but not limited to the following:

(1) Inspect and inventory damaged structures in SFHA and complete substantial damage determinations;

(2) Ensure that all development activities within the special flood hazard areas (SFHA) of the jurisdiction of the town meet the requirements of this chapter;

(3) Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;

(4) Ensure that construction authorization has been granted by the Indiana Natural Resources Commission for all development projects subject to the requirements of this section, and maintain a record of such authorization (either copy of actual permit or letter of recommendation);

(5) Maintain a record of the as-built elevation of the top of the lowest floor (including basement) of new and/or substantially improved buildings constructed in the SFHA. Inspect before, during and after construction;

(6) Maintain a record of the engineer's certificate and the as-built flood-proofed elevation of all buildings subject to the requirements of this section;

(7) Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this section. Submit reports as required for the National Flood Insurance Program;

(8) Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and letters of recommendation, federal permit documents, and as-built elevation and floodproofing data for all building constructed subject to this chapter;

(9) Notify adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA;

(10) Utilize and enforce all Letters of Map Revision (LOMR) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the town;

(11) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;

(12) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures; and

(13) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed.

(D) *Abrogation and greater restrictions.* This section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

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(E) *Discrepancy between mapped floodplain and actual ground elevations.*

(1) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.

(2) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.

(3) If the elevation (natural grade) of the site in question is above the base flood elevation, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner should be advised to apply for a LOMA.

(F) *Interpretation.* In the interpretation of this section all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

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

(G) *Regulatory flood elevation.* This section's protection standard is the regulatory flood elevation. The regulatory flood elevation and floodway limits for each of the SFHAs delineated as an A Zone on the Flood Insurance Rate Map of Lowell dated October 18, 1983 shall be the best data available as provided by the Department of Natural Resources.

(1) Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Department of Natural Resources for review and approval.

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

(H) *Improvement location permit application.* No person, firm, corporation, or governmental body not exempted by state law shall commence any development in the SFHA without first obtaining an improvement location permit. The Planning Director shall not issue an improvement location permit if the proposed development does not meet the requirements of this chapter.

(1) The application for an improvement location permit shall be accompanied by the following:

(a) A description of the proposed development;

(b) Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams;

(c) A legal description of the property site;

(d) A site development plan showing existing and proposed development locations and existing and proposed land grades;

(e) Elevation of the top of the lowest floor (including basement) of all proposed development. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD) or North American Vertical Datum (NAVD). In either case the conversion formula should be included;

(f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed;

(g) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and

(2) Upon placement of the lowest floor; or floodproofing, it shall be the duty of the permit holder to submit to the Planning Director a certification of the NAVD 88 or NGVD elevation of the lowest floor or floodproofed elevation, as built. Certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular structure the certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holders' risk. (The Planning Director shall review the lowest floor and floodproofing elevation survey data submitted.) The permit holder shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make the corrections required shall be cause to issue a stop-work order for the project.

(I) *Improvement location permit review and approval.* Upon receipt of an application for an improvement location permit, the Planning Director shall determine if the site is located within an identified floodway, floodway fringe, or within the floodplain where the limits of the floodway have not yet been determined.

(1) *Identified floodway sites.* If the site is in an identified floodway the Planning Director shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources and apply for a permit for construction in a floodway.

(a) Under the provisions of IC 14-28-1 a permit from the Natural Resources Commission is required prior to the issuance of a local improvement location permit for any excavation, deposit, construction or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the building.

(b) No action shall be taken by the Planning Director until a permit has been issued by the Natural Resources Commission granting approval for construction in the floodway.

(c) Once a permit has been issued by the Natural Resources Commission, the Planning Director may issue the local improvement location permit, subject to compliance with all requirements of this section. The improvement location permit cannot be less restrictive than the permit issued by the Natural Resources Commission.

(2) *Identified floodway fringe sites.* If the site is located in an identified floodway fringe, the Planning Director may issue the local improvement location permit provided the provisions contained in this section have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the flood protection grade (FPG).

(3) *Undefined floodplain sites with significant upstream drainage.* If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Planning Director shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Department of Natural Resources for review and comment.

(a) No action shall be taken by the Planning Director until either a permit for construction in the floodway or a letter of recommendation citing the 100-year flood elevation and the recommended flood protection grade has been received from the Department of Natural Resources.

(b) Once the Planning Director has received the proper permit or letter of recommendation approving the proposed development, an improvement location permit may be issued provided the conditions of the improvement location permit are not less restrictive than the conditions received from the Department of Natural Resources and the provisions contained in this section have been met.

(4) *Undefined floodplain sites with insignificant upstream drainage.* If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Planning Director shall require the applicant to provide an engineering analysis showing the limits of the floodway, floodway fringe and 100- year elevation for the site. Upon receipt, the Planning Director may issue the local improvement location permit, provided the provisions contained in this section have been met.

(J) *Floodplain development.* All development shall be prohibited in the 100-year floodplain unless otherwise specified below:

(1) *Permitted uses.* The following uses shall be permitted by right, provided they are permitted by the underlying district:

(a) Agricultural uses such as crop production, pastures, orchards, tree farms, plant nurseries, vineyards, and general farming;

(b) Forestry, wildlife areas and nature preserves;

(c) Parks and recreational uses except golf course and driving range;

(d) Public streets, bridges, and roadways.

(2) *Special uses.* Uses permitted as a special use are as follows:

(a) Riding stables or trails;

(b) Public well;

(c) Sewage treatment plant (not including septic fields);

(d) Water management use facilities (i.e. dams, docks, channel improvements, dikes, jetties, marinas, piers, wharves, levees, seawalls, floodwalls, and irrigation facilities);

(e) Public/private parking area;

(f) Golf course;

(g) Driving range.

(K) *Preventing increased damages.* No development in the SFHA shall create a damaging or potentially damaging increase in flood heights or velocity or threat to public health and safety.

(1) Within the floodplain identified on the Flood Boundary and Floodway Map, the Flood Insurance Rate Map, or engineering analysis provided, no development shall be allowed which acting alone or in combination with existing or future development, will cause any increase in the elevation of the regulatory flood or result in a net loss of floodwater capacity.

(2) No development in the SFHA shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the flood protection grade, unless such materials are stored in a floodproofed storage tank or building constructed according to the requirements of this section.

(3) New and replacement sanitary sewer lines and on-site waste disposal systems may be permitted providing all manholes or other above ground openings are located above the FPG, or those which are located below the FPG are watertight.

(4) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(5) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.

(6) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.

(7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(8) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this section shall meet the requirements of new construction; and

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

(L) *Building protection requirements.* In addition to the damage prevention requirements of this section, all buildings to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

(1) Construction or placement of any new building having a floor area greater than 400 square feet;

(2) Structural alterations made to:

(a) An existing (previously unaltered) building, the cost of which equals or exceeds 50% of the value of the pre-altered building (excluding the value of the land);

(b) Any previously altered building;

(3) Reconstruction or repairs made to a damaged building that are valued at or more than 50% of the market value of the building (excluding the value of the land) before damage occurred;

(4) Installing a manufactured home on a new site or a new manufactured home on an existing site. This chapter does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and

(5) Installing a travel trailer or recreational vehicle on a site for more than 180 days.

(M) *Building protection methods.* The building protection requirement may be met by one of the following methods. The Planning Director shall maintain a record of compliance with these building protection standards as required by this section.

(1) *Residential construction.* New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation).

(2) *Non-residential construction.* New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG.

(3) *Residential or non-residential structures on fill.* A residential or nonresidential building may be constructed on a permanent land fill in accordance with the following:

(a) The fill shall be placed in layers no greater than one foot deep before compacting to 95% of the maximum density obtainable with the Standard Proctor Test method.

(b) The fill should extend at least ten feet beyond the foundation of the building before sloping below the FPG.

(c) The fill shall be protected against erosion and scour during flooding by vegetative cover, rip rap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than three horizontal to one vertical.

(d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

(e) The top of the lowest floor including basements, (see definition of lowest floor) shall be at or above the FPG.

(4) *Elevated residential and non-residential structures.* A residential or non-residential building may be elevated in accordance with the following:

(a) The building or improvements shall be elevated on posts, piers, columns, extended walls, or other types of similar foundation provided:

1. Walls of any enclosure below the elevated floor shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of floodwaters, through providing a minimum of two openings (in addition to doorways and windows) having a total area of one square foot for every two square feet of enclosed area subject to flooding (the bottom of all such opening shall be no higher than one foot above grade); and

2. Any enclosure below the elevated floor is used for storage of vehicles and building access.

(b) The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as buoyancy, current, waves, ice, and floating debris.

(c) All areas below the FPG shall be constructed of materials resistant to flood damage. The top of the lowest floor (including basement) and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

(d) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(e) Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

(f) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(5) *Permanent manufactured homes and recreational vehicles.* Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following anchoring requirements:

(a) The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site:

1. Outside a manufactured home park or subdivision;

2. In a new manufactured home park or subdivision;

3. In an expansion to an existing manufactured home park or subdivision; or

4. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood.

(b) This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(c) Manufactured homes with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

(6) *Temporary recreational vehicles.* Recreational vehicles placed on a site shall either:

(a) Be on the site for less than 180 consecutive days;

(b) Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

(c) Meet the requirements for manufactured homes in division (5)(c) above.

(7) *Critical facility*. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

(8) *Floodproofed non-residential structures.* A non-residential building may be floodproofed to the FPG (in lieu of elevating) if done in accordance with the following:

(a) A registered professional engineer shall certify that the building has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice.

(b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.
(Ord. 2013-02, passed 3-11-13)

' 155.080 PARKING STANDARDS.

(A) *These parking standards apply to the following districts: AG, R1, R2, R3, R4, MH and PB.* Two off-street parking spaces, paved or gravel, are required per farm-related dwelling unit. Off-street parking spaces may not fully or partially be in a public right-of-way, utility easement, or septic field. Each space must be at least 10 feet by 20 feet. Parking spaces shall be provided on the same lot as the dwelling units for which they are required. Parking areas must be designed as to prevent vehicles from having to back into or maneuver in public streets.

(B) *These parking standards apply to the following districts: R1, R2, R3, R4, MH, and PB.* Two off-street parking spaces, paved with asphalt or concrete, are required per non-farm dwelling unit. Further, off-street parking spaces may not fully or partially be in a public right-of-way. Each space must be at least 10 feet by 20 feet. Parking spaces shall be provided on the same lot as the dwelling units for which they are required.

(C) *These parking standards apply to the following districts: B1, B2, LI and HI.* All required non-farm parking spaces and lots shall conform to all of the following requirements:

(1) *Driving surfaces.* All parking areas, including parking spaces, interior drives, and ingress/egress into parking areas must be paved with asphalt or concrete. All parking areas shall be clearly painted to show each parking space.

(2) *Drainage.* Parking areas must be constructed to allow proper drainage which shall be subject to the review and approval of the Planning Director and Town Engineer

(3) *Access to public streets.* Parking areas must be designed as to prevent vehicles from having to back into or maneuver in public streets.

(4) *Locations.* Parking lots shall not be located in any right-of-way or easement.

(5) *Curbs and wheelstops.* All parking areas shall be completely curbed and wheel stops shall be provided as necessary to protect pedestrians and/or landscaping.

(6) *Lighting.* Lighting for parking areas shall conform with the applicable requirements of ' 155.093.

(7) *Landscaping.* Landscaping for parking areas shall conform with the applicable requirements of the ' 155.091.

(8) *Off-site parking.* Parking spaces required in this section may be provided either on the premises or on an off-site lot located within 700 feet of the premises.

(a) Two or more uses may provide off-site parking collectively on one lot if the total number of spaces shall not be less than the sum of the spaces required for each use.

(b) Two or more uses for which the normal hours of operation do not overlap may share parking either on or off-site.

(c) A permanent documentation of any off-site and/or shared parking agreement must be signed by all involved property owners. The permanent written agreement shall include, but is not limited to the following items: maintenance, snow removal, ownership, and liability. The agreement shall be reviewed and approved by the Planning Director. The agreement shall be recorded in the office of the County Recorder. A copy of the agreement shall be kept in the office of the Plan Commission.

(9) *Handicap parking.* Handicap parking spaces shall be provided in all parking areas consistent with the requirements of the Americans with Disabilities Act.

(10) *Parking space and interior drive dimensions.* Parking spaces and interior drives shall conform with the following requirements:

Parking Space and Interior Drive Requirements				
Angle of Parking	***Minimum Driving Aisle Width (feet)***		***Minimum Parking Space Size (feet)***	
	One-way	***Two-way***	***Width***	***Length***
Parallel	12	24	10	20
...up to and including 45 degrees	15	24	10	18
...up to and including 60 degrees	18	24	9	18
...up to and including 90 degrees	24	24	9	18

(11) *Spaces required.* The minimum number of parking spaces required per property shall be determined by adding up the spaces required for each applicable statement in the table that follows:

Non-Residential Required Parking Spaces (sq. ft. indicates square feet of gross floor area)	
The following number of parking spaces is required ...	***...for every...***
1 space	employee working on the largest shift
1 space	business vehicle stored on-site
in addition to...	***...for every...***
1 space	5 seats in a restaurant, auditorium, gymnasium, church or movie theater
1 space	500 sq. ft. in all auto/boat/RV/or farm implement sales facility show rooms
1 space	item on exterior display at an auto/boat/RV or farm implement dealership (to be used for each display item)
1 space	300 sq. ft. of gross floor area in all hardware, home improvement, furniture, and large appliance stores
1 space	200 sq. ft. of gross floor area in all medical or dental office or clinic
1 space	200 sq. ft. of gross floor area in any fitness center, health spa, or entertainment center
1 space	200 sq. ft. in any administrative or professional business office, library, museum, or art gallery
1 space	200 sq. ft. in any car wash, repair, or modification center
1 space	300 sq. ft. of gross floor area in all convenience stores, banks, gas stations, grocery stores, department stores, and other retail
1 space	6 children permitted by capacity in any day care facility
1 space	sleeping unit in a hotel, motel, and bed and breakfast
20 spaces	9 holes of any golf course

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Non-Residential Required Parking Spaces (sq. ft. indicates square feet of gross floor area) (Cont'd)	
in addition to...	***...for every...***
2 spaces	classroom in elementary and middle schools or high schools with a gym or auditorium
1 space	4 students for which a high school without an auditorium or gym is designed
1 space	20 students for which a high school with an auditorium or gym is designed
1 space	4 students for which a community college, business, vocational, trade, or other commuter-based school is designed
1 space	2 on-campus residents of a resident-student based college or university
1 space	100 sq. ft. of recreational area at a swimming pool or skating rink 20 spaces field or court at a sports facility
1 space	3 patient beds at a hospital or nursing home
1 space	200 sq. ft. in a personal service business, beauty or barber shop, or dry cleaners 5 spaces per lane at a bowling alley
1 space	5,000 sq. ft. at a self-storage facility
1 space	for every 5 hangar or tie-down spaces at an airport or heliport

(D) *These parking standards apply to the following districts: R1, R2, R3, R4, MH, PB, B1, B2, TC, LI and HI.*

(1) No vehicle, including recreational and commercial vehicles, shall be parked, stored, or allowed to remain on a lot or parcel of land that does not contain a principal structure.

(2) Vehicles or trailers of any type without current license plates and registration or in an inoperable condition shall be prohibited other than in completely enclosed buildings or associated with permitted junk yards or auto-repair facilities. Such vehicles associated with permitted junk yards or auto-repair facilities must be stored consistent with the following requirements:

(a) All such vehicles, including antique vehicles, shall be stored within the rear or side yard. In no case shall such vehicles be stored in any right-of-way, front yard, or required setback area.

(b) All storage areas for such vehicles shall be completely enclosed with a six-foot tall, 100% opaque wood, stone, or masonry fence. Gates allowing access to the storage areas are permitted, shall be closed when not in use, and shall consist of six-foot tall, 100% opaque wooden doors.

(3) No vehicle or tractor-trailer of any type may be used predominantly for the purpose of personal storage.

(E) *These parking standards apply to the following districts: R1, R2, R3, and R4.*

(1) Outdoor storage of recreational vehicles, trailers, boats, and similar vehicles shall not be permitted on public streets and rights-of-way. Such vehicles shall not be permitted on private property unless all of the following conditions are met:

(a) Each vehicle shall either be placed within an enclosed building or behind the front setback of the zoning district and no closer than three feet to any side or rear lot line on an improved parking surface; and

(b) The owner of each vehicle so parked or stored shall inhabit, as their primary residence, a permitted dwelling unit located upon said lot; and

(c) During the time each vehicle is parked or stored such vehicle shall bear a current Indiana license plate, shall remain unoccupied for any fixed purpose and shall not be connected to any sanitary sewer facilities.

(2) Recreational vehicles, trailers, boats, and similar vehicles shall be permitted to be parked in front of the front building setback on an improved parking surface between the period from April 15 to October 31 of each calendar year, provided such vehicle does not infringe upon any dedicated right-of-way, parkway, sidewalk, or visual site line.

(F) *These parking standards apply to the following districts: R1, R2, R3, R4, MH and TC.* Trucks over 11,000 pounds gross vehicle weight, tractor-trailers, semi-tractors, and buses shall not be permitted to park or store such vehicle on any public street, public right-of-way, or private property, except for the purpose of loading and unloading of such vehicle. Buses owned or leased, and operated by, a church or place of worship, or public or private school, and used solely for church/school related activities, are permitted to be parked on an improved parking surface directly associated with the facility.
(Ord. 2013-02, passed 3-11-13)

' 155.081 LOADING STANDARDS.

These loading standards apply to the following districts: B1, B2, LI, HI and PB. There shall be provided off-street loading berths specified in this section in connection with any building or structure which is to be erected or substantially altered, and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles.

(A) *Location.* All required off-street loading berths shall be located on the same lot as the use to be served, and no portion of the vehicle shall project into a street, alley, or other public right-of-way. No permitted or required loading berth shall be located within 50 feet of the nearest point of intersection of any two streets.

(B) *Size.* Off-street loading berths for over-the-road tractor-trailers shall be 14 feet in width and 120 feet in length including the apron. For local pick-up and delivery trucks, off-street loading berths shall be at least 12 feet in width and 60 feet in length including the apron. All loading spaces shall be provided with a vertical clearance of not less than 15 feet.

(C) *Access.* Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in a manner which will not interfere with traffic movements. There shall be no maneuvering within the right-of-way. In no case shall a loading berth be located in such a manner as to require loading/unloading vehicles to back into a public right-of-way.

(D) *Surfacing.* All open off-street loading berths shall be improved with a compacted base of asphalt or concrete.

(E) *Space allowed.* Space allowed to any off-street loading berth shall not be used to satisfy the space requirements of any off-street parking spaces or portions thereof.

(F) *Landscaping.* The paved surface of all loading areas shall be considered as part of the parking lot and shall be factored into calculations for required landscaping as specified by ' 155.091.

(G) *Berths required.* Off-street loading berths shall be required based on the following table:

Loading Berth Requirements	
Gross Floor Area	***Berths Required***
Up to 40,000 sq. ft.	1
40,000 to 80,000 sq. ft.	2
80,000 to 120,000 sq. ft.	3
120,000 to 160,000 sq. ft.	4
Greater than 160,000 sq. ft.	1 additional berth for every 80,000 sq. ft. of floor area

(Ord. 2013-02, passed 3-11-13)

' 155.082 ENTRANCE/DRIVE STANDARDS.

(A) *The entrance/drive standards apply to the following districts: AG, R1, R2, R3, R4, MH, PB, B1, B2, TC, LI and HI.* The intent of entrance and drive standards is to provide for a safe and efficient vehicular and pedestrian transportation system. All classification of roads shall be based on the applicable Lowell Thoroughfare Plan.

(1) The location of drives on or near curves and changes in grade shall be investigated individually by the town and evaluated for their sight distance and the design speed of the roadway or the posted speed limit, whichever is greater. The town may specify entrance and drive locations based on this investigation.

(a) No entrance or drive shall be permitted within:

1. 140 feet of the apex of a curve (30 degrees or greater) where the road is an arterial;

2. 120 feet of the apex of a curve (30 degrees or greater) where the road is a collector;

3. 70 feet of the apex of a curve (30 degrees or greater) where the road is a local toad.

(b) No entrance or drive shall be permitted: Within a minimum of 225 feet from the crest of a hill where the slope on either side of the crest is 6% or greater, ad the speed limit is 45 mph or less; or where the visibility to or from the desired location is determined to be otherwise impaired by the Planning Director.

(c) Curb cuts and drives are permitted within 30 feet of the crest of a hill unless the Planning Director determines the visibility to be impaired.

(2) No entrance or drive shall exceed the following pavement widths for two-way traffic (if one way, the measurements shall be one-half of the below measurements):

(a) 30 feet if from a non-residential or multi-family residential zoning district;

(b) 24 feet if from a single-family residential zoning district onto any type of street;

(c) To be determined by the Planning Director in cases where non-residential entrance drives involve more than two lanes.

(3) The Plan Commission may determine that the following are necessary:

(a) An acceleration or deceleration lane; or

(b) A passing blister at a new entrance or drive.

(B) *The entrance/drive standards apply to the following districts: B1, B2, LI, HI and PB.* No entrance or drive shall be permitted to begin within:

(1) 200 feet of any intersecting road for parcels having frontage of 300 feet or more;

(2) 150 feet of any intersecting road for parcels having frontage of 200 feet or more;

(3) 50 feet of any intersecting road for parcels having frontage of 100 feet or more. (The distances for the above standards shall be determined by measuring from the right-of-way line to the curb or edge of pavement (whichever is less) of the entrance or drive.)

(4) No two entrances or drives shall be within 100 feet of any intersecting road.
(Ord. 2013-02, passed 3-11-13)

' 155.083 SIGHT VISIBILITY STANDARDS.

The sight visibility standards apply to the following districts: AG, R1, R2, R3, R4, MH, PB, B1, B2, TC, LI and HI. The intent of sight visibility standards is to provide for a safe vehicular and pedestrian transportation system. The visibility at intersections, driveways, curb cuts, and entrances are particularly important for the safe movement of vehicles and pedestrians.

(A) All intersections must maintain an area (sight visibility triangle) where primary or accessory structures, trees, vegetation (other than agriculture crops), or signs (other than road signs) are not allowed to be placed or to project between a height of three and eight feet measured from the nearest top-of-curb (or edge of pavement where curbs are not present).

The sight visibility triangle is illustrated below.

(B) The sight visibility triangle shall be established by connecting points located along the intersecting rights-of-way at the distances from the point of intersection required by the table below.

Sight Visibility Triangle Requirements	
Road Type	***A and B: Segment Length***
Arterial	35 ft.
Collector	30 ft.
Local road	15 ft.
Private entrance or drive	10 ft.

(Ord. 2013-02, passed 3-11-13)

' 155.084 HOME OCCUPATION STANDARDS.

The home occupation standards apply to the following districts: AG, R1, R2, R3, R4 and MH. Home occupations shall be allowed as either permitted uses or special uses consistent with the provisions of " 155.030 through 155.043. The allowed home occupations are classified as either a type I home occupation or a type II home occupation as defined below.

(A) *Type I home occupations.* Type I home occupations are those which meet the following standards which permit minimal business practices in certain residential zoning districts while maintaining residential character. Type I home occupations shall be permitted uses, consistent with the accessory use and structure standards of this subchapter and the provisions of " 155.030 through 155.043.

(1) The home occupation must not involve the employment of any person other than those residing at the location of the home occupation.

(2) At least one person residing on the premises must be the primary operator of the home occupation.

(3) The home occupation must not involve any exterior storage or display of products, equipment or materials.

(4) The home occupation must not make any use of accessory structures, including attached and detached garages.

(5) The home occupation must utilize no more than 25% of the total floor area of the primary structure.

(6) The home occupation must not require any exterior, structural or aesthetic alterations to the dwelling unit that change the residential character of the dwelling unit.

(7) The home occupation must not require any additional entrances to the dwelling unit.

(8) The home occupation must not require an identification sign exceeding two square feet attached to the primary structure. No off-site signs or signs in the yard of the property shall be permitted.

(9) The home occupation must not require increasing or enhancing the size, capacity, or flow of the water, gas, septic, sewer, or electrical system beyond what is standard for a residence.

(10) The home occupation must not involve clients, associates, or persons visiting, shopping, meeting, or otherwise doing business at the location of the home occupation, and therefore not require the addition of any off-street parking spaces.

(11) The home occupation must not require the use of commercial vehicles for pickup and deliveries other than from the U.S. Postal Service, UPS, and other express couriers.

(B) *Type II home occupations.* Type II home occupations are those which meet the following standards which permit reasonable business practices in certain residential and agricultural zoning districts while maintaining residential and rural character and the viability of farming operations. Type II home occupations shall be special uses, consistent with the accessory use and structure standards of this subchapter and the provisions of " 155.030 through 155.043.

(1) The home occupation must not involve retail sales or manufacturing operations, but may include professional and personal services, or auto, furniture, and appliance repair.

(2) The home occupation must not involve the employment of any more than one person who does not reside at the location of the home occupation.

(3) At least one member residing on the premises must be the primary operator of the business.

(4) The home occupation must not require any exterior storage or display of equipment or materials, including vehicles (operable or inoperable), equipment, or appliances being serviced by the home occupation.

(5) No more than 40% of the total floor area of any level of the primary structure shall be used for the home occupation. However business practices in accessory structures are permitted.

(6) The home occupation shall not require any exterior structural or aesthetic alterations to the dwelling unit that change the residential character of the dwelling unit.

(7) The home occupation must not require an identification sign exceeding two square feet attached to the primary structure. No off-site signs or signs in the yard of the property shall be permitted.

(8) The home occupation must not require increasing or enhancing the size, capacity, or flow of the water, gas, septic, sewer, or electrical system beyond what is standard for a residence.

(9) The home occupation must not require the use of commercial vehicles for pickup and deliveries other than from the U.S. Postal Service, UPS, and other express couriers.

(C) *Nuisances.* Home occupations which comply with the requirements of this section but are deemed by the Planning Director to be a nuisance or distract from the residential character of the area by excessive traffic, noise, vibration, electrical interference, odors, light smoke, fumes, or other offensive characteristics shall be prohibited.

(D) *Interpretation.* The Planning Director shall determine to what extent any proposed or existing home occupation is consistent with the requirements of this section.
(Ord. 2013-02, passed 3-11-13)

' 155.085 ADULT-ORIENTED USES STANDARDS.

These adult-oriented use standards apply to the following districts: AG, R1, R2. R3, R4, MH, PB, B1, B2, TC, LI and HI.

(A) *Prohibitions.* The establishment, enlargement, reconstruction or structural alteration of any adult-oriented business shall be prohibited if such business is within:

(1) 1,320 feet of any church/place of worship, public or private preschool, elementary or secondary school or day care, or public park;

(2) 1,320 feet of any residential or manufactured housing zoning district.

(B) *Exclusion.* No adult business shall be established, enlarged, reconstructed, resumed, or structurally altered unless the site or proposed site is located in the Light Industrial (LI) zoning district. An adult-oriented business shall be specifically excluded from all other zoning districts.

(C) *Proximity.* The distance between an adult business and any place of worship, school, park, day care center, residential zoning district, or manufactured housing zoning district shall be measured in a straight line from the closest exterior structural wall of the adult business to the nearest property line of the church/place of worship, day care center, school, park, or residential zoning district. If any adult business is part of or included within a retail complex/center, the portion of such center or leased space occupied by such adult business shall be included in determining the closest exterior structural wall of such establishment.

(D) *Exterior display.* No adult business shall be conducted in any manner that permits the observation of any material depicting, describing, or relating to sexual activities or sexual anatomical areas by display, decorations, sign, window or other building opening from any public way.
(Ord. 2013-02, passed 3-11-13)

' 155.086 TELECOMMUNICATION FACILITY STANDARDS.

(A) *These telecommunication facility standards apply to the following districts: AG, R1, R2. R3, R4, MH, PB, B1, B2, TC, LI and HI.* The purpose of this section is to allow for the provision of adequate reliable public and private telecommunication service and to maximize the use of any transmission tower and tower site in order to reduce the total number of towers and

locations needed to serve the telecommunications needs of the area; to minimize adverse, undesirable visual effects of towers through careful design, siting, and vegetative screening. All wireless telecommunication facilities shall meet the following provisions:

(1) *Required approvals.* The placement of telecommunications facilities shall meet the following approval requirements as detailed in this section:

(a) The installation of new antenna on existing towers, including legal non-conforming towers, and existing alternative structures (such as water towers, buildings, or church steeples) may be approved by the Planning Director subject to conformance with all applicable requirements of this chapter.

(b) The installation of new accessory structures to support the installation of antenna on existing towers or alternative structures may be approved by the Planning Director subject to conformance with the applicable requirements of this chapter.

(c) The installation of new towers shall be approved either by the Planning Director as a permitted use or by the Board of Zoning Appeals as a special use consistent with the provisions of this section.

(2) *Determination of tower need.* Any proposal for a new telecommunications tower shall only be approved if the applicant submits verification that the antennas planned for the proposed tower cannot be accommodated on any existing or approved towers or structures within a three-mile radius of the proposed tower location due to one or more of the following reasons:

(a) The antennas would exceed the structural capacity of the existing or approved tower or structure as documented by a qualified and licensed professional engineer, and the existing or approved tower, building or structure cannot be reinforced, modified, or replaced to accommodate the antennas at a reasonable cost.

(b) The antennas would cause interference impacting the usability of other existing or planned equipment at the tower site. Supportive documentation by a qualified and licensed professional engineer indicating that the interference cannot be prevented at a reasonable cost must be provided.

(c) The existing or approved towers or structures within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.

(d) Other unforeseen reasons make it unfeasible or impossible to locate the planned telecommunications equipment upon an existing or approved tower or structure as certified and documented by a qualified and licensed professional engineer.

(e) The owner or operator of the antenna is unable to enter a commonly reasonable lease term with the existing tower owner or land owner.

(f) Additional land area is not available.

(3) *Design requirements.* All telecommunications facilities shall meet the following design requirements:

(a) Towers and antennas should generally be designed to blend into the surrounding environment through the use of color, camouflaging and architectural treatment, except in an instance where the color is dictated by federal or state authorities such as the Federal Aviation Administration.

(b) Wireless telecommunication service towers less than 131 feet tall should generally be of a monopole design and, when located within or adjacent

to an environmentally, aesthetically sensitive area or a residential district, designed in such a way as to architecturally camouflage the wireless telecommunication service tower as much as reasonably practical to blend into the surroundings.

(c) The use of contextually compatible materials such as wood, brick, or stucco is required for associated support structures, which shall be designed to architecturally match the exterior of any adjacent residential or commercial structures within the neighborhood or area. Only if the facility will be 100% screened, as determined by the Planning Director, during all seasons may other materials be used.

(d) Only when lighting is for safety or security reasons or required by the Federal Aviation Administration or other federal or state authority will it be permitted. All ground level security lighting shall be oriented inward so as not to project onto surrounding properties, and shall have 90 degree cut-off luminaries (shielded downlighting).

(e) Any proposed telecommunication tower shall be designed, and engineered structurally, electrically and in all other respects to accommodate both the applicant's equipment and at least one additional user for every 50 feet in total tower height in excess of 75 feet.

1. Each additional user shall be assumed to have an antenna loading equal to that of the initial user.

2. Towers must be designed to allow for future rearrangement of antennas upon the tower and accept antennas mounted at varying heights.

(f) No tower, including an attached antenna, shall exceed 199 feet in height. No accessory structure shall exceed 15 feet in height.

(4) *Site requirements.* All telecommunications facilities shall meet the following site requirements:

(a) All telecommunications facilities shall be fully automated and unattended on a daily basis, and shall be visited only for periodic maintenance and emergencies.

(b) Vehicular access to the tower and equipment building shall, whenever feasible, be provided along existing driveways.

(c) The lot where the tower is located (or lease area) shall be large enough to accommodate all future anticipated accessory structures needed by future antenna users. The size of the site shall also be of sufficient area to allow the location of two additional towers and associated support facilities. At a minimum, the width and depth of the tower site shall be 50 feet greater than a distance equal to the tower height.

(d) No part of any wireless telecommunications facility nor any lines, cables, equipment or wires or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk, or property line.

(e) An eight-foot high security fence shall completely surround the tower and equipment building site. An area ten feet in width may remain outside of the fence for the purpose of providing the landscape screening described in division (4)(f) below.

(f) Evergreen buffer plantings shall be located around the outermost perimeter of the security fence of all wireless telecommunications facilities, including any guy wires and anchors.

1. If evergreen hedges are used they shall be a minimum of five feet tall at the time of planting and planted a maximum of three feet on center.

2. If evergreen trees are used they shall be a minimum of six feet tall at the time of planting and planted a maximum of ten feet on center.

3. Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.

(5) *Construction requirements.* All antennas, tower and accessory structures constructed within the town jurisdiction, shall comply with the following construction requirements:

(a) All applicable provisions of the Building Code of the State of Indiana and the Federal Communications Commission.

(b) Towers shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Indiana Building Code.

(c) Towers and antennas shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.

(d) Towers shall be constructed to conform with the requirements of Occupational Safety and Health Administration.

(e) An engineer's certification shall be submitted to document and verify the design specifications including but not limited to, the foundation for the tower, anchors for the guy wires if used, co-location, and strength requirements for natural forces; ice, wind, earth movements, etc.

(f) All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower, antenna and a structure, or between towers, shall be at least ten feet above the ground at all points, unless buried underground.

(g) Towers and antennas shall be designed and constructed, at a minimum, to withstand wind gusts of at least 80 miles per hour with one-half inch of ice, also accommodating any co-location requirements.

(6) *Existing facilities.* The following shall apply to existing antennas and towers:

(a) Existing towers may continue in use for their current purpose but may not be replaced or structurally altered without complying in all respects to the requirements in this chapter.

(b) Any request submitted to the Plan Commission to install an antenna to be located on an existing approved or grandfathered tower will only require an improvement location permit and a copy of the contract between the applicant company and the owner of the tower.

(c) If such towers are damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former location, and physical dimensions upon obtaining an improvement location permit. However, if the cost of repairing the tower to the former use, physical dimensions, and location would be 10% more than the cost of a new tower of like kind and quality, then the tower may not be repaired or restored except in full compliance with all requirements in this chapter.

(7) *Inspection.* All towers may be inspected periodically by an official of the town and/or a qualified and licensed engineer to determine compliance with the original construction standards. Deviation from original construction for which a permit is obtained constitutes a violation of this chapter.

(8) *Removal.* Any tower unused or left abandoned for 12 consecutive months shall be removed by the tower owner at its expense. At the time an improvement location permit is received for the construction of any tower or antenna, both the property owner and tower owner shall provide a bond meeting the requirements of the town in an amount and duration necessary to ensure the tower's and/or antenna's removal.

