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CHAPTER 150: BUILDING REGULATIONS

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GENERAL PROVISIONS

§ 150.01 TITLE.

This chapter and all ordinances supplemental or amendatory hereto, shall be known as the "Building Code of the Board of Trustees of the Town of Nashville, Indiana," may be cited as such, and will be referred to herein as "this chapter."
(Ord. 1988-6, passed 6-7-1988)

§ 150.02 PURPOSE.

The purpose of this chapter is to provide minimum standards for the protection of life, health, environment, public safety and general welfare, and construction of buildings and structures.
(Ord. 1988-6, passed 6-7-1988)

§ 150.03 AUTHORITY.

The Building Commissioner is hereby authorized and directed to administer and enforce all of the provisions of this chapter. Whenever in this chapter it is provided that anything must be done to the approval of or subject to the direction of the Building Commissioner or any other officer of the Board of Trustees, this shall be construed to give the officer only the discretion of determining whether this chapter has been complied with; and no such provision shall be construed as giving any officer discretionary powers as to what this chapter shall be, or power to

require conditions not prescribed by ordinances or to enforce this chapter in an arbitrary or discriminatory manner.
(Ord. 1988-6, passed 6-7-1988)

§ 150.04 SCOPE.

The provisions of this chapter apply to the construction, alteration, repair, use, occupancy, maintenance and additions to all buildings and structures, other than fences, in the town.
(Ord. 1988-6, passed 6-7-1988)

§ 150.05 ADOPTION OF RULES BY REFERENCE.

(A) Building rules of the State Fire Prevention and Building Safety Commission as set out in the following Articles of Title 675 of the Indiana Administrative Code are hereby incorporated by reference in this chapter and shall include later amendments to those Articles as the same are published in the State Register or the State Administrative Code with effective dates as fixed therein:

(1) *Article 13: Building Codes*.

(a) Fire and Building Safety Standards.

(b) Indiana Building Code.

(c) Indiana Building Code Standards.

(d) Indiana Handicapped Accessibility Code.

(2) *Article 14: One- and Two-Family Dwelling Codes*.

(a) Council of American Building Officials One- and Two-Family Dwelling Code.

(b) CABO One- and Two-Family Dwelling Code Amendments.

(c) Standard for Permanent Installation of Manufactured Homes.

(3) *Article 16: Plumbing Code*. Indiana Plumbing Code.

(4) *Article 17: Electrical Code*.

(a) Indiana Electrical Code.

(b) Safety Code for Health Care Facilities.

(5) *Article 18: Mechanical Codes*. Indiana Mechanical Code.

(6) *Article 19: Energy Conservation Codes*.

(a) Indiana Energy Conservation Code.

(b) Modification to the Model Energy Code.

(7) *Article 20: Swimming Pool Codes*. Indiana Swimming Pool Code.

(B) Copies of adopted building rules, codes and standards are on file in the office of the County Area Plan Commission.
(Ord. 1988-6, passed 6-7-1988)

§ 150.06 WORKMANSHIP.

All work on the construction, alteration, and repair of buildings and other structures shall be performed in a good and workmanlike manner according to accepted standards and practices in the trade.
(Ord. 1988-6, passed 6-7-1988)

§ 150.07 COMPLIANCE REQUIRED.

It shall be unlawful for any person, firm, or corporation, whether as owner, lessee, sublessee or

occupant, to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy or maintain any building or structure, other than fences, in the town, or cause or permit the same to be done, contrary to or in violation of the provisions of this chapter.
(Ord. 1988-6, passed 6-7-1988) Penalty, see § 150.99

PERMITS

§ 150.15 PERMIT REQUIRED.

(A) A permit shall be obtained before beginning construction, alteration or repair of any building or structure, the cost of which exceeds $500, using forms furnished by the Building Commissioner.

(B) All fees required by this chapter shall be paid to the office of the Building Commissioner.
(Ord. 1988-6, passed 6-7-1988)

§ 150.16 APPLICATION FOR PERMITS.

(A) No building permit shall be issued for the foregoing purposes, unless the application for a permit is accompanied by a plat or sketch of the proposed location showing lot boundaries, and by plans and specifications showing the work to be done.

(B) In addition, a copy of a design release, issued by the State Building Commissioner and the State Fire Marshal pursuant to I.C. 22-15-3-1, shall be provided to the Building Commissioner before issuance of a permit for construction covered by the design release.

(C) (1) Any action that results in the removal of an historic building within the corporate limits of the town shall be required to obtain a demolition permit in accordance with the requirements of this division and any other applicable provisions of this code.

(2) In furtherance thereof, the Town Council hereby establishes the following procedures:

(a) That in situations involving the demolition of an historic building, no improvement location permit shall be issued by the Brown County Area Plan Commission prior to the issuance of a demolition permit by the Town Administration.

(b) The fee for a demolition permit shall be $100.

(c) Any request for a demolition permit for a historic building as defined herein received by Town Administration shall be the subject of review by the Town Council for a period not to exceed 180 days from the date of the first regular meeting of the Town Council after the filing of the application and payment of the fee. The Town Council may in its discretion shorten the period of review based on the location, condition, and historical significance of the building. During the period of review, the Town Council may hold at least one public hearing to weigh the significance, location and condition of the building, as well as the economic value of the building to its owner or owners and to the community, and to consider alternatives to demolition that would allow the building to be preserved. A demolition permit may be issued by the Town Council at any time during the review period, and shall be issued upon the expiration of the review period.

(d) Notice of the request for a demolition permit involving an historic building(s) within the corporate limits of the town shall be posted in a conspicuous place on the property sought to be demolished for a period of not less than 15 days. The notice shall be prepared and posted by the Development Review Commission.

(e) An ***HISTORIC BUILDING*** or ***HISTORIC STRUCTURE*** is hereby defined for the purpose of this division as a building or structure erected at least 50 years prior to the passage of this division, or a building otherwise designated as a historic building under the provisions of this division.

(f) A property owner may petition the Development Review Commission to designate a structure not otherwise defined as an historic building or structure by filing a petition with the Town Council together with a fee of $25. The Development Review Commission may in its discretion designate the building as an historic building or structure.

(g) The criteria to be considered by the Development Review Commission in designating as an historic building or structure under the provisions of division (f) above shall be the following:

1. The rating, if any, of the historical building in the 1995 Brown County Interim Report published as part of the Indiana Historic Sites and Structures Inventory;

2. The location of the building in location to the main thoroughfares of the town (Main Street, Van Buren Street, State Road 46 and State Road 135);

3. The condition of the building;

4. Its architectural uniqueness or lack thereof; and

5. The historical significance of the building's present or prior occupants.

(h) Any person or party aggrieved by the issuance or non-issuance of a demolition permit shall be entitled to a judicial review thereof in accordance with I.C. 4-22-1.

(i) This division may be enforced by the Town of Nashville, the Brown County Area Plan Commission by civil suit for injunction, for damages and/or for fines. The maximum fine per violation shall be $2500. Each day of violation shall be considered a separate violation. In addition to the remedies set out above, no improvement location permit shall be granted for the tract of real property where the violation occurred.
(Ord. 1988-6, passed 6-7-1988; Am. Ord. 2005-08, passed 3-16-2006; Am. Ord. 2019-07, passed 10-23-2019)

§ 150.17 COMPLIANCE WITH OTHER ORDINANCES.

All work done under any permit shall be in full compliance with all other ordinances pertaining thereto, and in addition to the fees for permits, there shall be paid the fees prescribed in the ordinances. Compliance with all ordinances and compliance with the terms of any certificate of appropriateness issued by the Development Review Commission shall be a condition of all permits issued under this section. Noncompliance shall render the permit void and revoked.
(Ord. 1988-6, passed 6-7-1988; Am. Ord. 2012-21, passed 12-20-2012)

§ 150.18 FEES AND REQUIRED INSPECTIONS.

Fees and required inspections shall be determined by the Board of Trustees of the town.
(Ord. 1988-6, passed 6-7-1988)

§ 150.19 REVIEW OF APPLICATION.

Prior to the issuance of any building permit, the Building Commissioner shall:

(A) Review all building permit applications to determine full compliance with the provisions of this chapter and all applicable ordinances.

(B) Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding.

(C) Review building permit applications for major repairs within any floodplain areas having special flood hazards to determine that the proposed repair:

(1) Uses construction materials and utility equipment that are resistant to flood damage; and

(2) Uses construction methods and practices that will minimize flood damage.

(D) Review building permit applications for new construction or substantial improvements within any floodplain areas having special flood hazards to assure that the proposed construction (including prefabricated and mobile homes):

(1) Is protected against flood damage;

(2) Is designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure, flood damage; and

(3) Uses construction methods and practices that will minimize flood damage.
(Ord. 1988-6, passed 6-7-1988)

§ 150.20 INSPECTIONS.

After the issuance of any building permit, the Building Commissioner shall make, or shall cause to be made, inspections of the work being done as are necessary to ensure full compliance with the provisions of this chapter and the terms of the permit. Reinspections of work found to be incomplete or not ready for inspection are subject to assessment of reinspection fees as prescribed in this chapter.
(Ord. 1988-6, passed 6-7-1988)

§ 150.21 INSPECTION ASSISTANCE.

The Chief of the Fire Department, or his or her designated representative, shall assist the Building Commissioner in the inspection of fire suppression, detection and alarm systems and shall provide reports of the inspection to the Building Commissioner.
(Ord. 1988-6, passed 6-7-1988)

ADMINISTRATION AND ENFORCEMENT

§ 150.35 BUILDING COMMISSIONER DESIGNATED.

The Building Commissioner, for the purposes as contained in this chapter, shall be designated by the Board of Trustees of the town.
(Ord. 1988-6, passed 6-7-1988)

§ 150.36 RIGHT OF ENTRY.

Upon presentation of proper credentials, the Building Commissioner or his or her duly authorized representatives may enter at reasonable times any building, structure or premises in the town to perform any duty imposed upon him or her by this chapter.
(Ord. 1988-6, passed 6-7-1988)

§ 150.37 STOP ORDER.

Whenever any work is being done contrary to the provisions of this chapter, the Building Commissioner may order the work stopped by notice in writing served on any persons engaged in the doing or causing of the work to be done, and any persons shall forthwith stop the work until authorized by the Building Commissioner to proceed with the work.
(Ord. 1988-6, passed 6-7-1988)

§ 150.38 CERTIFICATE OF OCCUPANCY.

No certificate of occupancy for any building or structure erected, altered or repaired after the adoption of this chapter shall be issued unless the building or structure was erected, altered or repaired in

compliance with the provisions of this chapter. It shall be unlawful to occupy any building or structure unless a full, partial or temporary certificate of occupancy has been issued by the Building Commissioner.
(Ord. 1988-6, passed 6-7-1988) Penalty, see § 150.99

§ 150.39 RIGHT OF APPEAL.

All persons shall have the right to appeal the Building Commissioner's decision, first to the town and then to the State Fire Prevention and Building Safety Commission in accordance with the provisions of I.C. 22-13-2-7 and I.C. 4-21.5-3-7.
(Ord. 1988-6, passed 6-7-1988)

§ 150.40 REMEDIES.

The Building Commissioner shall in the name of the town bring actions in the Circuit Court of the county for mandatory and injunctive relief in the enforcement of and to secure compliance with any order or orders made by the Building Commissioner, and any such action for mandatory or injunctive relief may be joined with an action to recover the penalties provided for in this chapter.
(Ord. 1988-6, passed 6-7-1988)

§ 150.99 PENALTY.

If any person, firm or corporation shall violate any of the provisions of this chapter, or shall do any act prohibited herein, or shall fail to perform any duty lawfully enjoined, within the time prescribed by the Building Commissioner, or shall fail, neglect or refuse to obey any lawful order given by the Building Commissioner in connection with the provisions of this chapter for each violation, failure or refusal, that person, firm or corporation shall be fined in any sum up to $500 per day. Each day of such unlawful activity as is prohibited by the first sentence of this section shall constitute a separate offense.
(Ord. 1988-6, passed 6-7-1988)

CHAPTER 151: FLOOD HAZARD AREAS

Section

151.01 Statutory authorization, findings, purpose and objectives
151.02 Definitions
151.03 General provisions
151.04 Administration
151.05 Provisions for flood hazard reduction
151.06 Variance procedures

§ 151.01 STATUTORY AUTHORIZATION, FINDINGS, PURPOSE AND OBJECTIVES.

(A) *Statutory authorization*. The Indiana Legislature has in I.C. 36-7-4-601 and I.C. 14-28-3-3 granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council does hereby adopt the following floodplain management regulations.

(B) *Findings of fact*.

(1) The flood hazard areas of the town are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, inadequately flood-proofed, or otherwise unprotected from flood damages.

(C) *Statement of purpose*. It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities.

(2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.

(4) Control filling, grading, dredging, and other development which may increase erosion or flood damage.

(5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(6) Make federal flood insurance available for structures and their contents in the Town by fulfilling the requirements of the National Flood Insurance Program.

(D) *Objectives*. The objectives of this chapter are:

(1) To protect human life and health.

(2) To minimize expenditure of public money for costly flood control projects.

(3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.

(4) To minimize prolonged business interruptions.

(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains.

(6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.
(Am. Ord. 2016-10, passed 11-17-2016)

§ 151.02 DEFINITIONS.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

A ZONE. Portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM. The definitions are presented below:

ZONE A. Areas subject to inundation by the 1% annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

ZONE AE and ***AL-A30.*** Areas subject to inundation by the 1% annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. (Zone AE is on new and revised maps in place of Zones A1-A30.)

ZONE AO. Areas subject to inundation by 1% annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between 1 and 3 feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

ZONE AH. Areas subject to inundation by 1% annual chance shallow flooding (usually areas of ponding) where average depths are between 1 and 3 feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

ZONE AR. Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection.

ZONE A99. Areas subject to inundation by the 1% annual chance flood event, but which will ultimately be protected upon completion of an under-construction federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. ***ZONE A99*** may only be used when the flood protection system has reached specified statutory progress toward completion. No base flood elevations or depths are shown.

ACCESSORY STRUCTURE (APPURTENANT STRUCTURE). A structure with a floor area 400 square feet or less that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. ***ACCESSORY STRUCTURES*** should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of ***ACCESSORY STRUCTURES*** are detached garages, carports, storage sheds, pole barns, and hay sheds.

ADDITION (TO AN EXISTING STRUCTURE). Any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any

walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

APPEAL. A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.

AREA OF SHALLOW FLOODING. A designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

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

BASEMENT. That portion of a structure having its floor sub-grade (below ground level) on all sides.

BOUNDARY RIVER. The part of the Ohio River that forms the boundary between Kentucky and Indiana.

BOUNDARY RIVER FLOODWAY. The floodway of a boundary river.

BUILDING. See ***STRUCTURE.***

COMMUNITY. A political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

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

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

D ZONE. Unstudied areas where flood hazards are undetermined, but flooding is possible. Flood insurance is available in participating communities but is not required by regulation in this zone.

DEVELOPMENT.

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

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

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

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

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

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

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

(g) Storage of materials; or

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

(2) ***DEVELOPMENT*** does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

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

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

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

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

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

FEMA. The Federal Emergency Management Agency.

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

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

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

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

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

FLOOD PROTECTION GRADE (FPG). The elevation of the regulatory flood plus 2 feet at any given location in the SFHA. (See ***FREEBOARD.***)

FLOODPLAIN. The channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

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

FLOODPLAIN MANAGEMENT REGULATIONS. This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

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

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

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

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

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

HARDSHIP (AS RELATED TO VARIANCES OF THIS CHAPTER). The exceptional hardship that would result from a failure to grant the requested variance. The Board of Zoning Appeals requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

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

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

INCREASED COST OF COMPLIANCE (ICC). The cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

LETTER OF FINAL DETERMINATION (LFD). A letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the 6-month adoption period. The community must adopt or amend its floodplain management regulations during this 6-month period unless the community has previously incorporated an automatic adoption clause.

LETTER OF MAP CHANGE (LOMC). A general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F). The definitions are presented below:

LETTER OF MAP AMENDMENT (LOMA). An amendment by letter to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property specific elevation data. A LOMA is only issued by FEMA.

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

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

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

LOWEST FLOOR. The lowest elevation described among the following:

(1) The top of the lowest level of the structure.

(2) The top of the basement floor.

(3) The top of the garage floor, if the garage is the lowest level of the structure.

(4) The top of the first floor of a structure elevated on pilings or pillars.

(5) The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:

(a) The walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of 2 openings (in addition to doorways and windows) in a minimum of 2 exterior walls; if a structure has more than 1 enclosed area, each shall have openings on exterior walls;

(b) The total net area of all openings shall be at least 1 square inch for every 1 square foot of enclosed area; the bottom of all such openings shall be no higher than 1 foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and

(c) Such enclosed space shall be usable solely for the parking of vehicles and building access.

MANUFACTURED HOME. A structure, transportable in 1 or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term ***MANUFACTURED HOME*** does not include a ***RECREATIONAL VEHICLE.***

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into 2 or more manufactured home lots for rent or sale.

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

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

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

NATIONAL GEODETIC VERTICAL DATUM (NGVD) of 1929. As corrected in 1929, it is a vertical control used as a reference for establishing varying elevations within the floodplain.

NEW CONSTRUCTION. Any structure for which the "start of construction" commenced after the effective date of the community's first floodplain ordinance.

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

NON-BOUNDARY RIVER FLOODWAY. The floodway of any river or stream other than a boundary river.

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

OBSTRUCTION. Includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

ONE-PERCENT ANNUAL CHANCE FLOOD. The flood that has a 1% chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the 1% annual chance flood. See ***REGULATORY FLOOD***.

PHYSICAL MAP REVISION (PMR). An official republication of a community's FEMA map to effect changes to base (1% annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

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

RECREATIONAL VEHICLE. A vehicle which is:

(1) Built on a single chassis;

(2) 400 square feet or less when measured at the largest horizontal projections;

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

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

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

REGULATORY FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in § 151.03(B) of this chapter. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

REPETITIVE LOSS. Flood-related damages sustained by a structure on 2 separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equaled or exceeded 25% of the market value of the structure before the damage occurred.

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

SPECIAL FLOOD HAZARD AREA (SFHA). Those lands within the jurisdiction of the town subject to inundation by the regulatory flood. The SFHAs of the town are generally identified as such on the Brown County, Indiana and Incorporated Areas Flood Insurance Rate Map dated December 8, 2016 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

START OF CONSTRUCTION. Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

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

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

SUSPENSION. The removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

VARIANCE. A grant of relief from the requirements of this chapter, which permits construction in a manner otherwise prohibited by this chapter where specific enforcement would result in unnecessary hardship.

VIOLATION. The failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

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

X ZONE. The area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2% chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2%.

ZONE. A geographical area shown on a FIRM that reflects the severity or type of flooding in the area.

ZONE A. (See definition for ***A ZONE.***)

ZONE B, C, and ***X.*** Areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C.) (Am. Ord. 2016-10, passed 11-17-2016)

§ 151.03 GENERAL PROVISIONS.

(A) *Lands to which this chapter applies.* This chapter shall apply to all SFHAs and known flood prone areas within the jurisdiction of the town.

(B) *Basis for establishing regulatory flood data.* This chapter's protection standard is the regulatory flood. The best available regulatory flood data is listed below.

(1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of the town shall be as delineated on the 1% annual chance flood profiles in the Flood Insurance Study of Brown County, Indiana and Incorporated Areas and the corresponding Flood Insurance Rate Map dated December 8, 2016 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.

(2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of the town, delineated as an "A Zone" on the Brown County, Indiana and Incorporated Areas Flood Insurance Rate Map dated December 8, 2016 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than 1 square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.

(3) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than 1 square mile.

(4) Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be utilized for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

(C) *Establishment of floodplain development permit*. A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities in areas of special flood hazard.

(D) *Compliance*. No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this chapter and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this chapter and other applicable regulations.

(E) *Abrogation and greater restrictions*. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(F) *Discrepancy between mapped floodplain and actual ground elevations*.

(1) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.

(2) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.

(3) If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

(G) *Interpretation*. In the interpretation and application of this chapter all provisions shall be:

(1) Considered as minimum requirements.

(2) Liberally construed in favor of the governing body.

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(H) *Warning and disclaimer of liability*. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this chapter does not create any liability on the part of the town, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this chapter or any administrative decision made lawfully thereunder.

(I) *Penalties for violation*. Failure to obtain a floodplain development permit in the SFHA or failure to comply with the requirements of a floodplain development permit or conditions of a variance shall be deemed to be a violation of this chapter. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the zoning code for the town. All violations shall be punishable by a fine not exceeding $500.

(1) A separate offense shall be deemed to occur for each day the violation continues to exist.

(2) The Floodplain Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a standard flood insurance policy to be suspended.

(3) Nothing herein shall prevent the town from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.
(Am. Ord. 2016-10, passed 11-17-2016)

§ 151.04 ADMINISTRATION.

(A) *Designation of Administrator*. The Town Council of the town hereby appoints the Executive Director of the Brown County Area Plan Commission to administer and implement the provisions of this chapter and is herein referred to as the Floodplain Administrator.

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

(1) *Application stage*.

(a) A description of the proposed development.

(b) Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.

(c) A legal description of the property site.

(d) A site development plan showing existing and proposed development locations and existing and proposed land grades.

(e) Elevation of the top of the planned lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD.

(f) Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.

(g) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See § 151.04(C)(6) for additional information.)

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

(3) *Finished construction*. Upon completion of construction, an elevation certification (FEMA Elevation Certificate Form 81-31 or any future updates) which depicts the "as-built" lowest floor elevation is required to be submitted to the Floodplain

Administrator. If the project includes a floodproofing measure, floodproofing certification (FEMA Floodproofing Certificate Form 81-65 or any future updates) is required to be submitted by the applicant to the Floodplain Administrator.

(C) *Duties and Responsibilities of the Floodplain Administrator*. The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this chapter. The administrator is further authorized to render interpretations of this chapter, which are consistent with its spirit and purpose. Duties and responsibilities of the Floodplain Administrator shall include, but are not limited to:

(1) Review all floodplain development permits to assure that the permit requirements of this chapter have been satisfied.

(2) Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations.

(3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to § 151.05(E) and (G)(1) of this chapter, and maintain a record of such authorization (either copy of actual permit/authorization or floodplain analysis/regulatory assessment).

(4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit.

(5) Maintain and track permit records involving additions and improvements to residences located in the floodway.

(6) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.

(7) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this chapter.

(8) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.

(9) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(10) Review certified plans and specifications for compliance.

(11) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with § 151.04(B).

(12) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed in accordance with § 151.04(B).

(13) Perform a minimum of 3 inspections to ensure that all applicable ordinance and floodplain development requirements have been satisfied. The first upon the establishment of the Flood Protection Grade reference mark at the development site; the second upon the establishment of the structure's footprint/establishment of the lowest floor; and the final inspection upon completion and submission of the required finished construction elevation certificate. Authorized town or county officials shall have the right to enter and inspect properties located in the SFHA.

(14) *Stop work orders.*

(a) Upon notice from the Floodplain Administrator, work on any building, structure or premises that is being done contrary to the provisions of this chapter shall immediately cease.

(b) Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.

(15) *Revocation of permits.*

(a) The Floodplain Administrator may revoke a permit or approval, issued under the provisions of this chapter, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

(b) The Floodplain Administrator may revoke a permit upon determination by the Floodplain Administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this chapter.
(Am. Ord. 2016-10, passed 11-17-2016)

§ 151.05 PROVISIONS FOR FLOOD HAZARD REDUCTION.

(A) *General standards.* In all SFHAs and known flood prone areas the following provisions are required:

(1) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.

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

(3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.

(4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.

(5) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.

(6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(9) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this chapter shall meet the requirements of "new construction" as contained in this chapter.

(10) Parking lots, driveways, and sidewalks within the SFHA shall be constructed with permeable materials.

(11) Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.

(a) The excavation shall take place in the floodplain and in the same property in which the authorized fill or structure is located.

(b) Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory flood water, will not be subject to ponding when not inundated by flood water, and that it shall not be refilled.

(c) The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by flood water.

(d) The fill or structure shall not obstruct a drainage way leading to the floodplain.

(e) The grading around the excavation shall be such that the excavated area is accessible to the regulatory flood water.

(f) The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement.

(g) Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this chapter.

(B) *Specific standards*. In all SFHAs, the following provisions are required:

(1) In addition to the requirements of § 151.05(A), all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

(a) Construction or placement of any structure having a floor area greater than 400 square feet.

(b) Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land).

(c) Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to it's before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.

(d) Installing a travel trailer or recreational vehicle on a site for more than 180 days.

(e) Installing a manufactured home on a new site or a new manufactured home on an existing site. This chapter does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.

(f) Reconstruction or repairs made to a repetitive loss structure.

(g) Addition or improvement made to any existing structure with a previous addition or improvement constructed since the community's first floodplain ordinance.

(2) *Residential structures*. New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (2 feet above the base flood elevation).

Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of § 151.05(B)(4).

(3) *Non-residential structures*. New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (2 feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of § 151.05(B)(4). Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

(a) A registered professional engineer or architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the Floodplain Administrator as set forth in § 151.04(C)(12).

(b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(4) *Elevated structures*. New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG. Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:

(a) Provide a minimum of 2 openings located in a minimum of 2 exterior walls (having a total net area of not less than 1 square inch for every 1 square foot of enclosed area).

(b) The bottom of all openings shall be no more than 1 foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.

(c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(d) Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).

(e) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

(f) The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.

(g) Openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device.

(h) Property owners shall be required to execute a flood openings/venting affidavit acknowledging that all openings will be maintained as flood vents, and that the elimination or alteration of the openings in any way will violate the requirements of § 151.05(B)(4). Periodic inspections will be conducted by the Floodplain Administrator to ensure compliance. The affidavit shall be recorded in the office of the Brown County Recorder.

(i) Property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds 6 feet) shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area. The non-conversion agreement shall be recorded in the office of the Brown County Recorder.

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

(a) The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.

(b) The fill shall extend 10 feet beyond the foundation of the structure before sloping below the BFE.

(c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.

(d) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

(e) The top of the lowest floor including basements shall be at or above the FPG.

(f) Fill shall be composed of clean granular or earthen material.

(6) Standards for manufactured homes and recreational vehicles. Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet 1 of the following requirements:

(a) These requirements apply to all manufactured homes to be placed on a site outside a manufactured home park or subdivision; in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood:

1. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

2. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in § 151.05(B)(4).

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

(b) These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood:

1. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

2. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in § 151.05(B)(4).

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

(c) Recreational vehicles placed on a site shall either:

1. Be on site for less than 180 days;

2. Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

3. Meet the requirements for ***MANUFACTURED HOMES*** as stated earlier in this section.

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

(a) Shall not be used for human habitation.

(b) Shall be constructed of flood resistant materials.

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

(d) Shall be firmly anchored to prevent flotation.

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

(f) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in § 151.05 (B)(4).

(8) *Above ground gas or liquid storage tanks*. All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

(C) *Standards for subdivision proposals*.

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

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of 50 lots or 5 acres.

(5) All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.

