

CHAPTER 155: ZONING

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GENERAL PROVISIONS

§ 155.001 TITLE.

This chapter shall be known and may be cited as the "Zoning Ordinance of the Town of Hanover, Indiana."

(Ord. 2005-6, passed 8-2-2005)

§ 155.002 MINIMUM REQUIREMENTS.

In their interpretation and application, the provisions of this chapter shall be held to the minimum requirements, adopted for the promotion of the public health, safety, and general welfare throughout the town. Wherever the requirements of this chapter are at variance or in any other way in conflict with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive, or that imposing the higher standards, shall govern.

(Ord. 2005-6, passed 8-2-2005)

§ 155.003 INTERPRETATION.

(A) For the purpose of these regulations, certain numbers, abbreviations, terms and words used herein shall be used,

interpreted and defined as set forth in the land use regulations. The definitions used in the subdivision regulations of the town but may not be applicable to this chapter.

(B) If a manifest error be discovered consisting of the misspelling of any word or words, the omission of any word or words necessary to express the intention of the provisions affected, the use of a word or words to which no meaning can be attached, or the use of a word or words when another word or words was clearly intended to express such intent; such spelling shall be corrected and such word or words supplied, omitted or substituted as will conform with the manifest intention, and the provision shall have the same effect as though the correct words were contained in the text as originally published. No such alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

(Ord. 2005-6, passed 8-2-2005)

§ 155.004 DEFINITIONS.

(A) Whenever any words and phrases used herein are not defined herein but are defined in the state laws regulating the creation and function of various planning agencies, any such definition therein shall be deemed to apply to such words and phrases used herein, except when the context otherwise requires.

ARTISAN DISTILLERY. A facility for the production and packaging of less than 10,000 barrels of distilled alcohol (spirits, liquor) per year (as regulated by the State of Indiana). The development may include a tasting room or may be in conjunction with a bar/tavern or restaurant.

FARM WINERY. A facility in which wine products are grown and processed for commercial sales with a capacity of not more than 1,000,000 gallons per year in Indiana, excluding wine shipped to an out-of-state address (as regulated and defined by the State of Indiana). The development may include other uses such as a retail shop, standard restaurant, bar or live entertainment.

MICROBREWERY (BREW PUB). A facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail, or wholesale, on or off premise, with a capacity of not more than 15,000 barrels per year (as regulated by the State of Indiana). The development may include other uses such as a standard restaurant, bar or live entertainment. **MICROBREWERIES** may also be known as a **BREW PUB**.

(B) "Person" includes an individual, firm, association, organization, partnership, trust, company, corporation or any other legal entity.

(C) The masculine includes the feminine.

(D) The present tense includes the past and future tenses; the singular number includes the plural.

(E) The word "shall" is a mandatory requirement; the word "may" is a permissive requirement; and the word "should" is a preferred requirement.

(F) The words "used" or "occupied" include the words "intended, arranged, or designed to be used or occupied."

(G) The word "lot" includes the words "plot," "parcel," and "tract."

(Ord. 2005-6, passed 8-2-2005; Ord. 2021-12, passed 10-5-2021)

OFFICIAL ZONING MAP REGULATIONS

§ 155.015 OFFICIAL ZONING MAP.

The town is hereby divided into zones or districts, as shown on the official zoning map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.

(Ord. 2005-6, passed 8-2-2005)

§ 155.016 IDENTIFICATION OF THE OFFICIAL ZONING MAP.

The official zoning map shall be identified by certification and bear the seal of the town under the following words: "This is to certify that this is the Official Zoning Map referred to in Article Three of Ordinance 2005-6 of the Town of Hanover, State of Indiana," together with the date of adoption of this chapter. Certification should be by the signature of the President of the Town Council, and attested by the Clerk-Treasurer.

(Ord. 2005-6, passed 8-2-2005)

§ 155.017 MAINTENANCE OF THE OFFICIAL ZONING MAP.

If, in accordance with the provisions of this chapter and Chapter 178, Acts of 1979, as amended for cities and towns, changes are made in district boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the Town Council with an entry on the official zoning map as follows: "On, (day, month and year) by the official action of the Town Council, the following changes were made on the official zoning map", which entry shall be signed by the President of the Town Council and attested by the Clerk-Treasurer. No changes of any nature shall be made on the official zoning map or matter shown thereon except in conformity with the procedures set forth in this chapter. Any unauthorized change of any kind by a person or persons shall be considered a violation of this chapter and punishable as provided in § 155.999 of this chapter.

(Ord. 2005-6, passed 8-2-2005)

§ 155.018 LOCATION OF OFFICIAL ZONING MAP.

Regardless of the existence of purported copies of the official zoning map, which from time to time may be published, the official zoning map shall be located in the office of the Clerk-Treasurer. It shall be the authority as to the current zoning status of land and water areas in the town.

(Ord. 2005-6, passed 8-2-2005)

§ 155.019 REPLACEMENT OF THE 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 supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original official zoning map or any subsequent amendment thereof. The official zoning map shall be identified by the signature of the Town Council President, attested by the Clerk-Treasurer and bearing the seal of the town under the following words: "This is to certify that this official zoning map supersedes and replaces the official zoning map adopted as part of Ordinance 2005-6 of the Town of Hanover, Indiana." Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment in the office of the Clerk-Treasurer.

(Ord. 2005-6, passed 8-2-2005)

§ 155.020 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists with respect to the boundaries of districts as shown, on the official zoning map, the following rules shall apply:

(A) Boundaries indicated as approximately following the centerlines of thoroughfares or highways, street lines or highway right-of-way lines, or alleys shall be construed to follow such centerlines.

(B) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot line.

(C) Boundaries indicated as approximately following town limits shall be construed as following such town limits.

(D) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

(E) Boundaries indicated as approximately following the centerlines of streams, rivers or other bodies of water shall be construed to follow such centerlines.

(F) Boundaries indicated as approximately following floodplain lines shall be construed to follow such contour lines. (In addition to the boundaries shown on the zoning map, the boundary of minor ditches and streams shall be designated as being at least five vertical feet or 100 horizontal feet from the edge of the water, whichever is the greater distance. In this case, a stream, river, or creek shall be defined as one, which flows at least 180 days of the year. Further, it is advised that the banks and at least ten feet beyond be left in as natural a state as possible).

(G) Boundaries indicated as parallel to or extensions of features indicated in division (A) through (F) above shall be so controlled. The scale of the map shall determine distances not specifically indicated on the official zoning map.

(H) Where physical or cultural features existing on the ground are at variance with those shown as the official zoning map, or in other circumstances not covered by divisions (A) through (E) above, the Board of Zoning Appeals shall interpret the boundaries.

(I) Where a district boundary line divides a lot, which was in single ownership at the time of passage of this chapter, the Board of Zoning Appeals may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

(Ord. 2005-6, passed 8-2-2005)

§ 155.021 ANNEXATION.

All land annexed to the town subsequent to the adoption of this chapter shall remain subject to the previous county zoning district until such time as the official zoning map is amended according to the provisions of § 155.140 of this chapter. All land annexed to the town which, prior to annexation, is not subject to county zoning, shall have the highest zoning classification of the town until the official zoning map is amended according to the provisions of § 155.140 of this chapter.

(Ord. 2005-6, passed 8-2-2005)

§ 155.022 ESTABLISHMENT AND PURPOSE OF DISTRICTS.

The zoning districts in the below sections in this subchapter are hereby established for the town. For the interpretation of this chapter, the zoning districts have been formulated to realize the general purposes of this chapter. In addition, the specific purpose of each zoning district shall be as stated.

(Ord. 2005-6, passed 8-2-2005)

§ 155.023 RESIDENTIAL DISTRICTS.

The districts listed in this section are established to meet the purposes identified in this section. Specific provisions for residential districts are set forth in §§ 155.044 through 155.051 of this chapter.

(A) *Agricultural Residential District (R-A)*. This District is intended to provide locations for the furtherance of agricultural activities and to minimize, to the extent feasible, present and future conflicts between agricultural and non-agricultural activities. The purpose of the District is to permit some degree of residential development in the rural areas where public utilities may not be available. Specific provisions for this District are set forth in § 155.046 of this chapter.

(B) *Low Density Residential District (R-1)*. The purpose of this District is to encourage a low-density residential single-family dwelling, but a gross density not to exceed four dwelling units per acre. Centralized water and sewer facilities are required. Specific provisions for this District are set forth in § 155.048 of this chapter.

(C) *Low Density Residential District (R-4)*. The purpose of this District is to encourage a low-density residential single and two-family dwelling, but a gross density not to exceed four dwelling units per acre. Centralized water and sewer facilities are required. Specific provisions for this District are set forth in § 155.048 of this chapter.

(D) *Medium Density Residential District (R-8)*. The purpose of this District is to permit the establishment of a medium-density multiple-family dwelling with a gross density not to exceed eight dwelling units per acre. This District is also designed to permit larger, older homes to be converted to two or more dwelling units. Centralized water and sewer facilities are required. Specific provisions for this District are set forth in § 155.049 of this chapter.

(E) *High Density Residential District (R-32)*. The purpose of this District is to allow high-density residential apartment buildings. The major restriction is that the gross density shall not be more than 32 dwelling units per acre and that certain restricted commercial uses are permitted. It must abut a collector or arterial street as specified by the Superintendent of Public Works of the town or the Indiana Department of Transportation (INDOT). Centralized water and sewer facilities are required. Specific provisions for this District are set forth in § 155.050 of this chapter.

(F) *Residential Mobile Home Park District (RMH)*. The purpose of this District is to encourage the development of well-planned mobile home parks. Such districts shall abut upon an arterial or collector street mobile home parks shall comply with all state regulations, as well as those regulations specified § 155.051 of this chapter.

(Ord. 2005-6, passed 8-2-2005)

§ 155.024 BUSINESS DISTRICTS.

Business districts are established to meet the purposes identified in this section. Specific provisions for business districts are set forth in § 155.052 of this chapter.

(A) *Local/Neighborhood Business District (B-1)*. The purpose of this District is to encourage the establishment of areas for convenience business uses, which tend to meet the daily requirements of the residents of an immediate neighborhood. These districts will be very carefully and strategically located. Allowing specialized business in this District would defeat the purpose. Specific provisions for this District are set forth in § 155.053 of this chapter.

(B) *General Business District (B-2)*. The purpose of this District is to encourage the establishment of areas for general business uses to meet the needs of a regional market area. Activities would include large space uses such as department stores, service stations, specialty stores and the like. Shopping centers are good examples of types of uses in this District. Due to the scale, it is absolutely necessary that these B-2 Districts be located on an arterial or collector street as specified by the Superintendent of Public Works of the town or the INDOT. Specific provisions for this District are set forth in § 155.054 of this chapter.

(C) *Highway Business District (B-3)*. The purpose of this District is primarily for the conduct of retail trade catering to the motoring public. Since it is intended that these districts be located on thoroughfares, and each such District will require ingress or egress to the thoroughfare, the location of these districts must be carefully determined. In no case is this District intended to strip thoroughfares in the town; rather, it is to be used at certain major intersections where access can be best controlled. Specific provisions for this District are set forth in § 155.055 of this chapter.

(Ord. 2005-6, passed 8-2-2005)

§ 155.025 INDUSTRIAL DISTRICTS.

These districts are established to meet the purposes identified in this section. Specific provisions for industrial districts are set forth in §§ 155.057 and 155.058 of this chapter.

(A) *Light Industrial District (I-1)*. The purpose of this District is to encourage the development of manufacturing and wholesale business establishments which are clean, quiet, free of hazardous or objectionable elements, operate entirely within enclosed structures and generate little industrial traffic. This District is further designed to act as a transitional use between heavy industrial uses and less intensive uses such as business or residential. Specific provisions for this District are set forth in § 155.057 of this chapter.

(B) *Heavy Industrial District (I-2)*. The purpose of this District is to encourage the development of major manufacturing,

processing, warehousing, and major research and testing operations. These activities require extensive community facilities and reasonably good access to an arterial street. They may also have extensive open storage and service areas and may generate heavy industrial-type traffic. Specific provisions for this District are set forth in § 155.058 of this chapter.

(Ord. 2005-6, passed 8-2-2005)

§ 155.026 ENVIRONMENTAL DISTRICTS.

These districts are established to meet the purposes identified in this section. Specific provisions for environmental districts are set forth in § 155.060 of this chapter.

(A) *Recreation District (G-1)*. The purpose of this District is to provide areas for recreation and conservation purposes, and areas suitable for non-commercial recreation. This District includes the flood hazard areas as delineated in the town by the Department of Housing and Urban Development. Specific provisions for this District are set forth in § 155.060 of this chapter.

(B) *Quarry and Mining District (Q-1)*. The purpose of this District is to retain natural resource areas in the town to the exclusion of other uses, except agricultural and recreation uses, for extracting materials through quarry or mining operations which require the removal of overburden. Specific provisions for this District are set forth in § 155.060 of this section.

(C) *Floodplain District (F-1)*. The purpose of this District is to guide development in the flood hazard areas 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. Specific provisions for this District are set forth in § 155.061 of this chapter.

(Ord. 2005-6, passed 8-2-2005)

APPLICATION OF DISTRICT REGULATIONS

§ 155.040 GENERAL APPLICATION OF DISTRICT REGULATIONS.

The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

(A) No building, structure, or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered except with an approved building permit and in conformity with all of the regulations herein specified for the district in which it is located.

(B) No building or other structure shall be erected or altered:

- (1) To provide for greater height or bulk;
- (2) To accommodate or house a greater number of families;
- (3) To occupy a greater percentage of lot area; or

(4) To have narrower or smaller rear yards, front yards, side yards, or other open space than herein required, or in any other manner be contrary to the provisions of this chapter.

(C) No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements set forth herein. No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

(Ord. 2005-6, passed 8-2-2005) Penalty, see § 155.999

§ 155.041 OFFICIAL SCHEDULE OF DISTRICT REGULATIONS ADOPTED.

District regulations shall be as set forth in the official schedule of district regulations hereby adopted and declared to be a part of this chapter. Section 155.075 of this chapter identifies each land use according to whether it is a permitted use, a conditional use or a prohibited use within each district. The description of each permitted and/or conditional use in § 155.044 of this chapter is followed by an identification number(s) (in parentheses) that refers to the corresponding number within § 155.075 of this chapter. The conditional uses are of the same general character and will not be detrimental to the district in which they may be located and may be permitted under the provision in § 155.139 of this chapter.

(Ord. 2005-6, passed 8-2-2005)

§ 155.042 EXPLANATION OF THE ORIGIN OF THE OFFICIAL SCHEDULE OF DISTRICT REGULATIONS.

The official schedule of district regulations was prepared using a modified form of the standard system for identifying and coding land use activities.

(Ord. 2005-6, passed 8-2-2005)

§ 155.043 GENERAL RESTRICTIONS AND APPLICATION OF ALL USES IN ALL DISTRICTS.

The restrictions set out in this section apply to all uses in all districts.

(A) *Property access.* Any structure erected or moved for use as a dwelling unit or with a replacement cost in excess of \$2,000 shall be easily accessible to fire and other emergency equipment, and shall be on a lot adjacent to or with access to a public street, or with access to an approved private street.

(B) *Land use compatibility.* Each proposed land use shall not create an adverse effect upon the surrounding land uses, health, safety or the general welfare of the town by overburdening the land, existing utilities or the road network. Proposals shall also comply with provisions for lighting, signage, noise and landscaping.

(C) *Traffic generation.* Each proposed land use shall not create such a volume of automotive traffic so as to overburden the surrounding road system. A traffic impact analysis should be conducted in each instance of development where the surrounding road system may be overburdened. A traffic impact analysis shall be regulated and defined by each jurisdiction.

(D) *Temporary structures.* Temporary structures may be erected on a single lot, provided that a permit has been obtained, approved, and all other requirements of this chapter relevant to temporary structures shall be met for each structure. Temporary buildings incidental to construction work are also permitted but must be removed upon, completion of the construction.

(E) *Accessory building.* No accessory building shall be erected in any required yard and no separate accessory building shall be erected within five feet of any other building.

(F) *Minimum yard setback.* No structure except fences, mailboxes, and signposts shall be erected, placed, or moved to within ten feet of any lot line. See specific zoning districts for required setbacks.

(G) *Signs.* All freestanding billboards or advertising sign boards shall be 15 feet or more from any public right-of-way line, to avoid contusion and reduce view obstruction.

(H) *Hillside development.* Any development on a slope equal to or greater than 20% must receive approval from the Town Engineer.