(B) *These telecommunication facility standards apply to the following districts: PB, B1 and B2.* Wireless telecommunications facilities shall require approval as a special use from the Board of Zoning Appeals and shall meet all the following requirements in addition to the general requirements and all other applicable provisions of this chapter:

(1) The minimum side and rear property setbacks shall be equal to 80% of the height of the tower. Towers shall not be permitted in any required front yard.

(2) The maximum height of the tower shall be 150 feet. The maximum height of any accessory structure shall be 15 feet.

(3) The tower shall be placed no closer than 500 feet to any residentially zoned or used property.

(C) *These telecommunication facility standards apply to the following districts: LI and HI.* Wireless telecommunications facilities shall be permitted provided that they meet all the following requirements in addition to the general requirements and all other applicable provisions of this chapter:

(1) The minimum setback from the side and rear property line shall be equal to 50% of the height of the tower. Towers shall not be permitted in any required front yard.

(2) The maximum height of the tower shall be 199 feet. The maximum height of any accessory structure shall be 15 feet.

(3) The tower shall be placed no closer than 500 feet to any residentially zoned or used property.
(Ord. 2013-02, passed 3-11-13)

' 155.087 MOBILE/MANUFACTURED HOME STANDARDS.

(A) *These mobile/manufactured home standards apply to the following districts: AG, R1, R2, R3, R4 and MH.* Mobile and manufactured homes shall be permitted as described in the Land Use Matrix in ' 155.043.

(B) *These mobile/manufactured home standards apply to the following districts: AG, R1, R2, R3, R4 and MH.*

(1) All homes sites shall be provided with a stand consisting of either a solid concrete slab or two concrete ribbons of a thickness and size adequate to support the maximum anticipated loads during all seasons.

(a) When concrete ribbons are used, the area between the ribbons shall be filled with a layer of crushed rock.

(b) Each stand shall be provided with an anchoring for each corner of the mobile home able to sustain a minimum tensile strength of 2,800 pounds.

(2) Foundation skirting shall be provided around each home completely enclosing the undercarriage. All hitches, wheels, and other attachments to the home used to aid in transportation shall be removed or concealed beneath the skirting.

(3) Each home shall be provided with an enclosed, waterproof storage space either as an accessory structure on each home site, behind the skirting, or at a central storage facility.

(4) Common concrete sidewalks at least four feet in width shall be provided adjacent to all interior drives and around all recreational and accessory use areas. Concrete sidewalks at least four feet in width shall be provided from the front door of each manufactured home to the common sidewalks adjoining the interior drives.

(C) *These mobile/manufactured home standards apply to the following districts: AG, R1, R2, R3, R4 and MH.*

(1) Each new development of ten or more mobile home sites shall be provided with properly ventilated and constructed storm shelters located at a central location. Where storm shelters are required, space shall be provided at a minimum rate of 18 square feet for each new dwelling unit, or manufactured home space. Storm shelters shall be built in accordance with applicable local and state building codes.

(2) In the case where an existing mobile home park is expanded so that the new total mobile home sites in the development is ten or more, a storm shelter must be constructed according to this code to accommodate the new total number of sites in the development.
(Ord. 2013-02, passed 3-11-13)

' 155.088 PUBLIC IMPROVEMENT STANDARDS.

These public improvement standards apply in the following districts: AG, R1, R2, R3, R4, MH, PB, B1, B2, TC, LI and HI.

(A) *General requirements.* Developments are permitted only if the public streets, drainage facilities, and utilities are adequate to serve the proposed development.

(1) The Plan Commission, based on the recommendations of the Town Engineer and Planning Director, shall make determinations as to needed street, utility, and drainage improvements.

(2) All public improvements must be constructed to comply with all applicable standards included in this chapter, the Subdivision Control Code, being " 155.190 et seq. and any other adopted construction standards of the town.

(B) *Sidewalks.* All developments shall be required to install public sidewalks along any public streets within and adjacent to the development.

(1) All sidewalks shall be constructed in the right-of-way or in a sidewalk easement adjacent to the right-of-way.

(2) Sidewalks shall be separated from the back of curb of the adjacent road by a planting strip which is a minimum of ten feet in width along arterial and local roads. Generally, the back of the sidewalk shall not be located less than one foot inside of the right-of-way line for the adjacent road.

(3) Sidewalks shall be a minimum of five feet in width and constructed of concrete consistent with all applicable town construction standards.

(C) *Internal pedestrian ways.* All developments shall be required to install designated walks or paths providing for pedestrian and bicycle movement between public sidewalks and the structures on the site.

(1) These designated walks shall be a minimum of five feet in width and include an improved surface of concrete.

(2) Designated walks shall be separated by grade or distance from entrance drives and internal traffic aisles and drives.

(D) *Street dedications.* All developments shall be required to dedicate right-of-way consistent with the classifications of the town Thoroughfare Plan for all existing and proposed roads transecting or adjacent to the property being developed.

(E) *Street construction.* The owners of new development shall install the portion of new roads proposed by the adopted Thoroughfare Plan transecting or adjacent to a property being developed if either of the following conditions are present:

(1) The development has direct access to the road proposed by the Thoroughfare Plan; or

(2) The road proposed by the Thoroughfare Plan will provide previously unavailable access to other properties controlled by the owner of the new development.

(F) *Street trees.* All developments shall be required to provide street trees within the right-of-way.

(1) One street tree shall be planted for every 40 feet of road frontage.

(2) All street trees shall be a minimum of two and one half inch caliper as measured consistent with the American Nursery Standards Institute (ANSI) at the time of planting and shall be of a species listed as an approved street tree in the Subdivision Control Code, '' 155.190 et seq.

(3) No tree may be planted so that its center is closer than two feet to a sidewalk or curb, or edge of pavement if no curbs are present. No tree shall be planted within 25 feet of the intersection of two street rights-of-way, or within ten feet of the intersection of a street and an entrance driveway. No tree shall be planted within ten feet of any fire hydrant or five lateral feet of any underground utility service.

(G) *Public utilities.* All new developments shall be required to connect to public sanitary sewer, water, and stormwater drainage systems as specified by '' 155.030 through 155.043.

(1) Stormwater drainage systems in developments shall not result in any additional run-off being transferred to adjacent properties other than through proper easements established for that purpose.

(2) The size of all water and sewer mains shall be large enough not only to serve the areas under immediate consideration, but also to serve areas which are likely to be developed and which should be served by the extensions under consideration.

(3) Fire hydrants and other firefighting infrastructure shall be installed consistent with the requirements of the appropriate fire district.

(H) *Easements.* No structure, with the exception of fences, may be located in, or otherwise obstruct any easement. Fences shall be permitted within easements subject to the receipt of written permission from the easement holder. Approval of the Planning Director shall be required for all fences proposed for placement in easements which are held by the town.

(I) *Dry fire hydrants.* In locations where fire hydrants served by a public water system cannot be provided, dry hydrants shall be provided in all lakes and stormwater retention and detention ponds subject to the specifications of the appropriate local fire department. (Ord. 2013-02, passed 3-11-13; Am. Ord. 2015-24, passed 9-14-15)

' 155.089 TEMPORARY USE/STRUCTURE STANDARDS.

These temporary use/structure standards apply in the following districts: AG, R1, R2, R3, R4, MH, PB, B1, B2, TC, LI and HI.

(A) Temporary structures are permitted for up to one year with approval of the Board of Zoning Appeals in any zoning district provided that the use is a permitted use in that zoning district.

(B) Portable, temporary storage units are permitted in a residential district for up to seven days at a time, and up to 30 days total per calendar year, without obtaining approval from the Board of Zoning Appeals.

(C) Temporary structures must meet all development standards for a permanent structure unless otherwise specified in this section.

(D) Temporary uses and/or structures which seek extensions of the initial time limits established for that use or structure in this section shall be subject to the approval of the Board of Zoning Appeals. An

unlimited number of one- year extensions of time may be granted for a temporary use or structure by the Board of Zoning Appeals. The Board may impose reasonable conditions as part of its approval.

(E) No extensions of the time limits described in this section shall be considered for any temporary use or structure that violates any conditions listed in this section or any other provision of this chapter.

(F) All temporary structures or uses shall require a permit unless otherwise specified in this subchapter. No temporary use or structure, or the signage, lighting, landscaping, or parking areas for such facilities shall be constructed, placed upon a site, or altered prior to all necessary permits being obtained.

(G) All temporary uses or structures must be removed and the original site reverted to its original condition within the duration of the permit.

(H) Temporary uses and structures which represent a public nuisance in the opinion of the Planning Director shall be removed from the property.

(I) A nuisance temporary use/structure shall include, but not be limited to, one which creates road congestion or prevents adequate access by fire trucks and other emergency vehicles, or disrupts the residential character of neighborhood with excessive outdoor lighting or sound.

(J) Permitted construction trailers may be established on the site of construction no more than three weeks prior to the start of construction and shall be removed within three weeks after issuance of a certificate of occupancy for the last primary structure. (Ord. 2013-02, passed 3-11-13)

' 155.090 FENCE AND WALL STANDARDS.

(A) *These fence and wall standards apply to the following districts: AG, R1, R2, R3, R4, MH, PB, B1, B2, TC, LI and HI.*

(1) Fences and walls shall be permitted in all zoning districts with a permit subject to conformance with the following requirements:

(a) All fences and walls shall present the non-structural face outward.

(b) All fences and walls may be permitted up to any property line that is not also a right-of-way line.

(c) All fences and walls shall be setback a minimum of two feet from all adjacent rights-of-way.

(d) No fence or wall may be placed in any right-of-way or any required sight visibility triangle.

(e) No fence or wall may be placed in any drainage, utility, sidewalk, landscaping, access or other easement without written permission from the easement holder.

(f) No fence or wall may be placed in any required buffer zone that does not specifically provide for the inclusion of fences.

(2) Fences specifically required by this chapter for screening, swimming pools, telecommunications facilities, or other purposes may exceed the maximum heights established by this section in a manner consistent with the specific requirements of this chapter.

(3) The height of a fence shall be determined by measuring from the highest grade to the highest point of the fence, including any posts or finials.

(B) *These fence and wall standards apply to the following districts: R1, R2, R3, R4, MH, PB, B1, B2, TC, LI and HI.* Fences and walls shall not exceed six feet in height in any side or rear yard and shall not exceed three feet in any front yard. For the purposes of this requirement, the front yard shall be defined as all areas located between any adjacent streets and the walls of the primary structure which face them.

(Ord. 2013-02, passed 3-11-13; Am. Ord. 2015-17, passed 8-24-15)

' 155.091 LANDSCAPING STANDARDS.

(A) *These landscaping standards apply to the following districts: R1, R2, R3, R4, MH, PB, B1, B2, TC, LI and HI.* Landscaping is an essential part of the design and development of a site. Such plantings are a benefit to the general welfare of the community through the reduction of storm water runoff, glare, and heat buildup, and improved aesthetics of the community.

Site Interior Planting Requirements

For lots with the following land use ...	...and this number of...	...this planting type...	...shall be required for every...
Single-family residential (including mobile homes in mobile home parks)	1	Deciduous tree	1 dwelling unit
	1	Needled evergreen tree	1 dwelling unit
	1	Foundation planting	20' of perimeter
Multiple family residential	1	Deciduous tree	2 dwelling units
	1	Needled evergreen tree	2 dwelling units
	1	Ornamental tree	4 dwelling units
	1	Foundation planting	10' of perimeter
Commercial	1	Deciduous tree	1,000 sq. ft. of ground floor area
	1	Needled evergreen tree	1,000 sq. ft. of ground floor area
	1	Ornamental tree	1,000 sq. ft. of ground floor area
	1	Foundation planting	20' of perimeter
Institutional	1	Deciduous tree	1,000 sq. ft. of ground floor area
	1	Needled evergreen tree	1,000 sq. ft. of ground floor area
	1	Ornamental tree	1,000 sq. ft. of ground floor area
	1	Foundation planting	10' of perimeter
Industrial	1	Deciduous tree	3,000 sq. ft. of ground floor area
	1	Needled evergreen tree	3,000 sq. ft. of ground floor area
	1	Ornamental tree	3,000 sq. ft. of ground floor area
	1	Foundation planting	30' of perimeter

(1) *Planting standards.* Under no circumstances shall any artificial plant be installed and/or counted as part of the required plantings. All plant materials shall be living plants and shall meet the following requirements:

(a) In no instance shall any landscaping required by this section, or by any other section of this chapter be used to meet the requirements of a different chapter section. In all cases the landscaping required by any section of this chapter shall be considered as being in addition to any other requirements.

(b) Any existing vegetation on site which is retained may be counted towards the minimum landscaping requirements.

(c) All new trees required to be planted by this chapter shall be measured consistent with the American Nursery Standards Institute (ANSI).

1. All deciduous trees shall be two and one half inches in diameter at the time of planting measured at six inches above the root ball.

2. All evergreen trees shall be six feet in height at the time of planting measured from the base of the root ball.

3. All shrubs shall be 12 inches in height at the time of planting measured from ground level.

4. No landscaping materials, vegetation, plants, shrubs, trees, retaining walls, bedding, lighting, or mounds may extend into any existing or proposed right-of-way or easement without written permission from the agency that established the right-of-way or easement.

(2) *Design standards.* All proposed landscape materials should complement the form of the existing trees and plantings. Light water, soil quantity and quality, and on-going maintenance requirements should be considered in selecting plant materials.

(3) *Maintenance requirements.* Trees, vegetation, irrigation systems, fences, walls and other landscape elements are considered elements of a project in the same manner as parking and other site details. The owner of the property shall be responsible for the continuous proper maintenance of all landscaping materials, and shall keep them in a proper, neat and orderly appearance, free from refuse and debris and in good repair at all times.

(a) All unhealthy or dead plant material shall be replaced by the next planting period. Other defective landscape material shall be replaced or repaired within three months.

(b) Landscape materials are intended to grow, spread and mature over time. Landscaping materials used to fulfill requirements of this section may not be pruned, topped or otherwise treated so as to reduce overall height or level of screening. Pruning, limbing-up topping, and other inhibiting measures including removal may only be practiced to insure the public safety, to maintain a neat and attractive appearance and to preserve the relative health of the material involved.

(4) *Interior planting requirements.* Landscaping shall be required on each lot based on the use of that lot as defined in the table above. Where a lot is occupied by a combination of land uses listed below, only plantings consistent with the requirements for the land use that would result in the most landscaping is required.

(B) *These landscaping standards apply to the following districts: R3, R4, MH, PB, B1, B2, TC, LI and HI.*

(1) *Parking lot landscaping.* In addition to the interior planting requirements, landscaping on the perimeter and in the interior of parking lots shall be provided.

(2) *Perimeter screening.* All parking lots, including parking spaces, interior drives, and loading/ unloading areas, must be screened on each side adjoining any residentially zoned or used property.

(a) The screening must be placed within five feet of the parking area, and shall consist of either evergreen trees, or a combination of an earthen berm, shrubs, and evergreen trees.

(b) All evergreen trees and shrubs must meet the planting requirements provided by this section.

(c) All screening shall provide a barrier at least four feet in height at the time of installation.

(3) *Interior planting.* To help reduce excessive heat build-up and emissions from large areas of hard surfacing, landscape areas must be provided within parking lots.

(a) Landscape islands with a surface area equal to 8% of the area of the parking lots (including all parking spaces, interior drives, loading docks, drop-off/pick-up lanes, and access drives beyond the right-of-way) shall be provided in all parking lots with more than 15 parking spaces.

(b) The required landscape areas shall meet the following requirements:

1. All required landscaped areas shall consist of curbed islands or peninsulas which are surrounded on at least two sides by pavement. Landscaping on the perimeter of the parking lot shall not be counted toward this requirement.

2. All landscape islands must be a minimum of 150 square feet in area.

3. No individual landscape area shall be larger than 350 square feet in size in a parking lot that is less than 30,000 square feet, and no individual area shall be larger than 1,500 square feet in a parking lot that exceeds 30,000 square feet.

4. One deciduous tree and two shrubs shall be provided within the landscape islands for every 150 square feet of interior landscape area required.

(4) *Design requirements.* Landscaping provided at the perimeter of, and interior to parking areas shall meet the following design requirements:

(a) Parked vehicles may hang over the interior landscaped area up to two and one half feet, and wheel stops shall be provided to insure no greater overhang or penetration of the landscaped area.

(b) All areas not landscaped with hedges, walls, or trees shall be provided with grass or other acceptable ground cover.
(Ord. 2013-02, passed 3-11-13)

' 155.092 LARGE SCALE RETAIL STANDARDS.

These large scale retail standards apply to the following districts: PB, B1 and B2. This section shall apply to all retail development which includes one or more structures which individually exceed 25,000 square feet in gross floor area. The purpose of these standards is to provide additional design criteria for large scale retail facilities to ensure safe and efficient vehicle and pedestrian circulation, and protect the general welfare of the community by ensuring that such facilities are consistent in design with, and complimentary to, adjacent land uses and the physical characteristics of the town.

(A) *Architectural design standards.* The architectural design of the structure shall meet the following requirements:

(1) *Facades and exterior walls.* Facades and exterior walls shall generally be articulated to visually reduce the scale of the building and provide visual interest.

(a) All buildings shall be designed with a minimum of eight external corners.

(b) All front facades between external corners which equal or exceed 200 feet in length shall incorporate wall plane projections or recesses along at least 20% of the their length. All such wall plane projections or recesses should have a depth equal to at least 3% of the length of the facade.

(c) All facades which face a public street shall have arcades, display windows, entry areas, or awnings at the ground floor along a minimum of 60% of their horizontal length at the ground floor.

(d) Building penthouses shall be incorporated into the building facade design and make use of exterior materials consistent with the facades.

(2) *Tenant spaces.* When smaller, tenant spaces are located within a structure that exceeds 25,000 square feet in gross floor area, such spaces shall meet the following requirements when located along the front facade of the building:

(a) Each such space may have a customer entrance which is separate from the main entrance(s) of the structure.

(b) The ground level facade of each such store located along the front facade shall be transparent between the height of three and eight feet above the exterior grade level for a minimum of 60% of the horizontal length of the front building facade occupied by each.

(3) *Roofs.* All roof-top equipment, such as HVAC units, shall be screened from public view on all sides by parapets, dormers or other screens. The material of all structures used to screen roof-top equipment shall be consistent with the exterior materials used on the facade of the structure. Roofs shall also meet the following requirements:

(a) Flat roofs shall feature parapets concealing roof-top equipment. The parapets shall not exceed an average height equal to 15% of the height of the supporting wall, and shall not at any point exceed a height equal to 30% of the supporting wall.

(b) Sloped roofs shall feature a roof plane change, gable, or dormer for every 100 feet of horizontal length.

1. Sloped roof exterior material shall either be standing seam metal or dimensional shingles.

2. Sloped roofs shall include overhanging eaves which extend a minimum of three feet beyond the supporting walls.

3. Sloped roofs shall not be sloped less than 15 degrees nor greater than 45 degrees.

(4) *Building materials.* A minimum of three different materials shall be used for all front building exteriors. The primary front building facade materials shall consist of stone, brick, glass, ornamental metal, architectural precast (panels or detailing), or architectural metal panels. Generally smooth-faced concrete block, tilt-up concrete panels, or pre-fabricated steel panels shall not be used for the front building exterior.

(5) *Customer entrances.* All customer entrances located along the front facade, including those for smaller, tenant spaces as described above, shall be clearly defined and highly visible. The design of each entrance shall feature a combination of three or more of the following features:

(a) Canopies and porticos;

(b) Overhangs;

(c) Recesses or projections;

(d) Arcades;

(e) Raised, corniced parapets;

(f) Peaked roof forms;

(g) Arches;

(h) Outdoor patios;

(i) Display windows;

(j) Architectural details, such as tile work and moldings which are integrated into the building structure and design; or

(k) Fixed-in-place planters or wing walls that incorporate landscaped areas and places for sitting.

(B) *Building orientation.* The structure shall be required to face and have its main entrance located on the side of the building which faces a public street.

(1) In cases where such structures face more than one public street and the streets are of different classifications in the Thoroughfare Plan, the building shall face the street which is of the highest use classification. Main entrances may also be located on the corner of a building which faces two public streets.

(2) No loading docks, overhead service doors, or trash collection bins may be placed on, or adjacent to any facade which faces a public street.

(C) *Additional regulations.* All structures regulated by this section shall also meet the requirements of this chapter. These provisions shall apply regardless of whether or not the structure is located within or outside of the corridor overlay
zoning district. All other applicable requirements of this chapter and other adopted regulations of the town shall also apply.
(Ord. 2013-02, passed 3-11-13)

' 155.093 OUTDOOR LIGHTING STANDARDS.

These outdoor lighting standards apply to the following districts: AG, R1, R2, R3, R4, MH, PB, B1, B2, TC, LI and HI. All outdoor lighting systems in the town shall be consistent with the following minimum standards and requirements.

(A) *Purpose and intent.* The purpose of this section is to regulate the placement, orientation, distribution patterns, and fixture types of outdoor lighting. The intent is to encourage lighting that:

(1) Provides safety, utility and security;

(2) Prevents glare on public roadways;

(3) Protects the privacy of residents; and

(4) Reduces atmospheric light pollution.

(B) *Outdoor lighting compliance statement.* The applicant for any permit for work involving outdoor lighting fixtures governed by this section shall submit, as part of the site plan, evidence that the proposed work will comply with this section. This information shall contain but not be limited to the following:

(1) The location, height, make, model, lamp type, and wattage of each outdoor lighting fixture;

(2) Certification that the angle of total light cutoff is no more than 90 degrees; and

(3) Additional information the Planning Director may determine is necessary, including but not limited to luminance level profiles.

(C) *Approved materials and methods of construction, installation or operation.* The provisions of this section are not intended to prevent the use of any design, material, or methods of installation or operation not specifically prescribed by this section, provided any such alternate has been approved. The Planning Director may approve any such proposed alternative provided it:

(1) Provides at least approximate equivalent to the applicable specific requirement of this section; and

(2) Is otherwise satisfactory and complies with the purpose and intent of this section.

(D) *General requirements.*

(1) *In all zoning districts.* All outdoor lighting fixtures, including display lighting, shall be turned off after close-of-business, unless needed for safety or security, in which case the lighting shall be reduced to the minimum level necessary.

(2) *Auto/truck filling stations.* Island canopy ceiling fixtures shall be recessed.

(3) *Recreational facilities, public or private.* Lighting for outdoor recreational facilities shall be shielded according to the table at the end of this section.

(4) All light fixtures that are required to be fully shielded shall be installed and maintained so that the shielding is effective as described in the definition of a full-shielded fixture in the definitions below.

(5) A minimum of one foot-candle of light shall be provided in commercial areas where pedestrians might be present.

(E) *Special requirements.* In industrial and commercial districts, and industrial, commercial and institutional uses in any zoning district:

(1) Outdoor lighting fixtures shall comply with the shielding requirements described in the table below;

(2) Light trespass from a property shall be designed not to exceed 0.5 foot-candles at the property line.

Outdoor Lighting Shielding Requirements	
Fixture Lamp Type	***Shielded***
Low/high pressure sodium, mercury vapor	Fully
Metal halide and fluorescent over 50 watts; Incandescent over 160 watts	Fully
Incandescent 160 watts or less	None
Fossil fuel	None
Any light source of 50 watts or less	None
Other sources	As approved by Planning Director
Note: Incandescent includes tungsten-halogen (quartz) lamps	

(F) *Exemptions.* The following uses shall be exempt from the provisions of this chapter:

(1) Roadway and airport lighting and lighting activated by motion sensor devices;

(2) Temporary circus, fair, carnival, or civic uses;

(3) Construction or emergency lighting, provided such lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency necessitating said lighting;

(4) Temporary lighting;

(5) Lighting associated with agricultural pursuits.

(G) *Definitions.*

FULLY SHIELDED FIXTURE. An outdoor lighting fixture that is shielded or constructed so that all light emitted is projected below a horizontal plane running through the lowest part of the fixtures.

GLARE. Light that causes annoyance, discomfort, or loss in visual performance and ability.

OUTDOOR LIGHTING FIXTURE. An electrically powered illuminating device or other outdoor lighting fixture including all parts used to distribute the light and/or protect the lamp, permanently installed or portable, used for illumination. Such devices shall include, but are not limited to, search, spot flood and area lighting.

RECESSED LIGHTING FIXTURE. An outdoor lighting fixture recessed into a canopy ceiling so that the bottom of the fixture is flush with the ceiling. (Ord. 2013-02, passed 3-11-13; Am. Ord. 2015-24, passed 9-14-15)

' 155.094 STREETSCAPE STANDARDS.

These streetscape standards apply to the following districts: AG, R1, R2, R3, R4, MH, PB, B1, B2, TC, LI and HI.

(A) *Purpose and intent.* These streetscape requirements are meant to ensure the construction of a continuous, pedestrian friendly, network of streets which disperse traffic flow over as many routes as possible. The requirements are meant to prevent the arterialization of existing streets and to ensure that new development does not unduly impose costs on existing residents in the form of congestion or expensive street improvements, such as road widenings.

(B) *General.*

(1) The thoroughfares are intended for use by vehicular and pedestrian traffic and to provide access to lots and open spaces.

(2) The thoroughfares consist of vehicular lanes and public frontages. The lanes provide the traffic and parking capacity. They consist of vehicular lanes in a variety of widths for parked and for moving vehicles. The frontages contribute to the character of the zone or district. They include the types of sidewalk, curbing, planter, and street tree.

(3) Thoroughfares should be designed in context with the form guidelines and desired design speed of the zones and districts through which they pass. Thoroughfares that pass from one zone or district to another shall adjust their public frontages accordingly or, alternatively, the zone or district may follow the alignment of the thoroughfare to the depth of one lot, retaining a single public frontage throughout its trajectory.

(4) Within the more rural zone or district, pedestrian comfort shall be a secondary consideration of the thoroughfare. Design conflict between vehicular and pedestrian movement shall be generally decided in favor of vehicular mobility.

(5) Within the more urban zone or district, pedestrian comfort shall be a primary consideration of the thoroughfare. Design conflict between vehicular and pedestrian movement shall be decided in favor of the pedestrian.

(C) *Thoroughfares.*

(1) The standards for vehicular lanes shall be as shown in the appropriate development guidelines.

(2) Thoroughfares shall connect to existing T intersections adjacent to properties being developed.

(3) Thoroughfares shall connect to existing stub roads adjacent to properties being developed.

(4) Blocks shall conform to the standards prescribed in the appropriate development guidelines. The size of blocks shall be measured as the perimeter of the outside curb face. Exceptions shall be made when inhibited by natural features, or existing conditions. In cases of exception, the shortest, most logical block size shall be made.

(5) T Intersections shall be prohibited except when terminating at major public buildings, public open spaces, or when inhibited by existing conditions or natural features.

(6) Blocks shall be sufficient width to provide for two tiers of lots of appropriate depth.

(7) Stub roads shall be constructed at edges of property in order to create future through streets.

(8) Cul-de-sacs shall be designed to prevent their length from exceeding 300 feet. Dead end streets, excluding stub roads, shall be prohibited except when inhibited by natural features.

(9) New road layouts shall not prevent adjacent properties from being able to meet the above stated thoroughfare standards or zoning standards.
(Ord. 2013-02, passed 3-11-13)

' 155.095 WIND ENERGY CONVERSION SYSTEM STANDARDS.

(A) *These wind energy conversion system standards apply to the following districts: AG, R1, R2, R3, R4, MH, PB, B1, B2, TC, LI and HI.* The following standards apply to micro wind energy conversion systems.

(1) *Supporting structure.*

(a) Any micro wind energy conversion system tower or supporting structure placed on the roof of a primary or accessory structure shall not exceed the height of the structure's roof by 15 feet.

(b) Any micro wind energy conversion system supported primarily by a tower or pole shall comply with the standards for small wind energy conversion systems set forth in division (B) below.

(2) *Rotor diameter.* The maximum rotor diameter shall be ten feet.

(3) *Safety.* The rotors (blades) shall not extend horizontally beyond the roof of the primary or accessory structure.

(4) *Noise.* Noise levels generated shall not exceed 40 DBA at the property line.

(5) Generators shall not produce detrimental electromagnetic interference on adjacent properties.

(6) Wind turbines shall be painted a non-reflective, non-obtrusive color such as the manufacturer's default color option or a color that conforms to the environment and architecture of the community. Micro wind energy structures shall maintain galvanized steel brushed aluminum or white finish, unless FAA standards required otherwise.

(7) Micro wind energy conversion systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind turbine.

(8) *Illumination.* Micro wind energy conversion systems shall not be illuminated in any way unless required by FCC or FAA regulations. FCC or FAA regulations shall be demonstrated to the Planning Director prior to installation.

(9) *Abandoned systems.* A micro wind energy conversion system shall be considered abandoned if use as a wind energy conversion system is discontinued for one year or more. The Plan Commission or Planning Director may require removal of it after a 90-day notice period.

(B) *These wind energy conversion system standards apply to the following districts: AG, B1, LI and HI.* The following standards apply to small wind energy conversion systems.

(1) *Supporting structure.* A freestanding tower or pole.

(2) *Height.* Maximum 120 feet to the top of the rotor blade at its highest point. The minimum height of the rotor axis turbine shall be 30 feet from the base of the tower.

(3) *Rotor diameter.* The maximum rotor diameter shall be 30 feet.

(4) *Minimum setbacks.* Equal to the height of the tower measured from all:

(a) Property lines; and

(b) Overhead utility lines (except those connecting to the principal building).

(c) Additionally, no tower shall be placed within any required front, rear, or side yard.

(5) Access shall be limited by:

(a) A six -foot high fence around the base of the tower;

(b) Limiting tower climbing apparatus to not lower than 12 feet above the ground; or

(c) A design that does not include climbing apparatus because the turbine is lowered for service.

(6) All access doors or panels to wind turbine towers and electrical equipment shall be lockable.

(7) *Noise.* Noise levels generated shall not exceed 40 DBA at the property line.

(8) Generators shall not produce detrimental electromagnetic interference on adjacent properties.

(9) Wind turbines shall be painted a non-reflective, non-obtrusive color such as the manufacturer's default color option or a color that conforms to the environment and architecture of the community. Small wind energy towers shall maintain galvanized steel, brushed aluminum or white finish, unless FAA standards required otherwise. The town may require a photo of a small wind energy system of the same model that is subject of the landowner's application adjacent to a building or some other object illustrating scale (e.g., manufacturer's photo).

(10) Small wind energy conversion systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind turbine.

(11) Electrical controls and control wiring and power-lines shall be wireless or underground except where small wind energy system wiring is brought together for connection to the transmission or distribution network, adjacent to that network.

(12) Appropriate warning signage (e.g., electrical hazards) shall be placed on wind turbine towers, electrical equipment, and small wind energy conversion systems.

(13) If a small wind energy conversion system is to be interconnected to the electric utility, proof of an executed interconnect agreement shall be provided before the system is interconnected.

(14) *Abandoned systems.* A small wind energy conversion system shall be considered abandoned if use as a wind energy conversion system is discontinued for one year or more. The Plan Commission or Planning Director may require removal of it after a 90-day notice period.
(Ord. 2013-02, passed 3-11-13)

SIGN STANDARDS

' 155.100 INTENT.

The intent of this subchapter is:

(A) To further the goals of the Comprehensive Plan;

(B) Avoid the proliferation of signage;

(C) Encourage signs to be compatible with the scale of buildings and the surrounding features;

(D) Maintain and enhance the aesthetic environment of the town;

(E) Eliminate potential hazards to motorists and pedestrians resulting from signs; and

(F) Promote the health, safety, and welfare of the residents of the town.
(Ord. 2013-02, passed 3-11-13)

' 155.101 SIGN REGULATIONS THAT APPLY.

Under the sections in this subchapter are sign regulations arranged by type. Specific district standards are found in '' 155.030 through 155.042.
(Ord. 2013-02, passed 3-11-13)

' 155.102 GENERAL SIGNS STANDARDS.

These general sign standards apply to the following districts: AG, R1, R2, R3, R4, MH, PB, B1, B2, TC, LI and HI. Except as otherwise provided in this subchapter, it shall be unlawful for any person to erect, construct, enlarge, move or convert any sign within the jurisdiction of the Plan Commission, or cause the same to be done without first obtaining a sign permit from the Planning Director. The following general sign standards apply to all signs within the jurisdiction of the Plan Commission.

(A) *Inspection.* Signs for which a permit is required may be inspected periodically by the Planning Director for compliance with this subchapter.

(B) *Removal of sign.* The Planning Director may order the removal of any sign erected or maintained in violation of this subchapter consistent with the provisions of '' 155.170 through 155.181.

(C) *Maintenance.* All signs and their components shall be kept in good repair and in safe, neat, clean and attractive condition. If failure to maintain a sign is determined by the Planning Director, a written notice will be given to the owner, business operator or lessee of the property consistent with the provisions of '' 155.170 through 155.181.

(D) *Abandoned signs.* A sign shall be removed by the owner or lessee of the premises upon which the sign is located within 30 days from the date when the business which it advertises is no longer conducted on the premises. For the purpose of this requirement, the sign shall include all supports, poles, and other structural elements. In no instance shall the removal of only the sign face be considered compliance with this provision.

(E) *Illuminated signs.* All illuminated signs must meet the standards specified in the State Electrical Code, as adopted and amended by the State of Indiana. In addition, all illuminated signs shall comply with the following standards.

(1) All illuminating elements shall be kept in satisfactory working condition and immediately repaired or replaced if damaged or burned out. Signs that are only partially illuminated shall meet all electrical requirements for that portion directly illuminated.

(2) All electrical wiring for permanent signs shall be in conduit. All electricity for signs shall have a disconnecting switch located in a readily accessible place.

(3) The direct or reflected light from a primary light source shall not create a traffic hazard to operators of motor vehicles on public and/or private roadways.

(4) The light from any illuminated sign shall be so shaded, shielded, or directed such that the light intensity or brightness will not be objectionable to the surrounding properties. All lighting shall have 90 degree cut-off luminaries (shielded downlighting). No light shall shine directly onto adjacent property.

(F) *Exempt signs.* The following signs are exempt from all provisions of this chapter.

(1) Flags of any country, state, unit of local government, institution of higher learning, or similar institutional flags.

(2) Names of buildings, 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 structure.

(3) Public signs erected by or on the order of public officer(s) in the performance of public duty, such as signs to promote safety, no trespassing, or traffic signs, memorial plaques, signs of historical interest, and signs directing people to public and quasi-public facilities.

(4) Utility signs are permitted to mark cables and lines for public and private utilities unless determined to be a hazard by the Planning Director.

(5) Seasonal or holiday signs, including lighting erected in connection with the observance of holidays, provided that such signs shall be removed no later than 30 days following the holiday.

(6) Political signs and other signs of expression, provided that they are not posted more than two months before the next election day and are removed ten calendar days after each election.

