

TOWN OF ST. JOHN, LAKE COUNTY, INDIANA

ORDINANCE NO.: 1483

AN ORDINANCE REPLACING TOWN ORDINANCE NO. 839, AS AMENDED, REPEALING ALL TOWN CODE SECTIONS AND ORDINANCES, OR PARTS THEREOF, IN CONFLICT THEREWITH, AND ALL MATTERS RELATED HERETO.

WHEREAS, the Town Council of the Town of St. John, Lake County, Indiana, did on the 11th day of June, 1990, adopt Zoning Ordinance No. 839; and

WHEREAS, the Plan Commission of the Town of St. John, Lake County, Indiana, after due notice and publication in conformance with applicable law, conducted a public hearing on a proposed Zoning Ordinance Text Replacement Ordinance to replace Zoning Ordinance No. 839, and unanimously recommended approval of same by Resolution and Favorable Recommendation Certification to the Town Council, dated October 15, 2008; and

WHEREAS, the Town Council of the Town of St. John, Lake County, Indiana, has been advised that this Text Replacement Zoning Ordinance comprehensively replace the text of Zoning Ordinance No. 839, as amended, for the purpose of establishing comprehensive zoning regulations for the Town of St. John, Lake County, Indiana, and providing for the administration, enforcement, and amendment thereof, in according with Indiana State Statutes; and

WHEREAS, the Town Council of the Town of St. John, Lake County, Indiana, having reviewed the recommended Text Replacement Zoning Ordinance as well as the Plan Commission Resolution and Favorable Certification recommendation, now concurs that it is advisable, necessary, and in the best interests of the residents of the Town of St. John that Town Zoning Ordinance No. 839 be replaced in its entirety by this Text Replacement Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF ST. JOHN, LAKE COUNTY, INDIANA:

SECTION ONE: That the Zoning Ordinance text provisions attached hereto are hereby incorporated herein and adopted as the Replacement Text Comprehensive Zoning Regulations for the Town of St. John, Lake County, Indiana.

SECTION TWO: That Zoning Ordinance No. 839, and all existing Town Code Sections and Ordinances, or parts thereof, in conflict with the provisions of this Ordinance, are hereby deemed null, void, and of no legal effect, and are specifically repealed.

SECTION THREE: If any section, clause, provision or portion of this Ordinance shall be held to be invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance.

SECTION FIVE: That this Ordinance shall take effect, and be in full force and effect, from and after its passage by the Town Council of the Town of St. John, Lake County, Indiana.

ALL OF WHICH IS PASSED AND ADOPTED THIS 15th DAY OF January, 2009, BY THE TOWN COUNCIL OF THE TOWN OF ST. JOHN, LAKE COUNTY, INDIANA.

**TOWN OF ST. JOHN, LAKE COUNTY,
INDIANA, TOWN COUNCIL**

Mark Barenie
President

Michael Forbes
Vice-President

Gregory J. Volk
Member

Jerri Teibel
Member

Michael Fryzel
Member

ATTEST:

Sherry P. Sury, Clerk-Treasurer

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Chapter 1 – Introduction

Section A Authority

In accordance with the authority granted by the Planning and Zoning Act of the State of Indiana and all amendments thereto, the Town Council (hereinafter the "Governing Body") of the Town of St. John (hereinafter the "Municipality") does hereby ordain as follows:

Section B Purpose

The purpose of this Ordinance is to adopt zoning regulations and districts to carry out the long-range Comprehensive Plan and Thoroughfare Plan for community development and, more specifically, to adopt minimum requirements to promote the health, safety, morals, prosperity, aesthetics and general welfare of the Municipality; to regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes; and to divide the Municipality into districts of such number, shape and area as are deemed best suited to carry out the purposes stated herein.

Section C Abrogation; Greater Restrictions

It is not the intent of this Ordinance to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules or permits previously adopted or issued pursuant to law prior to the effective date of this Ordinance, however, wherever this Ordinance imposes greater restrictions the provisions of this Ordinance shall apply.

Section D Interpretation

The provisions of this Ordinance shall be interpreted and applied as minimum requirements, shall be construed in favor of the Municipality and shall not be deemed a limitation or repeal of any power granted by the State Law. If conflict between sections is detected, the more restrictive section or element shall apply.

Section E Repeal

All other ordinances or parts of ordinances of the Municipality inconsistent or conflicting with this Ordinance to the extent of their inconsistency only, are hereby repealed.

Section F Title

This Ordinance shall be known as, referred to, or cited as "ZONING ORDINANCE, TOWN OF ST. JOHN, INDIANA".

Section G Effective Date

This ordinance shall be effective after notice, public hearing and adoption by the Governing Body as required by law.

Section H Severability

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect the remainder of this Ordinance.

Chapter 2 - General Provisions

Section A Jurisdiction

This Ordinance shall apply to all incorporated land within the Town of St. John, Indiana, as amended from time to time. Jurisdiction of this Ordinance shall include all lands and waters within the corporate limits of the Municipality.

Section B Compliance

No platting or division of land within the Municipality shall be permitted unless a plat of the subdivision is submitted and approved in accordance with this Ordinance, the Subdivision Ordinance, the Comprehensive Plan, Thoroughfare Plan, Water and Sewer District Plan and Parks, Recreation and Open Space Master Plan. No building permits shall be issued for construction on any real estate or lot until the final plat for the same has been duly processed, approved, and recorded.

Except as otherwise provided, the use, size, and height of buildings hereafter erected, converted, moved, enlarged, or structurally altered and use of any land shall be in compliance with the regulations established herein for the district in which such buildings or land are located.

Section C Performance Standards

This section shall apply to all zoning districts unless specifically stated otherwise. Continued compliance shall be required during the operation of all uses and activities. No use already established on the effective date of this Ordinance shall be so altered or modified as to conflict with or further conflict with the performance standards established hereafter.

No activity or operation shall be established or maintained which by reason of its nature or manner of operation will cause the emission of noise, odor, toxic or noxious fumes, smoke, dust and particulate matter in such concentrations as to be detrimental to or endanger the public health, welfare, comfort and safety or cause injury to property or business. Any activity or operation which emits noise, odor, toxic or noxious fumes, smoke, dust or particulate matter shall comply with all regulations of the Municipality, County, State, and Federal governments.

Section D Utility requirements

Municipal utilities will not be extended to any land located outside the Town's Utility District. Municipal utilities may be extended to unincorporated land located within the Town's Utility District provided that the owner provides a waiver of right to remonstrate against annexation pursuant to Indiana Code §36-9-22 *et seq.* and the owner agrees to abide by the Municipality's Zoning and Subdivision Ordinances.

Every building and every use shall be connected to the Municipality's potable water and sanitary sewer systems.

Chapter 3 - Zoning Districts and Maps

Section A Zoning Districts

The following Zoning Districts are hereby established:

A.1 Open Space District (OS)

A.2 Residential Districts

- R-1 Residential Single Family (Low Density)
- RC-1 Residential Conservation PUD District
- R-2 Residential Single Family (Medium Density)
- RC-2 Residential Conservation PUD District
- R-3 Residential Multi-Family District

A.3 Commercial District

- C-1 Convenience Commercial District
- C-2 Highway Commercial District
- C-3 Commercial Entertainment District
- C-4 Adult Entertainment District

A.4 Light Industrial District (I)

A.5 Special Districts

- Business Park District (BP)
- Town Center Overlay District
- Public Buildings District (PB)
- U.S. 41 Highway Overlay District
- Route 231 Overlay District
- Floodplain (FP)

Section B Annexed Territory

All land shall be annexed to the Town with a R-1 Residential Single Family zoning designation unless the Town Council unanimously assigns the annexed land to a different zoning district at the time of annexation.

Section C Boundaries

C.1 The district boundaries are either streets or alleys, unless otherwise shown and where the designation on the Zoning Map indicates that the various districts are approximately bounded by the centerline of a street or alley, such street or alley center line shall be construed to be the district boundary line.

C.2 Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be constructed to be lot lines and where the designations on the Zoning Map are approximately bounded by lot lines, the lot line shall be construed to be the boundary of the district.

C.3 In unsubdivided property, the district boundary lines shown on the Zoning Map shall be determined by use of the scale shown on such map.

Section D Map

The boundaries of the aforesaid districts are hereby established as shown on the "Official Zoning Map" of the Town. Such map, together with a copy of this Ordinance, shall be available for public inspection in the office of the Town Clerk-Treasurer. The Map shall be certified by the Town Council and attested by the Town Clerk-Treasurer. Any changes in zoning district boundaries shall be recorded on the Map after action by the Town Council pursuant to applicable law.

Section E Schedule of Uses

The Schedule of Uses, including Permitted Uses, Special Exceptions, and Prohibited Uses, for each zoning district is hereby established in the Table labeled "St. John Schedule of Uses" provided hereinafter.

Section F Bulk Requirements

The Bulk Requirements for each zoning district are hereby established in the Table labeled "Bulk Requirements Table" provided hereinafter.

Section E SCHEDULE OF USES

P=Permitted

SE=Special Exception

Blank=Prohibited

Type of Use	Primary Zoning Districts										Overlay Districts					
	OS	R-1	RC-1	R-2	RC-2	R-3	C-1	C-2	C-3	C-4	I	BP	TC	PB	U.S. Highway 41	Route 231

Residential Uses																	
Single Family Dwelling, detached		P	P	P	P												
Single Family Dwelling, attached						P											
Two Family Dwelling						P											
Multiple Family Dwelling						P							SE				
Sports Court		SE	SE	SE	SE	SE											

Office Uses																	
Offices, Professional and otherwise, and office buildings							P	P	P		P	P	P	P	P		
Medical offices							SE	P	P		SE	P					

Institutional Uses																	
Churches/Places of Worship		SE	SE	SE	SE	SE	SE	P	SE		SE					SE	
Cemeteries	SE						SE	SE	SE		SE						
Funeral Homes								P	P		P					SE	SE
Municipal Facilities	SE	SE	SE	SE	SE	SE	P	P	P		P	P	SE	P			
Public Utilities	SE	SE	SE	SE	SE	SE	P	P	P	P	P	P		P			
Community Centers		SE	SE	SE	SE	SE	P	P				SE		P			
Libraries		SE	SE	SE	SE	SE	P	P				SE	SE	P			
Residential Care Facilities						P	P	P					SE				
Nursing Homes							SE	SE									
Fire Stations							P	P	P		P	P	P	P			
Police Stations							P	P	P		P	P	P	P			
Animal Hospitals							P	P	P		P						
Water Filtration Plants							P	P	P		P			P			
Health Centers							P	P	P		P	P			P	SE	
Hospitals							SE	P	P		P	SE			P		

Educational Uses																	
Schools	SE	SE	SE	SE	SE	SE	P	P			SE	SE		P		SE	
Schools - Commercial or Trade							P	P	P		P	P				P	

Section E SCHEDULE OF USES

P=Permitted

SE=Special Exception

Blank=Prohibited

Type of Use	Primary Zoning Districts										Overlay Districts					
	OS	R-1	RC-1	R-2	RC-2	R-3	C-1	C-2	C-3	C-4	I	BP	TC	PB	U.S. Highway 41	Route 231

Retail and Service Uses																	
Car Wash							SE	P	P		P				SE	P	
Automobile Sales								P	P		P				SE	P	
Automobile Service Station, repair shops							SE	SE	P		P				SE	P	
Building Material Sales							SE	SE	P		P				SE	P	
Dog Kennels							P	P	P		P				SE	P	
Drive-in Restaurants							SE	P	P		P				SE	P	
Financial Institutions, without drive-up							SE	SE			SE	SE	SE		SE	SE	
Financial Institutions, with drive-up							SE	SE			SE	SE	SE		SE	SE	
Garden Supply with Open Lot Sales								P	P		P				SE	P	
Garden Supply and Seed Stores (Excl. Open Lot Sales)								P	P		P				SE	P	
Laundromats							SE	P	P		P				SE	P	
Mobile Homes Sales									SE		SE				SE	SE	
Personal service uses							P	P	P		P		P		SE	P	
Plumbing Showrooms and Shops							SE	P	P		P				SE	P	
Retail store, except liquor							P	P	P		P		P		P	P	
Retail liquor Store							SE	SE	SE		SE		SE		SE	P	
Tanning Salons								P	P		P				SE	P	
Day Spa							SE	SE					SE		SE	P	
Tobacco Shops, retail sales							P	P	P		P		SE		SE	P	
Used Car Lots									SE		SE				SE	SE	
Day Care		SE	SE	SE	SE	SE	P	P					SE		SE	SE	

Cultural/Entertainment Uses																	
Art Galleries							P	P	P	SE	P	P	P		SE	SE	
Taverns and Bars							SE	P	P	SE			P		SE	SE	
Bowling Alleys								SE	SE	SE	SE				SE	SE	
Hotels and Motels							SE	SE	P	SE	P	SE	SE		P	P	
Public Museum							SE	SE	SE	SE	SE	P	P		SE	SE	
Restaurants and catering establishments							P	P	P	SE	P	SE	P		P	P	
Restaurants with Live Entertainment or Dancing								SE	SE	SE			SE		SE		
Banquet Halls								SE	SE	SE		SE			SE	SE	
Business Establishments with Entertainment								SE	SE	SE			SE		SE	SE	
Adult Entertainment Establishments										SE							
Theaters								SE	SE	SE	SE	SE	SE		P	SE	

Section E SCHEDULE OF USES

P=Permitted

SE=Special Exception

Blank=Prohibited

	Primary Zoning Districts											Overlay Districts					
Type of Use	OS	R-1	RC-1	R-2	RC-2	R-3	C-1	C-2	C-3	C-4	I	BP	TC	PB	U.S. Highway 41	Route 231	Flood Plain
Industrial Uses																	
Assembly											P						
Automobile painting, upholstering, rebuilding or repair											SE						
Contractor's equipment storage yard or plant or rental of equipment commonly used by contractors											SE						
Grainmilling or Processing											SE						
Junkyards																	
Laboratories, Industrial									SE		SE	P					
Light manufacturing											P	P					
Personal Storage Buildings									SE		P	SE					
Truck Terminals											SE	SE					
Warehousing											P	P					
Wholesale Establishments											P	P					
Agricultural Uses																	
Nurseries and commercial greenhouses	SE							SE			P						P
Stables	SE																P
Agriculture-crops only	P										P						P
Recreational Uses																	
Parks and playgrounds	SE	P	P	P	P	P	SE	SE	SE		SE	SE		P		P	P
Private recreational facility, indoor								SE	SE		SE	SE				P	
Private recreational facility, outdoor	SE										SE	SE				P	
Amusement Establishments, Indoor								P	P		P	SE	SE		SE	P	
Golf Courses	SE															P	P
Clubs and lodges, private, fraternal or religious								P	P		P		SE			P	
Outdoor Amusement Establishments									SE		SE	SE				SE	
Transportation and Communications Uses																	
Radio and Television Stations								SE	SE		SE	SE			P	P	
Video Editing Establishments and Recording Studios								SE	SE		SE	SE			P	P	
Parking garages, automobile							SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	
Parking Lots, automobile							SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	
Telecommunication Towers								SE	SE	SE	SE	SE			SE	SE	
Transportation Facility													SE				

Section F Bulk Requirements Table

Special Districts

Zoning District	Max. Height	Min. Lot Area/ Lot Width	Minimum Yards			Building Coverage
			Front	Rear	Side	
BP	4 stories or 50 ft	2 Acres	25 feet	10 feet 45 ft FEET if adjacent to residential	10 feet 45 ft FEET if adjacent to residential	50% max
TC	max 3 stories or 35 ft min: 2 stories or 26 feet	max 20,000 ground floor area	Build to line and design guidelines	based on design guidelines	based on design guidelines	n/a
US 41	4 stories or 50 ft	2 Acres parcel size and lot width is 50% of depth, min 15,000 ground floor area	Building set back of underlying zoning	15 ft except 45 ft if adjacent to residential	15 ft except 45 ft if adjacent to residential	65% max
Rt 231	4 stories or 50 ft	2 Acres parcel size and lot width is 50% of depth, min 15,000 ground floor area	Building set back of underlying zoning	15 ft except 45 ft if adjacent to residential	15 ft except 45 ft if adjacent to residential	65% max
O S	30 ft	2 acres	w/4 lane: 60'; w/2 lane: 75'; all other: 35'	60 ft	90 ft	n/a
P B	For all items in this chart, the requirements of the underlying zoning district shall apply					
F P	For all items in this chart, the requirements of the underlying zoning district shall apply					

Chapter 4 - Open Space District

Section A Purpose

The purpose of the Open Space District is to prevent scattered, indiscriminate urban development within areas which are predominately vacant and which presently do not demonstrate any significant potential for development.

Section B Use Regulations

B.1 A building may be erected, altered or used, and a lot may be used for any of the following purposes:

- a) Single-family detached dwellings and dwellings for tenants primarily employed on the farm; and
- b) Farms and farm buildings, provided no building in which dairy animals or poultry are housed shall be located within three hundred (300) feet of any existing adjacent residence on abutting property or existing residential subdivisions.

B.2 In the exercise of its approval of the uses enumerated herein, the Plan Commission may impose such conditions regarding the location, character of development, and other reasonable requirements deemed necessary to safeguard the community interest and general welfare.

Section C Special Exceptions

Special exceptions are listed in the table in Chapter 3 Section E.

Section D Accessory Uses and Buildings

The Board of Zoning Appeals and Town Council may grant a special exception for an accessory building or an accessory use, subject to the limitations in Section B herein.

Section E Bulk Requirements

E.1 Height Regulations

The maximum height of any building shall not exceed thirty (30) feet.

E.2 Area, Width, and Yard Regulations

- a) Minimum Lot Area. Every lot used for residential purposes shall have a minimum lot area of two (2) acres for a single family structure.
- b) Front Yard. Each front yard shall extend across the full width of the zoning lot and lying between the lot line which fronts on a street and the nearest line of the principal building on which the main entrance to said building exists. There shall be a front yard between the building line and the street right-of-way lines as follows:
 - i) On existing four-lane federal or state highways, a distance of sixty (60) feet;
 - ii) On existing two-lane federal or state highways, a distance of seventy-five (75) feet;
 - iii) On all county highways, a distance of fifty (50) feet; and
 - iv) On all other streets, a distance of thirty-five (35) feet.

- c) Side Yard. Each lot shall have two (2) side yards, each having a width of not less than ninety (90) feet.
- d) There shall be a rear yard on each lot, the depth of which shall be not less than sixty (60) feet.

E.3 Building Size

No building shall be erected for residential purposes having a ground floor area of less than two thousand (2,000) square feet, exclusive of unenclosed porches, terraces, and garages. Maximum building height is thirty (30) feet.

Section F Off-Street Parking

Off-street parking shall comply with the requirements of Chapter 12 herein.

Section G Landscape Requirements

Landscaping shall comply with the requirements of Chapter 13 herein.

Section H Lighting

Exterior lighting shall comply with the requirements of Chapter 14 herein.

Section I Signs

Signs shall comply with the requirements of Chapter 15 herein.

Section J Design Regulations

Any new non-residential building, any addition to an existing non-residential building and any exterior modification to an existing non-residential building or site shall submit a Development Plan for review pursuant to Chapter 17 herein.

Chapter 5 - Residential Districts

5.1 RC-1 PUD District

Section A Purpose

The purpose of the RC-1 PUD District is to provide for the development of innovative residential environments by allowing a high degree of flexibility in the design of single family subdivisions, encouraging more efficient use of the land through the introduction of open space and conservation land within residential subdivisions and protecting remaining significant natural features within the district by emphasizing less intensive suburban land uses.

Section B Permitted Uses

Within the RC-1 PUD District, lot area, lot width, and yard requirements may be reduced below the requirements in the underlying R-1 District, provided that the provision of open space and conservation land results in an overall density for the development that is no greater than what is allowed in the underlying R-1 District. All other provisions of the R-1 District apply.

Section C Administration

A proposed subdivision in the RC-1 PUD District shall complete the Planned Unit Development process in Chapter 9.

5.2 R-1 District

Section A Purpose

The general character of these residential districts is to consist of single-family detached dwellings set on large building lots. Non-residential uses would be restricted to those community facilities which:

A.1 May appropriately be located in residential areas to provide educational, recreational, religious, health, and other essential services for residents;

A.2 Can perform their activities more effectively in a residential environment, unaffected by adjacent industrial or commercial uses; and

A.3 Do not create significant objectionable influences in residential areas.

Section B Permitted Uses

Permitted Uses are listed in the table in Chapter 3, Section E.

Section C Special Exceptions

Special Exceptions are listed in the table in Chapter 3, Section E.

Section D Accessory Uses and Buildings

Excluding garage structures with the primary purpose of parking passenger vehicles, a maximum of two (2) accessory structures are permitted on an individual zoning lot, provided that the square footage of all accessory buildings does not exceed 250 square feet.

Section E Bulk Requirements

Yard Regulations are listed in the table in Chapter 3, Section F.

E.1 Minimum Building Size

One (1) story residential buildings shall have a minimum floor area of 1,900 square feet, exclusive of basements, unenclosed porches, terraces, and garages. One and a half (1 ½) story residential buildings shall have a minimum floor area of 2,250 square feet, exclusive of basements, unenclosed porches, terraces, and garages. Two (2) story building shall have a minimum floor area of 2,400 square feet, exclusive of basements, unenclosed porches, terraces, and garages

E.2 Height Regulations

The maximum height of buildings and other structures erected or enlarged shall not exceed thirty-three (33) feet.

E.3 Area and Width Regulations

- a) Minimum Lot Area and Width. A lot area of not less than twenty thousand (20,000) square feet and a lot width of not less than one hundred (100) feet at the building line shall be provided for every building or other structure erected or used for any use permitted. Corner lots shall have a lot width of not less than one hundred twenty (120) feet at the building line. The Board of Zoning Appeals may approve a Developmental Variance allowing a lot width of less than 100 feet, but not less than 80 feet.
- b) Floating building line. There shall be a front yard on each lot, the depth of which shall be not less than forty (40) feet from the front yard property line. In proposed subdivisions with constraints of topography or stands of mature trees, the front yard may be less than forty (40) feet, but in no instance shall the front yard be less than twenty five (25) feet unless approved as a waiver by the Plan Commission during the subdivision approval process. However on lots in existing subdivisions, the front yard shall be not less than forty (40) feet.
- c) Side Yards. There shall be two (2) side yards of not less than ten (10) feet and any side yards abutting a street shall be twenty five (25) feet.
- d) Rear Yard. There shall be a rear yard on each lot, the depth of which shall be not less than forty (40) feet.
- e) Driveways must be located a minimum of three (3) feet from any property line.
- f) Lot Coverage.
 - i) Buildings: The maximum area of each lot which may be occupied by buildings is thirty percent (30%).
 - ii) Parking, Driveways, and Sidewalks: the maximum area of each lot which may be occupied by parking lots, driveways, and sidewalks is fifteen percent (15%).
 - iii) Pools, Patios, Decks, Sports Courts, and other accessory Uses: The maximum total area of each lot which may be occupied by pools, patios, decks, sports courts, and other accessory uses is fifteen percent (15%).
 - iv) Landscaping: The minimum total area of each lot which must be occupied by landscaping or other pervious surface is fifty percent (50%).

Section F Parking Requirements

F.1 Minimum Parking Requirements

Parking shall comply with the requirements of Chapter 12 herein.

F.2 Type, location and orientation of garages and driveways

Side loaded attached garages are preferred and encouraged and front loaded attached garages are allowed. Detached garages may only be allowed by approval of a developmental variance by the BZA, and shall be built consistent with the style and materials of the dwelling. No detached garages may be located in the required rear yard.

Section G Landscape Requirements

Landscaping shall comply with the requirements of Chapter 13 herein.

Section H Lighting

Lighting shall comply with the requirements of Chapter 14 herein.

Section I Signs

Signs shall comply with the requirements of Chapter 15 herein.