(I) *Off-street parking.* Each proposed land use shall comply with the off-street parking restrictions and regulations found in § 155.100 of this chapter.

(Ord. 2005-6, passed 8-2-2005) Penalty, see §155.999

§ 155.044 SPECIFIC APPLICATION OF DISTRICT REGULATIONS.

The restrictions set out in §§155.045 through 155.061 of this subchapter apply to uses in the individual districts.

(Ord. 2005-6, passed 8-2-2005)

§ 155.045 RESTRICTIONS IN RESIDENTIAL DISTRICTS

These districts have been created to preserve and enhance a safe, pleasant living environment for the people of the town. It is intended to provide a variety and mix of dwelling types. These districts and their restrictions follow below.

(A) *Home occupations (111).* Home occupations shall be governed by the following regulations:

(1) A home occupation is any use conducted entirely within a dwelling and participated in solely by members of the family, when such use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and in connection with which there is no commodity sold upon the premises except that which is produced thereon.

(2) Permitted home occupations shall not have more than 20% of the net floor area of the dwelling devoted to the occupation and none of the required off-street parking shall be used in the conduct of the home occupation.

(3) Permitted home occupations shall have no mechanical equipment used which makes any electrical interference, loud, unnecessary or unusual noise, or any noise which annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others.

(4) In no way shall the appearance of the structure or the conduct of the occupation within the structure be so altered that it may reasonably be recognized as serving a non-residential purpose (either by color, materials of construction, lighting, sounds, noises or vibrations).

(5) Permitted home occupations shall not include the employment of a person in addition to the occupant of the dwelling unit in performance of such services, and shall not include exterior display or exterior signs, except as such are permitted by the sign regulations for residential districts. There shall be no exterior storage of equipment or materials used in such home operations.

(B) *Signs.*

(1) Real estate signs of a temporary nature shall not exceed two in number per lot.

(2) A sign or signs flat against a building appertaining to a nonconforming use of the premises shall not exceed in the aggregate 50 square feet in area, except as authorized by the Board of Zoning Appeals.

(3) Small announcement or professional signs shall not exceed six square feet in area, except that an announcement

or bulletin board not over 18 square feet in area, set back at least 20 feet from any highway, street, or road, may be erected in connection with any authorized special uses or non-residential use.

(4) One nameplate shall not exceed two square feet for each dwelling.

(C) *Visibility at intersections.* On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of three and 12 feet above the established grade determined by a diagonal line connecting two points measured 15 feet-equidistant from the street corner along each lot line.

(D) *Fences, walls and hedges.* Notwithstanding other provisions of this chapter, fences, walls, and hedges may be permitted in any required yard or along the edge of any yard, provided that driveway entrances are not shielded by fences, walls, and hedges in such a way as to obstruct the view of a driver entering a public road from the driveway; and provided further that no fence, wall or hedge along the sides or front edge of any front yard shall exceed three feet in height.

(E) *Parking, storage or use of major recreational equipment.*

(1) Recreational equipment parked or stored in residential districts shall be parked in a manner so as not to block pedestrian traffic or interfere with the view of motorists. Recreational equipment will not be used for any purpose other than that intended when manufactured.

(2) No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

(F) *Parking and storage of certain vehicles.* Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored for more than seven days on any residentially zoned property other than in completely enclosed buildings with the exception of state licensed antique vehicles.

(G) *Parking and storage of certain commercial or industrial trucks.* Trucks which are used for commercial or industrial purposes and which have a weight of two and one-half tons or more shall not be parked or stored for more than 12 hours on any residentially zoned property. Refrigerated trucks of all sties shall not be parked on any residentially zoned property while refrigeration unit is engaged.

(H) *Apartment building owners.* Apartment building owners must submit in writing a proposed handicapped parking plan, to meet the requirements of the Americans with Disabilities Act (ADA), to the Plan Commission for approval at a regularly scheduled Plan Commission meeting.

(Ord. 2005-6, passed 8-2-2005) Penalty, see §155.999

§ 155.046 AGRICULTURAL RESIDENTIAL DISTRICT (R-A).

(A) *General restrictions.*

(1) Floor area ratio: not to exceed two-tenths.

(2) Lot area: not less than one and seventy-two hundredths acres for churches, schools or hospitals; or 10,000 square feet for all other permitted uses.

(3) Lot dimensions: not less than 150 feet wide by 200 feet deep when there is sewer access and not less than 200 feet wide by 225 feet deep when sewer access is not available.

(B) *Restrictions for permitted uses.* All permitted uses listed in the §155.075 of this chapter shall conform to the general restrictions. In addition, the following restrictions, as applicable, shall apply:

(1) *Dwelling units and home occupations (110, 111).*

(a) If built on a block or road where previous residential development has taken place:

1. Setbacks shall conform to within 25 feet either way of the average setback of the dwelling units located within 300 feet on each side of said dwelling unit along the same side of the same street or road, but shall in no case be narrower than 40 feet from the right-of-way if bordering a collector street or 60 feet from the right-of-way if bordering an arterial street or road.

2. Side yards shall in no case be less than 20 feet wide.

(b) If built on a block or road where no previous residential development has taken place:

1. Setbacks shall be not less than 40 feet from right-of-way of collector streets and 60 feet from right-of-way of arterial streets or roads.

2. Side yards shall in no case be less than 20 feet wide.

3. For all side yards, when the structure is in excess of two stories, for each story over the second, the side yard width shall be increased by at least eight feet. (For the purposes of this chapter, a story, which is more than half below ground level from floor to ceiling, shall not be considered a story.) Example: A three-story house would be required to have side yards of at least 28 feet in width.

(c) Home occupations shall be governed by the general restrictions for all residential districts (§155.045 of this

chapter).

(2) *Transportation related uses (454, 455, 456, 460)*. Any changes or improvements regarding those uses in this District are subject to restrictions by the appropriate governing bodies. However, new rights-of-way should be carefully studied due to the tremendous amount of land required.

(3) *Parks, playgrounds, recreation areas, farms, forest service and fisheries (761, 762, 811 - 816, 818, 841, 921)*. These uses are permitted in this District provided that the Plan Commission approves plans for their development and use.

(4) *Additional restrictions*.

(a) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(b) Areas for parking shall not be closer than 40 feet from any lot line.

(c) At the option of the Plan Commission at such date as the situation may arise, noise buffers may be required to shield adjacent residences from undue noise pollution. This may be in the form of a tall solid fence or heavy vegetation.

(C) *Restrictions for conditional uses*. All conditional uses listed in §155.075 of this chapter shall conform to the general restrictions and must be approved by the Plan Commission. In addition, the following restrictions, as appropriate, shall be observed:

(1) *Boarding houses, retirement homes and certain other group quarters (121, 123)*. These uses may be permitted providing the following restrictions are satisfied:

(a) Setbacks shall be not less than 60 feet from the right-of-way line.

(b) Side yards shall be not less than 40 feet wide.

(c) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(2) *kennel and animal shelters (340)*. Providing that the following restrictions are adhered to, this use may be permitted in this District:

(a) No structure shall be placed within 60 feet of any lot line.

(b) Side yards shall be not less than 40 feet wide.

(c) No unsafe, uncomfortable, or offensive vibrations, noises, visual effects, odors, or air pollutants shall be allowed to radiate across lot lines.

(d) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(3) *Transportation related uses (451, 452, 453, 457, 459)*. Any changes or improvements regarding these uses in this District are subject to restrictions by the appropriate governing bodies. However, new rights-of-way should be carefully studied due to the tremendous amount of land required.

(4) *Various public and quasi-public utilities and telecommunication services (471 - 476, 479, 481 - 484)*. By adhering to the following restrictions, these uses may be permitted in this District:

(a) No structure shall be placed within 50 feet of any lot line.

(b) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(c) All structures erected, placed, or moved specifically for the operation of the utility to which the lot is devoted shall be completely surrounded or enclosed by a building or fence. A fence shall be at least seven feet high and in compliance with national safety codes governing such construction.

(d) No unsafe, uncomfortable, or offensive, vibrations, noises, visual effects, odors, or air pollutants shall be allowed to radiate across lot lines.

(e) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(f) Further, this conditional use should not be allowed in this District if there are other less restrictive districts that could furnish equivalent space with no additional economic expense to the utility. The Plan Commission should closely scrutinize this for each request.

(5) *Insurance and real estate services (614, 615)*. Providing that the following restrictions are adhered to, this use may be permitted in this District:

(a) Setbacks shall be not less than 60 feet from the right-of-way line.

(b) Side yards shall be not less than 40 feet wide.

(c) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(6) *Cemeteries (626)*. Providing that the following restrictions are adhered to, this use may be permitted in this District:

(a) The minimum size for new cemeteries shall be four acres.

(b) No structure shall be placed within 50 feet of any lot line.

(c) There shall be a maximum of one dwelling unit for purposes of residence upon the site.

(d) The site shall be completely enclosed by a fence with a minimum height of six feet, and gates shall remain closed between sunset and sunrise.

(7) *Repair services (649)*.

(a) Setbacks shall be not less than 60 feet from the right-of-way line.

(b) Side yards shall be not less than 40 feet wide.

(c) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(8) *Medical and other health services (651, 653)*. Providing that the following restrictions are adhered to, these uses may be permitted in this District:

(a) Setbacks shall be not less than 60 feet from the right-of-way line.

(b) Side yards shall be not less than 40 feet wide.

(c) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(d) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(9) *Professional and construction services (659, 661, 662)*.

(a) Setbacks shall be not less than 60 feet from the right-of-way line.

(b) Side yards shall be not less than 40 feet wide.

(c) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(10) *Protective functions and postal services (672, 673)*. With the health, safety, and well-being of the citizens foremost in their minds, the Plan Commission and involved protective services should cooperate to determine where best to locate these functions. Should they arrive at a site in this District, the following restrictions must be satisfied:

(a) The structure should be designed and landscaped so as not to destroy the continuity of the District. Plans would require Plan Commission approval prior to construction.

(b) No structure shall be placed within 100 feet of any structure on an adjacent lot.

(c) Should conform to other regulations pertaining to this District.

(11) *Schools and churches (681, 682, 691)*. School locations should be determined by the school board of the appropriate school district based on an independent study of demographics of future school age populations.

(a) Minimum yard requirements:

1. Lot size should not be less than one and seventy-two hundredths acres.

2. Side yards shall in no case be less than ten feet wide in the Low Density Residential District. For exterior lots, the side yard on the street side shall be not less than 20 feet wide.

3. For all side yards, when the structure is in excess of 20 feet in height, the side yard shall be increased to 12 feet in width.

(b) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(c) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(12) *Cultural entertainment, recreational activities and farms (711, 712, 722, 724, 731, 739, 742 - 744, 749, 751, 752,*

817, 821, 829, 831, 832, 839). Providing that the following restrictions are adhered to, and upon receiving approval from the Plan Commission, these uses may be permitted in this District:

(a) No structure shall be placed within 50 feet of any lot line.

(b) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(c) Areas for parking shall not be closer than 40 feet from any lot line.

(d) There shall be a maximum of one dwelling unit for purposes of residence upon the site.

(e) The structure(s) should be designed and landscaped so as not to destroy the continuity of the District. Plans would require Plan Commission approval prior to construction.

(Ord. 2005-6, passed 8-2-2005) Penalty, see §155.999

§ 155.047 SINGLE FAMILY RESIDENTIAL (R-1).

(A) *General restrictions.*

(1) Front yard (setback): not less than 25 feet.

(2) Lot area: not less than one and seventy-two hundredths acres for churches, schools or hospitals; or 10,000 square feet for all other permitted uses.

(3) Lot width: not less than 75 feet for interior lots and 90 feet for the exterior lots.

(4) Height of buildings: not more than 35 feet for principal buildings or 15 feet for accessory buildings.

(5) Rear yard depth: not less than 25 feet for principal buildings or ten feet deep for accessory buildings.

(B) *Restrictions for permitted uses.* All permitted uses listed in §155.075 of this chapter shall conform to the general restrictions. In addition, the following restrictions, as applicable, shall apply:

(1) *Dwelling units and home occupations (110, 111).*

(a) Side yards shall in no case be less than ten feet wide in the Low Density Residential District. For exterior lots, the street side yard shall be no less than 20 feet wide.

(b) For all side yards, when the structure is in excess of 20 feet in height, the side yard shall be increased to 12 feet in width.

(c) Home occupations shall be governed by the general restrictions for all residential districts (§155.045 of this chapter).

(2) *Transportation related uses (451 - 457, 460).* Any changes or improvements regarding these uses in this District are subject to restrictions by the appropriate governing bodies. However, new rights-of-way should be carefully studied due to the tremendous amount of land required.

(C) *Restrictions for conditional uses.* All conditional uses listed in §155.075 of this chapter shall conform to the general restrictions and must be approved by the Plan Commission. In addition, the following restrictions, as appropriate, shall be observed:

(1) *Rooming and boarding houses (121).* These uses may be permitted providing the following restrictions are satisfied:

(a) Setbacks shall be not less than 60 feet from the right-of-way line.

(b) Side yards shall be not less than 40 feet wide.

(c) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(2) *Transportation related uses (459).* Any changes or improvements regarding these uses in this District are subject to restrictions by the appropriate governing bodies. However, new rights-of-way should be carefully studied due to the tremendous amount of land required.

(3) *Various public and quasi-public utilities and telecommunication services (471 - 476, 479, 481 - 484).* By adhering to the following restrictions, these uses may be permitted in this District:

(a) No structure shall be placed within 50 feet of any lot line.

(b) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(c) All structures erected, placed, or moved specifically for the operation of the utility to which the lot is devoted shall

be completely surrounded or enclosed by a building or fence. A fence shall be at least seven feet high and in compliance with national safety codes governing such construction.

(d) No unsafe, uncomfortable, or offensive vibrations, noises, visual effects, odors, or air pollutants shall be allowed to radiate across lot lines.

(e) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(g) Further, this conditional use should not be allowed in this District if there are other less restrictive districts that could furnish equivalent space with no additional economic expense to the utility. The Plan Commission should closely scrutinize this for each request.

(4) *Insurance and real estate services (614 - 616)*. Providing that the following restrictions are adhered to, this use may be permitted in this District:

(a) Setbacks shall be not less than 60 feet from the right-of-way line.

(b) Side yards shall be not less than 40 feet wide.

(c) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(5) *Protective functions and postal services (672, 673)*. With the health, safety, and well-being of the citizens foremost in their minds, the Plan Commission and involved protective services should cooperate to determine where best to locate these functions. Should they decide upon a site in this District, the following restrictions must be satisfied:

(a) The structure(s) should be designed and landscaped so as not to destroy the continuity of the District. Plans would require Plan Commission approval prior to construction.

(b) No structure shall be placed within 100 feet of any structure on an adjacent lot.

(c) Should conform to other regulations pertaining to this District.

(6) *Schools and churches (681, 691)*. School locations should be determined by the school board of the appropriate school district based on an independent study of demographics of future school age populations.

(a) Minimum yard requirements:

1. Lot sizes should not be less than one and seventy-two hundredths acres.

2. Side yards shall in no case be less than ten feet wide in the Low Density Residential District. For exterior lots, the side yard on the street side shall be no less than 20 feet wide.

3. For all side yards, when the structure is in excess of 20 feet in height, the side yard shall be increased to 12 feet in width.

(b) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(c) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(7) *Cultural activities, sports and other public assembly uses (711, 722)*. Providing that the following restrictions are adhered to, this use may be permitted in this District:

(a) Setbacks shall be not less than 60 feet from the right-of-way line.

(b) Side yards shall be not less than 40 feet wide.

(c) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(d) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(8) *Recreation areas (742, 743, 761, 762, 769, 790)*. These uses are permitted in this District provided that the Plan Commission approves plans for their development and use. Additional restrictions include:

(a) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(b) Areas for parking shall not be closer than 40 feet from any lot line.

(c) At the option of the Plan Commission at such date as the situation may arise, noise buffers may be required to

shield adjacent residences from undue noise pollution. This may be in the form of a tall solid fence or heavy vegetation.

(Ord. 2005-6, passed 8-2-2005) Penalty, see §155.999

§ 155.048 LOW DENSITY RESIDENTIAL (R-4).

(A) *General restrictions.*

- (1) Front yard (setback): not less than 25 feet.
- (2) Lot area: not less than one and seventy-two hundredths acres for churches, schools or hospitals; or 10,000 square feet for all other permitted uses.
- (3) Lot width: not less than 75 feet for interior lots and 90 feet for the exterior lots.
- (4) Height of buildings: not more than 35 feet for principal buildings or 15 feet for accessory buildings.
- (5) Rear yard depth: not less than 25 feet for principal buildings or ten feet deep for accessory buildings.