(G) *Prohibited signs.* The following types of signs are expressly prohibited in all zoning districts.

(1) Signs that move or utilize any animation, motion picture, laser, or visual projection of images or copy in conjunction with any business or advertisement.

(2) Signs that emit audible sound, odor or visible matter.

(3) Signs that purport to be or are in imitation of, or resemble an official traffic sign or signal or which bear the words "Stop," "Slow," "Caution," "Danger," 'Warning," or similar words.

(4) Signs that may be construed as a light of an emergency or road equipment vehicle.

(5) Signs that hide any traffic or roadway sign, signal or device from view.

(6) Signs that interfere with the sight visibility area as defined in ' 155.083.

(7) Signs that are located in any right-of-way, non-sign easement, or septic field.

(8) Signs that obstruct any door, fire escape, stairway, or any opening intended to provide entrance or exit for any structure.

(9) Signs placed on vehicles parked on public or private property primarily for the purpose of displaying the sign. Prohibited signs do not include those displayed on vehicles parked for the purpose of lawfully making deliveries or random sales or service. Prohibited signs do not include vehicles which are customarily used for transporting persons or properties, and vehicles parked at a driver's place of residence during non-business hours or for incidental purposes.

(10) Signs consisting of banners, streamers, pennants, and/or inflatable devices used alone or in combination with other such signs.

(H) *Off-premise signs.* Off-premise signs shall be classified as either Class I, Class II or Class III depending on the maximum square feet of sign area per side of sign. A Class I off-premise sign shall have a maximum of 300 square feet of area, a Class II off-premise sign shall have a maximum of 16 square feet of sign area and a Class III off-premise sign shall a maximum of four square feet. All classes of off- premise signs shall be prohibited in all zoning districts with the exceptions described below:

(1) General conditions for all classes of off-premise signs:

(a) Under no circumstances shall real estate signs placed on property for sale or lease, political signs, or agricultural seed signs identifying test plots be considered off-premise signs.

(b) A sign permit shall be obtained from the Planning Director for all off-premise signs.

(c) Multiple faces mounted on the same structures shall be considered one sign. Double stacked signs shall be prohibited.

(d) Off-premise signs shall be mounted on structures permanently anchored in the ground.

(e) Mobile off-premise signs, inflatable off-premise signs, and off-premise signs placed on vehicles or trailer shall be prohibited.

(f) Double sided signs are permitted, with each allowed the maximum square footage, provided that such signs are completely back-to-back or at an offset no greater than an angle of 45 degrees.

(g) No off-premises signs shall be permitted to be erected or maintained in any manner inconsistent with the following:

1. No sign shall be permitted which contains, includes, or is illuminated by a flashing, intermittent or moving light or lights.

2. No sign shall be permitted which moves or has any animated or moving parts.

3. Advertising signs with rotating, louvered (vertical and/or horizontally), moving parts or elements shall not be permitted.

4. No sign shall be permitted which displays or projects video or emits graphics, such as LED (light emitting diode), LCD (liquid crystal display) or similar digital or electrically-powered technology.

(2) Class I off-premise signs shall be permitted in any commercial or industrial zoning district within 200 feet of any United States interstate highway or state highway. Permitted off premise signs shall meet the following requirements:

(a) Class I off-premise signs shall be setback a minimum of 50 feet from any public right-of-way and 300 feet from any other property line. Setbacks shall be measured from the property line or right-of-way to the nearest part of the sign, including the pole, sign face, or any attached ladder, catwalk or other access structures.

(b) No Class I off-premise sign shall be located any closer than 3,000 feet to any other off-premise sign.

(c) No off-premise sign shall exceed 40 feet in height. No sign face area shall exceed 60 feet in length or 25 feet in height.

(d) There shall be a maximum of three new Class I signs permitted in the town per calendar year. (The removal of an existing Class I off-premise sign does NOT permit an additional Class I off-premise sign in any year).

(3) Class II off-premise signs shall be permitted in any commercial or industrial zoning district within 200 feet of any United States interstate highway or state highway. Class II permitted off- premise signs shall meet the following requirements:

(a) Class II off-premise signs shall be setback a minimum of 50 feet from any public right-of-way and 100 feet from any other property line. Setbacks shall be measured from the property line or right-of-way to the nearest part of the sign, including the pole, sign face, or any attached ladder, catwalk or other access structures.

(b) No Class II off-premise sign shall be located any closer than 3,000 feet to any other off-premise sign.

(4) No Class II off-premise sign shall exceed eight feet in height. No sign face area shall exceed four feet in length or four feet in height.

(5) Class III off-premise signs shall be permitted in any non-residential zoned district within 200 feet of any United States interstate highway, state highway or county road with the approval from the Board of Zoning Appeals as a special use. Permitted off-premise signs shall meet the following requirements:

(a) Class III off-premise signs shall be setback a minimum of 20 feet from any public right-of-way and 100 feet from any other property line. Setbacks shall be measured from the property line or right-of-way to the nearest part of the sign, including the pole, sign face, or any attached ladder, catwalk or other access structures.

(b) No Class III off-premise sign shall be located any closer than 500 feet to any other off-premise sign.

(c) No Class III off-premise sign shall exceed four square feet in area or four feet in height. No sign face area shall exceed two feet in length or two feet in height.
(Ord. 2013-02, passed 3-11-13)

' 155.103 TEMPORARY SIGN STANDARDS.

In all zoning districts the following temporary signs are permitted, in accordance with the regulations set forth herein. Further, temporary signs shall not be placed upon public property, public easements, public utility poles, traffic poles or standards or other public structures or buildings.

(A) *For sale and for rent or lease signs*. One non-illuminated sign pertaining to the sale, rent or lease of the premises upon which it is placed, not exceeding six square feet in area, provided that said sign shall be removed within seven days of the consummation of the sale, rent or lease or of the termination of the sale, rent or lease agents authority.

(B) *Open house signs.* Not to exceed three non-illuminated signs and six square feet in area each, may be placed during daylight hours on the day of a Real Estate Broker sponsored open house, to inform and direct the public to the location of the open house.

(C) *Contractors signs.* One non-illuminated and non-portable sign, not exceeding 16 square feet in area, bearing the street number of a new or remodeled structure and/or the names of the general contractor, sub-contractor, owner or tenant may be placed on the premises during the construction work. Said sign shall be removed within seven days of substantial completion of the work.

(D) *Lot signs.* One non-illuminated and non-portable sign, not exceeding 16 square feet, bearing the name of the owner, and the fact that the lot is for sale. Said sign shall be placed only on the lot it is advertising, and only until the lot is sold.

(E) *Special event signs.* One sign, excluding flashing signs, announcing and/or promoting any educational, charitable, philanthropic, civic or religious campaign drive, or event, may be placed on the premises where the event is to take place, not exceeding 16 square feet in area. Said sign may be located for a period not to exceed 30 days preceding the event and shall be removed within five days after

the event. Special event signs announcing the opening or re-opening of a business are permitted, and held to the same standards except the duration shall not exceed ten calendar days.

(F) *Special event banners.* One all weather banner, announcing and/or promoting any educational, charitable, philanthropic, civic or religious campaign drive, movement or event, not exceeding 24 square feet in area may be hung. Said sign may be located for a period not to exceed 30 days preceding the event and shall be removed within five days after the event. Special event banners announcing the opening or re-opening of a business are permitted, and held to the same standards except the duration shall not exceed ten calendar days.

(G) *Political signs.* Non-illuminated political campaign signs, intended to be viewed from the public sidewalk or streets, in support of a candidate or candidates for office or urging action on any other matter on the ballot of a primary, general or special election, not exceeding six square feet in area may be placed on private property in any zoning district. Said signs may be located for a period not to exceed 30 days preceding each election for which the sign was installed. The candidate whose name appears on such signs (or the party who placed the sign if no candidate's name appears) is liable for the removal of said signs within five days after the election of which it refers.

(H) *Public expression signs.* One sign expressing a political, social, or religious position is permitted not exceeding 16 square feet in area. Public expression signs are not to be used as political signs related to an election.

(I) *All temporary signs.* All temporary signs shall comply with the following:

(1) The content of said sign shall not contain gross displays;

(2) The anchoring and structure of said sign shall be adequate to prevent the sign from becoming a projectile during high winds;

(3) The face of said sign shall be properly maintained to avoid cracking, peeling, or fading to the point of being a blighting influence; and

(4) Said signs shall not contain illumination.

(J) *Subdivision signs on premise.* A maximum of two, non-illuminated and nonportable signs, not exceeding 64 square feet each, bearing the name of the development, developers, and builders associated with said development. Said sign shall be placed no longer than 24 months after granting final subdivision approval, or so long as some portion of the property remains unsold, whichever period is shorter. The Building Commissioner shall have the power to grant reasonable extensions after the expiration of the 24-month period. The signs must be located within the development for which they advertise. In any subdivision larger than five acres in size, one additional 64-square foot-sign may be placed for each five-acre increment.

(K) *Subdivision signs off premise.* A maximum of two, non-illuminated and nonportable signs, not exceeding 64 square feet each, bearing the name of the development, developers, and builders associated with said development, intended to direct potential buyers. Said sign shall be placed no longer than 24 months after granting final subdivision approval, or so long as some portion of the property remains unsold, whichever period is shorter. The Building Commissioner shall have the power to grant reasonable extensions after the expiration of the 24-month period. The signs must be located on private property, a minimum of eight feet from the front property line, and shall not obstruct traffic sight distance. In any subdivision larger than five acres in size, one additional 64-square-foot sign may be placed for each five-acre increment.
(Ord. 2013-02, passed 3-11-13; Am. Ord. 2015-03, passed 2-9-15; Am. Ord. 2015-32, passed 10-26-15)

' 155.104 PERMANENT SIGN STANDARDS.

(A) *These permanent sign standards apply to the following districts: PB, B1 and B2.* The following sign regulations shall apply. All signs require a permit unless otherwise specified.

(1) One square foot of signage shall be allowed for every one foot of the front facade of the building that is occupied by that use. (For example: If a use occupies a tenant space in a commercial building, and that space includes 50 feet of the building's frontage, then 50 square feet of signage would be allowed for the use.) In no instance shall the amount of signage permitted per use exceed 150 square feet.

(a) Any combination of the following signs may be used as long as they do not exceed the total area allowed per use or are inconsistent with the other development standards listed in this section:

1. Wall signs;

2. Awning signs;

3. Free-standing signs;

4. Ground signs;

5. Changeable copy signs;

6. Time and temperature sign; and

7. Multi-tenant joint entrance signs.

(b) Development standards per type of sign are as follows:

1. *Wall sign.* Wall signs shall be located on the facade of the primary structure. No sign shall exceed 75 square feet in area.

2. *Awning sign.* Awning signs shall be printed on awnings mounted on the facade of the primary structure.

3. *Free-standing sign.* Free-standing signs shall not be permitted.

4. *Ground sign.* Ground signs may not exceed eight feet in height or 50 square feet per sign face in area. Ground signs shall be placed a minimum of five feet from the public right-of-way and shall not be placed in any required sight visibility triangle.

5. *Changeable copy signs and time/temperature signs.* Changeable copy signs and time/temperature signs shall be counted toward the maximum allowable square footage and shall meet the development standards which are consistent with the manner in which they are mounted.

6. *Multi-tenant joint entrance signs.* Structures and/or centers containing multiple uses shall establish one sign at each entrance for the joint use of all tenants for which the facility is designed. The use of individual free-standing signs for each tenant is prohibited. Each sign shall be setback a minimum of ten feet from all public rights-of-way. No sign may exceed 18 feet in height or an average of 24 square feet per tenant in area.

(2) *Window signs.* Non-illuminated window signs not exceeding 25% of the window area are permitted. No permit is required and they shall not be counted toward the total area allowed per use. Illuminated window signs, and any exceeding 25% of the window area shall be counted toward the total sign area and shall require a sign permit.

(3) *Directional signs.* Directional signs must be no more than four feet in height and no more than six square feet in area. Directional signs shall be setback a minimum of two feet from all public right-of-ways. No permit is required and they shall not be counted toward the total area allowed per use.

(B) *These permanent sign standards apply to the following districts: LI and HI.* The following sign regulations shall apply. All signs require a permit unless otherwise specified.

(1) One and one-quarter square feet of signage shall be allowed for every one foot of the front facade of the building that is occupied by that use. (For example: If a use occupies a tenant space in a commercial building, and that space includes 100 feet of the building's frontage, then 125 square feet of

signage would be allowed for the use.) In no instance shall the total amount of signage permitted per use exceed 150 square feet.

(a) Any combination of the following signs may be used as long as they do not exceed the total area allowed per use or are inconsistent with the other development standards listed in this section:

1. Wall signs;

2. Awning signs;

3. Ground signs;

4. Free-standing signs;

5. Changeable copy signs;

6. Time and temperature sign; and

7. Multi-tenant joint entrance signs.

(b) Development standards per type of sign are as follows:

1. *Wall sign.* Wall signs shall be located on the facade of the primary structure. No wall sign shall exceed 75 square feet in area.

2. *Awning sign.* Awning signs shall be printed on awnings mounted on the facade of the primary structure.

3. *Ground sign.* Ground signs may not exceed eight feet in height or 32 square feet per sign face in area. Ground signs shall be placed a minimum of ten feet from the public right-of-way and shall not be placed in any required sight visibility triangle.

4. *Free-standing sign.* Free-standing signs shall be placed a minimum of ten feet from the public right-of way. No free-standing sign may exceed 15 feet in height or 40 square feet per sign face in area.

5. *Changeable copy signs and time/temperature signs.* Changeable copy signs and time/temperature signs shall be counted toward the maximum allowable square footage and shall meet the development standards which are consistent with the manner in which they are mounted.

6. *Multi-tenant joint entrance signs.* Structures and/or centers containing multiple uses shall establish one sign at each entrance for the joint use of all tenants for which the facility is designed. The use of individual free-standing signs for each tenant is prohibited. Each sign shall be setback a minimum of ten feet from all public rights-of-way. No sign may exceed 18 feet in height or an average of 40 square feet per tenant in area.

(2) *Window signs.* Non-illuminated window signs not exceeding 25% of the window area are permitted. No permit is required and they shall not be counted toward the total area allowed per use. Illuminated window signs, and any exceeding 25% of the window area shall be counted toward the total sign area and shall require a sign permit.

(3) *Directional signs.* Directional signs must be no more than four feet in height and no more than six square feet in area. Directional signs shall be setback a minimum of two feet from all public rights-of-way. No permit is required and they shall not be counted toward the total area allowed per use.

(C) *These permanent sign standards apply to the following district: TC.* The following sign regulations shall apply. All signs require a permit unless otherwise specified.

(1) One and one-quarter square feet of signage shall be allowed for every one foot of the front facade of the building that is occupied by that use. (For example: If a use occupies a tenant space in a commercial building and that space includes 100 feet of the building's frontage then 125 square feet of signage would be allowed for the use.) In no instance shall the total amount of signage permitted per use exceed 150 square feet.

(a) Any combination of the following signs may be used as long as they do not exceed the total area allowed per use or are inconsistent with the other development standards listed in this section:

1. Wall signs;

2. Awning signs;

3. Projecting signs;

4. Changeable copy signs;

5. Time and temperature sign; and

6. Mural.

(b) Development standards per type of sign are as follows:

1. *Wall sign.* Wall signs shall be located on the facade of the primary structure. No wall sign shall exceed 75 square feet in area.

2. *Awning sign.* Awning signs shall be printed on awnings mounted on the facade of the primary structure. Illuminated awnings are permitted only if the awning is opaque with the exception of the sign area.

3. *Projecting sign.* No projecting sign shall, at its lowest point (except for the supporting building, structure, or column), be less than eight and one half feet above grade level. In no case shall it extend more than four feet beyond its supporting structure. No projecting sign shall exceed 12 square feet in area. No more than one projecting sign shall be permitted per use.

4. *Changeable copy signs and time/temperature signs.* Changeable copy signs and time/ temperature signs shall be counted toward the maximum allowable square footage and shall meet the development standards which are consistent with the manner in which they are mounted.

5. *Mural.* Mural signs shall not exceed 75 square feet in area.

(2) *Window signs.* Non-illuminated window signs not exceeding 25% of the window area are permitted. No permit is required and they shall not be counted toward the total area allowed per use. Illuminated window signs, and any exceeding 25% of the window area shall be counted toward the total sign area and shall require a sign permit. In no case shall more than 50% of the total grade-level window area be covered by signage.

(3) *Directional signs.* Directional signs are not permitted.
(Ord. 2013-02, passed 3-11-13; Am. Ord. 2015-31, passed 10-26-15)

SITE DESIGN STANDARDS

' 155.110 INTENT.

The intent of this subchapter is to further the goals of the Comprehensive Plan; provide for the adequate, consistent review of new development to ensure compliance with this chapter; provide for the appropriate creation of facilities and systems for the accommodation of traffic and utilities; and address the unique characteristics of certain types of development that require specific review and approval.
(Ord. 2013-02, passed 3-11-13)

' 155.111 SITE DEVELOPMENT PLAN REQUIRED.

(A) Site development plans shall be required for all developments for which a improvement location permit is required by this chapter or the Building Code which are located in the following zoning districts: PB, B1, B2, TC, LI and HI.

(B) The following types of development shall be exempt from the requirements of this subchapter, but shall be required to obtain a improvement location permit, pursuant to the Building Code, and any other permit or approval required by this chapter:

(1) The replacement or installation of any sign, or signs not occurring as part of an improvement to any other aspect of the property;

(2) The expansion of an existing parking lot which does not result in a greater than 20% increase in the surface area of the parking previously available on the property; or

(3) The expansion of an existing structure or the construction of an accessory structure which does not result in a greater than 10% increase in the floor area of the structures that were previously existing on the property or require the provision of additional landscaping, parking, or other improvement regulated by this chapter.
(Ord. 2013-02, passed 3-11-13)

' 155.112 REVIEW AND APPROVAL AUTHORITY.

(A) The Technical Review Committee, as defined by " 155.150 through 155.155, shall have the authority to review and approve site development plans required by this subchapter.

(B) Neither the Technical Review Committee nor the Plan Commission shall have the authority to waive any requirement of this chapter in the review of a site development plan.

(C) The procedure for the review of proposed amendments or revisions to previously approved site development plans shall follow the process for the initial approval of site development plans outlined below.
(Ord. 2013-02, passed 3-11-13)

' 155.113 REVIEW PROCESS AND STANDARDS.

Site development plans shall be subject to the following review and approval process:

(A) *General requirements.* All applications may be obtained through the Planning Director's office. Fees shall be paid at the Planning Director's office at the time the petition and permit applications are submitted.

(1) All applications shall be made on forms provided by the Planning Director. All petitioners and permit applicants shall submit original applications which are completed in their entirety either in ink or typed. All applications shall be signed and notarized (if required).

(2) All petitioners and applicants shall submit copies of applications and necessary attachments as required by the adopted policies of the Planning Director and the applicable rules and procedures of the Plan Commission.

(3) All petitions and permit applications shall be assigned reference and/or docket numbers by the Planning Director. Petition applications shall be scheduled by the Planning Director for the appropriate public hearings based on the completeness of the application consistent with the requirements of this subchapter and the appropriate adopted calendar of filing and meeting dates for the Plan Commission.

(B) *Application.* The petitioner shall submit an application for site development plan review, an affidavit and consent of property owner (if the property owner is someone other than the petitioner), a deed for the property involved, the required filing fee, and required supportive information to the Planning Director. Supportive information shall include, but not be limited to the following:

(1) A location map showing and clearly identifying the subject property and showing all land

within one mile of the subject property. The location map should identify the current zoning and use of all property within one mile of the subject property.

(2) A property survey showing all existing structures, topography, trees with a diameter measured at chest height of eight inches or greater, floodplain and floodway boundaries (including elevations), right-of-ways, easements, building setback lines, drainage areas, pipes, known tiles, structures, utility services, historic structures, and road accesses.

(3) A site plan, drawn to scale and bearing the seal of a professional engineer or land surveyor clearly showing all aspects of the property and all features relevant to the site development plan, including:

(a) All proposed setbacks, buffer yards, structure heights, and lot coverage calculations;

(b) All proposed buildings, structures, fences or walls, areas of outdoor storage, permanent dumpsters, and other improvements;

(c) All proposed locations and dimensions of road accesses, interior drives, parking lots, loading docks or areas, sight visibility triangles, and interior sidewalks (all public road access shall be subject to the approval of the Town Council);

(d) All proposed open spaces;

(e) All proposed locations and capacities of public and private utilities (all septic systems shall be subject to the approval of the county Health Department, all public sewer connections shall be subject to the approval of the appropriate public service provider);

(f) All proposed public improvements including sidewalks, street trees, and right-of-way dedications; and

(g) All proposed locations for temporary uses, such as seasonal sales areas.

(4) A landscaping plan, drawn to scale and bearing the seal of a registered landscape architect, architect, engineer, or surveyor showing all required and proposed landscaping in the site interior, in and adjacent to parking areas, in buffer yards, and street trees. The landscaping plan shall include the identification of the height of the plantings from ground level at the time of installation and the species proposed to be used to meet the requirements of this chapter.

(5) A sign plan showing the location, height, and dimension of all permanent signs and indications of appropriate locations, heights, and sizes of any anticipated temporary signs.

(6) A site drainage plan bearing the seal of a professional engineer or land surveyor including all calculations required by the Town Engineer.

(7) A site construction plan showing proposed erosion control measures, the location of any proposed construction trailer and worker parking, the location, height, and dimensions of any temporary construction-related signage, any temporary site accesses to be used during construction, any temporary utility connections, the location of any stockpiles of dirt, construction materials, and construction waste dumpsters or storage areas.

(8) A detailed statement of the characteristics and operation of the development, including the population densities, presence of any adult uses, and number of potential employees. The detailed statement shall include any written commitments being made regarding the site development plan.

(C) *Technical Review Committee Review*. The Technical Review Committee shall review the site development plan, including all supportive information on the date established by the adopted calendar of meeting and filing dates.

(1) Either the applicant or a representative of the applicant must be present to present the site development plan and address any questions the Committee may have.

(2) In reviewing the site development plan, the Committee shall consider whether or not the proposed site development plan is consistent with the requirements of this chapter and the applicable adopted requirements of the town.

(3) The Committee may approve, deny, table, or forward to the Plan Commission the site development plan.

(a) The Committee shall approve the site development plan if it complies with all applicable requirements of this chapter.

(b) The Committee shall table the site development plan application if it is generally consistent with the considerations outlined above, but requires minor modifications to be completely in compliance with the requirements of this chapter. Site development plan applications which are tabled shall be automatically docketed for the next review meeting. The applicant shall revise the site development plan proposal consistent with the Committee comments and supply revisions for review at the next meeting consistent with the adopted calendar of filing and meeting dates.

(c) The Committee shall deny the site development plan if it is found to be inconsistent with the considerations outlined in division (C)(2) above.

(d) The Committee shall forward site development plans which are generally consistent with the considerations outlined above to the Plan Commission for public hearing if the proposal includes any improvement to be dedicated to the public, includes proposed written commitments, or requires the imposition of conditions to be completely consistent

with the considerations for approval. The site development plan shall be placed on the agenda for the next meeting of the Plan Commission consistent with the adopted calendar of meeting and filing dates. The applicant shall revise the site development plan proposal consistent with any Planning Director comments prior to review by the Plan Commission and shall provide such revision for review consistent with the adopted calendar of filing and meeting dates.

(D) *Public meeting notification (if necessary).* Notification for the scheduled public hearing regarding the site development plan shall be completed consistent with the requirements of Indiana State Code, the rules and procedures of the Plan Commission, and the provisions of " 155.160 through 155.167.

(E) *Plan Commission review (if necessary).* The Plan Commission shall, at a meeting scheduled consistent with the adopted calendar of meeting and filing dates review the site development plan and any supportive information.

(1) Either the applicant or a representative of the applicant must be present at the public hearing to present the site development plan and address any questions the Commission may have.

(2) The Commission shall consider a report from the Planning Director describing the finding of the Technical Review Committee and testimony from the applicant and any interested parties in making its decision.

(3) The Plan Commission shall approve, approve with modifications, deny, or table the site development plan application.

(a) The Plan Commission shall approve the site development plan if it is consistent with all applicable requirements of this chapter.

(b) The Plan Commission shall approve the site development plan with modifications if it is generally consistent with all applicable requirements of this chapter. The Plan Commission may impose conditions on the approval of a site development plan, which shall become written commitments of the applicant, if the conditions are necessary to satisfy the requirements of this chapter.

(c) The Plan Commission shall deny the site development plan if it is not consistent with the applicable requirements of this chapter. Site development plan applications which have been denied shall not be re-filed for a period of one year from the date of the denial.

(d) The petition shall be tabled based on a request by the Planning Director, the petitioner, or a determination by the Commission that additional information is required prior to action being taken on the request. The tabling of all petitions shall be consistent with the adopted rules and procedures of the Commission.

(4) *Assurance of completion of improvements.* The Plan Commission may approve a site development plan with the condition that a bond or written assurance be provided that guarantees the timely completion of any proposed public improvements included in the development. The bond or written assurance shall be in a form acceptable to the Plan Commission, the Planning Director, and the Town Attorney, and consistent with " 155.194.

(F) *Findings of fact.* The Planning Director shall prepare and sign written findings of fact documenting the action taken by the Planning Director and the Plan Commission (if Plan Commission review is necessary). The Planning Director shall make copies of the written findings of fact available to the applicant within five days of the date of the decision.

(G) *Permits.* Prior to any construction activity, the improvements approved through all site development plans shall be required to obtain the appropriate improvement location permit, issued pursuant to the Building Code, and any other required permits specified by this chapter.
(Ord. 2013-02, passed 3-11-13)

' 155.114 WRITTEN COMMITMENTS.

The applicant in any site development plan application may make written commitments regarding the characteristics of the proposed future use, or the resolution of outstanding issues in existence on the subject property consistent with IC 36-7-4-613.

(A) Written commitments may be proposed by the petitioner as an element of the initial submittal of application materials, as a response to comments made by the Technical Review Committee, or in response to any modifications requested by the Plan Commission.

(B) All commitments shall be considered by the Technical Review Committee and the Plan Commission in the review of the petition.

(C) Following final action being taken on the site development plan application, the written commitments shall be recorded in the office of the County Recorder.

(D) The written commitments shall be considered part of this zoning code binding on the subject property.

(1) The written commitments shall be binding on the owner of the subject property, any subsequent owners of the subject property, and any person or entity that acquires an interest in the subject property or portion thereof.

(2) The written commitments shall be enforceable by the Plan Commission consistent with the adopted provisions for the enforcement of any aspect of this chapter.

(3) The written commitments may be modified only through the site development plan process described by this section. Any written commitment shall be terminated if the official zoning map applicable to the subject property is amended or if a zoning text amendment contradictory to the written commitment is adopted.
(Ord. 2013-02, passed 3-11-13)

' 155.115 APPEAL OF TECHNICAL REVIEW COMMITTEE DETERMINATIONS.

Any applicant or interested party may appeal a determination made by the Technical Review Committee to the Plan Commission through the procedure described below.

(A) *Application.* The petitioner shall submit to the Planning Director a letter giving notice of the appeal and required supportive information within 30 days of the decision which is subject to the appeal. Supportive information shall include, but not be limited to the following:

(1) Copies of all materials submitted to the Technical Review Committee upon which the decision being appealed was based.

(2) Copies of any written decisions or findings of fact which are the subject of the appeal.

(3) A letter describing the reasons for the appeal noting specific sections of this chapter, Indiana Code, or other standards applicable to the town upon which the appeal is based.

(B) *Public meeting notification.* Notification for a scheduled public hearing regarding the site development plan shall be completed consistent with the requirements of this chapter.

(C) *Plan Commission meeting.* The Plan Commission will then, in a public hearing scheduled consistent with the adopted calendar of filing and meeting dates, review the appeal and supportive information.

(D) Either the entity initiating the appeal or their representative must be present at the public hearing to present the appeal and address any questions from the Commission.

(1) The Commission shall consider a report from the Planning Director, testimony from the petitioner, and testimony from any interested parties at the public hearing.

(2) The presentation of reports and testimony and all other aspects of the meeting shall be consistent with the requirements of the rules and procedures of the Commission.

(3) Upon hearing the appeal, the Plan Commission may approve, approve with modifications, deny, or table the site development plan application consistent with the approval procedure for applications referred to the Commission by the Technical Review Committee described in this subchapter.
(Ord. 2013-02, passed 3-11-13)

NONCONFORMING STRUCTURES, LOTS AND USES

' 155.120 INTENT.

Upon adoption of this chapter and official zoning map, some structures, lots, and uses may no longer conform to the regulations of the zoning district in which they are located. For this reason, this subchapter has been generated to provide the rules, policies and regulations that apply to these structures, lots, and uses; referred to as legal nonconforming.
(Ord. 2013-02, passed 3-11-13)

' 155.121 DISTINCTION BETWEEN ILLEGAL NONCONFORMING AND LEGAL NONCONFORMING.

(A) A structure or lot which was constructed or is being used without an approved improvement location permit or approval from the Board of Zoning Appeals or Plan Commission is considered illegal nonconforming. An illegal nonconforming property shall be subject to actions and penalties allowed by this chapter and all other applicable town ordinances and shall be altered to conform with all applicable standards and regulations of this chapter.

(B) Legal nonconforming differs from illegal nonconforming in that the reason for the nonconformance is caused by the enactment of a zoning code or a change to the zoning code (including the official zoning map). The structure, lot or use has not changed, but due to the zoning code enactment or change, the property no longer conforms to the policies and standards of the zoning district in which it is located. When this situation occurs, the property is deemed legal nonconforming or grandfathered.
(Ord. 2013-02, passed 3-11-13)

' 155.122 NONCONFORMING SIGNS.

(A) Any sign, lawfully established prior to the effective date of this chapter, or its subsequent amendments, that no longer meets the developmental standards shall be deemed a legal nonconforming sign. For the purposes of this subchapter, a sign shall include the sign face and any supports, poles, or frames.

(B) A legal nonconforming sign may continue provided that it remains the same or fits within the below described tolerances:

(1) Any legal nonconforming sign shall not be enlarged or altered in terms of face area, height, or any other aspect that increases its nonconformity. However, any sign or portion thereof may be altered to decrease its nonconformity.

(2) Any legal nonconforming sign which is intentionally altered to conform to the requirements of this chapter shall thereafter conform to the regulations of the district in which it is located, and the legal nonconforming features may not be resumed.

(3) If a sign is moved or removed for any reason, for any distance, it shall thereafter conform to the provisions of this chapter.

(4) The sign faces and/or message on a legal nonconforming sign may be altered, replaced, repainted, and repaired provided that the nonconformity of the sign is not increased. Nothing in this subchapter shall be interpreted as requiring a sign to be brought into conformance with this chapter if only the face is changed, but not increased in size or altered in shape.
(Ord. 2013-02, passed 3-11-13)

' 155.123 NONCONFORMING STRUCTURES.

Any structure, lawfully established prior to the effective date of this chapter, or its subsequent amendments, that no longer meets the developmental standards shall be deemed a legal nonconforming structure. A legal nonconforming structure may continue provided that it remains the same or fits within the below described tolerances:

(A) Any legal nonconforming structure shall not be enlarged or altered in a manner that increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.

(B) Any legal nonconforming structure which is intentionally altered to conform to the requirements of this chapter shall thereafter conform to the regulations of the district in which it is located, and the legal nonconforming features may not be resumed.

(C) If a building or structure is moved for any reason, for any distance, it shall thereafter conform to the provisions of this chapter.
(Ord. 2013-02, passed 3-11-13)

' 155.124 NONCONFORMING LOTS OF RECORD.

All lots legally established and recorded prior to the effective date of this chapter, or its subsequent amendments, that no longer meet any applicable provision of this chapter shall be deemed a legal nonconforming lot of record. Legal nonconforming lots of record may be built upon only if the proposed use is permitted and all development standards of the applicable zoning district of this chapter are met. Any lot which met minimum lot standard area at the time it was created, shall be deemed buildable for a single- family residence.
(Ord. 2013-02, passed 3-11-13)

' 155.125 NONCONFORMING USES OF STRUCTURES, LAND OR STRUCTURES AND LAND IN COMBINATION.

Any lawful use of structures, land, or structures and land in combination established prior to the effective date of this chapter or its subsequent amendments that is no longer a permitted use in the district where it is located shall be deemed a legal nonconforming use. A legal nonconforming use may continue provided that it remains otherwise lawful, subject to the following conditions:

(A) No existing structure devoted to a legal nonconforming use shall be enlarged, expanded, increased, extended, constructed, reconstructed, moved, or structurally altered except as to change the use of the structure to a use permitted in the district in which it is located or as otherwise specified in this subchapter.

(B) No structure shall be constructed in connection with an existing legal nonconforming use of land.

(C) Any legal nonconforming use of a structure may be extended throughout any parts of a building which were plainly arranged or designed for such use at the effective date of this chapter or its subsequent amendments, but no such use shall be extended to occupy any land outside the building.

(D) If no structural alterations are made, any non-conforming use may be changed to another nonconforming use with the approval of the Board of Zoning Appeals if the Board shall find that the proposed use is equally or more appropriate to the district in which it is located than the existing use. The Board shall consider the development standards applicable to the proposed use established by this chapter and may make reasonable conditions as part of any approval.

(E) Where legal nonconforming use status applies to a structure and land in combination, the intentional removal of the structure shall eliminate the legal nonconforming status of the land.

(F) No legal nonconforming use of land shall be enlarged, increased, extended to occupy a greater area of land, or moved in whole or in part to any other portion of a lot than was occupied at the effective date of this chapter.

(G) If a legal nonconforming use is intentionally discontinued for one year or longer, any subsequent use of such land, structure or land and structure shall conform to the provisions of this chapter. Uses which are required to be discontinued due to government action which impedes access to the premises, or damage resulting from fire, flood, other natural disaster, or a criminal act shall be exempt from this provision. Such exempt uses, if rebuilt or restored, shall be identical in scale, lot coverage, and all other aspects to that which was discontinued.

(H) When a legal nonconforming use is superseded by a permitted use, it shall thereafter conform to the regulations of the district in which it is located, the legal nonconforming use may not thereafter be resumed.

(I) Any use which is legal nonconforming due to its presence in a 100-year floodplain may be altered, enlarged, or extended on a one-time only basis provided that the new construction conforms with ' 155.079 and does not increase the value of the structure or use (excluding the value of the land) by more than 50% of its pre improvement market value.
(Ord. 2013-02, passed 3-11-13)

' 155.126 REPAIRS AND MAINTENANCE.

The following applies to legal nonconforming structures and legal nonconforming uses of structures, or structures and land in combination:

(A) Work may be done for ordinary repairs or replacement of walls, heating, fixtures, wiring, or plumbing; under the condition that the cubic content existing when the structure became nonconforming shall not be increased.