Section J Design Regulations

J.1 General Provisions

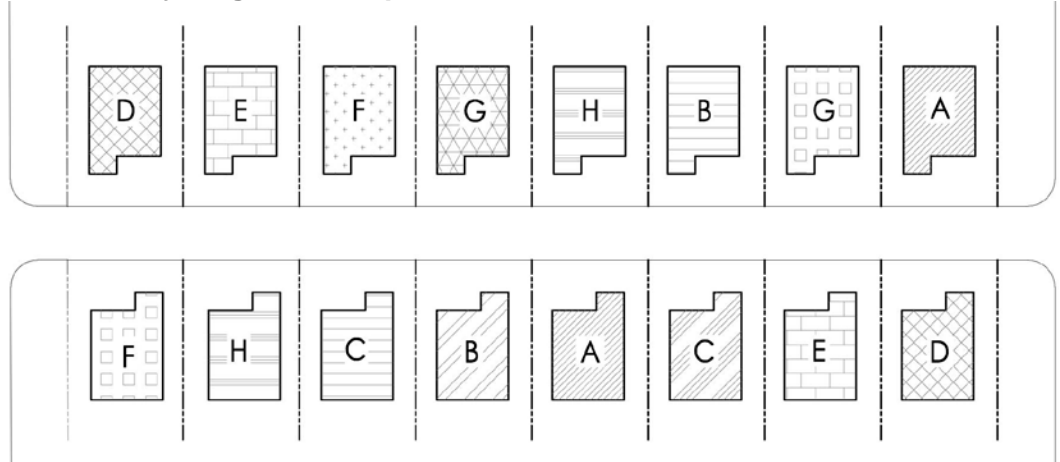
Any development consisting of three (3) or more dwelling units shall comply with the requirements of Chapter 17 Section B prior to issuance of a building permit. All covenants, conditions, and restrictions shall be submitted and approved by the Plan Commission prior to the approval of the Final Subdivision Plat. Additionally, all requirements of the Subdivision Control Ordinance shall be followed.

J.2 Anti-monotony

In subdivisions with eight (8) or more dwelling units, no less than eight (8) alternate front facades will be provided. The front facade of a house shall not be repeated within the next two (2) houses adjacent to it on *both* sides nor within the one (1) house that is located more or less directly across the street, nor within the one (1) house that is adjacent to that house across the street on *both* sides.

In determining whether the same front facade has been repeated, the Plan Commission shall consider the following design elements: roof pitch, entry location, window configuration, dormer placement, porch location, bay window configuration, balcony placement, garage orientation, building materials, and colors. In determining whether the same front facade has been repeated, The Plan Commission shall require at least one of the above design elements, but no more than four (4) of the above design elements, to be varied.

The anti-monotony plan shall be submitted and approved with the Development Plan. An interested party may file an appeal of the Plan Commission's decision with the Board of Zoning Appeals per Section 18.E-5.A

Anti-monotony diagram example:

In this example, all of the eight front facades conform to the anti-monotony requirements. Facade A is repeated across and down the street, as is façade H. Facade B is repeated across the street, but two houses away. So is facade F. Facade C is repeated on the same side of the street, two houses away. So is facade G. Facade D is repeated at the far end of the block, as is Facade E.

5.3 RC-2 PUD District**Section A Purpose**

The purpose of the RC-2 PUD District is to provide for single family residential development in areas facing conversion from a rural or agricultural nature to a suburban nature by the preservation of natural features and the provision of open space.

Section B Permitted Uses

Within the RC-2 PUD District, lot area, lot width, and yard requirements may be reduced below the requirements in the underlying R-2 District, provided that the provision of open space and conservation land results in an overall density for the development that is no greater than what is allowed in the underlying R-2 District. All other provisions of the R-2 District apply.

Section C Administration

A proposed subdivision in the RC-2 PUD District shall complete the Planned Unit Development process in Chapter 9.

5.4 R-2 District

Section A Purpose

The R-2 District accommodates single-family developments on smaller lots to provide for a variety in single-family residential living conditions. Non-residential uses would be of similar character as those in the R-1 Districts.

Section B Permitted Uses

Permitted Uses are listed in the table in Chapter 3, Section E.

Section C Special Exceptions

Special Exceptions are listed in the table in Chapter 3, Section E.

Section D Accessory Uses and Buildings

Excluding garage structures with the primary purpose of parking passenger vehicles, a maximum of two (2) accessory structures are permitted, provided that the square footage of all accessory buildings do not exceed 250 square feet.

Section E Bulk Requirements

Yard Regulations are listed in the table in Chapter 3, Section F.

E.1 Minimum Building Size

One (1) story residential buildings shall have a minimum floor area of 1,900 square feet, exclusive of basements, unenclosed porches, terraces, and garages. One and a half (1 ½) story residential buildings shall have a minimum floor area of 2,250 square feet, exclusive of basements, unenclosed porches, terraces, and garages. Two (2) story residential buildings shall have a minimum floor area of 2,400 square feet, exclusive of basements, unenclosed porches, terraces, and garages.

E.2 Height Regulations

The maximum height of buildings and other structures erected or enlarged shall not exceed thirty-three (33) feet.

E.3 Area and Width Regulations

- a) Minimum Lot Area and Width. A lot area of not less than fifteen thousand (15,000) square feet and a lot width of not less than one hundred (100) feet at the building line shall be provided for every building or other structure erected or used for any use permitted. Corner lots shall have a lot width not less than one hundred twenty (120) feet at the building line. The Board of Zoning Appeals may approve a Developmental Variance allowing a lot width of less than 100 feet, but not less than 80 feet.
- b) Floating building line. There shall be a front yard on each lot, the depth of which shall be not less than forty (40) feet from the front yard property line. In proposed subdivisions with constraints of topography or stands of mature trees, the front yard may be less than forty (40) feet, but in no instance shall the front yard be less than twenty five (25) feet unless approved as a waiver by the Plan Commission during the Subdivision process. However on lots in existing subdivisions, the front yard shall be not less than forty (40) feet.

- c) Side Yards. There shall be two (2) side yards of not less than eight (8) feet and side yards abutting a street shall be twenty (20) feet.
- d) Rear Yard. There shall be a rear yard on each lot, the depth of which shall be not less than forty (40) feet.
- e) Driveways must be located a minimum of three (3) feet from any property line.
- f) Lot Coverage.
 - i) Buildings: The maximum area of each lot which may be occupied by buildings is thirty percent (30%).
 - ii) Parking, Driveways, and Sidewalks: The maximum area of each lot which may be occupied by parking lots, driveways, and sidewalks is fifteen percent (15%).
 - iii) Pools, Patios, Decks, Sports Courts, and other accessory Uses: The maximum total area of each lot which may be occupied by pools, patios, decks, sports courts, and other accessory uses is fifteen percent (15%).
 - iv) Landscaping: The minimum total area of each lot which must be occupied by landscaping or other pervious surface is fifty percent (50%).

Section F Parking Requirements

F.1 Minimum Parking Requirements

Parking shall comply with the requirements of Chapter 12 herein.

F.2 Type, Location and Orientation of Garages

Side loaded attached garages are preferred and encouraged and front loaded attached garages are allowed. Detached garages may only be allowed with the approval of a Developmental Variance by the Board of Zoning Appeals, and shall be built consistent with the style and materials of the dwelling. No detached garages may be located within the required rear yard.

Section G Landscape Requirements

Landscaping shall comply with the requirements of Chapter 13 herein.

Section H Lighting

Lighting shall comply with the requirements of Chapter 14 herein.

Section I Signs

Signs shall comply with the requirements of Chapter 15 herein.

Section J Design Regulations

J.1 General Provisions

Any development consisting of three (3) or more dwelling units shall comply with the requirements of Chapter 17, Section B to the Town for review prior to issuance of a building permit. All covenants, conditions, and restrictions shall be submitted and approved by the Plan Commission prior to the approval of the Final Subdivision Plat. Additionally, all requirements of the Subdivision Control Ordinance shall be followed..

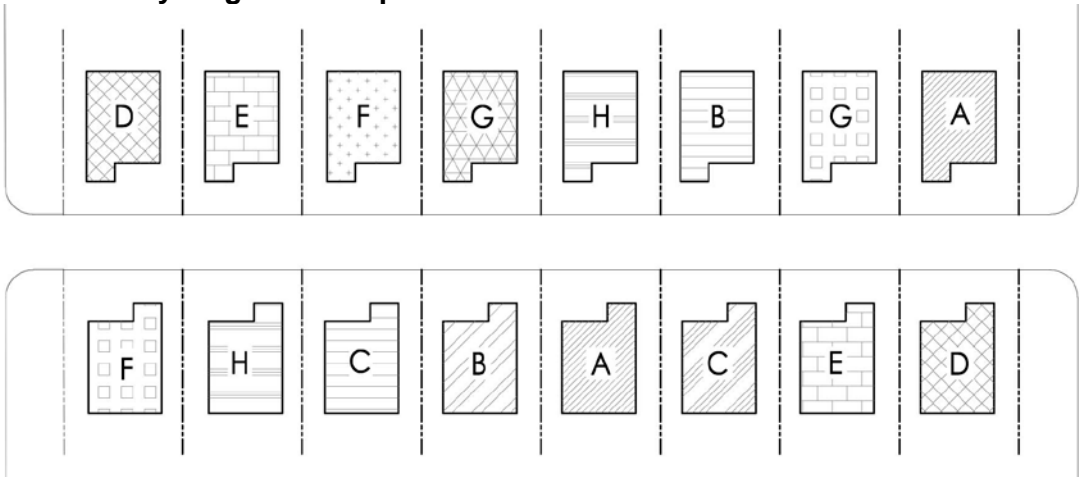
J.2 Anti-monotony

In subdivisions with eight (8) or more dwelling units, no less than eight (8) alternate front facades will be provided. The front facade of a house shall not be repeated within the next two (2) houses adjacent to it on *both* sides nor within the one (1) house that is located more or less directly across the street, nor within the one (1) house that is adjacent to that house across the street on *both* sides.

In determining whether the same front facade has been repeated, the Plan Commission shall consider the following design elements: roof pitch, entry location, window configuration, dormer placement, porch location, bay window configuration, balcony placement, garage orientation, building materials, and colors. In determining whether the same front facade has been repeated, The Plan Commission shall require at least one of the above design elements, but no more than four (4) of the above design elements, to be varied.

The anti-monotony plan shall be submitted and approved with the Development Plan. An interested party may file an appeal of the Plan Commission’s decision with the Board of Zoning Appeals per Section 18.E-5.A

Anti-monotony diagram example:



In this example, all of the eight front facades conform to the anti-monotony requirements. Facade A is repeated across and down the street, as is façade H. Facade B is repeated across the street, but two houses away. So is facade F. Facade C. is repeated on the same side of the street, two houses away. So is facade G. Facade D is repeated at the far end of the block, as is Facade E.

5.5 R-3 District

Section A Purpose

This R-3 District provides for duplexes, single-family cluster homes, and townhouses in limited portions of the Town and also provides new areas for modern low density and moderate density, multi-family developments. Non-residential uses would be of similar character as those in R-1 Districts.

Section B Permitted Uses

Permitted Uses are listed in the table in Chapter 3, Section E herein.

Section C Special Exceptions

Special Exceptions are listed in the table in Chapter 3, Section E herein.

Section D Accessory Uses and Buildings

The maximum area occupied by accessory structures is limited to ten percent (10%) of the total area of each zoning lot.

Section E Bulk Requirements

E.1 Minimum Building Size

Each dwelling unit within a duplex, townhouse, or multi family structure shall have a minimum floor area of fourteen hundred (1,400) square feet, exclusive of basements, porches, terraces, and garages.

E.2 Height Regulations

The maximum height of buildings and other structures erected or enlarged shall not exceed thirty (30) feet with the exception of multi family dwellings which shall not exceed forty (40) feet.

E.3 Area, Width, Yard, Ground Area and Lot Coverage Regulations

- a) Minimum Lot Area and Width. A lot area of not less than fifteen thousand (15,000) square feet and a lot width of not less than one hundred (100) feet at the building line shall be provided for multi family dwellings. A lot area of not less than fifteen thousand (15,000) square feet and a lot width of not less than one hundred thirty (130) feet at the building line shall be provided for townhouse dwellings. A lot area of not less than ten thousand (10,000) square feet and a lot width of not less than ninety (90) feet at the building line shall be provided for duplex dwellings.
- b) Minimum Average Area per Dwelling Unit:
 - i) Duplex Dwelling Ground Area Requirement: A ground area of not less than ten thousand (10,000) square feet shall be provided for each Duplex dwelling unit
 - ii) Townhouse Dwelling Ground Area Requirement: A ground area of not less than eight thousand (8,000) square feet shall be provided for each Townhouse dwelling unit.
 - iii) Multi Family Dwelling Ground Area Requirement: A ground area of not less than eight thousand (8,000) square feet shall be provided for each multi family building dwelling unit.
- c) Front Yard. The front yard setback shall be forty (40) feet from the property line.
- d) Side Yards. There shall be two side yards of not less than eight (8) feet, and any side yards abutting a street shall be twenty (20) feet.
- e) Rear Yard. There shall be a rear yard on each lot, the depth of which shall be not less than twenty-five (25) feet.
- f) Lot Coverage.
 - i) Buildings: The maximum area of each lot which may be occupied by buildings is forty percent (40%).

- ii) Parking, Driveways, and Sidewalks: The maximum area of each lot which may be occupied by parking lots driveways, and sidewalks is twenty percent (20%).
- iii) Pools, Patios, Decks, Sports Courts, and other accessory Uses: The maximum total area of each lot which may be occupied by pools, patios, decks, sports courts, and other accessory uses is fifteen percent (15%).
- iv) Landscaping: The minimum total area of each lot which must be occupied by landscaping is thirty percent (30%).

Section F Parking Requirements

Parking shall comply with the requirements of Chapter 12 herein.

Section G Landscape Requirements

Landscape shall comply with the requirements of Chapter 13 herein.

Section H Lighting

Lighting shall comply with the requirements of Chapter 14 herein.

Section I Signs

Signs shall comply with the requirements of Chapter 15 herein.

Section J Design Regulations

Any development consisting of three (3) or more dwelling units shall comply with the requirements of Chapter 17, Section B prior to issuance of a building permit. All covenants, conditions, and restrictions shall be submitted and approved by the Plan Commission prior to the approval of the Final Subdivision Plat. Additionally, all requirements of the Subdivision Control Ordinance shall be followed.

Section K Other Requirements

K.1 Number of Buildings Per Lot

Except in the case of a Planned Unit Development, not more than one (1) principal detached residential building shall be located on a residential lot, nor shall a principal detached residential building be located on the same lot with any other principal building.

Chapter 6 - Commercial Districts

6.1 C-1 General Commercial District

Section A Purpose

The purpose of the C-1 General Commercial District (hereinafter "C-1 District") is to promote the continuation of small scale commercial areas, to maintain a pedestrian environment, to maintain the scale of commercial areas that provide goods and services primarily for the convenience of the surrounding neighborhoods and to encourage quality commercial development consistent with the character of the Town.

Section B Permitted Uses

Permitted Uses are listed in the table in Chapter 3, Section E.

Section C Special Exceptions

Special Exceptions are listed in the table in Chapter 3, Section E.

Section D Accessory Uses and Buildings

Accessory uses are not permitted. The Board of Zoning Appeals and Town Council may grant a Special Exception, provided that the petitioner demonstrates that the accessory building will enhance the streetscape in addition to the other requirements for a Special Exception.

Section E Bulk Requirements

E.1 Height Regulations

The maximum height of buildings and other structure shall not exceed fifty (50) feet or three (3) stories, whichever is less.

E.2 Area, Width, and Yard Regulations

- a) Minimum Lot Area and Width. A lot area of not less twenty one thousand seven hundred eighty (21,780) square feet and a lot width of not less than ninety (90) feet at the building line shall be provided for every building or other structure erected or used for any use permitted. The heights of buildings and other structures erected or enlarged, the area, width, yard, and building coverage requirements shall be specified on the submitted Development Plan.
- b) Front Yard. There shall be a front yard between the building line and the street right-of-way as follows:
 - i) On existing four-lane federal or state highways, a distance of sixty (60) feet;
 - ii) On existing two-lane federal or state highways, a distance of seventy-five (75) feet; and
 - iii) All other streets, a distance of fifty (50) feet
- c) Side Yards. There shall be a side yard as follows:
 - i) Where abutting lots have buildings or other structures employing a common party wall, no side yard is required;
 - ii) Interior lots shall have two (2) side yards, each having a width of not less than twenty (20) feet;

- iii) On each corner lot, there shall be a side yard abutting the street having a width of not less than thirty (30) feet and another side yard having a width of not less than fifteen (15) feet; and
- iv) On a lot abutting any Residential district, there shall be a side yard abutting such Residential district having a width of not less than thirty five (35) feet.
- d) Rear yard. There shall be a rear yard on each lot, the depth of which shall be not less than twenty (20) feet from the rear lot line.
- e) Building Coverage. Not more than fifty percent (50%) of any lot may be covered by buildings.

Section F Parking Requirements

Parking shall comply with the requirements of Chapter 12 herein.

Section G Landscape Requirements

Any application for a building permit, with the exception of permits limited to interior remodeling of an existing structure, shall provide a Landscape Plan which shall comply with the requirements of Chapter 13 herein.

Section H Lighting

Lighting shall comply with the requirements of Chapter 14 herein.

Section I Signs

Signs shall comply with the requirements of Chapter 15 herein.

Section J Design Regulations

J.1 The entire surface area of every exterior wall shall be constructed of face brick and the roof shall be composed of standing rib (standing seam) or asphalt shingle. The Plan Commission may grant a waiver from this requirement during the Development Plan or Site Plan review.

J.2 Any new structure, any addition to an existing building, and any exterior modifications to a building or to a site, shall first submit a Development Plan for review pursuant to Chapter 17 herein. In addition to the requirements in Chapter 17, the Development Plan shall comply with any design guidelines for Commercial districts as may be adopted and amended by the Town Council from time to time.

Section K Other Requirements

The following additional provisions shall apply:

K.1 All business, service, storage, merchandise, display, repair, and processing shall be conducted wholly within an enclosed building unless authorized by a Development Variance and, except as otherwise permitted herein, for specified uses such as off-street automobile parking and off-street loading.

K.2 Goods sold shall consist primarily of new merchandise, and any goods produced on the premises shall be sold at retail on the premises unless otherwise permitted herein for specified uses.

K.3 Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, noise, vibration, refuse matter, or water-carried waste.

K.4 All parcels located partially or completely within the US 41 Overlay District or Route 231 Overlay District shall comply with the requirements of the US 41 Overlay District, the requirements of the Route 231 Overlay District, or the requirements of Section 6.1, whichever is the most restrictive.

6.2 C-2 Highway Commercial District

Section A Purpose

The purpose of the C-2 Highway Commercial District (hereinafter “C-2 District”) is to provide for higher volume and higher intensity commercial uses that serve the residents of the Town and the surrounding areas. The district allows for a mix of medium scale development that generates a significant amount of traffic, while maintaining and enhancing the appearance of the major thoroughfares.

Section B Permitted Uses

Permitted Uses are listed in the table in Chapter 3, Section E.

Section C Special Exceptions

Special Exceptions are listed in the table in Chapter 3, Section E.

Section D Accessory Uses and Buildings

Accessory uses are not permitted. The Board of Zoning Appeals and Town Council may grant a Special Exception provided that the petitioner demonstrates that the accessory building will enhance the streetscape in addition to the other requirements for a Special Exception.

Section E Bulk Requirements

E.1 Height Regulations

The maximum height of buildings and other structure shall not exceed fifty (50) feet or three (3) stories, whichever is less.

E.2 Area, Width, and Yard Regulations

- a) Minimum Lot Area and Width. A lot area of not less than thirty two thousand (32,000) square feet and a lot width of not less than ninety (90) feet at the building line shall be provided for every building or other structure erected or used for any use permitted. The heights of buildings and other structures erected or enlarged, area, width, yard, and building coverage shall be specified on the submitted Development Plan.
- b) Front Yard. There shall be a front yard between the building line and the street right-of-way as follows:
 - i) On existing four-lane federal or state highways, a distance of sixty (60) feet;
 - ii) On existing two-lane federal or state highways, a distance of seventy-five (75) feet; and
 - iii) All other streets, a distance of fifty (50) feet.

- c) Side Yards. There shall be a side yard as follows:
 - i) Where abutting lots have buildings or other structures employing a common party wall, no side yard is required;
 - ii) Interior lots shall have two (2) side yards, each having a width of not less than twenty (20) feet;
 - iii) On each corner lot, there shall be a side yard abutting the street having a width of not less than twenty (20) feet and another side yard having a width not less than ten (10) feet; and
 - iv) On a lot abutting any Residential zoning district, there shall be a side yard abutting such district having a width of not less than thirty five (35) feet.
- d) Rear Yard. There shall be a rear yard on each lot, the depth of which shall be not less than forty-five (45) feet from the rear lot line.
- e) Building Coverage. No more than fifty percent (50%) of any lot may be covered by buildings.

Section F Parking Requirements

Parking shall comply with the requirements of Chapter 12 herein.

Section G Landscape Requirements

Any application for a building permit, with the exception of permits limited to interior remodeling of an existing structure, shall provide a Landscape Plan which shall comply with the requirements of Chapter 13.

Section H Lighting

Lighting shall comply with the requirements of Chapter 14 herein.

Section I Signs

Signs shall comply with the requirement of Chapter 15 herein.

Section J Design Regulations

J.1 The entire surface area of every exterior wall shall be constructed of face brick and the roof shall be composed of standing rib (standing seam) or asphalt shingle. The Plan Commission may grant a waiver from this requirement during the Development Plan or Site Plan review.

J.2 Any new structure, any addition to an existing building, and any exterior modifications to a building or to a site, shall first submit a Development Plan for review pursuant to Chapter 17 herein. In addition to the requirements in Chapter 17, the Development Plan shall comply with any design guidelines for Commercial districts as may be adopted or amended by the Town Council from time to time.

Section K Other Requirements

The following additional provisions shall apply:

K.1 All business, service, storage, merchandise, display, repair, and processing shall be conducted wholly within an enclosed building unless authorized as a Developmental Variance and, except as otherwise permitted herein, for specified uses such as off-street automobile parking and off-street loading.

K.2 Goods sold shall consist primarily of new merchandise, and any goods produced on the premises shall be sold at retail on the premises unless otherwise permitted herein for specified uses.

K.3 Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of odor, dust, smoke, cinders, gas, noise, vibration, refuse matter, or water-carried waste.

K.4 All parcels located partially or completely within the US 41 Overlay District or the Route 231 Overlay District shall comply with the requirements of the US 41 Overlay District, the requirements of the Route 231 Overlay District, or the requirements of Section 6.2, whichever is the most restrictive.

6.3 C-3 Commercial Entertainment District

Section A Purpose

The purpose of the C-3 Commercial Entertainment District (hereinafter “C-3 District”) is to allow entertainment uses in limited locations that will not adversely impact existing or platted residential areas.

Section B Permitted Uses

Permitted Uses are listed in the table in Chapter 3, Section E.

Section C Special Exceptions

Special Exceptions are listed in the table in Chapter 3, Section E.

Section D Accessory Uses and Buildings

Accessory uses are not permitted. The Board of Zoning Appeals and Town Council may grant a Special Exception, provided that the petitioner demonstrates that the accessory building will enhance the streetscape in addition to the other requirements for a Special Exception.

Section E Bulk Requirements

E.1 Height Regulations

The maximum height of buildings and other structure shall not exceed fifty (50) feet or three (3) stories, whichever is less.

E.2 Area, Width, and Yard Regulations

- a) Minimum Lot Area and Width. A lot area of not less than thirty two thousand (32,000) square feet and a lot width of not less than ninety (90) feet at the building line shall be provided for every building or other structure erected or used for any use permitted. The heights of buildings and other structures erected or enlarged, area, width, yard, and building coverage requirements shall be specified on the submitted Development Plan.

- b) Front Yard. There shall be a front yard between building line and the street right-of-way as follows:
 - i) On existing four-lane federal or state highways, a distance of sixty (60) feet;
 - ii) On existing two-lane federal or state highways, a distance of seventy-five (75) feet; and
 - iii) All other streets, a distance of fifty (50) feet.
- c) Side Yards. There shall be a side yard as follows:
 - i) Where abutting lots have buildings or other structures, employing a common party wall, no side yard is required;
 - ii) Interior lots shall have two (2) side yards, each having a width of not less than twenty (20) feet;
 - iii) On each corner lot, there shall be a side yard abutting the street having a width of not less than twenty (20) feet and another side yard having a width not less than ten (10) feet; and
 - iv) On a lot abutting any Residential zoning district, there shall be a side yard abutting such district having a width of not less than thirty five (35) feet.
- d) Rear Yard. There shall be a rear yard on each lot, the depth of which shall be not less than forty-five (45) feet from the rear lot line.
- e) Building Coverage. No more than fifty percent (50%) of any lot may be covered by buildings.

Section F Parking Requirements

Parking shall comply with the requirements of Chapter 12 herein.

Section G Landscape Requirements

Any application for a building permit, with the exception of permits limited to interior remodeling of an existing structure, shall provide a Landscape Plan which shall comply with the requirements of Chapter 13 herein.

Section H Lighting

Lighting shall comply with requirements of Chapter 14 herein.

Section I Signs

Signs shall comply with the requirements of Chapter 15 herein.

Section J Design Regulations

J.1 The entire surface area of every exterior wall shall be constructed of face brick and the roof shall be composed of standing rib (standing seam) or asphalt shingle. The Plan Commission may grant a waiver from this requirement during the Development Plan or Site Plan review.