(B) *Restrictions for permitted uses.* All permitted uses listed in §155.075 of this chapter shall conform to the general restrictions. In addition, the following restrictions, as applicable, shall apply:

(1) *Dwelling units and home occupations (110, 111).*

(a) Side yards shall in no case be less than ten feet wide in the Low Density Residential District. For exterior lots, the street side yard shall be no less than 20 feet wide.

(b) For all side yards, when the structure is in excess of 20 feet in height, the side yard shall be increased to 12 feet in width.

(c) Home occupations shall be governed by the general restrictions for all residential districts (§155.045 of this chapter).

(2) *Transportation related uses (451 - 457, 460).* Any changes or improvements regarding these uses in this District are subject to restrictions by the appropriate governing bodies. However, new rights-of-way should be carefully studied due to the tremendous amount of land required.

(C) *Restrictions for conditional uses.* All conditional uses listed in §155.075 of this chapter shall conform to the general restrictions and must be approved by the Plan Commission. In addition, the following restrictions, as appropriate, shall be observed:

(1) *Rooming and boarding houses (121).* These uses may be permitted providing the following restrictions are satisfied:

(a) Setbacks shall be not less than 60 feet from the right-of-way line.

(b) Side yards shall be not less than 40 feet wide.

(c) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(2) *Transportation related uses (459).* Any changes or improvements regarding these uses in this District are subject to restrictions by the appropriate governing bodies. However, new rights-of-way should be carefully studied due to the tremendous amount of land required.

(3) *Various public and quasi-public utilities and telecommunication services (471 - 476, 479, 481 - 484).* By adhering to the following restrictions, these uses may be permitted in this District:

(a) No above-ground structure shall be placed within 50 feet of any lot line.

(b) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(c) All structures erected, placed, or moved specifically for the operation of the utility to which the lot is devoted shall be completely surrounded or enclosed by a building or fence. A fence shall be at least seven feet high and in compliance with national safety, codes governing such construction.

(d) No unsafe, uncomfortable, or offensive vibrations, noises, visual effects, odors, or air pollutants shall be allowed to radiate across lot lines.

(e) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(f) Further, this conditional use should not be allowed in this District if there are other less restrictive districts that could furnish equivalent space with no additional economic expense to the utility. The Plan Commission should closely scrutinize this for each request.

(4) *Insurance and real estate services (614 - 616)*. Providing that the following restrictions are adhered to, this use may be permitted in this District:

(a) Setbacks shall be not less than 60 feet from the right-of-way line.

(b) Side yards shall be not less than 40 feet wide.

(c) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(5) *Protective functions and postal services (672, 673)*. With the health, safety, and well-being of the citizens foremost in their minds, the Plan Commission and involved protective services should cooperate to determine where best to locate these functions. Should they decide upon a site in this District, the following restrictions must be satisfied:

(a) The structures should be designed and landscaped so as not to destroy the continuity of the District. Plans would require Plan Commission approval prior to construction.

(b) No structure shall be placed within 100 feet of any structure on an adjacent lot.

(c) Should conform to other regulations pertaining to this District.

(6) *Schools and churches (681, 691)*. School locations should be determined by the school board of the appropriate school district based on an independent study of demographics of future school age populations.

(a) Minimum yard requirements:

1. Lot size should not be less than one and seventy-two hundredths acres.

2. Side yards shall in no case be less than ten feet wide in the Low Density Residential District. For exterior lots the side yard on the street side shall be no less than 20 feet wide.

3. For all side yards, when the structure is in excess of 20 feet in height, the side yard shall be increased to 12 feet in width.

(b) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(c) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(7) *Cultural activities, sports and other public assembly uses (711, 722)*. Providing that the following restrictions are adhered to, this use may be permitted in this District:

(a) Setbacks shall be not less than 60 feet from the right-of-way line.

(b) Side yards shall be not less than 40 feet wide.

(c) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(d) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(8) *Recreation areas (742, 743, 761, 762, 769, 790)*. These uses are permitted in this District provided that the Plan Commission approves plans for their development and use. Additional restrictions include:

(a) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(b) Areas for parking shall not be closer than 40 feet from any lot line.

(c) At the option of the Plan Commission at such date as the situation may arise, noise buffers may be required to shield adjacent residences from undue noise pollution. This may be in the form of a tall solid fence or heavy vegetation.

(Ord. 2005-6, passed 8-2-2005) Penalty, see §155.999

§ 155.049 MEDIUM DENSITY RESIDENTIAL (R-8).

(A) *General restrictions.*

(1) Front yard (setback): not less than 25 feet.

(2) Lot area: not less than 8,000 square feet for single-family dwelling units, 3,500 square feet for two-family units, one and seventy-two hundredths acres for churches, schools, and hospitals or 10,000 square feet for all other permitted uses.

(3) Lot width: not less than 60 feet for the interior lot and 70 feet for the exterior lot.

(4) Height of buildings: not more than 35 feet for principal buildings or 15 feet for accessory buildings.

(5) Rear yard depth: not less than 25 feet.

(B) *Restrictions for permitted uses.* All permitted uses listed in §155.075 of this chapter shall conform to the general restrictions. In addition, the following restrictions, as applicable, shall apply:

(1) *Dwelling units and home occupations (110, 111).*

(a) Side yards shall in no case be less than ten feet wide in the Medium Density Residential District. For exterior lots, the side yard on the street side shall be no less than 20 feet wide.

(b) For all side yards, when the structure is in excess of 20 feet in height, the side yard shall be increased to 12 feet in width.

(c) Home occupations shall be governed by the general restrictions for all residential districts (§155.045 of this chapter).

(2) *Transportation related uses (451 - 457, 460).* Any changes or improvements regarding these uses in this District are subject to restrictions by the appropriate governing bodies. However, new rights-of-way should be carefully studied due to the tremendous amount of land required.

(C) *Restrictions for conditional uses.* All conditional uses listed in §155.075 of this chapter shall conform to the general restrictions and must be approved by the Plan Commission. In addition, the following restrictions, as appropriate, shall be observed:

(1) *Rooming and boarding houses (121).* These uses may be permitted providing the following restrictions are satisfied:

(a) Setbacks shall be not less than 60 feet from the right-of-way line.

(b) Side yards shall be not less than 40 feet wide.

(c) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(d) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(2) *Residential hotels, apartments and condominiums (130).* These uses may be permitted providing the following restrictions are satisfied:

(a) Setbacks shall be not less than 60 feet from the right-of-way line.

(b) Side yards shall be not less than 40 feet wide.

(c) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(d) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(3) *Other transportation or rapid transit related uses (412, 459).* Any changes or improvements regarding these uses in this District are subject to restrictions by the appropriate governing bodies. However, new rights-of-way should be carefully studied due to the tremendous amount of land required.

(4) *Various public and quasi-public utilities and telecommunication services (471 - 476, 479, 481 - 484).* By adhering to the following restrictions, these uses may be permitted in this District:

(a) No above-ground structure shall be placed within 50 feet of any lot line.

(b) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(c) All structures erected, placed, or moved specifically for the operation of the utility to which the lot is devoted shall be completely surrounded or enclosed by a building or fence. A fence shall be at least seven feet high and in compliance with national safety codes governing such construction.

(d) No unsafe, uncomfortable, or offensive vibrations, noises, visual effects, odors, or air pollutants, shall be allowed to radiate across lot lines.

(e) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(g) Further, this conditional use should not be allowed in this District if there are other less restrictive districts that

could furnish equivalent space with no additional economic expense to the utility. The Plan Commission should closely scrutinize this for each request.

(5) *Real estate, insurance and investment services (614 - 616)*. Providing that the following restrictions are adhered to, this use may be permitted in this District:

- (a) Setbacks shall be not less than 60 feet from the right-of-way line.
- (b) Side yards shall be not less than 40 feet wide.

(c) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(6) *Protective functions and postal services (672, 673)*. With the health, safety, and well-being of the citizens foremost in their minds, the Plan Commission and involved protective services should cooperate to determine where best to locate these functions. Should they decide upon a site in this District, the following restrictions must be satisfied:

(a) The structure should be designed and landscaped so as not to destroy the continuity of the District. Plans would require Plan Commission approval prior to construction.

(b) No structure shall be placed within 100 feet of any structure on an adjacent lot.

(c) Should conform to other regulations pertaining to this District.

(7) *Schools and churches (681, 682, 691)*. School locations should be determined by the school board of the appropriate school district based on an independent study of demographics of future school age populations.

(a) Minimum yard requirements:

- 1. Lot size should not be less than one and seventy-two hundredths acres.
- 2. Side yards shall in no case be less than 12 feet wide. For exterior lots, the side yard on the street side shall be no less than 20 feet wide.
- 3. For all side yards, when the structure is in excess of 20 feet in height, the side yard shall be increased to 12 feet in width.

(b) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(c) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(8) *Cultural activities, sports and other public assembly uses (711, 722)*. Providing that the following restrictions are adhered to, this use may be permitted in this District:

- (a) Setbacks shall be not less than 60 feet from the right-of-way line.
- (b) Side yards shall be not less than 40 feet wide.

(c) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(d) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(9) *Recreation areas (742, 743, 761, 762, 769, 790)*. These uses are permitted in this District provided that the Plan Commission approves plans for their development and use. Additional restrictions include:

(a) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(b) Areas for parking shall not be closer than 40 feet from any lot line.

(c) At the option of the Plan Commission at such date as the situation may arise, noise buffers may be required to shield adjacent residences from undue noise pollution. This may be in the form of a tall solid fence or heavy vegetation.

(Ord. 2005-6, passed 8-2-2005) Penalty, see §155.999

§ 155.050 HIGH DENSITY RESIDENTIAL (R-32).

(A) *General restrictions.*

(1) Front yard (setback): not less than 25 feet.

(2) Lot area: not less than 8,000 square feet for single-family dwelling units, 3,500 square feet per unit for duplex

dwelling units, or 3,400 square feet per dwelling unit for the first two units and 2,000 square feet per dwelling unit for structures with three or more units. Churches, schools, and hospitals shall not be less than one and seventy-two hundredths acres. All other permitted uses shall not be less than 10,000 square feet.

(3) Lot width: not less than 60 feet for an interior lot and 70 feet for an exterior lot.

(4) Height of buildings: 35 feet for principal building and 15 feet for accessory buildings.

(5) Rear yard depth: for principal buildings, not less than 25 feet, plus one foot for every foot the building exceeds 35 feet in height. For accessory buildings, not less than ten feet.

(B) *Restrictions for permitted uses.* All permitted uses listed in §155.075 of this chapter shall conform to the general restrictions. In addition, the following restrictions, as applicable, shall apply:

(1) *Dwelling units and home occupations (110, 111).*

(a) Side yards in no case shall be less than ten feet wide in the High Density Residential District. For exterior lots, the side yard on the street side shall be no less than 20 feet wide.

(b) For side yards where the structure is in excess of 20 feet in height, the side yard shall be increased to 12 feet in width.

(c) Home occupations shall be governed by the general restrictions for all residential districts (§155.045 of this chapter).

(2) *Rapid rail and transportation related uses (412, 451 - 457, 460).* Any changes or improvements regarding these uses in this District are subject to restrictions by the appropriate governing bodies. However, new rights-of-way should be carefully studied due to the tremendous amount of land required.

(C) *Restrictions for conditional uses.* All conditional uses permitted in §155.075 of this chapter shall conform to the general restrictions and must be approved by the Plan Commission. In addition, the following restrictions, as appropriate, shall be observed:

(1) *Fraternity, sorority houses and residence halls, retirement homes, orphanages, religious quarters, residential hotels, apartments, and condominiums (122 - 123, 130).*

(a) Side yards shall be no less than 15 feet wide. For exterior lots, the side yard on the street side shall be no less than 20 feet wide.

(b) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of surrounding dwelling units.

(c) Necessary lighting should not adversely affect any adjacent property. The Plan Commission should approve such devices prior to installation. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(2) *Railroad and other transportation related uses (411, 413, 459).* Any changes or improvements regarding these uses in this District are subject to restrictions by the appropriate governing bodies. However, new rights-of-way should be carefully studied due to the tremendous amount of land required.

(3) *Various public and quasi-public utilities and telecommunication services (471 - 476, 479, 481 - 484).* By adhering to the following restrictions, these uses may be permitted in this District:

(a) No structure shall be placed within 50 feet of any lot line.

(b) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(c) All structures erected, placed, or moved specifically for the operation of the utility to which the lot is devoted shall be completely surrounded or enclosed by a building or fence. A fence shall be at least seven feet high and in compliance with national safety codes governing such construction.

(d) No unsafe, uncomfortable, or offensive vibrations, noises, visual effects, odors, or air pollutants shall be allowed to radiate across lot lines.

(e) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(f) Further, this conditional use should not be allowed in this District if there are other less

restrictive districts that could furnish equivalent space with no additional economic expense to the utility. The Plan Commission should closely scrutinize this for each request.

(4) *Retail food related uses (541 - 546, 549).* Providing that the following restrictions are adhered to, this use may be permitted in this District:

(a) Setbacks shall be not less than 60 feet from the right-of-way line.

(b) Side yards shall be not less than 40 feet wide.

(c) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(d) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(5) *Real estate, insurance and real estate services (614 - 616)*. Providing that the following restrictions are adhered to, this use may be permitted in this District:

(a) Setbacks shall be not less than 60 feet from the right-of-way line.

(b) Side yards shall be not less than 40 feet wide.

(c) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(d) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(6) *Medical and other health services (651, 653)*. These uses may be permitted providing the following restrictions are satisfied:

(a) Side yards shall be not less than 20 feet wide. For exterior lots, the side yard on the street side shall be no less than 25 feet wide.

(b) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(c) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(7) *Protective functions and postal services (672, 673)*. With the health, safety, and well-being of the citizens foremost in their minds, the Plan Commission and involved protective services should cooperate to determine where best to locate these functions. Should they arrive at a site in this District, the following restrictions must be satisfied:

(a) The structures should be designed and landscaped so as not to destroy the continuity of the District. Plans would require Plan Commission approval prior to construction.

(b) No structure shall be placed within 50 feet of any structure on an adjacent lot.

(c) Should conform to other regulations pertaining to this District.

(8) *Schools and churches (681, 683, 691)*. School locations should be determined by the appropriate school district based on an independent study of demographics of future school age populations.

(a) Side yards shall in no case be less than 12 feet wide plus one foot for every foot the building height exceeds 35 feet in the High Density Residential Districts.

(b) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(c) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(9) *Cultural activities, entertainment, sports and other public assembly uses (711, 721, 722)*. Providing that the following restrictions are adhered to, these uses may be permitted in this District:

(a) Setbacks shall be not less than 60 feet from the right-of-way line.

(b) Side yards shall be not less than 40 feet wide.

(c) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(d) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(10) *Parks and recreational activities (742, 743, 761, 762, 769, 790)*. These uses are permitted in this District provided that the Plan Commission approves plans for their development and use. Additional restrictions include;

(a) Lighted areas shall be approved by the Plan Commission prior to development and shall be placed in such a way

that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(b) Areas for parking shall not be closer than 40 feet from any lot line.

(c) At the option of the Plan Commission at such date as the situation may arise, noise buffers may be required to shield adjacent residences from undue noise pollution. This may be in the form of a tall solid fence or heavy vegetation.

(Ord. 2005-6, passed 8-2-2005) Penalty, see §155.999

§ 155.051 RESIDENTIAL MOBILE HOME PARK (RMH).

(A) *General restrictions.*

(1) Mobile home park area: not less than one acre 43,560 square feet.

(2) Floor area ratio: not to exceed four-tenths.

(3) Lot area: not less than 3,000 square feet.

(4) Lot width: determined by setbacks.

(B) *Restrictions for permitted uses.* All permitted uses listed in §155.075 of this chapter shall conform to the general restrictions. In addition, the following restrictions, as applicable, shall apply:

(1) *Mobile home parks (140).*

(a) Each mobile home park shall have a maximum density of eight mobile homes per acre, calculated from the gross acreage included within the boundaries of the proposed mobile home park.

(b) No mobile home may be located closer than 20 feet to any boundary line of the mobile home park.

(c) No mobile home shall be located closer than 20 feet to any permanent structure within the mobile home park.

(d) No mobile home shall be placed closer than ten feet from any lot or site line.