(B) If a structure becomes unsafe or unlawful due to physical condition and is razed, the structure shall be rebuilt in conformity with the district in which it is located.

(C) Nothing in this section shall be deemed to prevent the strengthening, repairing, or restoring to a safe condition of any structure or part thereof declared to be unsafe by any official charged with protecting public safety upon order of such official.
(Ord. 2013-02, passed 3-11-13)

BOARD OF ZONING APPEALS

' 155.130 ESTABLISHMENT AND MEMBERSHIP.

Pursuant to IC 36-7-4-901, the Town Council establishes the Board of Zoning Appeals which shall conduct business consistent with all requirements of the Indiana Code and this chapter. The Board of Zoning

Appeals (BZA) shall consist of and continue as a five member Board. Members shall be appointed pursuant to IC 36-7-4-902 and 36-7-4-906. Alternate Board of Zoning Appeal members may be appointed consistent with IC 36-7-4-907. If a vacancy occurs among the members of the Board, the appointing authority shall appoint a member for the unexpired term of the vacating member.
(Ord. 2013-02, passed 3-11-13)

' 155.131 TERRITORIAL JURISDICTION.

The Board of Zoning Appeals shall have jurisdiction over all the land subject to this chapter.
(Ord. 2013-02, passed 3-11-13)

' 155.132 POWERS AND DUTIES.

The Board of Zoning Appeals shall have exclusive subject matter jurisdiction for:

(A) Variances;

(B) Special uses (special exceptions); and

(C) Administrative appeals.
(Ord. 2013-02, passed 3-11-13)

' 155.133 RULES AND PROCEDURES.

(A) *Rules and procedures.* The Board of Zoning Appeals shall have sole authority to adopt any and all rules under IC 36-7-4-916 and any and all procedures concerning organization, selection of officers, forms for applications, filing requirements, procedures, notices for and conduct of meetings, and public hearings.

(B) *Facilities and funding.* The town shall provide suitable facilities for the holding of Board of Zoning Appeals meetings and hearings and for the storage of its records, documents, and accounts; and in its annual budget shall provide sufficient funds for the functioning of the Board and its staff.

(C) *Filing.* All applications for variances, special exceptions, and requests for administrative appeal shall be filed by the applicant with the Planning Director in the form prescribed by the Board.
(Ord. 2013-02, passed 3-11-13)

' 155.134 HEARINGS.

(A) The Board shall fix a reasonable time for the hearing of administrative appeals, special exceptions, and variances.

(B) A person may not communicate with any member of the Board before the hearing with intent to influence the member's action on a matter pending before the Board.
(Ord. 2013-02, passed 3-11-13)

' 155.135 NOTICE OF PUBLIC HEARING.

For all public hearings, the petitioner shall provide notice to the public consistent with the requirements of the Indiana Code.
(Ord. 2013-02, passed 3-11-13)

' 155.136 APPEALS.

Every decision of the Board of Zoning Appeals shall be subject to review by a writ of certiorari as prescribed in IC 36-7-4-1000 series. Such appeals shall be presented to the court of jurisdiction within 30 days of the Board's decision.
(Ord. 2013-02, passed 3-11-13)

' 155.137 SPECIAL USES.

There shall be no cases or application therefor, nor any particular situation in which this chapter authorizes special uses without the approval of the BZA. Further, no decisions on previous applications shall set a precedent for any other application before the BZA.

(A) The Board may grant a special use approval for a use listed as such in the appropriate zoning district in this chapter if, after a public hearing, it makes findings of facts in writing, that:

(1) The proposal will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) The requirements and development standards for the requested special use as prescribed by this chapter will be met;

(3) Granting the special use will not subvert the general purposes served by this chapter and will not permanently injure other property or uses in the same district and vicinity; and

(4) The proposed use will be consistent with the character of the zoning district in which it is located and the Comprehensive Plan.

(B) When considering a special use the Board of Zoning Appeals may examine the following items as they relate to the proposed use:

(1) Topography and other natural site features;

(2) Zoning of the site and surrounding properties;

(3) Driveway locations, street access, and vehicular and pedestrian traffic;

(4) Parking amount, location, and design;

(5) Landscaping, screening, and buffering;

(6) Open space and other site amenities;

(7) Noise production and hours of operation;

(8) Design, placement, architecture, and building material of the structure;

(9) Placement, design, intensity, height, and shielding of lighting;

(10) Traffic generation; and

(11) General site layout as it relates to its surroundings.

(C) The Board may impose such reasonable conditions upon its approval as it deems necessary to find that the criteria for approval in division (A) above will be served.

(D) The Board may require the owner of the property to make written commitments concerning the use or development of the property as specified under IC 36-7-4-921 and have such commitments recorded in the County Recorder's Office.

(E) Unless otherwise specified by the Board, special use approvals shall be limited to, and run with, the applicant at the location specified in the petition. The Board may also limit special uses to a specific time period and for a specific use.

(F) A use authorized as a special use may not be expanded, extended, or enlarged unless reauthorized by the Board under the procedures set forth in this section for granting a special use.
(Ord. 2013-02, passed 3-11-13)

' 155.138 DEVELOPMENT STANDARDS VARIANCES.

(A) The Board may grant a variance from the development standards of this chapter (such as height, bulk, area) if, after a public hearing, it makes findings of facts in writing, 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 will result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.

(B) The Board may impose such reasonable conditions upon its approval as it deems necessary to find that the criteria for approval in division (A) above will be served.

(C) The Board may require the owner of the property to make written commitments concerning the use or development of the property as specified under IC 36-7-4-921 and have such commitments recorded in the County Recorder's Office.

(D) A developmental standards variance granted by the Board and executed in a timely manner as described in this section shall run with the parcel until such time as:

(1) The property conforms with the chapter as written; or

(2) The variance is terminated.
(Ord. 2013-02, passed 3-11-13)

' 155.139 FLOODPLAIN STANDARDS VARIANCES.

(A) The Board shall consider all technical evaluations, all relevant factors, and:

(1) The danger of life and property due to flooding or erosion damage;

(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(3) The importance of the services provided by the proposed facility to the town;

(4) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(5) The compatibility of the proposed use with existing and anticipated development;

(6) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(7) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(8) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site; and

(9) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas electric, and water systems, and streets and bridges.

(B) The Board may grant a variance from the flood hazard area standards, ' 155.079, only if, after a public hearing, it makes findings of facts in writing, that:

(1) There exists a good and sufficient cause for the requested variance;

(2) The strict application of the terms of this chapter will constitute an exceptional hardship to the applicant; and

(3) The granting of the requested variance will not increase flood heights, create additional threats to public safety, cause additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or codes.

(C) The Board of Zoning Appeals may only issue a variance to the terms and provisions of ' 155.079 subject to the following conditions:

(1) No variance for a residential use within a floodway subject to ' 155.079 may be granted;

(2) Any variance granted in a floodway subject to ' 155.079 will require a permit from the Indiana Department of Natural Resources;

(3) Variances to the building protection standards of ' 155.079 may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade;

(4) Variances may be granted for the reconstruction or restoration of any structure individually listed on the Register of Historic Places or the Indiana State Survey of Historic Architectural, Archeological and Cultural Sites, Structures, Districts, and Objects;

(5) All variances shall give the minimum relief necessary and be such that the maximum practical flood protection will be given to the proposed construction; and

(6) The Board of Zoning Appeals shall issue a written notice to the recipient of a variance or exception that the proposed construction will be subject to increased risks to life and property and could require payment of increased flood insurance premiums.

(7) The Planning Director shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request.

(D) The Board may impose such reasonable conditions upon its approval as it deems necessary to find that the criteria for approval in (B) and (C) above will be served.

(E) The Board may require the owner of the property to make written commitments concerning the use or development of the property and have such commitments recorded in the County Recorder's Office.

(F) A floodplain standards variance granted by the Board and executed in a timely manner as described in this section shall run with the parcel until such time as:

(1) The property conforms with the chapter as written; or

(2) The variance is terminated.
(Ord. 2013-02, passed 3-11-13)

' 155.140 USE VARIANCES.

The Town Council, through the recommendation of the Plan Commission, retains the power to approve rezonings and changes to the zoning map, and the Board of Zoning Appeals shall consider the variance requests in accordance with the provisions of IC 36-7-4-918.4.
(Ord. 2013-02, passed 3-11-13)

' 155.141 SPECIAL USE AND VARIANCE EXECUTION AND TERMINATION.

(A) If the Board grants a special use or variance, it shall direct the applicant to apply for an improvement location permit pursuant to the Building Code. If such application complies with all established requirements and this chapter, an improvement location permit for the execution of the approved variance or special use shall be issued.

(B) A special use or variance ceases to be authorized and is terminated if an improvement location permit for the execution of the approval has not been obtained within one year of the date the variance or special use is granted. The variance or special use shall also be terminated if the approved construction has not been completed and approved by the Planning Director as being consistent with all written commitments or conditions, the requirements of this chapter, and all applicable permits within two years of the date the special use or variance is granted.

(C) A variance or special use may be terminated by the Board of Zoning Appeals under the following procedure:

(1) Upon determination by the Planning Director that possible grounds for termination exist, the matter shall be placed on the Board of Zoning Appeals agenda for a public hearing.

(2) At the public hearing the variance or special use shall be terminated if a finding is made by the Board that one or more of the following is true:

(a) The execution of the approval is not consistent with any requirement of this chapter;

(b) The execution of the approval is not consistent with any condition of approval;

(c) The execution of the approval is not consistent with any written commitment; or

(d) The approved was the result of fraud or the misrepresentation of facts.

(3) No special use or variance may be reviewed by the Board of Zoning Appeals for the same cause more than once in any one- year period.
(Ord. 2013-02, passed 3-11-13)

' 155.142 ADMINISTRATIVE APPEALS.

(A) The Board may grant an appeal of any decision, interpretation, or determination made by the Planning Director, other Plan Commission staff members, or any other administrative official or board charged with the duty of enforcing and interpreting this chapter.

(B) The Board shall only grant an appeal of such an administrative decision based on a finding, in writing, that the decision of the administrative person or board was inconsistent with the provisions of this chapter.

(C) The approval of an administrative appeal may be terminated by the Board of Zoning Appeals under the following procedure:

(1) Upon determination by the Planning Director that possible grounds for termination exist, the matter shall be placed on the Board of Zoning Appeals agenda for a public hearing.

(2) At the public hearing the approval shall be terminated if a finding is made by the Board that the approval was the result of fraud or misrepresentation of facts.

(3) No administrative appeal may be reviewed by the Board of Zoning Appeals for the same cause more than once in any one -year period.

(D) If an administrative appeal is granted, the Board may refund any application fees which have been paid to the town by the applicant in petitioning for the appeal. In no way shall this provision be interpreted as providing the applicant with the ability to seek the refund of any other fees or costs associated with the appeal or the application which is the subject of the appeal.
(Ord. 2013-02, passed 3-11-13)

ADMINISTRATION

' 155.150 ADMINISTRATIVE OFFICER.

The Planning Director, including his/her designee(s), will have the principal responsibility for administration and enforcing and/or coordination of the enforcement of this chapter. The duties of the Planning Director, or his/her designee shall include, but not be limited to:

(A) Reviewing, approving, or disapproving all improvement location permits and keeping permanent records of applications made and actions taken;

(B) Conducting inspections of structures and properties to determine compliance with the requirements of this chapter and all approvals granted by the Plan Commission and Board of Zoning Appeals;

(C) Maintaining permanent and current records documenting the application of this chapter including, but not limited to, all maps, amendments, special uses, variances, and appeals;

(D) Receiving, processing and referring to the Plan Commission all amendment applications;

(E) Receiving, processing, and referring to the Board of Zoning Appeals all appeals, variances, special uses, and other matters upon which it is authorized to act under this chapter and the Indiana Code;

(F) Provide all such clerical and technical assistance as may be required by the Board of Zoning Appeals, Plan Commission, Town Council, or other body in the execution of its duties as established by this chapter and the Indiana Code.
(Ord. 2013-02, passed 3-11-13)

' 155.151 NOTICE OF PUBLIC HEARING.

Legal notice of any public hearing shall be made by applicant as required by IC 5-3-1 series and due notice shall be made by mail to all property owners of record within 300 feet of each property line. Such required notice shall be made by the applicant and at the applicant's expense and such notice shall be made at least ten days prior to the date set for the hearing. The notice shall include the following information:

(A) The general location of the subject property and a legal description of the land;

(B) The street or common address of the real estate;

(C) That the project application, and any supportive plans, are available for examination at the office of the Plan Commission;

(D) That a public hearing will be held and giving the date, time, and place of the hearing; and

(E) That written comments on the petition will be accepted prior to the public hearing and may be submitted to the Planning Director.
(Ord. 2013-02, passed 3-11-13)

' 155.152 TECHNICAL REVIEW COMMITTEE.

(A) *Committee intent.* The Technical Review Committee (also known and referred to in this subchapter as the "TRC" and "the Committee") is hereby formed for the purpose of providing technical review of certain types of petitions and applications. The intent of the Technical Review Committee is to provide efficiency in the work load of the Plan Commission as well as applicants by establishing a body to make determinations regarding petitions for which the only criteria is consistency with the applicable adopted standards of the town. Further, the TRC shall provide for efficiency in the approval process of petitions determined by the Plan Commission and Town Council by providing an initial

examination and report based on all applicable adopted requirements of the town. All approval processes and actions of the Technical Review Committee shall be consistent with the requirements of Indiana Law.

(1) *Approval authority.* The Technical Review Committee shall have the authority to approve site development plans as defined by " 155.110 through 155.115;

(2) *Review authority.* The Technical Review Committee shall have the authority to review the following types of petitions, forwarding comments to the Plan Commission:

(a) Re-zoning petitions;

(b) Planned unit development concept plans; and

(c) Planned unit development detailed plans.

(3) *Appeal rights.* All decisions of the Technical Review Committee may be appealed to the Plan Commission following the procedure outlined in this subchapter.

(B) *Committee structure.* The Planning Commission staff shall also serve as the staff for the Technical Review Committee. They shall distribute all appropriate materials and keep all necessary files and meeting records. The organization of the Technical Review Committee shall be as described below:

(1) The Technical Review Committee shall, at a minimum, consist of the following members: the Planning Director and other staff of the Plan Commission as determined by the Planning Director;

(2) Members of the Committee shall either be present at the time of the scheduled Committee meeting or submit written comments regarding each specific petition to the Planning Director prior to the appropriate meeting.

(a) Each committee member shall only comment on the aspects of each petition that directly relate to their area of expertise regarding the applicable adopted standards of the town.

(b) If no comments are received from any member of the Committee it shall indicate that they have no objection to any aspect of the petition, and therefore grant their individual approval.

(c) The Planning Director shall determine the action to be taken on each petition by the Committee based on the comments of the Committee members.

(3) The Planning Director shall oversee the operation of the Technical Review Committee and shall make the final determination regarding any specific aspect of a petition on which members of the Technical Review Committee disagree. In cases of disagreement and at his/her discretion, the Planning Director may forward any petition before the Technical Review Committee to the Plan Commission for a determination on the request.

(4) All petitions which are not approved by the Technical Review Committee and not forwarded to the Plan Commission shall be tabled and placed on the agenda for the next appropriate Committee meeting.

(a) Prior to that meeting the petitioner shall address the comments of the Committee, making appropriate modifications to the application materials.

(b) The petitioner shall provide appropriate copies of the revised materials prior to the next Committee meeting based on the adopted calendar of meeting and filing dates.

(c) The petitioner may withdraw any petition following the review of the Technical Review Committee by submitting a notice of such withdrawal in writing to the Planning Director. Any petitions which are withdraw and are subsequently re-filed shall be considered a new petition and shall be subject to all applicable requirements for new petitions established by this chapter.

(C) *Attendance required.* Either the petitioner or a representative of the petitioner shall be required to attend all Technical Review Committee meetings at which their petition shall be reviewed, if deemed necessary by Planning Director. If either the petitioner or their representative is not present, the petition shall automatically be tabled and placed on the agenda for the next appropriate TRC meeting.

(D) *Meeting record.* The Planning Director shall make written documentation of the comments and findings of the Technical Review Committee for each petition and make those findings available to the petitioner within three business days of the Committee's review. The written documentation shall consist of the following:

(1) A letter to the petitioner stating the action taken by the Committee; and

(2) A list of any outstanding comments made by the members of the TRC, including references to appropriate sections of adopted, applicable requirements of the town, the State of Indiana, and/or the federal government.

(E) *Decision criteria.* In all cases, the Technical Review Committee shall only consider the applicable adopted requirements of this chapter, the Subdivision Control Code, " 155.190 et seq., any adopted town construction standards, any adopted standards of the Drainage Board, and any other adopted and applicable standards of the town, the State of Indiana, and/or the federal government.

(1) In all cases in which the TRC has approval authority and a petition conforms to the applicable standards, that petition shall be approved.

(2) In no case shall any petitioner be required to make any modifications to any petition based solely on the opinions or other undocumented and adopted standards of any member of the Committee. This shall not be interpreted as prohibiting any committee member from providing comments which express their professional opinions regarding a petition being forwarded to the Plan Commission.

(F) *Appeal procedure.* Any applicant or interested party may appeal the decision of the Technical Review Committee to the Plan Commission. Applicants seeking relief from specific development standards or other requirements of the zoning code which are unrelated to the Committee's interpretation of the applicable requirements shall be required to obtain variance approval from the Board of Zoning Appeals.

(1) The appealing party shall be required to provide the Planning Director with written notice of the appeal within 60 days of the date of the Committee decision.

(2) The Planning Director shall place the appeal on the agenda for the next appropriate Plan Commission meeting consistent with the adopted calendar of meeting and filing dates.

(3) Public notice for the meeting shall be required, consistent with the provisions of this chapter.

(4) The Plan Commission shall consider the provisions of this chapter and all other documented, applicable standards in deciding the appeal.
(Ord. 2013-02, passed 3-11-13)

' 155.153 TOWN COUNCIL; SUMMARY OF POWERS AND DUTIES.

The powers and duties of the Town Council are described below. Duties should be interpreted as activities that are obligations. Powers should be interpreted as activities that are optional to be initiated.

(A) Town Council duties include:

(1) Adopt, reject or amend the comprehensive plan, strategic plans, zoning code, or subdivision control code that has been certified and submitted by the Plan Commission;

(2) Adopt, reject or amend proposals to amend or partially repeal the text of the

Comprehensive plan, strategic plans, zoning code, or subdivision control code that have been certified and submitted by the Plan Commission;

(3) Adopt, reject or amend proposals to amend the official zoning map certified and submitted by the Plan Commission;

(4) Adopt, reject or amend proposals to adopt or amend a fee schedule that have been certified and submitted by the Plan Commission;

(5) Approve or deny final plats or re-plats of subdivisions, thereby accepting or declining public improvements; and

(6) All additional duties as permitted by the Indiana Code.

(B) Town Council powers include:

(1) Initiate amendments to the text of the comprehensive plan, strategic plans, zoning code, or subdivision control code;

(2) Initiate amendments to the official zoning map; and

(3) All additional powers as permitted by the Indiana Code.
(Ord. 2013-02, passed 3-11-13)

' 155.154 PLAN COMMISSION; SUMMARY OF POWERS AND DUTIES.

The powers and duties of the Plan Commission are described below. Duties should be interpreted as activities that are obligations. Powers should be interpreted as activities that are optional to be initiated.

(A) Plan Commission duties include:

(1) Adopt and maintain a Town Council approved comprehensive plan, zoning code and subdivision control code as authorized under the Indiana Code;

(2) Adopt and maintain rules and procedures for holding meetings, holding public hearings, and administrating and enforcing the comprehensive plan, zoning code, and subdivision control code;

(3) Maintain complete records of all meetings, hearings, correspondences, and affairs of the Plan Commission;

(4) Record and file bonds and contracts for development and land use activities;

(5) Publish and make available to the public all plans, codes, and other related material that are the responsibility of the Plan Commission;

(6) Adopt and maintain a permitting process and seal used to certify official or approved documents;

(7) Certify and submit recommendations to the Town Council including new versions of, and revisions to the comprehensive plan, zoning code, subdivision control code, and official zoning map;

(8) Certify and submit recommendations to the Town Council for adopting a planned unit development district;

(9) Maintain monetary and fiscal records of the Plan Commission;

(10) Prepare and submit an annual budget to the Town Council;

(11) Approve or deny preliminary plats, re-plats, and the vacation of plats of subdivisions;

(12) Assign street numbers to new lots and structures, renumber lots and structures, assign street names, and approve or deny proposed street names in new developments;

(13) Establish and maintain a Town Council approved fee schedule that assigns a fee to permits, processes, and official actions of the Plan Commission in order to defray the administrative costs of such duties and powers;

(14) Enforce regulations and procedures of the comprehensive plan, zoning code, and subdivision control code to the extent of local resolutions, codes, and the Indiana Code;

(15) Grant or deny requests for waivers of the requirements of the subdivision control code; and

(16) All additional duties as permitted by the Indiana Code.

(B) Plan Commission powers include:

(1) Hire, remove, and determine job descriptions for support staff to the Plan Commission;

(2) Establish advisory committees as necessary, made up of town officials and the general public;

(3) Establish an executive committee;

(4) Seek funding assistance through grant programs as necessary;

(5) Distribute copies or summaries of the comprehensive plan, zoning code, or subdivision control code to the general public and development community; and

(6) All additional powers as permitted by the Indiana Code.
(Ord. 2013-02, passed 3-11-13)

' 155.155 BOARD OF ZONING APPEALS; SUMMARY OF POWERS AND DUTIES.

The powers and duties of the Board of Zoning Appeals are described below. Duties should be interpreted as activities that are obligations. Powers should be interpreted as activities that are optional to be initiated. The powers, duties, rules, and procedures are further described by '' 155.130 through 155.142 and the Board of Zoning Appeals rules and procedures.

(A) Board of Zoning Appeals duties include;

(1) Review and hear appeals of decisions made under this chapter or in the enforcement of this chapter by the Planning Director or other Plan Commission staff, committees or administrative boards or any other body except the Plan Commission;

(2) Review, hear, and approve or deny all petitions for special uses based on the provisions of this chapter and the Indiana Code;

(3) Review, hear, and approve or deny all petitions for variances from development standards (such as height, bulk, or area) based on the provisions of this chapter and the Indiana Code; and

(4) All additional duties as permitted by the Indiana Code.

(B) Board of Zoning Appeals powers include any powers as permitted by the Indiana Code.
(Ord. 2013-02, passed 3-11-13)

PROCESSES, PERMITS ND FEES

' 155.160 TYPES OF PETITIONS AND PERMIT APPLICATIONS.

(A) The town hereby requires that an application be submitted for the following types of petitions:

(1) Variance (development and flood hazard area standards);

(2) Special use;

(3) Administrative Appeal;

(4) Zoning map amendment;

(5) Site development plan (subject to the requirements of '' 155.110 through 155.115).

(B) The town hereby requires that an application be submitted for the following types of permit applications:

(1) Sign permit (permanent and temporary);

(2) Certificate of occupancy;

(3) Improvement location permit (issued pursuant to the Building Code).

(C) All applications shall be obtained through the Planning Director's office. Fees shall be paid at the Planning Director's office at the time the petition and permit applications are submitted.

(1) All applications shall be made on forms provided by the Planning Director. All petitioners and permit applicants shall submit original applications which are completed in their entirely either in ink or typed. All applications shall be signed and notarized (if required).

(2) All petitioners and applicants shall submit copies of applications and necessary attachments as required by the adopted policies of the Planning Director and the applicable rules and procedures of the Plan Commission and Board of Zoning Appeals.

(3) All petitions and permit applications shall be assigned reference and/or docket numbers by the Planning Director. Petition applications shall be scheduled by the Planning Director for the appropriate public hearings based on the completeness of the application consistent with the requirements of this Article and the appropriate adopted calendars of filing and meeting dates for the Board of Zoning Appeals, Plan Commission, and Town Council.
(Ord. 2013-02, passed 3-11-13)

' 155.161 SCHEDULE OF FEES.

The town shall maintain an official fee schedule for permits and processes outlined in this chapter. The fee schedule shall be available to the public in the office of the Town Clerk and Plan Commission. Until all applicable fees, charges, and expenses have been paid in full, no final action shall be taken on any permit application, appeal, or petition.
(Ord. 2013-02, passed 3-11-13)
Cross-reference:
Building and sign permit fees, see ' 11.157
Certain application fees, see ' 11.158
Certain petition fees, see ' 11.159
Planning Commission - petition filing fees, see ' 11.160

' 155.162 VARIANCE PROCESS.

The following procedure shall apply to all variance petitions.

(A) *Application*. The petitioner shall submit a variance application, affidavit and consent of property owner (if the owner is someone other than the petitioner), a deed for the property involved, the required filing fee, and required supportive information. Supportive information shall include, but not be limited to the following:

(1) A site plan drawn with a straight edge, signed, and dated, clearly showing the entire layout of the property and all features relevant to the variance request.

(2) A letter of intent to the Board of Zoning Appeals describing the details of the variance being requested and stating how the request is consistent with the required findings of fact described by " 155.130 through 155.142. The letter should include any written commitments being made by the petitioner.

(3) A letter from the County Board of Health indicating that the variance will not negatively affect the operation of a septic system, if applicable.

(B) *Notification.* Notification for the scheduled public hearing regarding the variance request shall be completed consistent with the Indiana Code and the rules and procedures of the Board of Zoning Appeals.

(C) *Public hearing*. The BZA will then, in a public hearing scheduled consistent with the adopted calendar of filing and meeting dates, review the variance application and required supportive information.

(1) Either the petitioner or a representative of the petitioner must be present at the public hearing to present the petition and address the required findings of fact.

(2) The Board shall consider a report from the Planning Director, testimony from the petitioner, and testimony from the public and interested parties at the hearing.

(3) The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of the rules and procedures of the Board.

(4) The BZA may approve, approve with conditions, deny, or table the petition.

(a) The petition shall be approved if findings of fact are made consistent with the requirements of " 155.130 through 155.142 and the Indiana Code.

(b) The petition shall be approved with modifications if the Board of Zoning Appeals determines that the required findings of fact may be made if certain conditions are applied to the petition. The Board may make reasonable conditions related to the required findings of fact part of its approval or accept written commitments from the petitioner.

(c) The petition shall be denied if findings of fact consistent with the requirements of " 155.130 through 155.142 and the Indiana Code are not made. Petitions which are denied shall not be eligible for consideration again by the Board for a period of one year from the date of denial.

(d) The petition shall be tabled consistent with the adopted rules and procedures of the Board of Zoning Appeals.
(Ord. 2013-02, passed 3-11-13)

' 155.163 SPECIAL USE PROCESS.

The following procedure applies to special use petitions.

(A) *Application.* The petitioner shall submit a special use application, affidavit and consent of property owner (if the owner is someone other than the petitioner), a deed for the property involved, the required filing fee, and required supportive information. Supportive information shall include, but not be limited to the following:

(1) A site plan drawn with a straight edge, signed, and dated, clearly showing the entire layout of the property and all features relevant to the special use request.

(2) A letter of intent to the Board of Zoning Appeals describing the details of the special use request including but not limited to:

(a) The ways in which the special use shall comply with the applicable development standards of this chapter;

(b) The ways in which the special use shall be consistent with the required findings of fact described by " 155.130 through 155.142; and

(c) Any written commitments being made by the petitioner.

(3) A letter from the County Board of Health indicating that the special use will make acceptable use of an existing or proposed septic system, or a letter from a public sewer provider stating that the proposed special use shall be served by its utility.

(B) *Notification.* Notification for the scheduled public hearing regarding the special use request shall be completed consistent with the Indiana Code and the rules and procedures of the Board of Zoning Appeals.

(C) *Public hearing*. The BZA will then, in a public hearing scheduled consistent with the adopted calendar of filing and meeting dates, review the special use application and required supportive information.

(1) Either the petitioner or a representative of the petitioner must be present at the public hearing to present the petition and address the required findings of fact.

(2) The Board shall consider a report from the Planning Director, testimony from the petitioner, and testimony from the public and interested parties at the hearing.

(3) The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of the rules and procedures of the Board.

(4) The BZA may approve, approve with conditions, deny, or table the petition.

(a) The petition shall be approved if findings of fact are made consistent with the requirements of " 155.130 through 155.142 and the Indiana Code.

(b) The petition may be approved with modifications if the Board of Zoning Appeals determines that the required findings of fact may be made only if certain conditions are applied to the petition. The Board may make reasonable conditions related to the required findings of fact part of its approval or accept written commitments from the petitioner.

(c) The petition shall be denied if findings of fact consistent with the requirements of " 155.130 through 155.142 and the Indiana Code are not made. Petitions which are denied shall not be eligible for consideration again by the Board for a period of one year from the date of denial.

(d) The petition shall be tabled consistent with the adopted rules and procedures of the Board of Zoning Appeals.
(Ord. 2013-02, passed 3-11-13)

' 155.164 ADMINISTRATIVE APPEAL PROCESS.

The following procedure shall apply to all appeals of administrative decisions.

(A) *Application.* The petitioner shall submit an administrative appeal application and required supportive information. Supportive information shall include, but not be limited to the following:

(1) Copies of all materials submitted to the staff member or administrative board upon which the decision being appealed was based.

(2) Copies of any written decisions which are the subject of the appeal.

(3) A letter describing the reasons for the appeal noting specific sections of this chapter, the Indiana Code, or other standard applicable to the town upon which the appeal is based.

(B) *Notification.* Notification for the scheduled public hearing regarding the administrative appeal shall be completed consistent with the Indiana Code and the rules and procedures of the Board of Zoning Appeals.

(C) *Public hearing*. The BZA will then, in a public hearing scheduled consistent with the adopted calendar of filing and meeting dates, review the administrative appeal application and supportive information.

(1) Either the applicant or a representative of the applicant must be present at the public hearing to present the appeal and address any questions from the Board.

(2) The Board shall consider a report from the Planning Director, testimony from the applicant, and testimony from any interested parties at the hearing.

(3) The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of the rules and procedures of the Board.

(4) The BZA may grant, grant with modifications, deny, or table the appeal.

(a) The appeal shall be approved if findings of fact are made consistent with the requirements of " 155.130 through 155.142 and the Indiana Code.

(b) The appeal shall be granted with modifications if the Board of Zoning Appeals determines that the proper interpretation of the provision(s) which are subject to the appeal is not consistent with neither the administrative decision nor the requested interpretation of the applicant.

(c) The petition shall be denied if findings of fact are made supporting the administrative decision.

(d) The petition shall be tabled consistent with the adopted rules and procedures of the Board of Zoning Appeals.
(Ord. 2013-02, passed 3-11-13)

' 155.165 ZONING AMENDMENT PROCESS.

The following procedure shall apply to all zoning map amendment ("rezoning") petitions.

(A) *Petition initiation.* Proposals for zoning map amendments may be initiated by either the Plan Commission, the Town Council, or through a petition signed by property owners of at least 50% of the land involved.

(1) The Plan Commission shall prepare the petition for zoning map amendment if either the Commission or the Town Council has initiated the petition. The Planning Director shall serve as the petitioner for such proposals.

(2) Any property owners requesting a zoning map amendment shall be the petitioners and assume responsibility for preparing application materials.

(B) *Application.* The petitioner shall submit a rezoning application, affidavit and consent of property owner (if the owner is someone other than the petitioner), a deed for the property involved, the required filing fee, and required supportive information. Supportive information shall include, but not be limited to, the following:

(1) A site plan drawn to scale showing, at a minimum, all existing and proposed structures, setbacks, easements, rights-of-way, floodplains, trees with a diameter in excess of eight inches measured at chest height, and any other feature relevant to the petition.

(2) A letter of intent to the Plan Commission stating the reasons for the zoning map amendment, including a detailed description of any proposed

development for which the rezoning is sought. The letter should include any written commitments being made by the petitioner.

(3) A letter verifying that proper waste disposal will be available to the property.

(a) For proposals using septic systems, a letter from the County Health Department shall be provided verifying that the any proposed new development makes appropriate use of the septic system and will be adequately served.

(b) For proposals using public sewers, a letter from the service provider shall be included verifying that any proposed new development will be served.

(C) *Technical review*. The application materials shall be reviewed by the Technical Review Committee consistent with the provisions of " 155.150 through 155.155.

(1) Either the petitioner(s) or a representative of the petitioner(s) shall be present during the review to answer questions regarding the petition.

(2) Any revisions to the application materials or the proposal requested by the Committee shall either be addressed during the review meeting or through revised application materials submitted prior to the Plan Commission hearing. All revised submittals shall be submitted to the Planning Director in a timely manner as specified in the Plan Commission rules and procedures.

(D) *Notification.* Notification for the scheduled public hearing regarding the rezoning request shall be completed consistent with the requirements of the Indiana Code and the rules and procedures of the Plan Commission.

(F) *Plan Commission public hearing.* The Plan Commission will then, in a public hearing scheduled consistent with the adopted calendar of filing and meeting dates (but no later than 60 days following the receipt of the application), review the rezoning application and required supportive information.

(1) Either the petitioner or a representative of the petitioner must be present at the public hearing to present the petition and address any questions the Commission may have.

(2) The Commission shall consider a report from the Planning Director, testimony from the petitioner, and testimony from the public and interested parties at the hearing.

(3) The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of the rules and procedures of the Commission.

(4) The Commission shall either forward the petition to the Town Council with a favorable recommendation, an unfavorable recommendation, or no recommendation, or table the request.

(a) The petition shall be forwarded with a favorable recommendation if it is found to be consistent with the decision criteria listed in division (H) below.

(b) The petition shall be forwarded with an unfavorable recommendation if it is found to be inconsistent with the decision criteria listed in division (H) below.

(c) The petition may be forwarded with no recommendations if, by a majority vote of the Commission, it is determined that petition includes aspects which the Commission is not able to evaluate.

(d) The petition shall be tabled consistent with the adopted rules and procedures of the Commission.

(F) *Certification*. The Plan Commission shall certify its recommendation by resolution to the Town

Council. The Plan Commission staff shall forward to the Town Council appropriate copies of the Plan Commission resolution, the original application and all supportive information, any staff reports regarding the petition, and the applicable code for the Council's consideration.

(B) *Town Council hearing.* The Town Council shall hold a public meeting and vote on the proposed rezoning within 90 days of its certification by the Plan Commission.

(1) The Council shall provide notification of the public meeting consistent with the Indiana Code.

(2) The Council may either approve or deny the rezoning. If the Council fails to act within the 90-day time frame specified above, the rezoning shall become effective or be defeated consistent with the provisions of IC 36-7-4-608. The Council may also seek modifications or additions to any written commitments as described in division (I) below.