J.2 Any new structure, any addition to an existing building and any exterior modifications to a building or to a site, shall first submit a Development Plan for review pursuant to Chapter 17. In addition to the requirements in Chapter 17, the Development Plan shall comply with any design guidelines for Commercial districts as may be adopted or amended by the Town Council from time to time.

Section K Other Requirements

The following additional provisions shall apply:

K.1 All business, service, storage, merchandise, display, repair, and processing shall be conducted wholly within an enclosed building unless authorized as a Developmental Variance, and except as otherwise permitted herein, for specified uses such as off-street automobile parking and off-street loading.

K.2 Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable by reason of noise, vibration, or public standards.

6.4 C-4 Adult Entertainment District

Section A Legislative Findings and Determinations

The Town Council hereby finds and determines as follows:

A.1 That Indiana Code 36-1-3, *et seq.*, authorizes the Town, as a municipality, to adopt Ordinances for the purpose of protecting the health, safety and welfare of its residents and to preserve the peace, order and safety of the community;

A.2 That sexually orientated businesses located and operating within the corporate boundaries of the Town require unique and special supervision by local public health and safety agencies in order to protect and preserve the health, safety and welfare of the patrons of said sexually oriented businesses, as well as the citizens of the Town;

A.3 That legal precedent established by the United States Supreme Court in City of Renton v. Playtime Theatres, Inc., 475 U.S. 41, 51-52 (1986) and City of Erie v. Pap's A.M. bda "Kandyland", 529 U.S. 277, 279 (2000), provides that local legislative bodies may rely on findings and studies from other municipalities when enacting an Ordinance regulating sexually oriented businesses;

A.4 That the Town Council has reviewed evidence regarding the adverse secondary effects of sexually oriented businesses, and has reviewed findings and studies from other communities regarding this subject including, but not limited to, Tucson, Arizona (1990), Garden Grove, California (1991), Los Angeles, California (1977), Whittier, California (1978), Indianapolis, Indiana (1984), Times Square, New York (1994), Oklahoma City, Oklahoma (1986), Oklahoma City, Oklahoma II (1992), Austin, Texas (1986), Dallas, Texas (1997), Newport News, Virginia (1996), and Seattle, Washington (1989);

A.5 That the Town Council has determined, after reviewing studies and findings from other communities, the testimony of local residents, organizations and business people, and reports and information presented by the Town administrative staff, that there is substantial and convincing evidence that sexually oriented businesses, because of their very nature, have a deleterious effect on existing businesses in their vicinity, the surrounding residential areas and the public at large, causing, among other adverse secondary effects, increased crime and urban blight, diminished property values and the spread of sexually transmitted diseases; and

A.6 That the Town Council has considered and reviewed the decisions of the United States Supreme Court, and other courts, regarding local regulation of sexually oriented businesses including, but not limited to, Young v. American Mini Theatres, Inc., 427 U.S. 50 (1976) *reh. denied* 429 U.S. 873 (1976); Renton v. Playtime Theatres, 475 U.S. 41 (1986) *reh. denied* 475 U.S. 1132 (1986); FW/PBS, Inc. v. Dallas, 493 U.S. 215 (1990); Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); City of National City v. Wiener, 3 Cal. 4th 832 (1992); Topanga Press, Inc., v. City of Los Angeles, 989 F.2d 1524 (1993); City of Erie v. Pap's A.M. tdba "Kandyland", 529 U.S. 277 (2000); and City of Littleton v. Z.J. Gifts D-4, L.L.C., 541 U.S. 774 (2004);

A.7 That the Town Council after its review, has determined that location restrictions alone do not adequately protect the health, safety and general welfare of the residents of the Town and, thus, believes that certain regulatory requirements concerning ownership and operation of sexually oriented businesses in the Town is in the best interests of the public;

A.8 That the Town has further determined that restrictions for sexually oriented businesses, such as those restrictions placed on the sale and consumption of alcohol and outside advertising, will further prevent adverse secondary effects of sexually oriented businesses from affecting the health, safety and general welfare and well-being of the residents of the Town; and

A.9 That the Town does not intend by passage of this Ordinance, to suppress any speech or expression activities protected by the First Amendment of the United States Constitution or Article 1, §9 of the Indiana State Constitution, but to enact a content-neutral Ordinance that addresses and regulates the adverse secondary effects of sexually oriented businesses;

A.10 That the Town Council does not intend to condone or legitimize the distribution of obscene material, and hereby recognizes that applicable state law prohibits the distribution of obscene material and also encourages appropriate law enforcement officials to prosecute any such illegal activities in the Town;

A.11 That the Town Council hereby finds that the live entertainment presented by some sexually oriented business establishments involves a considerable amount of bodily contact between patrons and performers, including physical contact while giving and receiving gratuities, and hugging, kissing, and sexual fondling of performers and patrons. Many sexually oriented businesses offer "sofa/couch" or "straddle" dancing. In these "dances," the performers sometimes do such things as sit in the patron's lap, place their breasts against the patron's face, gyrate in such a manner as to simulate sexual intercourse while maintaining physical contact, allow patrons to suckle their breasts, breathe heavily into a patron's groin area, and bite and gnaw at, as well as fondle, the genitals of patrons. Performers, both during the semi-private dances and on a stage, have pulled patrons' faces into their vaginal areas, or performed a "whipped cream" dance wherein patrons were allowed to spoon feed themselves with whipped cream that had been spread on the breasts and vaginal and anal areas of the performers. In other instances, male patrons have placed a peeled banana between their legs while female performers have eaten the banana. Some of this conduct would violate the State Penal Code and Town Code, which prohibit, among other things, the public fondling of genitals (I.C. 35-45-4-1, *et seq.*, as amended from time to time). Although no actual sexual intercourse may be involved, contact titillation provided in exchange for a gratuity constitutes prostitution, which is in violation of I.C. 35-45-4-2, as amended from time to time;

A.12 That the Town Council is aware and has been informed that a number of courts have upheld restrictions on the amount of physical distance between performers and patrons, prohibitions against physical contact between performers and patrons, and direct payment and receipt of gratuities by performers from patrons at sexually oriented business establishments that provide live entertainment, including, but not limited to, the following: BSA, Inc. v. King County, 804 F.2d 1104, 1110-11 (9th Cir. 1986) (six feet); Kev, Inc. v. Kitsap County, 793 F.2d 1053, 1061-1062 (9th Cir. 1986) (ten feet); Zanganeh v. Hymes, 844 F. Supp. 1087, 1091 (D.Md. 1994) (six feet); T-Marc, Inc. v. Pinellas County, 804 F. Supp. 1500, 1506 (M.D.Fla. 1992) (three feet); DLS, Inc., v. City of Chattanooga, 894 F. Supp. 1140, (E.D. Tenn. 1995) (six feet and prohibiting direct payment and receipt of gratuities); Parker v. Whitfield County, 463 S.E.2d 116, 117 (Ga. 1995) (prohibiting tipping and contact between dancers and patrons); Hang On, Inc. v. City of Arlington, 65 F.3d 1248, 1253-55 (5th Cir. 1995) (*aff'd* prohibition on touching or any contact between dancers and patrons); and Threesome Entertainment, et al. v. Jack Strittmather, et al., 4 F. Supp. 710 (N.D. Ohio 1998) (six feet);

A.13 That the Town Council has been advised that preventing prostitution and the spread of sexually transmitted diseases are clearly within the scope of its police powers and that legislative authority for this proposition exists in the case cited as Southeastern Promotions, Inc. v. Conrad, 341 F. Supp. 465, 477 (E.D. Tenn. 1972) *rev'd* on other grounds, 420 U.S. 546 (1975), among others;

A.14 That the Town Council agrees and concurs that prohibiting physical contact between performers and patrons at sexually oriented business establishments, prohibiting performers from soliciting payment of gratuities from patrons, and prohibiting the direct payment of gratuities to performers by patrons are a reasonable and effective means of addressing its legitimate governmental interests; further, it is not the intent of the Town to place any impermissible burden on any constitutionally protected mode of speech, expression or conduct by the enactment or enforcement of such regulations; and

A.15 That the Town Council of the Town, Lake County, Indiana, having reviewed all matters regarding the regulation of sexually oriented businesses, now concurs that the adoption of an Ordinance regulating such businesses is advisable, necessary and in the best interests of the residents of the Town.

Section B Purpose

It is the purpose of the Adult Entertainment District and this Chapter to regulate sexually oriented businesses to promote the health, safety, morals and general welfare of the citizens of the Town, and to establish reasonable and uniform regulations to prevent the deleterious effects of sexually oriented businesses from occurring within the Town. The provisions of this Chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this Chapter to restrict or deny access by adults to sexually oriented materials which are protected by the First Amendment of the United States Constitution or the Indiana State Constitution, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent or effect of this Chapter to, in any way, condone or legitimize the distribution of obscene material or material harmful to minors.

Section C Definitions

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Adult arcade. Means an establishment where, for any form of consideration, one (1) or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, for viewing by five (5) or fewer persons each, are regularly used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult bookstore, Adult novelty shop, and Adult video store. Means a commercial establishment which has as a significant or substantial portion of its stock-in-trade, or derives a significant or substantial portion of its revenues, or devotes a significant or substantial portion of its interior business or advertising to the sale, rental or viewing, for any form of consideration, of any one (1) or more of the following:

- a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas.";
- b) Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.
- c) An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing "specified sexual activities" or "specified anatomical areas," and still be categorized as adult bookstore, adult novelty shop or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty shop or adult video store, so long as one (1) of its principal business purposes is the offering for sale, rental or viewing, for any form of consideration, the specified materials which depict or describe "specified anatomical areas" or "specified sexual activities."

Adult cabaret. Means a nightclub, bar, restaurant "bottle club," or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

- a) persons who appear nude or in a state of nudity or semi-nudity;
- b) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities," or
- c) films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

Adult motel, Means a motel, hotel or similar commercial establishment which:

- a) offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas” and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including, but not limited to, newspapers, magazines, pamphlets, leaflets, radio or television; and
- b) offers a sleeping room for rent for a period of time less than ten (10) hours or allows a tenant or occupant to sub-rent the sleeping room for a time period of less than ten (10) hours.

Adult motion picture theater. Means a commercial establishment where films, motion pictures, video cassettes, slides or similar photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas” are regularly shown for any form of consideration.

Adult theater. Means a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear nude, in a state of nudity or semi-nudity, or live performances which are characterized by exposure of “specified anatomical areas” or by “specified sexual activities.”

Escort. Means a person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort agency. Means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Employee. Means a person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business.

Establishment. Means and includes any of the following:

- a) The opening or commencement of any such sexually oriented business as a new business;
- b) The conversion of an existing business, regardless of whether it currently exists as a sexually oriented business, to any of the sexually oriented businesses defined in this Chapter;
- c) The addition of any of the sexually oriented businesses defined in this Article to any other existing sexually oriented business; and
- d) The relocation of any such sexually oriented business.

Knowledge or knowledge of. Means having knowledge of the content and character of the patently offensive sexual conduct which appears in the lewd matter.

Lewd matter. Means any matter which:

- a) the average person finds, when applying contemporary community standards and when considered as a whole, appeals to the prurient interest; and
- b) depicts or describes patently offensive representations simulated; ultimate sexual acts, normal, perverted, or actual; or masturbation, excretory functions, or the exhibition of the genitals or genital area.

Nothing in this definition is intended to include or proscribe any matter which, when considered as a whole and in the context in which it is used, possesses serious literary, artistic or political scientific value.

Live Entertainment. Means a person who appears nude, semi-nude, or a performance which is characterized by the exposure of specified anatomical areas or by specified sexual activities.

Massage parlor. Means any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body which occurs as a part of, or in connection with, "specified sexual activities," or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas." The definition of sexually oriented businesses shall not include the practice of massage in or by any licensed hospital, licensed physician, surgeon, chiropractor, osteopath, or any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, or by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program, or by any person so licensed to perform such activities.

Matter. Means a motion picture film or a publication, or both.

Motion picture film. Means any:

- a) film or plate negative or positive; or
- b) film designed to be projected on a screen for exhibition;
- c) films, glass slides or transparencies, either in negative or positive form, designed for exhibition by projection on a screen; or
- d) video tape or any other medium used to electronically reproduce images on a screen.

Nude model studio. Means any place where a person who regularly appears in a state of nudity or displays "specified anatomical areas" for money or any form of consideration and is to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

Nudity or State of Nudity. Means:

- a) the appearance of bare human buttocks, anus, male or female genitals, or the areola or nipple of the female breast; or
- b) a state of dress which fails to opaquely and fully cover a human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast.

Operator. Means and includes the owner, permit holder, custodian, manager, operator or other person in charge of any permitted or licensed premises.

Permitted Premises or Licensed Premises. Means any premises that requires a license and/or permit for operation and that is classified as a sexually oriented business.

Permittee or Licensee. Means a person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

Place. Means and includes, but is not limited to, any building, structure or place, or any separate part or portion thereof, whether permanent or not, or the ground itself.

Public building. Means any building owned, leased or held by the United States, the State of Indiana, the County of Lake, the Town, any special district, school district, or any other agency or political subdivision of the State of Indiana or the United States, which building is used for governmental purposes.

Public park or recreation area. Means public land which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or other similar public land within the Town which is under the control, operation, or management of the Town park and recreation authorities.

Publication. Means any books, magazine, article, pamphlet, writing, painting, illustration, picture, sound recording, or motion picture film which is offered for sale or exhibition in a coin-operated machine.

Regularly. Means the featuring of a continuous presentation of sexual material including, but not limited to, films, movies, videos, and the like, depicting specified sexual activities or displaying specified anatomical areas as one (1) of the very objectives of the commercial enterprise.

Religious institution. Means any church, synagogue, mosque, temple or other building, which is used primarily for religious worship and related religious activities.

Sale. Means a passing of title or right of possession from a seller to a buyer for valuable consideration and shall include, but is not limited to, any lease, rental arrangement or other transaction wherein and whereby any valuable consideration is received for the use of, or transfer of possession of, lewd matter.

School. Means any public or private educational facility including, but not limited to, child day-care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, colleges and

universities and includes the school grounds, but does not include facilities used primarily for another purpose which are only incidentally used as a school.

Semi-Nude or Semi-Nudity. Means a state of dress in which clothing covers no more than the genitals, anus, pubic region and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

Sexual encounter establishment. Mean a business or commercial establishment that, as one (1) of its primary business purposes offers, for any form of consideration, a place where two (2) or more persons may congregate, associate, or consort for the purpose of engaging in specified sexual activities or the exposure of specified anatomical areas, or activities when one (1) or more of the persons is in a state of nudity or semi-nudity. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

Sexually Oriented Business. Means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage parlor, sexual encounter establishment, escort agency or nude model studio.

Specified Anatomical Areas. Means any of the following:

- a) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or
- b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities. Means any of the following:

- a) The fondling or other intentional touching of human genitals, pubic region, buttocks, anus or female breasts;
- b) Sexual acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- c) Masturbation, actual or simulated;
- d) Human genitals in a state of sexual stimulation, arousal or tumescence; or
- e) Excretory functions as part of, or in connection with, any of the activities set forth in subdivisions (a) through (d) of this subsection.

Substantial enlargement of a sexually oriented business. Means an increase in the floor areas occupied by a sexually oriented business by more than fifteen percent (15%), as the floor areas exist on the date this Ordinance takes effect.

Transfer of ownership or control of a sexually oriented business. Means any of the following:

- a) The sale, lease or sublease of the business;
- b) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or

- c) The establishment of a trust, gift or other similar legal devise, which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

Section D Permitted Uses

Permitted uses are listed in the table in Chapter 3, Section E.

Section E Special Exceptions

Special Exceptions are listed in the table in Chapter 3, Section E.

Section F Accessory Uses and Buildings

Accessory buildings are prohibited.

Section G Bulk Requirements

G.1 Height Regulations

The maximum height of any building or other structure shall not exceed forty (40) feet.

G.2 Area, Width and Yard Regulations

- a) Minimum Lot Area and Width. A lot area of not less than thirty two thousand (32,000) square feet and a lot width of not less than ninety (90) feet at the building line shall be provided for every building or other structure erected or used for any use permitted in this District. In the case of a development plan, the heights of buildings and other structures erected or enlarged in this Zoning District and area, width, yard and building coverage requirements therefore shall be as specified on or in connection with the aforesaid development plan.
- b) Front Yard. There shall be a front yard as follows:
 - i) On existing four-lane federal or state highways, a distance of sixty (60) feet;
 - ii) On existing two-land federal or state highways, a distance of seventy-five (75) feet; and
 - iii) All other streets, a distance of fifty (50) feet.
- c) Side Yards. There shall be a side yard as follows:
 - i) Where abutting lots have buildings or other structures, employing a common party wall, no side yard is required;
 - ii) Interior lots shall have two (2) side yards, each having a width of not less than twenty (20) feet;
 - iii) On each corner lot, there shall be a side yard abutting the street, having a width of not less than twenty (20) feet and another side yard having a width not less than ten (10) feet; and
 - iv) On a lot abutting any residential zoning district, there shall be a side yard abutting such district having a width of not less than 35 feet, which shall be landscaped in accordance with the provisions of Chapter 13.

- d) Rear Yard. There shall be a rear yard on each lot, the depth of which shall be not less than forty-five (45) feet from the rear lot line, which shall be landscaped in accordance with the provisions in Chapter 13.
- e) Building Coverage. No more than fifty (50%) percent of any lot may be covered by buildings.

Section H Parking Requirements

Parking shall comply with the requirements of Chapter 12 herein.

Section I Landscape Requirements

Any application for a building permit, with the exception of permits limited to interior remodeling of an existing structure, shall provide Landscape Plan which shall comply with the requirements of Chapter 13 herein.

Section J Lighting

Lighting shall comply with requirements in Chapter 14 in addition to the requirements of this Section. If there is conflict between Chapter 14 and this Section, this Section shall apply. All off-street parking areas and premises entrances to the sexually oriented business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one (1.0) foot candle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the sexually oriented business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premises during the Permit application process.

Section K Signs

K.1 Signs shall comply with the requirements of Chapter 15 herein. If there is a conflict between Chapter 15 and this Section, this Section shall apply.

K.2 Monument signs are encouraged and window signs are prohibited. In the case of multi-tenant structures, each use may display one wall sign, provided that the sign complies with the requirements in Chapter 15 and with the requirements in this Section.

K.3 It shall be unlawful for the owner or operator of a sexually oriented business, regardless of whether or not a permit has been issued for said business under this Chapter, to do any of the following:

- a) advertise the presentation of any activity prohibited by any applicable state statute or local ordinance;
- b) display or otherwise exhibit the materials and/or performances at such sexually oriented business in any advertising or any portion of the interior premises which is visible from outside the premises. This prohibition shall not extend to advertising the existence or location of such sexually oriented business;
- c) allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner, except to the extent permitted by the provisions of this Chapter;

- d) erect, construct, or maintain any sign for the sexually oriented business other than as permitted by this Zoning Ordinance and signage shall not contain photographs, silhouettes, drawings or pictorial representations, in any manner, and may contain only the legal name of the sexually oriented business; and each letter forming a word on a primary sign shall be of solid color, and each such letter shall be the same print-type, size, and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color; and
- e) allow the exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:
 - (i) the establishment is a part of a commercial multiunit center; and
 - (ii) the exterior portions of each individual unit in the commercial multiunit center, including the exterior portions of the sexually oriented business, are painted the same color as one (1) another, or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multiunit center.

Section L Design Regulations

L.1 The entire surface area of every exterior wall shall be constructed of face brick and the roof shall be composed of standing rib (standing seam) or asphalt shingle. The Plan Commission may grant a waiver from this requirement during the Development Plan or Site Plan review.

L.2 Any new structure, any addition to an existing building and any exterior modifications to a building or to a site, shall first submit a Development Plan for review pursuant to Chapter 17. In addition to the requirements in Chapter 17, the Development Plan shall comply with any design guidelines for Commercial districts as may be adopted or amended by the Town Council from time to time.

Section M Permits

M.1 Permit Required

(1) No person shall conduct, maintain, operate, or cause to be conducted, maintained, or operated, any sexually oriented business within the corporate limits of the Town without first being licensed under this Chapter.

(2) The Town Department of Planning and Zoning, or its designee, is responsible for granting, denying, revoking, renewing, suspending, and canceling sexually oriented business permits for proposed or existing sexually oriented businesses. The Town Department of Planning and Zoning, or its designee, is also responsible for ascertaining whether a proposed sexually oriented business for which a permit is being requested complies with all applicable zoning laws and regulations now in effect or as amended or enacted subsequent to the effective date of this Ordinance in the Town and the Town's Comprehensive Plan.

(3) The Town Code Enforcement Officer shall be responsible for inspecting a proposed, permitted or non-permitted sexually oriented business in order to ascertain whether it is in compliance with applicable statutes and ordinances.

(4) An application for a permit must be made on a form provided by the Town Department of Planning and Zoning. Any person desiring to operate a sexually oriented business shall file with the Town an original and two (2) copies of a sworn permit application.

(5) The completed application shall contain the following information, including the following documents:

(a) In the event that an applicant is:

(i) an individual, the individual shall state his/her legal name, and all aliases, and shall submit satisfactory proof that he/she is at least eighteen (18) years of age;

(ii) a partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;

(iii) a corporation or limited liability company, such entity shall state its complete name, the date of its incorporation or organization, evidence that the entity is in good standing under the laws of the State of Indiana, the names and capacity of all officers, directors, principal stockholders and/or members, and the name and address of the individual registered as agent for service of process.

(b) In the event that an applicant intends to operate the sexually oriented business under a name other than that of the applicant, he/she must:

(i) include the sexually oriented business's name in the application; and

(ii) submit the Certificate of Existence issued by the Indiana Secretary of State.

(c) Whether the applicant or any other individual listed in the application holds any other permits and/or licenses under this Chapter or other similar sexually oriented business ordinance from another city, town, county, or state and, if so, the names and locations of such other permitted businesses.

(d) The single classification of permit for which the applicant is filing.

(e) The location of the proposed sexually oriented business, including a legal description of the property, common street address, and telephone number(s), if any.

(f) The applicant's business mailing address.

(g) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

(h) A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a State of Indiana registered land surveyor depicting the property lines and the structures containing any established existing uses regulated by this Chapter within one thousand feet (1,000') of the property to be certified, the property lines of any established religious institution/synagogue, school, or public park or recreation area within one thousand feet (1,000') of the property to be

certified and the property lines of any residentially zoned area or residential property within one thousand feet (1,000') of the property to be certified. For purposes of this Section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

(i) In the event that a person who wishes to operate a sexually oriented business is an individual, he/she must sign the application for a permit as applicant. If a person wishes to operate a sexually oriented business collectively with a group of individuals, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a permit as applicant. If a corporation or limited liability company is listed as owner of a sexually oriented business or as the entity that intends to operate such a business, each individual having a ten percent (10%) or greater interest in the entity must sign the application for a permit as applicant.

(j) In the event that a person wishes to operate a sexually oriented business which shall exhibit films, video cassettes or other video reproductions on the premises which depict specified sexual activities or specified anatomical areas, then said person shall comply with the application requirements stated at Section 10-121.14.

(6) Applicants for a permit under this Section shall have a continuing duty to promptly supplement application information required by this Section in the event that said information changes in any way from what is stated on the application. The failure to comply with said continuing duty within thirty (30) days from the date of such change shall be a valid and lawful basis for suspension of a permit.

(7) In the event that the Town Department of Planning and Zoning, or its designee, determines or learns at any time that the applicant has improperly completed the application for a proposed sexually oriented business, it shall promptly notify the applicant of such fact and allow the applicant ten (10) days within which to properly complete the application. The time period for granting or denying a permit shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.

(8) An applicant must be qualified according to the provisions of this Chapter, and the premises must be inspected and found to be in compliance with all applicable health, fire and building codes and laws, and any other applicable federal or state laws.

(9) An applicant shall be required to pay a non-refundable application fee of Two Hundred Fifty and 00/100 Dollars (\$250.00) at the time of the filing of an application under this Section of this Chapter, as amended from time to time.

(10) Prior to obtaining any permit or license to operate any sexually oriented business and as part of any application for a permit under this Section, an applicant shall obtain from the Town Department of Planning and Zoning, or its designee, a certification that the proposed location of such business complies with this Zoning Ordinance.

(11) The fact that a person possesses other types of state or Town permits and/or licenses shall not exempt him/her from the requirement of obtaining a sexually oriented business permit under this Section of this Chapter.

(12) By applying for a permit under this Chapter, an applicant shall be deemed to have consented to the provisions of this Chapter and to the exercise by the Town Department of Planning and Zoning, or its designee, and all other Town agencies charged with enforcing the laws, ordinances and codes applicable in the Town, of their respective responsibilities under this Chapter.