(e) No mobile home shall be located closer than 15 feet to the right-of-way of any mobile home park street.

(f) If the mobile home park is designed to be occupied by ten mobile homes or more, not less than 15% of the gross land area of the park shall be improved for recreational activities for the residents of the park.

(g) No less than two mobile homes shall constitute a mobile home park.

(h) There shall be no additional mobile home or mobile home site within the zoning jurisdiction of the town unless said mobile home or mobile home site is approved by the Plan Commission as a conditional use, (**ZONING JURISDICTION** shall mean all lands within two miles of the corporate limits of the town, as said limits now or hereafter exist.)

(i) There shall be no mobile home parks located within the corporate limits of the town or within the zoning jurisdiction of the town unless said mobile home park is approved by the Plan Commission and Board of Zoning Appeals pursuant to this chapter and requirements of the Indiana Mobile Home Parks Act, as amended, and the Indiana State Board of Health Regulations, as amended.

(2) *Transportation related uses (455, 456, 457, 460).* Any changes or improvements regarding these uses in this District are subject to restrictions by the appropriate governing bodies. However, new rights-of-way should be carefully studied due to the tremendous amount of land required.

(C) *Restrictions for conditional uses.* All conditional uses listed in §155.075 of this chapter shall conform to the general restrictions and must be approved by the Plan Commission. In addition, the following restrictions, as appropriate, shall be observed:

(1) *Other streets and highways (459).* Any changes or improvements regarding these uses in this District are subject to restrictions by the appropriate governing bodies. However, new rights-of-way should be carefully studied due to the tremendous amount of land required.

(2) *Various public or quasi-public utility buildings or facilities, excluding transmission lines and transportation, related utilities, and telecommunication services (471 - 476, 479, 481 - 484).* Provided that the following restrictions are adhered to, these uses may be permitted in this District:

(a) No above-ground structure shall be placed within 50 feet of any lot line.

(b) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(c) All structures erected, placed, or moved specifically for the operation of the utility to which the lot is devoted shall be completely surrounded or enclosed by a building or fence. A fence shall be at least seven feet high and in compliance with national safety codes governing such construction.

(d) No unsafe, uncomfortable, or offensive vibrations, noises, visual effects, odors, or air pollutants shall be allowed to radiate across lot lines.

(e) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(f) Further, this conditional use should not be allowed in this District if there are other less restrictive districts that could furnish equivalent space with no additional economic expense to the utility. The Plan Commission should closely scrutinize this for each request.

(3) *Protective functions (672)*. With the health, safety, and well-being of the citizens foremost in their minds, the Plan Commission and involved protective services should cooperate to determine where best to locate these functions. Should they decide upon a site in this District, the following restrictions must be satisfied:

(a) The structure should be designed and landscaped so as not to destroy the continuity of the District. Plans would require Plan Commission approval prior to construction.

(b) No structure shall be placed within 100 feet of any structure on an adjacent lot.

(c) Should conform to other regulations pertaining to this District.

(4) *Parks, playgrounds and recreation areas (742, 743, 761, 762, 769, 790)*. Provided that the following restrictions are adhered to, these uses may be permitted in this District:

(a) No structure shall be placed within 50 feet of any lot line.

(b) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(c) Areas for parking shall not be closer than 40 feet to any lot line.

(d) There shall be a maximum of one dwelling unit for purposes of residence upon the site.

(e) The structure should be designed and landscaped so as not to destroy the continuity of the District. Plans would require Plan Commission approval prior to construction.

(f) No unsafe, uncomfortable, or offensive vibrations, noises, visual effects, odors, or air pollutants shall be allowed to radiate across lot lines.

(5) *Real estate offices and laundering services (615, 621)*. Providing that the following restrictions are adhered to, this use may be permitted in this District;

(a) Setbacks shall be not less than 60 feet from the right-of-way line.

(b) Side yards shall be not less than 40 feet wide.

(c) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(d) Parking lots shall be placed behind or alongside the principal buildings and shall be screened from the view of the surrounding dwelling units. Further, no parking area shall be located within 40 feet of lot lines.

(Ord. 2005-6, passed 8-2-2005) Penalty, see §155.999

§ 155.052 BUSINESS DISTRICTS.

(A) These districts have been created to provide areas for certain commercial and other service functions necessary in the town and to provide a means of regulating the amount of land coverage and the height of buildings. It is intended to provide these functions where they are needed most and to preserve, enhance, and encourage the usefulness and vitality of these areas.

(B) These districts and their restrictions follow in §§155.053 and 155.054 of this subchapter.

(1) Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, noise, vibrations, refuse matter, or water-carried waste.

(2) In any commercial district where a commercial building is located on a lot, which abuts property, zoned for residential use, and every time it abuts a residential land use, use opaque fencing. A height of six feet shall be provided along any side and/or rear lot line contiguous to the property zoned for residential use.

(3) No sign shall project beyond a lot line to obstruct in any way a driver's vision of the road, or hinder his or her passage in any way. Further, no sign shall be placed so as to hinder or obstruct any pedestrian path. In addition, all signs should always be properly maintained. The bottom of a sign over a pedestrian pathway must be ten feet above the path and 15 feet above the street.

(4) On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of three to 12 feet above the center line grades of the intersecting streets in the area bounded by the street lines of such corner lots and the line joining points along said street lines 15 feet from the point of the intersection.

(5) Notwithstanding other provisions of this chapter, fences, walls, and hedges may be permitted in any required yard or along the edge of any yard, provided that driveway entrances are not shielded by fences, walls, and hedges in such away as to obstruct the view of a driver entering a public road from the driveway; and provided further that no fence, wall or hedge along the sides or front edge at any front yard shall exceed three feet in height.

(6) On the same premises with every building or structure hereafter erected and occupied for uses involving the receipt or distribution by vehicle of material or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading in order to avoid undue interference with public use of the street or alley. Such space, unless otherwise adequately provided for, shall include a ten-foot by 25-foot loading space with a 14-foot height distance.

(7) Residential uses located in all business districts shall have the same from side and rear yard requirements as those in the R-32 High Density Residential District.

(Ord. 2005-6, passed 8-2-2005) Penalty, see § 155.999

§ 155.053 LOCAL/NEIGHBORHOOD BUSINESS DISTRICT (B-1).

(A) General restrictions.

- (1) Lot area: not less than 6,000 square feet per building.
- (2) Lot width: not less than 100 feet per building.
- (3) Height of buildings: not more than 35 feet for a principal building. An accessory building should not exceed 15 feet.
- (4) Front yard (setback): for a principal building, not less than 25 feet from the right-of-way line or 75 feet from a major highway (arterial or higher).
- (5) Side yard width: not less than 25 feet for a principal building when abutting a residential district.
- (6) Rear yard depth: not less than 35 feet for a principal building.
- (7) Signs intended to be seen outside lot lines: advertising signs are permitted provided they advertise only the use, service, articles or products offered within the building upon the premises whereon the sign is located, subject to the following requirements:
 - (a) Billboards are not permitted.
 - (b) The aggregate area of such signs shall not exceed 25 square feet for the first 25 feet of frontage of the building site and one additional square foot of sign area for each additional front of footage of the building site.
 - (c) All signs shall be attached to the main building and shall not project in excess of four feet from building, nor more than five feet above the roof or cornice of the building on the site.
- (8) Residential uses located in all business districts shall have the same front, side and rear yard requirements as those in the R-32 High Density Residential District.

(B) Restrictions for permitted uses. All permitted uses listed in § 155.075 of this chapter shall conform to the general restrictions. In addition, the following restrictions, as appropriate, shall be observed:

- (1) *Rapid transit and other transportation related uses (412, 451 - 457, 460).* Any changes or improvements regarding these uses in this District are subject to restrictions by the appropriate governing bodies. However, new rights-of-way should be carefully studied due to the tremendous amount of land required.
- (2) *Telecommunication related uses (471 - 475).* These uses are permitted in this District provided the Plan Commission approves plans for their development and use.
- (3) *Eating places (582) and banking services (611).* The lot lines immediately bordering residential lots shall be screened completely with a fence, wall or vegetation at least seven feet in height.

(C) Restrictions for conditional uses. All conditional uses listed in § 155.075 of this chapter shall conform to the general restrictions and must be approved by the Plan Commission. In addition, the following restrictions, as appropriate, shall be observed:

- (1) *Communications, transportation and utilities (459, 476, 481, 482, 483, 484).* The B-1 District should be reserved for local business, but when it becomes necessary, the above uses, properly justified and restricted, are permitted. The restrictions will be the same as the most restrictive of those presented in any contiguous residential district (§§ 155.046 through 155.051 of this chapter) for public and quasi-public utilities.
- (2) *Food trade (541 - 549).* These uses are permitted in this District provided the Plan Commission approves plans for their development and use.

(3) *Automobile repair and services (641).*

(a) The lot lines immediately bordering residential lots shall be screened completely with a fence, wall or vegetation at least seven feet in height.

(b) The hours that the station may remain open shall be restricted to the period between 6:00 a.m. and 9:00 p.m.

(4) *Drinking places (alcoholic beverages) (583).* This use is permitted in this District provided the Plan Commission approves plans for its development and use.

(5) *Protective functions and postal service (672, 673).* These uses are permitted in most districts by special exception; therefore, they should not need to be located in the B-1 District, which is very small. However, if it is absolutely necessary and the Plan Commission gives its approval, then they may be permitted, subject to the restrictions for their particular uses in neighboring residential districts.

(6) *Religious activities (691).* This use is permitted in this District provided the Plan Commission approves plans for its development and use.

(7) *Cultural, entertainment and recreational activities (711, 721, 722, 761, 762, 769, 790).* Provided that the following restrictions are adhered to, these uses may be permitted in this District:

(a) No structure shall be placed within 50 feet of any lot line.

(b) Lighted areas shall be approved prior to development and shall be placed in such a way that they do not infringe upon the rights of adjacent property owners. It is recommended that no light standard be placed closer than 50 feet from any adjacent property line.

(c) Areas for parking shall not be closer than 40 feet to any lot line.

(d) There shall be a maximum of one dwelling unit for purposes of residence upon the site.

(e) The structure(s) should be designed and landscaped so as not to destroy the continuity of the District. Plans would require Plan Commission approval prior to construction.

(f) No unsafe, uncomfortable, or offensive vibrations, noises, visual effects, odors, or air pollutants shall be allowed to radiate across lot lines.

(Ord. 2005-6, passed 8-2-2005) Penalty, see §155.999

§ 155.054 GENERAL BUSINESS DISTRICT (B-2).

(A) *General restrictions.*

(1) Lot area: not less than 6,000 square feet per building.

(2) Lot width: not less than 50 feet per building.

(3) Height of buildings: not more than 15 feet for an accessory building.

(4) Front yard (setback): for principal building, not less than 25 feet from a right-of-way line or 75 feet from an arterial highway.

(5) Side yard width: for a principal building, not less than 25 feet to the right-of-way when abutting a residential district.

(6) Rear yard depth: not less than 35 feet for a principal building.

(7) Signs intended to be seen outside lot lines: advertising signs are permitted provided they advertise only the use, service, articles, or products offered within the building upon the premises whereon the sign is located, subject to the following requirements:

(a) Billboards are not permitted.

(b) The aggregate area of such signs shall not exceed 200 square feet in area.

(c) The structures supporting signs not attached to buildings shall be located at least five feet from the front property line and no such self-supporting sign shall project over a street right-of-way.

(B) *Restrictions for permitted uses.* All permitted uses listed in §155.075 of this chapter shall conform to the general restrictions.

(C) *Restrictions for conditional uses.* All conditional uses listed in §155.075 of this chapter shall conform to the general restrictions and must be approved by the Plan Commission.

(Ord. 2005-6, passed 8-2-2005) Penalty, see §155.999

§ 155.055 HIGHWAY BUSINESS DISTRICT (B-3).

(A) *General restrictions.*

- (1) Lot area: not less than 10,000 square feet per building.
- (2) Lot width: not less than 100 feet per building.
- (3) Height: not less than 15 feet for an accessory building.
- (4) Front yard: not less than 75 feet from an arterial highway right-of-way.
- (5) Side yard: not less than 25 feet from right-of-way.
- (6) Rear yard: not less than 35 feet from right-of-way.

(7) Signs intended to be seen outside lot lines: advertising signs are permitted provided they advertise only the use, service, articles, or products offered within the building upon the premises whereon the sign is located, subject to the following requirements:

- (a) Billboards are not permitted.
- (b) The aggregate area of such signs shall not exceed 100 square feet in area.
- (c) For the purposes of this District, only, aggregate area shall mean total area of any one sign face, or letter, or monogram, within a total sign.
- (d) The structures supporting signs not attached to buildings shall be located at least five feet from the front property line and no such self-supporting sign shall project over a street right-of-way.

(B) *Restrictions for permitted uses.* All permitted uses listed in §155.075 of this chapter shall conform to the general restrictions. In addition, every use in the District shall be subject to review by the Plan Commission before a permit is issued for a structure, or alteration of any existing structure. The procedure for conditional uses shall be followed.

(C) *Restrictions for conditional uses.* All conditional uses listed in §155.075 of this chapter shall conform to the general restrictions and must be approved by the Plan Commission. The Plan Commission may also impose special restrictions in addition to the general restrictions.

(Ord. 2005-6, passed 8-2-2005) Penalty, see §155.999

§ 155.056 INDUSTRIAL DISTRICTS.

(A) These districts have been created in order to provide areas where industrial uses efficiently locate with a minimum of adverse effects to other uses in the vicinity. Certain harmful or nuisance pollutants are limited accordingly.

(B) These districts and their restrictions follow in §§155.057 and 155.058 of this chapter.

(1) No lot, parcel, or tract of land shall be used, and no building or structure shall be erected, altered or remodeled for any of the following uses: manufacture or storage of fireworks or explosives; dumping of garbage, dead animals, offal, or refuse; ore reduction; manufacture of nitrocellulose; manufacture of sauerkraut; manufacture or treatment of tallow, grease, or lard; curing, or storage of rawhides or skins; distillation of tar.

(2) No activities involving the storage, utilization, or manufacture of materials or products, which decompose by detonation, shall be permitted, except such as are specifically permitted by the Plan Commission. Such materials shall include, but shall not be confined to all primary explosives such as lead azide, lead styphnate, fulminates, and tetrocene; all high explosives such as TNT, RDX, HMX, PETN, and picric acid; propellants and components thereof such as cellulose nitrate of a nitrogen content of 12.5% or greater, boron hydrides, hydrazine, and its derivatives; pyrotechnics and fireworks such as magnesium powder, blasting explosives such as dynamite and Nitroglycerine, unstable organic compounds such as acetylides, tetrazoles, perchloric acids; perchlorates, hydrogen peroxide in concentrations greater than 35%; and nuclear fuels, fissionable materials, and products and reactor elements such as Uranium 235 and Plutonium 239.

(3) No building, structure, or land within 100 feet of any lot line of a lot located in a residential district shall be used in connection with the operations of any establishment. Off-street parking and off-street loading spaces may be located within this setback area in accordance with subsection (9) below.

(4) Any use established in an industrial district hereinafter shall be operated in such a manner as to comply with applicable performance standards, as hereinafter set forth, governing noise, smoke, and particulate matter, toxic or noxious matter, odors, fire and explosive hazards, or vibration, or glare or heat; and no use already established on the effective date of this chapter shall be so altered or modified as to conflict with such applicable performance standards. Certification approved by the Plan Commission, indicating compliance with the applicable performance standards, shall accompany an application for a building permit.

(5) Signs intended to be seen outside the lot lines.

(a) No sign shall project beyond a lot line, obstruct in any way a driver's vision of the road, or hinder his or her passage in any way. Further, no sign shall be placed so as to hinder or obstruct any pedestrian path.

(b) Signs should always be properly maintained.

(6) No manufacturing use structure, except fences and signposts, shall come within 35 feet of any residential district boundary line.

(7) On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of three and 12 feet above the established grade determined by a diagonal line connecting two points measured 15 feet equidistant from the street corner along each lot line.

(8) Notwithstanding other provisions of this chapter, fences, walls, and hedges may be permitted in any required yard or along the edge of any yard, providing that driveway entrances are not shielded by fences, walls and hedges in such a way as to obstruct the view of a driver entering a public road from the driveway.

(9) On the same premises with every building or structure hereafter erected and occupied for uses involving the receipt or distribution by vehicle of material or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading in order to avoid undue interference with public use of the street or alley. Such space, unless otherwise adequately provided for, shall include a ten-foot by 25-foot loading space with a 14-foot height distance for every 20,000 square feet or fraction thereof in excess of 3,000 square feet of floor area or land areas used for the aforementioned purposes.