(H) *Decision criteria.* In reviewing the rezoning petition, the Plan Commission and Town Council shall pay reasonable regard to the following:

(1) The Comprehensive Plan and any other applicable, adopted planning studies or reports;

(2) The current conditions and the character of current structures and uses in each district;

(3) The most desirable use of which the land in each district is adapted;

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

(5) Responsible growth and development.

(I) *Written commitments.* The petitioner in any rezoning application may make written commitments regarding the characteristics of the proposed future use of, or the resolution of outstanding issues in existence on the subject property consistent with IC 36-7-4-615.

(1) Written commitments may be proposed by the petitioner as an element of the initial submittal of application materials, as a response to comments made through the Planning Director, or in response to any modifications requested by the Plan Commission during the public hearing.

(2) All commitments shall be considered by the Plan Commission in its review of the petition. Commitments shall be included as an element of the rezoning prepared by the Commission following action taken at the public hearing.

(3) The Town Council shall consider the written commitments in its review of the rezoning application. Any deletion, addition, or alteration of the written commitments proposed by the Town Council shall be referred back to the Plan Commission for consideration and inclusion in a revised or affirmed recommendation regarding the application.

(4) Following final action being taken on the rezoning application, the rezoning code, written commitments included, shall be recorded in the office of the County Recorder.

(5) The written commitments shall be considered part of this chapter binding on the subject property.

(a) The written commitments shall be binding on the owner of the subject property, any subsequent owners of the subject property, and any person or entity that acquires an interest in the subject property or portion thereof.

(b) The written commitments shall be enforceable by the Plan Commission consistent with the adopted provisions for the enforcement of any aspect of this chapter.

(c) The written commitments may be modified only through the zoning map amendment process described by this section. Any written commitment shall be terminated if the official zoning

map applicable to the subject property is amended or if a zoning text amendment contradictory to the written commitment is adopted.
(Ord. 2013-02, passed 3-11-13)

' 155.166 CERTIFICATES OF OCCUPANCY.

The following procedure applies to certificates of occupancy. It shall be unlawful and in violation of the provisions of this chapter for any builder or property owner to allow any new or significantly remodeled structure to become occupied or utilized prior to:

(A) Legally obtaining an improvement location permit;

(B) Passing all required inspections, including the final inspection; and

(C) Receiving a certificate of occupancy from the Planning Director.
(Ord. 2013-02, passed 3-11-13)

' 155.167 SIGN PERMITS.

The following procedure applies to improvement location permits for signs (sign permits).

(A) *Sign permit review for permanent signs.* The following procedure applies to permanent sign permit review.

(1) *Application.* Application for a permit shall be filed with the Planning Director and shall be accompanied by information as may be required to assure compliance with the laws and regulations of the town, including:

(a) Clear and legible drawings with descriptions showing the location of the sign which is the subject of the permit. All signs on the same parcel or owned by the same business must be noted.

(b) A dimensioned drawing showing the size of the sign face area and the height of the sign.

(2) *Effect of sign permit issuance.* A sign permit issued under the provisions of this section shall not be deemed to constitute permission or authorization to maintain an unlawful sign nor shall it be deemed as a defense in an action to remove an unlawful sign.

(3) *Nullification.* A sign permit shall become null and void if work has not been started within 12 months of the date the permit is issued or completed within 18 months of the date the permit is issued.

(B) *Sign permit review for temporary signs.* The following procedure applies to sign permit review for temporary signs.

(1) *Application.* Application for a permit shall be filed with the Planning Director and shall be accompanied by information as may be required to assure compliance with the laws and regulations of the town, including:

(a) Type of temporary sign to be used;

(b) Period of time the temporary sign is to be used;

(c) Location at which the temporary sign is to be used.

(2) *Effect of sign permit issuance.* A sign permit issued under the provisions of this section shall not be deemed to constitute permission or authorization to maintain an unlawful sign nor shall it be deemed as a defense in an action to remove an unlawful sign.

(3) *Nullification.* A sign permit shall become null and void if the sign has not been placed within one month of the date the permit is issued.
(Ord. 2013-02, passed 3-11-13)

ENFORCEMENT AND PENALTIES

' 155.170 AUTHORITY.

The Plan Commission, Board of Zoning Appeals, Town Council, and/or the Planning Director (and their designees) are designated to enforce the provisions, regulations, and intent of this chapter. All remedies and enforcement shall comply with the powers set forth in IC 36-7-4 and all other applicable state laws.
(Ord. 2013-02, passed 3-11-13)

' 155.171 VIOLATIONS.

Complaints made pertaining to this chapter shall be investigated by the Planning Director, Code Official, and/or their designees. Also, any violations suspected by the Plan Commission, Board of Zoning Appeals, Town Council, or Planning Director shall be investigated by the Planning Director or Code Official. Action may or may not be taken depending on the findings. The degree of action will be at the discretion of the investigator(s) and should reflect what is warranted by the violation.
(Ord. 2013-02, passed 3-11-03)

' 155.172 INSPECTION OF PROPERTY.

(A) Inspections of property may be made by the Planning Director, Code Official, or their designees may be made from a right-of-way without permission of the property owner, or adjacent property with permission, or from the property suspected of a violation once he/she has presented appropriate evidence of their authority and describe the purpose of their inspection to the owner, tenant, or occupant at the time of the inspection, if applicable.

(B) In the event the investigator(s) is/are denied entry to the subject property, the investigator(s) may apply to the court of jurisdiction to invoke legal, applicable, or special remedy for the inspection of property and the enforcement of this chapter. The application shall include the purpose, violation(s) suspected, property address, owner's name, if available, and all other relevant facts. Additional information shall be provided as requested by the court.
(Ord. 2013-02, passed 3-11-03)

' 155.173 RESPONSIBILITY FOR VIOLATIONS.

The owner of any property or building, or part thereof, shall be responsible for the violation. Architects, builders, developers, or agents thereof may also be held responsible for the violation if evidence of their involvement or negligence is found.
(Ord. 2013-02, passed 3-11-03)

' 155.174 LIABILITY.

A structure that is raised or converted, or land used in violation of this chapter or its subsequent amendments may be deemed a common nuisance, and the owner or possessor of the structure or land is liable for the nuisance.
(Ord. 2013-02, passed 3-11-03)

' 155.175 VIOLATIONS DURING THE CONSTRUCTION/BUILDING PROCESS.

The Planning Director or Code Official may place a stop-work-order or violation notice on any land/property improvement process. Stop-work-orders shall be issued by written letter which shall state the violation and that work or illegal activity must stop immediately until the matter is resolved. This letter shall be posted in a conspicuous place or be delivered/mailed to the owner, developer, property manager, tenant, or occupant.

(A) The Planning Director must meet with the person(s) served the stop-work-order notice within seven days of any such meeting being requested. A memorandum of agreement shall be drafted stating the conditions by which construction or action may be

resumed. This memorandum of agreement must be signed by the owner, developer, property manager, tenant, or occupant that has caused, or is responsible for the violation and the Planning Director.

(B) Reasons for a stop-work-order include, but are not limited to:

(1) Not complying with development standards and/or any regulations of this chapter or the subdivision control code;

(2) Not obtaining an improvement location permit prior to the start of construction of any improvement for which a permit is required by this chapter;

(3) Not completing structures or other improvements consistent with any approved improvement location permit, variance, special use, or other approval;

(4) Not meeting the conditions or commitments of a special use, variance, or zoning amendment;

(5) Not meeting the conditions of site development plans, planned unit development detailed plans, covenants, or written commitments which are enforceable by the Plan Commission; and

(6) Illegal use or expansion of use of structures, or structures and land in combination.
(Ord. 2013-02, passed 3-11-03)

' 155.176 TYPES OF VIOLATIONS.

The following items shall be deemed civil zoning violations:.

(A) The placement or erection of a primary structure, accessory structure, sign, or any other element determined by the Planning Director to not conform to the provisions or explicit intent of the zoning code;

(B) The maintenance of a primary structure, accessory structure, sign, or any other element determined by the Planning Director to not conform to the provisions or explicit intent of the zoning code;

(C) Failure to obtain an improvement location permit when required by this chapter or the Building Code;

(D) Conducting a use or uses that do not comply with the provisions or explicit intent of this chapter;

(E) Any failure to comply with the development standards and/or any regulations of this chapter;

(F) Proceeding with work under a stop-work- order or a violation of a memorandum of agreement; and

(G) Any failure to comply with commitments or conditions made in connection with a rezoning, special use, variance or other similar or documentable commitment, including verbal agreements during official Plan Commission, Board of Zoning Appeals, and/or Town Council meetings.
(Ord. 2013-02, passed 3-11-03)

' 155.177 PROCEDURE FOR VIOLATIONS.

There shall be a three step procedure for violations of this chapter. These steps are as follows:

(A) The Planning Director shall issue a notice of violation to the person(s) who has committed, in whole or in part, a violation. The notice of violation is a warning to the violator(s) that a violation has been determined and that it must be corrected within 15 days of the mailing date or posting of notice.

(B) The Planning Director shall issue a notice of fines and penalties to the person(s) who have committed, in whole or in part, a violation. The notice of fines and penalties is a citation that states the fines and penalties for the violation. The person(s) in

violation will have 15 days to pay said fines and/or comply with the penalties. The person(s) in violation must correct the violation within 15 days or face additional notices of fines and penalties.

(C) If the person(s) in violation refuses to pay or comply with the penalties, or correct the violation, after notice has been given, the Plan Commission or Town Council may pursue court action through a court of jurisdiction. Fines and liens against the property may also be pursued until the matter is resolved.
(Ord. 2013-02, passed 3-11-03)

' 155.178 IMMEDIATE PUBLIC RISK VIOLATIONS.

Any violation of this chapter which presents an immediate risk to the health, safety, or welfare of the public, or to property within the town may be corrected by the Planning Director, or a person, firm, or organization selected by the Planning Director, without prior notice to the property owner or other person responsible for the violation.

(A) Immediate public risk violations shall include:

(1) Signs, structures, landscaping or other materials placed in a public right-of-way, easement, or sight visibility triangle in violation of this chapter;

(2) Any sign, structure, landscaping, or other material located on private property which serves to distract or inhibit operators of motor vehicles on adjacent public streets, pedestrians, or other members of the general public; and

(3) Any other immediate threat to public welfare as determined by the Town Council, Plan Commission, Board of Zoning Appeals, Planning Director, Town Engineer, Police or Fire Chief, or other public official.

(B) Any sign, structure, landscaping or other material which constitutes an immediate public risk violation may be seized by the Planning Director in a manner that results in minimal damage to the material and the property upon which it is located.

(C) The Planning Director shall provide notice to the owner of the property upon which the violation was located, or any discernible appropriate owner of materials placed within the right-of-way in violation of this chapter, by either placing a notice in a conspicuous place on the property or by letter.

(1) The notice shall be sent to the property owner via certified mail within 24 hours of the seizure.

(2) The notice shall include the following:

(a) A description of the materials seized;

(b) A citation of the sections of this chapter which were violated and the characteristics of the violation which posed an immediate threat to public welfare;

(c) The address and phone number of the Planning Commission office and the name of the person to be contacted by the property owner to discuss the violation and request the return of the seized item; and

(d) Instructions describing how, where, and when the seized items may be claimed.

(D) The Planning Director shall store any sign, structure, landscape materials or other items seized in a secure location for a period of no less than 30 days from the date notice was provided to the property owner. The property owner may claim the seized property at any time following its seizure upon the payment of a $25 fine and the establishment of a memorandum of agreement between the property owner and Planning Director regarding the future use of the item in a manner consistent with this chapter.

(E) Neither the Planning Director, the town or any other official or entity involved in the seizure shall be liable for any damage to the seized item or the property from which it was taken.
(Ord. 2013-02, passed 3-11-03)

' 155.179 FINES AND PENALTIES.

(A) Monetary fines may be imposed for each civil violation determined upon a single inspection. Fines shall be assessed for each day that the violation is present following the provision of any notice of violation to the property owner or other responsible party.

(B) No fine for any single violation shall exceed $2,500 per day. Payment of any violation shall be made to the Town Clerk-Treasurer. A receipt of payment must be recorded and a receipt issued to the person making payment.
(Ord. 2013-02, passed 3-11-03)

' 155.180 APPEALS OR TRIALS.

(A) Any person receiving a notice of violation and/or fines and penalties may appeal the violation and/or fine to the Board of Zoning Appeals (BZA) or to a court of jurisdiction. A written statement from the person in violation, either filing an administrative appeal consistent with " 155.130 through 155.142 or giving notice of the filing of an action with a court, shall be submitted to the Planning Director via certified mail at least three days prior to the date any fine is due.

(B) Fines due will be postponed until the BZA or court of jurisdiction has made a ruling as to the violation and/or fine. The person(s) in violation shall have 30 days to file for a hearing with the BZA or court of jurisdiction. Also, the person(s) in violation shall have a maximum of six months to complete the hearing process with the BZA. Failure to meet these deadlines will reinstate all fines due by the person(s) in violation.

(C) No additional notices will be issued by the Planning Director if the person(s) in violation has (have) submitted an appeal or notice of court review.
(Ord. 2013-02, passed 3-11-03)

' 155.181 ENFORCEMENT, REMEDIES AND INJUNCTIVE RELIEF.

(A) The town, or any enforcement official designated by this chapter, may bring an action in the Circuit or Superior Court of the county to invoke any legal, equitable, or special remedy, for the enforcement of any Code or regulation created under IC 36-7-4, and its subsequent amendments. This includes but is not limited to this chapter and the subdivision control code, " 155.190 et seq. The Plan Commission or any enforcement official designated by this Code may also bring an action in the Circuit or Superior Court of the county to enforce:

(1) All agreements with the Plan Commission or its designees which have been recorded as covenants or written commitments in connection with a subdivision plat, a site development plan, or a planned unit development;

(2) All commitments made in accordance with IC 36-7-4 et seq.; and

(3) All conditions imposed in accordance with IC 36-7-4 et seq.

(B) The town, or any enforcement official designated by this chapter, may bring action in the Circuit or Superior Court of the county to restrain a person violating IC 36-7-4 et seq. or any code adopted under IC 36-7-4 et seq. which includes but is not limited to this chapter and the subdivision control code, " 155.190 et seq.

(C) The town, or any enforcement official designated by this chapter, may also bring an action in the Circuit or Superior Court of the county for a

mandatory injunction, directing to remove a structure erected in violation of this chapter or applicable state code.

(D) If the town, or any enforcement official is successful in its action, the respondent shall bear all costs of the action.

(E) An action to enforce a written commitment made in accordance with IC 36-7-4 et seq. may be brought in the court of jurisdiction by any specially affected person who was designated in the written commitment.
(Ord. 2013-02, passed 3-11-13)

SUBDIVISION CONTROL CODE

' 155.190 BASIC PROVISIONS.

(A) *Title.* This subchapter shall be formally known as the "Lowell Subdivision Control Code," and it may be cited and referred to as the "subdivision regulations" or "subdivision control code" or this "subchapter."

(B) *Defined words and construction.*

(1) The definitions contained in this section shall be observed and applied in the interpretation of all provisions included in this subchapter, except where the context clearly indicates otherwise.

(a) Words used in the present tense shall include the future;

(b) Words used in the singular number shall include the plural and the plural the singular;

(c) Words used in the masculine gender shall include the feminine;

(d) The word ***SHALL*** is mandatory, not discretionary;

(e) The word ***MAY*** is permissive;

(f) The word ***LOT*** shall include the words ***TRACT*** and ***PARCEL***;

(g) The word ***BUILDING*** includes all other structures of every kind regardless of similarity to buildings;

(h) The phrase ***USED FOR*** shall include the phrase ***ARRANGED FOR***, ***DESIGNED FOR***, ***INTENDED FOR***, ***MAINTAINED FOR***, and ***OCCUPIED FOR***;

(i) The word ***PERSON*** includes a corporation, firm, partnership or similar, as well as an individual;

(j) All measured distances shall be to the nearest integral foot;

(k) Parenthetical words or statements are integral parts of the definitions in which they are located;

(l) Any words not defined in this division shall be construed in their generally accepted meanings as defined by standard dictionaries.

(2) The following rules of construction shall apply to this subchapter:

(a) This document includes, but is not limited to the Land Use and Development Code, the Subdivision Control Code and the Building Code.

(b) This document has been adopted as a unified code, but each part may exist outside of this document if appropriate definitions are provided. The effective date and other basic and administrative provisions of each of the included codes is defined in those codes.

(C) *Authority.* This subdivision control code is adopted by the town pursuant to its authority under IC 36-7-4 et seq.

(D) *Jurisdiction.* This subchapter shall apply to all land within the jurisdiction of the Plan Commission, being all portions of the incorporated town not in the ownership of the state or federal government and to any area for which the town has established an extended jurisdiction consistent with the provisions of Indiana law. This subchapter, which was enacted pursuant to Indiana home rule and planning enabling legislation (IC 36-1-3-4 and 36-7-4-700 series, as amended), authorizes the Advisory Plan Commission to review and approve or disapprove plats for subdivisions within the jurisdiction defined above.

(E) *Purpose.* The purposes of the subdivision regulations are to protect and promote public health, safety, and general welfare, and to:

(1) Provide guidance for future growth and development in accordance with the Comprehensive Plan and applicable codes;

(2) Provide protection for the character and the social and the economic stability of all parts of the town;

(3) Encourage the orderly and beneficial development of the town;

(4) Provide protection and conservation of the value of land, structures, and other improvements to the land;

(5) Discourage conflicts between the uses of land and structures;

(6) Avoid scattered, illogical, and uncontrolled subdivisions of land that would result in the imposition of an excessive expenditure of public funds for the distribution or supply of infrastructure and/or services;

(7) Establish reasonable standards and procedures for subdivisions and re-subdivisions, in order to further the orderly layout and use of land;

(8) Ensure proper legal descriptions, legal recording, and monumenting of subdivided land;

(9) Prevent the pollution of air, water, and soil;

(10) Ensure the provision of drainage facilities, the safeguarding of the water table, and the protection from flooding or the causing of increased risk of flooding;

(11) Encourage the protection of natural resources in order to preserve the integrity, stability, natural beauty, topography, and the value of land;

(12) Plan for a balance between land uses, natural resources, open spaces, recreation, and public ways that is beneficial to the community as a whole, both currently and in the future;

(13) Cause the cost of design and installation of improvements in new, platted subdivisions to be borne by the developer and persons purchasing the lots, and to avoid any direct or indirect burden placed upon adjacent property owners or the town as a whole; and

(14) To cause the petitioner to bear all costs associated with the approval process, development process, and inspection process.

(F) *Compliance.* No person shall divide, record, transfer or sell any parcel before the proposed subdivision has been approved in accordance with the processes and provisions of this subchapter, and filed with the County Recorder, unless otherwise specified by this subchapter.

(1) *Subdivision defined.* The division of any lot for the purpose of sale, transfer, gift, or lease resulting in the creation of one or more new building sites shall be considered a subdivision and shall be subject to the requirements of this subchapter.

(2) *Public safety.* Land to be subdivided and developed must be able to be done so without adversely affecting public safety, welfare, or health from flooding or other menace.

(3) *Accessibility.* Land shall not be subdivided unless appropriate road access is demonstrated to be possible.

(4) *Public facilities.* Land shall not be subdivided unless all required public facilities are in place, or improvements and proper provisions have been planned and a surety given by the petitioner to meet all requirements for drainage, water, sewerage, and transportation facilities adequate for serving the subdivision. The general requirements of public schools, local police and fire departments, and other public service providers may also be considered.

(5) *Plan Commission approval.* No plat or re-plat of a subdivision of land located within the jurisdiction of the Plan Commission shall be recorded until it has been approved by the Commission, and such approval has been certified on the plat by the President and Secretary of the Commission.

(6) *Permitted uses.* No land shall be subdivided unless the intended use of the individual lot is in conformance with this chapter , now or hereafter adopted.

(7) *Natural/historic features.* In all subdivisions, due regard shall be given to the preservation of historical sites and natural features such as large trees, water courses, wetlands, floodways, and scenic views.

(8) *Permits.* No improvement location permit or certificate of occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of these subdivision regulations. No excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with the regulations contained herein and in conformity with all additional construction standards adopted by the town.

(9) *Legal non-conforming subdivisions.* Any parcel surveyed, recorded, sold, leased, contracted for, or transferred prior to the effective date of this chapter that was officially approved and met all the requirements of the subdivision code, or subdivision codes in effect at the time the proposed building site was established, and was recorded will be a grandfathered or legal nonconforming subdivision.

(G) *Exemptions.* The following subdivisions of land are exempt from the provisions of this subchapter subject to the specifications of this section. All exempt divisions shall be recorded through metes and bounds legal descriptions in the office of the County Recorder.

(1) *Legal description correction.* A division of land for the transfer of a tract or tracts to correct errors in an existing legal description, provided that no additional building sites are created, and no additional public improvements are required or created;

(2) *Right-of-way acquisition.* A division of land for federal, state, or local government to acquire right-of-way.

(H) *Replats.*

(1) For any change in an approved or recorded subdivision plat, if such change affects any street layout shown on such plat, creates an additional building site, reduces the size of any lot, or alters any right-of-way or easement; such change shall be reviewed by the Plan Commission by the same procedure and regulations as for a major subdivision plat.

(2) For any change in an approved or recorded subdivision plat, if such change results in only the combination of two or more lots, or the division of a lot between adjoining property owners in a manner that does not result in the creation of an additional building site, partial remaining tract, or lot in violation of the provisions of the zoning code, such change shall be reviewed by the Technical Review Committee consistent with the provisions of ' 155.191 for petitions for which the TRC has approval authority.

(I) *Severability.* If any provision or the application of any provision of this subchapter is held unconstitutional or invalid by the courts, the remainder of the subchapter or the application of such provision to other circumstances shall not be affected.

(J) *Interpretation.* The provisions of this subchapter shall be the minimum requirements necessary for the protection of the health, safety, comfort, morals, convenience, and general welfare of the people at large. The provisions are also designed to establish and maintain reasonable community standards for the physical environment. If two or more provisions within this subchapter are in conflict or are inconsistent with one another, then the provision which is most restrictive shall control.

(K) *Application.* When this subchapter along with private covenants, private contracts, commitments, permits, agreements, state laws, federal laws, or other regulations regulates a structure or parcel of land, the greater restriction shall control.

(1) *Public provisions.* These regulations are not intended to interfere with, abrogate, or annul any other code, rule, regulation, statute, or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other code, rule, regulation, or other provision of law; whichever provisions are more restrictive or impose higher standards shall control.

(2) *Private provisions.* These regulations are not intended to abrogate any easement, covenant, or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirement of these regulations, and such private provisions are not inconsistent with these regulations, then such private provisions shall be supplemental to these regulations. (Note: Private provisions can only be enforced privately, unless a public agency has been made party to such agreements.)

(L) *Saving provision.* This subchapter shall not be construed as eliminating or reducing any action now pending under, or by virtue of, an existing law or previous subdivision code. Also, this subchapter shall not be construed as discontinuing, reducing, modifying, or altering any penalty accruing or about to accrue.

(M) *Repealer.* The Subdivision Control Code of March 28, 1992 and all subsequent amendments are hereby repealed. This subchapter shall replace the repealed code as of the effective date.

(N) *Transition rules.*

(1) *Subdivision regulations.* Any subdivision either fully approved or submitted and docketed for a public hearing prior to the adoption of this subchapter shall be regulated by the terms and conditions of the subdivision control code which were in place at the time of the approvals. However, all administrative procedures and penalties shall follow those set forth by this subchapter.

(2) *Permit applications.* Any application for an improvement location permit which has been filed with the Plan Commission or its designees and which is full and complete, prior to the effective date of this subchapter, shall be regulated by the terms and conditions of the subdivision control code which was in place at the time of filing. However, all administrative procedures and penalties shall follow those set forth by this subchapter.

(3) *Property splits.* All new building sites shall meet the requirements of this subchapter unless:

(a) An improvement location permit for the site has been issued and is still valid; or

(b) A parcel was approved as a buildable lot by the Plan Commission or the Board of Zoning Appeals prior to the effective date of this subchapter.

(4) *Previous approvals.* All plats and other petitions regulated by this subchapter which were approved prior to the effective date of this subchapter and not yet executed shall expire and become void one year following the effective date of this subchapter. All approvals which expire and/or become void shall comply with all applicable provisions of this subchapter if re-issued.

(O) *Amendments.*

(1) In accordance with IC 36-7-4-602, the legislative body may amend or partially repeal the text of this subchapter. The Town Council or the Plan Commission may initiate a proposal to amend or partially repeal the text according to the procedure of IC 36-7-4-602(b) and 36-7-4-607 and according to the Plan Commission rules and procedures.

(2) In its review of the text amendments, the Board and the Plan Commission shall pay reasonable regard to:

(a) The most recently adopted comprehensive plan;

(b) The most recently adopted land use and development code;

(c) The current conditions and character of structures and uses in each district;

(d) The most desirable use for which the land is each district is adapted;

(e) The conservation of property values throughout the town;

(f) Responsible development and growth; and

(g) The public health, safety and welfare. (Ord. 2013-02, passed 3-11-13)

' 155.191 ADMINISTRATION.

(A) *Administration and enforcement.*

(1) *Administration defined.* The administrator of this subchapter shall be the Planning Director. The Planning Director is hereby authorized and directed to enforce and carry out all provisions of this subchapter both in letter and spirit, pursuant to state statute.

(2) *Delegation authority.* The Planning Director is hereby empowered to delegate the duties and the powers granted to, and imposed upon him/her under this subchapter. As used in this subchapter, Planning Director shall include any authorized representative(s).

(3) *Inspections.* The Planning Director is hereby empowered to enter or inspect any structure, or premises in the jurisdictional area of this subchapter to insure compliance with the provisions of this subchapter. Such inspections shall be carried out during business hours, unless an emergency exists.

(a) Investigations of property may be done by the Planning Director either from a right-of-way without permission of the property owner, or adjacent property (with permission), or from the property suspected of a violation once he/she has presented sufficient evidence of authorization and described the purpose of the inspection to the owner, tenant, or occupant at the time of the inspection.

(b) In the event that the Planning Director is denied entry to any property necessary to carry out an inspection, he/she may apply to a court of jurisdiction to invoke legal, applicable, or special remedy for the inspection of the property and the enforcement of this subchapter or any other applicable

codes adopted under state code. The application shall include purpose, violation(s) suspected, property address, owner's name if available, and relevant facts. Additional information may be necessary as requested by the court. Pursuant to applicable regulations and the determination of the court, the owner of the property shall permit entry by the Planning Director.

(B) *Notice of public hearing.* Legal notice of any public hearing shall be made by applicant as required by IC 5-3-1 series and due notice shall be made by mail to all property owners of record within 300 feet of each property line. Such required notice shall be made by the applicant and at the applicant's expense and such notice shall be made at least ten days prior to the date set for the hearing. The notice shall include the following information:

(1) The general location of the subject property and a legal description of the land;

(2) The street or common address of the real estate;

(3) That the project application, and any supportive plans, are available for examination at the office of the Plan Commission;

(4) That a public hearing will be held and giving the date, time, and place of the hearing; and

(5) That written comments on the petition will be accepted prior to the public hearing and may be submitted to the Planning Director.

(C) *Waivers of subdivision regulations.*

(1) *General provisions.* Where the Plan Commission finds that extraordinary hardships or practical difficulties may result from the strict compliance with these regulations, or the purposes and intent of these regulations may be served to a greater extent by an alternative proposal, it may grant waivers of the subdivision regulations set forth in this subchapter so that substantial justice may be done and the public interest served. No waiver shall be granted in relief of mere inconveniences or financial disadvantages of the subdivider.

(2) *Decision criteria.* The Plan Commission shall not approve any waivers of the subdivision regulations unless it makes written findings based upon the evidence presented to it in each specific case, such that:

(a) The granting of the waiver will not be detrimental to the public safety, health, or welfare;

(b) The granting of the waiver will not be injurious to the reasonable use and development of other property;

(c) The conditions upon which the request for waiver is based are unique to the property for which it is sought and are not applicable generally to other property;

(d) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a hardship to the owner would result if the strict letter of these regulations were carried out; and

(e) The waiver will not contradict the intent of the Land Use and Development Code or Comprehensive Plan.

(3) *Public facility waiver.* Where the waiver impacts the design, construction or maintenance obligations of public facilities, it shall not be granted unless the appropriate public agency has reviewed and approved in writing the proposed development to the Plan Commission.

(4) *Conflict of authority.* No waiver of these subdivision regulations shall conflict with the powers and duties of the Board of Zoning Appeals.

(5) *Procedure.* The procedure for review of waiver requests is as follows:

(a) At the time of filing a subdivision request consistent with this subchapter, the petitioner must submit a detailed written statement documenting all waivers requested as part of the petition and reasons for the waiver request(s) consistent with the decision criteria outlined above.

(b) Only those standards specifically described in the waiver request may be reviewed by the Plan Commission.

(c) Waivers may only be granted in a public hearing, and shall generally be considered at the time the preliminary plat for the proposed subdivision is reviewed by the Commission. The Commission may make reasonable conditions an element of any waiver approval.

(d) All waiver requests which are granted, and the reasons for approval shall be recorded in the minutes of the Plan Commission. Any conditions imposed by the Commission as part of the waiver approval shall be included in writing on the recorded plat of the subdivision.

(D) *Inspections and permits.*

(1) *Notification required.* The petitioner shall notify the Planning Director 72 hours prior to the planned installation of improvements within the development. The Planning Director will notify the appropriate town departments which shall have the responsibility for inspecting and testing streets, curbs, sub-bases, pavement depth and quality, sidewalks, sewer lines, water lines, utilities, drainage improvements, and any other site improvements to see that they conform to the regulations of this subchapter, all other applicable construction standards of the town, and accepted engineering standards.

(2) *Permits: withheld.* In addition to any other remedy and/or penalties which may be imposed on the petitioner by this subchapter or by any other code of the town, the Planning Director shall reserve the right to withhold improvement location permits for the lots in a final plat if the subdivider has failed to properly install, maintain, or otherwise provide for, all of the public improvements shown on the final plat and the construction plans.

(a) A certificate of occupancy shall not be issued for any lot until sidewalks and street trees are installed for said lot or a performance bond is posted with the town by the petitioner in an amount equal to the cost of installation of the sidewalk and/or trees.

(b) However, three years from the date of the approval of the final plat by the town, the petitioner is responsible for installing all sidewalks and/or trees shown on the final plat, whether all lots in the development are built upon or not.

(c) The developer shall be responsible for installing sidewalks through any park and open space areas included in the final plat and connecting them to existing and/or proposed sidewalks in other areas of the subdivision, or adjacent sidewalk/ pedestrian paths in other developments at the time the streets and other public improvements in each phase of construction are completed.

(E) *Technical Review Committee.*

(1) *Committee intent.* The Technical Review Committee (also known and referred to in this subchapteras the "TRC" and "the Committee") is hereby formed for the purpose of providing technical review of certain types of petitions and applications. The intent of the Technical Review Committee is to provide efficiency in the work load of the Plan Commission as well as applicants by establishing a body to make determinations regarding petitions for which the only criteria is consistent with the applicable adopted standards of the town. Further, the TRC shall provide for efficiency in the approval process of petitions determined by the Plan Commission and Town Council by providing an initial examination and report based on all applicable adopted requirements of the town. All approval processes and actions of the Technical Review Committee shall be consistent with the requirements of Indiana Law.

(a) *Approval authority*. The Technical Review Committee shall have the authority to approve the following types of petitions and applications:

1. Subdivision construction plans;

2. Administrative subdivision rural development concept plans;

3. Final subdivision plats, and as specified in ' 155.190(H)(2).

(b) *Review authority*. The Technical Review Committee shall have the authority to review preliminary subdivision plats, forwarding comments to the Plan Commission.

(c) *Appeal rights*. All decisions of the Technical Review Committee may be appealed to the Plan Commission following the procedure outlined in this section.

(2) *Committee structure*. The Planning Commission staff shall also serve as the staff for the Technical Review Committee. They shall distribute all appropriate materials and keep all necessary files and meeting records. The organization of the Technical Review Committee shall be as described below:

(a) The Technical Review Committee shall, at a minimum, consist of the following members:

1. The Planning Director or his/her designated representative;

2. A Plan Commission member appointed annually by the Plan Commission for a term of one year; and

3. The Town Engineer or his/her designated representative.

(b) Members of the Committee shall either be present at the time of the scheduled Committee meeting or submit written comments regarding each specific petition to the Planning Director prior to the appropriate meeting.

1. Each committee member shall only comment on the aspects of each petition that directly relate to their area of expertise regarding the applicable adopted standards of the town.

2. If no comments are received from a member of the committee it shall indicate that they have no objection to any aspect of the applicable petition, and therefore grant their individual approval.

3. The Planning Director shall determine the action taken on each petition by the Committee based on the comments of the Committee members.

(c) The Planning Director shall oversee the operation of the Technical Review Committee and shall make the final determination regarding any specific aspect of a petition on which members of the Technical Review Committee disagree. In cases of disagreement and at his/her discretion, the Planning Director may forward any petition before the Technical Review Committee to the Plan Commission for a determination on the request.

(d) All petitions which are not approved by the Technical Review Committee and not forwarded to the Plan Commission shall be tabled and placed on the agenda for the next appropriate Committee meeting.

1. Prior to that meeting the petitioner shall address the comments of the Committee, making appropriate modifications to the application materials.

2. The petitioner shall provide appropriate copies of the revised materials prior to the next Committee meeting based on the adopted calendar of meeting and filing dates.

3. The petitioner may withdraw any petition following the review of the Technical Review Committee by submitting a notice of such withdrawal in writing to the Planning Director. Any petitions which are withdrawn and are subsequently re-filed shall be considered a new petition and shall be subject to all applicable requirements for new petitions established by this subchapter.

(3) *Attendance required.* Either the petitioner or a representative of the petitioner shall be required to attend all Technical Review Committee meetings at which time their petition shall be reviewed. If either the petitioner or their representative is not present, the petition shall automatically be tabled and placed on the agenda for the next appropriate TRC meeting.

(4) *Meeting record.* The Planning Director shall make written documentation of the comments and findings of the Technical Review Committee for each petition and make those written findings available to the petitioner within three business days of the Commission's review. The written documentation shall consist of the following:

(a) A letter to the petitioner stating the action taken by the Committee; and

(b) A list of any outstanding comments made by the members of the TRC, including references to appropriate sections of adopted, applicable requirements of the town, the State of Indiana, and/or the federal government.

(5) *Decision criteria.* In all cases, the Technical Review Committee shall only consider the applicable adopted requirements of this subchapter, the Land Use and Development Code, any adopted town construction or improvements standards, any adopted standards of the County Drainage Board, and any other adopted and applicable standards of the town, the State of Indiana, and/or the federal government.

(a) n all cases in which the TRC has approval authority and a petition conforms to the applicable standards, that petition shall be approved.