(6) All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

(D) *Critical facility*. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

(E) *Standards for identified floodways*. Located within SFHAs, established in § 151.03(B), are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of I.C. 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (I.C. 14-28-1-26 allows construction of a non-substantial addition/ improvement to a residence in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.)

(1) No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained § 151.05 have been met. The floodplain development permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

(2) No development shall be allowed, which acting alone or in combination with existing or future development, that will adversely affect the efficiency of, or unduly restrict the capacity of the floodway. This adverse affect is defined as an increase in the elevation of the regulatory flood of at least 0.15 of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

(3) For all projects involving channel modifications or fill (including levees) the Town shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.

(F) *Standards for identified fringe*. If the site is located in an identified fringe, then the Floodplain Administrator may issue the local floodplain development permit provided the provisions contained in § 151.05 have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

(G) *Standards for SFHAs without established base flood elevation and/or floodways/fringes*.

(1) Drainage area upstream of the site is greater than 1 square mile: If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than 1 square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

(a) No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway (including letters of authorization) or a floodplain analysis/regulatory assessment citing the 1% annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

(b) Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a floodplain development permit may be issued provided the conditions of the floodplain development permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in § 151.05 have been met.

(2) Drainage area upstream of the site is less than 1 square mile: the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than 1 square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and 1% annual chance flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in § 151.05 have been met.

(3) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not increase the regulatory flood more than 0.14 of 1 foot and shall not increase flood damages or potential flood damages.

(H) *Standards for flood prone areas*. All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per § 151.05.
(Am. Ord. 2016-10, passed 11-17-2016)

§ 151.06 VARIANCE PROCEDURES.

(A) *Designation of Variance and Appeals Board*. The Board of Zoning Appeals shall hear and decide appeals and requests for variances from requirements of this chapter.

(B) *Duties of Variance and Appeals Board*. The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this chapter. Any person aggrieved by the decision of the board may appeal such decision to the Brown County Circuit Court.

(C) *Variance procedures*. Passing upon such applications, the board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and;

(1) The danger of life and property due to flooding or erosion damage.

(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(3) The importance of the services provided by the proposed facility to the community.

(4) The necessity of the facility to a waterfront location, where applicable.

(5) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.

(6) The compatibility of the proposed use with existing and anticipated development.

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(9) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site.

(10) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(D) *Conditions for variances.*

(1) Variances shall only be issued when there is:

(a) A showing of good and sufficient cause.

(b) A determination that failure to grant the variance would result in exceptional hardship.

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.

(2) No variance for a residential use within a floodway subject to § 151.05 (E) or (G)(1) may be granted.

(3) Any variance granted in a floodway subject to § 151.05(E) or (G)(1) will require a permit from the Indiana Department of Natural Resources.

(4) Variances to the Provisions for Flood Hazard Reduction of § 151.05(B), may be granted only when a new structure is to be located on a lot of 1/2 acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

(5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(6) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

(7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the flood protection grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See § 151.06 (E)).

(8) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See §151.06(E)).

(E) *Variance notification.* Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the flood protection grade shall be given written notice over the signature of a community official that:

(1) The issuance of a variance to construct a structure below the flood protection grade will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and

(2) Such construction below the flood protection grade increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

(F) *Historic structure.* Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

(G) *Special conditions*. Upon the consideration of the factors listed in § 151.06, and the purposes of this chapter, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
(Am. Ord. 2016-10, passed 11-17-2016)

Nashville - Land Usage

CHAPTER 152: SUBDIVISIONS

Section

152.01 Regulations adopted by reference

§ 152.01 REGULATIONS ADOPTED BY REFERENCE.

The town's subdivision regulations are hereby adopted by reference and incorporated herein as if set out in full.
(Am. Ord. 1986-4, passed 11-3-1986)

CHAPTER 153: ZONING CODE

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GENERAL PROVISIONS

§ 153.001 SHORT TITLE.

This chapter, and ordinances supplemental or amendatory thereto, shall be known, and may be cited hereafter as the "Zoning Code of Nashville, Indiana."
(Ord. passed 7-26-1960)

§ 153.002 INTERPRETATION.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, morals, convenience and general welfare.
(Ord. passed 7-26-1960)

§ 153.003 GREATER RESTRICTIONS OTHERWISE IMPOSED.

It is not intended by this chapter to interfere with, or abrogate or annul any easements, covenants or other agreements between parties, nor to interfere with, or abrogate or annul any ordinances, rules, regulations or permits previously adopted or issued, and not in conflict with any of the provisions of this chapter, or which shall be adopted or provided; except that where this chapter imposes a greater restriction upon the use of buildings or land, or upon the height of buildings, or requires larger open spaces or greater lot area per family than are required or imposed by the easements, covenants or agreements between parties or by the ordinances, rules, regulations or permits, the provisions of this chapter shall control.
(Ord. passed 7-26-1960)

§ 153.004 DEFINITIONS.

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

ACCESSORY BUILDING AND USE. A building or use subordinate to another structure or use located on the same lot, which does not change or alter the character of the premises and which is not used for human occupancy; and public utility communication, electric distribution and secondary power lines, gas, water and sewer lines, their supports and poles, guy-wires, small transformers, wire or cable and incidental equipment and public telephone booths.

ADMINISTERING AUTHORITY. The designated unit of government given the authority to issue permits.

AGRICULTURAL LAND USE. Use of land for the production of animal and plant life, including forestry, pasturing or yarding livestock, and planting, growing, cultivating and harvesting crops for human or livestock consumption.

AGRICULTURE USE. Any portion of land used for agriculture, including horticulture, truck gardening, floriculture, trees, grain, forage crops or any use of the same general character, but not the raising of livestock.

ALLEY. A permanent public service way providing a secondary means of access to abutting lands.

BED AND BREAKFAST ESTABLISHMENT. An operator-occupied residence which provides up to 7 guest rooms to the public for a fee, and as part of the fee provides breakfast and sleeping accommodations on a temporary basis (such as no more than 30 consecutive days to a particular guest). The term does not include hotels, motels, boarding houses or food-services establishments.

BLOCK. Property having frontage on 1 side of a street and lying between the 2 nearest intersecting or intercepting streets, or nearest intersecting or intercepting street and railroad right-of-way, waterway or other barrier.

BOARD. The Board of Zoning Appeals.

BOARDING HOUSE. A building not open to transients, where lodging and/or meals are provided for 3 or more but not over 30 persons regularly; a lodging house.

BUILDING.

(1) A structure having a roof supported by columns or walls, for the shelter, support, enclosure or protection of persons, animals, chattels or property. When separated by party walls, each portion of such a building shall be considered a separate structure.

(2) ***BUILDING*** includes ***STRUCTURE.***

BUILDING AREA. The maximum horizontal projected area of the principal and accessory buildings, excluding open steps or terraces, unenclosed porches not exceeding 1 story in height, or architectural appurtenances projecting not more than 2 feet.

BUILDING, DETACHED. A building having no structural connection with another building.

BUILDING, FRONT LINE OF. The line of the face of the building nearest the front lot line.

BUILDING, HEIGHT OF. The vertical distance measured from the lot ground level to the highest point of the roof for a flat roof; to the deck line of a mansard roof; and to the mean height between eaves and ridges for gable, hip and gambrel roofs.

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

BUILDING, PRINCIPAL. A building in which is conducted the main or principal use of the lot on which the building is situated. Where a substantial part of an accessory building is attached to the principal building in a substantial manner, as by a roof, the accessory building shall be counted as a part of the principal building.

BUILDING, TOURIST HOME. A building in which a tourist home is located.

BUSINESS. The engaging in the purchase, sale, barter or exchange of goods, wares, merchandise or services, the maintenance or operation of offices, or recreational and amusement enterprises for profit.

CAMP, PUBLIC. Any area or tract of land used or designed to accommodate 2 or more camping parties, including cabins, tents or other camping outfits.

CEMETERY. Land used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries, when operated in conjunction with and within the boundary of the cemetery.

CERTIFICATE OF OCCUPANCY. A certificate signed by the Planning Director stating that the occupancy and use of land or building or structure referred to therein complies with the provisions of this chapter.

CLINIC or ***MEDICAL HEALTH CENTER.*** An establishment where patients are admitted for special study and treatment by 2 or more licensed physicians or dentists, and their professional associates.

COMMISSION. The Town Plan Commission.

DEVELOPMENT PLAN. A drawing, including a legal or site description, of the real estate involved which shows the location and size of all existing and proposed buildings, structures and yards; location and dimension of building lines and easements; widths and lengths of all entrances and exits to and from the real estate; location of all adjacent or adjoining streets; all of which presents a unified and organized arrangement of buildings and service facilities and other improvements such as planting areas, which shall have a functional relationship to the real estate comprising the planned development and to the uses of properties immediately adjacent to the proposed development.

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

DWELLING. A building or portion thereof, used primarily as a place of abode for 1 or more human beings, but not including hotels or motels, lodging or boarding houses or tourist homes.

DWELLING UNIT. A dwelling or a portion of a dwelling used by 1 family for cooking, living and sleeping purposes.

EROSION. The detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.

EROSION CONTROL MEASURE. A practice or a combination of practices to control erosion and resulting sedimentation.

EROSION CONTROL PLAN. A written description of pertinent information concerning erosion control measures designed to meet the requirements of this chapter as submitted by the applicant for review and approval by the Town Manager.

FAMILY. One or more persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, club, nurses' home, fraternity or sorority house.

FILLING STATION. Any establishment supplying and selling motor fuel or oil direct to motor vehicles.

FIXTURE. The assembly that holds the lamp (bulb) in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing and the attachment parts.

FLOOD or ***FLOODWATER.*** The water of any lake or watercourse which is above the banks and/or outside the channel and banks of the watercourse.

FLOOD HAZARD AREA. Those floodplains which have not been protected adequately from flooding by the regulatory flood by means of dikes, levees, reservoirs or other works approved by the Natural Resources Commission.

FLOOD PROTECTION GRADE. The elevation of the lowest floor of a building or structure. If a basement is included, the basement floor is considered the lowest floor. Exception: If a commercial or industrial building is floodproofed as defined, the term ***FLOOD PROTECTION GRADE*** applies to the water surface elevation for which the building is protected.

FLOODLIGHT. A luminaire or bulb that projects light in a specific direction in a wide beam, typically 100 degrees or more.

FLOODPLAIN. The area covered by floodwaters from the regulatory (100-year) flood.

FLOODPROOFED BUILDING. A commercial or industrial building designed to exclude floodwaters from the interior of that building. All floodproofing shall be adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regulatory flood.

FLOODWAY. The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream. Areas making up a floodway may be identified by formal action of the Natural Resources Commission or established by the Department of Natural Resources on a case-by-case basis.

FLOODWAY FRINGE. Those portions of the flood hazard areas lying outside the floodway.

FULL CUTOFF (FCO). A light fixture which cuts off all upward transmission of light.

FULLY SHIELDED. A fixture with housing or attachment thereto that prevents a line of sight to the bulb when viewed from another property, and that prevents a line of sight to any part of the light source at or above a horizontal plane running through the lowest portion of the fixture.

GARAGE, PRIVATE. Any accessory building with capacity for not more than 3 motor vehicles per family, not more than 1 of which may be a commercial vehicle of not more than 3 tons GVW. A garage designed to house 2 motor vehicles for each family housed in a multi-family dwelling shall be classed as a ***PRIVATE GARAGE.***

GARAGE, PUBLIC. Any building, except those defined herein as a private garage, used for the storage or care of motor vehicles, or where the vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

GLARE. Discomfort experienced by an observer with a direct line of sight to a light source which often results in annoyance, discomfort or loss of visual performance causing visual impairment.

GROUND FLOOR AREA. The square foot area of a dwelling within its largest outside dimensions computed on a horizontal plane at the ground floor level, exclusive of open porches, breezeways, terraces, garages and exterior stairways.

GUEST ROOM.

(1) Any room or rooms used or intended to be used by a guest for sleeping purposes.

(2) Any room in a tourist home or in a bed and breakfast establishment that is equipped and/or intended for use as a bedroom, including rooms equipped with sleeper sofas.

HOME OCCUPATION. Any use conducted entirely within a dwelling and participated in solely by members of the family; which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, and in connection with which there is no commodity sold upon the premises except that which is produced thereon; and provided, however, in no event shall a

barber shop, beauty parlor, gift or antique shop, tea room or animal hospital be construed as a ***HOME OCCUPATION.***

HORIZONTAL (OR VERTICAL) FOOT-CANDLES. The amount of light striking a vertical or horizontal plane.

HOTEL. A building in which lodging is provided and offered to the public for compensation and which is open to transient guests, in contradistinction to a boarding or lodging house.

IESNA. Illuminating Engineering Society of North America.

IMPROVEMENT LOCATION PERMIT. A permit signed by the Planning Director stating that a proposed improvement complies with the provisions of this chapter and other ordinances as may be applicable.

JUNK YARD. Any place at which personal property is or may be salvaged for reuse, resale or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled or assorted; including, but not limited to used or salvaged base metal or metals, their compounds or combinations, used or salvaged rope, bags, paper, rags, glass, rubber, lumber, millwork, brick and similar property except animal matter; and used motor vehicles, machinery or equipment which is used, owned or possessed for the purpose of wrecking or salvaging parts therefrom.

JURISDICTION. The jurisdiction of the Commission; described on a map entitled "Jurisdictional Area, Nashville, Indiana," and filed with the County Recorder.

KENNEL. Any lot on which 4 or more dogs or small animals, at least 4 months of age, are kept.

LIGHT SOURCE. The bulb and lens, diffuser or reflective enclosure.

LIGHT TRESPASS. Light projected onto a property from a fixture not located on that property.

LOADING AND UNLOADING BERTHS. The off-street area required for the receipt or distribution by vehicles of material or merchandise, which in this chapter is held to be a 12-foot by 45-foot loading space with a 14-foot height clearance, paved with a suitable dust preventive or hard surface.

LOCAL MANAGER. A person who is responsible for responding to any complaints regarding the property subject to the permit and/or approval, and whose primary place of business is within a reasonable 30-minute drive from the property subject to the permit and/or approval.

LOT. A parcel, tract or area of land accessible by means of a street or place. For residential uses as set forth in this chapter, the lot shall abut upon a street or place at least 50% of the lot width prescribed for the district in which the lot is located. It may be a single parcel separately described in a deed or plat which is recorded in the office of the County Recorder, or it may include parts of or a combination of parcels when adjacent to one another and used as 1. In determining lot area and boundary lines no part thereof within the limits of a street shall be included.

LOT, CORNER. A lot at the junction of and abutting 2 or more intersecting streets.

LOT COVERAGE. The percentage of the lot area covered by the building area.

LOT, DEPTH OF. The mean horizontal distance between the front lot line and the rear lot line, measured in the general direction of the side lot lines.

LOT GROUND LEVEL. For buildings having walls adjoining 1 street only, the elevation of the sidewalk at the center of the wall adjoining the street; for buildings having walls adjoining more than 1 street, the average of the elevation of the sidewalk at the center of all walls adjoining the streets; and for buildings having no wall adjoining the street, the average level of the ground adjacent to the exterior

walls of the building. Any wall approximately parallel to and not more than 5 feet from a street is to be considered as adjoining the street.

LOT, INTERIOR. A lot other than a corner lot or through lot.

LOT LINE, FRONT. In the case of an interior lot, a line separating the lot from the street or place; and in the case of a corner lot, a line separating the narrowest frontage or the lot from the street, except in cases where deed restrictions in effect specify another street right-of-way line as the front lot line.

LOT LINE, REAR. A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular-shaped lot, a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line.

LOT LINE, SIDE. Any lot boundary line not a front lot line or a rear lot line.

LOT, THROUGH. A lot having frontage on 2 parallel or approximately parallel streets.

LOT, WIDTH. The dimension of a lot, measured between side lot lines on the building line.

LUMENS. Measure of brightness of the illumination exiting bulb.

MASTER PLAN. The complete plan, or any of its parts, for the development of the town, prepared by the Commission and adopted in accordance with Chapter 174, Acts of 1947, General Assembly of Indiana, as amended, as is now or may hereafter be in effect.

MOBILE HOME. Any vehicle, including the equipment sold as a part of a vehicle, which is so constructed as to permit its being used as a conveyance upon streets by either self-propelled or nonself-propelled means, which is designed, constructed or reconstructed, or added to by means of an enclosed addition or room in such manner as will permit the occupancy thereof as a dwelling or sleeping place for 1 or more persons, which is both used and occupied as a dwelling or sleeping place having no foundation other than wheels, jacks, skirting or other temporary supports.

MOBILE HOME PARK. An area of land upon which 2 or more mobile homes are harbored for the purpose of being occupied, either free of charge or for revenue purposes, and shall include any building, structure, vehicle or enclosure used or intended for use as a part of the equipment of the mobile home park.

MOBILE HOME TIE DOWNS: SCHEDULE A. Sufficient anchorage to resist flotation, collapse or lateral movement of any mobile home. At a minimum, the anchorage shall consist of:

(1) Over-the-top ties provided at each of the 4 corners of the mobile home, with 2 additional ties per side at intermediate locations, with mobile homes less than 50 feet long requiring only 1 additional tie per side;

(2) Frame ties provided at each corner of the home with 5 additional per side at intermediate points, and with mobile homes less than 50 feet long requiring only 4 additional ties per side;

(3) All components of the anchoring system capable of carrying a force of 4,800 pounds; and

(4) Any additions to the mobile home similarly anchored.

MOTEL. A building or a detached building, usually not more than 1 story in height, used as dwelling units containing bedroom, bathroom and closet space, and each unit has convenient access to a parking space for the use of the unit's occupants. The units, with the exception of the apartment of the manager or caretaker, are devoted to the use of automobile transients and no cooking facilities are offered. The site of the motel has direct and convenient access to a major thoroughfare.

NATURAL RESOURCES. The Indiana Natural Resources Commission.

OUTDOOR BUSINESS. Any business, either retail, service or wholesale, which has more than 5% of the square footage area for display outside of the building at any time of the year.

PARKING AREA, PUBLIC. An open area, other than a street or alley, designed for use or used for the temporary parking of more than 4 motor vehicles when available for public use, whether free or for compensation, or as an accommodation for clients or customers, paved with a suitable dust preventive or hard surface.

PARKING SPACE. A space other than on a street or alley designed for use or used for the temporary parking of a motor vehicle, and being not less than 9 feet wide and 20 feet long exclusive of passageways.

PERSON. A corporation, firm, partnership, association, organization or any other group acting as a unit, as well as a natural person or persons.

PLACE. An open, unoccupied, officially designated space other than a street or alley, permanently reserved for use as the principal means of access to abutting property.

PLAT. A map or chart indicating the subdivision or resubdivision of land, intended to be filed for record.

PRIVATE SCHOOL. Private preprimary, primary, grade, high or preparatory school or academy.

PROFESSIONAL OFFICE. Office of members of recognized professions, such as an architect, artist, attorney, dentist, engineer, physician, surgeon or other professional person.

REGULATORY FLOOD. That flood having a peak discharge which can be expected to be equaled or exceeded on the average 1 in a 100-year period, as calculated by a method and procedure which is acceptable to and approved by the State Natural Resources Commission. This flood is equivalent to a flood having a probability of occurrence of 1% in any given year.

REGULATORY FLOOD PROFILE. A longitudinal profile along the thread of a stream showing the maximum water surface elevation attained by the regulatory flood.

SIGN. Any advertising sign, billboard, or board, device, structure or part thereof, or device attached thereto or painted or represented thereon, used for advertising, display or publicity purposes. Signs placed or erected by governmental agencies for the purpose of showing street names or traffic directions or regulations for other governmental purposes shall not be included.

SPOTLIGHT. A luminaire or bulb which projects light in a specific direction in a narrow beam, typically 45 degrees or less.

STREET. A right-of-way thoroughfare, other than an alley, dedicated or otherwise legally established to the public use, usually affording the principal means of access to abutting property.

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

STRUCTURE. Anything constructed or erected which requires location on the ground or attachment to something having a location on the ground. ***STRUCTURE*** includes ***BUILDING.***

SUBSTANTIAL MODIFICATION. Any alternation, repair, enlargement or extension of an existing building. Substantial modification is considered to occur when the first alteration of any wall, ceiling, floor or other structural element of the building commences. This term does not, however, include either:

(1) Any project for improvement of a structure to comply with existing health, sanitary or safety code specifications; or

(2) Any alterations of a structure listed on the National Register of Historic Places or the State Survey of Historic, Architectural, Archaeological and Cultural Sites, Structures, Districts and Objects.

TOURIST HOME. A building in which 1 but not more than 5 guest rooms are used to provide or offer overnight accommodations to transient guests for compensation.

TOWN. The Town of Nashville, Indiana.

TOWN BOARD. The Town Board of Trustees.

TRADE OR BUSINESS SCHOOL. Secretarial or business school or college when not publicly owned or not owned or conducted by or under the sponsorship of a religious, charitable or nonprofit organization; or a school conducted as a commercial enterprise for teaching instrumental music, dancing, barbering or hair dressing, drafting or for teaching industrial or technical arts.

USE. The employment or occupation of a building, structure or land for a person's service, benefit or enjoyment.

USE, NONCONFORMING. A lawful existing use of land or building which fails to comply with the requirements set forth in this chapter applicable to the district in which the use is located.

USE, OPEN. The use of a lot without a building or including a building incidental to the open use with a ground floor area equal to 5% or less of the area of the lot.

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

VISION CLEARANCE ON CORNER LOTS. A triangular space at the street corner of a corner lot, free from any kind of obstruction to vision between the heights of 3 and 12 feet above the established street grade. The street grade is measured at the intersection of the center lines of the intersecting street pavement, and the triangular space is determined by a diagonal line connecting 2 points measured 15 feet equidistant from the lot corner along each property line.

YARD. A space on the same lot with a principal building, open, unoccupied and unobstructed by structures, except as otherwise provided in this chapter.

YARD, FRONT. A yard extending across the full width of the lot, unoccupied other than by steps, walks, terraces, driveways, lamp posts and similar structures, the depth of which is the least distance between the front lot line and the building line.

YARD, REAR. A yard extending across the full width of the lot between the rear of the principal building and the rear lot line, unoccupied other than by accessory buildings which do not occupy more than 30% of the required space, and steps, walks, terraces, driveways, lamp posts and similar structures, the depth of which is the least distance between the rear lot line and the rear of the principal building.

YARD, SIDE. A yard between the principal building and the side lot line, extending from the front yard or from the front lot line where no front yard is required, to the rear yard. The width of the required side yard is measured horizontally, at 90 degrees with the side lot line, from the nearest part of the principal building.

ZONE MAP. A map entitled "Nashville, Indiana, Zone Map, Sheets 1 and 2 of 2," dated 1959, and any amendments thereto.

(Ord. passed 7-26-1960; Am. Ord. 6679, passed 9-5-1978; Am. Ord. 1980-3, passed 1-7-1980; Am. Ord. 1993-3, passed 5-6-1993; Am. Ord. 1997-5, passed 11-20-1997; Am. Ord. 2003-04, passed 7-17-2003)

GENERAL REQUIREMENTS

§ 153.015 ESTABLISHMENT OF DISTRICTS, ZONE MAP AND DESCRIPTION OF DISTRICTS.

(A) The town is hereby classified and divided into 10 districts designated as follows:

(1) R1 - Residence District;

(2) R2 - Residence District;

(3) RB - Restricted Buffer District;

(4) B1 - Business District;

(5) B2 - Business District;

(6) B3 - Business District;

(7) I1 - Industrial District;

(8) FP - Floodplain District;

(9) FW - Floodway District; and

(10) FF - Floodway Fringe District.

(B) The zone map and flood map are described as follows:

(1) The zone map, which accompanies and is hereby declared to be a part of this chapter, shows the boundaries of and the area covered by the districts. Notations, references, indications and other matters shown on the zone map are as much a part of this chapter as if they were fully described herein.

(2) The 1975 Flood Boundary and Floodway map for the town prepared by Johnson and Anderson and published by the Federal Insurance Administration (FIA) is hereby incorporated by reference into this chapter to designate floodway boundaries. The September 23, 1977 Flood Insurance Rate Map for the town published by the Federal Insurance Administration is hereby incorporated by reference into this chapter to designate floodplain areas. The area enclosed by the flood boundaries shall be designated floodplain: it may contain floodway and floodway fringe areas. All future FIA flood boundary studies and maps for the town shall be incorporated by reference into this chapter. A floodplain district may stand alone or be combined with any other district.

(a) Large floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes such as ice or debris jams. This chapter does not imply that areas outside flood hazard districts, as defined herein, will be free of flooding or flood damage. This chapter does not create any liability on the part of the county, the Plan Commission, the Department of Natural Resources, the state, or any elected or appointed official or employee thereof for any flood damages that result from reliance on this chapter of any administrative decision lawfully made thereunder.

(b) All three districts, FP, FW and FF, are subject to flooding by the regulatory flood. The floodway and floodway fringe are always to be used together. The floodplain district is used by itself and does not overlap either of the other districts.

(c) If a high quality assessment of flood hazard areas has been made, the use of the floodway/floodway fringe combination can be used. Use of these 2 districts requires a definition of the area flooded by the 100-year flood, the breakdown of this area into the 2 districts and a profile of that flood. If flood-prone areas have been identified (with or without flood profiles) and floodway data is unavailable, the floodplain district should be used.

(C) The districts identified above are described as follows:

(1) *Residence districts*. Two districts, R1 and R2, are established for residential use in conformity with the types of neighborhoods which have occurred and are likely to develop in the areas so designated in the zone map. The districts differ

primarily with respect to requirements of lot size, ground floor area, and the number of families which may be housed in 1 building. The specific requirements for both residence districts are shown in Figure 1 of Appendix A and §§ 153.035 through 153.037. Certain nonresidential contingent uses are automatically permitted in these districts (see Figures 7 and 8 of Appendix A and § 153.110), and some special exceptions (see Figure 9 of Appendix A and § 153.111) may be permitted in them with the approval of the Board. The RB, residential buffer district, is a transitional zone between the R1 and R2 residential districts and the B1, B2 and B3 business districts. A brief description of each of the residence districts follows:

(a) *R1*. This district is established for single-family residential use in conformity with the types of neighborhoods which have occurred and are likely to develop in the areas as classified in the zone map. The specific requirements for this district are shown in Figure 1 of Appendix A. The minimum requirements for lot size, ground floor area of dwelling and lot width are the largest in this district.

(b) *R2*. This is a single-family- and 2-family-dwelling district. Requirements for minimum lot size and ground floor area of structures are considerably less stringent than the requirements for the R1 district.

(c) *RB*. This district is intended primarily as an institutional buffer zone which, because of its proximity to business uses, public uses and residential uses, is designed to serve as a transition function in land use planning.