(13) An applicant shall be required to provide the Town with the names of any and all employees who are required to be licensed herein. This obligation shall be a continuing obligation of an applicant even after a permit is granted or renewed.

M.2 Investigation and Application

(1) Upon receipt of an application properly filed with the Town, and upon payment of the non-refundable application fee, the Town's Zoning Administrator shall immediately stamp the application as received and shall immediately thereafter transmit photocopies of the application to all Town agencies responsible for enforcement of health, fire and building codes and state and federal laws. Each department or agency shall promptly conduct an investigation of the applicant, application and the proposed sexually oriented business in accordance with its responsibilities under applicable law and as set forth in this Ordinance. Said investigation shall be completed within twenty (20) days of receipt of the application by the Town's Zoning Administrator. At the conclusion of its investigation, each department or agency shall indicate on the photocopy of the application its approval or disapproval of the application, date it, sign it and, in the event the department or agency recommends disapproval of the application, the reasons therefore.

(2) A department or agency shall recommend disapproval of an application if it finds that the proposed sexually oriented business will be in violation of any provision of any applicable statute, code, ordinance, regulation or other law in effect in the Town. After indicating its recommendation of approval or disapproval of an application, each department or agency shall immediately return the photocopy of the application to the Town's Zoning Administrator, who shall forward the application and any accompanying materials to the Town Department of Planning and Zoning for consideration."

M.3 Issuance of Permit

(1) The Town Department of Planning and Zoning, or its designee, shall grant or deny an application for a permit within thirty (30) days from the date of its proper filing. Upon the expiration of said thirty (30) days, and unless an applicant requests and is granted a reasonable extension of time, an applicant shall be permitted to begin operating the business for which the permit is sought, unless and until the Town Department of Planning and Zoning, or its designee, notifies the applicant of the denial of the application and states the reasons(s) for that denial.

(2) Grant of Application for Permit.

(a) The Town Department of Planning and Zoning, or its designee, shall grant the application unless one (1) or more of the criteria set forth in subsection three (3) below is present.

(b) The permit, if granted, shall state on its face the name of the person, or persons, to whom the permit is granted, the permit's expiration date and the address of the sexually oriented business. The permit shall also indicate that the sexually oriented business shall be subject to prohibitions against Public Nudity and Indecency pursuant to I.C. 35-45-4-1, as amended from time to time. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it can be read easily at any time.

(3) Denial of Application for Permit.

(a) The Town Department of Planning and Zoning, or its designee, shall deny the application for any of the following reasons:

- (i) An applicant is under eighteen (18) years of age.
- (ii) An applicant has failed to provide all of the information required by this Section or the permit application itself for the issuance of the permit, or has falsely answered a question or request for information on the application form.
- (iii) The premises to be used for the sexually oriented business have been inspected by the appropriate and responsible Town departments and/or agencies and have been found to be in violation of applicable Town and/or State health, fire and building codes.
- (iv) The application or permit fees required by this Chapter have not been paid.
- (v) An applicant of the proposed sexually oriented business is in violation of, or is not in compliance with, any of the provisions of this Chapter or the Town Zoning Ordinance.
- (vi) The granting of the application would violate a federal or state law, statute, ordinance, or court order.
- (vii) An applicant knowingly has in his/her employ, an employee who does not have a valid license as required herein.

(b) In the event that the Town Department of Planning and Zoning, or its designee, denies the application, it shall notify an applicant of the denial and state the reason(s) therefor.

(c) In the event that a person applies for a permit for a particular location within a period of twelve (12) months from the date of denial of a previous application for a permit at that location, and there has not been an intervening change in the circumstances which could reasonably be expected to lead to a different decision regarding the former reason(s) for denial, the application shall be denied.

M.4 Annual Permit Fee

The annual fee for a sexually oriented business permit shall be Two Hundred and 00/100 Dollars (\$200.00).

M.5 Inspection

(1) An applicant or permittee shall permit duly designated representatives of the Town and Lake County, Indiana, to enter and inspect the premises of a sexually oriented business for the purpose of insuring compliance with any and all applicable laws, statutes, codes, ordinances, and the like, at any time it is occupied or open for business.

(2) A person who refuses to permit such inspection of the premises at any time that it is occupied or open for business, as described in sub-section (1) above, shall be in violation of this Chapter.

M.6 Expiration of Permit

(1) Each permit shall expire one (1) year from the date of issuance and may be renewed only by making application as provided herein and for applications for permit renewals, filing of the original survey shall be sufficient. An application for renewal shall be made at least thirty (30) days before the permit expiration date

and, when made less than thirty (30) days before the permit expiration date, the expiration of the permit will not be affected.

(2) When the Town Department of Planning and Zoning, or its designee, denies renewal of a permit, the applicant shall not be issued a permit under this Ordinance for a period of one (1) year from the date of denial. If, subsequent to denial, the Town Department of Planning and Zoning, or its designee, determines that the basis for denial of the renewal of the permit has been corrected, the applicant shall be granted a permit if at least ninety (90) days have elapsed since the date denial became final.

M.7 Suspension of Permit

(1) The Town Department of Planning and Zoning, or its designee, shall suspend a permit for a period not to exceed thirty (30) days if it determines that a permittee, or an employee of a permittee, has:

- (a) violated or is not in compliance with any section of this Chapter;
- (b) been under the influence of alcoholic beverages or any controlled substances while working in or on the premises of the sexually oriented business;
- (c) refused to allow an inspection of the premises of the sexually oriented business as authorized by this Chapter;
- (d) knowingly permitted gambling by any person on the premises of the sexually oriented business;
- (e) operated the sexually oriented business in violation of a building, fire, health, or zoning statute, code, ordinance or regulation, whether federal, state or local, said determination being based on investigation by the division, department or agency charged with enforcing said rules or laws. In the event of such state or federal statute, code, ordinance or regulation violation, the Town Department of Planning and Zoning, or its designee, shall promptly notify the permittee of the violation and shall allow the permittee a three (3) day period in which to correct the violation. If the permittee fails to correct the violation before the expiration of the three (3) day period, the Town Department Planning and Zoning, or its designee, shall forthwith suspend the permit and shall notify the permittee of the suspension; or
- (f) knowingly employed a person who does not have a valid license as required herein.

(2) The suspension of the permit shall remain in effect until the violation of the applicable statute, code, ordinance or regulation has been corrected.

M.8 Revocation of Permit.

(1) The Town Department of Planning and Zoning, or its designee, shall revoke a permit if a cause of suspension listed in Section N.7 occurs and the permit has been suspended within the preceding twelve (12) months.

(2) The Town Department of Planning and Zoning, or its designee, shall revoke a permit upon determining that:

- (a) a permittee gave false or misleading information in the material submitted during the application process that tended to enhance the applicant's opportunity for obtaining a permit;
- (b) a permittee or an employee has knowingly allowed possession, use or sale of controlled substances in or on the premises;

- (c) a permittee or an employee has knowingly allowed prostitution on the premises;
 - (d) a permittee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended;
 - (e) on two (2) or more occasions within a twelve (12) month period, a person, or persons, committed an offense occurring in or on the permitted premises, which offense constitutes a specified criminal act for which a conviction has been obtained and the person, or persons, were employees of the sexually oriented business at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the permit;
 - (g) a permittee is convicted of tax violations for any taxes or fees related to a sexually oriented business;
 - (h) a permittee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or any other specified sexual activities to occur in or on the permitted premises;
 - (i) a permittee has operated, or is operating, more than one (1) sexually oriented business under a single roof under the terms of a single permit;
 - or
 - (j) a permittee has engaged in, or attempted to engage in a transfer of permit in violation of this Chapter.
- (3) When the Town Department of Planning and Zoning, or its designee, revokes a permit, the revocation shall continue for one (1) year and the permittee shall not be issued a sexually oriented business permit for a period of one (1) year from the date the revocation became effective. If, subsequent to revocation, the Town Department of Planning and Zoning, or its designee, finds that the basis for revocation has been corrected, the applicant shall be granted a permit if at least ninety (90) days have elapsed since the date revocation became effective. If the permit was revoked, an applicant may not be granted another permit until one (1) year has elapsed.

M.9 Judicial Review of Permit Denial, Suspension or Revocation.

After denial of an application, denial of a renewal of an application, or suspension or revocation of a permit, the applicant or permittee may seek judicial review of the administrative action to the Board of Zoning Appeals. Thereafter, the applicant or permittee may seek judicial review of the administrative action in Lake County, Indiana, Superior or Circuit Court.

M.10 Transfer of Permit.

- (1) A permittee shall not operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application for permit.
- (2) A permittee shall not transfer his/her permit to another person.
- (3) A permittee shall not transfer his/her permit to another location.
- (4) Any attempt to transfer a permit, either directly or indirectly, in violation of this Section is hereby declared void and the permit shall be deemed revoked upon transfer.

Section N Sexually Oriented Business Employee License

(1) Each individual who will be employed in a sexually oriented business who engages in the services rendered by a nude modeling studio, escort or escort agency, sexual encounter establishment, massage parlor except for massage parlors licensed pursuant to applicable provisions of the Town Code, or a live performer or entertainer, shall be required to obtain a Sexually Oriented Business Employee License. Each applicant shall pay a permit fee of Twenty-Five and 00/100 Dollars (\$25.00). Said fee is to cover the reasonable administrative costs of the licensing application process.

(2) Before any applicant may be issued a Sexually Oriented Business Employee License, an applicant shall submit on a form to be provided by the Town Department of Planning and Zoning, or its designee, the following information:

- (a) the applicant's name and any other names (including stage names or aliases) used by the individual;
- (b) age, and date and place of birth;
- (c) height, weight, hair and eye color;
- (d) present business address and telephone number; and
- (e) acceptable written proof that the individual is at least eighteen (18) years of age.

(3) After the application is completed and filed and the license fee is paid, the Town Department of Planning and Zoning, or its designee, shall issue a license unless it finds that one (1) or more of the following findings is true:

- (a) the applicant has knowingly made any false, misleading, or fraudulent statement of a material fact in the application for a license, or in any report or record required to be filed with the Town of Schererville Department of Planning and Zoning or any other department of the Town;
- (b) the applicant is under eighteen (18) years of age;
- (c) the Sexually Oriented Business Employee License is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by particular provisions of this Chapter;

(7) Renewal of license.

- (a) A license granted pursuant to this Section shall be subject to annual renewal by the Town Department of Planning and Zoning, or its designee, upon the written application of the applicant and a finding by the Town Department of Planning and Zoning, or its designee, that the applicant has not committed any act during the existence of the previous license period which would be grounds to deny the initial permit application.
- (b) The renewal fee for the license shall be the same as the initial application fee.

Section O Regulations Pertaining to Live Entertainment

(1) No person shall perform live entertainment for any patron of a sexually oriented business establishment, except upon a stage at least eighteen (18) inches above the level of the floor, which stage is separated by a distance of at least ten feet (10') from the nearest area occupied by any patron. No patron shall be permitted within ten feet (10') of the stage while the stage is occupied by a performer.

(2) The sexually oriented business shall provide separate dressing room facilities for female and male performers that shall not be occupied or used, in any way, by anyone other than performers.

(3) The sexually oriented business shall provide access for performers between the stage and the dressing rooms which is completely separated from the patrons. If such separate access is not physically feasible, the sexually oriented business shall provide a minimum four feet (4') wide walk aisle for performers between the dressing room area and the stage, which walk aisle shall be equipped with a railing, fence or other barrier separating the patrons and the performers and which prevents any physical contact between patrons and performers.

(4) No performer, either before, during, or after a performance, shall have physical contact with any patron and no patron shall have physical contact with any performer either before, during, or after a performance. This subsection shall only apply to physical contact while in or on the premises of the sexually oriented business.

(5) Fixed rails at least thirty inches (30") in height shall be maintained establishing the separations between performers and patrons.

(6) No patron shall directly pay or give any gratuity to any performer. A patron who wishes to pay or give a gratuity to a performer shall place the gratuity in a container that is, at all times, located separately from the performers for the purpose of preventing any physical contact between a patron and a performer and no performer shall solicit any gratuity from any patron.

(7) No operator of a sexually oriented business shall cause or allow a performer to engage in any entertainment such as a couch or a straddle dance with a patron while in or on the premises. No performer shall contract to or engage in a couch or straddle dance with a patron while in or on the premises. For purposes of this sub-section, couch or straddle dance means an employee of the sexually oriented business intentionally touching or otherwise coming within ten feet (10') of any patron while engaged in the display or exposure of any specified anatomical area or any specified sexual activity.

(8) This Section shall not apply to an employee of a sexually oriented business who, while acting as a waiter, waitress, host, hostess, or bartender, comes within ten feet (10') of a patron. No employee shall engage in any specified sexual activity or display or expose any specified anatomical area while acting as a waiter, waitress, host, hostess, or bartender.

(9) Compliance with this Section.

(a) No sexually oriented business shall be considered to be in compliance with this Section until the Town has inspected and approved the premises of the sexually oriented business. The Town shall have ten (10) days from the date it receives written notice from the operator that the premises are ready for inspection to determine if the premises are in compliance with this Section. Failure by the Town to determine compliance within ten (10) days of the date it receives notice shall constitute a finding of compliance under this Section.

(b) An operator of a sexually oriented business that has been providing live entertainment under a valid sexually oriented business permit shall have the time periods listed below within which to bring the premises into compliance with this Section. Failure to do so while continuing to provide live entertainment shall cause the sexually oriented business's permit to be suspended. The permit shall remain suspended until the premises are approved by the Town as being in full compliance with this Section.

(c) An operator of a sexually oriented business that has been operating under a valid permit for another classification of sexually oriented

business, and who seeks to provide live entertainment at that sexually oriented business, shall apply for and receive a sexually oriented business permit for the operation of a sexually oriented business providing live entertainment before any live entertainment is provided at that sexually oriented business. No live entertainment permit shall be issued until the sexually oriented business is approved as being in full compliance with this Section and all other applicable requirements of this Chapter.

(d) An applicant for a permit to operate a new sexually oriented business who seeks to provide live entertainment shall apply for and receive a sexually oriented business permit for the operation of a sexually oriented business providing live entertainment before any live entertainment is provided. No live entertainment permit shall be issued until the sexually oriented business is approved as being in full compliance with this Section and all other applicable requirements of this Chapter.

Section P Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos in Video Booths

(1) A person who operates, or causes to be operated, a sexually oriented business, other than a sexually oriented motel/hotel, regardless of whether or not a permit has been issued to said business under this Chapter, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(a) Upon application for a sexually oriented business permit, an application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one (1) or more manager's stations, the location of all overhead lighting fixtures and designating any portion of the premises wherein patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area with no dimension greater than eight feet (8'). The diagram shall also designate the place where the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north, or to some designated street or object, and should be drawn to a designated scale with marked dimensions sufficient to show the various internal dimension of all areas of the interior of the premises to an accuracy of plus or minus six inches (6"). The Town's Zoning Administrator, or his/her designee, may waive the filing of the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(b) The application shall be sworn to be true and correct by the applicant.

(c) No alteration in the configuration or location of a manager's station may be made without the prior approval of the Town Department of Planning and Zoning, or its designee.

(d) It is the duty of the owner(s) and operator of the premises to insure that at least one (1) employee is on duty and situated at each manager's station at all times that any patron is present inside the premises.

(e) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises have two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access, for any purpose, from at least one (1) of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(f) It shall be the duty of the owner(s) and operator of the premises, and it shall also be the duty of any agents and employees present on the premises, to insure that the view area specified in sub-section (e) above remains unobstructed by any doors, walls, merchandise, display racks or other materials or persons at all times, and to insure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to sub-section (a) above.

(g) No viewing room may be occupied by more than one (1) person at any one (1) time. No holes, commonly known as "glory holes," shall be allowed in the walls or partitions which separate each viewing room from an adjoining viewing room or restroom.

(h) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access and shall provide an illumination of not less than two (2.0) foot candles, as measured at the floor level. It shall be the duty of the owner(s) and operator of the premises, and it shall also be the duty of any agents and employees present on the premises, to insure that the illumination described herein is maintained at all times that any patron is present on the premises.

Section Q Other Requirements

The following additional provisions shall apply:

Q.1 Dwelling units shall not be permitted.

Q.2 With the exception of off-street automobile parking and off-street loading, all business, service, storage, merchandise and display shall be conducted wholly within an enclosed building.

Q.3 Processes and equipment employed and goods sold shall be limited to those which are not objectionable by reason of noise, vibration, or public standards.

Q.4 Hours of Operation. No person shall operate, or cause to be operated, a sexually oriented business, regardless of whether or not a permit has been issued, or allow such business to remain open for business or permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 10:00 p.m. and 10:00 a.m. of any particular day. No person, while working as an employee of a sexually oriented business, regardless of whether or not a permit has been

issued for said business under this Section 6.4, shall engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service between the hours of 10:00 p.m. and 10:00 a.m. of any particular day.

Q.5 No person shall allow public nudity in any sexually oriented business. Any sexually oriented business which is found in violation of this Section shall have its permit suspended pursuant to the provisions herein.

Q.6 It is unlawful for anyone to distribute for commercial purposes, sell or offer for sale, any device, instrument or paraphernalia designed or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others. Such devices, instruments or paraphernalia shall include, but are not limited to, phallic shaped vibrators, dildos, muzzles, whips, chains, bather restraints, racks, non-medical enema kits, body piercing implements (excluding earrings or other decorative jewelry) or other tools of sadomasochistic abuse.

Q.7 It shall be unlawful for a person who operates, or causes to be operated, a sexually oriented business, regardless of whether or not a permit has been issued for said business under this Chapter, to knowingly or, with reasonable cause, permit, suffer or allow admittance of a person under eighteen (18) years of age to the business premises; or allow a person who is under eighteen (18) years of age to work at the business premises as an employee. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance at all times during such sexually oriented business's regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years from entering the establishment. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless the attendant asked for and was furnished:

- (a) a valid operator's, commercial operator's or chauffeur's license; or
- (b) a valid personal identification certificate issued by the State of Indiana reflecting that such person is eighteen (18) years of age or older.

Section R Exemptions

(1) It is a defense to prosecution for any violation of this Chapter that a person appearing in a state of nudity or semi-nudity did so in a modeling class operated:

- (a) by a college, junior college or university supported entirely or partly by taxation;
- (b) by a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or
- (c) in a structure:
 - (i) which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;
 - (ii) where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
 - (iii) where no more than one (1) nude model is on the premises at any one (1) time.

(2) It is a defense to prosecution for a violation of this Chapter that an employee of a sexually oriented business, regardless of whether or not a permit has been

issued under this Chapter, exposed any specified anatomical area during the employee's bona fide use of a restroom, or during the employee's bona fide use of a dressing room which is accessible only to employees.

Section S Penalties and Injunctive Relief

S.1 Any person who violates the provisions of this Chapter, as amended from time to time, shall be subject to a fine not to exceed Two Thousand Five Hundred and 00/100 Dollars (\$2,500) for each violation. Each day of continued violation shall constitute a separate offense.

S.2 In addition to seeking penalties against any individual who violates the provisions of this Chapter, as amended from time to time, the Town may commence any and all necessary and appropriate legal action in any court of competent jurisdiction to prevent or remedy any violation or non-compliance with this Chapter. This shall include, but is not limited to, seeking an equitable action for injunctive relief against any individuals violating the provisions of this Ordinance or an action at law for damages, as well as the recovery of attorney fees related to the same.

S.3 Nothing herein shall prevent or restrict the Town from prosecuting any violation of this Chapter as an ordinance violation in the Town Court and seeking all available remedies permitted thereby.

S.4 All remedies and penalties provided for in this Section shall be cumulative and independently available to the Town, and the Town shall be authorized to pursue any and all remedies set forth in this Section to the full extent allowed by law.

Chapter 7 - Industrial District

7.1 Industrial District

Section A Purpose

The purpose of the Industrial District is to provide for a wide variety of industrial, commercial, and office uses, but to restrict or prohibit those uses which have characteristics likely to produce serious adverse effects within or beyond the limits of the Industrial District. The intention of the Industrial District is to preserve the land for industrial, commercial, and office uses and to exclude residential use. Industrial uses shall not be located in residential districts and should be buffered from residential uses by natural barriers, railway corridors, major arterial streets, and waterways.

A.1 Plan Commission Approval

- a) Industrial uses are only permitted on parcels in an Industrial District that are accessible by a designated truck access route. The property owner is required to provide a traffic impact study with the Development Plan.
- b) Any new structure, any addition to an existing building, and any exterior modification to a building or site shall submit a Development Plan for review pursuant to Chapter 17 herein.
- c) The Plan Commission shall review the Development Plan of any proposed use of any lot or parcel of ground located within the Industrial District prior to the issuance of a Building Permit by the Town. Once approved by the Plan Commission, the Development Plan shall not be materially or substantially changed or altered without the prior approval of the Plan Commission. The Development Plan shall address the comprehensive arrangement of land uses, buildings, landscape areas, roads, and parking areas in accordance with harmonious and aesthetic principles and compatibility with adjoining zoning district areas.

Section B Permitted Uses

B.1. Permitted Uses are listed in the table in Chapter 3, Section E.

B.2 The following uses are prohibited in the Industrial District:

- a) Junk, material, and salvage yards;
- b) Penal or correctional institutions;
- c) Commercial sanitary landfills or refuse dumps;
- d) Heavy industrial uses; and
- e) Any use that does not meet the performance standards in Chapter 2, Section C.

Section C Special Exceptions

Special Exceptions are listed in the table in Chapter 3, Section E.

Section D Accessory Buildings and Uses.

The Plan Commission may grant a waiver for accessory buildings or accessory uses during the Development Plan review required by Chapter 17 provided that the Petitioner demonstrates that the accessory buildings or accessory uses complement the primary use. Approved Accessory Uses may include Offices and Retail sales areas which are incidental to the primary use and shall be limited to 10% of the primary building square footage up to 1,000 square feet.

Section E Bulk Requirements.

E.1 Maximum Height: The maximum height of buildings and structures shall not exceed Thirty five (35) feet.

E.2 Minimum Front Yard: There shall be a front yard between the building line and the street right-of-way of Sixty (60) feet.

E.3 Minimum Side Yard: There shall be a side yard of Thirty (30) feet and when abutting a Residential use or Residential district, a side yard of one hundred (100) feet.

E.4 Minimum Rear Yard: There shall be a rear yard of Thirty (30) feet.

E.5 Maximum Lot Coverage: Not more than sixty percent (60%) of any lot may be covered by buildings.

E.6 Minimum Area Requirements: The minimum area for an Industrial District lot shall be ten (10) acres.

Section F Parking and Loading Berth Requirements

Parking and loading shall comply with the requirements of Chapter 12 herein.

Section G Landscape Requirements

Any application for a building permit, with the exception of permits limited to the interior remodeling of an existing structure, shall provide a Landscape Plan that complies with the requirements of Chapter 13 herein.

Section H Lighting

Lighting shall comply with the requirements of Chapter 14 herein.

Section I Signs

Signs shall comply with the requirements of Chapter 15 herein.

Section J Design Regulations

Any office or retail buildings or structures must be constructed of either face brick or masonry materials.

Section K Other Requirements

K.1 Performance Standards

- a) The storage, utilization, or manufacture of incombustible solid materials or products is permitted. The storage, utilization, or manufacture of combustible solid materials or products is permitted provided that it is reviewed and approved by the State Fire Marshall and the Office of the State Building Commission.
- b) The storage, utilization, or manufacture of flammable liquids or gases that produce flammable or explosive vapors requires a permit from the Town of St. John Fire Chief and State Fire Marshall Office.
- c) In addition to the above requirements, all uses in the Industrial District shall comply with the performance standards in Chapter 2, Section C.

Chapter 8 - Special Districts

8.1 Business Park District

Section A Purpose

A.1 The purpose of the Business Park District (hereinafter “BP District”) is to provide for a variety of commercial and office uses to be developed in a unified business park environment, which may include retail on the perimeter. The intent is that the BP District has a unified plan with similar architectural, landscaping, lighting, and signage design.

A.2 Plan Commission Development Plan Approval

The Plan Commission shall review the Development Plan of any proposed use of any lot or parcel of ground within the BP District prior to the issuance of a Building Permit by the Town as required by Chapter 17. Once approved by the Plan Commission, the Development Plan shall not be materially or substantially changed or altered without the prior approval of the Plan Commission.

A.3 Tract Requirements

The BP District may be established in areas where all public utilities, including, but not limited to, public water, sanitary sewers, and storm sewers, are available or are to be provided to the entire development. All streets and roads located in the BP District, whether dedicated or undedicated, shall be built according to existing Town developmental standards including provision for the appropriate right-of-way on undedicated streets and roads, except for traffic patterns that are merely painted on a parking lot surface as approved on the Development Plan.