(10) Owners of industrial business buildings must submit in writing a proposed handicapped parking plan, to meet the requirements of the Americans with Disabilities Act (ADA), to the Plan Commission for approval at a regularly scheduled Plan Commission meeting.

(Ord. 2005-6, passed 8-2-2005) Penalty, see §155.999

§ 155.057 LIGHT INDUSTRIAL DISTRICT (I-1).

(A) *General restrictions.*

- (1) Lot area: building coverage will not exceed 30% of the lot area per building.
- (2) Lot width: not less than 100 feet per building.
- (3) Height: no restriction.
- (4) Front yard: not less than 40 feet from the right-of-way line for a principal building.
- (5) Side yard: not less than 20 feet in width when abutting a residential district.
- (6) Rear yard: not less than 20 feet in depth if abutting a non-residential district and 40 feet when abutting a residential district.

(B) *Restrictions for permitted uses.* All permitted uses listed in §155.075 of this chapter shall conform to the general restrictions. In addition, the following restrictions, as applicable, shall apply:

- (1) Advertising signs: the aggregate area of such signs shall not exceed 500 square feet in area.
- (2) The structures supporting signs not attached to buildings shall be located at least five feet from the front property line and no such self-supporting sign shall project over a street right-of-way.
- (3) Billboards: the aggregate area of such signs shall not exceed 600 square feet in area.
- (4) There shall be at least 500 feet between billboards.

(C) *Restrictions for conditional uses.* All conditional uses permitted in §155.075 of this chapter shall conform to the general restrictions and must be approved by the Plan Commission.. The Plan Commission may also impose special restrictions in addition to the general restrictions.

(Ord. 2005-6, passed 8-2-2005) Penalty, see §155.999

§ 155.058 HEAVY INDUSTRIAL DISTRICT (I-2).

(A) *General restrictions.*

- (1) Lot area: building coverage will not exceed 30% of the lot area per building.
- (2) Lot width: not less than 100 feet per building.
- (3) Height: no restriction.
- (4) Front yard: not less than 40 feet from the right-of-way line for a principal building.
- (5) Side yard: not less than 40 feet in width when abutting a residential district.
- (6) Rear yard: not less than 20 feet in depth in a non-residential district and 40 feet in depth when abutting a residential district.

(B) *Restrictions for permitted uses.* All permitted uses listed in §155.075 of this chapter shall conform to the general restrictions. The provisions of § 155.056 (B)(5) of this chapter shall apply to the Heavy Industrial District.

(C) *Restrictions for conditional uses.*

- (1) *Generally.* All conditional uses permitted in §155.075 of this chapter shall conform to the general restrictions and

must be approved by the Plan Commission. The Plan Commission may also impose special restrictions in addition to the general restrictions.

(2) *Automobile wrecking yards, junk and scrap metal yards (361)*. Where land is used for the purposes of an automobile wrecking yard, junk yard, scrap metal yard or similar use, the storage of derelict automobiles, scrap metal junk or similar materials shall not be carried out in that part of the land designated herein as the front yard, side yard, or rear yard, and a natural or artificial screen or buffer shall be provided to obscure the subject property from the street on which the lands abut and from any opposite or adjoining properties to the side or rear of the subject property. The following restrictions shall apply:

(a) The whole of the storage and wrecking operation shall be surrounded by a solid fence, not less than ten feet and not greater than 15 foot in height, unpierced except for gates necessary for access.

(b) Said fence shall be located not closer than ten feet from the front lot line, nor closer than five feet from side and rear lot lines, and the land between the fence and any lot line not required for entrance and exit driveways shall be used for no other purpose than landscaping.

(c) No material shall be piled higher than the height of the surrounding fence and closer to said fence than ten feet.

(Ord. 2005-6, passed 8-2-2005) Penalty, see §155.999

§ 155.059 PERFORMANCE STANDARDS.

(A) General restrictions.

(1) Permitted and conditional uses enumerated in the industrial districts, and uses accessory thereto, are subject to the following performance standards and procedures.

(2) Any other use, existing or proposed, which the Building Inspector or the Plan Commission has reasonable grounds to believe violates performance standards shall also be subject to these performance standards procedures.

(a) *Prior to construction and operation.* Any application for a building permit for a use, which shall be subject to performance standards, shall be accompanied by a sworn statement by the owner of subject property that said use will be operated in accordance with the performance standards set forth herein.

(b) *Determination of violation.* The person appointed by the Plan Commission shall investigate any purported violation of performance standards and, if there are reasonable grounds for the same, shall notify the Plan Commission of the occurrence or existence of a probable violation thereof. The Commission shall investigate the alleged violation. If after public hearings on due notice, the Commission finds that a violation occurred or exists, such violation shall be terminated as provided hereto.

(c) *Termination of violation.* All violations, as ascertained in accordance with subsection (b) above, shall be terminated within 30 days of the decision of the Plan Commission or shall be deemed a separate violation for each day following and subject to fines as set forth herein, except that certain uses established before the effective date of this chapter and non-conforming as to performance standards shall be given a reasonable time in which to conform therewith as determined by the Plan Commission.

(B) Regulations of nuisance elements definition of elements.

(1) No land or building in any industrial district, which shall be used or occupied for manufacturing purposes shall be operated in such a manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard; noise or vibration; smoke, dust, dirt or other form or air pollution; electrical or other disturbance; glare; or other substance, condition or element in such amount as to adversely affect the surrounding area or premises (referred to herein as dangerous or objectionable elements); provided that any use permitted by this chapter may be undertaken and maintained in the industrial districts if it conforms to the regulations of this subsection limiting dangerous and objectionable elements at the specified point or points of the determination of their existence.

(2) The determination of the existence of any dangerous and objectionable elements shall be made at:

(a) The point or points where such elements shall be most apparent for fire and explosion hazards, for radioactivity and electrical disturbances, for smoke and other forms of air pollution.

(b) The property lines of the use creating such elements for this noise, for vibration, for glare and for odors.

(C) Standards to be enforced.

(1) *Radioactivity or electrical disturbance.* No activities shall be permitted which emit dangerous radioactivity or electrical disturbance adversely affecting the operation of any equipment other than or the creator of such disturbance. All applicable federal regulations shall be complied with.

(2) *Noise.*

(a) A permitted or conditional use in this District shall not create noise which, when using the "A" scale of the standard noise level meter, exceeds the following decibel limits: on the boundary line when adjoining residentially zoned property, 55 db; on the boundary line when adjoining property zoned business, 62 db; and on the boundary line when adjoining property zoned industrial, 69 db. Motor vehicular traffic on property subject to said limitations, including the

transportation of goods and processing of products (motorized), shall be exempt.

(b) The above noise levels apply to normal operations on property and do not apply to noise created as a result of an emergency or an unusual event outside of the normal operating routine of the use for said property.

(3) *Fire and explosion hazards.* All activities involving, and all storage of, inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire suppression equipment and devices standard in this industry. Burning of waste materials in open fires is prohibited. The relevant provisions of state and local laws and regulations shall also apply.

(4) *Smoke, particulate matter and other forms of air pollution.* All permitted and conditional uses shall comply with the air quality standards as set by the appropriate state laws and regulatory agencies. If said standards are exceeded by a permitted or conditional use of property, then the use may be considered in violation of air quality standards in the town and shall be considered a violation of this chapter.

(5) *Toxic or noxious matter.* No use shall, for any period of time, discharge across the boundaries of the lot on which it is located toxic or noxious matter, such as sewage, in such concentrations as to be detrimental to or endanger the public health, safety, comfort, or welfare, or cause injury or damage to property or business.

(6) *Odors.* No emission shall be permitted of odorous gasses or other odorous matter in such quantities as to be readily detectable without instruments at the property line of the zone lot from which they are emitted.

(7) *Glare.* No direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding or otherwise, so as to be visible at the points of measurement specified herein, shall be permitted. This restriction shall not apply to signs otherwise permitted by the provisions of this chapter.

(8) *Violations.* When rough tests by a duly constituted enforcement officer indicate to the Plan Commission a possible violation of the performance standards, the Plan Commission may require the manufacturer to obtain and bear the cost of the appropriate technical assistance to ascertain the exact amount of emissions of noxious effects at the lot lines of the manufacturing property. The Plan Commission shall approve this technical assistance in writing before tests are conducted. Results of said tests shall be presented to the Plan Commission in writing. Any test result in excess of the appropriate performance standard shall be considered a violation of this chapter.

(Ord. 2005-6, passed 8-2-2005) Penalty, see § 155.999

§ 155.060 ENVIRONMENTAL DISTRICTS (G-1 AND Q-1).

(A) *Generally.* These districts have been created in order to protect and improve upon open space lands within the planning area and to retain natural resource areas for purpose of extracting materials. These districts and their restrictions follow in this section.

(1) No activities will be permitted that are not related to the operation or enhancement of these districts. Allowable uses include park facilities and quarry or mining operations.

(2) Energy-related mining operations will be permitted if, under evaluation by the Plan Commission, their operation will not dramatically harm the surrounding environment or if there is an immediate regional need for such energy resource.

(3) When concluded, mining operations will be required to regrade such impacted land back to its original contour, replace topsoil and, in vegetated areas, provide natural vegetation similar to the surrounding area's character. The Plan Commission will monitor such land reclamation.

(4) On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of three to 12 feet above the established grade determined by a diagonal line connecting two points measured 15 feet equal distant from the street corner along each lot line.

(5) Notwithstanding other provisions of this chapter, fences, walls, and hedges may be permitted in any required yard or along the edge of any yard, providing that driveway entrances are not shielded by fences, walls, and hedges in such a way as to obstruct the view of a driver entering a public road from the driveway.

(6) Major recreational equipment may be parked or stored anywhere on a lot in this District provided that they do not violate any other sections of this chapter and that not more than three pieces of equipment are present for any period of time in excess of 24 hours. Further, no such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a lot.

(7) Automotive vehicles or trailers of non-agricultural kind or type without current license plates shall not be parked or stored for more than seven days on any environmentally zoned property other than in completely enclosed buildings, with the exception of licensed antique vehicles.

(B) *Recreation District (G-1).* The Recreation District is designed for those areas including those around public and private reservoirs, ponds, streams, and lakes in which recreation activities are exclusively permitted by the owner.

(1) *General restrictions.* Within any recreation district, no building shall be used, or arranged, or designed to be used except for one or more of the uses listed in § 155.075 of this chapter, which shall be subject to all regulations and requirements for permit of this chapter.

(2) *Restrictions for permitted uses.* All permitted uses listed in §155.075 of this chapter shall conform to the general restrictions. In addition, the following restrictions, as applicable, shall apply:

(a) Except as required, no building shall be erected within 50 feet of the right-of-way of any public street, road, or highway; nor within 25 feet, or one foot for each foot of building height, whichever is the greater, of any lot line. The side yard shall be no less than 25 feet wide and the rear yard shall be no less than 35 feet deep.

(b) Any building shall be so placed as to offer the minimum obstruction to the flow of waters and shall be firmly anchored to prevent the building from being moved or destroyed by the flow of water.

(c) Real estate signs of a temporary nature shall not exceed two in number per lot. The signs shall not exceed 20 square feet in area pertaining to a permitted recreation use or authorized special use. Such signs shall be set back at least 30 feet from any right-of-way. There shall be distance of 300 feet between all such signs.

(3) *Restrictions for conditional uses.* All conditional uses permitted in §155.075 of this chapter shall conform to the general restrictions and must be approved by the Plan Commission. Special restrictions may also be imposed.

(C) *Quarry and Mining District (Q-1).* This District is provided for the purpose of retaining natural resource areas in the town to the exclusion of other uses, except agricultural and recreation uses, for the purpose of extracting materials through quarry or mining operations, which required the removal of overburden.

(1) *Permitted uses.* All permitted uses are listed in §155.075 of this chapter and shall conform to the general restrictions.

(2) *Permits required.*

(a) All quarries or mines and the like, operating at the effective date of this chapter, which have not acquired the proper permit, shall be required within 120 days of the passage of this chapter to register with the Building Inspector the following information in order to obtain a permit:

1. Legal description of tract being excavated;
2. Name of owner and operator (if different);
3. Date of inception of operation; and
4. Description of operation.

(b) Existing operations may continue for a period not to exceed five years from date of this chapter at which time a new permit shall be applied for as in the ease of any new mining or quarry operation.

(c) A permit for mining and quarrying operations shall be required for all new operations or reopening of previously abandoned operations.

(3) *Requirements.*

(a) All proposed quarries and mining operations must be permitted under the applicable requirements of the Indiana Department of Environmental Management.

(b) A plat of the proposed operations shall be submitted to the Building Inspector showing:

1. Boundary of entire tract to be operated, including effective operations in contiguous tracts;
2. Vehicular access routes and surfacing; and
3. Prevailing wind directions.

(c) A general plan of operations shall be submitted to the Building Inspector including blasting hours, removal plan and hours of operation.

(d) A plan of restoration shall be submitted to the Building Inspector. At the time an application is made for a permit, the applicant shall submit a general plan for restoration of the area to be excavated or used in any way the activity permitted. Included in this plan shall be:

1. A plan showing the finished topography of the restored area including grades and slopes;
2. A general timing for restoring the various excavation pits and overburden for a continuing use. Upon abandonment, restoration shall be initiated within 90 days and completed within one year; and
3. The amount and type of planting to be done on the restored area, or other approved restoration uses or methods.

(e) If open excavation is greater than ten feet, a substantial fence shall be erected at least 50 feet outside the edge of the excavation which fence shall be at least a six-wire, four foot-high fence, with posts not more than a rod (16.5 feet) apart, gates effectively controlling access to the area in which such excavation is located.

(Ord. 2005-6, passed 8-2-2005) Penalty, see §155.999

§ 155.061 FLOOD PLAIN DISTRICT (F-1).

The purpose of this District is to guide development in the flood hazard areas 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.

(A) *General restrictions.* Refer to Chapter 154 of this title.

(B) *Permitted uses.*

(1) Agriculture, including customary agriculture buildings and structures; nurseries and greenhouses; baseball or football fields, provided that the location of the field is at least 200 feet from any lot in an "R" District, or any lot occupied by a dwelling or by any school, church, or institution for human care.

(2) Single-family dwellings in that portion of the District officially identified as floodway fringe.

(3) Public parks, playgrounds and community centers, private recreation areas and facilities, including country clubs, golf courses, riding stables, fishing lakes, and boat docks.

(C) *Conditional uses.* All conditional uses must be approved by the Plan Commission.

(1) Outdoor rifle or skeet shooting ranges; and

(2) Any other uses which, in the opinion of the Plan Commission, will not, when located, constructed and operated as proposed, be inconsistent with the intended purposes of the District or in conflict with Chapter 154.

(D) *Signs.* All regulations governing signs in the B-1 and G-1 Districts shall apply to F-1.

(Ord. 2005-6, passed 8-2-2005) Penalty, see §155.999

DISTRICT REGULATIONS

§ 155.075 OFFICIAL SCHEDULE OF DISTRICT REGULATIONS.