(2) *Business districts*. Three districts, B1, B2 and B3, are established to meet the specific requirements for the several classes of business uses needed to give adequate service throughout the town as related to present and future development. Single-family, 2-family and multi-family dwellings are permitted in all of the business districts. The specific requirements for business uses in these districts are given in Figures 2, 3 and 4 of Appendix A, and §§ 153.050 through 153.053. For contingent uses permitted in the business districts, see Figures 7 and 8 of Appendix A, and for special exceptions see Figure 9 of Appendix A and § 153.111. A brief description of the business districts follows:

(a) *B1*. This district is designed and located in neighborhoods to accommodate many of the shopping and service needs of the locality. Although limited in area occupied, B1 districts are important to the economic welfare of the community in placing "convenience" and "impulse" goods shops close to the consumer. The local business uses defined in §§ 153.050 to 153.053 are permitted in all business districts.

(b) *B2*. This is a general business district providing for many types of business and service uses.

(c) *B3*. This district is designed to permit all business and service uses as well as light industry. Storage facilities and warehouses are also permitted.

(3) *Industrial districts*. One district, the I1 district, is established to meet the present and future needs of the town for industrial development. Residential use is excluded from the I1 district; business uses will be permitted. The specific requirements for industrial uses in this district are given in Figures 5 and 6 of Appendix A and §§ 153.060 through 153.062. For contingent uses and special exceptions in the industrial districts see Figures 7, 8 and 9 of Appendix A.

(4) *Floodplain district*. Designed to guide development in areas where a potential for damage from floodwaters exists. The identification of these areas may be made by the State Development of Natural Resources, the Federal Insurance Administration, the Corps of Engineers, the U.S. Geological Survey or other reliable sources. The floodplain district may stand by itself or be combined with any other district.

(5) *Floodway district*. Designed to guide development in areas identified as a floodway. The

identification of these areas may be made by the State Department of Natural Resources, the Federal Insurance Administration, the Corps of Engineers, the U.S. Geological Survey or other reliable sources; provided, however, that all such identification shall be made in compliance with the current rules, procedures and policies of Natural Resources. Natural Resources exercises primary jurisdiction in the floodway district. Under the provisions of I.C. 1971, 13-2-22, however, the Commission may impose terms and conditions on any permit it issues in this district which are more restrictive than those imposed by Natural Resources. The floodway district may stand by itself or be combined with any other district.

(6) *Floodway fringe district*. Designed to guide development in areas subject to potential flood damage but outside an identified floodway district. The identification of these areas may be made by the State Department of Natural Resources, the Federal Insurance Administration, the Corps of Engineers, the U.S. Geological Survey or other reliable source.

(D) In the FF and FW districts established herein, the degree of flood protection established in this chapter is considered reasonable for regulatory purposes and is based on engineering and scientific considerations.
(Ord. passed 7-26-1960; Am. Ord. 6679, passed 9-5-1978; Am. Ord. 1980-2, passed 1-7-1980; Am. Ord. 2004-02, passed 2-19-2004)

§ 153.016 DETERMINATION AND INTERPRETATION OF DISTRICT BOUNDARIES.

(A) In determining the boundaries of districts, and establishing the regulations applicable to each district, due and careful consideration has been given to existing conditions, the character of buildings erected in each district, the most desirable use for which the land in each district may be adapted, and the conservation of property values throughout the town.

(B) When the exact boundaries of a district are uncertain, they shall be determined by use of the scale in the zone map or, in the case of floodplain, by the State Department of Natural Resources, the Corps of Engineers, the U.S. Geological Survey or other reliable source. In the case of further uncertainty concerning boundaries other than floodplain boundaries, the Board shall interpret the intent of the zone map as to the location of the boundary in question.
(Ord. passed 7-26-1960; Am. Ord. 6679, passed 9-5-1978)

§ 153.017 PROCEDURE RELATING TO ANNEXED OR VACATED AREAS.

(A) Territory which may hereafter be annexed to the town shall remain in the same district.

(B) Whenever any street, alley, public way, railroad right-of-way, waterway or other similar area is vacated by proper authority, the districts adjoining each side of the street, alley, public way, railroad right-of-way, or similar areas shall be extended automatically to the center of the vacation, and all area included in the vacation shall then and thenceforth be subject to all appropriate regulations of the extended districts. In the event of a partial vacation, the adjoining district or district nearest the portion vacated shall be extended automatically to include all of the vacated area.
(Ord. passed 7-26-1960)

§ 153.018 USE.

No building or land shall be used and no building shall be erected, reconstructed or structurally altered, which is arranged, intended or designed to be used for any purpose other than a use which is permitted and specified in a district in which the building or land is located.
(Ord. passed 7-26-1960) Penalty, see § 153.999

§ 153.019 HEIGHT.

No building shall be erected, reconstructed or structurally altered to exceed in height the limits established and specified for the use and the district in which the building is located.
(Ord. passed 7-26-1960) Penalty, see § 153.999

§ 153.020 YARD, LOT AREA AND SIZE OF BUILDING.

No building shall be erected, reconstructed or structurally altered in any manner which will encroach upon or reduce in any manner the yards, lot area per family, ground floor area of residential buildings or lot coverage regulations, established and specified for the use and the district in which the building is located.
(Ord. passed 7-26-1960) Penalty, see § 153.999

§ 153.021 LOTS.

Every building hereafter erected shall be located on a lot. In no case shall there be more than 1 principal building used for residential purposes, and its accessory buildings, located on 1 lot.
(Ord. passed 7-26-1960) Penalty, see § 153.999

§ 153.022 PARKING SPACES; LOADING AND UNLOADING BERTHS.

Every building hereafter erected shall provide parking space for motor vehicles and loading and unloading berths as specified hereinafter for the use to which the building is to be devoted.
(Ord. passed 7-26-1960) Penalty, see § 153.999

§ 153.023 DESIGN REVIEW.

(A) *Regulatory goals.* The Town Council declares that the following goals are to guide the evaluation of all construction and/or other design changes that are subject to design evaluation:

(1) To preserve the natural beauty of Nashville, Indiana and protect the village character of the town;

(2) To encourage originality, flexibility and innovation in site planning and development;

(3) To discourage monotonous, drab, unsightly, dreary and inharmonious developments;

(4) To protect and improve property values;

(5) To foster community pride and spirit so as to improve the quality and quantity of citizen participation in local government and in community growth, change and improvement;

(6) To sustain the comfort, health, tranquillity and contentment of residents by reason of the town's favorable built and natural environments; and

(7) To preserve distinctive examples of existing architecture that have contributed to the historic development of Nashville, Indiana's unique village character.

(B) *Development Commission established.*

(1) The Town Council hereby establishes a development review authority and delegates this function to a 9-person Development Review Commission. The Development Review Commission is to be formed by each Council member appointing an individual of his or her choice to serve on the committee for the length of term of the appointing Council member unless removed and replaced by the appointing Council member.

(2) In addition to the appointments made by the Town Council, 1 appointment shall be made by each of the following groups: Brown County Chamber of Commerce, Brown County Visitors and Conventions Bureau, Office of the Town Clerk-Treasurer, and by the Brown County Economic Development Commission.

(3) That the Town Manager/Town Administration shall not be a voting member.

(C) *General design regulations*. In order to protect the unique qualities and characteristics of the business districts, all exterior changes to commercial properties located within the B1, B2, B3 and RB land use districts shall be subject to the following requirements:

(1) The modification shall respect and be compatible with the architectural character and scale of the existing structure;

(2) The modification shall complement the existing scale and design of the district;

(3) The modification shall not create visual clutter through an excessive number of uncomplimentary design elements; and

(4) The modification shall not incorporate colored materials, patterns, or other design elements that:

(a) Call attention to the store front;

(b) Create a form of advertising or sign;

(c) Would render the store front unusable by a subsequent business occupant without further remodeling; or

(d) Create a standardized identification with a particular business use.

(D) *Design evaluation*. Development review is an open and public, discretionary process used to review all projects required by this title including:

(1) All exterior site, building design, lighting, landscaping, color and material changes in all business districts;

(2) All site and building design changes as specified within designated specific plan areas;

(3) All exterior changes to buildings, lighting and landscaping in all business districts; and

(4) All fences, walls and other incidental improvements in all business districts.

(E) *Criteria and standards*. The following standards shall be utilized by the Commission in reviewing the plans, drawings, sketches, and other documents. These standards are intended to provide a frame of reference for the application in the development of site and building plans, as well as a method of review for the Commission:

(1) Preservation of landscape;

(2) Relation of proposed buildings to environment;

(3) Drives, parking and circulation;

(4) Lighting;

(5) Surface water drainage;

(6) Utility service;

(7) Advertising features; and

(8) Special features.

(F) *Required plans*. Drawings and plans shall be submitted in sufficient detail to illustrate clearly the design for which approval is sought. The plans shall show the following:

(1) Existing conditions, contours, public and private trees and natural features; all structures and uses, improvements, public streets, rights-of-way, public and private easements and restrictions; and the official grade of the adjacent public right-of-way;

(2) Site plan showing proposed structures, contours, site developments, landscaping and natural features retained; parking and loading facilities, trash storage areas, circulation, public rights-of-way, public and private easements; and public and private trees; that to be removed or to be retained and sufficient other information;

(3) Architectural elevations, colors, lighting, material to be used in or about the exterior of the structure; and

(4) Such other information as may be required by the Design Review Committee to permit reasonable consideration of the application.

(G) *Application for design approval.* Application for design review approval shall be submitted to the Town Manager on forms provided by the town for that purpose. The application shall be accompanied by the required fees as set forth by resolution of the Town Council.
(Ord. 2002-07, passed 5-16-2002; Am. Ord. 2003-04, passed 7-17-2003)

(H) *Fees.*

(1) The fees for the application for design are as follows:

(a) Landscaping that is approved in house will not require a fee; and

(b) All other applications: $25

(2) A waiver of fees can be issued by the Town Manager.
(Res. 2003-05, passed 7-17-2003; Am. Ord. 2006-01, passed 3-16-2006; Am. Ord. 2006-07, passed 6-29-2006; Am. Ord. 2006-01, passed 3-16-2006; Am. Ord. 2006-07, passed 6-29-2006; Am. Ord. 2013-09, passed 9-19-2013; Am. Ord. 2015-18, passed 12-17-2015)

§ 153.024 DRIVEWAY PERMITS; ACCESS STANDARDS.

(A) *Applicability; purpose.*

(1) This section shall apply to all persons, firms, partnerships, associations, corporations, companies or organizations of any kind in the town limits, hereafter referred to as citizens.

(2) The purpose of this section is to regulate access to all streets, alleys and other public rights-of-way in the town limits and to ensure proper traffic flow conformance with established standards and adequate drainage.

(B) *Private drive.*

(1) No private drive or other access way shall be made onto any town street without a specific permit.

(2) No entrance shall be more than 5 feet to the adjacent property line, and no approach shall be so constructed that any part of the same extends in front of property.

(3) All drainage pipes or tiles used in the construction of driveways and approaches shall be a minimum of 12 inches in diameter and as much larger as the Street Department shall deem necessary for proper drainage.

(4) All driveways and approaches shall be so constructed that they shall not interfere with drainage of or cause erosion to the street.

(5) All disturbed areas shall be fertilized and seeded or sodded to prevent erosion.

(6) The construction of driveways and approaches shall not interfere with any existing structure, utility or any town right-of-way without specific permission.

(7) All entrances and approaches shall be so located as to provide adequate sight distance in both directions.

(8) No entrance or approach shall be located or constructed so as to interfere with or prevent the proper location of necessary street signs.

(9) The permittee shall assume responsibility for all maintenance of the approaches from the right-of-way line to the edge of the traveled street.

(10) No entrance or approach shall be relocated or its dimensions altered.

(11) The permittee shall assume all responsibility for the injury or damage to persons or property resulting directly or indirectly from the construction of any approach or driveway.

(12) The permittee shall remove or relocate any entrance or approaches when requested to do so by the Town Superintendent, in interest of safety to town street traffic.

(13) The right-of-way adjacent to or between the approaches may be graded at the permittee's expense, subject to drainage requirements as determined by the Town Superintendent.

(14) All work shall be done in accordance with the approved plans and the latest issue of the Indiana State Highway Standard Specifications, and shall meet the approval of the Town Superintendent.

(15) No driveway or other vehicle access road onto a town street shall be less than 10 feet in width as measured along the private property line for a single-family residential access, or less than 24 feet as measured along the private property line for all other accesses.

(C) *Existing private drives.*

(1) The Town Superintendent may require the removal and replacement of existing private drives and/or the drainage pipe and tiles for existing private drives.

(2) The cost of all drainage pipes or tiles required by the Town Superintendent to be replaced shall be paid by the property owner.

(3) The Town Superintendent may furnish such assistance as may be necessary for the removal and replacement of existing drives and/or the drainage pipes and tiles.

(4) All work on existing drives shall be in accordance with the access standards set forth in division (C) of this section and shall be acceptable to and approved by the Town Superintendent.

(D) *Permit application; fees.*

(1) No person shall cut, dig, trench or otherwise interfere with the surface or subsurface, or any town street which is part of the town street system, or the easement adjacent to any street.

(2) A form shall be developed and used for the application by any person seeking a permit to construct a driveway onto any town street, or on the right-of-way adjacent thereto.

(3) The following schedule of fees shall be charged for driveway permits onto the town streets.

Fees	
Private drive	$5
Commercial drive	$50
Subdivision entrance	$150

(Ord. 2003-04, passed 7-17-2003)

§ 153.025 LIGHTING TRESPASS.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

FIXTURE. The assembly that holds the lamp (bulb) in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing and the attachment parts.

FLOODLIGHT. A luminaire or bulb which projects light in a specific direction in a wide beam, typically 100 degrees or more.

FULL CUTOFF (FCO). A light fixture which cuts off all upward transmission of light.

FULLY SHIELDED. A fixture with housing or attachment thereto which prevents a line of sight to the bulb when viewed from another property,

and which prevents a line of sight to any part of the light source at or above a horizontal plane running through the lowest portion of the fixture.

GLARE. Discomfort experienced by an observer with a direct line of sight to a light source which often results in annoyance, discomfort or loss of visual performance causing visual impairment.

HORIZONTAL (OR VERTICAL) FOOT-CANDLES. The amount of light striking a vertical or horizontal plane.

IESNA. Illuminating Engineering Society of North America.

LIGHT SOURCE. The bulb and lens, diffuser or reflective enclosure.

LIGHT TRESPASS. Light projected onto a property from a fixture not located on that property.

LUMENS. Measure of brightness of the illumination exiting a bulb.

SPOTLIGHT. A luminaire or bulb which projects light in a specific direction in a narrow beam, typically 45 degrees or less.

(B) *Regulation.*

(1) It is unlawful for any person, firm or corporation to install, erect or maintain any floodlight, searchlight, security light or other form or type of light source within the limits of the town in such manner that the light rays from this lighting fail to conform with the terms and conditions of this section, and that the light therefrom may distract the attention of any vehicle driver from the operation of a vehicle in a safe and prudent manner.

(2) On all properties except those zoned R1 and R2, the installation or replacement of any outdoor lighting fixtures shall require approval. Approval may not be issued unless the proposed installation is found by the Town Council to conform to all applicable provisions of this section.

(3) All properties within the town must comply with the terms of this section.

(C) *Light trespass.* The maximum illumination at 5 feet inside an adjacent residential parcel or public right-of-way, or beyond, from light emitted from an artificial light source, is 0.05 horizontal foot-candles and 0.05 vertical foot-candles. This illumination likewise measured inside an adjacent commercial or industrial parcel or on a public roadway, or beyond, shall not exceed 0.1 horizontal foot-candles or 0.1 vertical foot-candles. No line of sight to a glaring light source is permitted from 5 feet or more inside a residential or public right-of-way property line by an observer viewing from a position that is level with or higher than the ground below the fixture. Compliance is achieved with fixture shielding, directional control designed into the fixture, fixture location, fixture height, fixture aim or a combination of these factors.

(D) *General lighting design.*

(1) *General.*

(a) The bulbs in outdoor light fixtures emitting from 600 to 1,200 lumens shall be frosted glass or covered by frosted glass or other similarly translucent cover. An outdoor light fixture emitting more than 1,200 lumens except motion detector-activated lighting shall be full cutoff and fully shielded to an observer at the property line. This can be achieved with fixture location, mounting height, natural artificial barriers on the fixture owner's property, fixture shielding and other fixture design features.

(b) A spotlight of less than 1,800 lumens need not be full cutoff or covered by a translucent cover if its center beam is aimed at a point not beyond any property lines and no higher than 45 degrees below the horizontal, and is motion detector-activated and cycles off after 5 minutes.

(c) Generally, luminaires should not be located closer to the property line than a distance equal to 3 times the fixture's mounting height above grade at the property line.

(d) The use of search lights, laser lighting or lights that pulse, flash, rotate or simulate motion for advertising or promotions is prohibited.

(e) Emergency lighting and traffic control lighting is exempt.

(f) Tower lighting shall not be permitted unless required by the FAA. Required lighting shall be of the lowest allowed intensity and red unless specifically forbidden under FAA requirements.

(g) At the close of business, all lighting shall be reduced to a level not greater than those described in division (D)(5) below.

(h) With the exception of structures having exceptional symbolic significance such as churches and/or public buildings of historic significance in the community, exterior buildings and other vertical structures shall not be illuminated. When buildings and other structures having symbolic or historic significance are to be illuminated, the design for the illumination must be approved by the Town Council.

(2) *Buildings and other vertical structures*.

(a) The maximum illumination on any vertical surface or angular roof surface shall not exceed 5.0 foot-candles.

(b) Lighting fixtures shall be carefully located, aimed and shielded so that light is directed only onto the building surface. Lighting fixtures shall not be directed toward adjacent streets or roads.

(c) Lighting fixtures mounted on the building and designed to "wash" the building surface with light are preferred.

(d) To the extent practicable, lighting fixtures shall be directed below the horizontal rather than above the horizontal.

(3) *Landscaping*. When landscaping is to be illuminated, the Town Council shall first approve a landscape lighting plan that presents the purpose and objective of the lighting, shows the location of all lighting fixtures and what landscaping each is to illuminate, and demonstrates that the installation will not generate excessive light levels, cause glare or direct light beyond the landscaping into the night sky.

(4) *Externally illuminated signs*.

(a) The average level of illumination on the vertical surface of the sign shall not exceed 3.0 foot-candles, and the ratio of average to minimum illumination shall not exceed 2:1.

(b) Lighting fixtures illuminating signs shall be carefully located, aimed and shielded so that light is directed only onto the sign façade. Lighting fixtures shall not be aimed toward adjacent streets, roads or properties.

(c) Light fixtures illuminating signs shall be of a type such that the light source is not directly visible from adjacent streets, roads or properties.

(d) To the extent practicable, fixtures used to illuminate signs shall be top-mounted and directed below the horizontal.

(5) *Parking lot lighting*. Parking lot lighting shall be designed to provide the minimum lighting necessary to ensure adequate vision and comfort in parking areas, and to not cause glare or direct illumination onto adjacent properties or streets.

(a) All lighting fixtures serving parking lots shall be cut-off fixtures.

(b) Mounting heights of lighting fixtures shall not exceed 20 feet.

(c) The minimum illumination level shall be no more than 0.4 foot-candles. The ratio of the average illumination to the minimum illumination shall be 4:1.

(6) *Lighting levels on exterior display/sales areas.*

(a) Lighting levels on exterior display/sales areas shall be adequate to facilitate the activities taking place in these locations. Lighting of these areas shall not be used to attract attention to the businesses. Signs allowed under local ordinance are to be used for that purpose.

(b) The applicant shall designate areas to be considered display/sales areas and areas to be used as parking or passive vehicle storage areas. This designation must be approved by the Town Council.

1. Areas designated as parking or passive vehicle storage areas shall be illuminated in accordance with the requirements for parking areas suggested elsewhere in this section.

2. Areas designated as exterior display/sales areas shall be illuminated so that the average horizontal illuminance at grade level is no more than 5.0 foot-candles. The ratio of average to minimum illuminance shall be no greater than 4:1. The average and minimum shall be computed for only that area designated as exterior display/sales area.

3. Light fixtures shall be cutoff fixtures and shall be located, mounted, aimed and shielded so that direct light is not cast onto adjacent streets or properties.

4. Fixtures shall be mounted no more than 20 feet above grade, and mounting poles shall be located either inside the illuminated area or no more than 10 feet away from the outside edge of the illuminated area.
(Ord. 2003-04, passed 7-17-2003)

(7) *Lighting of walkways/bikeways and parks.* Where special lighting is to be provided for walkways, bikeways or parks, the following requirements shall apply:

(a) The walkway, pathway or ground area shall be illuminated to a level of no more than 0.5 foot-candles;

(b) The vertical illumination levels at a height of 5 feet above grade shall be no more than 0.5 foot-candles; and

(c) Lighting fixtures shall be designed to direct light downward, and light sources shall have an initial output of no more than 1,000 lumens.

(8) *Lighting of gasoline station/convenience store aprons and canopies.* Lighting levels on gasoline station/convenience store aprons and under canopies shall be adequate to facilitate the activities taking place in those locations. Lighting of these areas shall not be used to attract attention to the businesses. Signs allowed under local ordinance are to be used for that purpose.

(a) Areas on the apron away from the gasoline pump islands used for parking or vehicle storage shall be illuminated in accordance with the requirements for parking areas set forth elsewhere in this section. If no gasoline pumps are provided, the entire apron shall be treated as a parking area.

(b) Areas around the pump islands and under canopies shall be illuminated so that the minimum horizontal illuminance at grade level is no more than 5.5 foot-candles. The ratio of average to minimum illuminance shall be no greater than 4:1. This yields an average illumination level of no more than 22.0 foot-candles.

(c) Light fixtures mounted on canopies shall be recessed so that the lens cover is recessed or flush with the bottom surface of the canopy and/or shielded by the fixture or the edge of the canopy so that light is restrained to no more than 85 degrees beyond the vertical plane.

(d) As an alternative to recessed ceiling lights, indirect lighting may be used where light is beamed upward and then reflected down from the underside of the canopy. In this case light fixtures must be shielded so that direct illumination is focused exclusively on the underside of the canopy.

(e) Lights shall not be mounted on the top or sides of the canopy, and the sides of the canopy shall not be illuminated.

(9) *Lighting of outdoor facilities*. Outdoor nighttime facilities (concerts, athletic contests and the like) have unique lighting needs. Illumination levels vary, depending on the nature of the activity. The regulations in this section are intended to allow adequate lighting for such events while minimizing skyglow, reducing glare and unwanted illumination of surrounding streets and properties and reducing energy consumption. The design plan shall include a discussion of the lighting requirements of various areas and how those requirements will be met.

(E) *Site plans*.

(1) (a) Outdoor lighting installations involving the installation or replacement of 2 or fewer lighting fixtures may be approved by the Town Manager, provided that no single lamp exceeds 150 watts, and that the total wattage of all bulbs in all fixtures does not exceed 300 watts. All other installations must be approved by the Town Council.

(b) The applicant shall submit to the town sufficient information, in the form of an overall exterior lighting plan, to enable the town to determine that the applicable provisions will be satisfied.

(2) The lighting plan shall include at least the following items:

(a) A site plan, drawn to a scale of 1 inch equaling no more than 20 feet, showing buildings, landscaping, parking areas and all proposed exterior lighting fixtures;

(b) Specifications for all proposed lighting fixtures including photometric data, designation as cutoff fixtures and other descriptive information on the fixtures;

(c) Proposed mounting height of all exterior lighting fixtures;

(d) Analyses and illuminance level diagrams showing that the proposed installation conforms to the lighting level standards in this section; and

(e) Drawings of all relevant building elevations showing the fixtures, the portions of the walls to be illuminated, the illuminance levels of the walls and the aiming points for any remote light fixtures.

(3) (a) Wherever practicable, lighting installations shall include timers, dimmers and/or sensors to reduce overall energy consumption and eliminate unneeded lighting.

(b) When an outdoor lighting installation is being modified, extended, expanded or added to, the entire outdoor lighting installation shall be subject to the requirements of this section.

(c) Expansions, additions or replacements to outdoor lighting installations shall be designed to avoid harsh contrasts in color and/or lighting levels.

(d) Electrical service to outdoor lighting fixtures shall be underground, unless the fixtures are mounted directly on utility poles.

(e) Proposed lighting installations that are not covered by the special provisions in this section may be approved only if the Town Council finds that they are designed to minimize glare, do not direct light beyond the boundaries of the area being illuminated or onto adjacent properties or streets, and do not result in excessive lighting levels. In general IESNA standards shall be used to determine the appropriate lighting design.

(f) For the purposes of these regulations, the mounting height of a lighting fixture shall be defined as the vertical distance from the grade elevation of the surface being illuminated to the bottom of the lighting fixture.

(g) The Town Council may modify the requirements of this section if it determines that, in so doing, it will not jeopardize achievement of the intent of these regulations.

(F) *Exemptions*.

(1) The temporary use of low wattage or low voltage lighting for public festivals, celebrations and the observance of holidays is exempt from this section except where they create a hazard or nuisance from glare. However, consideration to light trespass requirements shall be demonstrated prior to commencing the use of the temporary lighting. Commercial activities exempt under this provision of the section shall only be able to use this exemption for 1 occurrence per year. All activities exempt under this provision shall be exempt for a period not to exceed 10 consecutive days, and whenever possible lighting should be FCO.

(2) All other lighting existing or installed on the date of this section which does not conform with this section shall be exempt under the following conditions:

(a) The exemption shall expire 7 years after the adoption date of this section;

(b) Lighting found by a governmental agency to create a public hazard can be ordered removed or altered at any time;

(c) On the effective date of the section, any light installation which provides for re-aiming of the fixture shall be brought in compliance with the terms of this section without delay;

(d) Upon repair or replacement of any component of any luminaire, or relocation of any luminaire, that luminaire shall be brought in compliance with the terms of this section at the completion of the repair or replacement;

(e) Upon installation of any new luminaire, this section shall fully apply. An inventory of existing lighting submitted by the applicant will be required when the application for installing new luminaire(s) is made;

(f) Upon the transfer of ownership of an existing business or property, the exemption shall expire and all terms of this section shall apply; and

(g) At the close of business all lighting shall be reduced to a level not greater than those described in division (D)(5) of this section.

(G) *Street lighting*.

(1) Street lighting owned, operated, maintained or leased by the town shall be exempt, understanding that a good-faith effort shall be made to comply with the following conditions:

(a) All new, repaired or replaced shall be full cutoff fixtures and that IESNA guidelines shall be considered. However, the design for an area may suggest the use of street light fixtures of a particular period or architectural style as an alternative if the following items are considered:

1. The maximum initial lumens generated by each fixture does not exceed 2,000;

2. The mounting height of the alternative fixture does not exceed 15 feet; and

3. That alternative lighting be approved in a public hearing in accordance with I.C. 5-3-1. Public comment regarding the alternative lighting standard will be considered at that time.

(b) Street lights shall be located in the public right-of-way or on easements acquired for that purpose.

(c) If the street has a sidewalk along 1 side, the street lights will generally be limited to the sidewalk side of the street.

(2) (a) Street lighting which causes light to trespass onto or into a neighboring parcel and causes an annoyance or disturbs the person(s) who own the neighboring parcel shall seek relief through the Town Council.

(b) The Town Council shall hold a hearing on the matter in a meeting published in accordance with I.C. 5-3-1. The complaint and possible solution will be considered at that time.