A.4 Application Procedure

An applicant must submit a Development Plan and application for zone change.

Section B Permitted Uses

Permitted Uses are listed in the table in Chapter 3, Section E.

Section C Special Exceptions

Special Exceptions are listed in the table in Chapter 3, Section E.

Section D Accessory Uses and Buildings

Accessory Uses and Buildings customarily and purely incidental to the uses allowed in this BP District may be approved by the Plan Commission subject to submission of the Landscaping Plan pursuant to Chapter 13 and provided that the building materials and colors are compatible with the primary building.

Section E Bulk Requirements

E.1 Maximum Height: The maximum height of buildings and structures shall not exceed Fifty (50) feet.

E.2 Minimum Front Yard: There shall be a front yard between the building line and the street right-of-way of Twenty five (25) feet.

E.3 Minimum Side Yard: There shall be a side yard of Ten (10) feet.

E.4 Minimum Rear Yard: There shall be a rear yard of Ten (10) feet.

E.5 Minimum Lot Area Requirements: The minimum area in a BP District shall be Two (2) acres.

E.6 Maximum Lot Coverage: Not more than fifty percent (50%) of any lot may be covered by buildings.

E.7 Interior Frontage Road

A new BP District will require an internal road network system. All internal roads will require Site Plan approval by the Plan Commission and shall conform to the Town roadway construction and maintenance standards. A perpetual access easement shall be established for all interior frontage roads to maintain Town access for emergencies and for any other service agreements.

E.8 Traffic Impact Study

A new BP district will require a traffic impact study that will be reviewed by the Plan Commission along with the Site Plan for impacts to the existing roadway network.

Section F Parking and Loading Berth Requirements

F.1 Parking and Loading shall comply with the requirements of Chapter 12 herein.

F.2 Additional parking requirements

In addition to the requirements of Chapter 12, if the structure is located in an area where common parking is available to the users of the facility, then parking may be reduced by the amount of common parking spaces, which can reasonably be allocated to the facility. A Parking Plan showing roadways, entrances, exits, and common area parking in relation to all structures shall be filed and approved by the Plan Commission along with the Site Plan. A minimum distance of 100 feet must be maintained between parking areas and any adjacent single-family residential properties.

F.3 Additional loading requirements

In addition to the requirements of Chapter 12, loading berths and trash collection areas shall be approved on the Site Plan. A Loading Plan with traffic circulation shall be filed and approved by the Plan Commission. Trash collection areas shall be properly screened and enclosed.

Section G Landscaping Requirements

Where a lot or parcel of ground used for business purposes in the BP District abuts, or adjoins across a street (adjoining across a limited access highway is excluded), a Residentially zoned or used parcel, a greenbelt or lawn area with a minimum width of thirty (30) feet shall be provided along the abutting or adjoining property line. A planting screen, consisting of suitable shrubbery and/or a berm, shall be installed at the time of construction of, or conversion to, a business activity and shall be maintained in order to provide effective screening at all times during the year. The shrubbery and/or berm may be planted informally or in rows and shall screen parking areas, outside storage areas, loading berths, trash and

refuse containers from abutting and adjoining Residential zoned or used parcels. Vision clearance on corner lots and at the intersections of streets and driveways shall be observed and maintained. No accessory buildings or uses may be erected within the required greenbelt or lawn area with the exception of sidewalks, decorative or protective items, other landscaping items and signage. Additional landscaping such as street trees may be required by the Plan Commission in order to maintain area-wide uniformity. Landscaping shall comply with the requirements of Chapter 13 and a Landscape Plan shall be submitted concurrent with the Site Plan.

Section H Lighting

All lighting standards within the development shall be of uniform design and materials. Parking lot and streetlights shall also be of uniform height. All lights shall be of a “down lighting” type with the light element completely shielded on all sides and top. A Lighting Plan shall be submitted concurrent with the Site Plan.

Section I Signs

Signs shall comply with the requirement of Chapter 15 herein. Signs for each proposed use shall be uniform in character as to color and architectural design as approved by the Plan Commission. A Master Sign Plan shall be submitted concurrent with the Site Plan for the BP District.

Section J Other Requirements

J.1 Emergency Access

Adequate emergency access space shall be provided on the side and rear of all principal buildings located within the BP District. All emergency access areas and facilities shall be shown on the Site Plan and reviewed and approved by the Town Chief of Police and Fire Chief.

8.2 Town Center Overlay District

Section A Purpose

A.1 The purpose of the Town Center Overlay District (hereinafter “Town Center District”) is to protect and enhance the health, safety, and welfare of the citizens and property owners of the Town by allowing for the establishment of a Town Center District that will support a range of activities and opportunities to all segments of the community; will support mixed-uses in multi-story buildings; is pedestrian oriented and supportive of multiple modes of transportation; and will provide buildings and a streetscape which are attractive and safely designed in order to enhance the livability of the Town. Further, the Town Center District is an overlay zone imposed on the current and existing zoning in the designated area. It is the intent of the Town Center District to achieve the purpose by:

- a) Providing a consistent urban design treatment for private and public uses and properties located in Town Center District.
- b) Providing additional opportunities for investment and reinvestment of real estate by allowing higher intensity of development;
- c) Minimizing suburban sprawl, through re-use and redevelopment of the community’s existing land resources;
- d) Minimize community infrastructure costs through more efficient use of land; and

- e) Providing controls for architecture and landscape design to establish continuity of design between projects and to improve the physical relationship between new buildings and overall community appearance.

Further, it is the intent of this Town Center District to provide temporary regulations that will support the ongoing redevelopment of Town Center, acting as a transition regulation until a specific plan for Town Center is adopted, and which plan will serve as the basis for further Town Center District regulations. The Town Center District is superimposed over the other primary zoning districts and its regulations shall supersede those of the primary zoning districts over which it is superimposed.

A.2 Application Procedure

An applicant must submit a Development Plan.

A.3 District Boundaries

The boundaries of the Town Center District are US 41, 85th Avenue, Thelen Street, and 93rd Street as approved on the Town Zoning Map.

A.4 Plan Commission Approval

The Plan Commission shall approve, approve with conditions, or disapprove the Development Plan for any tract of land in the Town Center District.

A.5 Development Plan Procedure

A public hearing shall be held by the Plan Commission before it decides whether to approve or disapprove a Development Plan. A Development Plan shall be required for any new construction and additions to existing structures that exceed fifty percent (50%) of the original gross floor area of the existing structure.

A.6 Development Plan Review

The Plan Commission shall review the Development Plan, access to property, site layout, parking, and site circulation consistent with the provisions of Chapter 18, and such approvals shall be necessary prior to:

- a) The establishment of any use of land;
- b) The issuance of any Building Permit, except maintenance and/or repairs consistent with previously approved Development Plan. In cases where properties were developed prior to Development Plan requirement, maintenance and/or repairs shall be consistent with the previously approved Building Permit; and
- c) Any change in site improvements, which are not consistent with, previously approved Development Plan. In cases where properties were developed prior to Development Plan requirement, changes in site improvements shall be consistent with the previously approved Development Plan.

Section B Permitted Uses

B.1 Permitted Uses are the uses permitted in the underlying primary zoning districts, except those uses expressly prohibited by Chapter 3, Section E.

B.2 Residential uses are permitted as long as the residential uses do not comprise more than thirty-five percent (35%) of a project's gross floor area in zoning districts where residential is not permitted in the underlying zoning district.

Section C Special Exceptions and Prohibited Uses

C.1 Special Exceptions are uses permitted by Special Exception in the underlying zoning district(s), listed in the table in Chapter 3, Section E. In addition, any legal Use existing at the time of the passage of this Chapter which does not conform to Chapter 3, Section E Use Table but which otherwise does conform to the applicable use provisions of the underlying zoning district(s), shall be deemed to be and shall be a Special Exception under this Chapter. Such Uses shall not be considered legal nonconforming uses nor require Special Exception approval for continuance but shall require Special Exception approval for any alteration, enlargement, or extension of the use.

C.2 Prohibited Uses

The following uses may not be allowed or permitted in the Town Center District:

- a) Automobile, Truck, Boat, Mobile Home, Manufactured Housing, or RV Sales;
- b) Sexually Oriented Businesses; and
- c) All Industrial Uses.

C.3 Restoration after Destruction of Building

Nothing in this Chapter shall prevent the restoration of a building or structure with one hundred percent (100%) or less of its square footage destroyed by explosion, fire, flood, earthquake, windstorm, act of God, riot or act of a public enemy, subsequent to the passage of this Chapter; or shall prevent the continuance of any legal use, except an illegal nonconforming use, of such building, structure or part thereof, as such use existed at the time of such impairment of such building, structure or part thereof. All such restoration and construction shall be subject to the obtaining a Building Permit.

Section D Accessory Uses and Buildings

Accessory Uses and Buildings shall be approved by the Plan Commission during the Development Plan review upon the applicant demonstrating that the accessory uses and buildings will complement the primary use and the overall Town Center District.

Section E Building Requirements

E.1 Build-to-Line

The following establishes a Build-to-line which is used to create a pedestrian oriented street where buildings are constructed to front the street. A Build-to-line is used instead of a set back line to establish the shopping or main street environment. The Build-to-line is established as follows:

- a) Minimum: Zero (0) feet, subject to recorded utility easement(s)
- b) Maximum: Ten (10) feet, subject to recorded utility easement(s).
- c) Up to fifty percent (50%) of the front façade may be recessed for entrances and outdoor seating, however, no entrance shall be recessed more than ten (10) feet, and no outdoor seating area shall

be recessed more than twenty (20) feet, subject to Plan Commission approval during Development Plan review.

E.2 Side and Rear Setbacks

There are no minimum side or rear setbacks, however, no buildings or other permanent improvements shall encroach into the required landscape areas.

E.3 Building Orientation. Every parcel with frontage on the primary streets of the Town Center District must have a building that fronts on the streets.

E.4 Except for those lots with one hundred twenty (120) feet or less of frontage on a public street, every parcel must have a building that occupies a minimum of 70% of that frontage along the street.

E.5 Buildings on lots with one hundred twenty (120) feet or less of frontage on a public street must occupy the remaining amount of frontage remaining after excluding the area required for driveways, sidewalks and landscape areas.

E.6 Additional buildings may be built in the rear of the property subject to Plan Commission approval during the Development Plan review.

E.7 All primary buildings shall face a public street with a primary entrance from a public street.

E.8 The primary entrance must be readily apparent as a prominent architectural feature and visible from the street.

Section F Bulk Requirements

F.1 Building Height

- a) Primary Buildings must have at least two (2) floors of usable space. The second and higher floors must be at least fifty percent (50%) of the size of the building ground footprint and must be oriented to the front of the building such that its front line is equal to that of the first floor.
- b) Minimum height: The minimum height shall be Twenty six (26) feet.
- c) Maximum height: The maximum height shall not exceed Fifty (50) feet, or three stories, whichever is less.

F.2 Building Footprint

The maximum Floor Area Ratio (FAR), which includes all floors of the building, shall not exceed 1.5. In addition to complying with the FAR requirement, the maximum ground floor area that is occupied by a building shall not exceed 20,000 square feet.

F.3 Construction Material

All buildings facades must be faced with brick, and trimmed in metal, stone, precast concrete, wood or brick, or other compatible materials approved by the Plan Commission during the Development Plan review.

Section G Parking Requirements

G.1 Parking shall comply with the requirements of Chapter 12, except as provided herein.

G.2 Parking areas shall be setback not less than six (6) feet behind the Front Build-to-Line.

G.3 Parking areas shall be located at the rear or side of buildings.

G.4 Adjacent adjoining parking lots shall be interconnected by an internal driveway connection, and coordinated to accommodate pedestrian access.

G.5 Walking paths within parking lots of more than three (3) rows shall be designated to accommodate pedestrians safely from parking areas to sidewalks, walkways, and/or building(s) and such paths may consist of appropriate striping.

G.6 Bicycle parking shall be provided, one space per 100 feet of the lot street frontage, by appropriate bicycle racks or other similar storage devices.

Section H Landscape Requirements

H.1 Landscaping shall comply with the requirements of Chapter 13, except as provided herein.

H.2 Shade trees shall be planted within the street right-of-way, parallel to each street and the maximum spacing between trees shall be fifty (50) feet and the minimum spacing between trees shall be twenty (20) feet.

H.3 A five (5) foot wide planting strip shall be provided along the sides and rear of all parking areas. The minimum plantings shall include two (2) shade trees and thirty (30) shrubs per 100 linear feet of the sides and rear of the parking areas.

H.4 Parking areas shall be screened from the sidewalk by low walls, low wrought iron fences, or hedges.

H.5 There shall be planted one (1) shade tree and five (5) shrubs per every nine (9) spaces in parking areas greater than 10,000 square feet.

H.6 The design of fencing, sound walls, trash enclosures, and similar site element improvements shall replicate the architecture of the primary building(s) in construction material and detailing to create a unified and harmonious project.

H.7 Sites with existing trees or stands of trees shall endeavor to preserve, protect, and incorporate existing trees into the overall site design. The Landscape Plan must preserve not less than fifty percent (50%) of all trees that are six inches (6") in diameter or larger and located within the required setback and landscape areas.

H.8 All approved landscaping shall be installed prior to issuance of a Certificate of Occupancy by the Town. If it is not possible to install the approved landscaping because of weather conditions, the property owner shall post a bond prior to the issuance of the Final Certificate of Occupancy for the amount equal to the total installed cost of the remaining and uninstalled landscaping.

H.9 It shall be the responsibility of the owners, and their agents, to properly maintain the trees, shrubs, and other landscaping approved as part of the Landscaping Plan pursuant to Chapter 13, including, but not limited to, replacing dead plantings with identical varieties or a suitable substitute, irrigation, and mulching of planting areas, and keeping the area free of refuse, debris, rank vegetation, and weeds. Street trees in the Town Center District will be maintained by the Town.

H.10 All landscaping is subject to approval by the Plan Commission. No landscaping which has been approved by the Plan Commission may later be substantially altered or eliminated without first obtaining further Plan Commission approval. However, minor material alterations in landscaping may be approved by the Town Manager in order to conform or adapt to specific site conditions encountered during the installation and construction of the landscaping improvements.

H.11 Ground level mechanical and telecommunication equipment shall be screened from the Street and any adjoining Residential zones or uses using walls, fencing, landscaping, or other methods approved by the Plan Commission.

Section I Lighting Requirements

I.1 Lighting shall comply with the requirements of Chapter 14, except as provided herein.

I.2 Street lighting shall be provided as part of all projects, on both sides of the street when possible, and spaced no less than one hundred (100) feet apart, and of a design designated as the Town style.

I.3 Exterior lighting of the building or lighting of the site shall be designed so that light is not directed offsite and the light source is shielded from direct offsite viewing. For any use abutting current or single-family residential zoned uses, illumination levels shall not exceed 0.5 foot candles at the property line.

I.4 Exterior lighting shall be architecturally integrated with the building style, material, and color. Rooftop lighting is prohibited.

I.5 All exterior architectural, display, decorative, and sign lighting shall be generated from concealed, low level fixtures.

I.6 The maximum height of lights in parking areas shall not exceed the building height, or twenty five (25) feet, whichever is less. When lights abut or fall within ninety (90) feet of single-family residential zones or uses, the light heights shall not exceed fifteen (15) feet.

Section J Signs

J.1 Signs shall comply with the requirements of Chapter 15, except as provided herein.

J.2 Ground Signs are prohibited in addition to the other prohibited signs specified in Chapter 15.

J.3 Wall signs are permitted provided that they fit within the horizontal and vertical elements of the building and do not obscure architectural details of the building. No sign shall be allowed to extend above the cornice line of a building.

Section K Train Station Requirements

A train station shall comply with all requirements of the Town of St. John and with all requirements of any funding agency and other regulatory requirements. A train station is allowed by Variance of Use approval only.

Section L Pedestrian Circulation

L.1 Sidewalks along public streets shall be a minimum of eight (8) feet in width.

L.2 Walkways shall be provided on at least one (1) side of the primary building and shall provide access between rear parking areas and the primary building entrances or the street. The minimum width for walkways shall be six (6) feet.

L.3 Neither sidewalks nor walkways shall be used by automotive traffic.

L.4 Pedestrian access shall be coordinated with and provided to adjoining properties.

Section M Product, Material, and Refuse Storage

M.1 Material or product storage shall be contained within the primary building and any accessory buildings.

M.2 Accessory Buildings shall:

- a) Be architecturally compatible with the primary building and integrated into the overall site layout; and
- b) Be approved by the Plan Commission during the Development Plan review.

M.3 Any Accessory Building or structure for storage or disposal of refuse shall:

- a) Accommodate waste and recyclable materials, and, if applicable, grease or other cooking refuse;
- b) Be fully enclosed except for doors or gates, which shall remain closed unless loading or unloading is occurring;
- c) Be architecturally compatible with the primary building and integrated into the overall site layout; and
- d) Be approved by the Plan Commission during the Development Plan review.

Section N Design Regulations

Buildings in the Town Center District shall include the following characteristics:

N.1 Ground and upper floors with transparent glass and ground floor elevations must incorporate the transparent glass as a significant overall component.

N.2 A distinct cornice line at the top of the wall and intermediate horizontal elements, such as a trim at the top of the ground floor are optional and encouraged.

N.3 The façade shall be provided relief by windows and surrounds, storefronts, doors, and features such as special brick coursing, pilasters, and lintels.

N.4 The first floor and all other floors will have a coordinated composition, which will usually be indicated by the alignment of upper floor windows and other features with openings and features of the first floor.

N.5 When applicable, retail storefronts shall be oriented along the public street front of the first floor of the building, except for pedestrian entrances to parking areas or small entrance lobbies for upper floors.

N.6 Every face of the building with frontage on a public street must have openings for windows.

N.7 Large expanses of glass are allowed, but buildings are prohibited from being constructed entirely with metal and glass curtain walls.

N.8 Fixed or retractable awnings are permitted if they complement a building's architectural style, material, colors, and details; do not conceal architectural features such as cornices, columns, pilasters, or decorative details; do not impair façade composition; and are designed as an integral part of the façade. Metal and aluminum awnings are prohibited.

N.9 Pedestrian scale detailing is encouraged on the front elevation of the building at the ground level. As buildings are designed to be viewed very close up, all buildings should exhibit articulated detail and ornament that is scaled to the pedestrian view.

N.10 Rooftop mechanical and telecommunication equipment shall be fully screened on all sides using parapets, penthouse screens or other similar method and which are integrated into the overall building design and approved by the Plan Commission during the Development Plan review.

Section O Other Requirements

All other requirements not mentioned in this Section shall remain as required for that primary underlying zoning district.

8.3 Public Buildings District

Section A Purpose

The intent of this Section is to provide a land use category for publicly owned lands, including federal, state, county and town; and to provide a land use category for nonprofit and quasi-public institutions where the use is for public purpose and is anticipated to remain so permanently.

Section B Permitted Uses

Permitted Uses are listed in the table in Chapter 3, Section E.

Section C Special Exceptions

Special Exceptions are listed in the table in Chapter 3, Section E.

C.1 Telecommunications Facility

A telecommunication facility shall comply with the requirements of Chapter 11 Section O.

C.2 Transportation Facility

A transportation facility within this district is permitted by Special Exception only.

Section D Accessory Uses and Buildings

Accessory Uses and Building regulations are the same as the underlying zoning district.

Section E Bulk Requirements

Bulk Requirements are the same as the underlying zoning district.

Section F Parking Requirements

Parking shall comply with the requirements of Chapter 12 herein.

Section G Landscape Requirements

Landscaping shall comply with the requirements of Chapter 13 herein.

Section H Lighting

Lighting shall comply with the requirements of Chapter 14 herein.

Section I Signs

Signs shall comply with the requirements of Chapter 15 herein.

Section J Design Regulations

J.1 Structures shall be compatible with adjoining buildings.

J.2 Masonry materials shall be used as the primary building material.

J.3 Safe pedestrian movement shall be provided.

J.4 Lighting, signs, and site furnishings shall reflect civic significance.

J.5 Landscaping shall be used to enhance the public space.

8.4 U.S. Highway 41 Overlay District

Section A Purpose

A.1 Purpose

The purpose of the U.S. Highway 41 Overlay District (hereinafter "US 41 District") is to promote and protect the public health, safety, comfort, convenience, and general welfare by providing consistent and coordinated treatment of the properties located near U.S. Highway 41 (a/k/a Wicker Avenue) in the Town. The US 41 District is intended to serve as a tool for implementing the development policies and guidelines for the US Highway 41 Corridor as provided in the Comprehensive Plan. U.S. Highway 41 is an important retail corridor to the Town and is a premier commercial retail location and employment center whose viability, quality, and character are important to the community, to adjacent residents, to employees, to business owners, and to taxing districts. Further, the US 41 District is an overlay zone imposed on the current and existing zoning in the designated area. Therefore, the purpose of the US 41 District is to preserve the aesthetic qualities of those bordering properties through:

- a) Promotion of coordinated development in the US 41 District;
- b) Establishment of high standards for buildings, landscaping, and other improvements constructed on the properties within the US 41 District which permit innovative site designs and at the same time encourage efficient land usage; and
- c) Establishment of development requirements that will encourage substantial capital investments for the development of those properties and promote the quality, scale, and character of development.

A.2 Plan Commission Approval

The Plan Commission shall approve any new development in the corridor for compliance to the US Highway 41 District requirements.

A.3 Development Plan

The Plan Commission shall review the Development Plan of any proposed use of any lot or parcel within the US 41 District prior to the issuance of a Building Permit by the Town pursuant to Chapter 17 herein.

A.4 Application Procedure

An applicant must submit a Development Plan.

A.5 District Boundaries

The boundaries of the US 41 District are between the railroad right of way on the east and the residential parcels on the west along U.S. Highway 41 and the Northern and Southern municipal corporate boundaries as approved on the Zoning Map.

Section B Permitted Uses

All uses which are permitted in the underlying primary zoning district(s), except the uses expressly excluded by Chapter 3, Section E, are permitted in the US 41 District.

Section C Special Exceptions

Special Exceptions are listed in the table in Chapter 3, Section E.

Section D Accessory Uses and Buildings

All Accessory Uses and Buildings that are permitted in the underlying primary zoning district(s) shall be permitted, except that any attached or detached Accessory Building in any proposed Development Plan shall have on all sides the same building proportions, architectural features, construction materials, and in general be architecturally compatible with the Principal Building with which the accessory use or building is associated.

Section E Minimum Tract Size

E.1 Except as provided in this Sections, the minimum area for a Development Plan within the US 41 District is two (2) acres.

E.2 If a parcel of land is located both inside and outside of the US 41 District, a DP shall be submitted to the Plan Commission for the entire parcel. Wherever there exists a conflict between the requirements of the underlying zoning and of the US 41 District, the requirements for the US 41 District shall govern and prevail.

E.3 If a parcel of land or subdivision lot was recorded prior to the Effective Date of this Ordinance, and the parcel or lot does not contain the minimum area required by this Section, the undersized parcel or lot ("Undersized Lot") may be used for any use permitted in the US 41 District provided that:

- a) At the time of recordation of the Undersized Lot, the Undersized Lot met the requirements for minimum lot size then in effect for a lot in the underlying primary zoning district(s);
- b) The owner of the Undersized Lot must include any adjoining vacant land (not separated by a street or public way) owned or owned by an affiliate on or before the Effective Date or at the time of application which, if combined with the Undersized Lot would create a parcel which conforms, or more closely conforms, to the requirements of this paragraph; and
- c) All other requirements applicable to the US 41 District can be met.

E.4 Section E does not preclude the sale or other transfer of any portion of a parcel of land within an approved Development Plan for a larger parcel, however, the development of the parcel must still conform to the Development Plan as approved or amended by the Plan Commission and all other applicable requirements contained in this Ordinance.

Section F Bulk Requirements

The purpose of this Section is to provide site design requirements that align buildings along the edges of a parcel towards the public right-of-way of U.S. 41, and, where applicable, 93rd Avenue, 101st Avenue, and Route 231.

It is the intent of these regulations to orient new buildings with their longest axis parallel to the adjoining highway or street to create a sense of enclosure along the streets, with parking located to the rear, and if necessary, to the side of a building. Principal Buildings that are also located adjacent to any arterial or

parkway (e.g. 93rd Street or 101st Street, Route 231) shall be sited consistent with the Building Setback requirements of the underlying zoning district.

F.1 Frontage Road Set backs and Out-lot Buildings Illustrations

Development of outlots on US41 shall comply with the diagram below.