Key: P = Permitted Use C = Conditional Use [] = Prohibited Use		Residential						Business			Manufacturing		Environmental	
No.	Category	RA	R-1	R-4	R-8	R32	RMH	B-1	B-2	B-3	I-1	I-2	G-1	Q-1
Key: P = Permitted Use C = Conditional Use [] = Prohibited Use		Residential						Business			Manufacturing		Environmental	
No.	Category	RA	R-1	R-4	R-8	R32	RMH	B-1	B-2	B-3	I-1	I-2	G-1	Q-1
110	Dwelling unit	P	P	P	P	P								
111	Home occupations	C	C	C	C	C	C							
121	Rooming and boarding houses	C	C	C	C	C								
122	Fraternity, sorority houses, residence halls or dormitories					C								
123	Retirement homes, orphanages, religious quarters	C				C								
130	Residential hotels, apartments, condominiums				C	C				P				
140	Mobile home parks or courts						P							
211	Manufacturing - meat products										C	P		
212	Manufacturing - dairy products										C	P		
213	Canning and preserving of fruits, vegetables, and seafoods										C	P		
214	Manufacturing - grain mill products										C	P		
215	Bakery products - wholesale										C	P		
216	Manufacturing - sugar										C	P		
217	Manufacturing - confectionary and related products - wholesale										C	P		

394	Manufacturing - pens, pencils, and other office and artists supplies										P	P		
395	Manufacturing - novelties and miscellaneous notions (except precious metals)										P	P		
396	Manufacturing - tobacco										C	P		
397	Motion picture production								C	C	P	P		
399	Other miscellaneous manufacturing													
411	Railroad transportation					C					P	P		
412	Rapid rail transit and street railway transportation				C	P		P	P	P	P	P		
413	Railroad passenger terminals					C					P	P		
421	Bus transportation terminals									P	P	P		
422	Motor freight transportation									P	P	P		
429	Other motor vehicle transportation									C	P	P		
431	Airports and flying fields													
439	Other aircraft transportation										C	C		
441	Marine terminals										C	C		
449	Other marine craft transportation										C	C		
451	Freeways (highway and interstates)	C	P	P	P	P		P	P	P	P	P		
452	Expressways	C	P	P	P	P		P	P	P	P	P		
453	Parkways	C	P	P	P	P		P	P	P	P	P		
454	Arterial streets	P	P	P	P	P		P	P	P	P	P		
455	Collector/distributor streets	P	P	P	P	P	P	P	P	P	P	P		
456	Local access streets	P	P	P	P	P	P	P	P	P	P	P		
457	Alleys	C	P	P	P	P	P	P	P	P	P	P		
459	Other highway and street right-of-way	C	C	C	C	C	C	C	C	C	C	C		
460	Automobile parking	P	P	P	P	P	P	P	P	P	P	P	C	
471	Telephone communication (local)	C	C	C	C	C	C	P	P	P	P	P		
472	Telegraph communication	C	C	C	C	C	C	P	P	P	P	P		
473	Radio communication	C	C	C	C	C	C	P	P	P	P	P		
474	Television communication	C	C	C	C	C	C	P	P	P	P	P		
475	Radio and television communication (combined system)	C	C	C	C	C	C	P	P	P	P	P		
476	Relay towers and transmitting stations (tv, radio and telephone)	C	C	C	C	C	C	C	C	C	C	C		
479	Other communication	C	C	C	C	C	C	C	C	C	C	C		
481	Electric utility	C	C	C	C	C	C	C	C	C	C	C		
482	Gas utility	C	C	C	C	C	C	C	C	C	C	C		
483	Water utilities and irrigation	C	C	C	C	C	C	C	C	C	C	C		
484	Sewage disposal	C	C	C	C	C	C	C	C	C	C	C		
485	Solid waste disposal										C	C		
486	Major utilities, stations and plants										C	C		
489	Other utilities										C	C		
491	Other pipeline right-of-way and pressure control stations										C	C		

492	Transportation services											C	C		
493	Transportation											C	C	C	C
499	Other transportation communication and utilities											C	C	C	C
511	Wholesale - motor vehicles and automotive equipment											C	C	C	C
512	Wholesale - drugs, chemicals and allied products											P	P	P	P
513	Wholesale - dry goods and apparel											P	P	P	P
514	Wholesale - groceries and related products											P	P	P	P
515	Wholesale - farm products (raw materials)													P	P
516	Wholesale - electrical goods											P	P	P	P
517	Wholesale - hardware, plumbing, heating equipment and supplies											P	P	P	P
518	Wholesale - machinery, equipment and supplies											P	P	P	P
519	Wholesale - other wholesale trade (junkyard)													C	C
521	Retail - lumber and other building materials											P	P		
522	Retail - heating and plumbing equipment											P	P		
523	Retail - paint, glass and wallpaper											P	P		
524	Retail - electrical supplies											P	P		
525	Retail - hardware and farm equipment											P	P		
531	Retail - department stores											P	P		
532	Retail - mail order houses											P	P		
533	Retail - limited price variety stores											P	P		
534	Retail - merchandise vending machine operations											P	P		
535	Retail - direct selling organizations											P	P		
539	Retail - other trade - general merchandise											C	C		
541	Retail - groceries					C		C				P	P		
542	Retail - meats and fish					C		C				P	P		
543	Retail - fruits and vegetables					C		C				P	P		
544	Retail - candy, nut and confectionery					C		C				P	P		
545	Retail - dairy products					C		C				P	P		
546	Retail - bakeries					C		C				P	P		
549	Retail - other food trade					C		C				C	C		
551	Retail - motor vehicles											P	P		
552	Retail - tires, batteries and accessories											P	P		
553	Retail - gasoline/service stations											P	P		
559	Retail - other automotive, marine craft, aircraft and accessories											P	P		

561	Retail - men's and boy's clothing, and furnishings								P	P						
562	Retail - women's ready-to-wear								P	P						
563	Retail - women's accessories and specialties								P	P						
564	Retail - children's and infants wear								P	P						
565	Retail- family clothing								P	P						
566	Retail - shoes								P	P						
567	Retail - custom tailoring								P	P						
568	Retail - furriers and fur apparel								P	P						
569	Retail - other apparel and accessories trade								P	P						
571	Retail - furniture, home furnishings, equipment, household appliances								P	P						
572	Retail - radios, televisions and music supplies								P	P						
581	Retail - hotels, tourist courts, motels and other transient housing								P	P						
582	Retail - eating places							P	P	P	P	P				
583	Retail - drinking places (alcoholic beverages)							C	P	P						
591	Retail - drug and proprietary								P	P						
592	Retail - liquor								P	P						
593	Retail - antiques and secondhand merchandise								P	P						
594	Retail - books and stationery								P	P						
595	Retail - sporting goods and bicycles								P	P						
596	Retail - farm and garden supplies								P	P						
597	Retail - jewelry								P	P						
598	Retail - fuel and ice								C	C						
599	Retail - other trade								C	C						
611	Banking and bank-related functions							P	P	P						
612	Credit services (other than banks)								P	P						
613	Security and commodity brokers, dealers, exchanges, and services								P	P						
614	Insurance carriers, agents, brokers and services	C	C	C	C	C			P	P						
615	Real estate and related services	C	C	C	C	C	C		P	P						
616	Holding and investment service		C	C	C	C			P	P						
619	Other finance, insurance and real estate services								C	C						
621	Laundering, dry cleaning and dyeing services						C		P	P						
622	Photographic services (including commercial)								P	P						
623	Beauty and barber services								P	P						
624	Funeral and crematory services								C	C						

625	Apparel repair, alteration and cleaning, shoe repair								P	P				
626	Cemeteries	C												
631	Advertising services								P	P				
632	Consumer and mercantile credit reporting adjustment, and collection services								P	P				
633	Duplicating, mailing and stenographic services								P	P				
634	Dwelling and other building services								P	P				
635	News syndicate services								P	P				
636	Employment services								P	P				
637	Warehousing and storage services							C	C	C	C	C		
638	Petroleum products distribution plants										C	C		
639	Other business services								C	C				
641	Automobile repair and services							C	C	C				
649	Other repair services	C							C	C				
651	Medical and other health services	C							C	C				
652	Legal services								C	C				
653	Sanitariums, convalescent and rest home services	C							C	C				
659	Other professional services	C							C	C				
661	General contract construction services	C							C	C				
662	Special construction trade services	C							C	C				
671	Executive, legislative and judicial functions								P	P				
672	Protective functions and their related activities (police and fire)	C	C	C	C	C	C	C	C	C	C	C		
673	Postal services	C	C	C	C	C		C	P	P	C	C		
674	Correctional institutions													
675	Military bases and reservations													
681	Nursery, primary and secondary education	C	C	C	C	C								
682	University college, junior college and professional school education	C			C									
683	Special training and schooling					C			C	C	C	C		
691	Religious activities	C	C	C	C	C		C	C	C				
692	Welfare and charitable services								C	C				
699	Other miscellaneous purposes													
711	Cultural activities	C	C	C	C	C		C	C	C				
712	Nature exhibitions	C												
721	Entertainment assembly					C		C	C	C				
722	Sports assembly	C	C	C	C	C		C	C	C				
723	Public assembly, miscellaneous purposes								C	C				
724	Drive-in movies	C								C				
729	Other public assembly									C				

(Ord. 2005-6, passed 8-2-2005; Ord. 2021-13, passed 10-5-2021)

PLANNED UNIT DEVELOPMENT (PUD)

§ 155.085 PURPOSE.

The purpose of this section is to provide regulation for Planned Unit Developments (PUD), which are of a significantly different character than traditional land developments. Specific standards and exceptions have been developed to govern the actions and recommendations of the Plan Commission regarding such developments.

(Ord. 2005-6, passed 8-2-2005)

§ 155.086 RESTRICTIONS GENERALLY.

It shall be the policy of the town to promote progressive development of land and construction thereon by encouraging planned unit developments to achieve:

- (A) A maximum choice of living environments by allowing a variety of housing and building types, and permitting an increased density per acre and a reduction in lot dimensions, yards, building setbacks, and area requirements;
- (B) A more useful pattern of open space and recreation areas and, if permitted as part of the project, more convenience in the location of accessory commercial uses and services;
- (C) A development pattern that preserves and utilizes natural topography and geologic features, scenic vistas, and trees and other vegetation, and prevents the disruption of natural drainage patterns;
- (D) A more efficient use of land than is generally achieved through conventional development, resulting in substantial savings through shorter utilities and streets; and
- (E) A development pattern in with the land use density, transportation facilities and community facilities objectives of the comprehensive plan.

(Ord. 2005-6, passed 8-2-2005)

§ 155.087 PLANNED UNIT DEVELOPMENT RESTRICTIONS.

(A) Whenever there is a conflict or difference between the provisions of this section and those of the other sections of this chapter, the provisions of this section shall prevail. The respective provisions found elsewhere in this chapter shall govern subjects not covered by this section.

(B) A planned unit development shall conform to the following:

- (1) The number of dwelling units erected shall not exceed the number permitted by the regulations of the district in which it is located unless a density increase is permitted.
- (2) All uses that may be allowed within the land use district may be permitted within a PUD.
- (3) Up to 10% of the gross land area in a residential district may be directed to business, industrial, and public and quasi-public uses that are not allowed within the land use district, provided there is a favorable finding by the Plan Commission:
 - (a) That the uses permitted by such exceptions are necessary or desirable and are appropriate with respect to the primary purpose of residential development;
 - (b) That the uses are not of such nature or so located as to exercise a detrimental influence either on the development or on the surrounding neighborhood;
 - (c) That the uses are intended to serve principally the residents of the PUD;
 - (d) That the uses are planned as an integral part of the PUD; and
 - (e) That the uses be located and so designed as to provide direct access to a collector or an arterial street without creating traffic congestion or hazard.
- (4) A minimum parcel area of ten acres is required for a PUD.
- (5) There shall be at least 10% of the land area in the development provided for park and recreational purposes, and this area shall not be covered by buildings, parking lots, driveways, or streets. No more than 50% of this useable open space shall be covered by water.
- (6) If any open space or recreational facility is to be used solely by the residents of the project, adequate provisions shall be made for assessments against the properly within the project so that such facilities can be properly maintained and operated.
- (7) All utilities, including communication and electric systems, shall be placed underground within the limits of the development. Appurtenances to these systems that can be effectively screened may be accepted.

(8) The design and designation of private streets shall be subject to the approval of the Plan Commission.

(9) The development plan shall include a common water supply and distribution system, either public or private, which shall meet the approval of the Plan Commission and shall be built at no expense to the local government.

(10) The development plan shall include a sanitary sewer system connected to a public sewer system, if available within a reasonable distance from the project, or it shall provide for a central collection and treatment system in accordance with the requirements of the Plan Commission.

(11) The plan of the project may provide for the integral and harmonious design of buildings in business and industrial areas, and the parcels shall be developed in park-like surroundings utilizing landscaping and existing woodlands as buffers to screen lighting, parking areas, loading areas, and other such features from the adjoining and surrounding residential areas.

(12) No building is permitted to exceed the height limit of the district in which it is located by more than 10%.

(13) All previously noted parking standards shall remain in effect for all PUDs.

(14) Non-residential areas must be developed in equal ratio to residential areas. This is required to avoid the total development of residences without the accompanying services.

(Ord. 2005-6, passed 8-2-2005) Penalty, see § 155.999

§ 155.088 INCREASED RESIDENTIAL DENSITY THROUGH DESIGN INCENTIVES.

(A) To provide for an incentive for a quality PUD, the Plan Commission may authorize an increased residential density of up to 20% of the allowable number of dwelling units.

(B) In allowing for density increase, the Commission shall be guided by the following criteria:

(1) If open space provided exceeds 20% of the land area, an additional 5% increase in residential density is allowed;

(2) If land donated or dedicated for public purposes such as public buildings, schools and parks exceeds 20%, an additional 5% increase in residential development is allowed;

(3) If there is significant landscaping, screening, and site planning in the development, an additional 5% increase in residential development is allowed;

(4) If community facilities and amenities such as trails, lakes, plaza fountains, tennis courts, and the like are provided, an additional 5% increase in residential development is allowed.

(Ord. 2005-6, passed 8-2-2005)

§ 155.089 PROCEDURE FOR APPROVAL OF PUD.

The procedure for approval of PUD is as follows:

(A) Submit a preliminary site plan in triplicate (see I.C. 36-7-4-1511) to the Plan Commission that includes, but is not restricted to, the following information:

(1) Location and boundaries of the tract to be developed, showing the general layout of streets, and the existing and proposed zoning of all areas;

(2) Tentative placement of all improvements on the site, showing how recommendations of this chapter and any requirements of the Plan Commission have been utilized;

(3) General proposals on densities of both residential and other uses (to allow for sufficient-flexibility, the Plan Commission may allow minor shifts in use, locations and densities provided, however, that the general overall plan is adhered to); and

(4) Proposed schedule for the development of the site.

(B) If the Plan Commission approves the preliminary development plan, the plan, together with the recommendations of the Plan Commission, shall be embodied in a report to the Board of Zoning Appeals stating the reasons for the approval of the plan and application, and specific evidence and facts showing that the proposed PUD plan has considered and made provision for the following essential elements:

(1) That the appropriate use of property adjacent to the area included in the plan will be fully safeguarded;

(2) That the plan is consistent with the intent of this chapter to promote public health, safety and the general welfare; and

(3) That the tract, collectively, meets the minimum space requirements for the specific districts).

(C) The Plan Commission shall give notice of acceptance or rejection of the proposal within 60 days. Reasons for rejection, along with suggestions for revisions, shall be given. The developer may resubmit plans after the suggested corrections or additions are made.

(D) The developer shall submit a final site plan.

(E) The Plan Commission shall give notice of acceptance or rejection of the final proposal within 60 days. Reasons for rejection, along with suggestions for revisions, shall be given. The developer may re-submit plans after corrections. After final approval, the developer may proceed with construction.

(Ord. 2005-6, passed 8-2-2005)

OFF-STREET PARKING REQUIREMENTS

§ 155.100 GENERALLY.

These requirements are effective upon the erection or enlargement of a structure, or the use thereof changed to any permitted use or special use within a district. Each required off-street automobile storage space shall have all-weather surfaces and have free access to a public right-of-way. No required off-street automobile storage space shall be located within a required front yard in any district.

(Ord. 2005-6, passed 8-2-2005)

§ 155.101 OFF-STREET PARKING SPACE LOCATION.

(A) *Residential.* All required spaces shall be located on the same parcel with the residential use.

(B) *Business.* Required spaces may be located on the same parcel as the commercial use or on an area not more than 450 feet from the building.

(B) *Industrial.* Required spaces may be located on the same parcel with the permitted industrial use or on an area not more than 1,000 feet from the parcel.

(D) *Commercial buildings.* Commercial building owners must submit in writing a proposed handicapped-parking plan, to meet the requirements of the Americans with Disabilities Act (ADA), to the Plan Commission of the town for approval at a regularly scheduled Plan Commission meeting.

(E) *Table.* The off-street parking requirements are shown below. Any other use shall generally provide enough parking to more than handle the ordinary load, but not necessarily the maximum.