(H) *Injunction*. A person who installs or causes to be installed various forms and types of lights as described heretofore in violation of this section is subject to a suit for injunction. This violation shall be punishable by a maximum fine of $1,000. The Town Attorney is authorized to bring any enforcement action for injunctive relief through the Brown Circuit Court, and the town shall be entitled to recover attorneys' fees and costs as assessed at the discretion of the Court against the offending business.
(Am. Ord. 2003-04, passed 7-17-2003)

(I) *Immunity for prosecution*. The town and its designees, the Town Marshal and all other departments and agencies, and all other town officers, agents and employees, charged with enforcement of state and local laws and code shall be immune from prosecution, civil or criminal, for reasonable, good-faith enforcement of this section while acting within the scope of authority conferred by this section.
(Ord. 2000-01, passed 6-15-2000)
Penalty, see § 153.999

§ 153.026 COLORED LIGHTING.

(A) *Purpose*.

(1) The welfare of Nashville is inextricably tied to its scenic, historical and architectural characteristics. In order to protect these characteristics and to ensure the safety of pedestrians and vehicular traffic, it is necessary to establish public regulations of neon, argon, xeon, helium, fluorescent and any and all other types of colored lighting visible from the streets and public ways of the town.

(2) Therefore, it is the intent of this section to:

(a) Control the prominence of lighting in as fair and as impartial a way as possible; and

(b) Prohibit lighting which may cause confusion for or block or impair the vision of pedestrians, which may pose distraction to pedestrian or vehicular traffic on roads or the intersections of streets and roadways.

(B) *Definition*. For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

COLORED LIGHTING. Any lighting inside a window display area of a business which is visible to pedestrian and vehicular traffic or which is on the outside of any business or outbuilding, which is any color other than white, clear or natural light such as neon, argon, xeon, helium or fluorescent lighting which is used in and of itself as a lighting mechanism, or in combination with any coloring process which produced colored lighting, including but not limited to painted tubing or plastic sheathing or any type which would produce colored lighting. However, this shall not include any official court or public lighting of the flag, emblem insignia of a government or otherwise when displayed for official purposes. Additionally, this section shall not apply to seasonal lighting between September 15 and January 15.

(C) *Injunction*. A person who installs or causes to be installed the colored lighting as described heretofore in violation of this section is subject to a suit for injunction. This violation shall be punishable by a maximum fine of $1,000. The Town Attorney is authorized to bring any enforcement action for injunctive relief through the Brown Circuit Court, and the town shall be entitled to recover attorneys' fees

and costs as assessed at the discretion of the Court against the offending business.

(D) *Immunity for prosecution.* The town and its designees, the Town Marshal and all other departments and agencies, and all other town officers, agents and employees, charged with enforcement of state and local laws and code shall be immune from prosecution, civil or criminal, for reasonable, good-faith enforcement of this section while acting within the scope of authority conferred by this section.
(Ord. 1999-1, passed 5-13-1999; Am. Ord. 2006-09, passed 9-7-2006)

RESIDENTIAL DISTRICTS

§ 153.035 RESIDENTIAL USES.

The residential uses defined below, including accessory buildings and uses, are permitted in the districts indicated in Figure 1 of Appendix A when complying with the requirements listed therein, subject to the provisions of §§ 153.036 and 153.111.

SINGLE-FAMILY DWELLING. A detached building designed for or occupied by 1 family exclusively.

2-FAMILY DWELLING. A detached building designed for or occupied by 2 families.

MULTI-FAMILY DWELLING. A building designed for or occupied by 3 or more families, exclusively for dwelling purposes.
(Ord. passed 7-26-1960; Am. Ord. 6679, passed 9-5-1978) Penalty, see § 153.999

§ 153.036 ADDITIONAL PROVISIONS.

(A) *Area and width.* A single-family dwelling may be located on any lot in any district in which single-family dwellings are permitted, if the lot was in single ownership or included in a subdivision which was of record in the office of the County Recorder at the time of passage of this chapter, even though the lot does not have the minimum lot width or the minimum lot area specified for the district.

(B) *Rear yard.* One-half of an alley abutting the rear of the lot may be included in the required rear yard.

(C) *Accessory buildings and uses.*

(1) Accessory buildings are permitted in all districts, but not prior to the erection of the principal building.

(2) No accessory building shall be located closer to a side lot line than 4 feet nor exceed 18 feet in height and, if detached from the principal building, shall be set back at least to the rear line of the principal building.

(3) Accessory uses such as public utility installations, walks, driveways, curbs, retaining walls, mail boxes, name plates, lamp posts, birdbaths and structures of a like nature are permitted in any required front, side or rear yard. Fences, latticework, screens, hedges or walls, not more than 7 feet in height, and private swimming pools surrounded by a fence of at least 5 feet high, may be located in the required side or rear yard, and a hedge or attractive fence, maintained so as not to exceed 3 feet in height, may be located in any front yard; provided, however, that nothing contained in this chapter shall be deemed to prohibit the construction or maintenance of a fence of any height in connection with an agriculture use. Trees, shrubs, flowers or plants shall be permitted in any required front, side or rear yard, except that vision clearance on corner lots shall be provided when required.

(D) *Front yard.*

(1) Where 25% or more of the lots in the block are occupied by buildings, the average setback of the buildings determines the dimension of the front yard in the block.

(2) Building lines or building setback lines established in a recorded subdivision shall establish the dimension of front yards in the subdivisions, except when the building setback lines may be less restrictive as provided in § 153.003.

(3) On through lots a front yard is required on each street.

(E) *Tapered yard*. Where a reversed interior lot abuts a corner lot, or an alley separating the lots, an accessory building located on the rear lot line of a corner lot shall be set back from the side street as far as the dwelling on the reversed interior lot. For each foot that the accessory building is placed from the rear lot line toward the front lot line of the corner lot, the accessory building may be set 4 inches closer to the side street line, but in no case closer than 5 feet.

(F) *Floodway fringe or floodplain district*. In a floodway fringe or floodplain district, the following requirements shall be met in addition to other provisions of this chapter:

(1) All residential buildings or additions to existing residential buildings shall have flood protection grades at least 2 feet above the regulatory flood profile;

(2) All mobile homes must have pads (either concrete or stands of compacted fill) at or above the elevation of the regulatory flood. Further, all mobile homes shall be provided with ground anchors meeting Mobile Home Tie Downs, Schedule A;

(3) On-site waste disposal systems must be located so as to avoid impairment of them or contamination from them during the occurrence of the regulatory flood; and

(4) All structures shall be built so as to minimize obstructions to the flow of floodwater.

(G) *Floodway district*. In a floodway district, the following requirements shall be met in addition to the other provisions of this chapter:

(1) No residential buildings shall be permitted;

(2) Floodproofing of nonresidential structures is permitted but must conform to the definition of a floodproofed building as set forth in this chapter and must be so certified by a professional engineer or registered architect licensed to practice in the state; and

(3) Any structure permitted in a floodway shall be constructed on the site so as to minimize obstruction to the flow of floodwater.
(Ord. passed 7-26-1960; Am. Ord. passed 9-9-1963; Am. Ord. 6679, passed 9-5-1978) Penalty, see § 153.999

§ 153.037 RESTRICTED BUFFER DISTRICT.

(A) This district is intended primarily as an institutional buffer zone which, because of its proximity to business uses, public uses and residential uses, is designed to serve as a transition function in land use planning. This district is not intended to be commercial in character and is deemed to include uses of compatible characteristics.

(B) The conduct of the permitted uses in this district shall be within completely enclosed buildings except for accessory offstreet parking and loading facilities as set forth below.

(1) *Permitted uses*. The following uses are permitted, provided they are conducted within a structure, residential in character, and that the residential character is maintained:

(a) Multi-family dwellings;

(b) Group housing, including rooming and boarding houses, elderly housing and nursing homes;

(c) Children's homes, day care nurseries and kindergartens;

(d) Educational institutions, special schools, vocational schools and music and art studios;

(e) General business office uses, including medical and dental clinics, provided that no retail activity is carried on with the general public and no stock of goods is maintained for sale;

(f) Public and semi-public uses, including but not limited to museums, libraries, parks, churches, community centers, exhibition and halls, convention centers, galleries and facilities for the production of live theater;

(g) Accessory uses which are incidental to, maintained on the same lot and commonly associated with the operation of a permitted use;

(h) Home occupations, as defined in this chapter; and

(i) Beauty and barber shops that have no more than 2 barbers, stylists, beauticians or other operators.
(Ord. 2000-6, passed 11-16-2000)

(2) *Uses permitted by special exception.* The following special uses shall be permitted by special exception in the RB district upon approval of the Board of Zoning Appeals;

(a) All the uses provided in § 153.035, in a structure not residential in character;

(b) Mortuaries and funeral parlors;

(c) Hospitals and sanitariums, provided the uses not be primarily for mental, drug or liquor patients;

(d) Institutional uses, including philanthropic and charitable uses, offstreet parking reservoir facilities and similar institutional uses;

(e) Buildings in excess of 30 feet in height, provided that additional front, side and rear setback distances shall be provided to the minimum extent of 2 feet for each 5 feet in height over the 30feet; provided further, the building height shall not exceed 50 feet;
(Ord. 1980-2, passed 1-7-1980; Am. Ord. 1980-6, passed 3-3-1980)

(f) Beauty and barber shops that have more than 2 barbers, stylists, beauticians or other operators; and

(g) Tourist Homes Source Town Ordinance 97-5 which amended the restricted buffer area to permit tourist homes as a special exception use in the RB district.
(Ord. 2000-6, passed 11-16-2000) Penalty, see § 153.999

VILLAGE DISTRICT

§ 153.040 ESTABLISHING THE VILLAGE DISTRICT.

(A) The Village District has been traditionally characterized by tourist-oriented gift shops and food service accommodations, the prosperity of which is linked directly to the prosperity of the town. It is therefore hereby ordained that the following areas be established as the Village District:

(1) Starting at the intersection of Mound Street and Bittersweet Lane, proceed southward on Bittersweet Lane to the intersection of Bittersweet Lane and Washington Street.

(2) Then proceed eastward on Washington Street to the intersection of Washington Street and School House Lane.

(3) Then proceed northward on School House Lane to the intersection of School House Lane and Main Street.

(4) Then proceed westward on Main Street to the southwestern-most corner of Lot Number Four (4) of the "one hundred commercial" plat, then proceed northward to the northern-most west corner of Lot Number Five (5) of the "one hundred commercial" plat (commonly known as the Lincoln Bank Property).

(5) Then proceed northward to the east end of Gould Street. Then proceed westward on Gould Street to the intersection of Gould Street and Locust Lane.

(6) Then proceed northward on Locust Lane to the intersection of Locust Lane and Mound Street.

(7) Then proceed westward on Mound Street to the intersection of Mound Street and Bittersweet Lane.

(8) Excluding the area described in exhibit A (Bus Lot Description, Job #4235) attached to Ordinance 2006-05, passed 9-21-06.

(B) The Village District shall not be a separate "zone" but shall be treated as an "overlay" for the purpose of guidance to builders, land owners, developers, and businesses located therein and for guidance to the Development Review Commission (DRC) for the fair administration of its guidelines and standards. Businesses within the Village District shall be exempted from the parking requirements of Figure 3, Parking Spaces Required for Uses, of Appendix A, Land Uses and Requirements, of the Nashville Zoning Code.

(C) Pursuant to Ordinance 2010-09, the following area shall be included in the Village District: the area on the east side of Van Buren Street, bordered on the north by Washington Street, and on the south and east by School Way Drive. Businesses within this enlarged district shall exempted from the parking requirements of Figure 3 of Appendix A referenced above in division (B).

(D) Pursuant to Ordinance 2016-03, the following area shall be included in the Village District: the area on the north side of Pat Reilly Drive, from its intersection with South Jefferson Street to its intersection with South Van Buren Street.

(Ord. 2006-05, passed 9-21-2006: Am. Ord. 2010-09, passed 12-16-2010; Am. Ord. 2016-03, passed 6-16-2016)

BUSINESS DISTRICTS

§ 153.050 BUSINESS USES.

(A) The business uses defined below are permitted in the districts indicated in Figure 2 of Appendix A, when complying with the requirements specified in Figures 2, 3 and 4 of Appendix A, subject to the provisions of § 153.052 and § 153.111.

(B) A local business use is one which is primarily of a retail or service nature and is classified in the following categories:

(1) Food service:

(a) Restaurant; or

(b) Delicatessen.

(2) Personal service:

(a) Photographic studio;

(b) Artist studio; or

(c) Beauty and barber shops that have no more than 2 barbers, stylists, beauticians or other operators.
(Ord. 2000-6, passed 11-16-2000)

(3) Retail service, retail stores generally. Including but not limited to the following:

(a) Drug store;

(b) Stationer;

(c) Newsdealer;

(d) Show room, for articles to be sold at retail;

(e) Nursery or garden plant sales shop;

(f) Apparel shop;

(g) Flower shop;

(h) Sales of gifts, crafts, paintings and antiques; or

(i) Sale of food or drinks.

(4) Business recreational uses: Indoor theater;

(5) Private club or lodge;

(6) Office building;

(7) Art gallery;

(8) Sign;

(9) Accessory building or use customarily incidental to the above uses:

(a) Any building used primarily for accessory purposes may not have more than 40% of its total floor area devoted to storage purposes incidental to the primary use, and provided that no more than 5 persons are employed at 1 time or on any 1 shift in connection with the incidental use.

(b) Local business uses shall be conducted within buildings so constructed that no noise of any kind produced therein shall be audible beyond the confines of the building.
(Ord. passed 7-26-1960; Am. Ord. 6679, passed 9-5-1978; Am. Ord. 1980-3, passed 1-7-1980; Am. Ord. 1986-1, passed 1-6-1986)

(10) Tourist home.
(Am. Ord. 1997-5, passed 11-20-1997) Penalty, see § 153.999

§ 153.051 GENERAL BUSINESS USE.

A general business use is one which includes retail and service uses, and accessory buildings and uses, specifically stated or implied, as follows:

(A) Local business uses;

(B) Bank;

(C) Office building;

(D) Postal station;

(E) Telegraph office;

(F) Utility company business office;

(G) Hotel or motel;

(H) Newspaper publishing;

(I) Motor bus or railroad passenger station;

(J) Radio and television studios;

(K) Bowling alley;

(L) Billiard room;

(M) Dancing academy;

(N) Department store;

(O) Commercial parking lot;

(P) Laundry agency;

(Q) Self-service laundry;

(R) Dry cleaning establishment;

(S) Dressmaking;

(T) Millinery;

(U) Tailor and pressing shop;

(V) Shoe repair shop;

(W) Radio or television shop;

(X) Electric appliance shop;

(Y) Record shop;

(Z) Grocery;

(AA) Meat market;

(BB) Supermarket;

(CC) Cold storage lockers, for individual use;

(DD) Bakery;

(EE) Barber shop;

(FF) Reducing salon;

(GG) Hardware store; or
(Ord. passed 7-26-1960)

(HH) Tourist home.
(Am. Ord. 1997-5, passed 11-20-1997)
Penalty, see § 153.999

§ 153.052 SERVICE AND WAREHOUSE BUSINESS USE.

A service and warehouse business use is one which permits retail uses and includes all service uses and storage uses within the confines of the buildings, and accessory buildings and uses, specifically stated or implied, as follows:

(A) General business uses;

(B) Commercial parking structure;

(C) Automobile or mobile sales room or lot;

(D) Drive-in restaurants;

(E) Automobile or truck repair;

(F) Wholesale establishment;

(G) Storage warehouse;

(H) Kennel or veterinary hospital for small animals;

(I) Filling station;

(J) Any business use, not specifically stated or implied, elsewhere in this chapter; or
(Ord. passed 7-26-1960)

(K) Tourist home.
(Am. Ord. 1997-5, passed 11-20-1997)
Penalty, see § 153.999

§ 153.053 ADDITIONAL REQUIREMENTS.

(A) Parking spaces shall be provided on the lot, as indicated in Figure 3 of Appendix A, or within 300 feet thereof on a site approved by the Board.

(B) Loading and unloading berths shall be provided on the lot as indicated in Figure 4 of Appendix A.

(C) Groups of uses requiring parking spaces may join in establishing group parking areas with capacity aggregating that required for each participating use.

(D) Public parking area and loading and unloading berths shall be paved with a dustproof or hard surface.

(E) One-half of an alley abutting the rear of a lot may be included in the rear yard, but the alley shall not be included for loading and unloading berths.

(F) Where 25% or more of the lots in a block are occupied by buildings, the setback of the buildings shall determine the dimension of the front yard in the block.

(G) Loading and unloading berths shall not be required for business uses which demonstrably do not receive or transmit goods or wares in quantity by truck delivery.

(H) Parking and accessory uses are permitted in the required front yard in the B2 and B3 districts.

(I) Buildings remodeled or constructed within the B1 district must present substantially their original appearance or conform generally to the appearance of neighboring buildings with the intent of preserving the rustic county appearance. Authority to determine the appropriate design within this district is vested in the Board.

(J) The maximum building height requirement in Figure 2 of Appendix A may be increased if buildings are set back, from front and rear property lines, 1 foot for each 2 feet of additional height above the maximum building height requirement.

(K) Chimneys, cooling towers, elevator bulkheads, fire towers, penthouses, stacks, tanks, water towers, transmission towers or essential mechanical appurtenances may be erected to any height not prohibited by other laws or ordinances.

(L) (1) No business operation or activity shall discharge or cause to be discharged liquid or solid wastes into public waters unless in conformance with the provisions of the Stream Pollution Control Law of the state (Chapter 214, Acts of 1943, as amended) and the regulations promulgated thereunder.

(2) Plans and specifications for proposed sewage and other waste treatment and disposal facilities shall be submitted to an approval obtained from the Stream Pollution Control Board of the state.

(M) In all business districts, it is permissible to erect more than 1 principal building on a lot.

(N) In a floodway fringe or floodplain district, the following requirements shall be met in addition to other provisions of this chapter:

(1) Commercial buildings or additions to existing buildings shall have flood protection grades at least 2 feet above the regulatory flood profile, or they may be floodproofed to an elevation of 2 feet above the regulatory flood if the plans and specifications are properly certified by a registered professional engineer or architect and conform to the definition of floodproofed as set forth in this chapter;

(2) (a) All mobile homes must have pads (either concrete or stands of compacted fill) at or above the elevation of the regulatory flood;

(b) Further, all mobile homes shall be provided with ground anchors meeting Mobile Home Tie Downs, Schedule A;

(3) On-site waste disposal systems must be located so as to avoid impairment of them or contamination from them during the occurrence of the regulatory flood; and

(4) All structures shall be built so as to minimize obstructions to the flow of floodwater.
(Ord. passed 7-26-1960; Am. Ord. 6679, passed 9-5-1978; Am. Ord. 2000-3, passed 4-27-2000) Penalty, see § 153.999

INDUSTRIAL DISTRICTS

§ 153.060 INDUSTRIAL USES AND REQUIREMENTS.

The industrial uses defined below, including accessory buildings and uses, are permitted in the district indicated in Figure 5 of Appendix A in accordance with the requirements of this section and § 153.111.

INDUSTRIAL USE. One which requires both buildings and open area for manufacturing, fabricating, processing, extraction, heavy repairing, dismantling, storage or disposal of equipment, raw materials or manufactured products or wastes; which is not injurious to health or safety of humans or animals, or injurious to vegetation; and which has not been declared a nuisance by any Court of Record.

LIGHT INDUSTRIAL USE. One which creates a minimum amount of nuisance outside the plant; is conducted entirely within enclosed buildings, does not use the open area around the buildings for storage of raw material or manufactured products or for any other industrial purpose other than transporting goods between buildings; provides for enclosed loading and unloading berths; and which is not noxious or offensive, by reason of the emission of smoke, dust, gas, fumes, odors, noise or vibrations beyond the confines of the buildings.
(Ord. passed 7-26-1960; Am. Ord. 6679, passed 9-5-1978) Penalty, see § 153.999

§ 153.061 ADDITIONAL REQUIREMENTS.

(A) Each use shall provide parking space for each 3 employees thereof located on the same lot as the use, or within 300 feet on a site approved by the Board.

(B) Each industrial use shall provide loading and unloading berths located on the same lot as the use, as specified in Figure 6 of Appendix A.

(C) Groups of uses requiring parking space may join in establishing group public or employee parking areas with capacity aggregating that required for each participating use.

(D) One-half of an alley abutting the rear of a lot may be included in the rear yard, but the alley space shall not be included for loading and unloading berths.

(E) The building height requirement in Figure 5 of Appendix A may be increased if the buildings are set back, from front and rear property lines, 1 foot for each 2 feet of additional height above the maximum building height requirements.

(F) Chimneys, cooling towers, elevator bulkheads, fire towers, penthouses, tanks, water towers, transmission towers or essential mechanical appurtenances may be erected to any height not prohibited by other laws or ordinances.

(G) In the industrial district, it is permissible to erect more than 1 principal building on a lot.

(H) In a flood district, the following requirements shall be met in addition to other provisions of this chapter:

(1) No residential buildings shall be permitted;

(2) Floodproofing of nonresidential structures is permitted but must conform to the definition of a floodproofed building as set forth in this chapter and must be certified by a professional engineer or registered architect licensed to practice in the state; and

(3) Any structure permitted in a floodway shall be constructed on the site so as to minimize obstruction to the flow of floodwater.
(Ord. passed 7-26-1960; Am. Ord. 6679, passed 9-5-1978; Am. Ord. 2000-3, passed 4-27-2000) Penalty, see § 153.999

§ 153.062 STORAGE OF EXPLOSIVES PROHIBITED.

No activity involving the storage, utilization or manufacture of materials or products which decompose by detonation shall be permitted unless specifically licensed by the Town Board, and then only in the I1 district. The activity shall be conducted in accordance with the rules promulgated by the State Fire Marshal and the State Administrative Building Council. Such materials shall include, but are not limited to all primary explosives such as lead azide, lead styphnate, fulminates, and tetracene; all high explosives such as TNT, RDX, HMX, PETN and picric acid; propellants and components thereof, such as nitrocellulose, black powder, boron hydrides, hydrazine chlorate and potassium nitrate; blasting explosives such as dynamite and nitroglycerine; unstable organic compounds such as acetylides, telrazoles and ozonides; strong oxidizing agents such as liquid oxygen, perchloric acid, perchlorates, chlorates and hydrogen peroxide in concentrations greater than 35%; and nuclear fuels, fissionable materials and products and reactor elements such as Uranium 235 and Plutonium 239.
(Ord. passed 7-26-1960) Penalty, see § 153.999

FLOODPLAIN, FLOODWAY AND FLOODWAY FRINGE DISTRICTS

§ 153.070 FLOODWAYS AND FLOODPLAINS.

In floodway (FW) districts and floodplain (FP) districts, the following uses are authorized, provided they do not involve the erection of any structure or obstruction, the opening of any excavation or the disposition of any material or substance, and comply with other provisions of this chapter:

(A) Agriculture uses such as the production of crops, pastures, orchards, plant nurseries, vineyards and general farming;

(B) Forestry, wildlife areas and nature preserves; and

(C) Parks and recreational uses, such as golf courses, driving ranges and play areas.
(Ord. 6679, passed 9-5-1978)

§ 153.071 FLOODWAY FRINGES.

In the floodway fringe (FF) district, all facilities, structures, uses and buildings consistent with other provisions of this subchapter may be constructed in this district, provided that the flood protection grade for all buildings shall be at least 2 feet above the regulatory flood profile; and any filling with dirt or other material shall not damage or cause flooding of surrounding property.
(Ord. 6679, passed 9-5-1978)

§ 153.072 FLOODPLAIN AND FLOODWAY USE BY SPECIAL EXCEPTION.

(A) In floodplain (FP) districts, the following uses may be permitted by special exception, but only after a proper permit or letter of recommendations for same has been granted by Natural Resources. All terms and conditions imposed by Natural Resources shall be incorporated in any permit issued by the Planning Coordinator. However, the Board of Zoning Appeals may impose greater restrictions than those issued by Natural Resources. All buildings or additions to existing buildings shall have flood protection grades at least 2 feet above the regulatory flood profile.

(1) Water management and use facilities, such as dams, docks, dolphins, channel improvements, dikes, jetties, groins, marinas, piers, wharves, levees, seawalls, floodwalls, weirs and irrigation facilities;

(2) Transportation facilities such as streets, bridges, roadways, fords, airports, pipe lines, railroads and utility transmission facilities;

(3) Water-related urban areas, such as wastewater treatment facilities, storm sewers, electrical generating and transmission facilities and water treatment facilities;

(4) Other flood-tolerant or open space urban uses, such as floodproofed park buildings, outdoor theaters, tennis courts, fills, radio or T.V. towers and parking lots; and

(5) Residential structures (only if shown to be in a floodway fringe area).

(B) In floodway (FW) districts, the following special exception uses may be permitted only after a permit for construction in a floodway has been granted by Natural Resources. All terms and conditions imposed by Natural Resources shall be incorporated in any permit issued by the Planning Coordinator. However, the Board of Zoning Appeals may impose greater restrictions than those issued by Natural Resources. All buildings or additions to buildings shall have flood protection grades at least 2 feet above the regulatory flood profile.
(Am. Ord. 1997-1, passed 2-20-1997)

(1) Water management and use facilities, such as dams, docks, dolphins, channel improvements, dikes, jetties, groins, marinas, piers, wharves, levees, seawalls, floodwalls, weirs and irrigation facilities;

(2) Transportation facilities, such as streets, bridges, roadways, fords, airports, pipe lines, railroads and utility transmission facilities;

(3) Water-related urban areas, such as wastewater treatment facilities, storm sewers, electrical generating and transmission facilities and water treatment facilities; and

(4) Other flood-tolerant or open space urban uses, such as floodproofed park buildings, outdoor theaters, tennis courts, fills, radio or T.V. towers, and parking lots.

(C) In floodway fringe districts, the special exceptions listed in Figure 9 of Appendix A may be permitted by the Board, in the districts listed therein, providing that all structures are raised 2 feet above the regulatory flood profile.
(Ord. 6679, passed 9-5-1978)

SIGNS, PERMANENT, AND TEMPORARY

§ 153.085 PURPOSE.

(A) The welfare of the town is inextricably tied to its unique scenic and architectural characteristics. In order to protect these characteristics and to ensure the safety of pedestrian and vehicular traffic, it is necessary to establish public regulations of permanent signs and temporary signs within the town.

(B) Therefore, it is the intent of this subchapter to:

(1) Control the prominence of signs in as fair and impartial a way as possible;

(2) Prohibit signs which cause confusion for or block or impair the vision of pedestrians or vehicular traffic on roads, or the intersections of streets and roadways;

(3) Limit signs to only those districts in which they are permitted by this subchapter; and

(4) Ensure that all signs have approval from the office of the County Area Plan Commission.
(Ord. 2018-11, passed 9-20-2018)

§ 153.086 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AREA OF A SIGN. All surfaces of a sign which are clearly visible to the street and pedestrian traffic excluding supportive structure. The ***AREA OF A SIGN*** composed of characters or words attached directly to a building surface shall be considered to be that of the smallest rectangle or triangle which encloses the whole group.