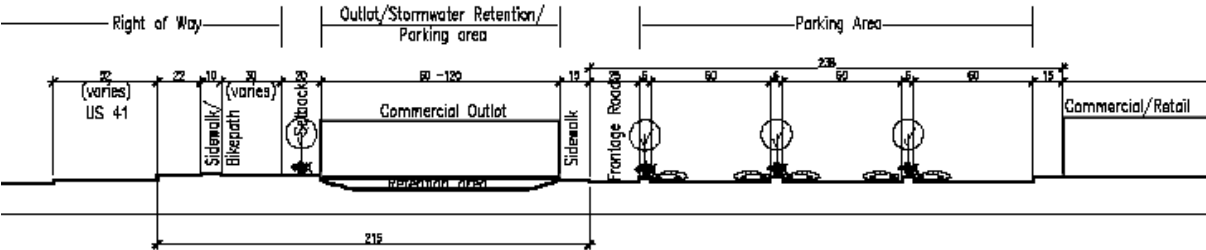


Illustration of US 41 Proposed Roadway/Out building/Frontage Road Section

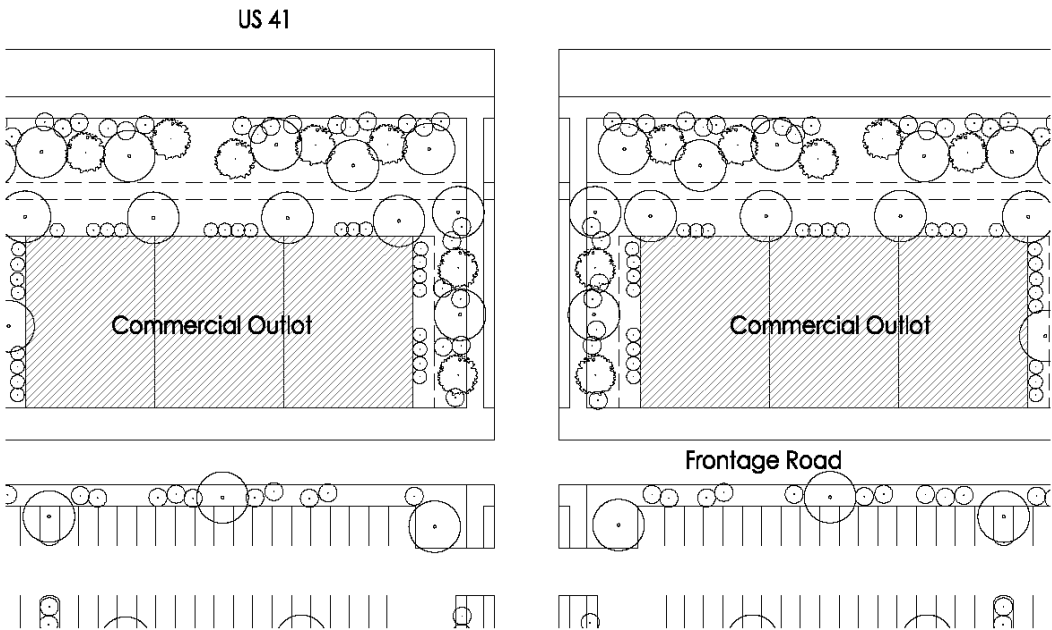


Illustration of site plan of US 41 Frontage Road and access to Out Lots

The frontage road diagrams illustrates the position of outlot buildings and the frontage road location in relation to the US 41 right of way. The plan illustrates guidelines for location of landscape zones, sidewalks, and parking lots.

F.2 Minimum Side and Rear Yards: Minimum Side and Rear Yards adjacent to any residential use or zone shall be forty-five (45) feet and adjacent to all other zoning districts shall be fifteen (15) feet.

F.3 Building Heights: Building heights are specified in the underlying primary zoning district(s except that the maximum building height along U.S. Highway 41, Route 231, 93rd Avenue, and 101st Avenue shall be the lesser of fifty (50) feet and/or three occupiable floors.

F.4 Minimum Parcel Width: For all uses, the parcel width shall equal or exceed that amount which is one-half ($\frac{1}{2}$) the depth of the parcel in the US 41 District except when the following apply:

- a) At the time of recordation of the Undersized Lot, the Undersized Lot met the requirements for minimum lot width then in effect for a lot in the underlying primary zoning district(s);
- b) The owner of the Undersized Lot must include, up to the minimum parcel width, any adjoining vacant land (not separated by a street or public way) owned, or owned by an affiliate, on or before the Effective Date of this Ordinance or at the time of application which, if combined with the Undersized Lot, would create a parcel which conforms, or more closely conforms, to the minimum parcel width requirements of this Section, and
- c) All other Development Requirements applicable to the US 41 District can be met.

F.5 Minimum Gross Floor Area

All buildings shall have a minimum of fifteen thousand (15,000) square feet of gross floor area, excluding the floor area of any basement or any accessory building(s). Accessory Buildings permitted need not meet this minimum floor area requirement. The intent of this minimum gross floor area requirement is to preclude small, freestanding buildings and uses inconsistent with the character of this Corridor.

F.6 Maximum Parcel Coverage and Density:

- a) Maximum Parcel Coverage shall be sixty five percent (65%) of any parcel as approved in a Development Plan.
- b) Maximum Floor Area Ratio shall be 1.0.

Section G Parking Requirements

G.1 Parking shall comply with the requirements of Chapter 12, except as provided herein.

G.2 There shall be no parking allowed between the U.S. 41 right-of way and the front build-to line of the building, except for the following:

- a) Direct, articulated pedestrian access shall be provided from the street to the building's primary entrance;
- b) A bicycle parking area should be provided for each building; and
- c) Above grade, structured parking facilities shall have on all sides architectural features that are compatible with the principal building(s) with which they are associated.

Section H Landscaping Requirements

H.1 Landscaping shall comply with the requirements of Chapter 13, except as provided herein.

H.2 Landscape Plan. A Landscape Plan shall be submitted to the Plan Commission for approval during the Development Plan review. The Landscaping Plan shall, in addition to the requirements of Chapter 13, include the following:

- a) Be drawn to scale, including dimensions and distances;

- b) Delineate all existing and proposed buildings, private parking areas, walks, ramps for handicapped, terraces, drive-ways, signs, lighting standards, steps and other similar structures; and
- c) Delineate the location, size and description of all plant material and the irrigation system for all planting areas. Landscape treatment for plazas, roads, paths, service and private parking areas shall be designed as an integral /coordinated part of the Landscape Plan for the entire lot.

Section I Lighting Requirements

I.1 A Site Lighting Plan shall be submitted along with any Development Plan. The Site Lighting Plan shall include the type, standards, layout, spread, and intensity of all site lighting including:

- a) Parking lot and service/storage area lighting;
- b) Architectural display lighting;
- c) Security lighting;
- d) Lighting of pedestrian and bicycle ways; and
- e) Architectural and landscape lighting.

I.2 All site lighting shall comply with the requirements of Chapter 14 herein.

Section J Signs

Signs shall comply with the requirements of Chapter 15 herein.

Section K Design Requirements.

In reviewing the architectural design of buildings proposed to be built in the US 41 District, the Plan Commission shall consider the following factors:

K.1 Context: All buildings shall be designed with respect to the general character of the US 41 District, and particularly with due consideration to buildings located on lots that abut the project site.

K.2 A minimum of three materials shall be used for building exteriors from the following list: stone, brick, architectural pre-cast panels or detailing, architectural metal panels, glass, and ornamental metal. Large expanses of glass are allowed, up to seventy percent (70%) of the façade area. Buildings may not be constructed entirely of a metal and glass curtain walls. Concrete block is prohibited as an exterior finish material.

K.3 All buildings shall be designed with a minimum of eight (8) external corners to eliminate square box buildings.

K.4 Building penthouses must be incorporated into the building façade design, including exterior materials specifications.

K.5 Sloped roofs shall not exceed one hundred (100) feet without a change in roof plane, gable, or dormer. Sloped roofs shall be either standing seam metal or architectural dimensional shingles.

K.6 Exhibits. The following exhibits shall be provided to the Plan Commission in addition to normal submission requirement of the Development Plan application:

- a) A Site Plan showing the proposed building in the context of adjoining buildings, including buildings across U.S. Highway 41.
- b) Perspective computer-enhanced color renderings showing the proposed building, signage, parking areas (shown loaded) and any displays within the context of the actual existing site conditions, including how the site will look from any adjoining residential areas, as well as from the three (3) other locations specified below, whose distance is no less than three hundred (300) linear feet away nor more than one thousand (1000) linear feet away from the property line, along U.S. 41:
 - i) U.S. 41 Southbound lane;
 - ii) Immediately across the highway, from approximately the first floor level; and
 - iii) U.S. 41 Northbound lane.

Section L Public Art.

Public art that is included as part of a Development Plan shall be displayed in a location that is visually accessible to the public from U.S. Highway 41.

Section M Bicycle and Pedestrian Access.

The Development Plan shall include specific provisions for incorporating pedestrian and bicycle access, circulation, and amenities into the development. Such bicycle and pedestrian access considerations shall include linking pedestrian and bicycle facilities to adjacent development, the overall U.S. Highway 41 Corridor, and the St. John overall system of bicycle and pedestrian trails and routes.

Section N Access to Individual Tracts

A frontage road system is established for US 41 District to provide access roads to contiguous tracts. These roads should be designed so as to funnel traffic onto U.S. Highway 41 at signalized intersections rather than into residential areas and roads that may adjoin or be near the US 41 District. Bicycle and pedestrian access shall likewise be coordinated with vehicular access, greenbelt design, and parking.

Section O Other Requirements

O.1 Outside Storage of Refuse

Unenclosed refuse storage, whether or not in containers, and display of merchandise is prohibited. All refuse shall be contained completely within the Principal Building or an Accessory Building. Any Accessory Building for refuse storage shall be:

- a) Designed to include a roof structure; and
- b) Architecturally compatible with the Principal Building.

O.2 Loading and Unloading Areas: Loading and Unloading Berths or Bays shall be designed as specified in the underlying primary zoning district(s), except that any Loading and Unloading Berth or Bay shall not be oriented towards U.S. 41. Loading and Unloading Berths or Bays oriented toward any other public right of-

way, shall be landscaped and screened using masonry walls, plant materials, or a combination thereof, subject to Plan Commission approval.

O.3 The Development Plan shall comply with the Thoroughfare Plan for St. John and be consistent with approved State Highway Improvements.

8.5 Route 231 Overlay District

Section A Purpose

A.1 The Purpose of the Route 231 Overlay District (hereinafter "Route 231 District") is to promote and protect the public health, safety, comfort, convenience and general welfare by providing consistent and coordinated treatment of the properties bordering Route 231 in the Town. The Route 231 District is intended to serve as a tool for implementing the development policies and guidelines for the Route 231 Corridor as set forth in the Comprehensive Plan. Route 231 is an emerging retail corridor to the Town. The Route 231 Corridor is oriented towards neighborhoods serving retail whose viability, quality, and character are important to the community, adjacent residents, employees, business owners, and taxing districts. Further, the Route 231 District is an overlay zone imposed on the current and existing zoning in the designated area. Therefore, it is the further purpose of the Route 231 District to preserve the aesthetic qualities of those bordering properties through:

- a) The promotion of coordinated development in the Route 231 District;
- b) The establishment of high standards for buildings, landscaping, and other improvements constructed on the properties within the Route 231 District which permit innovative site designs and at the same time encourage efficient land usage; and
- c) The establishment of development requirements that will encourage substantial capital investments for the development of those properties and promote the quality, scale and character of development.

A.2 Plan Commission Approval

The Plan Commission shall approve any new development in the corridor for compliance with the Route 231 District requirements.

A.3 Development Plan.

The Plan Commission shall review the Development Plan of any proposed use of any Lot or parcel of ground within the Route 231 District prior to the issuance of a building permit by the Town pursuant to Chapter 17 herein.

A.4 Application Procedure

An applicant shall submit a Development Plan.

A.5 District Boundaries

The boundaries of the Route 231 District generally located between US Highway 41 and Cline Avenue and approximately 600 feet from the Route 231 Right of Way on both sides of Route 231 are established as approved on the Zoning Map.

A.6 Plan Commission Review

- a) The Commission must approve, approve with conditions or disapprove the Development Plan for any tract of land located in the Route 231 District.
- b) Development Plan approval is not required for additions to existing structures which:
 - i) Are connected to the existing structure;
 - ii) Continue the architectural design of the existing structure, including exterior color, similar materials, doors and windows, and other detailing;
 - iii) Comply with requirements of the underlying primary zoning district;
 - iv) Do not exceed twenty percent (20%) of the original gross floor area of the existing structure, as existed on the enactment date of this Ordinance, and
 - v) Have received a prior Development Plan approval from the Plan Commission.
- c) The Plan Commission shall review a Development Plan application to determine if the Development Plan complies with the specified development requirements provided in Chapter 17 in addition to the following items:
 - i) Existing site features, including topography and wooded areas;
 - ii) Current zoning;
 - iii) Surrounding zoning and existing land use;
 - iv) Streets, curbs and gutters, sidewalks, and bicycle paths;
 - v) Access to public streets; provision for a perpetual access agreement with the municipality.
 - vi) Driveway and curb cut locations in relation to other surrounding sites;
 - vii) General vehicular and pedestrian traffic;
 - viii) Vehicle and bicycle parking facilities and internal site circulation;
 - ix) Special and general easements for public or private use;
 - x) On-site and off-site surface and subsurface storm water drainage including drainage calculations;
 - xi) On-site and off-site utilities;
 - xii) The means and impact of sanitary sewage disposal and water supply techniques;
 - xiii) Dedication of streets and rights-of-way, or reservation of land to be sold to governmental authorities for future development of streets and rights-of-way;
 - xiv) Proposed setbacks, site landscaping and screening, and compatibility with existing platted residential uses;
 - xv) Project signage;
 - xvi) Protective restrictions and/or covenants;
 - xvii) Compatibility of proposed project with existing development within the Route 231 District; and adjacent properties; and
 - xviii) Consistency with the policies for the Route 231 District, which are set forth in the Comprehensive Plan, including the Thoroughfare Plan.

Section B Permitted Uses

All uses that are permitted in the underlying primary zoning district(s), except the uses expressly excluded by Chapter 3, Section E, are permitted in the Route 231 Overlay Zone.

Section C Special Exceptions

Special Exceptions are listed in the table in Chapter 3, Section E.

Section D Accessory Uses and Buildings

All Accessory Uses and Buildings that are permitted in the underlying primary zoning district(s) shall be permitted, except that any attached or detached Accessory Building in any proposed Development Plan shall have on all sides the same building proportions, architectural features, construction materials, and in general be architecturally compatible with the Principal Building with which the accessory use or building is associated.

Section E Minimum Tract Size

E.1 Except as provided in this Section, the minimum area for a Development Plan within the Route 231 District is two (2) acres.

E.2 If a parcel of land is located both inside and outside of the Route 231 District, a Development Plan shall be submitted to the Plan Commission for the entire parcel. Wherever there exists a conflict between the requirements of the underlying zoning and those of the Route 231 District, the requirements for the Route 231 District shall govern and prevail.

E.3 If a parcel of land or subdivision lot was recorded prior to the Effective Date of this Ordinance, and the parcel or lot does not contain the minimum area required by this Section, the undersized parcel or lot ("Undersized Lot") may be used for any use permitted in the Route 231 District provided that:

- a) The parcel is considered a legal non-conforming use; and
- b) All other requirements applicable to the Route 231 District can be met.

Section F Bulk, Height and Yard Requirements

The purpose of this Section is to provide site design requirements that align buildings along the edges of a parcel, towards the public right-of-way of the Route 231 and where applicable US Highway 41. It is the intent of these regulations to orient new buildings with their longest axis parallel to the adjoining highway or street to create a sense of enclosure along the streets, with parking located to the rear, and, if necessary to the side of a building. Principal Buildings that are also located adjacent to any arterial street or parkway shall be sited consistent with the Building Setback Line requirements of the underlying zoning district.

F.1 Frontage Road Set backs and Out-lot Buildings

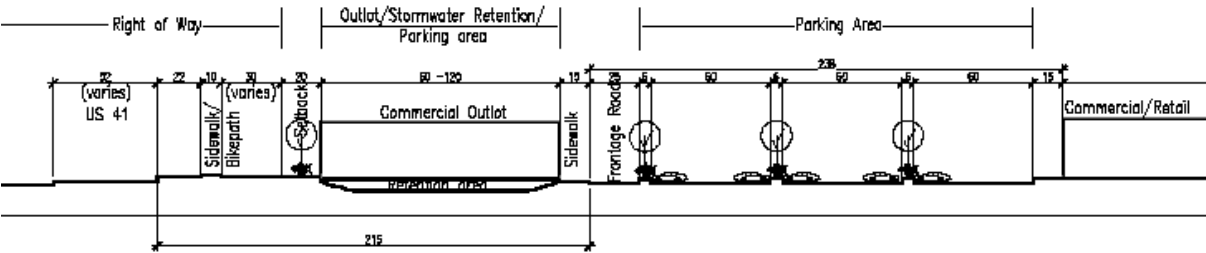


Illustration of US 231 Proposed Roadway/Out building/Frontage Road Section

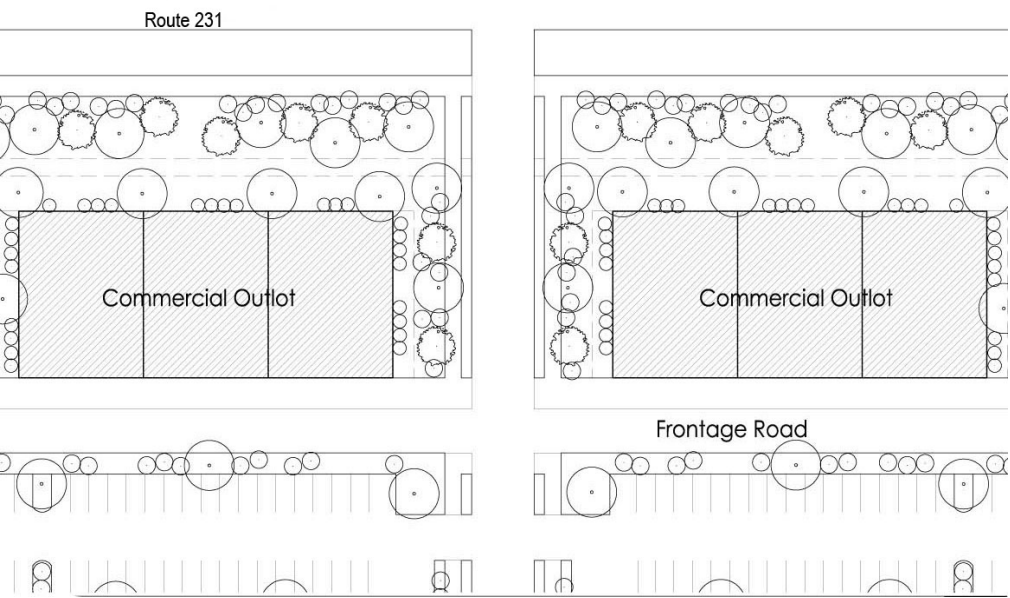


Illustration of site plan of US 231 Frontage Road and access to Out Lots

The frontage road diagrams illustrates the position of outlot buildings and the frontage road location in relation to the US 231 right of way. The plan illustrates guidelines for location of landscape zones, sidewalks, and parking lots.

F.2 Minimum Side and Rear Yards: Minimum Side and Rear Yards adjacent to any residential use or zone shall be Forty-five (45) feet and adjacent to all other uses or zones shall be Fifteen (15) feet.

F.3 Building Heights: Building heights are specified in the underlying primary zoning district(s), except that the maximum building height along Route 231 shall be the lesser of fifty (50) feet and/or three occupiable floors.

F.4 Minimum Parcel Width: For all uses, the parcel width shall equal or exceed that amount which is one-half ($\frac{1}{2}$) the depth of the parcel in the Route 231 District, except when the following apply:

- a) The parcel is considered a legal non conforming use; and
- b) All other Development requirements applicable to the Route 231 District can be met.

F.5 Minimum Gross Floor Area

All buildings shall have a minimum of fifteen thousand (15,000) square feet of gross floor area, excluding the floor area of any basement or any accessory building(s). Accessory Buildings permitted need not meet this minimum floor area requirement. The intent of this minimum gross floor area requirement is to preclude small, freestanding buildings and uses not in character with the Route 231 Corridor.

F.6 Maximum Parcel Coverage and Density:

- a) Maximum Parcel Coverage shall be sixty-five percent (65%) of any parcel covered by a Development Plan.
- b) Maximum Floor Area Ratio shall be 1.0.

Section G Parking Requirements

Parking shall comply with the requirement of Chapter 12 herein and with the following additional requirements:

- a) Direct, articulated pedestrian access shall be provided from the street to the building's primary entrance;
- b) A bicycle parking area should be provided for each building; and
- c) Above grade, structured parking facilities shall have on all sides architectural features that are compatible with the principal building(s) with which they are associated.

Section H Landscaping Requirements

H.1 Landscaping shall comply with the requirements of Chapter 13, except as provided herein.

H.2 Landscape Plan. A Landscape Plan shall be submitted to the Plan Commission for its approval during the Development Plan review. The Landscape Plan shall, in addition to the requirements of Chapter 13, include the following:

- a) Be drawn to scale, including dimensions and distances;
- b) Delineate all existing and proposed buildings, private parking areas, walks, ramps for handicapped, terraces, drive-ways, signs, lighting standards, steps and other similar structures; and
- c) Delineate the location, size and description of all plant material and the irrigation system for all planting areas. Landscape treatment for plazas, roads, paths, service and private parking areas shall be designed as an integral /coordinated part of the Landscape Plan for the entire lot.

Section I Lighting

A Site Lighting Plan shall be submitted along with any Development Plan. The Site Lighting Plan shall include the type, standards, layout, spread & intensity of all site lighting, including:

- a) Parking lot and service/storage area lighting;
- b) Architectural display lighting;
- c) Security lighting;
- d) Lighting of pedestrian and bicycle ways; and
- e) Architectural and landscape lighting.

I.2 Lighting shall comply with the requirements of Chapter 14 herein.

Section J Signs

Signs shall comply with the requirements of Chapter 15 herein.

Section K Design Requirements

In reviewing the architectural design of buildings proposed to be built in the Route 231 District, the Plan Commission shall consider the following factors:

K.1 Context: All buildings shall be designed with respect to the general character of the Route 231 Corridor and, particularly with due consideration to buildings located on lots that abut the project site.

K.2 The exterior building facade materials shall be composed from the following materials; stone, brick, architectural pre-cast (panels or detailing), architectural metal panels, glass, ornamental metal. Large expanses of glass are allowed, up to seventy percent (70%) of the façade area. The building may not be constructed entirely of a metal and glass curtain wall. Concrete block is prohibited as an exterior finish material.

K.3 All buildings shall be designed with a minimum of eight (8) external corners, in order to eliminate square box buildings.

K.4 Building penthouses must be incorporated into the building façade design, including exterior materials specifications.

K.5 Sloped roofs shall not exceed one hundred (100) feet in length without a change in roof plane, gable, or dormer. Sloped roofs shall be either standing seam metal or architectural dimensional shingles.

K.6 Exhibits. The following architectural exhibits shall be provided to the Plan Commission in addition to normal submission requirement of any Development Plan application:

- a) A Site Plan showing the proposed building in the context of adjoining buildings, including buildings across Route 231.
- b) Perspective computer-enhanced color renderings showing the proposed building, signage, parking areas (shown loaded) and any displays within the context of the actual existing site conditions, including how it will look from any adjoining residential areas, as well as from the three locations specified below, whose distance is no less

than three hundred (300) linear feet away nor more than one thousand (1000) linear feet away (from the property line), along Route 231:

- i) Route 231 eastbound lane;
- ii) Immediately across the highway, from approximately the first floor level; and
- iii) Route 231 westbound lane.

Section L Public Art

Public art that is included as part of a Development Plan shall be displayed in a location that is visually accessible to the public and visible from Route 231.

Section M Bicycle and Pedestrian Access

The Development Plan shall include specific provisions for incorporating pedestrian and bicycle access, circulation and amenities into the development. Such bicycle and pedestrian access considerations shall include linking pedestrian and bicycle facilities to adjacent development, the overall Route 231 Corridor, and the St. John overall system of bicycle and pedestrian trails and routes.

Section N Access to Individual Tracts

Curb cuts and internal site traffic should be designed so as to funnel traffic onto Route 231 at signalized intersections rather than into residential areas and roads that may adjoin or be near this Route 231 District. Bicycle and pedestrian access shall likewise be coordinated with vehicular access, greenbelt design, and parking.

Section O Other Requirements

O.1 Outside Storage of Refuse

Unenclosed storage of refuse, whether or not in containers, or display of merchandise is prohibited. All refuse shall be contained completely within the Principal Building or an Accessory Building. Any Accessory Building for refuse storage shall be:

- a) Designed to include a roof structure; and
- b) Architecturally compatible with the Principal Building.