Off-Street Parking Requirements		
<i>Land Use</i>	<i>Unit of Measure</i>	<i>Required Spaces</i>
Off-Street Parking Requirements		
<i>Land Use</i>	<i>Unit of Measure</i>	<i>Required Spaces</i>
Barber and beauty shops	Per two chairs	1
Churches	Per four seats	1
Combination of uses on same parcel	The sum total of the number required for each use as determined according to the requirements set out in this Zoning Code	
Convalescent homes and homes for the aged	Per each four beds*	1
Dormitories	Per guest room	1
Eating and drinking places	Per five seats in business districts	1
Elementary schools	Per classroom*	2
Fraternities and sororities	Per every two members	1
High schools	Per classroom	10
Hospitals and clinics	Combination of	
	Per doctor	1
	Per each three regular employees	1
	Per 500 square feet of gross floor area	1
Hotels	Per two guest rooms	1
	Per 600 square feet of gross floor area; or	1

Industrial uses	Per two regular employees on largest shift	1
	Whichever is greater	
Junior high schools	Per classroom*	2
Laundries	Per four washing machines	1
Multi-family dwellings	Per dwelling unit	1.5
Private nurseries, day schools, kindergartens and children homes	Per regular employee*	1
Professional offices	Per 250 square feet of gross floor area	1
Public utilities and other service facilities	Per 500 square feet of gross floor area; or	1
	Per each three regular employees	2
	Whichever is greater	
Retail business	Per 250 square feet of gross floor area	1
Single-family dwellings	Per dwelling	2
Special uses	To be determined by the Board of Zoning Appeals, but in no case shall the required parking be less than for permitted uses	
Tourist courts and motels	Per rental unit	1
Two-family dwellings	Per dwelling	3
Wholesale stores	Per each 200 square feet of floor area devoted to sales	1
*An off-street passenger loading and unloading area is also required.		

(Ord. 2005-6, passed 8-2-2005)

NON-CONFORMING USE SPECIFICATIONS

§ 155.115 GENERALLY.

Within the districts established by this chapter, or amendments that may later be adopted, there exists non-conforming uses of land or structures which were lawful before this chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendments thereto. It is the intent of this chapter to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, and not be used as grounds for adding other structures or uses which are prohibited elsewhere in the same district.

(Ord. 2005-6, passed 8-2-2005)

§ 155.116 CHANGE.

Whenever a non-conforming use has been changed to a conforming use, it shall not thereafter revert to a non-conforming use.

(Ord. 2005-6, passed 8-2-2005)

§ 155.117 EXTENSION.

Non-conformities are declared by this chapter to be incompatible with permitted uses in the districts in which such use is located. A non-conforming use of a structure, a non-conforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this chapter by attachment of a building, premises or additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be generally prohibited in the district in which such use is located.

(Ord. 2005-6, passed 8-2-2005)

§ 155.118 ERECTION AND RE-ERECTION OF STRUCTURE.

Where a building exists that is a non-conforming use, no additional building devoted to a non-conforming use can be erected on that premises. No building that is located upon any such premises and that has been damaged by fire or other causes to the extent of more than 50% of its appraised replacement valuation shall be repaired or rebuilt, except in conformity with regulations or this chapter. Damaged buildings can only be repaired or rebuilt by the same owner and to the

same square footage as the previous building, and this must be done within six months for a building or 60 days for a trailer.
(Ord. 2005-6, passed 8-2-2005)

§ 155.119 RIGHT TO CONSTRUCT IF PERMIT ISSUED.

Nothing herein contained shall require any change in the plans, construction or designated use of a building for which a building permit has heretofore issued and the construction of which has been diligently prosecuted within one year of the date of such permit and which entire building shall be completed according to such plans, as filed, within three years of the issuance of the permit. Where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that the work shall be carried out diligently. Actual construction is hereby defined as work done which is beyond the preparation stage and into that stage where the changes or additions are made permanent.

(Ord. 2005-6, passed 8-2-2005)

§ 155.120 NON-CONFORMING USES OF STRUCTURES.

If a lawful use involving individual structures, or of a structure and land in combination, exists at the effective date of adoption or amendment of this chapter that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(A) If no structural alterations are made, any non-conforming use of a structure or structure and land may, upon appeal to the Board of Zoning Appeals, be changed to another non-conforming use provided that the Board of Zoning Appeals shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accord with other provisions of this chapter.

(B) When a non-conforming use of a structure or structure and land in combination is discontinued or abandoned for a continuous period of six months, or, in the case of a mobile home in the town, more than 60 days (except when government action impedes access to the premises), the structure or structure and land combination shall not thereafter be used except in conformity with the regulations of the district in which it is located.

(C) Where non-conforming use status applies to a structure and land in combination, removal, or destruction of the structure shall eliminate the non-conforming status of the land.

(Ord. 2005-6, passed 8-2-2005)

§ 155.121 DISCONTINUANCE OF NON-CONFORMING USE OF LAND.

The lawful use of land for open storage purposes, which does not conform to the provisions of this chapter, shall be discontinued within five years from the date of passage of this chapter, and the use of land for storage purposes, which may become a non-conforming use by reason of an amendment to this chapter, shall be discontinued within five years from the date of passage of such amendment.

(Ord. 2005-6, passed 8-2-2005)

§ 155.122 NON-CONFORMING USE CREATED BY AMENDMENT.

These provisions apply in the same manner to a use, which may become a non-conforming use due to a later amendment to this chapter.

(Ord. 2005-6, passed 8-2-2005)

ADMINISTRATION

§ 155.135 ENFORCEMENT OF CHAPTER.

(A) It shall be the duty of the Building Inspector, or any other public official so designated by the Town Council, to enforce this chapter. He or she shall receive applications required by this chapter, review applications for compliance with the provisions of this chapter, approve or disapprove applications, issue permits, and furnish the prescribed certificates. He or she shall examine areas for which permits have been issued and shall make necessary inspections (regardless of permit) to see that the provisions of this chapter are being upheld. He or she may be assisted by the Town Marshall in enforcing orders and the Town Attorney in prosecuting violations.

(B) For the purpose of this chapter, the Building Inspector or an official designee of the Town Council shall have the following duties:

- (1) Inspect and examine any building, structure, place or premise;
- (2) Upon finding that any of the provisions of this chapter are being violated, he or she shall notify in writing the person responsible for such violation(s), ordering the action necessary to correct such violation(s);
- (3) Order discontinuance of illegal uses of land, buildings or structures;
- (4) Order removal of illegal buildings or structures or illegal additions or structural alterations;

(5) Order discontinuance of any illegal work being done; and

(6) Take any other action authorized by this chapter to ensure compliance with or to prevent violations of this chapter. This may include the issuance of and action on improvement location and certificate of occupancy permits and such similar administrative duties as are permissible under the law.

(Ord. 2005-6, passed 8-2-2005)

§ 155.136 PROCEDURES AND REQUIREMENTS FOR PERMITS.

(A) *Generally.*

(1) It shall be unlawful to construct, make additions to, demolish, or repair a structure without first filing with the Building Inspector an application in writing and obtaining a formal improvement building permit.

(2) Before an improvement building permit is issued, a permit fee therefor shall be paid to the Clerk-Treasurer as set forth in the subsections below.

(a) A fee of \$10 plus \$.03 per square feet of building area shall be paid and collected.

(b) In no event however shall any applicant be required to pay an improvement building permit fee in excess of \$500.

(3) Applications for permits shall be filed with and maintained by the Building Inspector and shall be accompanied by such drawings of the proposed work as the Building Inspector may require.

(4) Accompanying each application shall be a plot plan in a form and size suitable for filing permanently with the application to assist the Building Inspector in his or her on-site inspection. The applicant shall conspicuously and properly mark each corner of the proposed building site. The plot plan shall show the property lines, all recorded easements and other interest on the property, the proposed buildings, and building setback lines. Applications shall include in writing the proposed use or uses of the proposed building or premises. The Building Inspector may require proof of ownership of the site and a survey.

(5) Within five days after the receipt of an application, the Building Inspector shall either approve or disapprove the application. The Building Inspector shall retain the plans. If the application is approved, the Building Inspector shall issue a placard to the applicant. It is to be posted in a conspicuous place on the property in question, and will attest to the fact that the use or alteration is in compliance with the provisions of this chapter. If the application is denied, the reason shall be stated on the application and the applicant so notified.

(6) If work has not begun one year from the date of issuance of the permit, that permit shall expire and be revoked by the Building Inspector. If work has not been substantially completed within three years from the date of issuance of the permit, that permit shall expire and be revoked by the Building Inspector. In each case, written notice shall be given to the applicants with the stipulation that work may not begin or continue (whichever case applies) until a new permit has been obtained.

(7) It shall be unlawful to use, occupy, or permit the use or occupancy of any non-residential building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of occupancy shall have been issued by the Building Inspector. Upon application for a certificate of occupancy, the Building Inspector shall approve, disapprove or issue a temporary permit within 30 days. The certificate of occupancy shall state that the proposed use of the building or land conforms to the requirements of this chapter and that the Building Inspector has inspected the property and attested to that fact.

(8) The Building Inspector may issue a temporary certificate of occupancy for a period not exceeding six months pending completion of modifications in order to comply with this chapter.

(9) The Building Inspector shall maintain a complete record of all improvement building permits and certificates of occupancy and copies shall be furnished or presented for review to any person making a request.

(10) Failure to obtain either an improvement building permit or a certificate of occupancy shall be a violation of this chapter and will be punishable under the provisions of § 155.999 of this chapter and shall be reason for issuance of a stop work order by the Building Inspector. The Building Inspector shall provide the property owner or his or her authorized representative notification of the ordinance violation and issue a stop work order immediately. Said stop work order shall be posted on or near the property in question in a conspicuous place and no further construction shall proceed until a valid permit is obtained. Where such building or construction has proceeded without receiving a valid permit, the fees for subsequent permit shall be doubled.

(11) Improvement building permits issued on the basis of plans and applications approved by the Building Inspector authorize only the use or arrangement set forth in such approved plans and applications or amendments thereto, and no other use, arrangements, or construction. Any use, arrangement or construction contrary to that authorized shall be deemed a violation of this chapter and be punishable under the provisions of § 155.999 of this chapter. The Building Inspector may issue a stop work order.

(12) Any person may file a written complaint whenever a violation of this chapter occurs or is alleged to have occurred. The complaint shall state fully and accurately the causes and basis thereof, and be filed with and recorded by the Building Inspector who shall immediately investigate and take action upon such complaint as provided in this chapter.

(B) *Board of Zoning Appeals.* The Advisory Board of Zoning Appeals is designated as an official entity of the town under the provisions of I.C. 36-7-4-901.

(C) *Composition and appointment.*

(1) The Board of Zoning Appeals shall consist of five members as follows:

(a) Three citizen members appointed by the Town Council of whom one must be a member of the Plan Commission and two must not be members of the Plan Commission;

(b) One citizen member who must not be a member of the Plan Commission appointed by the Town Council President; and

(c) One member appointed by the Plan Commission from the Plan Commission's membership who must be a citizen member who resides in and represents the unincorporated area on the Plan Commission.

(2) None of the members shall hold other elective or appointed offices in the town, county or state government.

(3) Upon establishment of the Board of Zoning Appeals, the town representatives shall be appointed for the following terms: one for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years. The term of the representative of the unincorporated area shall be for a period of four years. The terms of these members shall expire on the first day of January of the first, second, third or fourth year, respectively, following their appointment. Thereafter, as their terms expire, each new appointment shall be for a term of four years. Members of the Board may be removed from office by the appointing authority for cause. The appointing authority must mail notice of the removal along with written reasons for the removal, to the member at his or her residence address. A member who is removed may appeal his or her removal to the Circuit Court or Superior Court of the county within 30 days after receiving notice of the removal.

(4) A member of a Board of Zoning Appeals serves until his or her successor is appointed and qualified. A member is eligible for reappointment.

(5) If a vacancy occurs among the members of the Board of Zoning Appeals, the appointing authority shall appoint a member for the unexpired term of the vacating member. In addition, the appointing authority may appoint an alternate member to participate with the Board in any hearing or decision if the regular member it has appointed has a disqualification under this section or is unable to participate in the hearing or decision. An alternative member shall have all the powers and duties of a regular member while participating in the hearing or decision.

(6) A member of the Board of Zoning Appeals may not participate in a hearing or decision of the Board concerning a matter in which he or she has a direct or indirect financial interest. The Board shall enter into its records:

(a) The fact a regular member has such a disqualification; and

(b) The name of the alternate member, if any, who participates in the hearing or decision in place of the regular member.

(D) *Organization.*

(1) At the first meeting of each year, the Board of Zoning Appeals shall elect a chairperson and a vice chairperson from its members. The vice chairperson shall have authority to act as chairperson during the absence or disability of the chairperson.

(2) A majority of members shall constitute a quorum. However, no action shall be official unless authorized by a majority of the full Board.

(3) The Town Council shall provide suitable offices for the holding of hearings and the preservation of records, documents, and accounts. The Town Council may appropriate funds to carry out the duties of the Board of Zoning Appeals. The Town Council may compensate the members of the Board of Zoning Appeals for their service. The Board shall have authority to expend all sums appropriated to it for purposes and activities authorized by this chapter in accordance with regular town procedures. The Board may appoint and fix the compensation of an attorney, secretary, and such employees as are necessary for the discharge of its duties in conformity and compliance with salaries and compensations theretofore fixed by the Town Council.

(E) *Rules of procedure.*

(1) The Board of Zoning Appeals shall adopt rules for its procedure which may not be in conflict with the this chapter concerning:

(a) Filing of appeals;

(b) Application for variances;

(c) Giving of notice;

(d) Conduct of hearings; and

(e) Determination of whether a variance application is for a variance of use or for a variance from the development standards (such as height, bulk or area).

(2) Rules adopted by the Board of Zoning Appeals shall be printed and be made available to all applicants and other interested persons.

(F) *Meetings and records.* All meetings of the Board of Zoning Appeals shall be open to the public. The Board shall keep minutes of its proceedings, keep records of its examinations and other official actions, prepare findings, and record the vote of all actions taken. All minutes and records shall be filed in the office of the Board and shall be a public record.

(G) *Powers and duties of the Board.*

(1) The Board of Zoning Appeals shall have the following powers and it shall be its duty to hear and determine appeals from and review:

(a) Any order, requirement, decision, or determination made by an administrative official, hearing officer or staff member under this chapter;

(b) Any order, requirement, decision, or determination made by an administrative board or other body except a Plan Commission in relation to the enforcement of this chapter; and

(c) Any order, requirement, decision or determination made by an administrative board or other body except a Plan Commission in relation to requiring the procurement of an improvement location or occupancy permit.

(2) The Board of Zoning Appeals shall approve or deny all variances to the terms of the ordinance upon which the Board is required to act.

(3) The Board of Zoning Appeals shall approve or deny variances of use from the terms of this chapter. The Board may impose reasonable conditions as a part of its approval. A variance may be approved under this section only upon a determination in writing that:

(a) The approval will not be injurious to the public health, safety, morals and general welfare of the community;

(b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;

(c) The need for the variance arises from some condition peculiar to the property involved;

(d) The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and

(e) The approval does not interfere substantially with the Comprehensive Plan.

(4) A Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk or area) of this chapter. A variance may be approved under this section only upon a determination in writing that:

(a) The approval will not be injurious to the public health, safety, morals and general welfare of the community;

(b) 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

(c) The strict application of the terms of this chapter will result in practical difficulties in the use of the property. However, this chapter may establish a stricter standard than the practical difficulties standard prescribed by this subdivision.

(5) In exercising its powers, the Board of Zoning Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from as in its opinion ought to be done in the premises, and to that end shall have all the powers of the Building Inspector from whom the appeal is taken.

(Ord. 2005-6, passed 8-2-2005) Penalty, see § 155.999

§ 155.137 PROCEDURES AND REQUIREMENTS FOR APPEALS AND VARIANCES.

Appeals and variances shall conform to the procedures and requirements of this section. As specified in §155.136(G) of this subchapter, the Board of Zoning Appeals has appellate jurisdiction relative to appeals and variances.

(A) *Appeals.* Appeals to the Board of Zoning Appeals concerning interpretation or administration of this chapter may be taken by any persons aggrieved or by any officer or bureau of the Town Council affected by any decision of the Building Inspector. Such appeal shall be taken within 20 days after the decision by filing with the Building Inspector and with the Board of Zoning Appeals a notice of appeal specifying the grounds upon which the appeal is being taken. The Building Inspector shall transmit to the Board of Zoning Appeals all the papers constituting the record upon which the action appealed from was taken.

(B) *Stay of proceedings.* An appeal stays all proceedings in furtherance of the action appealed from, unless the Building Inspector from whom the appeal is taken certifies to the Board of Zoning Appeals, after the notice of appeal is filed with him or her, that by reason of facts stated in the application, a stay would, in his or her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Zoning Appeals or by a court of record on application, on notice to the Building Inspector from whom the appeal is taken or due cause shown.

(C) *Variances.* The Board of Zoning Appeals may authorize upon appeal in specific cases such variances from the terms

of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this chapter would result in unnecessary hardship.