(b) In no case shall any petitioner be required to make any modifications to any petition based solely on the opinions or other undocumented and/or unadopted standards of any member of the Committee. This shall not be interpreted as prohibiting any committee member from providing comments which express their professional opinions regarding a petition being forwarded to the Plan Commission.

(6) *Appeal procedure.* Any applicant may appeal the decision of the Technical Review Committee to the Plan Commission. Applicants seeking relief from specific development standards or other requirements of the zoning code which are unrelated to the Committee's interpretation of the applicable requirements shall be required to obtain variance approval from the Board of Zoning Appeals.

(a) The applicant shall be required to provide the Planning Director with written notice of the appeal within 60 days of the date of the Committee decision.

(b) The Planning Director shall place the appeal on the agenda for the next appropriate Plan Commission meeting consistent with the adopted calendar of meeting and filing dates.

(c) Public notice for the meeting shall be required, consistent with the provisions of this subchapter.

(d) The Plan Commission shall consider the provisions of this subchapter and all other applicable standards in deciding the appeal.

(F) *Commercial and industrial subdivisions.* It is recognized by this subchapter that the development of commercial and industrial subdivisions is required by the nature of the marketing of such projects to deviate from the standard procedure used for residential subdivisions.

(1) *Review emphasis.* In reviewing commercial and industrial subdivisions, the initial emphasis of the Commission shall be on street lay out and block arrangement.

(2) *Procedure.* The subdivider shall follow the procedure for major subdivisions provided in ' 155.193, but in terms of lot arrangement shall only be required to show two defined lots and a block layout.

(a) The subdivider shall prepare construction plans and the final plat for only the lots identified, and shall re-plat the approved preliminary plat as additional lots become necessary.

(b) All commercial and industrial preliminary plats shall expire within ten years of the date of preliminary plat approval by the Plan Commission.

(G) *Violations and penalties.*

(1) *Violations.* A failure to comply with any of the requirements of this subchapter, including violations of conditions and safeguards established in connection with the granting of waivers, as well as subdivision approval, shall constitute a violation of this subchapter.

(2) *Legal proceedings.* The Plan Commission, Plan Commission attorney, the Board of Zoning Appeals, the Planning Director, or any designated enforcement official may bring to the attention of the Planning Director and/or Town Attorney a violation of the provisions of this subchapter in order to initiate legal proceedings pursuant to statute.

(3) *Mandatory injunction.* The Plan Commission, the Board of Zoning Appeals, the Planning Director or any designated enforcement official may request the Town Attorney to bring an action for a mandatory injunction directing any person to remove a structure and/or to discontinue working in violation of the provisions of this subchapter pursuant to state statute.

(4) *Common nuisance.* Any structure erected, raised or converted, or land or premises used in violation of any provision of this subchapter or of the requirements thereof, is hereby declared to be a common nuisance and as such may be abated in such a manner as nuisances are now or may hereafter be abated under existing law.

(5) *Fines.* Any person who violates this subchapter shall, upon conviction, be fined not less than an amount set by the Town Council and subject to amendment by the Council from time to time. Current fines are available for inspection at the town offices during normal business hours.

(6) *Person in violation.* Any person who attempts, commits, participates in, assists or maintains a violation of this subchapter may be found guilty and suffer the penalties herein provided.

(7) *Remedy for failure.* The remedy provided in this section for failure to comply with any of the requirements of this subchapter, whether civil, criminal or otherwise, shall be cumulative and shall be in addition to any other remedy provided by law. The civil penalty hereinafter described shall be used in preference to the criminal penalty on all violations except in the case of repeated, malicious, willfully prolonged or flagrant violations.

(8) *Assurance of discontinuance.* For all violations, the Planning Director may accept an assurance of discontinuance of any act or violation. Such assurance shall specify a time limit in which the act or violation shall be discontinued.
(Ord. 2013-02, passed 3-11-13)

' 155.192 ADMINISTRATIVE SUBDIVISIONS.

(A) *Intent.* The intent of the administrative subdivision process is to allow a simplified procedure for the creation of low-density development of rural lands consistent with the agricultural characteristics of areas of the town.

(B) *Minimum standards for an administrative subdivision.*

(1) *Parcel zoning and density standards:* Administrative subdivisions shall be permitted in the following zoning districts as established by the Land Use and Development Code:

(a) *Parent tract defined.* The subdivision approval shall be based on the characteristics of the parent tract legally established and recorded prior to December 31, 2000. For the purposes of this section, any two or more lots which shared a common property line at any point and were under the same ownership prior to December 31, 2000 shall be considered as one parent tract.

(b) *Subdivisions permitted.* In all zoning districts the creation of additional lots shall be based on a sliding scale determined by the acreage present in the parent tract as defined in division (B)(1) above. The sliding scale shall be as follows:

1. Parent tracts which include between four and ten acres shall be permitted to be divided for the creation of one additional lot (for a total of two lots including the remainder from the parent tract).

2. Parent tracts which include 10 to 15 acres shall be permitted to be divided for the creation of two additional lots (for a total of three lots including the remainder from the parent tract).

3. Parent tracts which include 15 acres or more shall be permitted to be divided for the creation of three additional lots (for a total of four lots including the remainder from the parent tract).

4. Nothing in this section shall be interpreted as permitting the creation of additional lots from parent tracts present on January 1, 2000 that have subsequently been divided, through a "mini plat" or other means, to the extent that a number of new lots greater than that specified above will be created.

(c) *Exception.* A habitable residence, as determined by the Planning Director, built prior to December 31, 2000, located in any zoning district may be separated from the parent tract through the administrative subdivision process provided that both the lot and the remaining tract conform with all requirements of the Land Use and Development Code for the zoning district in which the property is located. Such exception shall also be required to conform with all design standards provided by this section.

(d) *Subdivision rights.* All subdivision rights as established by this section shall run with the parent tract or remainder thereof. The further subdivision of any lot created from a parent tract shall be prohibited unless it is consistent with the major subdivision process established by ' 155.193.

(e) *Further subdivision.* Once all of the permitted lots have been split from the parent tract, any further subdivisions shall follow the major subdivision process established by ' 155.193 in order for the town to ensure that land is improved in coordination with the Comprehensive Plan in the laying out of public ways, easements, structures, utilities, and other features; that regional drainage concerns are addressed; and established public policy is followed.

(2) All administrative subdivisions shall conform to the following design standards:

(a) Any subdivision which includes the construction of any public improvements including a public street, sidewalks, sewer or water mains, or street trees shall be considered a major subdivision and follow the major subdivision process established by ' 155.193.

(b) All lots and any remaining tract shall be consistent with all applicable requirements of the Land Use and Development Code, including lot size, setbacks, frontage on a public road, width to depth ratio, and lot width.

(c) At the time of filing, the property owner shall be required to show all possible lots which are permitted to be created through the administrative subdivision provisions of this subchapter on a rural development concept plan, including the exception described by division (B)(1)(c) above.

(d) All road cuts shall be subject to the review of the Town Council.

1. No private driveway shall be permitted which provides the only means of access to more than three lots. Any common access drive shared by more than three lots must be created in the form of a public road. If such a public road is required, the development shall be considered a major subdivision and shall follow the major subdivision process established by ' 155.193.

2. Lot frontage on private common drives may be considered as meeting the road frontage requirements of the Land Use and Development Code.

3. All driveways shall be designed to prevent vehicles from being required to back onto the public road.

(e) All driveways shall be a minimum of 16 feet in width, with common portions included in a minimum 30-foot wide access easement.

(f) All driveways shall be constructed consistent with the requirements of the Town Engineer.

(g) A permanent documentation of any shared driveway agreement must be signed by all involved property owners or take the form of covenants on all applicable property. The documentation shall include, but is not limited to maintenance, snow removal, ownership, and liability. The documentation shall specifically exempt the town from any responsibility regarding the maintenance and upkeep of the shared driveway. The agreement shall be reviewed and approved by the Planning Director. The agreement shall be recorded in the office of the County Recorder. A copy of the agreement shall be kept in the office of the Plan Commission.

(h) Dry fire hydrants shall be installed in existing ponds and other bodies of water located on property included in the administrative subdivision consistent with the desires of the local fire department having jurisdiction.

(i) Necessary and adequate utilities and drainage facilities shall exist on the site. All septic systems and wells shall be subject to the approval of the County Health Department. A drainage plan for each subdivision shall be reviewed and approved by the Town Engineer consistent with IC 36-9-27-69.5.

(j) The applicant shall dedicate right-of-way along all public road frontages, including those of any new lots and the remainder of the parent tract, consistent with required right-of-way widths established by ' 155.195.

(k) Adequate ingress and egress to the remainder of the parent tract and adjacent properties must be maintained, planned for and provided.

(C) *Administrative subdivision application and review procedure.*

(1) *Application requirements.* In order to begin the subdivision process the applicant shall file an application for rural development concept plan approval (primary plat) with the Planning Director. This application shall:

(a) Be made on forms available at the Plan Commission office and be signed by the owner and developer and notarized;

(b) Be accompanied by the specified number of copies of a rural development concept plan which meets the requirements provided by this section;

(c) Be accompanied by a fee in the amount established by the adopted fee schedule.

(2) *Processing standards.* No application shall be processed until the application is filled out correctly and all applicable attachments are presented to the Planning Director. No docket number shall be released until all applicable fees have been paid for the application.

(3) *Meeting dates established.* The Planning Director shall provide the applicant with a date for the review and approval of the administrative subdivision by the Technical Review Committee. The date of the meeting shall be based on the adopted calendar of meeting and filing dates and shall be based on the date upon which the application for rural development concept plan approval is filed with the Planning Director.

(4) *Technical Review Committee.* The Planning Director shall place the application for rural development concept plan approval on the agenda for the applicable meeting of the Technical Review Committee and distribute copies of the submittals to the Committee members.

(a) In reviewing the application, the Technical Review Committee shall consider the provisions of this subchapter, the zoning code, and other applicable adopted standards of the town.

(b) The Committee shall make comments regarding the application and either approve, approve with conditions, require further review, or deny the application.

1. The Committee shall approve the application for rural development concept plan approval if it is found to be consistent with the requirements of this subchapter.

2. The Committee shall approve the application with conditions if minor modifications are required for the application to be completely consistent with the requirements of this subchapter. Such minor modifications shall not have the affect of altering the arrangement of lots, topography, drainage, driveways or other features. The applicant shall make revisions consistent with the conditions of approval and provide revised materials to the Planning Director for the records of the Plan Commission.

3. The Committee shall require further review of the application for rural development concept plan approval if addressing the comments of the Committee will require significant alterations in the lots, topography, drainage ways, driveways or other features. The application shall be placed on the agenda for further review at the next Technical Review Committee meeting. The applicant shall revise the application consistent with the comments received from the Committee and supply revised application materials and the specified number of copies to the Planning Director in preparation for further review by the Technical Review Committee by the date specified on the adopted calendar of meeting and filing dates.

4. The Committee shall deny the application for rural development concept plan approval if it is found to be in violation of the requirements of this subchapter. Applications which have been denied may not be re-submitted for a period of one year from the date of denial. When resubmitted, the request shall be treated as a new application following the process established by this section and with all fees required.

(5) After obtaining primary plat approval, the applicant shall file for final plat approval pursuant to ' 155.193(J)(1). The application for final plat approval shall be submitted to the Technical Review Committee for review. It shall be consistent with the approved Primary Plat and the requirements of this subchapter and any other applicable improvement standards and processes. The Committee shall approve the final plat if all the required materials provided are

consistent with this subchapter. The Planning Director shall then sign the final plat on behalf of the Plan Commission and provide it to the applicant for recording with the County Recorder. Approval of the final plat shall be effective for a maximum period of one year from the date of approval, unless it is signed and recorded as required by this subchapter.

(6) *Waivers.* The Plan Commission shall have the sole authority to grant waivers of the requirements of this subchapter.

(a) Applicants seeking a waiver of one or more requirements shall provide written notice of the waiver request either at the time of filing the application or within 30 days of any adverse decision by the Technical Review Committee.

(b) The Planning Director shall place the waiver request on the agenda for the next appropriate Plan Commission meeting consistent with the adopted calendar of meeting and filing dates.

(c) Public notice for the meeting shall be required, consistent with the provisions of ' 155.191.

(d) The Plan Commission shall consider the intent of the Comprehensive Plan and this subchapter when deciding the waiver request.

(e) The Technical Review Committee, at its discretion, may either hear any application contingent upon the outcome of a waiver request hearing by the Plan Commission, or table the request pending the outcome of the Plan Commission hearing.

(D) *Specifications for administrative subdivision documents to be submitted.* The administrative subdivision application shall be accompanied by a rural development concept plan prepared in pen or pencil, drawn to a convenient scale of not more than 100 feet to an inch, and show the following information:

(1) *Property name.* The property address, general location, and name (if there is a name by which the property is locally known).

(2) *Property ownership.*

(a) The name and address, including telephone number, of the legal owner, the developer of the property or his/her agent, and citation of last instrument conveying titles to each parcel of property to the owner involved in the proposed subdivision, giving grantor, grantee, date, and land records reference.

(b) Citations of any existing covenants on the property.

(c) The name and address, including telephone number, of the professional person(s) responsible for the subdivision design and for surveys.

(3) *Property legal description.* The location of the property, the name of the local jurisdiction, lot, section, range and county, graphic scale, north arrow, and date.

(4) *Development description.*

(a) A legend and notes, including a graphic scale, north point, and date;

(b) An indication of the lot to be considered the remainder of the parent tract;

(c) The approximate location of existing or proposed septic systems including termination point and outlet of all perimeter drain systems and/or the municipal sanitary sewer system;

(d) The approximate location of any existing or proposed wells and/or the municipal water system;

(e) A rural development concept plan approval certificate for signature by the Planning Director;

(f) Lot numbers and the area for each lot which may be created on the parent tract (listed in square footage and acres), including all setback lines, lot dimensions and road frontage widths;

(g) All existing and proposed easements including the location, width, and purpose of each easement;

(h) All existing and proposed rights-of-way on and adjoining the site of the proposed subdivision showing the street names and pavement widths;

(i) The location, size, and invert elevation of any utilities existing and proposed adjacent to, and on the site, including storm and sanitary sewers; water mains; electrical, telephone, and cable television lines; street lights; fire hydrants; and such other utilities as may be appropriate;

(j) The location(s) of any existing structure(s) on the site and a description of the future use;

(k) The location of natural streams, regulated drains, 100-year flood plains, floodways, water courses, marshes, wooded areas, and other structures or significant features;

(l) The location and results of tests, as required by any county, state, or federal government agencies made to ascertain subsurface soil, rock, and groundwater conditions;

(m) The location of all existing and proposed driveways, provisions for the construction and maintenance of shared driveways, and no-access easements;

(n) The proposed phasing of the development, if more than one lot is involved and development will occur over time.

(5) *Subdivision covenants.* In final plat any protective covenants applicable to the subdivision shall be prepared by the petitioner and be legally sound. The covenants shall be subject to the approval of the Planning Director and, at a minimum, shall provide a means for the maintenance and upkeep of any common drives and/or any drainage swales. All covenants shall be recorded in the office of the County Recorder, with a copy of the recorded covenants being provided to the Planning Director prior to the issuance of an improvement location permit.

(6) *Vicinity description.* On a separate sheet a vicinity map must be submitted that includes the following information:

(a) The location of the proposed subdivision within the town;

(b) All public thoroughfares/rights-of-way adjacent to or within 200 feet of the site;

(c) Existing and proposed driveways located on either side of all roads adjacent to the subject property;

(d) Existing zoning of the tract and all contiguous tracts surrounding the proposed subdivision. (Ord. 2013-02, passed 3-11-13)

' 155.193 MAJOR SUBDIVISION PLATS.

(A) *Intent.* The intent of a major subdivision process is to allow for all subdivisions of land that are not exempt.

(B) *Major subdivision application and review procedure.* The following is a brief overview of the major subdivision process. The complete details of the major subdivision process are provided throughout this section and subchapter.

(1) The petitioner submits an application for sketch plan review and the appropriate supportive materials for the review and comment of the Planning Director.

(2) The petitioner submits an application for preliminary plat approval and the appropriate supportive materials to the Planning Director for placement on the Plan Commission agenda.

(3) The petitioner corresponds with all applicable regulatory agencies for all other permits necessary. These may include, but are not limited to the following:

(a) The County Health Department;

(b) The County Resource Conservation District office;

(c) The County Surveyor and Drainage Board;

(d) The County Auditor's Office;

(e) The Lowell Police Department;

(f) The appropriate local fire district;

(g) The appropriate local school corporation;

(h) The Indiana Department of Transportation;

(i) The Indiana Department of Environmental Management;

(j) The Indiana Department of Natural Resources;

(k) The Town Engineer; and

(l) All applicable utility companies.

(4) The Planning Director places the request on the agenda for appropriate Technical Review Committee and Plan Commission meetings.

(5) The Technical Review Committee reviews the proposed subdivision and provides comments to the petitioner. The petitioner attends the Technical Review Committee meeting for the application and proposed plat to be reviewed.

(6) The petitioner revises the proposed Preliminary Plat and submits revised copies of all appropriate materials for use at the Plan Commission hearing.

(7) The petitioner provides public notice as specified in this subchapter. The petitioner permits the posting of a sign on the property giving notice of the proposal.

(8) The petitioner attends the Plan Commission public hearing for consideration of the preliminary plat.

(9) The petitioner submits an application for construction plan approval and the appropriate supportive materials to the Planning Director for review.

(10) The petitioner constructs the subdivision, coordinating the appropriate inspections with the Planning Director and other appropriate town officials and agencies. If conditions were attached to the preliminary plat approval, the petitioner must meet all conditions prior to final plat approval.

(11) The petitioner submits an application for final plat approval and all appropriate supportive materials to the Planning Director for review.

(12) The Technical Review Committee considers the final plat which, if approved, is certified by the President and Secretary of the Plan Commission and forwarded to the Town Council for consideration of the acceptance of the public improvements.

(13) The Town Board considers the acceptance of the public improvements and the signing of the final plat.

(14) The petitioner obtains any other required signatures and records the final plat in the office of the County Recorder. The petitioner supplies one copy of the recorded plat to the Planning Director for the records of the Plan Commission.

(C) *Sketch plan application and review procedure.*

(1) *Application requirements.* In order to begin the subdivision process the applicant shall file an application for sketch plan review with the Planning Director. This application shall:

(a) Be made on forms available at the Plan Commission office and be signed by the owner and developer and notarized;

(b) Be accompanied by the specified number of copies of a sketch plan which meets the requirements provided by this section;

(c) Be accompanied by a fee in the amount established by the adopted fee schedule;

(d) Be accompanied by the specified number of copies of an area map which includes an indication of all contiguous holdings of the owner of the property subject to the petition, including land in the same ownership, with an indication of the portion which is proposed to be subdivided.

1. The map shall include the dates the respective holdings of land were acquired, together with the book and page of each conveyance to the present owner as recorded in the County Recorder's office.

2. The map shall list the legal owner of the property, the contract owner of the property, optionee of the property, and the date on which any contract of sale was executed. If any corporations are involved, the Planning Director may request a complete list of all directors, officers, and a listing of stockholders if less than ten in number.

(2) *Review procedure.* The Planning Director shall review the application for sketch plan review and all supportive information and meet with the petitioner within 30 days of the receipt of the application. The Planning Director shall provide the petitioner with comments regarding the proposed subdivision and either approve, approve with recommended modifications, or recommend resubmittal of the application for sketch plan review.

(a) The Planning Director shall approve the sketch plan if it is conceptually consistent with the requirements of this subchapter, the zoning code, and the comprehensive plan.

(b) The Planning Director shall approve the sketch plan with modifications if specific conceptual adjustments are needed to meet the requirements of this subchapter or the zoning code. The petitioner shall address the comments of the Planning Director on the preliminary plat for the proposed subdivision.

(c) The Planning Director shall recommend re-submittal of an application for sketch plan review if the proposed subdivision is conceptually inconsistent with the requirements of this subchapter, the zoning code, or the comprehensive plan. If re-submittal is recommended, the petitioner may provide a revised application to the Planning Director within 90 days of the date of the resubmittal application without a new application and fee being required.

(3) *Review criteria.* In taking into consideration the requirements of this process and subchapter, particular attention shall be given to the arrangement, location, and width of streets, their relation to the topography of the land, sewage disposal, drainage, lot size and arrangement, the further development of adjoining lands as yet unsubdivided, and the requirements of the applicable Thoroughfare Plan.

(4) *Expiration of approval.* The petitioner shall file an application for preliminary plat approval with the Planning Director within six months of the date of sketch plan review. If a preliminary plat approval application consistent with the requirements of this section is not made in this time period the sketch plan approval shall expire. The petitioner shall be required to submit a new application for sketch plan review, including all applicable fees, consistent with the requirements of this section.

(D) *Specifications for sketch plan documents to be submitted.* Sketch plans submitted to the Commission office, prepared in pen or pencil, shall be drawn to a convenient scale of not more than 100 feet to an inch and shall show the following information.

(1) *Property name.*

(a) The name of the subdivision if the subject property is within an existing subdivision;

(b) A proposed name if not within a previously platted subdivision. The proposed name shall not duplicate the name of any subdivision plat previously recorded nor for which primary approval is still in effect; or

(c) Name of property if no subdivision name has been chosen. (This is commonly the name by which the property is locally known.)

(2) *Property ownership.*

(a) The name and address, including telephone number, of the legal owner, the developer of the property or his/her agent, and citation of last instrument conveying titles to each parcel of property the developer involved in the proposed subdivision, giving grantor, grantee, date, and land records reference;

(b) Citations of any existing covenants on the property;

(c) The name and address, including telephone number, of the professional person(s) responsible for the subdivision design, for the design of the public improvements, and for surveys.

(3) *Property description.* The location of the property, the name of the local jurisdiction, lot, section, range and county, graphic scale, north arrow, and date.

(4) *Development description.*

(a) The location of property lines, existing easements, railroad rights-of-way, watercourses, and existing wooded areas, and the location, width, and names of all existing or platted streets or other public ways within or immediately adjacent to the tract;

(b) The location and sizes of existing sewers, water mains, culverts, and other underground structures within the tract and immediately adjacent thereto; existing permanent buildings and utility poles on or immediately adjacent to the site and utility rights-of-way;

(c) Approximate topography, at the same scale as the sketch plan (normally showing two-foot contour intervals, but the Planning Director may require one-foot intervals on very flat land or permit five-foot intervals on very steep slopes);

(d) The approximate location and widths of proposed streets;

(e) Preliminary proposals for connection with existing water supply and sanitary sewage systems (or alternative means of providing water supply and sanitary waste treatment and disposal) and preliminary provisions for collecting and discharging surface water drainage;

(f) The approximate location, dimension, and areas of all proposed or existing lots shown in feet and in acres;

(g) The approximate location, dimension, and areas of all parcels of land proposed to be set aside for open space, or for another use of property owners in the proposed subdivision;

(h) The location of temporary stakes to enable the Planning Director to find and appraise features of the sketch plan in the field.

(5) *Vicinity map.* A vicinity map showing streets and other general development of the surrounding area.

(6) *Contiguous holdings description.* Whenever the sketch plan covers only a part of an applicant's contiguous holdings, the applicant shall submit, at the scale of no more than 200 feet to the inch, a sketch of the proposed subdivision area, together with its proposed street system, and an indication of the probable future street and drainage system of the remaining portion of the property.

(E) *Preliminary plat application and review procedure.*

(1) *Application requirements.* The applicant shall file an application for preliminary plat approval and the specified number of copies with the Planning Director. This application shall:

(a) Be made on forms available at the Plan Commission office and be signed by the owner and developer and notarized;

(b) Be accompanied by all required approvals of the Town Engineer;

(c) Be accompanied by the specified number of copies of a preliminary plat meeting the requirements provided by this section;

(d) Be accompanied by a fee in the amount established by the adopted fee schedule; and

(e) Be accompanied by a copy of all comments received from the appropriate local utility providers. (At a minimum, the subdivider shall provide an affidavit indicating that a copy of the proposed preliminary plat has been provided to all appropriate local utilities).

(2) *Processing standards.* No application shall be processed until the application is filled out correctly and all applicable attachments are presented to the Planning Director. No docket number shall be released until all applicable fees have been paid for the application.

(3) *Meeting dates established.* In accordance with I.C. 36-7-4-705, the Planning Director shall announce the date of a hearing before the Plan Commission within 30 days after receipt of a final and complete application. The dates of the Technical Review Committee meeting and Plan Commission hearing shall be based on the adopted calendar of meeting and filing dates and shall be based on the date upon which the application for preliminary plat approval is filed with the Planning Director.

(4) *Technical Review Committee.* The Planning Director shall place the application for preliminary plat approval on the agenda for the applicable meeting of the Technical Review Committee.

(a) In reviewing the application, the Technical Review Committee shall consider the provisions of this subchapter, the zoning code, and other applicable adopted requirements.

(b) The Committee shall make comments regarding the application. Based on those comments, the Planning Director shall either forward the application to the Plan Commission or require further review.

1. The Planning Director shall forward the application for preliminary plat approval to the Plan Commission if addressing the comments made will not require the applicant to significantly alter the layout of streets, lots, utility systems, topography, or other proposed subdivision features. The applicant shall revise the preliminary plat consistent with the comments received from the Committee and supply revised application materials and the specified number of copies to the Planning Director in preparation for the Plan Commission hearing by the date specified on the adopted calendar of meeting and filing dates.

2. The Planning Director shall require further review of the application for preliminary plat approval if addressing the comments made will require significant alterations in the layout of streets, lots, utility systems, topography, drainage ways, or other proposed subdivision features. The application shall be placed on the agenda for further review at the next Technical Review Committee meeting. The applicant shall revise the preliminary plat consistent with the comments received from the Committee and supply revised application materials and the specified number of copies to the Planning Director in preparation for further review by the Technical Review Committee by a date specified on the adopted calendar of meeting and filing dates.

(5) *Notice of public hearing*. Notice of public hearing shall be given in accordance with the requirements of ' 155.191 prior to the Plan Commission meeting when the proposed preliminary plat is to be heard.

(6) *Plan Commission hearing*. The Planning Director shall place all applications forwarded to the Plan Commission by the Technical Review Committee on the agenda for a public hearing at the appropriate Commission meeting based on the adopted calendar of meeting and filing dates.

(a) The Plan Commission shall hold a public hearing on the petition, considering the preliminary plat application materials, the report of the Technical Review Committee prepared by the Planning Director, and testimony from the petitioner and any interested parties. At the public hearing, the Plan Commission shall approve, approve with conditions, continue, or deny the application for preliminary plat approval.

1. The Plan Commission shall approve the preliminary plat if it is found to be completely consistent with the decision criteria provided by this section.

2. The Plan Commission shall approve the preliminary plat with conditions if it is generally consistent with the decision criteria, but specific minor modifications are required to meet all of the applicable requirements.

3. The Plan Commission shall table the preliminary plat consistent with the adopted rules and procedures of the Plan Commission.

(b) The Plan Commission shall deny the preliminary plat if it is found to be inconsistent with the decision criteria provided by division (E)(7) below and requires modifications that would result in changes to the layout of public improvements, lots, drainage systems, or other characteristics of the subdivision.

(c) The Plan Commission shall make written findings documenting its decision. The Planning Director shall return one copy of the application for preliminary plat approval and the plat to the petitioner with the date of approval, conditional approval, continuance, or disapproval and a copy of the written findings of the Commission within ten business days of the date of the decision. The Planning Director shall maintain one file copy of the preliminary plat application and plat.

(d) Approval of a preliminary plat by the Commission is not final approval of the subdivision.

(e) The approval of the preliminary plat shall expire 18 months from the date of the Commission's decision if the applicant has not proceeded with the development by applying for construction plan approval.

1. Extensions of time may be granted by the Plan Commission upon the request of the petitioner.

2. In the case of preliminary plats which are divided into sections for the purpose of a phased construction, the preliminary plat shall expire five years after the date of approval of the construction plans for the most recently developed section if construction plans for the subsequent section have not been approved and the installation of public improvements in that section commenced. Non-residential preliminary plats shall expire ten years from the date of approval.

(f) If the preliminary plat application is denied, the petitioner may not resubmit the same application for six months from the date of disapproval. Fees on a resubmitted preliminary plat application shall be the same as if it were an original submittal.

(7) *Decision criteria*. In reviewing applications for preliminary plat approval, the Plan Commission shall consider the following criteria.

(a) The degree to which the proposed preliminary plat is consistent with the provisions of the Comprehensive Plan;

(b) The degree to which the proposed preliminary plat is consistent with the requirements of this subchapter;

(c) The degree to which the proposed preliminary plat is consistent with the intent and standards of the zoning district in which it is located; and

(d) The degree to which the proposed preliminary plat is consistent with the all adopted construction standards for public improvements in the town, and standard engineering practices.

(F) *Specifications for preliminary plat documents to be submitted.* The proposed preliminary plat shall be prepared and certified by a land surveyor registered by the State of Indiana. It shall be designed on state plane coordinates, drawn at a scale of 100 feet to one inch on sheets not exceeding 24 inches by 36 inches in area. The proposed preliminary plat shall include:

(1) *Property name.*

(a) The name of the subdivision if the subject property is within an existing subdivision; or

(b) A proposed name if not within a previously platted subdivision. The proposed name shall not duplicate the name of any subdivision plat previously recorded nor for which preliminary plat approval is still in effect.

(2) *Property ownership.*

(a) The name and address, including telephone number, of the legal owner, the developer of the property or his/her agent, and citation of last instrument conveying titles to each parcel of property to the developer involved in the proposed subdivision, giving grantor, grantee, date, and land records reference;

(b) Citations of any existing covenants on the property;

(c) The name and address, including telephone number, of the professional person(s) responsible for the subdivision design, for the design of the public improvements, and for surveys.

(3) *Property description.*

(a) A dimensioned drawing of the parcel of land which is being subdivided, including any remaining tract;

(b) Subdivision boundary lines showing dimensions, bearings, and references to section, range and lines or corners.

(4) *Development description.*

(a) A legend and notes, including a graphic scale, north point, and data;

(b) The approximate location of existing or proposed septic systems including termination point and outlet of all perimeter drain systems and/or the municipal sanitary sewer system;

(c) The approximate location of any existing or proposed wells and/or the municipal water system;

(d) Preliminary plat approval certificate for signing by the Plan Commission President and Secretary;

(e) Lot numbers, including the location of monuments and the area for each lot (listed in square footage and acres), and the buildable areas of each lot per applicable zoning district setback requirements and any other regulatory or natural limitations;

(f) All existing and proposed easements including the location, width, and purpose of each easement;

(g) All existing and proposed streets and rights-of-way on and adjoining the site of the proposed subdivision showing the proposed names, roadway widths, approximate gradients, types and widths of pavements, curbs, and sidewalks;

(h) Any parcels of land proposed to be dedicated or reserved for common areas, schools, parks, playgrounds, or other public, semi-public, or community purposes;

(i) The location, size, and invert elevation of utilities existing and proposed adjacent to and on the site, including storm and sanitary sewers; water mains; electrical, telephone, and cable television lines; street lights; fire hydrants; and such other utilities as may be appropriate;

(j) The location(s) of any existing structure(s) on the site and a description of its future demolition or incorporation into the proposed subdivision;

(k) The location and results of tests, as required by any county, state, or federal government agencies made to ascertain subsurface soil, rock, and groundwater conditions;

(l) All proposed sidewalks or pedestrian trails;

(m) All locations of existing and proposed street lights and street signs;

(n) A statement of the expected demand of the subdivision for capacity at the applicable waste water treatment facility;

(o) All proposed landscaping, signage, development entrance features, screening, and attempts at preserving natural terrain and open space. (The Plan Commission, Technical Review Committee, or Planning Director may request a landscaping plan or buffering plan, prepared by a registered landscape architect, architect, surveyor, or engineer to be submitted on a separate sheet);

(p) The estimated traffic count increase on adjacent streets resulting from the proposed development; a description of type and condition of roads serving the subdivision site; the total number of motor vehicles expected to use or be stationed in the subdivision; and a description of on and offsite parking to be supplied.

(5) *Subdivision phasing description.* If the preliminary plat is to be divided into sections for the phasing of development, the preliminary boundaries and numbers of such sections shall be shown. In no case may any section contain less than 10% of the proposed lots.

(6) *Subdivision covenants.* Any protective covenants applicable to the subdivision shall be prepared by the petitioner and be legally sound. Covenants shall be incorporated in the plat and subject to the approval of the Commission. At a minimum, covenants shall provide a means for the maintenance and upkeep of drainage swales and other drainage facilities and any common areas or entry features.

(7) *Contiguous holding description.* Whenever the preliminary plat covers only a part of a petitioner's contiguous holdings, the petitioner shall submit, at the scale of no more than one inch equals 200 feet, a sketch of the entire holding, including the proposed subdivision area, showing an indication of the probable future street and drainage systems, for the remaining portion of the tract.

(8) *Soils description.* On a separate sheet, a soils map shall be provided showing soil boundaries and their identification, the existing and proposed street pattern, any mineral resource areas, and 100-year floodplains.

(9) *Drainage plan and report.* The subdivider shall provide a drainage report describing the existing and proposed drainage conditions and evaluating the ability of the proposed water courses, channels, drainage tiles, farm tiles, storm sewers, culverts, and other improvements to accommodate the additional run-off generated by the proposed subdivision.

(a) *Drainage report.* A registered professional engineer or land surveyor shall prepare the report, which shall include:

1. The conditions of the watershed which may affect run-off, such as subsoil type, positive drainage and obstructions;

2. The location of all subsurface known drainage tiles and a plan to preserve or relocate the tiles;

3. Estimates of the water entering the subdivision (computations for major drainage ways shall assume that the upper watershed has been developed according to current growth estimates);

4. A description of minor and major drainage systems. The minor drainage system shall consist of storm sewers, drainage ditches, grassed swales, and storm inlets or infiltration structures. The major system shall consist of roadways, culverts, bridges, and drainage flow-ways.

(b) *Watershed map.* On a separate sheet, a watershed map complementing the drainage report using current LIDAR contour information shall be provided, showing:

1. The delineation of the drainage area in which the subdivision is located;

2. The location of drainage courses and the existing direction of surface water flow within the drainage area.

(c) *Drainage plan description.* On a separate sheet, a description of drainage/topography/ natural environment complementing the drainage report shall be provided which includes the following information:

1. The location of wetlands and impacted drainage areas;

2. The location of natural streams, regulated drains, 100-year flood plains and flood ways;

3. The location of any existing or proposed subsurface drain tile, structures, culverts, or swales;

4. A map noting significant physical and topographical features of the tract. This map shall also show the proposed direction of the flow of surface water runoff from the site;

5. A preliminary drainage plan showing the proposed storm water drainage system to an improved outlet. The plan shall include surface drainage system, storm sewer systems, subsurface drainage systems, and storm water detention facilities. Arrows designating the general drainage of all streets and lots shall be included.