COMMISSION. The County Area Plan Commission.

FRONTAGE. The linear measure of the property line(s) fronting on the public way, or the linear measure of the outside wall of a business establishment containing a main public access, whichever is greater.

HEIGHT ABOVE GROUND. The vertical measurement from the ground to the top of the sign. The height of all signs shall be measured from the established grade line to the highest point of the sign or its frame/support.

PLANNED UNIT DEVELOPMENT. In accordance with the Planned Unit Development Amendment to the zoning code.

PLANNING DIRECTOR. The Executive Director of the County Area Plan Commission.

PREMISES. A building or planned development together with the lot or tract of land on which they are built.

SIGN. Any object, device, display, or structure, or part thereof, situated outdoors or indoors, that is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. For purposes of this ordinance, the following sign types are defined:

(1) ***ANIMATED SIGN.*** Any sign that uses movement or change of artificial and natural lighting or noise to depict action or create a special effect or scene. This includes any directly or indirectly illuminated sign that exhibits changing natural or artificial light or color effects by any means whatsoever. Different from an ***ELECTRONIC SIGN***, an animated sign produces the illusion of movement by means of electronic, electrical, or electromechanical input and/or illumination capable of simulating movement through using the characteristics of 1 or both of the following classifications:

(a) Flashing, animated, or animated portions of a sign where the cyclical period between on-off phases of illumination is less than four (4) seconds;

(b) Patterned illusionary movement in which animated signs or portions of signs whose illumination is characterized by simulated movement.

(2) ***AWNING SIGN.*** A sign that is attached to an awning, canopy, or other fabric that serves as a structural protective cover over a door, entrance, window, or outdoor service area.

(3) ***BANNER.*** A non-rigid cloth, plastic, paper, flag, or canvas sign. Banners also include streamers or ribbon-shaped or cord-like rope which may have pennants and/or banners attached and which is stretched or hung between 2 or more points of support intended to attract attention.

(4) ***BENCH SIGN.*** Any sign painted on, located on, or attached to any part of the surface of a bench, seat, or chair placed on or adjacent to a public street.

(5) ***BILLBOARD.*** A freestanding structure along the roadside with a large flat surface (panel, wall, or fence) on which signs are posted.

(6) ***CHANGEABLE COPY.*** A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged by mechanical, electronic or manual means without altering the face or surface of the sign.

(7) ***ELECTRONIC SIGN.*** Any sign or portion of a sign that uses changing lights to form a sign message or messages in text or picture form, wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

(8) ***FLAG.*** A piece of cloth or similar material, typically oblong or square, attachable by one edge to a pole or rope.

(9) ***FLASHING SIGN.*** Illumination which is intermittently on and off so as to flash or blink or the intensity varies so as to appear to flash or blink.

(10) ***FREESTANDING SIGN.*** A sign not connected to a building or structure, other than a structure used exclusively for sign support.

(11) ***PORTABLE SIGN.*** A freestanding advertising device which is designed to be moved from 1 location to another and is not permanently affixed to the ground or to a structure, or is only affixed by means of tie down straps or stakes.

(12) ***PROJECTING SIGN.*** A sign that is wholly or partly dependent upon a structure for support or suspended from a pole attached to a structure. Such signs must be perpendicular to the structure face upon which they are attached.

(13) ***ROOF SIGN.*** Any sign partially or fully erected on or above the roof line of a structure.

(14) ***SCOREBOARD.*** An electronically-controlled changeable copy sign used to display scoring information for sporting events. Such signs are located on or along sports fields.

(15) ***SIDEWALK SIGN.*** A temporary, A-frame, freestanding sign used outside of businesses for advertisement during business hours on the sidewalk.

(16) ***UNIFIED DEVELOPMENT SIGN.*** A sign for a shopping center, office park, industrial park, or other development that contains 3 or more uses within a single development. A ***UNIFIED DEVELOPMENT SIGN*** is allowed in addition to the permitted signs of the individual tenants.

(17) ***VEHICLE SIGN.*** A sign that is permanently affixed to the body of, an integral part of, or a fixture of a motor vehicle that is parked or left standing so that it is visible from a public street for a period of more than 72 continuous hours for the intent of being used as advertisement. For the purpose of this definition, ***PERMANENTLY AFFIXED*** shall mean any of the following:

(a) Painted directly on the body of a vehicle; applied as a decal on the body of a vehicle; and/or

(b) Placed in a location on the body of the vehicle that was specifically designed by a vehicle manufacturer.

(18) ***WALL SIGN.*** A sign attached to a building or structure other than a structure used exclusively for sign support.

(19) ***WAY FINDING SIGN.*** A municipal sign that is part of a city-sponsored and coordinated program for the purpose of facilitating vehicular and pedestrian tourist routes to local tourist destinations as designated.

(20) ***WINDOW SIGN.*** A sign displayed in a window, or graphics applied directly to the window. Such signs must be professionally painted or constructed of vinyl with adhesive backing.

SIGN, ABANDONED. A sign that is:

(1) Associated with an abandoned use;

(2) Remains after the termination of the business; and/or

(3) On its immediate premises but not adequately maintained or repaired.

SIGN, LEGAL NON-CONFORMING. A pre-existing, legally permitted sign, or portion thereof, which was designed, erected, or structurally altered such that it does not conform to the regulations of the zoning district in which it is located.

SIGN, PERMANENT. A sign attached to a structure or the ground in a manner that enables the sign to resist environmental loads, such as wind, and precludes ready removal or movement of the sign. The use of anchor bolts, ropes, stakes, chains, glue, or similar anchoring are not methods recognized by this ordinance as a permanent foundation.

SIGN, TEMPORARY. A sign or advertising display constructed of cloth, canvas, fabric, plywood, or other light material and designed or intended to be displayed for a short period of time.

TEMPORARY SIGN. A sign that is displayed for 14 days or less.

VARIANCE. A modification of the specific requirements of this subchapter granted by the Board of Zoning Appeals in accordance with the terms of the subchapter for the purpose of adapting the requirements of the subchapter to the needs of unique circumstances.
(Ord. 2018-11, passed 9-20-2018)

§ 153.087 PROCEDURE FOR OBTAINING IMPROVEMENT LOCATION PERMIT FOR SIGNS.

(A) Signs not expressly permitted in this ordinance are considered prohibited.

(B) Parties desiring to erect a sign, except for those provided in § 153.088(A), (D), or (F), must first apply for an improvement location permit at the office of the County Area Plan Commission.

(C) The following operations shall not be considered as creating a sign and, therefore, shall not require a sign permit:

(1) *Replacing copy*. The changing of the advertising copy or message on an approved painted or printed sign on theater marquees and similar approved signs which are specifically designed for use of replaceable copy;

(2) *Maintenance*. Painting, repainting, cleaning and other normal maintenance and repair of an approved sign or sign structure, unless a structural change is made; or

(3) *Relocation of business*. Signs approved for use in 1 location must be reapproved for use should the business move to a different location.

(D) The Planning Director shall provide each applicant with written instructions detailing the procedure and information required to obtain a permit or a variance.

(E) The Planning Director shall approve/disapprove applications within 10 days of receiving them.

(F) Any decision of the Planning Director regarding an application may be appealed to the Board of Zoning Appeals. An application for such an appeal must be made within 10 days of the date of the Planning Director's decision. A decision by the Board of Zoning Appeals shall be available at the office of the Board of Zoning Appeals by the next regular working day following the meeting.

(G) An application for a variance must be submitted at least 3 weeks prior to the next meeting of the Board of Appeals. A decision by the Board of Zoning Appeals shall be available at the Office of the Board of Zoning Appeals by the next regular working day following that meeting.

(H) The Planning Director shall issue a permit if the application meets all requirements of this subchapter.
(Ord. 2018-11, passed 9-20-2018)

§ 153.088 REQUIREMENTS FOR SIGNS IN RESIDENTIAL DISTRICTS.

(A) Single-family dwelling units may have 1 sign, not to exceed 2 square feet in area. Permitted sign types include: awning signs, wall signs, and window signs.

(B) Multi-family dwellings and offices may have 1 sign not exceeding 10 square feet in area. Permitted sign types include: awning signs, wall signs, and window signs.

(C) Entrances to subdivision, cemeteries and other such areas may be marked by 1 sign at each entrance which does not exceed 10 square feet in area. Permitted sign types include: freestanding signs and wall signs.

(D) Lots may have no more than 2 temporary signs not exceeding 10 square feet in area, or 5 square feet on each side, or closer than 15 feet from the adjoining property lines. Permitted sign types include: banners, flags, and freestanding signs.

(E) Parking areas may have 1 sign not to exceed 10 square feet in area. Permitted sign types include: freestanding signs and wall signs.

(F) Churches may have 1 sign not exceeding 32 square feet in area. Permitted sign types include: awning signs, changeable copy signs, freestanding signs, projecting signs, wall signs, and window signs.

(G) Signs in residential area shall not project into public right-of-way, and sign height above ground for any free-standing sign shall not exceed 5 feet; and at an intersection of roads, no sign shall impair the sight distance of oncoming vehicles.

(H) Neon, internally illuminated, edge-lighted, revolving and flashing signs and other action signs are expressly prohibited.

(I) The light from any externally illuminated sign shall be so shaded, shielded or directed that the glare therefrom will not impair the visibility of passing motorists.
(Ord. 2018-11, passed 9-20-2018)

§ 153.089 BUSINESS SIGN DISTRICT S1.

(A) Business sign district S1 includes all businesses not included in Business Sign District S2.

(B) The total area of all signs provided for in this section for any business establishment shall not exceed 1 square foot of sign surface for each 30 square feet of interior retail or business space, excluding storage areas, up to a maximum sign surface of 75 square feet. However, any business shall be allowed at least 12 square feet of sign surface. No business shall be permitted more than 2 signs unless required by law to post additional signs for safety or informational purposes. Permitted sign types include: awning signs, changeable copy signs, freestanding signs, projecting signs, roof signs, vehicle signs, wall signs, and window signs.

(C) The sign height above ground may not be greater than the peak of the roof of the building to which it is attached and in no case shall the top of a free-standing sign or a roof sign on a single-story building be higher than 20 feet above ground level, nor shall the bottom of a sign in or over a sidewalk be lower than 8 feet.

(D) The size, structure, location or illumination of signs shall not impair the vision or safety of pedestrian or vehicular traffic or provide adverse effects on residences, parks or other businesses.

(E) The light from any externally illuminated sign shall be so shaded, shielded or directed that the glare therefrom will not impair the visibility of passing motorists.

(F) Neon, internally illuminated, edge-lighted, revolving and flashing signs, and other action signs are expressly prohibited.

(G) Lots may have no more than 2 temporary wall signs or temporary freestanding signs not exceeding 32 square feet in area.

(H) *Vehicle signs*.

(1) Vehicle signs shall be parked a minimum distance of 10 feet from any intersecting street right-of-way and shall be located so as to not create an obstruction or hazard to the traveling public. Trucks and/or trailers may be used as temporary signs for a maximum period of 4 days.

(2) Trucks and/or trailers may be used as temporary signs for a maximum period of 4 days.
(Ord. 2018-11, passed 9-20-2018)

§ 153.090 BUSINESS SIGN DISTRICT S2.

(A) Business sign district S2 includes businesses located on property abutting State Road 46.

(B) The requirements for signs in business sign district S2 are identical to those in § 153.089, except that the maximum sign area shall be 300 square feet. No business shall be permitted more than 2 signs unless required by law to post additional signs for safety or informational purposes.
(Ord. 2018-11, passed 9-20-2018)

§ 153.091 RESTRICTED BUFFER SIGN DISTRICT.

(A) Restricted buffer sign district is congruent with the area defined by § 153.037 regarding restricted buffer zone.

(B) The requirements for signs in the restricted buffer sign district are identical to those in § 153.089, except that the maximum sign area shall be 10 square feet. No business in a restricted buffer sign district shall be permitted more than 2 signs unless required by law to post additional signs for safety or informational purposes.
(Ord. 2018-11, passed 9-20-2018)

§ 153.092 PROHIBITED SIGN LOCATIONS.

The following prohibitions apply to signs in all districts, unless otherwise stated:

(A) No sign shall be placed or maintained in any form, or at any location, where it may obstruct or in any way interfere with the view, or be confused with, any approved traffic control sign or device, or where it may obstruct or in any way interfere with the minimum sight-distance necessary to promote traffic safety.

(B) No sign shall be placed in any location or position that endangers pedestrian, bicycle, or vehicular traffic.

(C) No sign shall be placed in any public right-of-way except: publicly owned traffic control, information, or transit signs; utility signs; and, sandwich board signs on sidewalks within the Village District placed by the owner of the immediately adjacent property.

(D) All signs shall be placed and their supporting structures shall maintain clearance and noninterference with all surface and underground lines, equipment, or facilities, associated with utilities, communications, or storm water control.
(Ord. 2018-11, passed 9-20-2018)

§ 153.093 PLANNED UNIT DEVELOPMENT SIGNS.

(A) Planned unit developments in district S1 may have 1 unified development sign in addition to the signs provided for in § 153.089. The area, size, height and design of the additional sign shall be approved by the County Area Plan Commission as a part of the planned unit development.

(B) Planned unit developments in district S2 may have, in addition to signs provided for in § 153.090(B), 1 unified development sign. The area, size, height and design of the unified development

sign shall be approved by the County Area Plan Commission as a part of the planned unit development.

(C) Signs provided for in § 153.091(A) and (B) will be the only types of signs permitted at the roadside under this section.
(Ord. 2018-11, passed 9-20-2018)

§ 153.094 MESSAGE SUBSTITUTION.

In accordance with I.C. 36-7-4-1109(h), the owner of any sign that is otherwise allowed by this regulation may substitute noncommercial copy in place of any other commercial or noncommercial copy. This substitution of copy may be made without the issuance of any additional permit by the Town of Nashville or any of its board or commissions. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or the favoring of any particular noncommercial message over any other noncommercial message. This provision prevails over any more specific provision in this subchapter to the contrary.
(Ord. 2018-11, passed 9-20-2018)

§ 153.095 TEMPORARY SIGNS.

(A) Permitted temporary sign types include: banners, flags, freestanding signs, portable signs, sidewalk signs, and window signs.

(B) Neon, internally illuminated, edge-lighted, revolving and flashing signs and other action signs are expressly prohibited.

(C) All temporary signs to be displayed for more than 4 days in a calendar year shall be approved by the Planning Director by writing on them the date of display and date for removal.

(D) Temporary signs on public property are permitted, only then with approval of the Planning Director and with approval of the government agency that controls the public property.

(E) A temporary sign that is displayed for 4 days or less in a calendar year does not require approval of the Planning Director. All other temporary signs must have the approval of the Planning Director.
(Ord. 2018-11, passed 9-20-2018)

§ 153.096 AMORTIZATION.

Any sign existing or installed on the date of this subchapter which does not conform with this subchapter shall be removed or altered so as to comply with this subchapter within 15 years of the date of passage.
(Ord. 2018-11, passed 9-20-2018)

§ 153.097 REMEDIES.

(A) Signs which are in violation of this subchapter shall be removed by the owner within 14 days after the mailing of a certified letter requesting removal of the sign, complete with a return receipt, sent by the Executive Director of the County Area Plan Commission.

(B) In the event that the violation is not corrected within the time specified, then the County Area Plan Commission may proceed with enforcement remedies as provided in this chapter.
(Ord. 2018-11, passed 9-20-2018)

ADDITIONAL REQUIREMENTS AND REGULATIONS

§ 153.110 CONTINGENT USES AND REQUIREMENTS.

Contingent uses defined below, including accessory buildings and uses, are permitted in the districts indicated in Figure 7 of Appendix A, subject to the provisions of this section and § 153.111.

(A) A contingent use is one which is likely or liable, but not certain, to occur, and which is not inappropriate to the principal use of the district in which it may be located. When so located it shall conform to the requirements of the district in which the contingent use is permitted, except that the number of parking spaces to be provided shall conform to the requirements of Figure 7 of Appendix A. The required number of parking spaces shall be provided on the same lot with the use, or within 300 feet thereof on a site approved by the Board.

(B) The building height for contingent uses shall be as provided in Figure 8 of Appendix A.

(C) Other provisions and exceptions for contingent uses are as follows:

(1) The building height requirement in Figure 8 of Appendix A may be increased if buildings are set back from front and rear property lines, 1 foot for each 2 feet of additional height above the building height requirement.

(2) In all districts, spires, church steeples, chimneys, cooling towers, elevator bulkheads, fire towers, scenery lofts and essential mechanical appurtenances may be erected to any height not prohibited by other laws or ordinances.

(3) A church or temple requiring parking area at times when nearby uses do not need their parking facilities, may, by agreement approved by the Board, utilize those facilities in lieu of providing their own parking facilities.

(4) Public parking area shall be paved with a dustproof or hard surface.

(D) An existing use which is listed herein as a contingent use, and which is located in a district in which the contingent use may be permitted is a conforming use. Any expansion of the contingent use involving the enlargement of the buildings, structures and land area devoted to the use shall be subject to the procedure described in this section.
(Ord. passed 7-26-1960)

§ 153.111 SPECIAL EXCEPTIONS, REQUIREMENTS AND PROCEDURE.

(A) The special exceptions listed in Figure 9 of Appendix A and § 153.112 and their accessory buildings may be permitted by the Board in the districts indicated therein, in accordance with the procedure set forth in this section and the requirements listed in § 153.112 and Figure 9.

(B) Procedure of receiving application for permit.

(1) Upon receipt of an application for an improvement location permit for a special exception by the Planning Director, it shall be referred to the

Commission for investigation as to the manner in which the proposed location and character of the special exception will affect the Master Plan. The Commission shall report the results of its study to the Board within 45 days following receipt of the application. If no such report has been filed with the Board within this time period, the Board may proceed to process the application.

(2) The Board shall then proceed with a hearing on the application in the manner prescribed in § 153.126. Following the hearing, and upon an affirmative finding by the Board that:

(a) The proposed special exception is to be located in a district wherein the use may be permitted;

(b) The requirements set forth in this section and Figure 9 of Appendix A for special exceptions will be met; and

(c) The special exception is consistent with the spirit, purpose and intent of this chapter, will not substantially and permanently injure the appropriate use of neighboring property, and will serve the public convenience and welfare.

(3) The Board shall order the Planning Director to issue an improvement location permit for the special exception.

(C) An existing use which is listed herein as a special exception, and which is located in a district in which the special exception may be permitted, is a conforming use. Any expansion of the special exception involving the enlargement of the buildings, structures and land area devoted to the use shall be subject to the procedure described in this section.

(D) Construction of improvements shall begin within 1 year of the date of approval and be completed within 1 year of the date construction begins. However, the Commission may extend the completion date for 1 year, provided the petitioner has made timely application to the Board for an extension and that good cause is shown why it should be granted.

(E) Upon abandonment of a development authorized (abandonment shall be deemed to have occurred when no improvements have been made pursuant to the terms of the special exception approval for 12 consecutive months) or upon the expiration of an extension granted by the Board, the development shall be deemed withdrawn and of no force or effect whatever.

(Ord. passed 7-26-1960; Am. Ord. 6679, passed 9-5-1978; Am. Ord. 1981-3, passed 3-2-1981)

§ 153.112 NONCONFORMING USE SPECIFICATIONS.

The lawful use of a building or premises, existing at the time of passage of this chapter, may be continued although the use does not conform to all the provisions of this chapter, except as hereinafter provided.

(A) A nonconforming use may be extended throughout a building, provided no structural alterations are made therein, except those required by law.

(B) A nonconforming use may be changed to another nonconforming use of the same or greater restrictions, provided no structural alterations are made in the building. Whenever a nonconforming use has been changed to a conforming use or to a use permitted in a district of greater restrictions, it shall not thereafter be changed to a nonconforming use of a less restricted one.

(C) No building shall be erected upon any premises devoted to a nonconforming use, except in conformance with regulations of this chapter.

(D) The Planning Director may authorize, by written permit, in any district located outside the town limits for a period of not more than 1 year from the date of the permit, a temporary building incidental to the residential construction; provided that the person making the application has met with all other requirements of this chapter, including, but not limited to the site plans as required by this chapter.

(E) Nothing herein contained shall require any change in the plans, construction or designated use of a building for which a building permit or improvement location permit has been heretofore issued, and the construction of which has been diligently prosecuted within 90 days of the date of the permit, and which entire building shall be completed according to plans filed within 3 years from the passage of this chapter.

(F) In the event that a nonconforming use of any building or premises is discontinued for a period of 6 months, the use of the same shall thereafter conform to the uses permitted in the district in which it is located.

(G) Nothing in this chapter shall prevent the restoration of a building or structure destroyed less than 50% of its assessed valuation at the time of the destruction (exclusive of the value of the lot) by explosion, fire, flood, earthquake, windstorm, act of God, riot or act of the public enemy, subsequent to the passage of this chapter; or shall prevent the continuance of the use of the building, structure or part thereof, as the use existed at the time of the impairment of the building, structure or part thereof. The extent of the damage to the structure shall be determined by the Board of Appeals and its decision shall be final, subject only to judicial review in the event of an arbitrary abuse of discretion of the Board.

(H) These provisions apply in the same manner to a use which may become a nonconforming use due to a later amendment to this chapter.

(I) Where a residential use is nonconforming solely due to the minimum ground floor area in square feet, as required by Figure 1 of Appendix A, structural alterations may be made in the nonconforming residential building where the alterations will increase the ground floor area in square feet, notwithstanding that the alterations will be insufficient to meet the minimum ground floor square feet requirement of Figure 1 of Appendix A.

(Ord. passed 7-26-1960; Am. Ord. passed 9-9-1963; Am. Ord. 1980-3, passed 1-7-1980; Am. Ord. 2001-07, passed 12-20-2001)

ADMINISTRATION AND ENFORCEMENT

§ 153.125 [RESERVED].

§ 153.126 BOARD OF ZONING APPEALS.

(A) A Board of Zoning Appeals is hereby established with membership and appointment provided in accordance with Sections 66 to 69 inclusive of Chapter 174 of the Acts of Indiana General Assembly of 1947 and all acts now or hereafter amendatory thereto.

(B) At the first meeting of each year, the Board shall elect a chairperson and a vice-chairperson from among its members, and it may appoint and fix the compensation of a secretary and those employees as are necessary for the discharge of its duties, all in conformity to and compliance with salaries and compensation theretofore fixed by the Town Board.

(C) The Board shall adopt rules and regulations as it may deem necessary to effectuate the provisions of this chapter.

(D) All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, keep records of all examinations and other official actions, prepare findings and record the vote of each member voting upon each question. All minutes and records shall be filed in the office of the Board and shall be of public record.

(E) Any decision of the Planning Director in the enforcement of this chapter may be appealed to the Board by any person claiming to be adversely affected by the decision.

(F) The Board shall have the following powers and it shall be its duty to:

(1) Hear and determine appeals from and review any order, requirement, decision or determination made by the Planning Director in the enforcement of this chapter;

(2) Hear and decide on permits for special exceptions or other uses upon which the Board is required to act under this chapter; and

(3) 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, fully demonstrated on the basis of the facts presented, a literal enforcement of the provisions of this chapter will result in unnecessary hardship and so that the spirit of this chapter shall be observed and substantial justice done.

(G) In exercising its powers, the Board 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.

(H) Every decision of the Board shall be subject to review by certiorari.

(I) No variance in the application of the provisions of this chapter shall be made by the Board relating to buildings, land or premises now existing or to be constructed, unless after a public hearing the Board shall find:

(1) That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to the other property of class of use in the same vicinity and district;

(2) That the granting of the variance will not materially change the character of that district and vicinity, materially lower the market value of adjacent property, increase flood height, create additional

threats to public safety, cause additional public expense or conflict with existing laws or ordinances;

(3) That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and district in which the property is located; or

(4) That the granting of the variance will not alter the land use characteristics of the vicinity and district, diminish the marketable value of adjacent land and improvements or increase the congestion in the streets.

(J) Any construction made possible by the granting of the variance must be completed within 1 year of the date of the approval. However, the Board may extend the completion date for 1 year, provided the petitioner has made timely application to the Board for an extension and that good cause is shown why it should be granted. The approval of the variance by the Board for any construction which has not been completed within 1 year (2 years if an extension is granted) shall be deemed withdrawn and of no force or effect whatever.

(K) Variances issued for floodway (FW), flood fringe (FF) or floodplain (FP) districts shall be subject to the following additional restrictions:

(1) No variance for a residential use in a floodway (FW) district shall be granted;

(2) No variance for a floodway (FW) district shall be granted until a permit has been obtained from Natural Resources;

(3) Variances to the flood protection grade requirements in a floodway fringe (FF) district may be granted only when a new structure is to be located on a lot of ½ acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection elevation;

(4) No variance for a floodplain (FP) district shall be granted until a permit or letter of recommendation is issued by Natural Resources. If a letter of recommendation is issued by Natural Resources, the Board may apply the standards in division (K)(3) of this section;

(5) A variance may be granted for the reconstruction or restoration of any structure listed on the National Register of Historic Places or the State Survey of Historic, Architectural, Archaeological and Cultural Sites, Structures, Districts and Objects;

(6) Variances shall give only the minimum relief necessary and only upon a showing of good and sufficient cause by the applicant; and

(7) The Board shall issue a notice to the recipient that the proposed land use change may be subject to increased risk of property loss and could require exceedingly high flood insurance premiums.

(L) Placement of mobile homes in a floodway is prohibited except in the case of existing mobile home park or subdivision.

(M) Notice of appeal:

(1) Prior to the determination of an appeal or a decision on a permit for a special exception, the Board shall fix a reasonable time for the hearing, public notice shall be given at least 10 days prior to the date set for the hearing by publishing a notice thereof in a newspaper of general circulation published in the county, setting forth the time and place of the hearing any be giving due notice to the interested parties in accordance with the rules of the Board.

(2) The Board shall require the party taking the appeal to assume the cost of public notice and due notice to the interested parties.

(Ord. passed 7-26-1960; Am. Ord. 6679, passed 9-5-1978; Am. Ord. 1980-4, passed 1-7-1980; Am. Ord. 1981-3, passed 3-2-1981)

§ 153.127 PERMITS AND CERTIFICATES.

(A) Any person who shall make application for an improvement location permit shall, at the time of making the application, furnish the Building Commissioner with a site plan or development plan of the real estate upon which the application for an improvement location permit is made at least 5 days prior to the issuance of the improvement location permit, which 5-day period may be waived by the Planning Director. The site plan shall be drawn to scale showing the following items:

(1) Legal or site description of the real estate involved;

(2) Location and size of all buildings and structures;

(3) Width and length of all entrances and exits to and from the real estate; and

(4) All adjacent and adjoining roads or highways.

(B) Site plans so furnished to the Planning Director shall be filed by the Planning Director and shall become a permanent record.

(C) The Planning Director shall issue an improvement location permit for a special exception only following receipt of notice from the Board that the application therefor has been approved by the Board.