(D) *Application and standards for variances.*

(1) A variance from the terms of this chapter shall not be granted by the Board of Zoning Appeals unless and until a written application for a variance is submitted to the Building Inspector and the Board of Zoning Appeals containing:

- (a) Name, address and phone number of the applicants;
- (b) Legal description of the property;
- (c) Description of the nature of the variance requested; and
- (d) A narrative statement demonstrating that the requested variance conforms to the following standards:

1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;

2. That a literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;

3. That special conditions and circumstances do not result from the actions of the applicant; and

4. That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings.

(2) A variance shall not be granted unless the Board makes specific findings of fact based directly on the particular evidence presented to it, which support conclusions that the standards and conditions imposed by subsection 4. above have been met by the applicant.

(E) *Supplementary conditions and safeguards.* Under no circumstances shall the Board of Zoning Appeals grant an appeal or variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district. In granting any appeal or variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this chapter and punishable under § 155.999 of this chapter.

(F) *Public hearing by the Board of Zoning Appeals.* The Board of Zoning Appeals shall hold a public hearing within 45 days after the receipt of an application for an appeal or variance from the Building Inspector or an applicant. However, the public hearing shall not be held sooner than 15 days after its receipt.

(G) *Notice of public hearing in newspaper.* Before holding the public hearing required in division (F) of this section, notice of such hearing shall be given in the newspaper of general circulation in the town at least 15 days before the date of said hearing. The notice shall set forth the time and place of the public hearing and the nature of the proposed appeal or variance. The Board of Zoning Appeals may require the party making the appeal to assume the cost of public notice.

(H) *Notice to parties in interest.* Before holding the public hearing required in division (F) of this section, written notice of such hearing shall be mailed by the applicant, by registered mail, at least ten days before the day of the hearing to each person who owns an interest in real estate adjoining the property involved in such petition including owners of real estate at corners, and across streets, alleys or easements, as well as others who may share a common boundary; all other persons who, in the opinion of the applicant, have an interest in the outcome of the petition; and any owner of real estate who did not join as an original petitioner or who did not file a waiver of notice of hearing prior to the day of public hearing.

(I) *No ex parte communication with the Board.* A person may not communicate with any member of the Board of Zoning Appeals before the hearing with the intent to influence the member's action on a matter pending before the Board. Not less than five days before the hearing however, the Building Inspector may file with the Board a written statement setting forth the facts or opinions relating to the matter.

(J) *Commitments.*

(1) In the case of a petition or an application for a variance from the terms of this chapter, the Board of Zoning Appeals may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel.

(2) The Board of Zoning Appeals may:

(a) Adopt rules governing the creation, form, recording, modification, enforcement and termination of commitments; and

(b) Adopt rules designating which specially affected persons and classes of specially affected persons are entitled to enforce commitments.

(3) (a) Commitments shall be recorded in the office of the County Recorder and take effect upon the approval of the exception, use, or variance. Unless modified or terminated by the Board of Zoning Appeals, a commitment is binding on:

1. The owner of the parcel;
2. A subsequent owner of the parcel; and
3. A person who acquires an interest in the parcel.

(b) A commitment is binding on the owner of the parcel even if it is unrecorded. However, an unrecorded commitment is binding on a subsequent owner or other person acquiring an interest in the parcel only if that subsequent owner or other person has actual notice of the commitment. A commitment may be modified or terminated only by a decision of the Board made at a public hearing after notice as provided by rule.

(4) By permitting or requiring commitments, the Board of Zoning Appeals does not obligate itself to approve or deny any request.

(5) Conditions imposed on the granting of an exception, a use or variances are not subject to the rules applicable to commitments.

(6) This section does not affect the validity of any covenant, easement, equitable servitude or other land use restriction created in accordance with law.

(Ord. 2005-6, passed 8-2-2005)

§ 155.138 PROCEEDINGS OF THE PLAN COMMISSION.

(A) *Generally.* The Plan Commission shall continue to operate under its existing rules of operation. All meetings shall be open to the public. The Commission shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions all of which shall be of public record and be immediately filed in the office of the Plan Commission.

(B) *Duties of the Plan Commission.*

- (1) Initiate proposed amendments to this chapter; and
- (2) Review all proposed amendments to this chapter and make recommendations to the Town Council.

(Ord. 2005-6, passed 8-2-2005)

§ 155.139 SCHEDULE OF FEES, CHARGES AND EXPENSES.

(A) The Town Council shall, by ordinance or resolution, establish a schedule of fees, charges, and expenses and a collection procedure for improvement location permits, amendments, appeals, variances, conditional use permits, plan approvals, and other matters pertaining to the administration and enforcement of this chapter requiring investigations, legal, advertising postage, and other expenses. The schedule of fees shall be posted in the office of the Clerk-Treasurer and may be altered or amended only by the Town Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal. All fees other than for improvement location permits are set forth in below subsections.

- (1) Variance permit and renewals: \$30;
- (2) Conditional use permit: \$30;
- (3) Rezoning fee per parcel per application: \$75;
- (4) Demolition permit or removal: \$30;
- (5) Applications for appeals: \$30;
- (6) Copy of zoning ordinance: \$30;
- (7) Copy of subdivision control ordinance: \$30;
- (8) Copy per page of surveys, maps, plat maps, blueprints and any copy larger than 11" x 17": \$5; and
- (9) Filing fees for preliminary, amended, and final plats and replats of subdivisions: \$100 plus \$5 per lot.

(B) The Plan Commission or Board of Zoning Appeals shall consider no petition without the fees having been paid in advance. The applicant shall be responsible for payment of all mailing and legal advertising costs.

(Ord. 2005-6, passed 8-2-2005)

§ 155.140 PROCEDURES AND REQUIREMENTS FOR APPROVAL OF CONDITIONAL USES.

Conditional uses shall conform to the procedures and requirements of this section.

(A) *Generally.* It is recognized that an increasing number of new kinds of uses are appearing daily, and that many of

these and some other more conventional uses possess characteristics of such unique and special nature relative to location, design, size, method of operation, circulation, and public facilities that each specific use must be considered individually. These specific uses as they are conditionally permitted under the provisions of this chapter, shall follow the procedures and requirements set forth in this section. Conditional uses, while requiring special consideration by the Plan Commission, shall be deemed permitted uses in the district in which they are provided.

(B) *Contents of application for a conditional use permit.* An application for a conditional use permit shall be filed with the Building Inspector and the Plan Commission by at least one owner or lessee of property for which such conditional use is proposed. At a minimum, the application shall contain the following information:

- (1) Name, address and phone number of the applicant;
- (2) Legal description of the property;
- (3) Description of the existing use;
- (4) Zoning district;
- (5) Description of the proposed conditional use;

(6) A plan of the proposed site for the conditional use showing the location of all property lines, rights-of-way, or other interests in the property, setback lines, buildings, parking and loading areas, traffic access and traffic circulation, open space, landscaping, refuse and service areas, utilities, signs, yards, and such other information as the Board of Zoning Appeals may require to determine if the proposed conditional use meets the intent and requirements of this chapter and is appropriate for the location at which it is proposed; and

(7) A narrative statement evaluating the effects of such elements as noise, glare, odor, fumes, and vibration on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district; and the relationship of the proposed use to the Comprehensive Plan.

(C) *General standards applicable to all conditional uses.* The Plan Commission shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use at the proposed location:

(1) Is in fact a conditional use as established under the provisions of this chapter and appears on the official schedule of district regulations adopted by § 155.075 of this chapter for the zoning district involved;

(2) Will be harmonious with and in accordance with the general objectives, or with any specific objective of the town's Comprehensive Plan and/or the this chapter;

(3) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;

(4) Will not be hazardous or disturbing to existing or future neighboring uses;

(5) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;

(6) Will not create excessive additional requirements at public expense for public facilities and services and will not be detrimental to the economic welfare of the community;

(7) Will not involve uses, activities, processes, materials, equipment, and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;

(8) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares; and

(9) Will not result in the destruction, loss, or damage of natural, scenic, or historic features of major importance.

(D) *Supplementary conditions and safeguards.* In granting any conditional use, the Plan Commission may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms upon which the conditional use is granted, shall be deemed a violation of this chapter and punishable under § 155.999 of this chapter.

(E) *Notice of public hearing.* Upon receipt of the application for a conditional use permit specified in division (B) of this section, the Plan Commission shall hold a public hearing, publish notice in a newspaper, and give written notice to all parties in interest according to the procedures specified in § 155.137(F) through (H) of this subchapter.

(F) *Action by the Board of Zoning Appeals.*

(1) The Board of Zoning Appeals shall make a decision on any matter that it is required to hear under §155.136(G) of this subchapter either:

- (a) At the meeting at which that matter is first presented; or

(b) At the conclusion of the hearing on that matter, if it is continued.

(2) Within five days after making any decision, the Board of Zoning Appeals shall file in the office of the Board a copy of its decision.

(G) *Expiration of conditional use permit.* A conditional use permit shall be deemed to authorize only one particular use and said permit shall automatically expire if, for any reason, the use has not commenced within one year.

(Ord. 2005-6, passed 8-2-2005)

§ 155.141 AMENDMENTS.

This chapter may be amended utilizing the procedures specified in this section.

(A) *Generally.* Whenever the public necessity, convenience, general welfare, or good zoning practices require, the Town Council may by ordinance after receipt of recommendations thereon from the Plan Commission, and subject to procedures provided by law, amend, supplement, change, or repeal the regulations, restrictions, and zoning district boundaries or classification of property.

(B) *Initiation of zoning amendments.* Amendments to this chapter may be initiated in one of the following ways:

(1) By adoption of a motion by the Plan Commission;

(2) By adoption of a resolution by Town Council; or

(3) For zoning maps, by the filing of a petition with the Plan Commission by at least 50% of the owners of property within the area proposed to be changed by said amendment.

(C) *Contents of application.* Applications for amendments to the official zoning map adopted, as part of this chapter by § 155.015 shall contain at least the following information:

(1) Name, address and phone number of the applicant;

(2) Filing fee as established by Town Council according to §155.139 of this chapter;

(3) Present use;

(4) Present zoning district;

(5) Proposed zoning district;

(6) Vicinity map at scale approved by the Building Inspector showing property lines, thoroughfares, existing and proposed zoning within 300 feet, and such other items as the Building Inspector may require;

(7) List of all property owners and their mailing addresses who are within, contiguous to, or directly across the street from the parcel(s) proposed to be rezoned, and others that may have a substantial interest in the case; and

(8) Statement on how the proposed amendment relates to the Comprehensive Plan.

(D) *Transmittal to Plan Commission.* Immediately after the filing of a petition for amendment, said petition or application shall be transmitted to the Plan Commission.

(E) *Public hearing by Plan Commission.* The Plan Commission shall schedule a public hearing after a petition is received. Said hearing shall not be less than 20 nor more than 40 days from the date of adoption of such motion, transmittal of such resolution or the filing of such application. Notices shall be in the newspaper as described in division (F) of this section.

(F) *Notice of public hearing in newspaper.*

(1) Before holding the public hearing required in division (E) of this section, notice of such hearing shall be given in the newspaper of general circulation in the town at least ten days before the date of said hearing. The notice shall set forth the time and place of the public hearing, the geographic area to which the proposal applies, and a summary of the proposed amendment.

(2) The Plan Commission shall give notice of the hearing by publication under I.C. 5-3-1. The notice must state:

(a) If the proposal contains or would add or amend any penalty or forfeiture provisions, the entire text of those penalty or forfeiture provisions;

(b) The place where a copy of the proposal is on file for examination before the hearing;

(c) That written objections to the proposal that are filed with the Secretary of the Plan Commission before the hearing will be considered;

(d) That oral comments concerning the proposal will be considered; and

(e) That the hearing may be continued from time to time as may be found necessary.

(G) *Notice parties in interest.* If the proposed amendment intends to rezone or redistrict ten or fewer parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the applicant, by registered mail, at least 20 days

before the day of the public hearing to each person who owns an interest in real estate adjoining the property involved in such petition including owners of real estate at corners, and across streets, alleys or easements, as well as others who may share a common boundary; all other person who, in the opinion of the applicant, have an interest in the outcome of the petition; and any other owners of real estate who did not join as an original petitioner or who did not file a waiver of notice of hearing prior to the day of public hearing. The failure to deliver the notification, as provided in this section, shall not invalidate any such amendment. The notice shall contain the same information as required of notices published in newspapers as specified in division (F) of this section.

(H) *Recommendation by Plan Commission.* Within ten business days after the Plan Commission determines its recommendation, the Commission shall transmit its recommendation to the Town Council. The Commission may recommend that the amendment be granted as requested, or it may recommend a modification of the amendment requested, or it may recommend that the amendment be denied.

(I) *Action by Town Council.*

(1) The Town Council shall vote on a recommended amendment proposal from the Plan Commission within 90 days after the Plan Commission transmits its recommendation. The Town Council shall give notice under I.C. 5-14-1.5-5 of its intention to consider the proposal.

(2) If the proposal is to amend or partially repeal the text of this chapter, the following procedures shall be followed:

(a) If the Plan Commission submits a recommendation in favor of the amendment, and:

1. The Town Council adopts the recommendation, it takes affect as other ordinances of the Town Council;
2. The Town Council fails to act within 90 days, it takes affect as if it had been adopted 90 days after receipt from the Plan Commission; or
3. The Town Council rejects the recommendation or amends the proposal, it shall be returned to the Plan Commission for its consideration. The Plan Commission has 45 days in which to consider the rejection or amendment and to report to the Town Council as follows:

A. If the Plan Commission approves the amendment or fails to act in 45 days, the proposal stands as amended by the Town Council as of the date of the filing or at the end of the 45-day period; and

B. If the Plan Commission disapproves of the rejection or amendment, the action of the Town Council stands only if confirmed by another vote of the Town Council within 45 days after the Plan Commission certifies its disapproval. If the Town Council fails to confirm its action, the ordinance takes effect as originally proposed.

(b) If the Plan Commission submits an unfavorable recommendation or no recommendation with the proposal to the Town Council, and:

1. The Town Council adopts the proposal, it takes effect as other ordinances of the Town Council;
2. The Town Council rejects the proposal or fails to act within 90 days, it is defeated; or
3. The Town Council amends the proposal, it shall be returned to the Plan Commission for its consideration. The Plan Commission has 45 days in which to consider the amendment and report back to the Town Council as follows:

A. If the Plan Commission approves the amendment or fails to act in 45 days, the ordinance stands as passed by the Town Council as of the date of the filing or at the end of the 45-day period; and

B. If the Plan Commission disapproves the amendment, the action of the Town Council stands only if confirmed by another vote of the Town Council within 45 days after the Plan Commission certifies its disapproval. If the Town Council fails to confirm its action, the proposal is defeated.

(3) If the proposal is to change the official zoning map incorporated by reference in this chapter, the following procedures shall apply:

(a) If the Plan Commission provides a favorable recommendation and:

1. The Town Council adopts the proposal, it takes effect as other ordinances of the Town Council;
2. The Town Council rejects the proposal, it is defeated; and
3. The Town Council fails to act within 90 days, the proposal takes effect at the end of the 90-day period.

(b) If the Plan Commission provides an unfavorable or no recommendation and:

1. The Town Council adopts the proposal, it takes effect as other ordinances of the Town Council;
2. The Town Council rejects the proposal, it is defeated; and
3. The Town Council fails to act within 90 days, it is defeated.

(4) Any proposal for a zoning map amendment that is defeated under the provisions of this section may not be resubmitted for a period of one year.

(Ord. 2005-6, passed 8-2-2005)

§ 155.999 PENALTY.

(A) Any person or corporation who violates or fails to comply with any provisions of this chapter or Chapter 151 shall be guilty of an infraction and shall be subject to a penalty of a fine of \$2,500. Each day such violation exists shall constitute a separate offense.

(B) Any person or corporation being required by the this chapter or Chapter 151 to submit plans or plats to either the Building Inspector, Board of Zoning Appeals, or Plan Commission, who builds, reconstructs, removes, or structurally alters any building or develops land in a mariner other than shown by approved plans or plats, shall be guilty of an infraction and subject to a penalty of a fine of \$2,500. Each day such noncompliance exists shall constitute a separate offense.

(C) The Plan Commission, Board of Zoning Appeals, Building Inspector, or any designated enforcement official of the town may institute suit or injunctive relief in the Jefferson Circuit Court to restrain an individual, corporation, or government unit from violating the provisions of this chapter or Chapter 151.

(Ord. 2005-6, passed 8-2-2005)