(10) *Vicinity description.* On a separate sheet a vicinity map must be submitted that includes the following information:

(a) Location of the proposed subdivision within the town;

(b) Existing subdivisions and lots adjacent to or within 200 feet of the proposed subdivision. The owners of each of these tracts shall be identified on the drawing with the date and book and page (or instrument number) of the last conveyance of ownership;

(c) Existing schools, parks, playgrounds, or other similar public facilities that will serve the proposed subdivision;

(d) Location and size of all utilities adjacent to or within 200 feet of the subdivision site, including sanitary and storm sewers, gas lines, electric lines, telephone lines, water mains, fire hydrants, and cable television lines;

(e) All public thoroughfares/rights-of-way adjacent to or within 200 feet of the site;

(f) Existing streets and rights-of-way on and adjoining the site of the proposed subdivision showing the names, roadway widths, approximate gradients, surface types, and widths of pavements and curbs;

(g) Existing zoning of the tract and all contiguous tracts surrounding the proposed subdivision;

(h) All section and municipal corporate boundaries lying within or contiguous to the tract.

(11) *Engineering feasibility report.* A feasibility report prepared by a registered professional engineer or land surveyor covering sewage, water, and drainage facilities for the subdivision shall be provided which includes, but is not limited to, the following:

(a) *Utility systems.* A description of the feasibility of connecting to existing storm and sanitary sewers and water supply. This portion of the report shall include the distance from the nearest public sewer and the capacity of the existing system intended to handle the additional waste load.

(b) *Street construction.* A preliminary report on the types of street construction based on the specifications provided by this subchapter and any additional requirements of the Town Engineer.

(G) *Construction plan application and review procedure.*

(1) *Application requirements.* It shall be the responsibility of the petitioner to prepare and have certified, by a registered land surveyor or licensed engineer in the State of Indiana, a complete set of construction plans, including profiles, cross-sections, specifications, and other supporting data for all required public streets, utilities, and other facilities. The applicant shall file an application for construction plan approval and the specified number of copies with the Planning Director. This application shall:

(a) Be made on forms available at the Plan Commission office and be signed by the owner and developer and notarized;

(b) Be accompanied by the specified number of copies of the construction plans meeting the requirements provided by this section; and

(c) Be accompanied by a fee in the amount established by the adopted fee schedule.

(2) *Processing standards.* No application shall be processed until the application is filled out correctly and all applicable attachments are presented to the Planning Director.

(3) *Technical Review Committee.* The Planning Director shall place the application for construction plan approval on the agenda for the applicable meeting of the Technical Review Committee and distribute copies of the submittals to the Committee members.

(a) The applicant shall be responsible for obtaining the necessary approvals of utility providers, or other county, state, or federal agencies not represented on the Technical Review Committee.

(b) In reviewing the application, the Technical Review Committee shall consider whether or not the construction plans meet the requirements of this subchapter and any other adopted and applicable construction standards or common engineering practices, and are consistent with the approved preliminary plat.

(c) The Committee shall make comments regarding the application and either approve, approve with modifications, table and recommend modifications, or deny the construction plan approval request.

1. The Committee shall approve the construction plans if they are consistent with the approved preliminary plat and all applicable provisions of this subchapter, other applicable construction standards, and common engineering practices.

2. The Committee shall approve the construction plans with modifications if minor modifications are required for the plans to be consistent with the approved preliminary plat and all applicable provisions of this subchapter, other applicable construction standards, and common engineering practices. Minor modifications are those which can be adequately agreed upon by the Committee and the applicant at the Technical Review Committee meeting and which do not impact other aspects of the subdivision's construction which would require subsequent review. The specified modifications shall be made by the petitioner and the specified number of construction plan sets provided to the Planning Director within 90 days of the Committee meeting.

3. The Committee shall table and recommend modifications to construction plans which require significant modifications to be consistent with the approved preliminary plat and all applicable provisions of this subchapter, other applicable construction standards, and common engineering practices. The petition shall be placed on the agenda for the next applicable Technical Review Committee meeting. The petitioner shall provide the specified number of revised sets of construction plans to the Planning Director for review prior to that meeting consistent with the adopted calendar of meeting and filing dates.

4. The Committee shall deny the Construction Plans if they are found to be generally inconsistent with the approved Preliminary Plat and any applicable provisions of this subchapter, construction standards, and common engineering practices. Applicants may again apply for construction plan approval following a denial, and shall be required to pay all applicable fees consistent with the procedure for original petitions established by this section.

(d) Upon approval of construction plans by the Technical Review Committee, the Planning Director shall mark one set as "approved" and return it to the applicant with an improvement location permit issued pursuant to the Building Code for the approved construction.

(H) *Specifications for construction plan documents to be submitted.* The construction plans shall be based on the approved preliminary plat. Construction plans shall be prepared for all required improvements. Construction plans shall be submitted in both paper (hard copy) and electronic format. Plans shall be drawn on standard 24-inch by 36-inch sheets at a scale of no less than one inch equaling 50 feet. The plans shall show the following:

(1) A map noting significant physical and topographical features of the tract. For plats containing more than two lots, a topographical map at typical intervals of two-foot contours, which shall be extended 100 feet beyond the boundary lines of the proposed tract, shall be submitted. This map shall also show the direction of the flow of surface water runoff to and from the site.

(2) Profiles showing existing and proposed elevations along center lines of all streets. Where a proposed street intersects an existing street or streets, the elevation along the center line of the existing street or streets within 100 feet of the intersection shall be shown. Radii of all curves, lengths of tangents, central angles on all streets, and the intersection details shall be shown.

(3) The Planning Director may require, where steep slopes exist, the cross-sections of all proposed streets.

(4) Plans and profiles showing the location and typical cross-section of streets including curbs, gutters, sidewalks, rights-of-way, drainage facilities, manholes, and catch basins. Plans shall also show the location, size, and invert elevations of existing and proposed sanitary sewers, storm water drains, water lines, gas, and fire hydrants, showing connection to any existing or proposed utility systems.

(5) Location, size, elevation, and other appropriate descriptions of any other existing physical and natural features or facilities including features noted on the official map of local government, trees, the points of connection to proposed facilities and utilities, and the approximate high- and low-water elevations of all ponds, lakes, and streams.

(6) Any other construction details required to be shown by the Planning Director, Town Engineer, or Technical Review Committee.

(I) *Completion of improvements.* The petitioner shall obtain from the Town Council information regarding the current policies regarding the installation and inspection of public improvements. The applicant shall construct the subdivision, or section thereof, consistent with the approved construction plans, and the policies and procedures of the appropriate inspecting agencies or persons. No site work or earthwork shall be allowed until an improvement location permit has been issued.

(1) All required improvements shall be made by the petitioner, at his/her expense, without reimbursement by the local government or any improvement district therein.

(2) The petitioner shall be required to maintain at his/her expense a licensed civil engineer or surveyor who shall certify that the subdivision construction is in compliance with the approved construction plans at the time the final plat approval request is submitted to the Planning Director.

(3) If the Planning Director or Town Engineer finds upon inspection that any of the required improvements have not been constructed in accordance with the construction standards and specifications, the petitioner shall be responsible for correcting any errors in construction and completing the improvements in accordance with such standards and specifications. Wherever the cost of improvements is covered by a performance surety, the petitioner and the bonding company shall be severally and jointly liable for completing the improvements according to the appropriate specifications.

(J) *Final plat application and review procedure.*

(1) *Application requirements.* The applicant shall file an application for final plat approval and the specified number of copies with the Planning Director. This application shall:

(a) Be made on forms available at the Plan Commission office and be signed by the owner and developer and notarized;

(b) Be accompanied by the specified number of copies of the final plat meeting the requirements provided by this section;

(c) Be accompanied by the original documents and the specified number of copies of the surety required by this subchapter for all public improvements;

(d) Be accompanied by "as-built" drawings showing the location, dimensions, and materials used to construct all improvements within the subdivision;

(e) Be accompanied by a computer disk containing an electronic version of the final plat and "as built" drawings in a format specified by the Planning Director;

(f) Be accompanied by the specified number of copies of a map showing the locations of all street signs, street lights, and fire hydrants. Also included shall be a check reimbursing the town for any costs associated with street sign installation as adopted by the Town Council;

(g) Be accompanied by a fee in the amount established by the adopted fee schedule.

(2) *Processing standards.* No application shall be processed until the application is filled out correctly and all applicable attachments are presented to the Planning Director.

(3) *Technical Review Committee.* The Planning Director shall place the application for final plat approval on the agenda for the applicable meeting of the Technical Review Committee and distribute copies of the submittals to the Committee members.

(a) In reviewing the application, the Technical Review Committee shall consider whether or not the proposed final plat drawing, the public improvements, and the surety provided is consistent

with the approved preliminary plat, the approved construction plans, and the requirements of this subchapter and any other applicable improvement standards and processes.

(b) The Committee shall review all final plat approval materials submitted in a meeting with the applicant, and shall either approve, table and require modification, or deny the final plat application.

1. The Committee shall approve the final plat if all required application materials are provided in a manner consistent with this subchapter and any other adopted procedures of the town.

2. The Committee shall table and require modifications of the final plat application if additional information is needed or modifications are required for the final plat drawing or the accompanying materials to be consistent with the approved preliminary plat, construction plans, and/or the requirements of this subchapter.

3. The Committee shall deny the final plat if the application materials are inconsistent with the approved preliminary plat or construction plans.

(4) The Planning Director shall sign the final plat as an indication of the Technical Review Committee approval. The approval of the final plat by the Technical Review Committee shall be certified on behalf of the Plan Commission by the President and Secretary who shall affix their signatures to the final plat original and all other relevant documents which also may require such signatures.

(5) If the Committee disapproves the final plat, the Planning Director shall make written findings and notify the petitioner in writing, stating the specific reasons for disapproval. This written notice shall be certified by the signature of the President and Secretary of the Plan Commission. The applicant may not reapply for final plat approval prior to six months from the date of the denial. Reapplication shall be through the process for original applications described in this section.

(6) Approval of the final plat shall be effective for a maximum period of one year from the date of approval unless it is signed and recorded as required by this subchapter. An extension of time may be approved by the Plan Commission, upon the request of the petitioner.

(K) *Specifications for final plat documents to be submitted.*

(1) All final plats shall be shown at a scale and shall include the following information on a sheet meeting the requirements of the County Recorder:

(a) Accurate boundary lines, with dimensions and angles, which provide a survey per state statute in state plane coordinates;

(b) Accurate distances and directions to the nearest official monument. Reference corners shall be accurately described on the plat;

(c) Accurate locations of all existing and recorded streets intersecting the boundaries of the tract;

(d) Accurate metes and bounds description of the tract boundary;

(e) Source of title of petitioner to the land as shown by the last entry in the books of the County Auditor;

(f) Name of subdivision followed by the words "Final Plat;"

(g) Name, address, and phone number of the petitioner;

(h) North point, graphic scale, and date;

(i) Street names;

(j) Complete curve table for all curves included in the plat;

(k) Street lines with accurate dimensions in feet and hundredths of feet with angles to street, alley, and lot lines. Radii, points of curvatures, tangent bearings, and lengths of all arcs of street lines shall be provided;

(l) Lot numbers and dimensions including the square footage of each lot;

(m) Accurate locations of easements, description of their use, and any limitations on such semi-public or community use;

(n) Accurate dimensions for any property to be dedicated or reserved for public, semi-public, or community use, including sidewalks, bikeways, and other recreational ways;

(o) Building lines and setback dimensions throughout the subdivision;

(p) Location, type, material, and size of all monuments and markers;

(q) Construction plans and specifications for the improvements required by this subchapter;

(r) Restrictions of all types which will run with the land and become covenants in the deeds for lots;

(s) Certification by a registered land surveyor;

(t) Certification by the petitioner(s) and lien holder(s) (if any) of dedication of streets and other public property, and an agreement executed by the petitioner(s) to make and install all improvements in accordance with the plans and specifications approved by the Commission and accompanying the final plat;

(u) Certificate of approval by the Planning Director and Plan Commission.

(2) All final plats shall also show any other information or data requested by the Director necessary to clarify conditions and terms of plat approval.

(L) *Acceptance of public improvements.*

(1) Approval of the final plat and certification by the Plan Commission shall not be deemed as an acceptance of any public improvements by the town. Following the signing of the final plat by the Plan Commission President and Secretary, the Planning Director shall place the application on the agenda of the Town Council.

(2) The Council shall review the application materials, the Technical Review Committee report prepared by the Planning Director, and the condition of the public improvements and surety. The Council shall consider input from the Town Attorney, Town Engineer, and the town departments responsible for the maintenance of the improvements.

(M) *Recording of plat.*

(1) It shall be the responsibility of the petitioner to file the approved and signed final plat with the County Recorder within 30 days of approval. Simultaneously with the filing of the final plat, the petitioner shall record any agreements of dedication together with any other legal documents as shall be required to be recorded by the Plan Commission or other applicable governmental agency. The filing and recording of a plat is without legal effect unless signed by the Plan Commission's president and secretary and the Town Council.

(2) The applicant shall be required to submit a mylar copy of the recorded final plat to the Planning Director for the records of the Plan Commission. No improvement location permits shall be issued for any lot in the subdivision until such a copy is provided.

(N) *Permit restrictions.*

(1) No improvement location permit shall be issued by the Planning Director, or his agent, for any

structure on any subdivision lot prior to addresses being approved, and the installation and completion of all facilities, including grading, as shown on the plans approved by the Commission; except in the case of an asphalt road surface, sidewalks, and street trees, as specified below.

(a) The installation of the final asphalt road surface coat may, subject to the approval of the Town Engineer, be postponed until the end of the maintenance period.

(b) The installation of street trees and sidewalks may be delayed until structures are completed on each lot.

(2) No structure shall receive a certificate of occupancy until the required sidewalk and street trees are installed on the lot.

(3) All street trees and sidewalks and the final coat of asphalt shall be installed prior to the release of performance surety and the acceptance of those improvements for maintenance.
(Ord. 2013-02, passed 3-11-13; Am. Ord. 2015-24, passed 9-14-15)

' 155.194 SURETY.

(A) At the time when the final plat approval request is provided to the Planning Director and before the plat is certified by the President and Secretary of the Plan Commission, the petitioner shall provide appropriate performance and/or maintenance bonds or irrevocable letters of credit as surety for the public improvements in the subdivision.

(B) For plats which have been divided into sections for the purpose of a phased development, surety shall only be required to be provided for the public improvements included in the section which is the subject of the final plat approval request. This provision shall not be interpreted as relieving the subdivider of surety requirements for public improvements in previously recorded or future sections, which were/shall be required at the time of their respective final plat approval.

(3) The surety shall be in a format and amount consistent with the requirements of this section, including the following requirements:

(a) The surety shall be drawn in favor of the "Town of Lowell."

(b) The surety shall be in an amount and time period determined by the Town Engineer, sufficient to adequately maintain completed improvements and to install yet incomplete improvements in compliance with this subchapter. The petitioner's engineer or contractor shall supply an estimate of the cost of the improvements and their installation to aid the Town Engineer in the determination of the amount of the bond. The petitioner's estimate, however, shall not be binding. All surety shall be kept in the office of the Town Clerk-Treasurer.

(c) The surety shall specifically list the name of the subdivision and section, if applicable, to which it applies, the date from which it is valid, the time period for which it is valid, the public improvements to which it applies, and whether it is maintenance or performance surety. The surety shall further comply with all statutory requirements and shall be satisfactory to the Town Attorney as to form, sufficiency, and manner of execution as set forth in these regulations.

(d) Maintenance surety shall be provided in an amount equal to 25% of the cost of the public improvements and their installation and shall be provided for a period of two years from the date the improvements are accepted by the Town Council.

(e) Performance surety shall be provided in an amount equal to 125% of the cost of the yet incomplete public improvements and their installation and shall be provided for a time period sufficient to ensure the installation for the improvements.

1. Performance surety shall be provided for sidewalks, street trees, erosion control, and the street surface which are generally not complete at the time of final plat acceptance, subject to the provisions for the installation of such improvements provided by this subchapter.

2. Performance surety shall be also be provided for any other public improvements which are incomplete in total or in part at the time of final plat acceptance. The acceptance of performance surety rather than complete improvements in the case of items other than sidewalks, street trees, erosion control, and the street surface shall be considered by the Town Council, upon the recommendation of the Town Engineer and Planning Director, based on the following considerations:

a. Whether or not the failure to complete the public improvements was the result of a situation specific to the physical conditions or unique design requirements of the subdivision or a natural event beyond the control of the subdivider.

b. Whether or not the incomplete improvements would negatively affect public safety, health or welfare.

c. Whether or not the incomplete improvements would negatively affect property values or pose a hazard to adjacent property, or structures to be completed in the development prior to the completion of the improvements.

d. Whether or not the subdivider is able to complete the public improvements in a satisfactory and timely manner.

3. In no case may the initial time period for the performance surety for these improvements exceed two years. The Town Council may, upon review and advice of the Planning Director and Town Engineer, extend the time period allowed for the completion of improvements and the validity of the performance surety.

(f) Either maintenance or performance surety shall be provided for all public improvements, including but not limited to, street compaction, subsurface, base, and surface; sanitary sewers; curbs; gutters; sidewalks; surface swales; subsurface and storm drainage systems; seeding/erosion control; landscaping; and any other public improvements required by the Plan Commission or other appropriate public agency through the preliminary plat and construction plan review and approval process.

(g) A developer may request permission of the Town Council to delay the installation of the one-inch surface layer of asphalt until the binder layer of asphalt has had a sufficient time period to prove its durability under the stress of heavy construction traffic. The developer shall be required to submit a separate performance bond to cover the cost of the installation of the one inch surface layer of asphalt.

(B) *Release of performance surety.*

(1) Upon completion of the public improvements for which performance surety has been provided, the subdivider shall make a written request to the Town Council for the release of the surety. The request shall include the following:

(a) A description of the public improvements which have been completed;

(b) A report from the subdivider's engineer certifying that the improvements were completed consistent with all applicable requirements and standards; and

(c) Maintenance surety for the public improvements consistent with the requirements of this section.

(2) The Planning Director and Town Engineer shall provide appropriate inspections of the public improvements and the matter shall be placed on the agenda for the appropriate meeting of the Town Council.

(3) Before any performance surety covering a street installation is released, the Planning Director, Town Council, or Town Engineer may request that core borings of the street be done at the subdivider's expense. Cores shall be reviewed by an independent testing laboratory or registered engineer for analysis.

(4) If the Planning Director and Town Engineer report that the public improvements were completed consistent with all applicable standards and appropriate maintenance surety is provided, the Town Council shall release the performance surety and accept the public improvements.

(5) If the Planning Director and/or Town Engineer report that the public improvements have not been competed in a satisfactory manner then the Town Council may deny the request for the release of the performance surety, providing a written statement of denial to the subdivider which includes a detailed list of required corrections. The petitioner shall make the required corrections and reapply for the release of the surety.

(6) In reviewing requests for the release of performance surety, the Planning Director, Town Engineer, and Town Council shall consider the following:

(a) Whether or not the improvements were completed in a manner consistent with the approved preliminary plat, approved construction plans, and all applicable standards and requirements;

(b) Whether or not the report provided by the subdivider's engineer is complete and satisfactory; and

(c) Whether or not the public improvements are in good condition and appropriate for use by the public.

1. All streets and sidewalks shall be clear of all dirt, debris, standing water, and construction equipment and/or supplies.

2. All drainage structures shall be clear of sedimentation, debris, or other obstructions and be adequately secured to prevent access by the public.

3. All erosion control measures shall be consistent with applicable standards for the limiting of erosion and sedimentation.

4. The areas adjacent to all sidewalks shall be graded and seeded.

5. All street trees shall be healthy and the planting area shall be graded.

(7) In any case where the required public improvements have not been completed two months prior to the date the performance surety will expire and the Town Council and the subdivider are unable to reach agreement on an extension of the time frame for the surety and the completion of the public improvements, the Council may declare the surety to be in default. The required public improvements may then be installed by the town, using the funds from the surety.

(C) *Release of maintenance surety.*

(1) The subdivider shall be required to ensure that the public improvements covered by the maintenance surety remain free of construction related defects for the term of the surety.

(a) The public improvements shall be subject to periodic inspection by the town. Written notice shall be provided to the subdivider of any defects that are detected and any corrections that are required. The subdivider shall make the necessary corrections consistent with all applicable construction requirements.

(b) The Town Council may require, upon review and advice of the Planning Director and/or Town Engineer, that additional maintenance surety be provided for the portion of the public improvement which was subject to repair for a time period of two years from the date the repair was completed.

(2) Two months prior to the expiration of the surety, the subdivider shall make a written request to the Town Council for the release of the surety on the expiration date. The request shall include the following:

(a) A description of the public improvements to which the surety applies; and

(b) A report from the subdivider's engineer certifying that the improvements remain free of construction related defects.

(3) The Planning Director and Town Engineer shall provide appropriate inspections of the public improvements and the matter shall be placed on the agenda for the appropriate meeting of the Town Council.

(4) If the Planning Director and Town Engineer report that the public improvements are in satisfactory condition and free of construction related defects, the Town Council shall release the maintenance surety and assume complete responsibility for the upkeep of the improvements.

(5) If the Planning Director and/or Town Engineer report that the public improvements are not in satisfactory condition and do contain unresolved construction related defects then the Town Council may deny the request for the release of the maintenance surety, providing a written statement of denial to the subdivider which includes a detailed list of required corrections. The petitioner shall make the required corrections and reapply for the release of the surety.

(a) Subject to the approval of the Council, the subdivider may provide a performance surety for any portion of the public improvements to be corrected in lieu of the completion of the correction in order to obtain the release of the maintenance surety.

(b) Generally, the use of performance surety in this manner shall be limited to instances when weather conditions or other features unique to the subdivision or nature of the public improvements prevent the timely completion of the required corrections. In no case may the time period provided for the completion of the corrections and the performance surety be more than one year from the date of the Council meeting at which notice of the required corrections is provided to the subdivider.

(6) In reviewing requests for the release of maintenance surety, the Planning Director, Town Engineer, and Town Council shall consider the following:

(a) Whether or not the improvements are free of construction related defects;

(b) Whether or not the report provided by the subdivider's engineer is complete and satisfactory;

(c) Whether or not the public improvements are in good condition and appropriate for use by the public.

1. All streets and sidewalks shall be clear of all dirt, debris, standing water, and construction equipment and/or supplies.

2. All drainage structures shall be clear of sedimentation, debris, or other obstructions and be adequately secured to prevent access by the public.

3. All erosion control measures shall be effective consistent with applicable standards for the limiting of erosion and sedimentation.

4. The areas adjacent to all sidewalks shall be graded and seeded.

5. All street trees shall be healthy and exhibiting a normal growth pattern.

(7) In any case where the public improvements are not deemed to be free of construction defects and otherwise in satisfactory condition two months prior to the date the maintenance surety will expire, and the Town Council and the subdivider are unable to reach agreement on an extension of the time frame for the surety and the correction of the public improvements, the Council may declare the surety to be in default. The required corrections to the public improvements may then be made by the town, using the funds from the surety.

(D) *Homeowners association.* The developer will form a homeowners association. The developer or its representative will serve as executive director of the association for a period of five years. This is to provide stability to the enactment and enforcement of local covenants within the development.

(E) Surety shall have an automatic renewal clause, keeping the surety in full force until it is released by the Town Council.
(Ord. 2013-02, passed 3-11-13; Am. Ord. 2015-24, passed 9-14-15)

' 155.195 PRINCIPLES AND STANDARDS OF DESIGN.

(A) *Purpose and use.*

(1) The following divisions of this section state the design standards for all subdivisions. Each division is broken down into specific categories. These categories include:

(a) General standards - division (B);

(b) Lot standards - division (C);

(c) Block standards - division (D);

(d) Street location and arrangement standards - division (E);

(e) Street geometric standards - division (F);

(f) Cul-de-sac standards - division (G);

(g) Curb and gutter standards - division (H);

(h) Sidewalk standards - division (I);

(i) Street lighting standards - division (J);

(j) Subdivision and street name standards - division (K);

(k) Easement standards - division (L);

(l) Public sites and open space standards - division (M);

(m) Street tree standards - division (N);

(n) Sanitary sewer standards - division (O);

(o) Water supply standards - division (P);

(p) Private utility standards - division (Q);

(q) Environmental standards - division (R);

(r) General drainage standards - division (S);

(s) Covenant standards - division (T);

(t) Flood hazard area standards - division (U).

(2) The purpose of these regulations is to:

(a) Promote the proper arrangement of roads;

(b) Prevent congestion of streets and promote traffic safety;

(c) Secure adequate public spaces;

(d) Insure proper densities of population;

(e) Provide adequate utilities and public improvements;

(f) Insure the accurate survey and proper preparation of plats; and

(g) Protect the health, safety, and general welfare of the people.

(B) *General standards.*

(1) No land shall be subdivided for any use if the land is considered by the Plan Commission to be unsuitable for such use by reason of flooding or improper drainage, or objectionable earth or rock formations, topography or other features harmful to the health, safety and welfare of future residents or visitors and by the community as a whole.

(2) The Plan Commission may require either a general or operational soil survey, with interpretations, where it is not readily apparent from existing information that the land to be subdivided is not subject to flooding or does not contain poor drainage characteristics.

(a) If required, the survey shall be conducted by a qualified person or agency acceptable to the Plan Commission. In the event that the Plan Commission finds the land to be subdivided unacceptable due to the results of the soils survey, the Plan Commission shall not approve the plat.

(b) The Plan Commission may prescribe conditions that the subdivider must meet to obtain approval and these conditions may be incorporated into an agreement between the Plan Commission and the subdivider.

(3) The subdivision design and layout shall be such that it protects the health, safety, and general welfare of the residents in the jurisdiction of the Plan Commission.

(4) No parent tract (defined in ' 155.192(B)(1)) which includes more than six lots (including the remaining tract) shall be permitted unless public sewer and water systems are available and will be used by all lots to be created and any remaining tract.

(5) In addition to the requirements established herein, all subdivision plats shall comply with the following rules, laws, and regulations:

(a) The local zoning code, building and housing codes, and all other applicable laws of the town and the statutory provisions of the State of Indiana;

(b) The current Comprehensive Plan and Thoroughfare Plan as adopted by the Town Council;

(c) The rules and regulations of the Indiana Department of Environmental Management, the Department of Natural Resources, the Aeronautics Commission, the County Drainage Board, and other appropriate agencies;

(d) The rules, regulations and standards of the Indiana Department of Transportation (if the subdivision or any lot contained therein abuts a state highway);

(e) All applicable planning and regulatory guidelines, including access control, driveway manuals, parking and traffic control codes, and other applicable guides published or adopted by the town;

(f) The Indiana Manual of Uniform Traffic Control Devices for placement and installation of traffic control devices.

(6) All subdivisions shall be designed on state plane coordinates.

(C) *Lot standards.*

(1) All lot sizes, setbacks, widths, width to depth ratios, and other dimensions shall comply with the minimum standards provided by the Land Use and Development Code.

(a) When not served by public water and sewer, the lot sizes and other dimensions shall also conform with any additional requirements for the adequate provision of sewage treatment and water supply as determined by the County Health Department.

(b) In cases where the provisions of the zoning code and requirements of the Health Department are in conflict, the more restrictive shall apply.

(2) Side lines of lots shall be at approximately right angles to straight streets and on radial lines on curved streets. Some variation from this requirement is permissible, but irregular lots, such as flag lots shall be avoided.

(3) The lot size, width, depth, shape, grade, location, and orientation shall be in proper relation to the street and block design and to existing and proposed topographical conditions.

(4) Every lot shall abut on a public street consistent with the requirements of this subchapter and the Land Use and Development Code.

(5) Double frontage lots (also known as through lots, shown below) shall be avoided except where essential to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation.

(a) For all through lots, a landscaped common area shall be provided between the rear yard of the lots and the right-of-way of the adjacent street.

(b) The landscaped area shall be a minimum of 15 feet in width and meet the following requirements:

1. A row of deciduous canopy trees shall be planted parallel to the adjacent street, within the common area with trees placed an average of 20 feet apart. The trees shall measure two and one half inches in diameter at nursery height (six inches above the root ball) at the time of planting.

2. A six-foot tall opaque wooden fence or brick or stone wall, a four-foot tall undulating mound planted with shrubs, or a row of evergreen trees shall be placed within the landscape common area between the deciduous trees and the rear yard of the lots.

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a. If an undulating mound is used to fulfill the requirements, one shrub for every ten feet of continuous boundary shall be planted on the mound. All required shrubs shall measure 18 inches in height measured from grade at the time of planting.

b. If a row of evergreen trees is used to meet the requirements, one tree shall be placed every ten feet long the common area. Evergreens shall measure six feet in height at the time of planting.

(6) Corner lots shall be required to provide front yard setbacks on both frontages, and shall be designed with adequate size and width to accommodate the required setbacks and adequate buildable area.

(7) Lots shall be numbered consecutively throughout the entire subdivision and shall be consistent with any phasing that may be planned for the development.

(8) Lots abutting a watercourse, drainage way, channel, stream, or flood plain shall have additional minimum width or depth as required to provide an adequate building site and afford the minimum usable area required by the zoning code from front, rear, and side yards.

(9) Direct vehicular access from lots to arterial streets shall be prohibited. Lots in all developments shall generally be designed so as to prevent vehicles from having to back into any collector street. All nonresidential lots (including multifamily residential lots) shall generally be designed so as to prevent vehicles from having to back into any public street.

(D) *Block standards.*

(1) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth. Exceptions to this prescribed block width shall be permitted where reverse or double frontage lots are used in blocks adjacent to arterial or collectors streets, watercourses, or industrial or commercial areas.

(2) Block length, width, and acreage within bounding streets shall be such as to accommodate the size of lot required by the zoning code for the district in which the subdivision is to be located, and to provide convenient access, circulation control, and safety of street traffic.

(3) Blocks shall not exceed 800 feet in length, nor be less than 300 feet in length. In the case of a block exceeding 400 feet in length, a pedestrian sidewalk a minimum of five feet in width shall be provided within an easement not less than ten feet in the width near the center and entirely across the block to provide circulation or access to schools, playgrounds, common open space, shopping centers, transportation and other community facilities.

(a) The sidewalks shall be constructed consistent with the sidewalks construction standards provided in ' 155.196.

(E) *Street location and arrangement standards.*

(1) *General requirements.* The arrangement, character, extent, width, grade and location of all streets shall be correlated to existing and planned streets, existing topography, public convenience and safety, and the proposed uses of the land to be served by such streets.

(a) Proposed streets shall be adjusted to the contour of the land so as to produce usable lots and streets of reasonable gradient.

(b) The street layout shall provide adequate vehicular access to all lots and parcels of land within the subdivision.

(2) *Design considerations.* In designing and approving subdivision streets, the following factors shall receive consideration:

(a) Accessibility for emergency vehicles and school buses;

(b) Safety for both vehicular and pedestrian traffic;

(c) Efficiency of service for all users;

(d) Connectivity between subdivisions and the development of complete communities;

(e) Liabilities or amenities as affected by traffic elements in the circulation system; and

(f) Economy of both construction and use of land.

(3) *Thoroughfare Plan application.* All proposed subdivisions shall conform to the current Thoroughfare Plan adopted by the Town Council. Whenever any tract to be subdivided embraces any part of the Thoroughfare Plan, that part of the public way shall be platted by the subdivider in the location and of the width recommended by the Thoroughfare Plan.

(4) *Street arrangement.* The arrangement of streets in all subdivisions shall promote the continuation of existing streets, proposed future streets, and streets to be provided as a result of the subdivision construction.

(a) *Continuation of existing and proposed streets.* The arrangement of streets in all subdivisions shall provide for the continuation and projection of existing and proposed streets on immediately adjacent properties and in surrounding areas generally, or conform to a street plan of the general area approved and adopted by the Plan Commission.

(b) *Continuation of subdivision streets.*

1. Right-of-way of proposed streets shall be extended to the boundary lines of the proposed subdivision so that either:

a. At least one connection may be made to each adjacent undeveloped property; or

b. At least one connection may be made for every 1,600 feet of property line shared between the subdivision and adjacent undeveloped property. In cases where these provisions are in conflict, that which provides the most points of connectivity shall apply.

2. The Plan Commission may waive this requirement in cases where the Commission deems that any such extension is not feasible due to topography or other physical conditions, or the extension is not necessary or desirable for the coordination of existing and future streets or not appropriate for the development of adjacent property consistent with the Comprehensive Plan.

3. No subdivision shall be designed so as to create or perpetuate the land-locking of any adjacent undeveloped tract.

(b) *Temporary dead-end streets.* A temporary dead-end street shall be permitted in any case in which a street is designed to be extended to adjacent properties in the future.

1. Any dead-end street which extends more than one lot in length shall be provided with a temporary cul-de-sac or other turn-around consistent with the requirements of the Town Engineer.

2. Any temporary turn-around shall be included in a roadway easement which shall be vacated to the property owners at the time the street is extended or the Town Council, upon recommendation of the Town Engineer and Planning Director, determines that the turn-around is no longer needed.

3. All temporary dead-end streets shall be provided with street signage that indicate the road as being a dead end. The subdivider shall assume all costs of the installation of the signs.

(5) *Traffic separation requirements.* Where a subdivision abuts or contains an existing or proposed arterial or collector street as shown in the Thoroughfare Plan, the Plan Commission may require:

(a) Marginal access streets;

(b) Reverse frontage contained in a non-access reservation along the rear property line having a minimum width of five feet;

(c) Lots with rear service ways; or

(d) Any other such other treatments as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

(6) *Service road requirements.* Where a subdivision borders on, or contains an existing or proposed interstate or other limited access highway or arterial road as shown on the Thoroughfare Plan or a railroad right-of-way, the Plan Commission may require a street approximately parallel to, and on each side of the right-of-way, at a distance suitable for the appropriate use of the intervening land (such as for park purposes in residential districts).

(a) Such distances shall be determined with due regard for the requirements of approach grades and future grade separations.

(b) The Plan Commission may require that the intervening land strips be dedicated to the Town of Lowell or to a lot owners association for the subdivision in which it is located. The land strip shall be maintained by the involved government unit or lot owners association from the date of any such dedication.

(7) *Half-streets.* Half-streets shall be prohibited. Whenever a half-street is adjacent to a tract to be subdivided, the other half of the street shall be platted within the tract.

(8) *Improvement of existing streets.* Whenever a proposed subdivision borders or includes an existing street, the Commission may require, as a condition of plat approval, the reconstruction or widening of such street, the provision of sidewalks, and any other improvement consistent with the requirements of this subchapter for new streets developed as a part of the subdivision.

(a) Additional dedication of right-of-way shall be required consistent with the adopted Thoroughfare Plan.