O.2 Loading and Unloading Areas: Loading and Unloading Berths or Bays shall be designed as specified in the underlying primary zoning district(s), except that any Loading and Unloading Berth or Bay shall not be oriented towards Route 231. Loading and Unloading Berths or Bays oriented toward any other public right-of-way, shall be landscaped and screened using masonry walls, plant material, or a combination thereof, subject to Plan Commission approval.

O.3 Reservation of Land for Pending State Highway Improvements: In addition to the development requirements above, a Development Plan must reserve for acquisition by the State of Indiana all land that the State expects to need for pending improvements to Route 231. An applicant must notify in writing the Commissioner of the Indiana Department of Transportation (INDOT) of any proposed Development Plan that includes land within the projected right-of-way for those pending improvements.

8.6 Floodplain District

Section A Purpose

It is the purpose of the Floodplain District to apply special regulations to the use of land in those areas of the Town that are subject to predictable inundations of water at frequent intervals. The Floodplain District is superimposed over the other established Districts.

Section B Permitted Uses

B.1 Permitted Uses are listed in the table in Chapter 3, Section E.

B.2 All land lying within the Floodplain of the one hundred-year frequency flood of Bull Run Ditch, St. John Ditch, and West Creek in St. John are subject to these regulations, in addition to the regulations otherwise established by this Chapter.

B.3 When the proposed use is allowable hereunder in any other Zoning District, the following uses and types of activities are permitted in the designated Floodplain area:

- a) Residential educational and institutional buildings, only if they have a minimum floor elevation of not less than two (2) feet above the One Hundred-Year Flood Level, as established by the Indiana Department of Natural Resources;
- b) Outdoor recreational uses;
- c) Public rights-of-way, private drives, and parking lots;
- d) Commercial buildings in the Commercial Districts where the minimum floor elevation is not less than two (2) feet above the One hundred-Year Flood Level; and
- e) Any structure, filling, excavating, or any change in the natural grade of any property requires a permit, and shall not be detrimental to other properties or the characteristics of the Floodplain area.

B.4 When required by the Town, the applicant shall submit topographic data, engineering studies, or other studies in order for the Town to determine the effects of flooding on a structure or the effects of the structure on the flow of water.

Section C Special Uses and Special Exceptions

Special Exceptions are listed in the table in Chapter 3, Section E.

Section D Accessory Uses and Buildings

Accessory uses and buildings that are permitted in the underlying zoning district shall be permitted.

Section E Bulk Requirements

Bulk Requirements shall be the same as the underlying zoning district.

Section F Parking Requirements

Parking shall comply with the requirements of Chapter 12 herein.

Section G Landscape Requirements

Landscaping shall comply with the requirements of Chapter 13 herein.

Section H Lighting

Lighting shall comply with the requirements of Chapter 14 herein.

Section I Signs

Signs shall comply with the requirements of Chapter 15 herein.

Section J Design Regulations

Design Regulations shall be the same as the underlying zoning district.

Chapter 9 - Planned Unit Development (“PUD”)

A Purpose

A.1 Provisions are included in this Chapter to permit the establishment of areas in which diverse uses may be brought together as a compatible and unified plan of development which shall be in the interests of the general welfare of the public. The PUD must provide for an efficient use of land resulting in an economical network of streets, utilities, and public facilities. The PUD must demonstrate a quality design including architectural styles, building relationships, and enhanced aesthetics. The PUD shall demonstrate a creative approach to the use of land that is not possible under the strict application of the provisions of this Zoning Ordinance. The applicant must provide sufficient evidence for the Plan Commission to make each of the findings listed in Section B.6 of this Chapter. In PUD, land and structures may be used for any lawful purpose in accordance with the provisions set out in this Chapter. A PUD shall be permitted by the Plan Commission.

B Procedures The procedure for obtaining a change in a zoning District or undertaking development within a PUD shall be as follows:

B.1 The owner and developer of the land shall apply in writing to the Plan Commission and shall submit ten (10) copies of the PUD Development Plan as described in B.2 of this Chapter.

- a) The Plan Commission shall discuss the proposed application and shall review the PUD Development Plan with the owner and developer. The Plan Commission shall prepare recommendations on the PUD Development Plan and, if applicable, the proposed change in the zoning district.
- b) The Plan Commission shall send a copy of its recommendations to the owner and developer indicating its approval in concept or its disapproval. If the PUD Development Plan is approved in concept, the Plan Commission shall specify any changes or conditions for approval consideration.
- c) After issuance of the Plan Commission's recommendations, the Plan Commission shall give public notice and hold a public hearing on the proposed change of zoning district and the PUD Development Plan, as provided by law in the case of an amendment to this Zoning Ordinance.
- d) After the public hearing, the recommendation of the Plan Commission shall be made to the Town Council, which shall consider such Development Plan and the request for change of zoning district. In the event the Town Council approves of the zoning district change and the Development Plan, such action shall have the effect only of granting permission for development of the specific approved Development Plan.

B.2 PUD Development Plan. The owner and developer shall submit a PUD development plan to the Plan Commission for review, together with the application for a change of zone district classification, if applicable. The PUD development plan shall be prepared and shall include the following information:

- a) A survey of the property, showing existing features of the property, including contours, building structures, trees over twelve (12) inches in trunk diameter, streets, utility easements, rights-of-way and land use.
- b) Site plan showing the location and character of existing and proposed principal structures and accessory structures, the nature, bulk and intensity of uses in the development, special and general easements for public or private use, open space, building setback lines, building separation and building coverage.
- c) Floor plans, sections and heights for buildings to be constructed in the current phase.
- d) Landscape Plan with the existing landscaping and topography and the proposed landscaping showing location, kind and caliper measurement size of trees, shrubbery and screening materials, as required by Chapter 13.
- e) Construction sequence including the approximate timing of completion for buildings, parking spaces and landscaped areas.
- f) Metes and bounds or legal description of the boundaries of the PUD.
- g) Site grading shown at two feet (2') intervals.
- h) Exterior elevations and renderings depicting the architectural style with a list of exterior materials in order to better define the intent of the proposed PUD. The architectural design should reflect a unified design which is in character and proper relationship with the surrounding area.
- i) Signage proposed to be located in the PUD, subject to approval and obtaining of a Sign Permit under the requirements of Chapter 15, shall be shown and conformance or nonconformance with said requirements shall be so noted.
- j) Lighting Plan with specifics about easements, locations, size, height, type, intensity, and luminance of proposed street and outdoor lighting in accordance with Chapter 14.
- k) Identification of all proposed tax-exempt land by use, location, and square footage.
- l) A list of the covenants, conditions, and restrictions, if any, which will run with the land and affect the use of the property within the PUD. The approved covenants shall be recorded with the Recorder of Lake County, Indiana, only after Town Council approval of the Development Plan.

B.3 The PUD Development Plan approval shall be effective for twelve (12) months. The Plan Commission may grant one or more six (6) month extensions to the Development Plan approval upon a written request from the Developer or owner.

B.4 Prior to granting approval for any change in zoning district and PUD Development Plan, the Plan Commission may recommend, and the Town Council may stipulate, such conditions and restrictions upon the establishment, location, design, layout, construction, architectural design of buildings, maintenance, beautification, aesthetics, operation and other elements of the PUD, as deemed necessary for the protection of the public interest, including, but not limited to, bonding requirements, improvement of the development, and protection of the adjacent area in order to secure compliance with the standards in this Chapter.

In all cases in which PUD development plans are granted, the Town Council shall require such evidence and guarantees, including, but not limited to, bonding requirements, as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with for the improvement of the development, protection of the adjacent area and to secure compliance with the standards specified.

B.5 After the Town Council has approved the change of zoning district and the PUD Development Plan; the applicant shall submit the necessary information for subdivision approval as required by the Town Subdivision Control Ordinance.

B.6 Findings Required. The Plan Commission, after determining whether all of the PUD requirements have been satisfied, shall recommend approval, approval with modifications, or disapproval of the PUD Development Plan. The Plan Commission shall enter its findings for such action in its records. The Plan Commission may recommend the establishment of a PUD Zoning District only upon a determination with findings as follows:

- a) The uses proposed will not be detrimental to the property values of surrounding properties, will not impair the use or enjoyment of surrounding properties, but will have a beneficial effect which could not be achieved under any other non-PUD zoning district;
- b) Any amendment to the requirements of this Zoning District is warranted by the design and amenities incorporated in the Development Plan which shall be substantial as compared to requirements for a development that is not within a PUD zoning district;
- c) Land surrounding the proposed development either may be planned in coordination with the proposed development or will be compatible to the proposed use;
- d) The proposed change to a PUD Zoning District is in conformance with the general intent of the Comprehensive Plan;
- e) Existing and proposed streets are suitable and adequate to carry anticipated traffic within the proposed district;
- f) Existing and proposed streets are suitable and adequate to carry anticipated traffic in the vicinity of the proposed district;
- g) Existing and proposed utility services are adequate for the proposed development;
- h) Natural features such as streams, wetlands, woodlands, topographic features, geological features and scenic vistas are preserved and protected;
- i) The amount, location and species of the perimeter landscaping shall be sufficient to buffer adjoining properties from uses within the PUD;
- j) The proposed PUD will not impose an undue burden on public services such as fire and police protection, schools, parks, and libraries;
- k) The PUD shall be of a visually pleasing design with varied building types and quality building materials;
- l) Each phase of the proposed development, as it is proposed to be completed, contains the required parking spaces, landscape, and utility areas necessary for creating and sustaining a desirable and stable environment; and

- m) The proposed PUD Zoning District and all proposed buildings, parking spaces, landscape, and utility areas will be completely developed within five (5) years of the establishment of the zoning district.

Section C Standards

C.1 The purposes of the PUD standards are to provide for the rezoning of land to residential, commercial, and industrial PUDs in conformance with the provisions and standards which ensure compatibility among all the land uses, foster innovation in site planning and development, and encourage sound development in the interests of safety and the general welfare of the public.

C.2 The PUD Standards are to provide the Plan Commission with a means to evaluate applications for such districts consistent with the provisions and general intent of this Chapter and the Town Comprehensive Plan.

C.3 The PUD standards are intended to strengthen public control over development while providing the necessary latitude for the owner and developer to make creative and efficient use of their property.

Section D Residential Standards

D.1 Zoning District Uses. The land uses allowed in a Residential PUD shall be those permitted uses for the district listed on the use table in Chapter 3, Section E. Uses for the district shown as Special Exceptions require specific approval by the Plan Commission during the PUD process.

D.2 Bulk Requirements

- a) Area Minimum: Fifteen (15) acres, and if nonresidential uses are included, then twenty (20) acres.
- b) Width Minimum: Five hundred (500) feet.
- c) Setbacks: Setback requirements for all yards shall be that of the zoning district in which the property is located unless, upon good cause shown with the public interest secured, a waiver to the same is granted by the Plan Commission and included within the Ordinance creating the PUD Zoning District.
- d) Buffer Yards required on the periphery. The yards on the periphery of the PUD shall comply with the buffer yards required in Chapter 13.

Section E Commercial Standards

E.1 Zoning District Uses. The land uses allowed in a Commercial PUD shall be those permitted uses for the district listed on the use table in Chapter 3, Section E. Uses for the district shown as Special Exceptions require specific approval by the Plan Commission during the PUD process.

E.2 Bulk Requirements

- a) Area Minimum: Twenty (20) acres.
- b) Width Minimum: Eight hundred (800) feet.

- c) Setbacks: Setback requirements for all yards shall be that of the zoning district in which the property is located unless, upon good cause shown with the public interest secured, a waiver to the same is granted by the Plan Commission and included within the Ordinance creating the PUD Zoning District.
- d) Buffer Yards required on the periphery. The yards of the periphery of the PUD will comply with the buffer yards required in Chapter 13.

Section F Light Industrial Standards

F.1 Zoning District Uses. The land uses allowed in an industrial PUD shall be those permitted uses for the district shown on the use table in Chapter 3. Uses for the district shown as special exceptions require approval by the Plan Commission as part of the PUD process.

F.2 Bulk Requirements

- a) Area Minimum: Twenty (20) acres.
- b) Width Minimum: Eight hundred (800) feet.
- c) Setbacks: Setback requirements for all yards shall be that of the zoning district in which the property is located unless, upon good cause shown with the public interest secured, a waiver to the same is granted by the Plan Commission and included within the Ordinance creating the PUD Zoning District.
- d) Buffer Yards required on the periphery. The yards of the periphery of the PUD will comply with the buffer yards required in Chapter 13.

Section G Supplementary Regulations

G.1 Off-Street Parking

- a) Off-street parking and loading facilities for PUD Zoning Districts shall comply with the provisions required in Chapter 12.
- b) The Plan Commission may approve shared parking between uses whose peak parking demands occur at different times or days of the week. In its sole discretion, the Plan Commission may require the applicant to submit a parking study to document that the number of spaces provided will meet the parking demand generated by all uses within the PUD. In a PUD with shared parking, the applicant shall submit cross parking agreements as part of the PUD application.

G.2 Private Streets

- a) Any private streets in a PUD Zoning District shall be constructed in conformance with the specifications prescribed by the Town Subdivision Control Ordinance.
- b) At or near the entrance of each private street on a dedicated public street, the applicant or the owner shall construct and maintain a signpost carrying a sign, having an area of at least fifteen (15) inches by twenty-one (21) inches, on which is printed an clearly legible in at least two (2) inch letters, the name of the private street and words

"PRIVATE STREET" and, in at least one (1) inch letters the words, "NOT DEDICATED FOR PUBLIC USE OR MAINTAINED BY THE TOWN".

The materials on the sign shall be arranged substantially as follows:

(NAME OF STREET)

PRIVATE STREET

NOT DEDICATED FOR PUBLIC USE OR MAINTAINED BY
THE TOWN

- c) Private streets shall be maintained by the owner so that fire, police, school, and public utility vehicles have adequate access including an adequate turning area.

G.3 Public Streets Where public streets are required by the Comprehensive Plan or the Plan Commission, the streets shall be dedicated and constructed in conformance with the specifications prescribed by the Town Subdivision Control Ordinance.

G.4 Contract

- a) When a PUD Zoning District is recommended by the Plan Commission, the owner and developer shall enter into a contract with the Town to guarantee the implementation of the Development Plan.
- b) Any subsequent change or addition to an approved PUD Development Plan shall be submitted to the Town Manager who may approve minor changes to the plan, provided that the Town Manager makes a written finding that the revised plan complies with the PUD standards in this Chapter and complies with all conditions imposed on the PUD. A minor change involves items such as a small shift in the location of handicapped parking spaces or a dumpster, a realignment of parking spaces or aisles, or a change in building materials.
- c) All major changes shall be submitted to the Plan Commission and may only be approved after a public hearing. A major change involves one or more of the following: reduction of parking spaces, reduction in the amount of open space, reduction in the amount of landscaping, relocation of an access drive or detention facility, an increase in the height, floor area, impervious surface or number of dwelling units or modification to the mix of uses.
- d) Failure to comply with the conditions and regulations as herein established and as specifically made applicable to a development shall be cause for termination of the Development Plan approval. At least ten (10) days notice shall be given to the owner and developer to appear before the Plan Commission and answer any such charge of noncompliance. In the event the Plan Commission finds the charges substantiated, the Plan Commission may revoke the Development Plan approval if the situation is not satisfactorily adjusted with a specified time period as determined by the Plan Commission.

G.5 Compliance with other Ordinances Nothing contained in this Chapter is intended to relieve any owner, developer, or user of land from compliance with all other ordinances of the Town, including the Town Subdivision Control Ordinance. However, the Plan Commission, upon a finding that extraordinary hardships or particular difficulties may result from strict compliance with the Subdivision Control Ordinance, may allow a waiver of said regulations so that substantial justice may be done and the public interest may be secured, provided that such waivers shall not have the effect of nullifying the intent and purposes of this Ordinance.

Chapter 10 - Development Standards

Section A Metal and Post Building Construction Prohibition

Metal building construction and post building construction is prohibited in all Commercial Zoning Districts. However, when a building is a secondary use to a primary building use, said building, although the same may be of metal or post building construction, shall be faced with brick and the roof shall be composed of standing rib (standing seam) or asphalt shingle. Accessory uses and buildings such as sheds and garages must be constructed of brick unless granted a waiver by the Plan Commission during the Development Plan review process. Further, this Section shall not apply to any residential zoning districts, where metal and post building construction is prohibited.

Section B Masonry and Roof Requirements

All sides of any buildings on any subdivided lot within a C1, C2, C3, C4, TC, BP, PB, Route 41 Overlay and Route 231 Overlay Zoning Districts shall be completely faced on all sides with uniform face brick and the roof shall be composed of standing rib (standing seam) or asphalt shingle. Any person seeking to use another material not specified herein shall request a waiver from this section during the Development Plan review process. For purposes of this Section, "face brick" is defined as a substance, with a minimum of a three and one-half inch (3 ½") depth, made from natural cut stone or clay molded into oblong rectangle shapes and fired in a kiln."

Section C Height Exceptions

Chimneys, elevator bulkheads, fire towers, water towers, spires, and municipal owned structures are hereby excepted from the height regulations of this Ordinance.

Section D Impervious Surface Requirements

The maximum area of impervious surface per lot area shall be determined in accordance with the following table:

Zoning Designation	Maximum % of Impervious area
Detached Single Family	50%
Townhouse, Duplex, Multi-family	60%
Retail or Commercial	70%
Office	65%
Industrial	60%
Business Park District	50%
Route 41	65%
Route 231	65%

Section E Production Activity

Activity Within Enclosed Buildings. All fabrication, manufacturing, live entertainment, sales and consumption of food and beverage, processing or production shall be undertaken substantially within enclosed buildings unless approved by a Use Variance by the Board of Zoning Appeals.

Section F Protection of Shoreland and Watercourses

The purposes of this section are to prevent and control water pollution; protect spawning grounds, fish and aquatic life, and to preserve shore cover and natural beauty. The provisions of this section shall apply to the shore lands of all navigable waters. All lakes, ponds, or flowages of one (1/2) acre or more shall be considered navigable for the purposes of this Ordinance and rivers and streams shall be considered navigable for the purpose of this Ordinance if they are indicated as "continuous" on the United States Geological Quadrangle Survey Maps. Watercourses of less than 3 acres shall provide a 60 foot set back from the water and watercourses of 3 acres or more shall provide a 75 foot set back from the water.

Section G Refuse

All waste material, debris, litter, trash, refuse, or garbage not disposed of through the public sanitary sewerage system shall be kept in an enclosed building. The enclosed building must be constructed with similar materials and have a similar appearance to the main structure. The owner of vacant land shall be responsible for keeping such land free of refuse, debris, litter, trash and garbage. The owner of a subdivided lot shall be responsible for maintaining all sodded or seeded lawn area free of weeds and shall mow all lawn area regularly so that the height of the grass does not exceed 10".

Chapter 11 - Special Regulations

Section A Accessory Buildings in Residential Districts

A.1 All Accessory buildings shall require minimum side yards and minimum rear yards of five (5) feet.

A.2 No more than two accessory buildings are permitted for any residential zoned lot. One storage shed per residential lot shall be permitted, provided that it shall not exceed one hundred sixty (160) square feet in area. The total area of all accessory buildings located on the lot shall not exceed two hundred fifty (250) square feet.

A.3 Accessory buildings shall not exceed the lesser of fourteen feet (14') or one story in height as measured from existing grade to the roof peak of the structure,

A.4 The provisions in this Section A apply to all accessory structures, except for garages which are regulated by Section B of this Chapter.

Section B Residential Garages

B.1 Detached residential garages in a residentially zoned area shall have a minimum of five (5) linear feet of side yard and five (5) linear feet of rear yard measured from the farthest projection or extension of the garage.

B.2 The total square footage of all residential garages, whether attached or detached, shall not exceed 1,100 square feet per residential lot or parcel. Detached garages are prohibited on lots with a lot area less than one acre. If a lot is 30,000 square feet or larger in area, then an additional five hundred forty (540) square feet of garage area shall be allowed in addition to the allowable 1,100 square feet.

B.3 Detached residential garages shall not exceed the lesser of 14' or one story in height as measured from the existing grade to the roof peak of the structure. Attached residential garages shall not exceed the height of the highest ridge line of the residence to which said garage is attached. Further, no detached or attached residential garage shall have a finished ceiling height exceeding ten (10) feet from existing grade.

B.4 No commercial storage or use shall be allowed in any garage in a Residential Zoned District.

Section C Automobile Service Stations

C.1 Development Plans for the erection or structural alteration of any automobile service station shall be approved by the Plan Commission. The Plan Commission may require such change therein in relation to yards, landscape treatment, locations of pumps, buildings, floodlights, surfacing and construction of buildings as it deems best suited to ensure safety to minimize traffic difficulties and to safeguard adjacent properties.

C.2 The construction of buildings, accessory structures, including above ground and below ground tanks, containers and enclosures, shall comply with all local, state and federal regulations.

C.3 Automobile Service Stations shall comply with the following additional requirements:

- a) The setback of any overhead canopy or weather protection, free standing or projecting from the station structure shall be not less than ten (10) feet from the street right-of-way nor less than twenty (20) feet from an adjacent property line.
- b) The total height of any overhead canopy or weather protection shall be no less than fourteen (14) feet and no more than twenty (20) feet in height.
- c) Open dead storage of motor vehicles, other than motor vehicles for rent, shall not be permitted for a period of more than 48 hours.
- d) No sales of motor vehicles or trailers or campers shall be permitted.
- e) All goods for sale by a station convenience store, other than those generally required for the operation and maintenance of motor vehicles, shall be displayed within the principal station structure.
- f) Each station shall be architecturally designed so as to be as compatible with the general architectural intent of the area in which it is located.
- g) For the purpose of architectural appropriateness each and every side of a station shall be considered as a front face.
- h) The entire station site, other than that part devoted to landscaping and structures, shall be surfaced with concrete or bituminous surfacing to control dust and provide adequate drainage and such surfaces shall be designed to meet the requirements of a minimum four (4) ton axle load.
- i) Wherever a station abuts a Residential District, a fence or compact evergreen hedge, which is a minimum seventy-five (75) percent opaque and not less than six (6) feet high, shall be erected and maintained along the side and rear property line that abuts the Residential District. Application of this provision shall not require a fence within fifteen (15) feet of any street right-of-way.
- j) All trash, waste materials, and obsolete automobile parts shall be stored within a separate enclosure behind the Principal Building of the station.
- k) All interior curbs shall be constructed within the property lines to separate driving and parking areas from landscaped areas. Such curbing shall be constructed of concrete and shall be of six (6) inch non-surmountable design.
- l) All rental campers, trailers, or motor vehicles shall be stored within the rear and/or side yard not adjacent to the street. Said rentals shall not be stored within the front yard setback nor the side yard adjacent to the street.
- m) All outside parking spaces shall be located to the side and/or rear of the Principal Building.

- n) All outdoor illumination shall be provided with lenses, reflectors or shades which will concentrate the light upon the premises so as to prevent any undue glare or rays of light therefrom being directly visible upon any adjacent street, roadway or private property occupied for residential purposes.
- o) Notwithstanding anything to the contrary in other sections of this Zoning Ordinance, the following minimum requirements shall be observed for yards and setbacks for stations:

Lot Width	150 feet
Front Yard	60 feet
Side Yard (Adjacent to another lot)	30 feet
Side Yard (Adjacent to street)	60 feet
Rear Yard	30 feet
Pump Setback from station	25 feet

Section D Public Parking Garages and Parking Lots

Public parking garages and parking lots shall be reviewed by the Plan Commission during the Development Plan review. Public parking garages and parking lots are limited to certain zoning districts as listed on the use table in Chapter 3, Section E.

Section E Swimming Pool Regulations

E.1 Compliance Required

It shall be unlawful to construct, maintain, install or enlarge any swimming pool in the Town except in compliance with all the provisions of this Section.

E.2 Location

No portion of an outdoor swimming pool shall be located at a distance of less than ten (10) feet from any side or rear property line or building line, and no less than twenty (20) feet from any existing dwelling unit on abutting property, nor at any other location where a Structure is prohibited under the other terms of this Zoning Ordinance. Pumps, filters, and pool water disinfection equipment installations shall be similarly restricted to the requirements of this paragraph. No swimming pools shall be located on an easement and all swimming pools shall be located beyond (towards the rear building line) the actual location of the furthest projection of the rear of any residence.

E.3 Permit Required

It shall be unlawful to proceed with the construction, installation, enlargement, or alteration of any swimming pool and appurtenances within the Town unless a zoning permit, electrical permit, and building permit have first been obtained from the Town in accordance with the procedures set forth in this Ordinance.

E.4 Permitted Uses

Private swimming pools shall be permitted in all open space and residential zoning districts and in other districts only by way of Variance of Use from the Board of Zoning Appeals.