(D) No land shall be occupied or used and no building hereafter erected or used, in whole or in part, for any purpose whatsoever, until a certificate of occupancy shall have been issued by the Planning Director stating that the building and use comply with all of the provisions of this chapter applicable to the building or premises or the use in the district in which it is to be located. Upon substantial completion of the improvement covered by the improvement location permit, the Planning Director shall inspect the premises and, if his or her inspection shall reveal that the improvement has been completed in substantial conformity with the site plan, submitted pursuant to divisions (A) and (C) above, and any approved amendments thereto, shall issue a certificate of occupancy.

(E) No change shall be made in the use of land (except agricultural) or in the use of any building or part thereof, now or hereafter erected, reconstructed or structurally altered, without a certificate of occupancy having been issued by the Planning Director, and no such permit shall be issued to make a change unless it is in conformity with the provisions of this chapter.

(F) A certificate of occupancy shall be applied for coincidentally with the application for an improvement location permit and shall be issued within 10 days after the lawful erection, reconstruction or structural alteration of the building or other improvement of the land shall have been completed.

(G) A record of all certificates of occupancy shall be kept on file in the office of the Planning Director and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected.

(H) No improvement location permit shall be issued for excavation of or for the erection, reconstruction of structural alteration, of any building, before application has been made for a certificate of occupancy.

(I) Temporary structures, which the Planning Director deems to be exempt from the permitting process, shall remain subject to all requirements of the zoning code as set out herein and if commercial in use and located B1, B2, B3, or RB Districts shall be subject to development review procedure as set out in § 153.023 *et seq.*
(Ord. passed 7-26-1960; Am. Ord. passed 9-9-1963; Am. Ord. 2014-05, passed 8-21-2014)

§ 153.128 IMPROVEMENT LOCATION PERMIT.

(A) *Permit required.* Within the corporate boundaries of the town, no structure, improvement, or

use of land may be altered, changed, placed, erected or located on platted or unplatted lands, unless the structure, improvement or use and its location conform with the Master Plan and the zoning code. It is hereby declared that the intent of the permit requirements of this chapter shall not prevail with respect to a structure including a dwelling which is clearly incidental to agricultural operations.

(B) *Permits issued.*

(1) The Plan Director shall issue an improvement location permit, upon written application, when the proposed structure, improvement or use and its location conform in all respects to the requirements of this chapter.

(2) The County Area Plan Commission will ensure that all necessary permits have been received from those governmental agencies as required under federal and/or state law, including section f404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334.

(C) *Application.*

(1) *Documentation.*

(a) Every application for an improvement location permit shall be accompanied by:

1. A site plan, drawn to scale, showing the location of the structure or improvement to be altered, changed, placed, erected or located;

2. The dimensions of the lot to be improved; and

3. The size of yards and open spaces, existing and proposed streets and alleys adjoining or within the lot, and the manner in which the location is to be improved.

(b) Applications must also be accompanied by proof of compliance by the applicant with the requirements of the following sections:

1. § 153.023, Design review;

2. § 153.024, Driveway permit;

3. § 153.025, Lighting trespass;

4. § 153.180, Stormwater drainage; and

5. § 153.181, Erosion control.

(c) Compliance with these sections may be established by the submission of a letter or report form the Town Manager obtained pursuant to the terms of the respective section.

(d) No improvement location permit shall be granted without this proof.
(Am. Ord. 2003-04, passed 7-17-2003)

(2) *Review.* An appropriate official shall review all applications for improvement location permits for new construction or additions to existing construction to determine whether the proposed construction or additions lies in a flood hazard area (as defined in § 153.004) and is reasonably free from flooding. If the proposed construction or addition is located in such an area, modifications to the design and materials may be required of the structure and minimize potential future flood damage.

(3) *Records.* The Plan Commission shall keep and maintain all records, including all first floor elevations, flood-proofing levels, certificates, plans and other materials associated with any permit or variance issued in a floodway (FW), flood fringe (FF), or floodplain (FP) district.

(4) *Notification.* All neighboring communities, Natural Resources and the Federal Insurance Administration shall be notified prior to alteration or relocation of a watercourse in the county. No alteration shall be made which diminishes the flood-carrying capacity of the waterway.

(D) *Hearing.*

(1) Within 45 days following receipt of a complete application for an improvement location permit for a special exception, the Planning Director

shall schedule the application for hearing and determination by the Board.
(Ord. 1997-1, passed 2-20-1997; Am. Ord. 1997-5, passed 11-20-1997)

(2) The Board shall then proceed with a hearing on the application in the manner prescribed in Section 24 of the zoning code. The Board shall determine whether:

(a) The proposed special exception is to be located in a district wherein the use may be permitted;

(b) The requirements set forth in Figure 9 of Appendix A for the special exception will be met; and

(c) The special exception is consistent with the spirit, purpose and intent of this section; will not substantially and permanently injure the appropriate use of neighboring property; and will serve the public convenience and welfare.

(3) Following the hearing, and upon an affirmative finding by the Board, the Board shall order the Planning Director to issue an improvement location permit for the special exception.

(4) In order to inform the public and to promote consistency and fairness, the Board may adopt standard guidelines and conditions for its use in determining whether the special exception is consistent with the spirit, purpose and intent of this section; will not substantially and permanently injure the appropriate use of neighboring property; and will serve the public convenience and welfare. A violation of a condition of special exception approval shall constitute a violation of the section, which may be remedied in any manner authorized by this section or by statute.
(Ord. 1997-5, passed 11-20-1997)

(E) *Appeals*.

(1) Any decision of the Planning Director of the town concerning the issuance of an improvement location permit may be appealed to the Board of Zoning Appeals, when the decision in question involves a requirement of the zoning code, or to the Plan Commission, when the decision in question involves the requirements of other parts of the Master Plan, by any person claiming to be adversely affected by the decision.

(2) A decision of the Plan Commission may be reviewed by certiorari procedures as provided for the appeal of zoning cases from the Board of Zoning Appeals.
(Ord. passed - -1959; Am. Ord. 6679, passed 9-5-1978)
Penalty, see § 153.999

§ 153.129 AMENDMENTS.

All amendments to this chapter shall be in conformance with Sections 64 and 37 to 42 inclusive of Chapter 174 of the Acts of the Indiana General Assembly of 1947.
(Ord. passed 7-26-1960)

§ 153.130 FILING FEES.

Applications and petitions filed pursuant to the provisions of this chapter shall be accompanied by the filing fees hereinafter specified.

(A) *Improvement location permits*. The filing fees for permits shall be according to the following schedule:

Description	***Filing Fee***
Residences	$125 + $.07 per sq. ft.
Duplexes	$250 + $.07 per sq. ft.
Additions, Remodeling	$65 + $.07 per seq. ft.

Description	*Filing Fee*
Accessory Structures	$50
Swimming Pools	$65 above ground
Swimming Pools	$125 in ground
Electric Upgrade	$35
Commercial:	
New Structures	$250 + $.07 per sq. ft.
Remodeling, Addition Public Buildings	$125 + $.07 per sq. ft.
Wireless Comm. Fac. (without a Special Exception)	$190
Other Structure (water, radio tower, underground storage tank, etc.)	$190

(B) *Hearings*.

Description	*Filing Fee*
Variance	$125
Special Exception	$125
Appeal	$125
Major Subdivision - primary	$250 plus $25 per lot
Major Subdivision - secondary	375
Minor Subdivision	$125
Planned Unit Development (outline plan)	$375
Planned Unit Development (development plan)	$250
Replat	$125
Vacation of Plat	$125
Amendments and Rezoning	$315
Wireless Communication Facilities- Special Exception	$250

(C) *Miscellaneous fees*.

Description	*Filing Fee*
Contractor listing (annual)	$35
Contractor electrical test	$45
Home Occupation permits (annual)	$20
County sign permit	$20
Signs for Town of Nashville	$35
Photocopies (per page)	$.15

(D) *Unrefundable*. No part of any filing fee paid pursuant to this section shall be returnable to the applicant or petitioner.
(Ord. passed 7-26-1960; Am. Ord. 1988-2, passed 3-17-1988; Am. Ord. 1989-5, passed 6-15-1989; Am. Ord. 1990-7, passed 12-20-1990; Am. Ord. 2021-19, passed 12-16-2021)

§ 153.131 REMEDIES.

(A) The Commission, the Board, the Planning Director, or any designated enforcement official, or any person jointly or severely aggrieved may institute a suit for injunction in the Circuit Court of the county to restrain an individual or a governmental unit from violating the provisions of this chapter.

(B) The Commission or the Board may also institute a suit for mandatory injunction directing any person or a governmental unit to remove a structure erected in violation of the provisions of this chapter.

(C) Any building, erected, raised or converted, or land or premises used in violation of any provisions of this chapter or the requirements thereof, is hereby declared to be a common nuisance and as such may be abated in such manner as nuisances are now or may hereafter be abated under existing law.

(D) The erection, construction, enlargement, conversion, moving or maintenance of any building or structure and the use of any land or building which is continued, operated or maintained contrary to any of the provisions of this chapter shall be a violation of this chapter. The Town Attorney or the Plan Commission Attorney shall immediately upon any violation having been called to his or her attention by the Plan Coordinator, institute injunction, abatement or any other appropriate action in his or her discretion to prevent, enjoin, abate or remove the violation. Civil suit against any violator of this chapter may also be instituted by any property owner who may be especially damaged by any violation of this chapter.
(Ord. passed 7-26-1960; Am. Ord. 1984-7, passed 8-6-1984)

AREA PLAN COMMISSION

§ 153.150 PURPOSE; ESTABLISHMENT.

(A) *Purpose*. The purpose of this subchapter is to improve the health, safety, convenience, and welfare of the citizens of Brown County, and the participating municipalities within Brown County, and to plan for the future of Brown County, and the participating municipalities within Brown County, to the end that:

(1) Residential areas provide healthful surroundings for family life in keeping with the Brown County rural tradition of preservation of its quiet country atmosphere and scenic beauty;

(2) New communities grow only with adequate public ways, utilities, health, educational and recreational facilities in keeping with the Brown County rural tradition of preservation of its quiet country atmosphere and scenic beauty;

(3) The needs of residents, agriculture, industry and business be recognized in future growth;

(4) The growth of the county and of the participating municipalities is carefully controlled and managed and is commensurate with and promotive of the efficient and economical use of public funds; and

(5) Highway systems within Brown County, and the participating municipalities within Brown County, be carefully planned.

(B) *Establishment*. The Brown County Area Plan Commission ("Plan Commission") is hereby reestablished in accordance with the area planning law set forth in I.C. 36-7-4.
(Ord. 1995-5, passed 6-20-1995)

§ 153.151 MEMBERSHIP.

(A) *Membership*. The Plan Commission shall consist of 7 members, as follows:

(1) Two members, appointed by the Board of County Commissioners, who may be a member of the Board of County Commissioners;

(2) One member, appointed by the County Council, who may be a member of the County Council;

(3) One member appointed by the Town Council, who may be a member of the Town Council;

(4) One member appointed by the Brown County School Board, who shall be the Superintendent of Schools, the Assistant Superintendent of Schools, an administrative official of the School Corporation, or a member of the Brown County School Board;

(5) The Brown County Surveyor or an individual appointed by the Brown County Surveyor; and

(6) The County Agricultural Extension Educator.

(a) However, the County Agricultural Extension Educator must be a resident of the county to be eligible to serve on the area Plan Commission. If:

1. The county does not have a County Agricultural Extension Educator; or

2. The County Agricultural Extension Educator is not a resident of the county.

(b) The County Executive shall select a resident of the county who is a property owner with agricultural interest to serve on the area Plan Commission under this clause for a period not to exceed one year. In addition to the county resident selected by the County Executive to serve as a member of the Commission, the County Agricultural Extension Educator who is not a resident of the county shall serve the Commission in a nonvoting advisory capacity.

(B) *Qualifications of members*. Each member shall be appointed because of the member's knowledge and experience in the community affairs in Brown County or elsewhere; the member's awareness of the social, economic, agricultural and industrial problems of the area; and the member's interest in the stewardship of the area. A member may not hold other elective or appointive office in municipal, county or state government except in the case of a membership on the school board, the Park Board, the Board of Zoning Appeals, the board of directors for public utilities, or the board of trustees for utilities created under I.C. 8-1-11.1, or as otherwise authorized by law (such as I.C. 36-7-4-208). Except for the member established by §§ 153.151(A)(4) above, a voting member must be a resident of Brown County, Indiana. A member shall be knowledgeable in the area from which the member is appointed.
(Ord. 1995-5, passed 6-20-1995; Am. Ord. 2007-01, passed 4-19-2007; Am. Ord. 2021-05, passed 5-20-2021)

§ 153.152 TERMS OF OFFICE.

(A) The term of the member appointed pursuant to § 153.151(A)(1) shall expire on January 1, 1998. The term of the member appointed pursuant to § 153.151(A)(2) shall expire on January 1, 1995. The term of the member appointed pursuant to § 153.151(A)(3) shall expire on January 1, 1996.

(B) All subsequent appointments made pursuant to § 153.151(A)(1), (2) and (3) shall be for a term of 4 years which term expires on the first Monday of January of the fourth year following the member's appointment.

(C) The member appointed pursuant to § 153.151(A)(4) shall serve until removed by the Brown County School Corporation. However, the School Corporation may adopt a term limitation for its appointee of not less than 4 years.

(D) The term of the member appointed pursuant to § 153.151(A)(5) shall be coextensive with the appointee's status as the County Agricultural Extension Educator.

(E) The member appointed pursuant to § 153.151(A)(6) shall be coextensive with the appointing Surveyor's term of office.

(F) A member serves until his or her successor is appointed and qualified. A member may be reappointed.
(Ord. 1995-5, passed 6-20-1995)

§ 153.153 REMOVAL OF MEMBER.

The appointing authority may remove a member from the Plan Commission 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, within 30 days after receiving notice of the removal, appeal the removal to the Brown Circuit Court. The Circuit Court may, pending the outcome of the appeal, order the removal or stay the removal of the member.
(Ord. 1995-5, passed 6-20-1995)

§ 153.154 VACATED MEMBERSHIP.

If a vacancy occurs among the Plan Commission membership, then the appointing authority shall appoint a member for the unexpired term of the vacating member.
(Ord. 1995-5, passed 6-20-1995)

§ 153.155 EXPENSES AND COMPENSATION.

(A) If the Plan Commission determines that it is necessary or desirable for members or employees to join a professional organization or to attend a conference or interview dealing with planning or related problems, the Plan Commission may pay the applicable membership fees and all actual expenses of

the members or employees, subject to County Council appropriation of funds.

(B) I.C. 36-2-7-2 notwithstanding, all members of the Plan Commission are entitled to receive the following: a sum for mileage, for each mile necessarily traveled while performing the member's duties, in an amount that is equal to the amount paid to state employees for mileage, and a sum for compensation for services as a Plan Commission member in an amount that the County Council may determine for attendance at Plan Commission meetings.
(Ord. 1995-5, passed 6-20-1995)

§ 153.156 CONFLICT OF INTEREST.

A Plan Commission member may not participate as a Plan Commission member in a hearing or decision of the Plan Commission concerning a matter in which the member has a direct or indirect financial interest. The Plan Commission shall enter in its records the fact that its member has such a disqualification. A Plan Commission member shall not directly or personally represent another person in a hearing before the Plan Commission, the Board of Commissioners, the Town Council or the legislative body of any other participating municipality concerning a zoning matter or any other matter related to zoning including, but not limited to annexation. A Plan Commission member may not receive mileage or compensation under § 153.155 for attendance at a meeting at which the member is disqualified from participation, during any part of the meeting, for having a direct or indirect financial interest in a matter before the Plan Commission.
(Ord. 1995-5, passed 6-20-1995) Penalty, see § 153.999

§ 153.157 OFFICIAL ACTION.

An action of the Plan Commission is not official unless it is authorized, at a regular or special meeting, by a majority of the entire Plan Commission membership or by a majority of the Executive Committee pursuant to § 153.163.
(Ord. 1995-5, passed 6-20-1995)

§ 153.158 OFFICERS.

(A) At its first regular meeting in each year, the Plan Commission shall elect from its membership a president and a vice-president. The vice-president may act as president of the Plan Commission during the absence, disability or recusal of the president.

(B) The Plan Commission may appoint and fix the duties of a secretary, who is not required to be a member of the Plan Commission.
(Ord. 1995-5, passed 6-20-1995)

§ 153.159 MEETINGS AND RECORDS.

(A) The Plan Commission shall fix the time for holding regular meetings each month or as necessary. Special meetings of the Plan Commission may be called by the president or by 2 members of the Plan Commission upon written request to the secretary. The secretary shall send to all members, at least 3 days before the special meeting, a written notice fixing the time and place of the meeting. Written notice of a special meeting is not required if the date, time, and place of a special meeting are fixed in a regular meeting, and if all members of the Plan Commission are present at that regular meeting. All regular and special meetings of the Plan Commission shall be open to the public, except that the Plan Commission may schedule executive session meetings pursuant to I.C. 5-14-1.5-1 *et seq.*

(B) The Plan Commission shall keep minutes of its proceedings, keep records of its examinations and other official actions; prepare written findings of fact in support of each of its decisions; and record the vote, disqualification, abstention or failure to vote of each member upon each question. All Plan

Commission minutes and records shall be filed in the office of the Plan Commission and shall be public records to the extent required by I.C. 5-14-3-1 *et seq*.
(Ord. 1995-5, passed 6-20-1995)

§ 153.160 STAFF AND SERVICES.

(A) When there is a vacancy in the position of Executive Director of the Planning Department, the Plan Commission shall recommend to the County Commissioners a candidate for the position.

(B) The Plan Commission shall prescribe the qualifications of, appoint, remove and, with the consent of the Executive Director, fix the compensation of the employees of the Plan Commission, which compensation must conform to the salaries and compensations fixed before that time by the County Council. The salaries and compensation shall be consistent with the Brown County salary study. The Plan Commission shall delegate authority to its employees to perform ministerial acts in all cases except where final action of the Commission is necessary.

(C) The Plan Commission may contract for special or temporary services and any professional counsel.

(D) The Plan Commission may designate a hearing examiner or a committee of the Plan Commission to conduct any public hearing required to be held by the Plan Commission. Such a hearing must be held upon the same notice and under the same rules as a hearing before the entire Plan Commission. The examiner or committee shall report findings of fact and recommendations for decision to the Plan Commission. The Plan Commission shall, by rule, provide reasonable opportunity for interested persons to file exceptions to the findings and recommendations, and if any exception is filed in accordance with those rules (or is filed, in any event, if the Plan Commission has not promulgated rules), the Plan Commission may render its decision without further hearing.
(Ord. 1995-5, passed 6-20-1995)

§ 153.161 POWERS AND DUTIES.

The Plan Commission shall:

(A) Supervise and make rules for the administration of the affairs of the Plan Commission;

(B) Prescribe uniform rules pertaining to investigations and hearings;

(C) Record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the Plan Commission;

(D) Prepare, publish, and distribute reports, ordinances and other material relating to the activities authorized under this subchapter;

(E) Adopt a seal;

(F) Certify to all official acts;

(G) Supervise the fiscal affairs of the Plan Commission;

(H) Prepare and submit an annual budget in the same manner as other county departments and be limited in all expenditures to the provisions made for the expenditures by the County Council;

(I) Sue and be sued collectively by its legal name, "Brown County Area Plan Commission," with service of process on the President of the Plan Commission;

(J) Make recommendations to the Board of Commissioners or to the legislative body of any participating municipality concerning:

(1) The adoption of the comprehensive plan, ordinance and amendments; and

(2) Any other matter, within the jurisdiction of the Plan Commission, authorized by the area planning law.

(K) Render decisions concerning and approve:

(1) Plats or replats of subdivisions;

(2) Development plans for residential, commercial and industrial uses; and

(3) Waivers of subdivision standards.

(L) Assign street numbers to lots and structures and renumber lots and structures, and notify the Circuit Court Clerk or Board of Registration, the administrator of the county's enhanced emergency telephone system, and the United States Postal Service of the numbering or renumbering no later than the last day of the month following the month in which the action is taken;

(M) Make recommendations to the Board of Commissioners or the legislative body of any participating municipality, as appropriate, concerning the naming and renaming of streets and roads, in accordance with guidelines set forth in § 153.168 of this subchapter, and notify the Circuit Court Clerk or Board of Registration, the administrator of the county's enhanced emergency telephone system, and the United States Postal Service of the naming or renaming no later than the last day of the month following the month in which the Commissioners' or Council's action is taken; and

(N) Establish a schedule of reasonable fees to defray the administrative costs connected with processing and hearing administrative appeals and petitions for rezoning, special exceptions, conditional uses, temporary uses and variances; issuing permits; and other official actions taken under the zoning code.
(Ord. 1995-5, passed 6-20-1995)

§ 153.162 CITIZEN COMMITTEES.

(A) By resolution, the Plan Commission may establish advisory committees of citizens interested in problems of planning and zoning. In its resolution establishing a committee, the Plan Commission shall specify the terms of its members, its purposes, and whether the committee is of perpetual or limited duration.

(B) Each advisory committee shall:

(1) Study the subject and problems specified by the Plan Commission and make recommendations to the Commission regarding the subject and problems specified and recommend additional problems in need of study;

(2) Advise the Plan Commission concerning how the subject and problems relate particularly to different areas and groups in the community; and

(3) If invited by the Plan Commission to do so, sit with and participate, without the right to vote, in the deliberations of the Commission, when subjects of mutual concern are discussed.

(C) A citizen committee shall report only to the Plan Commission and shall make inquiries and reports only on the subject and problems specified by the Plan Commission's resolution establishing the committee.
(Ord. 1995-5, passed 6-20-1995)

§ 153.163 EXECUTIVE COMMITTEE.

(A) The Plan Commission may establish an executive committee of not less than 3 nor more than 6 persons appointed by the Plan Commission from its membership. The establishment of the executive committee, the naming of its individual members, and the adoption of rules governing its operation requires a 2/3 majority vote of the entire membership of the Plan Commission.

(B) A majority of the executive committee may act in the name of the Plan Commission; but if there are any dissenting votes, a person voting in the minority may appeal the decision of the executive committee to the Plan Commission.
(Ord. 1995-5, passed 6-20-1995)

§ 153.164 GIFTS AND GRANTS.

The Plan Commission as a whole may accept gifts, donations, and grants from private or governmental sources for advisory planning purposes. Any money so accepted shall be deposited with the Brown County Treasurer, in a special nonreverting Plan Commission fund to be available for expenditures by the Plan Commission for the purposes designated by the source. The Brown County Auditor shall draw warrants against the special nonreverting fund only on vouchers signed by the president and secretary of the Plan Commission.
(Ord. 1995-5, passed 6-20-1995)

§ 153.165 ALTERNATE PROCEDURE.

(A) The Plan Commission may appoint a Hearing Officer and may establish an alternate procedure under which the Hearing Officer may approve or deny variances from the design standards of the zoning code, special uses, conditional uses and special exceptions from the terms of the zoning code. With respect to these matters, the Hearing Officer shall have the power of the Board of Zoning Appeals. The Hearing Officer may be a Board of Zoning Appeals member, a Plan Commission staff member or any other person. The Plan Commission may appoint more than 1 Hearing Officer. A Hearing Officer serves at the pleasure of the Plan Commission and may be removed by the Plan Commission at any time, without cause.

(B) With respect to an alternate procedure, the Plan Commission may adopt rules:

(1) Limiting the kinds of variance, special use, contingent use, conditional use or special exception petitions that may be filed under the alternate procedure;

(2) Permitting the Hearing Officer, in appropriate circumstances, to transfer a petition filed under the alternate procedure to the Board of Zoning Appeals;

(3) Requiring the creation of minutes and records of the proceedings before the Hearing Officer and the filing of the minutes and records as public records; and

(4) Regulating conflicts of interest and communications with the Hearing Officer, so as to require the same level of conduct required of the Board of Zoning Appeals in the conduct of its business.

(C) The Plan Commission staff may file a written objection to a petition for a variance, exception or use if:

(1) It would be injurious to the public health, safety, morals and general welfare of the community; or

(2) The use or value of the area adjacent to the property included would be affected in a substantially adverse manner.

(D) If a written objection is filed by the Plan Commission staff, the petition shall:

(1) Be considered withdrawn; or

(2) Be transferred to the Board of Zoning Appeals if requested by the petitioner.

(E) The Plan Commission staff may indicate that it does not object to the approval of the petition if specified conditions are attached. If the applicant does not accept these conditions, the petition shall:

(1) Be considered withdrawn; or

(2) Be transferred to the Board of Zoning Appeals if requested by the petitioner.

(F) The Hearing Officer may impose conditions and may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel, in the same manner that the Board of Zoning Appeals may impose conditions or require written commitments. If the

applicant for the variance, exception or use does not accept these conditions or make the commitment, the petition shall:

(1) Be considered withdrawn; or

(2) Be transferred to the Board of Zoning Appeals if requested by the petitioner.

(G) The Hearing Officer may not modify or terminate any commitment made to the Hearing Officer or to the Board of Zoning Appeals.

(H) A decision of a Hearing Officer under the alternate procedure may not be a basis for judicial review, but it may be appealed to the Board of Zoning Appeals. An interested person who wishes to appeal a decision of a Hearing Officer under the alternate procedure must file the appeal with the Board of Zoning Appeals within 14 days after the decision is made.
(Ord. 1995-5, passed 6-20-1995)

§ 153.166 REVIEW OF ZONING CODE.

The Plan Commission shall periodically review both the text of the zoning code and the zoning maps. The review shall be performed on a regular schedule established by the Plan Commission, but not less frequently than once every 2 years. Upon review of the text and maps, the Plan Commission shall recommend all appropriate changes to the County Commissioners or to the legislative body of any participating municipality as proposed amendments to the zoning code.
(Ord. 1995-5, passed 6-20-1995)

§ 153.167 PLAT COMMITTEE.

The Plan Commission may appoint a plat committee to hold hearings on and approve plats and replats, on behalf of the Plan Commission, under the circumstances prescribed in the subdivision control ordinance. The plat committee shall consist of 3 or 5 persons, with at least 1 of the members being a member of the Plan Commission. Each appointment of a member of the plat committee is for a term of 1 year, but the Plan Commission may remove a member from the plat committee at any time, with or without cause. The Plan Commission must mail notice of the removal, along with written reasons, if any, for the removal, to the member at his or her residence address. A member who is removed may not appeal the removal to a court or otherwise. The plat committee may take action only by a majority vote.
(Ord. 1995-5, passed 6-20-1995)

§ 153.168 NAMING AND RENAMING STREETS.

(A) In making proposals to the Board of Commissioners or the legislative body of any participating municipality regarding the naming and renaming of streets, the Plan Commission shall be guided by the policies listed in division (B) below.

(B) (1) Duplicate street names and names that sound alike shall not be allowed.

(2) Directional or relative names should not be used (such as North Drive, Spearsville Road).

(3) A continuous street should not change names when the direction of the street changes.

(4) Predominately north-south streets shall have an “N” prefix if north of the center line and an “S” prefix if south of the center line.

(5) Predominately east-west streets shall have an “E” prefix if east of the center line and a “W” prefix if west of the center line.