(b) Except for situations where a passing blister is required at the entrance to a subdivision, this provision shall not be interpreted as requiring the acquisition and dedication of right-of-way or the completion of improvements extending onto property on the opposite side of a street adjacent to the subdivision, where such property is not included in the street right-of-way and not owned or otherwise controlled by the subdivider.

(9) *Access requirements.* Subdivisions of 20 lots or less shall be limited to one point of access onto any arterial or collector road. For subdivisions of greater than 20 lots, two or more streets, driveways, or points of vehicle access may be approved or required by the Plan Commission if such accesses are determined by the Plan Commission to be required for safe and efficient traffic circulation or the continuation of existing streets, or are otherwise recommended by the Thoroughfare Plan.

(10) *Private streets.* Private streets shall be prohibited.

(a) In no case shall this be interpreted as being in conflict with the shared drive requirements of ' 155.192.

(b) When there is a situation of unusual physical conditions or a controlled design environment in evidence, and it can be satisfactorily demonstrated to the Commission that a waiver of the public street requirement, and the provision of a private street, is the only feasible solution, said private

street may be permitted and shall be equal in all aspects of construction to like-classified public streets, including pavement section and width.

1. A road way easement shall be provided which equates the right-of way requirements for like classified public streets.

2. Required setbacks from the private street roadway easements shall be equal to those which are required from the rights-of-way of like-classified public streets.

3. Street lights, curbs and gutters, and sidewalks shall be provided for all private streets consistent with the requirements for like-classified public streets.

4. Adequate covenant provisions shall be made for direct responsibility and control by the property owners involved to provide for the perpetual operation, liability, and maintenance of said private streets at no expense to any current or future governing jurisdiction.

(F) *Street geometric standards.*

(1) *General requirements.* The classification of all streets shall be defined by the Thoroughfare Plan. The Plan Commission shall assign a classification, based on the provisions of the Thoroughfare Plan, to all proposed streets at the time of preliminary plat review and approval.

(2) *Street measurement.* Street width shall be measured from back of curb to back of curb.

(3) *Intersection requirements.* Street intersections shall be designed to promote the maintenance of the sight visibility triangle requirements of the Land Use and Development Code and shall be consistent with the following additional requirements;

(a) Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two new streets at an angle of less than 80 degrees shall not be acceptable. All streets shall intersect at 90 degrees whenever possible and maintain the 90-degree orientation for a minimum distance of 100 feet in residentially used and/or zoned areas and a distance of 300 feet in non-residentially zoned or used areas.

(b) Not more than two streets shall intersect at any one point, unless specifically required to promote efficient and safe traffic movement or in response to a recommendation of the Thoroughfare Plan.

(c) Proposed new intersections along one side of an existing street shall, whenever practicable, coincide with any existing or proposed intersection on the opposite side of such street. Street jogs with center line offsets of less than 200 feet shall not be permitted.

(d) Local street intersections shall be rounded by radii as described in division (F)(7) below. The stated minimum radii shall be increased as required by the Town Engineer when the angle of street intersection is less than 90 degrees, and/or where necessary to accommodate a school bus or emergency vehicle.

(e) Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a 2% grade at a distance of 100 feet in either direction, measured from the center line of the intersecting street.

(f) At the intersection of any proposed local road with any existing street, acceleration and deceleration lanes, and passing or left turn lanes may be required by the Plan Commission and/or Town Engineer.

(4) *Reverse curve requirements.* A tangent of at least 200 and 150 feet long shall be introduced between reverse curves on arterial and collector roads, respectively. All local roads shall have a tangent at least 100 feet long on reverse curves.

(5) *Sight distance requirements.* A clear sight distance, measure along the centerline of the road, shall be provided for a minimum 400 feet long all roads with speed limits greater than 45 miles/hour (mph), 300 feet long all roads with speed limits between 30 and 45 mph, and 150 feet long all roads with a speed limits of 30 mph or less.

(6) *Vertical grade requirements.* The maximum vertical grade shall not a exceed a maximum of 6% for arterial roads, 8% for collector roads, and 8% for local roads. Such maximum grades shall be reduced by 50% on all roads within 200 feet of an intersection with another street or a railroad.

(7) *Street geometric design requirements.* All streets shall conform to the minimum specifications for design established by the following table based on the classification provided by the Thoroughfare Plan or otherwise assigned by the Plan Commission. All alleys shall have a minimum pavement width of 18 feet and a minimum right-of-way width of 20. All alleys shall be consistent with the construction standards provided in this subchapter for local roads.

Street Design Standards

Type of Specification	***Minor Arterial Streets***	***Collector Streets***	***Frontage Streets***	***Local Streets***	***Cul-de-Sacs***	***Alleys***
Right-of-way width (feet)	80	64	60	60	65*	20
Pavement width (feet)	40	30	30	24	48*	18
Pavement width (including curbs and gutters)	44	34	34	28	50	- -
Maximum grade	6%	8%	8%	8%	8%	8%
Minimum grade	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%
Minimum vertical sight distance	400	300	300	150	150	100
Minimum stopping sight distance	400	300	300	150	150	100
Minimum radius of curve	400	200	200	100	100	100
Minimum tangents between reverse curves	200	150	150	100	100	100
Minimum corner radius (feet)	30	25	25	25	- -	25

**Radius*

(G) *Cul-de-sac standards.*

(1) *General requirements.* Cul-de-sacs may be permitted by the Plan Commission only in locations where either of the following conditions exist:

(a) The construction of a through street is not possible due to the presence of natural barriers; or

(b) The construction of a through street is not possible due to the presence of an adjacent development which provides no opportunities for connecting any through street.

(2) All cul-de-sacs shall meet the following design requirements:

(a) The maximum length of all cul-de-sacs shall be 300 feet, measured along the centerline from its intersection with the centerline of another street to the center of the turnaround right-of-way.

(b) The minimum pavement radius of all cul-de-sacs shall be 50 feet.

(c) The minimum right-of-way radius of all cul-de-sacs shall be 65 feet.

(d) The intersection of the cul-de-sac street segment and cul-de-sac turn around shall be rounded by a radius of at least 100 feet.

(e) A sidewalk five feet in width shall be provided around the entire turn-around of the cul-de-sac. A ten-foot wide tree lawn shall be provided between the back of curb of the cul-de-sac pavement and the sidewalk.

(f) In no case may an arterial or collector road terminate in a cul-de-sac.

(g) A sidewalk shall be provided between two lots located on the turn-around of the cul-de-sac connecting the sidewalks adjacent to the turn-around with those on adjacent streets and/or within adjacent developments.

1. The sidewalk shall be a minimum of five feet in width and shall be located in an access easement which is a minimum of ten feet in width.

2. The sidewalk shall be constructed consistent with the sidewalks construction standards provided in ' 155.196.

3. An association of lot owners in the subdivision shall be responsible for the maintenance of the sidewalk and easement.

(3) Cul-de-sacs shall be distinguished from the shared drives required for administrative subdivisions in ' 155.192. Shared private drives shall be permitted serving a maximum of four lots, which are not part of a larger subdivision.

(H) *Curb and gutter standards.*

(1) *General requirements.* Poured concrete two foot curbs and gutters shall be provided on all roads. Curbs shall be installed on each side of the street surface and are to be considered as part of the width of the street.

(2) *Gutter grade requirements.* The minimum grade of any street gutter shall not be less than 0.5%.

(I) *Sidewalk standards.*

(1) *General requirements.* Sidewalks shall be provided on all roads and shall meet the following design standards.

(a) Sidewalks shall be provided on both sides of the road, including completely encircling the turnaround of any cul-de-sac.

(b) Sidewalks shall measure a minimum of five feet in width along all roads in residential, commercial, industrial, and mixed use areas or as directed by the Plan Commission.

(c) Sidewalks shall be separated from the back of curb of the adjacent road by a planting strip which is a minimum of ten feet in width along arterial, collector, and local roads. Generally, the back of the sidewalk shall not be located less than one foot inside of the right-of-way line for the adjacent road.

(d) Smooth transitions (slow tapers) are required if a sidewalk is to be transitioned from one width to another.

(e) The surface of any sidewalk when completed shall have a sufficient slope to drain toward the center of the street.

(2) Asphalt pedestrian paths, rather than concrete sidewalks are permitted when they are a part of a trail system linking common open spaces, public spaces, or natural features. All asphalt paths must be a minimum of eight feet wide and meet the thickness and base requirements of the Town Engineer.

(3) When sidewalks or pathways cross roads within or adjacent to the subdivision, safety devices such as painted crosswalks, alternative pavement types, signs, or traffic signals shall be installed.

(4) Easements of at least ten feet in width shall be provided for sidewalks or pedestrian paths which are not completely included in public right-of-way adjacent to a road. Pedestrian paths and sidewalks which link common areas, public sites, or natural features as part of the subdivision's open space design shall be included in the subdivision's common area, and may not be located within an easement on private property.

(J) *Street lighting standards.*

(1) Street lights shall be provided by the subdivider at all intersections of roads within an adjacent to the subdivision and where necessary to provide continuous lighting on all subdivision streets.

(2) The specific locations of the street lighting shall be determined by the Plan Commission, the Town Engineer, and the Town Council, based on the lighting options made available by the appropriate local electric company.

(3) Street lights shall be located in the right of way, adjacent to the road. The light fixtures shall be located in the planting strip which separates the road pavement from the sidewalk.

(4) All costs related to the installation of the street lighting shall be the responsibility of the subdivider. All costs relating to the use and maintenance of the street lights shall be the responsibility of the lot owner's in the subdivision.

(K) *Subdivision and street name standards.*

(1) The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the town covered by these regulations. The Plan Commission shall have final authority to approve the name of the subdivision which shall be determined at the time of the preliminary plat approval.

(2) Street names shall not duplicate any existing name within the town except where a new street is a continuation of an existing street.

(a) Streets which are designed and/or shall function as the extension of an existing street shall be named consistent with the existing street.

(b) The term ***COURT*** shall be reserved for cul-de-sac streets. The terms ***PLACE*** and ***CIRCLE*** shall be reserved for circular streets which intersect with another street at two locations and cannot be divided into more than one street.

(c) Street names that may be spelled different but sound the same as existing streets shall not be used.

(d) All street names and addresses are subject to review and approval by the Plan Commission for consistency with the local 911 emergency phone system.

(e) The Town Council shall have final authority to name all streets at the time of acceptance of public improvements.

(L) *Easement standards.*

(1) *General requirements.* Adequate areas of suitable size and location shall be provided as utility easements for the conveyance of utility systems to, and within the subdivision. Generally, easements shall be provided in the following manner:

(2) Easements shall be as set forth in the most current edition of the Lowell Town Standards adopted by the Lowell Town Council.

(M) *Public sites and open space standards.*

(1) *General requirements.* In all subdivisions that include five or more acres, the subdivider shall be required to plat a minimum of 500 square feet of open space for each dwelling unit. The minimum amount of open space provided shall be one acre. For the purposes of this calculation, a dwelling unit shall be defined as a single-family home, condominium, or apartment/rental unit. As an alternative to providing open space, the equivalent monetary value can be donated to the Town of Lowell Park Improvement Fund. The cash contribution in lieu of land shall be computed on the basis of fair market value of the land to be subdivided. Fair market value of improved land in and surrounding the town is now established at $15,000 per acre for purposes of this section.

(a) Easements, crosswalks, and road frontage to provide public access to the common open space shall be shown on all required subdivision plat drawings.

(b) Easements, roadways, and rights-of-way cannot be considered open space.

(c) All open space shall be usable spaces for normal recreation.

(2) *Design requirements.* The required open space shall meet the following requirements:

(a) Open space shall be concentrated at a minimum number of sites within each development to provide the maximum amount of usable space.

(b) Common open areas may not include floodplains, detention ponds or other portions of the development which are undevelopable. Common open spaces should be located adjacent to such natural features when they are present in, or adjacent to, the development.

(c) Existing natural features which add value to residential development and enhance the attractiveness of the community shall be preserved in the design of the subdivision and should be incorporated into designated open space.

(d) Common open spaces within each development shall be linked with each other and with existing and future open spaces in adjacent developments through the required sidewalk system or through the use of pedestrian paths.

1. All common open spaces shall have at least ten feet of frontage on a public street which includes sidewalks, and be linked to that sidewalk system by either a sidewalk or pedestrian path.

2. All required common open spaces shall be owned and maintained by the leasing company for tenant-occupied developments and a lot owners association for developments with individually owned dwelling units. In no case may an access easement be substituted for a required common open space.

(e) Common areas being a minimum of ten feet wide, and including a minimum five-foot wide concrete sidewalk or eight-foot wide asphalt trail, shall be provided permitting access from natural site features such as floodplains, detention ponds, and historic sites to public streets with sidewalks.

(f) Access easements shall be provided for any private sidewalks providing access to the common open space for persons outside the development.

(g) All common open spaces shall be maintained for the enjoyment of the residents of the development and shall be free of weeds and other noxious vegetation.

(3) *Ownership requirements.* The subdivider shall reserve the open space acreage for common use of residents and visitors to the subdivision. The land shall be deeded by the subdivider to a duly organized lot owners association within the subdivision.

(N) *Street tree standards.*

(1) *General requirements.* All subdivisions shall be required to provide street trees along all streets within and adjacent to the subdivision.

(a) Street trees shall be planted either in the right-of-way, or within five feet of the right-of-way on adjacent property included in a street tree easement.

(b) Street trees shall be provided in the right-of-way unless, in the opinion of the Planning Director, that location would present a hazard for underground or overhead utilities or public safety.

(c) Existing trees on property located in the right-of-way of a public street may be considered as meeting the street tree requirement if such trees are in good health and are protected during the construction process.

1. The Plan Commission shall determine whether or not existing trees may be used to satisfy the street tree requirement at the time of preliminary plat review.

2. The Planning Director may require the provision of maintenance bonds consistent with ' 155.192 for any existing trees preserved for use as street trees.

(2) *Planting requirements.* One street tree shall be planted for every 40 feet of street frontage. Trees may be evenly spaced or grouped together. Street trees shall also meet the following requirements:

(a) All street trees shall be a minimum of two and one-half inch caliper as measured consistent with the American Nursery Standards Institute (ANSI), six inches from the top of the root ball, at the time of planting.

(b) No tree may be planted so that its center is closer than two feet to a sidewalk or curb, or edge of pavement if no curbs are present.

(c) No tree shall be planted within 25 feet of the intersection of two street right-of-ways, within ten feet of the intersection of a street and an entrance driveway, or within the sight visibility triangle established by ' 155.083.

(d) No tree shall be planted within ten feet of any fire hydrant or two lateral feet of any underground utility service.

(e) Street trees shall be of one or more of the species described in the following table of approved street trees.

APPROVED STREET NAMES		
COMMON NAME		***SCIENTIFIC NAME***
Hornbeam		
	American Hornbeam	Carpinus Caroliniana
	Upright European Hornbeam	Carpininus Betulas "FastiGiata"
American Elm (Dutch Elm disease resistant cultivars only)		
	Accolade Elm	Ulmus Japnica x Wilsoniana "Morton"
	Homestead Elm	Ulmus "Homestead" (complex hybrid)
	Frontier Elm	Ulmus Carpinifolia x Parvifolia "Frontier"
Ginko		
	Autumn Gold	Ginko Biloba "Autumn Gold"
	Fairmount Ginko	Ginko Biloba "Fairmount"
	Sentry Ginko	Ginko Biloba "Sentry"
	Upright Ginko	Ginko Biloba "Upright"
Honeylocust		
	Majestic Honeylocust	Gleditzia Triacanthos Inermis "Majestic"
	Moraine Honeylocust	Gleditzia Triacanthos Inermis "Moriane"
	Shedemaster Honeylocust	Gleditzia Triacanthos Inermis "Shedmaster"
	Skyline Honeylocust	Gleditzia Triacanthos Inermis "Skyline"
	Sunburst Honeylocust	Gleditzia Triacanthos Inermis "Sunburst"
Linden		
	Greenspire Linden	Tilla Cordata "Greenspire"
	Chancelior Linden	Tilla Cordata "Chancelior"
	Swedish Upright Linden	Tilla Cordata "Swedish Upright"
	Silver Linden	Tilla Cordata "Silver"
	Basswood	Tilla Americana
Maple		
	Legacy Sugar Maple	Acer Sacchrum "Legacy"
	Armstrong Red Maple	Acer Rubrum "Autumn Flame"
	Red Sunset Red Maple	Acer Rubrum "Red Sunset"
	Tilford Red Maple	Acer Rubrum "Tilford"

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APPROVED STREET NAMES		
COMMON NAME		***SCIENTIFIC NAME***
Maple (Cont=d)		
	Cleveland Norway Maple	Acer Plantanoides "Cleveland"
	Columbus Norway Maple	Acer Plantanoides "Columnar"
	Crimson King Norway Maple	Acer Plantanoides "Crimson King"
	Royal Red Norway Maple	Acer Plantanoides "Royal Red"
	Summershade Norway Maple	Acer Plantanoides "Summershade"
Oak		
	Basket Oak	
	Shingle Oak	
	Red Oak	
	Willow Oak	
	Bur Oak	
	Chinkapin Oak	
River Birch		
	Betula Nigra	

(O) *Sanitary sewer standards.*

(1) *General requirements.* Lots shall be served by sanitary sewers. The appropriate sanitary sewer system shall be designed and installed by the subdivider and dedicated to the Town of Lowell.

(2) The system shall be provided with all necessary supplemental equipment or machinery (including, but not limited to, lift stations) and be in such lengths, sizes, dimensions and specifications as shall be required by the sanitary sewer service provider.

(3) Sanitary sewers shall be designed and constructed in accordance with the current edition of the Lowell Town Standards adopted by the Lowell Town Council.

(P) *Water supply standards.*

(1) *General requirements.* Lots in all subdivisions shall be served by a public water supplier. The appropriate public water supply system shall be designed and installed by the subdivider and dedicated to the Town of Lowell.

(2) The water system shall include all necessary supplemental equipment and machinery including but not limited to all pipes, fire hydrants, and valves.

(3) Water infrastructure shall be designed and constructed in accordance with the current edition of the Lowell Town Standards adopted by the Lowell Town Council.

(Q) *Private utility standards.*

(1) *General requirements.* All utility transmission lines providing service to the subdivision, including electrical power, gas, telephone, cable television, data transmission, sewer, and water shall be located underground throughout the subdivision. The location of utility lines shall be shown on the preliminary plat and on the construction plans.

(2) *Design requirements.* Service lines for electrical power, natural gas, telephone, cable television, and data transmission utilities shall generally be located in easements in locations specified in the current edition of the Lowell Town Standards adopted by the Lowell Town Council.

(R) *Environmental standards.*

(1) *General requirements.* The following measures to minimize erosion and sedimentation shall be included where applicable in the overall development plan.

(a) Existing features which would add value to residential, commercial, natural, or man-made assets such as trees or other vegetation, streams, vistas, historically significant items, and similarly irreplaceable assets shall be preserved through careful and harmonious design.

(b) Stripping of vegetation, regrading, or other development shall be done in such a way that will minimize erosion.

(c) The disturbed area and the duration of exposure shall be kept to a practical minimum.

(d) Temporary vegetation and mulching shall be used to protect environmentally sensitive areas during development.

(e) The permanent final vegetation and structural erosion control and drainage measures shall be installed as soon as practical in the development.

(f) Development plans shall keep cut/fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff.

(g) Provisions shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development. Where necessary, the rate of surface water runoff will be structurally retarded.

(h) Sediment in the runoff water shall be trapped until the disturbed area is stabilized by the use of debris basins, sediment basins, silt traps, or similar measures.

(2) *Maintenance requirements.* Design and construction of the erosion control system shall be such that it will be durable and easy to maintain, meeting the requirements of the Town Engineer all erosion control methods shall be consistent with the erosion control standards provided by ' 155.196.

(S) *General drainage standards.* Stormwater infrastructure shall be designed and constructed in accordance with the current edition of the Lowell Town Standards adopted by the Lowell Town Council.

(T) *Covenant standards.*

(1) *General requirements.* The following paragraphs shall be required to be present as restrictive covenants for all final plats to which the Planning Director determines that they apply:

(a) No fence, wall, hedge, tree or shrub which obstructs sight lines between three and eight feet above the grade of the adjacent road shall be placed or permitted to remain on any corner lot within the triangular area formed by the street right-of-way lines and a line connecting points along the street rights-of-way located:

1. Thirty-five feet from their intersection for road classified as arterial by the Thoroughfare Plan;

2. Thirty feet for roads classified as collectors by the Thoroughfare Plan;

3. Fifteen feet for roads classified as local by the thoroughfare plan; and

4. Ten feet for all private driveways.

(b) No permanent structure shall be placed within a utility easement, with the exception that the property owner may construct a fence within the easement at his/her own risk. Such fences may be removed or accessed as necessary by any affected easement holder or utility without cost to that holder or utility.

(c) No driveway shall be located within 40 feet of the intersection of two street right-of-way lines.

(2) *Drainage covenant.* Each subdivision submitted for approval shall include on the final plat a covenant which states that: This subdivision is subject to all drainage system design and construction standards of this subchapter, which provides for the repair and maintenance of the system, including the assessment of owners of lots to maintain swales and participate in the cost of the maintenance of legal drains. All drainage easements shall run to the County Drainage Board.

(U) *Flood hazard area standards.* Development in flood hazard areas shall be in accordance with Title 15, Land Usage, Chapter 151, Flood Hazard Areas, of the Lowell Code of Ordinances.
(Ord. 2013-02, passed 3-11-13; Am. Ord. 2015-24, passed 9-14-15; Am. Ord. 2015-33, passed 11-23-15)

' 155.196 CONSTRUCTION STANDARDS.

(A) *Purpose and use.* The following divisions of this section state the construction standards for all major subdivisions. Each division is broken down into specific categories. These categories include:

(1) Storm water and drainage standards - division (C);

(2) Erosion control standards - division (D);

(3) Street standards - division (E);

(4) Curb and gutter standards - division (F);

(5) Street light standards - division (G);

(6) Street sign standards - division (H);

(7) Sidewalk standards - division (I);

(8) Monument and marker standards - division (J).

(B) *Additional construction standards that apply.* This section represents general and basic construction standards for the public improvements to be included in major subdivisions of the town. The Plan Commission and Town Council, through the Planning Director, Town Engineer, or other elected or appointed official or board may supplement and clarify the provisions of this section by the formulation and issuance of detailed requirements, either in manual form or by reference to accepted technical standards which shall be deemed incorporated by reference into this section.

(C) *Storm water and drainage standards.*

(1) *General requirements.* A storm water sewer or a surface drainage system adequate to serve the subdivision and potential subdivisions in the drainage area of which the subdivision is a part shall be provided by the subdivider. Drainage systems shall be designed and constructed in accordance with the current edition of the Lowell Town Standards adopted by the Lowell Town Council.

(2) *Excavation and fills.* Excavations and fills shall meet the following requirements:

(a) Fills shall not impede flows of natural watercourses or constructed channels.

(b) Grading shall not be done in such a way so as to divert water onto the property of another land owner without the expressed consent of the land owner.

(c) During grading operations, necessary measures for dust control shall be exercised.

(d) Grading equipment shall not be allowed to cross streams. Provisions shall be made for the installation of temporary or permanent culverts or bridges.

(D) *Erosion control standards.*

(1) *General requirements.* Erosion, and sediment control shall conform with the requirements of the Natural Resource Conservation Service (NRCS) and other provisions of this subchapter, other requirements adopted by the town, or other requirements of the Town Engineer.

(2) *Erosion control plan requirements.* No changes shall be made in the contour of the land, nor shall grading, or excavating begin until a plan for minimizing erosion and sedimentation has been reviewed and approved by the Town Engineer.

(a) The erosion control plan shall be submitted as an element of the subdivision construction plans.

(b) If NRCS review and approval is required, a copy of said approval shall be provided by the subdivider to the Planning Director for the records of the Plan Commission and to the Town Engineer.

(3) *Sedimentation control.* Whenever sedimentation is caused by stripping of vegetation, regrading, or other development activities, it shall be the responsibility of the applicant, person, corporation, or other entity causing such sedimentation to remove it from all adjoining surfaces, drainage systems, and watercourses, and to repair any damage at his/her expense.

(a) The Town Engineer and/or Planning Director may require the subdivider to remedy any sedimentation that they identify.

(b) Failure by the subdivider to control sedimentation may be used by the Technical Review Committee or Plan Commission as grounds to deny a final plat, by the Town Board as grounds to refuse the acceptance of public improvements, or by the Planning Director as grounds to withhold the issuance of improvement location permits for structures on lots in the affected subdivision.

(c) The cleanup of all erosion control barriers and the results of any erosion control failure shall be covered by the erosion control bond provided consistent with ' 155.195.

(4) *Watercourse requirements.* No applicant, person, corporation, or other entity shall block, impede the flow of, alter, construct any structure, deposit any material or thing, or commit any act which will affect normal or flood flow in any communal stream or watercourse without having obtained prior approval from the County Drainage Board and/or the Indiana Department of Natural Resources, Division of Water, whichever is applicable.

(a) It is the responsibility of the applicant and any person, corporation, or other entity doing any action on or across a communal stream, watercourse, or swale, or upon the floodplain or floodway area of any watercourse during the period of development, to return these areas to their original or equal conditions upon completion of said activities.

(b) It is the responsibility of the applicant or owner to keep all major watercourses, not under the jurisdiction of any public agency, open and free flowing.

(c) The applicant or owner will assume the responsibility for maintaining in open and free flowing condition in all minor streams, watercourses, and drainage systems, constructed or otherwise improved in accordance with this section, which are necessary for proper drainage.

(E) *Street standards.* Streets shall be designed and constructed in accordance with the current edition of the Lowell Town Standards adopted by the Lowell Town Council.

(F) *Street light standards.* Street lights shall be designed and constructed in accordance with the current edition of the Lowell Town Standards adopted by the Lowell Town Council.

(G) *Street sign standards.* Street signs shall be designed and constructed in accordance with the current edition of the Lowell Town Standards adopted by the Lowell Town Council.

(H) *Sidewalk standards.* Sidewalks and ramps shall be designed and constructed in accordance with the current edition of the Lowell Town Standards adopted by the Lowell Town Council.

(I) *Monuments and marker standards.*

(1) Monuments and markers shall be placed so that the center of the bar, or marked point, shall coincide exactly with the intersection of lines to be marked, and shall be set so that the top of the monument or marker is level with the finished grade.

(2) Permanent concrete markers 30 inches deep with five-eighths-inch rebar shall be installed at the perimeter (outside boundary) of the overall subdivision.

(3) Markers consisting of five-eighths-inch rebar eight inches long shall be set in concrete as street control at the following locations:

(a) The intersection of all street center lines in the subdivision;

(b) The beginning and ending of all curves in street right-of-way lines and centerline of streets at the beginning and ending of all curves and street intersections.

(4) Markers consisting of rebar at least 30 inches long and not less than five-eighths-inch in diameter, shall be placed at the following locations:

(a) All angles formed by the intersection of lot lines;

(b) All other lot corners not established by a monument; and

(c) All points required to delineate the location or extent of reservations, easements, or dedications not otherwise defined;

(d) Centerline of rights-of-way.

(5) Markers shall be set at locations in accordance with 865 IAC 1-12-18, Minimum Standards for Competent Practice of Land Surveyors.
(Ord. 2013-02, passed 3-11-13; Am. Ord. 2015-24, passed 9-14-15)

' 155.197 MINOR SUBDIVISIONS.

(A) In this section, the term ***MINOR SUBDIVISION*** means the subdivision of land for single-family residential purposes that:

(1) Involves no more than three lots;

(2) Does not involve opening a new public street or road; and

(3) Complies with this subchapter and the zoning ordinance in all other respects.

(B) A proposed minor subdivision shall be referred to the Technical Review Committee for a combined primary and secondary approval without a public hearing.

(C) The Plan Commission shall establish rules and procedures for examining and granting combined primary and secondary approval for minor sub-divisions.

(D) A subdivision that does not satisfy the conditions above will be considered a major subdivision subject to all the provisions of this subchapter.
(Ord. 2014-25, passed 12-8-14)

SITE PLAN REVIEW

' 155.205 PURPOSE.

SITE PLAN REVIEW is the systematic assessment of land development proposals in terms of a community's land development policies and regulations and commonly accepted site design practices. Site plan review assures conformance to the town=s comprehensive plan, resolves policy issues, creates site planning and design policy, expedites project approval, solves technical errors, and encourages planning and design in accordance with generally accepted practice.
(Ord. 2014-23, passed 11-24-14)

' 155.206 JURISDICTION.

The Technical Review Committee, composed of the Town Planner, Building Commission, Public Works Director, Police Chief (or designee), Fire Chief (or designee) and Town Engineer, shall schedule and conduct site plan reviews.
(Ord. 2014-23, passed 11-24-14)

' 155.207 RULES FOR REVIEW.

The rules to be used when reviewing the site plan are derived from the comprehensive plan, zoning ordinance, subdivision regulations, building code and the review factors listed below.
(Ord. 2014-23, passed 11-24-14)

' 155.208 APPLICABILITY OF REVIEW.

The following shall be required to undergo site plan review prior to issuance of preliminary sub-division approval, or in the case of a parcel already subdivided, prior to issuance of a building permit:

(A) All new development within the SR2 overlay district.

(B) New multi-family residential developments containing more than four units.

(C) New development in industrially-zoned property of any size.

(D) New development in highway-oriented, business-zoned property of any size.

(E) New development in general business-zoned property of any size.

(F) Changes to existing development that include a change in use, external expansion of 10% or more, or investment valued at $50,000 or more.
(Ord. 2014-23, passed 11-24-14)

' 155.209 COMPONENTS OF REVIEW.

The following subjects are appropriate for review of a site plan:

(A) Land use;

(B) Traffic impact;

(C) Utility impact;

(D) Urban design principles;

(E) Public safety/services.
(Ord. 2014-23, passed 11-24-14)

' 156.210 REVIEW FACTORS.

In reviewing a site plan, the Technical Review Committee shall consider the above-mentioned components as follows:

(A) *Land use.*

(1) The development must comply with the land use plan.

(2) The development must be consistent with area development trends.

(3) The development must be properly zoned for the intended use.

(4) Natural features of the property to be developed must be maintained and accentuated.

(5) The development must be consistent with adjacent land use.

(6) Compatible uses shall be located adjacent to each other, while incompatible uses shall be buffered from each other.

(7) Uses shall be located in direct proximity to that portion of the transportation system best suited to accommodate these uses.

(8) The developer shall locate uses so as to continue areas containing such uses.

(9) Uses should be located in a manner that will minimize changes to topography and vegetation.

(10) The development must organize density to locate the largest number of people in closest proximity to their destination.

(B) *Traffic impact.*

(1) The development must contain an appropriate level of accessibility.

(2) The thoroughfare system, on which the development depends, must have sufficient capacity.

(3) The residual impact to adjacent roadways and intersections must be minimized.

(4) Functional and alignment continuity between developments must be maintained.

(5) Adequately-sized and paved off-street parking must be a part of each development.

(6) Pedestrian/bicycle routes should be encouraged, while maintaining safe separation from vehicular movements.

(7) All industrial, highway-oriented businesses, and high-density multi-family uses shall be provided principal access via an arterial.

(8) All neighborhood and general businesses and offices shall be provided principal access via an arterial or collector.

(9) Shared access and continuous access road shall be encouraged.

(10) Other factors being equal, the amount of pavement shall be minimized.

(11) Parking shall be separated from access drives.

(12) Delivery and loading areas shall be separated from customer/pedestrian areas.

(13) Pedestrian and vehicular movement areas shall be separated to the extent possible.

(14) The distance between parking areas and structures they serve shall be minimized.

(15) When possible, parking shall be obscured from the roadway system, and rather the structure and accompanying landscaping shall dominate the line of sight.

(16) Access roads shall be defined and align with other roadways to result in four-way intersections, rather than offset intersection.

(17) T or offset intersections shall be discouraged, but if unavoidable, shall be a minimum of 250 feet apart, measured at their centerline.

(18) Roadways shall intersect with others at or near 90 degrees.

(19) Developments or phases of develop-ments shall not result in deadened streets.

(20) Frontage roads paralleling arterials shall intersect with adjacent roadways a minimum of 250 feet from the arterial.

(21) One-way diagonal parking areas are preferable to two-way, 90-degree parking.

(C) *Utilities.*

(1) The utilities servicing the development must have sufficient current and potential capacity.

(2) The potential benefits of oversizing for the future use must be weighed against the cost.

(3) The development shall not have an adverse effect on the downstream storm water outlet.

(4) The off-site utilities must be installed consistent with the capital improvements program.

(5) All developments must result in a storm water management system that simulates or is better than the pre-developed condition.

(6) Pond design and placement shall be regionalized when possible, but otherwise shall result in an aesthetically pleasing architectural amenity.

(7) Utility location shall result in maximizing maintenance access and avoiding backyard or side yard locations.

(8) No development shall occur that is reliant on individual septic systems.

(9) When developments are phased, each phase must be viewed as the last phase, and shall therefore not rely on any future phase in order to satisfy the provisions of this policy.

(D) *Urban design principles.*

(1) The proposed development must be compatible as to form with neighboring developments.

(2) Each development must become a part of a larger neighborhood, and therefore cannot be an island unto itself.

(3) Each site to be developed must be well defined, and shall be large enough to avoid a piecemeal approach.

(4) The development must be adequately screened and buffered to minimize the ill effects of both the development on the surrounds and vice versa, and to provide identity and definition to the development.

(5) Open space, trees and shrubs, fences, earth berms, or compatible transitional land uses may all serve as buffers.

(6) Adequate landscaping shall be placed around the perimeter of the site, near the building, and internal to the parking lot to minimize the ill effect of excessive paved areas.

(7) Features that possess uniqueness on a site shall be preserved.

(8) Structures shall not be located in the floodway.

(9) Changes to the natural terrain, including stands of mature trees, shall be minimized.

(10) Open space proposed by a developer must be accessible, and where possible, linked to an overall town-wide system.

(11) The development must result in a separation of residential areas from major noise-producing sources.

(12) Development shall be restricted on lands with steep slopes, wetlands, unstable soil, filled areas, or areas of unique vegetation.

(E) *Public services.*

(1) The proposed development shall not pose an undo burden on police or fire services.

(2) If the development results in a significant increase for park, school or other public services, property dedicated for these purposes shall be required as a condition of development.

(3) Appropriate right-of-way and easement dedications shall occur in order to provide necessary access for proper utility maintenance.

(4) Streets internal to a development may be dedicated or private, depending on their design and function.
(Ord. 2014-23, passed 11-24-14)

' 156.211 APPEALS.

Appeals from the conditions placed on a development as a result of a site plan review shall be heard and decided by the Plan Commission.
(Ord. 2014-23, passed 11-24-14)

[Text continues on pg. 251]