(6) Dead-end streets or courts that have no possibility of extension to another road should have a name that is based on the name of the street they connect to (such as E. Poplar Grove Lane, N. Poplar Grove Court, N. Poplar Grove Circle).

(7) The Postmaster who serves the area in which the named or renamed street will be or is

located should be given the opportunity to review and comment on proposed names before the Plan Commission approves a proposal.

(8) The Brown County Highway Superintendent or the official responsible for street or road maintenance for a participating municipality, as appropriate, must be given the opportunity to review and comment on proposed names before the Plan Commission approves a proposal.
(Ord. 1995-5, passed 6-20-1995)

§ 153.169 NUMBERING SYSTEM FOR HOUSES AND STRUCTURES.

(A) *Uniform numbering system.* A plan for the orderly and systematic numbering of houses and structures located within the jurisdiction of the town is hereby enacted (hereinafter "Uniform Numbering System"). Any and all ordinances previously adopted by the Town Council regarding the numbering of houses and structures are hereby repealed and superseded by this section.

(B) *Relation to health and welfare.* The numbering of houses and other structures in an orderly and systematic manner will make locating those houses and structures more expeditious in the case of fire emergencies, in situations that involve an immediate need for medical attention for occupants of the house or structure, and in situations in which police protection or other emergency services are required. An orderly and systematic house numbering process will also enhance the delivery of goods and services, as well as increase the efficiency of operations such as postal delivery.

(C) *Conformity.* From the effective date of this section, the numbering of all houses and other structures located on lots or parcels of land abutting public streets or roads within the jurisdictional area of the town shall be accomplished in conformity within the Uniform Numbering System as herein described. At the time of issuance of any permit for construction of a house or structure, a number shall be assigned to the house or structure by the Brown County Area Plan Commission office as set forth below. The number shall be included on the permit, and no permit authorizing the occupancy of a house or structure shall be issued and no final inspection of a building performed for the purpose of permitting its occupancy shall be deemed complete unless the house or structure displays, at the time of inspection, the officially assigned number in full compliance with the standards of this section.

(D) *Base lines and sequences.*

(1) The general rule shall be 1,000 addresses per mile, except in certain areas where the irregular direction of the roadways makes variations necessary. Even numbers shall be used on the North and West sides of roads and odd numbers shall be used on the South and East sides of roads.

(2) The grid system to be used is to be constructed on a North, South, East and West basis using the existing base roads in the Brown County Highway System, with each mile portion of roadway becoming a "block" for uniform numbering purposes.

(E) *Administrative Office.*

(1) The Brown County Area Plan Commission shall act as the Administrative Office (hereinafter the "Administrative Office") in charge of issuing numbers to houses or structures in compliance with the provisions of this section. The Administrative Office shall issue numbers to allow new houses or structures, renumber houses and structures whenever it becomes necessary to do so in the implementation of the Uniform Numbering System, and cause the numbering of all existing homes or structures that are not numbered to be numbered in accordance with the provisions of this section. Barns, sheds and outbuildings not used for a habitation or business shall not be numbered unless there is a specific reason or need for doing so.

(2) The Administrative Office may establish written guidelines to use in implementing this section and may amend the guidelines from time to time, subject to the prior approval of the Town Council.

(F) *Numbers other than on public streets and roads*. The Administrative Office may, if it deems it proper and necessary for the implementation of the Uniform Numbering System, assign numbers to houses and structures that are situated on private streets or roads within the jurisdiction of the town.

(G) *Standards for the posting of house numbers*.

(1) The owner or occupant of a house or structure located within the jurisdiction of the town shall post officially assigned numbers in English, using Arabic (not Roman) numerals at a minimum of 3 inches in height and made of durable, weatherproof material, of a color that stands out in high contrast against the background. The official number shall be placed on the house or business structure where it may easily be seen when approaching the house or business. It shall also be placed on both sides and the front of a mailbox, if a mailbox is used (sized and positioned according to postal regulations), or on a post adjacent to the roadway if the house or structure is not visible from a road or if the house or building is more than 200 feet from the road. If mailboxes are placed closely side by side in such a way that numbers on the sides of the mail boxes cannot be seen, the numbers need to be placed only on the front of each mailbox, and the individual houses or other structures should be identified using house numbers or appropriately placed road posts.

(2) Houses or structures that were numbered prior to the effective date of this section shall be renumbered if necessary to comply with the Uniform Numbering System and so that numerical harmony throughout an area or areas is achieved. The Administrative Office shall authorize these changes.

(H) *Notification of local agencies*. The Administrative Office shall provide a uniform system of notification of the issuance of numbers or the renumbering of houses and structures. When possible, notification shall be made reasonably ahead of impending changes so as to allow interested groups and agencies to plan and to prepare for the proposed changes. The Administrative Office shall keep accurate records and shall, from time to time, prepare and make available to the Town Council a report of the status of the implementation of the uniform numbering system. In the assignment of house numbers, the Administrative Office shall use its best judgment and shall carefully consider and evaluate all contingencies and shall, with due regard to the sensitive nature of the job assigned to it, be considerate of the citizens of Nashville, Indiana.

(I) *Enforcement*. The Town Council may institute a suit for injunction to restrain any person, firm or corporation who takes down, alters, defaces, destroys or conceals any number assigned to or placed upon any building in compliance with this section, or who places or substitutes or permits to be placed or substituted upon any building an erroneous or improper number not in compliance with this section, or who allows to be retained upon any building an erroneous or improper number not in compliance with this section. The Town Council may institute a suit for mandatory injunction directing a person, firm or corporation to correct any violation of the provisions of this section or to bring about compliance with the provisions of this section.
(Ord. 1997-4, passed 7-17-1997)

EROSION AND STORMWATER MANAGEMENT

§ 153.180 STORMWATER DRAINAGE.

(A) All new developments, any redevelopment and/or new construction in the town must control the release of stormwater runoff.

(1) The release rate of stormwater from developed lands does not exceed the release rate from the land in its present land use; or

(2) The release rate of stormwater from developed land does not create a harmful condition to adjacent or downstream property.

(B) The developer must submit to the Town Council detailed computations and plans detailing site condition runoff rates before and after development,

redevelopment or new construction, demonstrating that storm runoff will be controlled.

(C) Preliminary and final drainage plans shall be submitted to the Town Council no less than 45 days prior to its regularly scheduled meeting.
(Res. 2001-2, passed 2-15-2001; Am. Ord. 2003-04, passed 7-17-2003)

§ 153.181 EROSION CONTROL.

(A) *Applicability*. This section applies to nonagricultural land-disturbing activities on land within the boundaries and jurisdiction of the town.

(B) *Definitions*. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADMINISTERING AUTHORITY. The designated unit of government given the authority to issue permits.

AGRICULTURAL LAND USE. Use of land for the production of animal or plant life, including forestry, pasturing or yarding livestock, and planting, growing, cultivating and harvesting crops for human or livestock consumption.

EROSION. The detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.

EROSION CONTROL MEASURE. A practice or a combination of practices to control erosion and resulting sedimentation.

EROSION CONTROL PLAN. A written description of pertinent information concerning erosion control measures designed to meet the requirements of this section as submitted by the applicant for review and approval by the Town Manager.

LAND-DISTURBING ACTIVITY. Any man-made change of the land surface, including removing vegetative cover, excavating, filling, transporting and grading. In the context of this section, it includes only nonagricultural land-disturbing activities on sites which also require a local improvement location permit or an approved subdivision plat.

NONAGRICULTURAL LAND USE. Commercial use of land for the manufacturing and wholesale or retail sale of goods or services, residential or institutional use of land intended primarily to shelter people, highway use of land including lanes, alleys and streets, and other land uses not included under ***AGRICULTURAL LAND USE.***

PERSON. Any entity, including any individual, corporation or public body, holding title to or having an interest in land, operating, leasing, renting, or having made other arrangements with the title holder by which the title holder authorizes use of his or her land.

RUNOFF. The portion of precipitation from such sources as rainfall, snowmelt or irrigation water that flows over the ground surface.

SITE. The entire area included in the legal description of the land on which land-disturbing activity has been proposed in the permit application.

(C) *Design criteria, standards, and specifications for erosion control measures*. All erosion control measures including, but not limited to those required to comply with this section shall meet the design criteria, standards and specifications for erosion control measures similar to or the same as those outlined in the *Field Office Technical Guide* of the USDA Soil Conservation Service.

(D) *Control of erosion and sediment during land-disturbing activities*. Control of erosion and sediment is the responsibility of an applicant. Applicability and requirements are defined as follows:

(1) *Applicability*. This section applies to the following sites with land-disturbing activities:

(a) Those requiring a subdivision plat approval or local improvement location permit for the construction of commercial, residential or institutional buildings on lots of approved subdivision plats;

(b) Those involving grading, removal of protective groundcover or vegetation, excavation, land filling, or other land-disturbing activity affecting a surface area of 2,500 square feet or more;

(c) Those involving excavation, filling, or a combination of excavation and filling affecting 100 cubic yards or more of soil, sand, gravel, stone or other material;

(d) Those involving street, highway, road or bridge construction, enlargement, relocation or reconstruction; and

(e) Those involving the laying, repairing, replacing or enlarging of an underground pipe or utility for a distance of 50 feet or more.

(2) *Erosion and other sediment control requirements*. The following requirements shall be met on all sites:

(a) *Site dewatering*. Sediment-laden water flowing from the site shall be detained by temporary sediment basins. Also, water shall not be discharged in a manner that causes erosion in the receiving channel;

(b) *Waste and material disposal*. Waste or unused building materials, including but not limited to garbage, debris, cleaning wastes, wastewater, toxic materials and hazardous substances, shall not be carried by runoff from a site. Proper disposal of all wastes and unused building materials, in line with the nature of the waste or material, is required;

(c) *Tracking*. Sediment being tracked from a site onto public or private roadways shall be minimized. This can be accomplished initially by a well-planned layout of roads, access drives and parking areas of sufficient width and length. However, protective covering also may be necessary;

(d) *Sediment removal*. Public or private roadways shall be kept cleared of accumulated sediment. If appreciable sedimentation occurs after a storm event, the sediment shall be deposited on the parcels of land, if in the site, from where it likely originated;

(e) *Drain inlet protection*. All storm drain inlets shall be protected against sedimentation with straw bales, filter fabric or equivalent barriers meeting accepted design criteria, standards and specifications; and

(f) *Site erosion control*. The following items apply only to the time period when land-disturbing activities are taking place:

1. Runoff passing through a site from adjacent areas shall be controlled by diverting it around disturbed areas. Alternatively, the existing channel may be improved to prevent erosion or sedimentation from occurring;

2. Runoff from a disturbed area shall be controlled by 1 of the following measures:

a. Barring unforeseeable weather conditions, all disturbed ground left inactive for 7 or more days shall be stabilized prior to October 15 by seeding, sodding, mulching, covering or by other equivalent erosion control measures;

b. With disturbed areas within a site of 10 acres or more, where drainage is in the same direction or where runoff will result in loss of soil, an abatement or recovery program is required. Where feasible, 1 or more sediment basins shall be constructed; or

c. With disturbed areas within a site of less than 10 acres, filter fences, straw bales or other erosion control measures shall be required.

3. Erosion from all soil storage piles shall be controlled as before mentioned. Adjacent storm drain inlets shall be protected. Soil storage piles shall be stabilized in the same manner as before mentioned, if remaining in existence for more than 7 days.

(E) *Maintenance of erosion control measures*. During the period of land disturbance at a site, all sediment basins and other erosion control measures necessary to meet the requirements of this section shall be applied by the applicant or landowner.

(F) *Permit application, erosion control plan, and permit issuance*. No person shall begin a land-disturbing activity subject to this section without receiving approval of an erosion control plan. An application should be made at the time of the preliminary plat submittal or local improvement location permit application to minimize the time delay before a project can begin. By submitting an application, the applicant is implying that the town has been given permission to enter the site to obtain information required for review of the erosion control plan.

(1) *Content of erosion control plan for land-disturbing activities covering more than 1 acre in a given site*.

(a) *Existing site map*. Conditions on a minimum scale of 1 inch equals 100 feet adequate to show the site and adjacent areas, including:

1. Site boundaries and adjacent lands which accurately identify the site location;

2. Lakes, streams, wetlands, channels, ditches and other watercourses on and adjacent to the site;

3. One hundred-year floodplains, floodway fringes and floodways;

4. Location of the predominant soil types;

5. Vegetative cover such as grass, weeds and trees;

6. Location and dimensions of stormwater drainage systems and natural drainage patterns on and adjacent to the site;

7. Locations and dimensions of utilities, structures, roads, highways and paving; and

8. Site topography.

(b) *Plan of final site conditions*.

(c) *Site construction plan*.

1. Locations and dimensions of all proposed land-disturbing activities;

2. Locations and dimensions of all temporary soil stockpiles;

3. Locations and dimensions of all erosion control measures;

4. Anticipated starting and completion dates; and

5. Provisions for maintenance of the erosion control measures.

(2) *Content of erosion control plan for land-disturbing activities covering less than 1 acre in a given site*. An erosion control plan statement describing the site and erosion control measures and including a development schedule and a simple map showing the locations of the control measures is all that is required.

(3) *Review of erosion control plan*. The Town Manager shall review all necessary information.

(4) *Permits*.

(a) *Surety bond*. The Town Manager may require the applicant to provide a surety bond.

(b) *Permit conditions*. All permits shall require the applicant to:

1. Notify the Town Manager at least 24 hours before commencing with any land-disturbing activity;

2. Notify the Town Manager of the completion of erosion control measures within 7 days after installation;

3. Obtain permission from the Town Manager prior to modifying the erosion control plan;

4. Install all erosion control measures;

5. Maintain road drainage systems, stormwater drainage systems and erosion control measures;

6. Where legal, remove sediment resulting from land-disturbing activities from adjacent surfaces and drainageways and/or repair erosion damage to adjacent surfaces and drainageways; and

7. Allow the Town Manager to enter the site for verifying compliance with controls.

(G) *Inspection*.

(1) To ensure compliance with the erosion control plan, the Town Manager shall inspect sites having ongoing land-disturbing activities.

(2) If land-disturbing activities are being carried out without a permit, the Town Manager shall issue a stop-work order.

(H) *Enforcement*.

(1) The Town Manager shall post a stop-work order if:

(a) Any land-disturbing activity is undertaken without a permit;

(b) The erosion control plan is not being implemented in good faith; or

(c) The conditions of the permit are not being met.

(2) Upon appeal to the Town Manager, a stop-work order or the revocation may be retracted.

(3) Ten days after posting a stop-work order, the Town Manager may issue a notice of intent stating that 14 days after issuing the notice of intent the Town Manager will use the surety bond to perform work necessary.

(4) If, within 5 days after notification, a permit holder does not comply with the erosion control plan or permit conditions, the Town Manager may revoke the permit.

(5) Persons violating the provisions of this section shall be subject to forfeitures or fine.

(6) Compliance with the provisions of this section also may be enforced by injunction.

(I) *Project termination*. An orderly and timely termination of a project with land-disturbing activities should be planned between all persons involved with a site.

(1) Nearing the end of the project, but prior to the final land grading, the person holding the permit should petition the Town Manager to allow for the installation of utility lines. This work should be done promptly. After utilities are installed, complete all erosion control activities promptly.

(2) When a project has been completed, the person holding the permit shall petition the Town Manager for approval of erosion control measures which are to remain on the site. The Town Manager shall inspect the site to evaluate the adequacy of these measures.

(3) If the erosion control measures are approved, any surety bond or letters of credit shall be released.

(4) If the erosion control measures are not approved because they are not in line with either the erosion control plan or the general principles of this section, the Town Manager shall notify, in writing, the person holding the permit of unacceptable features.

(J) *Administrative appeals and judicial review.*

(1) *Town Council.*

(a) The Town Council shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Town Manager in administering this section.

(b) Upon appeal, the Town Council may authorize variances from the provisions of this section which are not contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of the section will result in unnecessary hindrances.

(c) The Town Council shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and in authorizing variances.

(2) *Judicial review.* Final decisions of the Town Council are subject to review by the Brown County Court, provided an appeal is filed within 30 days from the date of the final decision of the Town Council.
(Am. Ord. 2003-04, passed 7-17-2003)
(Ord. 1997-8, passed 1-15-1998)

§ 153.999 PENALTY.

Any person violating any of the provisions of the foregoing zoning and land use code shall be fined in an amount not exceeding $500 per day, together with court costs. Each day a violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.
(Ord. 1984-7, passed 8-6-1984; Am. Ord. 2003-04, passed 7-17-2003)

APPENDIX A: LAND USES AND REQUIREMENTS

FIGURE 1. RESIDENTIAL USES AND REQUIREMENTS

Requirements	*Types of Residential Use*		
	Single-Family Dwelling	*Two-Family Dwelling*	*Multi-Family Dwelling*
District in which use is permitted	R1, R2, B1, B2, B3, RB	R2, B1, B2, B3, RB	B1, B2, B3, RB
Minimum lot size in sq. ft./dwelling unit in districts indicated	R1 6,000 R2, RB 3,000 B1, B2, B3 6,000	R2, RB 3,000 B1, B2, B3 3,000	B1 3,000 B2, B3 2,000
Minimum lot width in feet in districts indicated	R1 59.5 R2, RB 59.5 B1, B2, B3 50	R2, RB 59.5 B1, B2, B3 50	B1, B2, B3 50 RB 59.5
Maximum building height in feet in districts indicated	R1, R2, RB, B1, B2, B3 35	R2, RB, B1, B2, B3 35	B1, B2, B3, RB 35
Minimum front yard in relation to avg. depth of lots in block	20 ft. from street right-of-way or 20% of depth of lot, whichever is less	20 ft. from street right-of-way or 20% of depth of lot, whichever is less	20 ft. from street right-of-way or 20% of depth of lot, whichever is less
Minimum side yard (1)	5 feet	5 feet	5 feet
Minimum side yards (both or 2) in % of lot width	20	20	20
Minimum rear yard in feet	20*	15	15
Minimum ground floor area in sq. ft. in districts indicated	1-story: +R1 800 R2, RB 800 B1, B2, B3 600 Over 1 story: +R1 1,000 R2, RB 600 B1, B2, B3 600	1-story: R2, RB 1,050 B1, B2, B3 960 Over 1 story: R2, RB, B1, B2, B3 600	First 2 units, same as 2-family dwelling, plus additional area/unit: B1, B2, B3, RB 200

Requirements	*Types of Residential Use*		
	Single-Family Dwelling	*Two-Family Dwelling*	*Multi-Family Dwelling*
No. of vehicle parking spaces to be provided on lot	1	2	1/each dwelling unit
Maximum lot coverage in % of lot	35	35	40
Vision clearance on corner lot	Yes	Yes	Yes

(Am. Ord. 2019-01, passed 4-18-2019; Am. Ord. 2021-16, passed 10-21-2021)

FIGURE 2: BUSINESS USES AND REQUIREMENTS

Requirements	*Types of Business Use*		
	Local Business	*General Business*	*Service and Warehouse Business*
District(s) in which use is permitted	B1, B2, B3, I1	B2, B3, I1	B3, I1
Minimum front yard in feet in districts indicated	B1, B3, I1 15 B2 None	B2 None B3, I1 15	B3, I1 15
Minimum side yard in feet along the side street line of a corner lot, where block is adjoined by a residential district	5	5	5
Minimum side yard in feet where a business district adjoins a residential district within the block	5	5	5
Minimum side yard in blocks not including a residential district	None	None	None
Maximum building height in feet in districts indicated	B1 35 B2, B3, I1 35	B2, B3, I1 35	B3, I1 35
Minimum rear yard in feet	15	15	15
Maximum lot coverage in % of lot	90	90	90
Vision clearance on corner lots	Yes	Yes	Yes
Min. ground floor area	600	600	600

FIGURE 3: PARKING SPACES REQUIRED FOR USES

Type of Use	*No. of Parking Spaces Required*
Local Business Uses: B1	
Uses listed in § 153.050	1 for each 125 sq. ft. of floor area
Indoor theater	1 for each 6 seats
Private club or lodge	Space to accommodate 50% of the active membership at 1 space/each 3 members
General Business Uses: B2	
Bank	1 for each 500 sq. ft. of floor area
Office building	1 for each 200 sq. ft. of floor area
Postal station	1 for each 500 sq. ft. of floor area
Telegraph office	1 for each 500 sq. ft. of floor area
Utility company business office	1 for each 500 sq. ft. of floor area
Hotel	1 for each 3 employees, plus 1 for each sleeping room
Motor bus or railroad passenger station	1 for each 3 employees, plus 1 for each 10 seats in waiting room. Other retail uses in connection therewith shall provide 1 space for each 2 employees
Bowling alley	3 for each lane, plus 1 for each 6 spectator seats
Dancing academy or billiard room	1 for each 200 sq. ft. of floor area
Department store	1 for each 200 sq. ft. of floor area
Outdoor business	*1 for each table or salesperson, whichever is greater
Uses listed in § 153.051	1 for each 125 sq. ft. of floor area
Service and Warehouse Business Uses: B3	
Storage warehouse and wholesale establishment	1 for each 3 employees or occupants. The maximum no. of employees or occupants to be used in determining spaces
Automobile and truck repair	1 for each 200 sq. ft. of floor area

Type of Use	*No. of Parking Spaces Required*
Veterinary hospital for small animals or kennel	1 space for each 3 animals to be confined in temporary or permanent pens or cages
Category 9 under Paragraph C, § 15 _____-12	As determined by the Board
NOTE: *This provision shall not be waived under the terms of Section _____ subparagraph (D)(3)	

(Am. Ord. 1997-9, passed 12-18-1997)

FIGURE 4: LOADING AND UNLOADING BERTHS REQUIRED

Type of Use	*Gross Floor Area (in sq. ft.)*	*No. of Loading and Unloading Berths Required*
Retail stores, department stores, wholesale establishments, storage uses and other business uses	3,000 to 15,000 15,001 to 40,000 Each 25,000 additional	1 2 1 additional
Office buildings	100,000 or less 100,001 to 336,000 Each 200,000 additional	1 2 1 additional

FIGURE 5: INDUSTRIAL USES AND REQUIREMENTS

Requirements	***Type of Use***	
	Light Industrial	***Industrial***
District(s) in which use is permitted	B3, I1	I1
Minimum front yard in feet	B3 None I1 15	I1 15
Side yard required in feet	B3, I1 None	I1 None
Minimum side yard in feet, if provided	B3, I1 5	I1 5
Minimum rear yard in feet	B3, I1 15	I1 15
Maximum building height in feet	B3, I1 35	I1 75
Maximum lot coverage in % of lot	B3, I1 90	I1 90
Vision clearance on corner lots	Yes	Yes

FIGURE 6: LOADING AND UNLOADING BERTH REQUIREMENTS

Gross Floor Area of Industrial Use (in sq. ft.)	*No. of Berths Required*
15,000 or less	1
15,001 to 40,000	2
40,001 to 100,000	3
Each 40,000 additional	1 additional

FIGURE 7: CONTINGENT USES AND REQUIREMENTS

Type of Use	*District(s) in which Use is Permitted*	*No. of Parking Spaces to be Provided*
Agricultural, of a noncommercial character	All	Not applicable
Boarding or lodging house	R2, B1, B2, B3	1 for each 3 occupants
Church or temple	All, except I1	1 for each 6 seats in main auditorium
Lodge or private club (which is of a noncommercial character)	B1, B2, B3	1 for each 125 sq. ft. floor area of building(s)
Mortuary	B2, B3, I1	1 for each 6 seats in main auditorium
Municipal or governmental building	All	1 for each 125 sq. ft. floor area of building(s)
Nursing home or homes for the aged	B1, B2, B3	1 for each 7 persons
Professional office in residence of practicing professional person	All	2 additional
Plant nursery	All	None required
Public library or museum	All, except I1	1 for each 125 sq. ft. floor area of building(s)
School, public or parochial	All, except I1	1 for each 3 members of staff, plus 1 for each 8 seats in auditorium

FIGURE 8: CONTINGENT USES - MAXIMUM HEIGHT

District(s) in which Use is Permitted	*Maximum Building Height (in feet)*
R1, R2, B1	35
B2, B3, I1	35

(Ord. 1998-16, passed 10-15-1998)

FIGURE 9: SPECIAL EXCEPTIONS AND REQUIREMENTS

Special Exception	*District(s) in which Use may be Permitted*	*Requirement Designation*
Airport or heliport	R1, I1	b6(Heliport), b12(Airport), g, h2, i1(Airport), i2(Heliport), j1, k1, l2, n2, p, r1, s, t, u, v, w, y
Artificial lake of 3 or more acres	All	c1, i1, j1, k2, p, r1, u1, v, w, y
Cemetery or crematory	R1	b11, c2, k1, p, q, r1, v, w, y
Charitable not-for-profit	R1, R2	b11, c2, k1, p, q, r1, v, w, y
Clinic or medical health center	B1, B2, B3, I1	b1, c3, h4, j1, k3, l1, r1,v, w, y
Country club or golf course	R1	c1, d3, j1, k5, l1, p, r1, v, w, y
Fire station, police station, or county jail	All	b1, c1, h1, j1, k6, l1, s, y
Greenhouse, commercial	All except R2	b4, c6, f2, h1, k7, m4, n1, r1, v, w, y
Home occupation	All, but a special exception is only required in R1 and R2	b1, c1, f1, h1, k8, v, y
Hospital	All	b7, c6, g, h5, j1, k9, l2, m5, n1, p, s, t, v, y
Kindergarten or day nursery	All except I1	b3, c8, f3, h1, i3, k12, p, r1, v, y
Mineral extraction, borrow pit, topsoil removal and their storage areas	R1, I1	c9, e, h1, i5, j1, n3, r1, s, t, u3, v, w, y
Mobile home park	B2, B3	b8, c6, d2, g, h1, j1, k13, l2, o, p, q, r1, s, u1, v, w, y
Municipal or government building	All	b1, c1, h1, j1, k28, l1, p, y
Outdoor theater	All except R2	c6, i6, k11, p, r1, s, t, v, w, y

Special Exception	*District(s) in which Use may be Permitted*	*Requirement Designation*
Outdoor commercial recreational enterprise	All	c4, d1, h1, i1, j3, k14, l2, n1, p, r2, s, t, v, w, y
Power transmission line	All	p
Practice golf-driving range	All except R2	c6, i7, j3, k16, l2, r1, v, y
Private recreational development	All	c4, g, h1, j3, k2, l2, r1, v, w, y
Produce terminal, wholesale	B3, I1	b10, c7, d3, e, h1, i8, j1, k11, l4, m3, n2, p, r1, s, t, v, w, y
Public camp	R1, I1	b7, c6, d1, h1, j3, k17, l2, r1, u1, v, w, y
Public or commercial sanitary fill or refuse dump	All	b7, c11, e, i9, j5, r1, u1, v, w, y
Public or commercial sewage or garbage disposal plant	I1	b11, c11, e, k19, r1, u1, v, w, y
Public or employee parking areas	All	b2, p, r1, s, t, v, x, y, z
Public park or public recreational facility	All	c4, g, h1, j2, k21, l2, t, v, w
Public utility substation or exchange	All	c1, g, j4, k18, r1, v, y
Radio or television tower	All	k19, r1, v
Railroad right-of-way and uses essential to railroad operation	All	h1, k20, r1, v
Raising and breeding of nonfarm fowl and animals, commercially, except kennel	B3, I1	b3, c10, h1, j1, k7, l2, m1, n2, r1, v, w, y
Riding stable	All	b5, c10, h1, j1, k21, m1, r1, v, w, y
Seasonal fishing or hunting lodge	All	b1, c1, f4, k22, v, w, y
State or federal correctional institution	I1	b13, c10, e, g, k15, l5, n3, p, r1, y
Tourist home	RB. Not permitted in R1, R2	b1, c1, f1, h1, k26, r1, v, y

Special Exception	*District(s) in which Use may be Permitted*	*Requirement Designation*
Truck - freight terminal	B3, I1	c1, e, j1, k25, l4, n2, p, r1, s, t, v, w, y
If the nature of the special exception involved more than one of those listed, the applicant may apply for an improvement location permit for the special exception which most closely related to the primary use; provided that the requirements of all the related uses will be met.		

(Am. Ord. 1997-5, passed 11-20-1997; Am. Ord. 2000-6, passed 11-16-2000; Am. Ord. 2003-04, passed 7-17-2003; Am. Ord. 2015-03, passed 3-19-2015; Am. Ord. 2018-07, passed 7-19-2018)

Requirement Designation	***Requirement (Note: Use of # symbols indicates that the requirements of the district apply to the special exception where located)***		
a.	Classification of Use Permitted		
1.	Light Industrial		
2.	Local Business		
3.	Industrial		
b.	Minimum Lot Area		
1.	#		
2.	1,500 sq. ft.		
3.	110 sq. ft. per child		
4.	25,000 sq. ft.		
5.	20,000 sq. ft. plus 5,000 sq. ft. per horse over 4 horses		
6.	1 acre		
7.	5 acres		
8.	5 acres including 2,500 sq. ft. per mobile home stand		
9.	6 acres		
10.	20 acres		
11.	40 acres		
12.	80 acres		
13.	320 acres		
14.	2 times requirement for single-family dwelling		
15.	2 acres		
c.	*Minimum Yards (Feet)*		
	Front	*Side (each)*	*Rear*
1.	*#*	*#*	*#*
2.	*#*	*50*	*50*
3.	*#*	*10*	*30*
4.	*#*	*40*	*40*
5.	*#*	*--*	*--*
6.	*100*	*40*	*40*
7.	*100*	*Abutting residential*	*75*
		Abutting other use	*35*
8.	*#*	*20*	*#*
9.	*150*	*150*	*150*
10.	*100*	*100*	*100*
11.	*300*	*300*	*300*
d.	Building Setback From Center line of Interior Road (Feet)		
1.	40		
2.	50		
3.	85		

Requirement Designation	***Requirement (Note: Use of # symbols indicates that the requirements of the district apply to the special exception where located)***
e.	Use Permitted Not Closer than 300 Feet to a Residential Use
f.	Minimum Gross Floor Area of Principle Building(s) (Square Feet)
1.	#
2.	Over 1,000
3.	Determined by number of children to be accommodated
4.	400
5.	2 times single-family dwelling
6.	672
g.	Plan of Landscape Development to be Submitted with Application
h.	Maximum Height of Structure (Feet)
1.	#
2.	As required by appropriate state or federal agency
3.	Same as Light Industrial
4.	45
5.	70
6.	25
i.	Fence
1.	6-foot wire mesh where accessible to the public
2.	6-foot wire mesh when located at ground level
3.	4-foot wire mesh around play area
4.	Solid wall or solid painted fence 8 feet high
5.	4-foot wire mesh abutting Residential Use
6.	Painted board fence 8 feet high
7.	Adequate to protect abutting use
8.	6-foot wire mesh
9.	6-foot solid painted for refuse dump
10.	6-foot wire mesh abutting Residential Use
j.	Screen Planting Where Abutting Residential Use (Tight screen, effective at all times)
1.	6-foot height by 6-foot width
2.	25 feet abutting Residential District or Use
3.	8-foot height by 6-foot width
4.	Adequate to screen power substation from street view
5.	6 feet high along streets for refuse dump

Requirement Designation	*Requirement (Note: Use of # symbols indicates that the requirements of the district apply to the special exception where located)*
k.	Parking Spaces
1.	1 per 2 employees plus 1 per 4 seats in waiting room
2.	1 per 2 customers or members
3.	1 per 2 employees plus 3 per doctor
4.	1 per 3 employees plus 1 per 6 students
5.	30
6.	1 per 3 employees per shift
7.	1 per 3 employees plus 1 per 125 square feet of sales area
8.	1 additional
9.	1 per 4 beds plus 1 per doctor plus 1 per 3 employees plus 1 per hospital vehicle
10.	1 per 2 employees on largest shift
11.	1 per 2 employees
12.	1 per 2 employees plus 1 per 5 children to be accommodated
13.	1 per 2 employees 1 per mobile home stand
14.	1 per 3 employees plus 1 per 500 square feet of use area
15.	1 per 3 employees plus 1 per 10 inmates at estimated capacity
16	1 per 3 employees plus 1 per driving tee
17.	1 per camp site and 1 per cabin
18.	Telephone exchange - 1 per employee
19.	1 per employee per shift
20.	1 per 2 employees where headquartered
21.	1 per 5,000 square feet
22.	1
23.	1 per 60 square feet of sales area
24.	3 per 4 employees plus 1 per 4 seats
25.	1 per 2 employees plus 4 for customers
26.	1 per employee plus 1 per sleeping accommodation
27.	2
28.	1 per employee plus 1 for each 6 seats in main auditorium
l.	Distance of Parking Area from Residential Use (Feet)
1.	10
2.	25
3.	50
4.	100
5.	300
m.	Number of Loading and Unloading Berths (Shall not face on bordering highway)
1.	1
2.	2
3.	Per Development Plan
4.	15,000 square feet - 1; over 15,000 square feet - 2
5.	Up to 200 beds - 1; 200 to 500 beds - 2; over 500 beds - 3
6.	Per Figure 6

Requirement Designation	*Requirement (Note: Use of # symbols indicates that the requirements of the district apply to the special exception where located)*
n. 1. 2. 3.	Distance of Loading and Unloading Berth from Residential Use (Feet) 50 100 300
o.	Plat Approved by the Commission to be Submitted with Application
p.	Development Plan to be Submitted with Application
q.	Covenant by Owners to Perpetuate Maintenance and Approve Future Improvements
r. 1. 2.	Maximum Number of Principal Entrances from Major Thoroughfare 1 2
s.	Acceptable Relationship to Major Thoroughfare
t.	Thoroughfares Must be Adequate to Carry Additional Traffic Engendered by Use
u. 1. 2. 3. 4.	Other Authority Approval Required State Board of Health Aeronautics Commission of Indiana Planning Act - Section 58-1/2 Flood Control Act
v.	Outdoor Advertising Signs and Outdoor Artificial Lighting Shall be Approved by the Commission
w.	Disposal of Liquid and Other Wastes Shall Meet the Approval of the State Board of Health
x.	No Sales, Dead Storage, Repair Work or Dismantling on the Lot
y.	No Parking in the Front yard, Except as Provided in Section 15
z.	Except for Approved Exits and Entrances, A Masonry Wall 4 Feet in Height and 6 Inches Thick Erected at Required Front Line of Building and may be Required Along Boundaries of Parking Area as Determined by the Commission for the Protection of Residentially Zoned or Used Property

(Am. Ord. 1997-5, passed 11-20-1997; Am. Ord. 2000-6, passed 11-16-2000; Am. Ord. 2003-04, passed 7-17-2003)

CHAPTER 154: PLANNED UNIT DEVELOPMENTS

Section

154.01 Purpose
154.02 Definition
154.03 Requirements for planned unit development
154.04 Procedure for approval of planned unit development
154.05 Specific content of plans
154.06 Review considerations
154.07 Changes in the planned unit development

§ 154.01 PURPOSE.

The purpose of the planned unit development is to encourage flexibility in the development of land in order to promote its most appropriate use; to improve the design, character and quality of new developments; to encourage a harmonious and appropriate mixture of uses; to facilitate the adequate and economic provision of streets, utilities and city services; to preserve the natural environmental and scenic features of the site; to encourage and provide a mechanism for arranging improvements on sites so as to preserve desirable features; and to mitigate the problems which may be presented by specific site conditions. It is anticipated that planned unit developments will offer one or more of the preceding advantages.
(Ord. 2004-6, passed 8-19-2004)

§ 154.02 DEFINITION.

A ***PLANNED UNIT DEVELOPMENT*** is an area under single ownership or control to be developed in conformance with an approved development plan, consisting of a map showing the development area and all improvements to the development area, a text which sets forth the uses and the development standards to be met, and exhibits setting forth any aspects of the development plan not fully described in the map and text. The map, exhibits, and text constitute a development plan. The uses and standards expressed in the development plan constitute the use and development regulations for the planned unit development site in lieu of the regulations for the underlying district.
(Ord. 2004-6, passed 8-19-2004)

§ 154.03 REQUIREMENTS FOR PLANNED UNIT DEVELOPMENT.

(A) The area designated in the planned unit development map must be a tract of land under single ownership or control. Single control of property under multiple ownership may be accomplished through the use of enforceable covenants and commitments which may be enforced by the Area Plan Commission and its designated agents.

(B) The outline plan shall indicate the land use, development standards, and other applicable specifications of the Nashville Land Use and Zoning Ordinances which shall govern the planned unit development. If the outline plan is silent on a particular land use, development standard, or other specification of the Nashville Zoning Land Use and Zoning Ordinances, the standard of the underlying district or the applicable regulations shall apply.

(C) The planned unit development map shall show the location of all improvements. The location of

planned unit developments shall be designated on the zoning map and adopted pursuant to this chapter.

(D) The planned unit development must comply with all required improvement construction standards and design standards of the Nashville Land Use Ordinance and Zoning Ordinances.

(E) Designation and conveyance of permanent open space.

(1) *Definition*. ***PERMANENT OPEN SPACE*** shall be defined as parks, playgrounds, landscaped green space, and natural areas, not including schools, community centers or other similar areas in public ownership.

(2) *Designation*. No plan for a planned unit development shall be approved, unless such plan provides for permanent landscaped or natural open space.

(3) *Stages*. If the outline plan provides for the planned unit development to be constructed in stages, open space must be provided for each stage of the planned unit development in proportion to that stage.

(4) *Conveyance*. Permanent open space shall be conveyed in one of the following forms:

(a) To a municipal or public corporation; or

(b) To a not-for-profit corporation or entity established for the purpose of benefiting the owners and tenants of the planned unit development or, where appropriate and where approved by the Plan Commission and the Town Council, adjoining property owners, or both. All conveyances hereunder shall be structured to insure that the grantee has the obligation and the right to effect maintenance and improvement of the common open space; and that such duty of maintenance and improvement is enforced by the owners and tenants of the planned unit development and, where applicable, by adjoining property owners; or

(c) To owners other than those specified in Subsections (a) and (b) above, and subject to restrictive covenants describing and guaranteeing the open space and its maintenance and improvement, running with the land for the benefit of residents of the Planned Unit Development or adjoining property owners, or both; or

(d) Included in single family residential lots under the control of lot owners.
(Ord. 2004-6, passed 8-19-2004)

§ 154.04 PROCEDURE FOR APPROVAL OF PLANNED UNIT DEVELOPMENT.

(A) *Introduction*. Applications shall be accompanied by all plans and documents required by § 154.07. A four step application process shall be used. The steps in the process are:

(1) Pre-design conference;

(2) Outline plan approval; and

(3) Design review in B1, B2 and B3 only;

(4) Development plan approval.

(B) *Pre-design conference*. Prior to filing a formal application for approval of a planned unit development, the applicant shall schedule a pre-design conference with the planning staff. The purpose of the pre-application conference shall be to:

(1) Allow the applicant to present a general concept and to discuss characteristics of the development concept in relation to adopted town policies.

(2) Allow the planning staff to inform the applicant of applicable policies, standards and procedures for the planned unit development.

(3) The pre-design conference is intended only for the above purposes; neither the developer nor the jurisdiction is bound by any decision made during a pre-application conference.

(C) *Procedure for outline plan approval.*

(1) The outline plan and application for the planned unit development shall be submitted to the Plan Commission.

(2) The application and the results of the review shall then be forwarded to the Plan Commission for its consideration, public hearing and recommendations.

(3) The Plan Commission shall hold a public hearing in accordance with its rules of procedure.

(4) Where there are environmentally sensitive features on the site or the development plan is expected to be complex, or there are other important planning implications involved, the plan commission may reserve the right to review the development plan.

(5) Upon completion of its review, the Plan Commission shall certify the application to the Town Council with a favorable recommendation, an unfavorable recommendation, or no recommendation.

(6) If the underlying district is a B1, B2 or B3 zone, then the architectural, signage and landscape features of the outline plan must be submitted to the Design Review Board, as established by Ordinance 2002-07, which shall make its report to the Town Council within 30 days of submission. If no report is made by the Design Review Board within 30 days, the architectural, signage and landscaping features shall be deemed approved.

(7) The Town Council shall vote on the proposal within 90 days after the Plan Commission certifies the proposal. The Town Council may adopt or reject the proposal. If the Plan Commission has given the proposal a favorable recommendation and the Board fails to act on the proposal within 90 days, the Ordinance takes effect as if it had been adopted as certified 90 days after certification. If the Plan Commission has failed to make a recommendation or has given the proposal an unfavorable recommendation and the Board fails to act on the proposal within 90 days, the proposal is defeated.

(D) *Effect of approval of outline plan.*

(1) When an outline plan for a planned unit development has been approved by the Town Council, the plan shall become effective and its location shall be shown on the zoning map. The zoning map shall be amended to designate the site as a planned unit development.

(2) Upon such amendment of the zoning map, the use and development of the site shall be governed by the planned unit development outline plan, subject to approval of a development plan.

(3) No permit of any kind shall be issued until the development plan has been approved.

(E) *Development plan.*

(1) The purpose of the development plan is to designate the controls for development of the planned unit development. The development plan shall show the exact location of each building and improvement to be constructed and a designation of the specific internal use or range of uses to which each building shall be put.

(2) The development plan shall be submitted to the Plan Office not more than 18 months following the Town Council's approval of the outline plan. The outline and development plans may be submitted as a single plan if all requirements of §§ 154.05(B) and (C) are met. The development plan may be submitted and approved in stages, with each stage representing a portion of the outline plan, at the discretion of the Plan Commission. The time limit for submitting each stage for approval may be set forth in the outline plan, in which case that schedule shall control the timing of development, rather than the time period contained in this paragraph. The Plan Commission may extend the time for application for approval of development plan for good cause, consistent with the purposes of this chapter.

(3) If the time limits have expired, the planning staff shall report to the Plan Commission on planned unit developments whose time limits have expired. The applicants shall be notified. The Plan Commission shall determine whether to consider extending the time or to initiate action to amend the zoning map so as to rescind the planned unit development designation.

(4) The development plan shall conform to the outline plan as approved.

(5) Procedure for approval of a development plan shall be:

(a) *Development plan submission*. The development plan and supporting data shall be filed with the planning staff.

(b) *Staff review*. The planning staff shall review the development plan to include site plan review, in accordance with the requirements of this chapter.

(c) *Staff approval*. It shall generally be the responsibility of staff to review development plans unless the Plan Commission reviews the development plans or where new development is required.

(d) *Plan Commission review*. If the Plan Commission has retained development plan approval authority, the Plan Commission shall hold a public hearing in accordance with its rules of procedure. The Commission may approve, deny or approve with modifications.

(6) *Expiration of development plan*. The development plan shall expire 2 years after approval, unless grading and/or building permits have been obtained and are still current and valid on that date. This rule shall also apply to each stage of a development plan approved in stages. The applicant may request an extension of time in writing, and the approving authority may extend the time limit where appropriate. Such extension may be considered at the time of development plan approval.

(7) *Effect of approval of development plan*. No permit of any kind shall be issued for any purpose within a planned unit development except in accordance with the approved development plan, and after acceptance by the Town Council of all required guarantees for improvements.
(Ord. 2004-6, passed 8-19-2004)

§ 154.05 SPECIFIC CONTENT OF PLANS.

Planned unit development plans and supporting data shall include all documentation listed in this section of the Zoning Ordinance unless certain documentation is deemed superfluous by the planning staff due to the specific circumstances of the particular request.

(A) *Pre-design conference requirements*.

(1) A written letter of intent from the applicant describing the applicant's intention for developing the site.

(2) A scaled drawing of the site, in simple sketch form, showing the proposed location and extent of the land uses, major streets, and the approximate location of any existing easements, natural features, and topographic or geologic constraints.

(B) *Outline plan requirements*.

(1) A drawing of the planned unit development shall be prepared at a scale not less 1"=50', or as considered appropriate by the planning staff, and shall show in concept major circulation; generalized location and dimensions of buildings, structures, and parking areas; open space areas, recreation facilities, and other details to indicate the character of the proposed development. The submission shall include:

(a) A site location map.

(b) The name of the development, with the words, "Outline Plan".

(c) Boundary lines and acreage of each land use component.

(d) Existing easements, including location, width and purpose.

(e) Existing land use on abutting properties.

(f) Other conditions on adjoining land: topography (at 2-foot contours) including any embankments or retaining walls: use and location of major buildings, railroads, power lines, towers and other influences, name of any adjoining subdivision plat.

(g) Existing streets on and adjacent to the tract, including street name, right-of-way width, walks, curbs, gutters, and culverts.

(h) Proposed public improvements: streets and other major improvements planned by the public for future construction on or adjacent to the tract.

(i) Existing utilities on the tract.

(j) Any land on the tract within the 100-year floodplain.

(k) Other conditions on the tract, including water courses, wooded areas, existing structures and other significant features.

(l) Existing vegetation to be preserved and the locations, nature, and purpose of proposed landscaping.

(m) Map data such as north point, scale and date of preparation.

(2) Miscellaneous: the Plan Office shall inform the applicant of any additional documents or data requirements after the pre-application conference.

(3) Written statement of character of the planned unit development: The written statement shall include:

(a) Ownership: a statement of present and proposed ownership of all land within the project including the beneficial owners of a land trust.

(b) Development scheduling indicating:

1. Stages in which the project will be built, including the area, density, use, public facilities, and open space to be developed with each stage. Each stage shall be described and mapped.

2. Projected dates for beginning and completion of each stage.

(c) Proposed uses:

1. Residential uses: gross area, architectural concepts (narrative. sketch, or representative photo), number of units bedroom breakdown, and proposed occupancy limits for each residential component:

2. Nonresidential uses: specific nonresidential uses, including gross areas, architectural concepts (narrative, sketch, or representative photo), and building heights.

(d) Facilities plan: preliminary concepts and feasibility reports for:

1. Roads, streets and alleys;

2. Sidewalks;

3. Sanitary sewers;

4. Stormwater management;

5. Water supply system;

6. Lighting;

7. Public utilities.

(4) Traffic analysis: if requested by the Plan Staff or the Plan Commission, a study of the

impact caused by the planned unit development and any measures proposed to accommodate that impact.

(C) *Development plan requirements*. The application for development plan approval shall include, but not be limited to, the following documents:

(1) Such additional information as may have been required by the outline plan approval.

(2) An accurate map exhibit of the entire phase for which development plan approval is being requested, showing the following:

(a) Precise location of all buildings to be constructed, and a designation of the specific use or range of uses for each building. Single family residential development on individual lots need not show precise locations of buildings on each lot, but plans shall show setback and other bulk constraints.

(b) Design and precise location of all streets, drives, and parking areas, including construction details, centerline elevations, pavement type, curbs, gutters, and culverts.

(c) Location of all utility lines and easements.

(d) A final detailed landscape plan, in conformance with the plan approved in the outline plan.

(e) Tabulation on each separate subdivided use area, including land area, number of buildings, number of dwelling units per acre, type of unit, bedroom breakdown, and limits on occupancy.

(3) If lands to be subdivided are included in the planned unit development, a subdivision plat meeting the requirements of a preliminary plat, as modified by the outline plan approval, is required where platting is to be done concurrent with the development plan approval.

(4) Projected construction schedule.

(5) Agreements and covenants which govern the use, maintenance, and continued protection of the planned unit development and its common spaces, shared facilities, and private roads.

(6) A comprehensive estimate of the cost of all proposed improvements so that a determination of the amount of bond, letter of credit or other surety may be made.

(7) Guarantee of performance for completion of improvements: a bond or other guarantee acceptable to the Nashville Town Council and the Brown County Area Plan Commission shall be provided for all required improvements and shall be executed at time of permit application or platting, whichever comes first. Improvements that must be guaranteed include facilities which shall become public, and may include other facilities or improvements as may be specified in the outline or development plan approval. If the project is to be built in phases, the guarantee shall be posted prior to the commencement of work on each phase. The guarantee shall specify the time for completion of improvements, and shall be in an amount of 125% of the estimated cost of the improvements.
(Ord. 2004-6, passed 8-19-2004)

§ 154.06 REVIEW CONSIDERATIONS.

In their consideration of a planned unit development outline plan, the planning staff in its report to the Plan Commission, the Plan Commission in its recommendation, and the Board of Commissioners in its decision, shall consider as many of the following as may be relevant to the specific proposal:

(A) The extent to which the planned unit development meets the purposes of the Nashville Land Use and Zoning Ordinances, the Comprehensive Plan, and any other adopted planning objectives of the Town of Nashville.

(B) The extent to which the proposed plan meets the requirements, standards, and stated purpose of the planned unit development regulations.

(C) The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to, the density, dimension, bulk, use, required improvements, and construction and design standards and the reasons, which such departures are or are not deemed to be in the public interest.

(D) The proposal will not be injurious to the public health, safety, and general welfare.

(E) The physical design of the planned unit development and the extent to which it makes adequate provision for public services, provides adequate control over vehicular traffic, provides for and protects designated permanent open space, and furthers the amenities of light and air, recreation and visual enjoyment.

(F) The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood, and whether the proposed plan would substantially interfere with the use or diminish the value of adjacent properties and neighborhoods.

(G) The desirability of the proposed plan to the town's physical development, tax base and economic well-being.

(H) The proposal will not cause undue traffic congestion, and can be adequately served by existing or programmed public facilities and services.

(I) The proposal preserves significant ecological, natural, historical, and architectural resources to the extent possible.
(Ord. 2004-6, passed 8-19-2004)

§ 154.07 CHANGES IN THE PLANNED UNIT DEVELOPMENT.

(A) *Changes requiring new outline plan approval*. Changes which alter the concept or intent of the planned unit development including but not limited to:

(1) Significant increases in density;

(2) Significant changes in the proportion or allocation of land uses;

(3) Changes in the list of approved uses;

(4) Changes in the locations of uses;

(5) Changes in functional uses of open space, where such change constitutes an intensification of use of the open space; and/or

(6) Changes in the final governing agreements where such changes conflict with the outline plan approval.

(B) *Changes requiring new development plan approval*. These changes shall include the following:

(1) Changes in lot arrangement, or addition of buildable lots which do not change approved density of the development;

(2) Changes in site design requirements, such as location of required landscaping, signage, building height, cube and/or footprint, or other such requirements of this chapter;

(3) Changes to the internal street system or off-street parking areas;

(4) Changes in drainage management structures;

(5) Changes in access to the development site, where such change amounts to an intensification in the traffic patterns of roadways of classification higher than local; and/or

(6) All other changes not expressly addressed under division (A) shall require new development plan approval.
(Ord. 2004-6, passed 8-19-2004)

CHAPTER 155: STRUCTURE AND PROPERTY MAINTENANCE REGULATIONS

Section

155.01 Findings
155.02 Adoption of the Unsafe Building Law
155.03 Appointment of department to administer chapter
155.04 Appointment of hearing authority
155.05 Adoption of Chapter 36, abatement of vacant structures and abandoned structures

155.98 Construction
155.99 Penalty

§ 155.01 FINDINGS.

(A) In the town, there exists a number of unoccupied structures that are not maintained and that constitute a hazard to public health, safety, and welfare.

(B) Vacant structures often become dilapidated because the structures are not maintained and repaired by the owners or persons in control of the structures.

(C) Vacant structures attract children, become harborage for vermin, serve as temporary abodes for vagrants and criminals, and are likely to be damaged by vandals or set ablaze by arsonists.

(D) Unkept grounds surrounding vacant structures invite dumping of garbage, trash, and other debris.

(E) Vacant structures may be situated on narrow town lots and in close proximity to neighboring structures, thereby increasing the risk of conflagration and spread of insect and rodent infestation.

(F) Vacant, deteriorated structures contribute to blight, cause a decrease in property values, and discourage neighbors from making improvements to properties.

(G) Structures that remain boarded up for an extended period of time also exert a blighting influence and contribute to the decline of the neighborhood by decreasing property values, discouraging persons from moving into the neighborhood, and encouraging persons to move out of the neighborhood.

(H) Vacant structures often continue to deteriorate to the point that demolition of the structure is required, thereby decreasing available housing in a community and further contributing to the decline of the neighborhood.

(I) The blighting influence of vacant, deteriorated structures adversely affects the tax revenue of local government.

(J) The Town Council finds that vacant, deteriorated structures create a serious and substantial problem and are a public nuisance.

(K) In recognition of the problems created in a community by vacant structures, the Town Council finds the vigorous and disciplined action should be taken to ensure the proper maintenance and repair of vacant structures and intents to adopt maintenance and repair standards appropriate for the community in accordance with this chapter and other statutes.
(Ord. 2013-03, passed 3-21-2013)

§ 155.02 ADOPTION OF THE UNSAFE BUILDING LAW.

The town hereby adopts I.C. 36-7-9, which establishes the Indiana Unsafe Building Law.
(Ord. 2013-03, passed 3-21-2013)

§ 155.03 APPOINTMENT OF DEPARTMENT TO ADMINISTER CHAPTER.

The Town Administration Department shall be the executive department authorized to administer this chapter.
(Ord. 2013-03, passed 3-21-2013)

§ 155.04 APPOINTMENT OF HEARING AUTHORITY.

The Town Council shall be the hearing authority.
(Ord. 2013-03, passed 3-21-2013)

§ 155.05 ADOPTION OF CHAPTER 36, ABATEMENT OF VACANT STRUCTURES AND ABANDONED STRUCTURES.

The town hereby adopts I.C. 36-7-36, which establishes Chapter 36, abatement of vacant and abandoned structures.
(Ord. 2013-03, passed 3-21-2013)

§ 155.98 CONSTRUCTION.

Any reference to a state statute shall mean the statute as amended from time to time, or any similar statutory provision that may supersede it relating to the same or similar subject matter.
(Ord. 2013-03, passed 3-21-2013)

§ 155.99 PENALTY.

The criminal and civil penalties listed in I.C. 36-7-9-28 and I.C. 36-7-36-10 shall be the penalties for violation of this chapter.
(Ord. 2013-03, passed 3-21-2013)