E.5 Size of swimming pools

Swimming pools installed on lots of less than 12,000 square feet shall not be greater than 800 square feet. Swimming pools installed on lots between 12,000 square feet and 20,000 square feet shall not be greater than 900 square feet. Swimming pools installed on lots of 20,001 square feet or greater shall not be greater than 1,000 square feet.

E.6 Drawings, Plans, and Permits

- a) All drawings and plans for the construction, installation, enlargement, or alteration of any swimming pool and appurtenance shall first be presented to the Building Inspector for examination and approval as to proper location and construction.
- b) All such drawings and plans shall accurately portray the relevant lot lines and setback distances and include information as to the pool, walk, and fence construction, water supply system, drainage, and water disposal systems, and all appurtenances pertaining to the swimming pool. Detail plans and vertical elevations shall also be provided in accordance with all applicable building, plumbing and electrical codes.
- c) Once such drawings and plans are approved, the construction and location of the swimming pool and its appurtenances shall be constructed in strict conformance to such plans.

E.7 Recirculation Pools

All swimming pools shall be of the recirculation type in which circulation of the water is maintained through the swimming pool by pumps and the water removed from the swimming pool shall be clarified and disinfected before being returned to the swimming pool.

E.8 Materials

Swimming pool walls and floors shall be constructed of any impervious material which will provide a tight tank with white or light colored finish and easily cleaned surfaces. The floor or bottom surface of the swimming pool shall have a non-slip finish as smooth as possible. The side and end walls of a swimming pool shall present a smooth finish and shall be vertical to a depth of at least six (6) feet or shall have a slope or curvature meeting one of the following conditions:

- a) The swimming pool may be vertical for thirty (30) inches from the water level, below which the wall may be curved to the bottom with a radius at any point equal to the difference between the depth at that point and thirty (30) inches; or
- b) To a depth of six (6) feet, except as in (a) above, the wall's slope shall not be less than one (1) foot horizontal in six (6) feet vertical.

E.9 Structural Design

The slope of the bottom of any part of a swimming pool in which the water is less than five (5) feet in depth shall be not more than one (1) foot deep for each ten (10) feet of diameter. The maximum slope where water is five (5) feet or more in depth shall not exceed one (1) foot in depth to every two (2) feet in diameter.

E.10 Walk Areas

Unobstructed walk areas of not less than thirty-six (36) inches shall be provided to extend entirely around any in-ground swimming pool. The walk area shall be constructed of impervious material and the surfaces shall be such as to be smooth and easily cleaned and of non-slip construction. The slope of the walks shall have a pitch of at least one-fourth inch to the foot, designed to prevent back drainage from entering the swimming pool.

E.11 Fences

All outdoor swimming pools shall be completely enclosed by a fence. Any type of swimming pool may be enclosed by a fence, which provides a continuous barrier to the portion of the yard where the swimming pool is located. An in-ground swimming pool may be secured by an automatic locking cover as an alternative to such a fence. In all cases, the fence height shall be at least five feet but no greater than six feet in height above grade. A permanent fence shall be installed within thirty (30) days from the pool installation completion.

Retractable stairs, which are self-latching, are acceptable substitutes for closing gates. All fences openings or points of entry into the swimming pool area enclosures shall be equipped with gates. The gates shall be at least five feet but no greater than six feet in height above grade. All gates shall be equipped with self-closing and self-latching devices placed at the top of the gate. Fence posts shall be decay or corrosion-resistant and shall be set in concrete bases, or pursuant to manufacturer's specifications.

E.12 Steps and Ladders

In every in-ground swimming pool, at least two (2) or more means of egress in the forms of steps or ladders shall be provided. In every above-ground swimming pool, one ladder which can be removed or placed in such a position as not to allow entry into said pool shall be provided.

E.13 Drains

Swimming pools shall be equipped with facilities for completely emptying the swimming pool and discharge of the swimming pool water to the storm sewer shall be at a rate not exceeding two hundred (200) gallons per minute. No direct connection shall be made to the storm sewer. Swimming pool pumps are an acceptable means for emptying a pool. Water drained from the swimming pool shall not be discharged into the storm sewer system during periods of rains or storms.

E.14 Electrical Requirements

- a) All electrical installations provided for, installed, and used in conjunction with private residential swimming pools shall be in conformance with the Town electrical code.
- b) No current carrying electrical conductors shall cross private residential swimming pools, either overhead or underground or within five (5) feet of such pools.
- c) All metal fences, enclosures, or railings near or adjacent to swimming pools, which might become electrically alive as a result of contact with broken overhead conductors or from any other cause, shall be effectively grounded.

E.15 Inspection

The Building Inspector and/or Code Enforcement Officer periodically may inspect any swimming pools to determine whether or not the provisions of this Ordinance have been complied with and are being maintained.

E.16 Permit Fees

The fee for a permit for the erection or construction of a private swimming pool shall be as set forth in the Town Permit Fee Schedule. Electrical fees shall be in addition to the foregoing fee.

Section F Temporary Construction Offices

Temporary construction office in any district shall be located on the property to which it is appurtenant and shall be located twenty (20) feet from the lot line of any property zoned residential. The proposed location shall be approved by the Town Manager prior to the installation. The temporary construction office shall be allowed for a twelve-month period at the expiration of which time the applicant may request a further extension of time. Otherwise the construction office shall be removed at the expense of the owner.

Section G Excavations

G.1 The excavations from or deposits on the earth of rock, stone, gravel, sand, earth, minerals, or building or construction materials shall not be construed to be a permitted use in any Zoning District established by this Ordinance unless and until a permit shall first have been secured therefore, except for the following defined extractions and deposits:

- a) Excavations for the foundation or basement of any building or for a swimming pool for which a building permit has been issued, or deposits on the earth of any building or construction materials to be used in a structure for which such building permit has been issued;
- b) Grading of any parcel of land for a permitted use where no bank is left standing and exposed of more than ten (10) feet in vertical height, or when less than on thousand (1,000) cubic yards of earth is removed from the premises;
- c) Grading in a subdivision, which has been approved by the Town in accordance with the Subdivision Ordinance and any amendments thereto; and
- d) Excavations by any public agency or public utility for the installation, operation, inspection, repair, or replacement of any of its facilities.

G.2 The Plan Commission shall have the power to grant Conditional Use permits, revocable and valid for specified periods of time, to permit extractions from or deposits on the earth of rock, stone, gravel, sand, earth, minerals or building or construction materials as set forth herein above.

G.3 The Zoning Administrator shall make such inspections as deemed necessary or as are required by the Plan Commission to ensure that all work is in accordance with the use permit. All inspection services shall be paid for by the applicant in the amount established by Ordinance.

G.4 The conditions under which a Conditional Use permit for excavation from or depositing on the earth of said materials, may include, but are not limited to, any requirements deemed necessary to protect the public health, safety, comfort, convenience, or general welfare including insurance against liability arising from production or activities or operations incident thereto; completion of the work and cleaning up and planting in accordance with approved plans, designation of area in which work may be done; designation of the slope to which excavation may be made or the grade of filling; provisions for controlling dust; hours of operations; precautions which must be taken to provide safe traffic movements in and around and by the operation; enclosure by fences of exterior boundaries of property to be used; posted of a good and sufficient bond to assure compliance with the use permit and any other conditions deemed necessary the Plan Commission.

Section H Outdoor Storage, Display and Sales

H.1 Outdoor storage, display, sales, service, repair, and processing are prohibited in all zoning districts.

H.2 The Town Manager may approve temporary outdoor storage and the outdoor storage shall be limited to a maximum of thirty days.

H.3 Outside display of plants and nursery stock may be approved by the BZA as a Use Variance and the BZA may impose reasonable conditions on such outside display.

H.4 Sidewalk cafes and outdoor dining, accessory to a restaurant, may be approved by the BZA as a Use Variance and the BZA may impose reasonable conditions on such sidewalk cafe and outdoor dining.

Section I Manufactured Housing

I.1 Applicability

- a) Location out of Parks: This ordinance shall apply only to manufactured housing located outside of manufactured housing parks.
- b) Year of Manufacture: For the purposes of Public Law 312k, Acts of 1982, I.C. 36-7-4, this chapter shall apply only to manufactured homes constructed after January 1, 1981.

I.2 Permitted Placement

The establishment, location, and use of manufactured homes as permanent residences approved individually, by specific materials, or by design, shall be permitted in accordance with this paragraph, subject to requirements and limitations applying generally to such residential use in the district and provided such homes shall meet the following requirements and limitations:

- a) The dwelling shall meet the appropriate exterior appearance standards as hereinafter set forth in Section I.3;
- b) The dwelling shall be located so as not to be totally precluded in a district where permanent residences are permitted on lots as set out in this Zoning Ordinance; and

- c) The dwelling shall receive all required permits and conform with all other applicable Town Ordinances.

I.3 Exterior Appearance Standards A manufactured home shall:

- a) Conform to the minimum square footage requirements of appropriate Zoning District.
- b) Be placed on a foundation meeting all the requirements of a conventional single family home foundation.
- c) Be anchored to the ground in accordance with the building code installation standards
- d) Have wheels, axels, and hitch mechanisms removed.
- e) Meet appropriate utility connection standards in accordance with approved home installation standards.
- f) Have siding material of a type customarily used on conventionally constructed residences in the Town.
- g) Have roofing materials of a type customarily used on conventionally constructed residences in St. John, with a minimum of six (6) to twelve (12) inch pitch for each foot of horizontal travel, including asbestos, fiberglass, shake, asphalt, and tile materials.
- h) Be placed onto a permanent exterior perimeter retaining wall of solid masonry.
- i) Have a minimum façade width facing the street of 35 feet.
- j) Conform to all other applicable building codes.

I.4 Installation Standards

- a) **Perimeter Retaining Wall:** Those manufactured homes designated in the Zoning Ordinance as requiring perimeter retaining walls shall be constructed in accordance with the Building Code of the Town and the State of Indiana. The space between the floor joists of the home and the excavated underfloor grade shall be completely enclosed with the permanent perimeter retaining wall. The wall shall be composed of solid masonry which shall extend below the frost line. The design by a registered professional engineer or architect shall safely support those loads as determined by the character of the soil.
- b) **Foundations:** All manufactured housing shall be installed on foundations in accordance with the requirements of the Building Code of the Town and the State of Indiana.

I.5 Land Use

- a) **Requirements:** Prior to the location, relocation, or establishment of any manufactured home, the home owner or authorized representative shall secure from the Building Commissioner an Improvement Location Permit which states that the building and its location conform to this Zoning Ordinance. Additionally, each application for a Permit shall be accompanied by the following items:
 - i) A plot plan as required for all dwelling units but which at a minimum include elevations, roof materials, exterior dimensions, perimeter retaining wall treatment, foundation construction and materials, exterior finishes and the like;
 - ii) Sewer and water tap-on permits;

- iii) A copy of proposed instructions intended to be used for installation purposes, where applicable;
 - iv) Such other information as may be required by the Building Commissioner for the proper enforcement of this ordinance; and
 - v) An agreement signed by the homeowner or authorized representative pledging compliance with the terms set by the Building Commissioner in the Permit.
- b) Issuance of Permit: After the receipt of the information required for a Permit, the Building Commissioner shall review the standards set in this Ordinance and other Town Building Codes. If the Applicant has met all required standards, then the Permit shall be issued by the Building Commissioner.
- c) Denial of Permit: If the Building Commissioner determines that an application does not comply with the requirements of this Ordinance and other Town Ordinances, then the Building Commissioner shall deny said application in writing, stating the reasons therefor.
- d) Certificate of Occupancy
- i) Occupancy Requirement: Prior to the occupancy of any manufactured home, the homeowner or authorized representative shall secure from the Building Commissioner a Certificate of Occupancy stating that the building and its use comply with all provisions of the ordinance applicable to the building or the use in the district in which it is located.
 - ii) Issuance of Certificate: After submission of an Application for Occupancy, the Building Commissioner shall inspect the property and make such referrals to other local officials for technical determinations as deemed appropriate for conformance with conditions of the Permit and the standards set out in this Ordinance. If the applicant has conformed with all of the required conditions and standards, a Certificate of Occupancy shall be issued.
 - iii) Denial of Certificate: If any of the conditions or standards required by this Ordinance have not been complied with, the Certificate of Occupancy shall not be issued and a written statement specifying the reasons for no-issuance shall be made and given to the applicant.

I.6 Appeal An action to review any order, requirement, decision, or determination made by an administrative official or board charged with enforcement of the Zoning ordinance shall be pursuant to this Ordinance and I.C. §36-7-4-919.

I.7 Penalty for Violation

- a) Failure to Comply: Each day of non-compliance with the provisions of this Ordinance constitutes a separate and distinct ordinance violation. Any person, firm or corporation violating the terms of this Ordinance shall be fined in a sum of not less than \$100.00 nor more than \$2,500.00 each day a violation exists.

- b) Removal: A structure located on property in violation of this Ordinance shall be subject to removal from such property. However, the owner shall be given thirty (30) days to bring the property into compliance before action for removal can be taken. If action finally is taken by the appropriate authority to force compliance, the expenses involved shall be chargeable to the owner and constitute a lien against the property.
- c) Removal Method: The Town may institute suit for injunctive relief in an appropriate court to cause such violation to be prevented, abated, or removed.

Section J Home Occupations

J.1 Any occupation is allowed for gain or support conducted entirely within a residential buildings by its occupant, which is customarily incidental to residential use of the home, that does not exceed twenty-five (25) percent of the area of any floor, uses only household equipment and no stock in trade is kept or sold except that made on the premises. A household occupation includes uses such as baby-sitting (not more than five children at any given time and/or in full compliance with state law), millinery, dressmaking, canning, laundering, Avon, Mary Kay, Fuller Brush, Shaklee, Amway and similar type occupations, and crafts. It shall include the use of premises by a physician, surgeon, dentist, lawyer, clergyman or other professional person for consultation or emergency treatment but not for the general practice of the profession. Home occupation does not include the display of any goods nor such occupations as barbering, beauty shops, dance schools, real estate brokerage, photographic studios, commercial stables, or kennels.

J.2 No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio, television or telephone receivers off the premises, or causes fluctuations in line voltage off the premises.

J.3 No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard except that such off-street parking shall be limited to driveways not to exceed twenty feet in width. In the event traffic or parking becomes a nuisance, the Town Manager is empowered to require such home occupation to cease.

J.4 Home occupations shall comply with all sign regulations in Chapter 15.

Section K Residential Care Homes

K.1 Residential Care Homes are allowed in the zoning district listed in Chapter 3, Section E, provided that all the requirements in this Section K are met.

K. 2 Residential care homes must be registered with the Town. The following information shall be submitted to the Town:

- a) Address and phone number of the home;
- b) Number of residents and the nature of their disability, including needs or limitations in case of an emergency, such as impaired mobility, hearing or vision;
- c) Current copies of all licenses, certifications and approvals required by the State and federal government, if applicable;
- d) Name, address and phone number of the owner and the operator; and
- e) Name, address and phone number of person(s) to be contacted in an emergency, both during business hours and during nights, weekends and holidays.

K.3 Residential Care Homes for developmentally disabled individuals shall be as described in Indiana Code Section 12-28-4-8 and shall be licensed by the State under a program authorized by Indiana Code Section 12-11-1.

K.4 Residential care homes for mentally ill individuals shall be as described in Indiana Code Section 12-28-4-7, shall be licensed by the State pursuant to Indiana Code Section 12-22-2-3(2)-(6) and shall not be located within three thousand feet of any other residential care home measured between lot lines.

K.5 Residential care homes for up to five individuals, other than the developmentally disabled, shall comply with all State licensing provisions and shall not be located within three thousand feet of any other residential care home measured between lot lines.

Section L Senior Housing

Senior housing buildings must comply with the parking, landscaping, lighting and sign requirements in Chapters 12, 13, 14, and 15. Due to the unique nature of the use, bulk regulations in this Section L supersede the bulk regulations in the zoning district in which the senior housing is located:

L1. The minimum lot area shall be ten (10) acres.

L2. The minimum lot width shall be five hundred (500) feet.

L3. The maximum dwelling units per acre shall be 22.

L4. The number of dwelling units per structure shall not exceed 165.

L5. The maximum height is limited to fifty four (54) with no more than four stories.

L6. The front yard shall be no less than thirty (30) feet.

L7. The side yard shall be no less than ten (10) feet. Any side yard that abuts single family detached residential zoning district shall be no less than twenty (20) feet.

L8. The rear yard shall be no less than twenty (20) feet.

L9. The maximum building coverage shall be 25%.

L10. The maximum lot coverage for parking, driveways, and walkways shall be 40%.

L11. The maximum lot coverage for pools, patios, decks, sports courts, and tennis courts shall be 5%.

L12. No less than 30% of the lot shall be occupied by Landscaping.

Section M Childcare Facilities

M.1 Childcare facilities are allowed in the zoning districts listed in Chapter 3, Section E.

M.2 Childcare facilities shall provide the required parking pursuant to Chapter 12.

M.3 The Town Manager shall review the proposed childcare facility to determine that adequate drop-off and pick-up area is provided on site and that a safe, properly enclosed, adequately sized outdoor play area has been provided.

M.4 Childcare facilities must comply with all applicable local, state, and federal regulations.

Section N Tattoo Parlors

N.1 Tattoo parlors are not permitted unless a Use Variance for the tattoo parlor has been granted by the Board of Zoning Appeals.

Section O Telecommunication Towers and Antennas

O.1 Telecommunication towers and antennas shall comply with the following development standards:

- a) Towers and antennas shall be allowed as Special Exceptions only in non-residential Districts, subject to the approval of the Board of Zoning Appeals. If a height Developmental Variance is required, the Board of Zoning Appeals will consider the variance at the same time as the Special Exception.
- b) A Tower or antenna may encroach into the required side yard or rear yard so long as the side or rear lot line does not abut a Residential District. No Tower or antenna may be erected between the front of the principal building and the street.
- c) A tower or antenna may not be illuminated by artificial means or display strobe lights unless such lighting is specifically required by federal or state law for that tower.

- d) A solid visual buffer or screen of at least five (5) feet in height shall be provided on all sides of a tower. The visual buffer may be a fence or landscaping or a combination of fence and landscaping.
- e) No sign (other than a warning or equipment information sign needed for health and safety purposes) may be affixed to a tower.
- f) Any telecommunications services provided or transmitted via a tower or antenna must comply with all federal and state laws regulating interference levels and emissions.
- g) In the case of an application for a Special Exception seeking approval for the erection of a new tower, the Board of Zoning Appeals shall, before approving such a Special Exception, require the applicant to make a written commitment that:
 - i) if technologically feasible, the tower will be designed and erected in such manner that it can reasonably accommodate the equipment of up to four wireless telecommunications service providers;
 - ii) the owner of the tower will offer to any wireless telecommunications service provider that seeks to co-locate its equipment on the tower commercially reasonable lease or license terms, to accomplish the purpose of minimizing the number of such towers that must be erected in the Town;
 - iii) the owner of the tower will notify the Town Manager within thirty days after any oral or written communication from a wireless telecommunications service provider inquiring about co-location on the tower, providing the Town Manager with the name and address of the provider making the inquiry; and
 - iv) For purposes of Section O, "wireless telecommunications service providers" include public agencies that have equipment requiring location on a tower.
- h) Enforcement. A commitment made under subparagraph (g) above shall be recorded pursuant to state statute and may be enforced by the Town or by any wireless telecommunications service provider that desires to co-locate its equipment on the tower subject to the commitment. If, after thirty days notice from the Town, a person subject to a binding commitment refuses to honor or abide by such commitment, the Special Exception approval may be revoked by the Board of Zoning Appeals.

O.2 The request for a Special Exception for a telecommunications tower or antenna shall submit the following:

- a) A Site Plan that shows the location of the tower and of all the other structures on the subject parcel and the locations of all structures on adjacent parcels.

- b) A report from a qualified professional engineer that:
 - i) describes the tower height and design including a cross section and elevation;
 - ii) documents the height above grade for all potential mounting positions for collocation of equipment and the minimum recommended separation distances between wireless telecommunications service antennas;
 - iii) describes the tower's capacity, including the number and types of antennas that it can accommodate;
 - iv) documents that the applicant will operate the tower and any attached antennas in compliance with applicable federal and state law;
 - v) documents that the applicant has, before filing the application, investigated the possibility of collocation with the owners of all other towers in the vicinity; and
 - vi) includes any other information that may be reasonably requested by the Town Manager as necessary to evaluate the application.
- d) Before a tower or antenna is placed in service, the owner shall submit to the Town Manager a report from a qualified professional engineer that demonstrates that the tower complies with all structural and electrical standards.

O.3 If a tower is abandoned or is unused for a period of six (6) months, the owner shall remove the tower and all associated facilities from the site. Such removal shall be completed within twelve (12) months of the cessation of operations at the site. In the event that a tower is not removed within the required twelve (12) month period, the Town Manager may remove the tower and the associated facilities, and the costs of such removal shall be assessed against the owner of the parcel.

O.4 Any telecommunications tower or antenna in existence or operation as of the effective date of this ordinance may continue to exist and operate as a nonconforming use. Such a tower or antenna may be repaired, reconstructed, replaced or maintained without a Variance or Special exception approval so long as the use is not substantially altered and the height of the antenna or tower is not increased.

Section P Temporary Uses

P.1 Temporary uses require a special event permit. The operations of the proposed special event must be reviewed and approved by the following persons: the Town Manager, the Police Chief, the Fire Chief and no less than three members of the Town Council.

Section Q Satellite Receiving Dishes and Receiving Antennas

Q.1 Applicability In the case of a Satellite Receiving Dish or Antenna that is regulated by state or federal law, the state or federal law shall apply. A Satellite Receiving Dish that is not more than two (2) feet in diameter is not subject to the regulations of this Section R.

Q.2 Location and Size

- a) Satellite Receiving Dishes and Antennas may be erected in Residential Zoning Districts within the side yard or rear yard. Satellite Receiving Dishes and Antennas may be erected in non-residential Zoning Districts within the side or rear yard unless said side or rear yard adjoins a lot in a Residential Zoning District, in which case, the Satellite Receiving Dish or Antenna is prohibited within the abutting yard area. Satellite Receiving Dishes and Antennas may be erected in P.U.D. Zoning districts only upon the location approval of the Plan Commission of the Town of St. John.
- b) No portion of a Satellite Receiving dish or Antenna or supporting structure shall be located closer than 1.5' to any property lines, excluding easements, and no dish shall be located closer than 8' of any property line.
- c) No Satellite Receiving Dish shall be larger than 10' in diameter.
- d) No Satellite Receiving Dish or Antenna or portion thereof shall be located within 5 feet of any other structure.
- e) No more than 30% of the Area of a lot shall be covered by main buildings and accessory structures including Satellite Receiving Dishes and Antennas. The area to be occupied by a Satellite Receiving Dish or Antenna shall be calculated as the surface area of the dish itself or the supporting foundation whichever is greater.

Q.3 Landscaping. Each Satellite Receiving Dish or Antenna shall be landscaped to completely screen three (3) sides of the dish or antenna from public view. Acceptable landscaping includes planting of trees not less than 2" in diameter, shrubs, bushes or flowers no smaller than 2' in height, or decorative steps, wood chips or and combination thereof. Fencing may be substituted for landscaping upon approval of the Town Zoning Administrator.

Q.4 Height. No Satellite Receiving Dish or Antenna or portion thereof shall exceed a height of 12' above the grade unless specifically allowed in another section of this Ordinance, as amended from time to time. Height is the verified measurement from the ground level adjoining the foundation of the Satellite Receiving Dish or Antenna to the extreme projection of the dish, the antenna, its supporting structure or any attachments, thereto.

Q.5 Roof and Wall Mounts. A Satellite Receiving Dish or Antenna may be mounted on a roof or wall of a building/structure provided that it meets the following conditions:

- a) The front face of a Satellite Receiving Dish shall not exceed 12 square feet.
- b) The portion of the roof or wall to which the dish or antenna is mounted possesses sufficient structural integrity to anchor the antenna in a manner that it will sustain a wind load of 90 miles per hour or as set forth in the Town Building Code.
- c) The top-most extension of the antenna does not exceed 6' above the highest ridge line of the building roof. In the event the Satellite Receiving Dish or Antenna is mounted on the roof or a wall, then any conflicting provisions found in Section R of this Ordinance shall not apply to such roof or wall-mounted Satellite Receiving Dish or Antenna.

Q.6 General Conditions.

- a) No More than two (2) Satellite Receiving Dishes or Antennas may be located on a lot or parcel.
- b) All Satellite Receiving Dishes and Antennas must be painted a color compatible to the surrounding areas, as approved by the Building Commissioner.
- c) No Satellite Receiving Dish larger than 24" shall be mounted on the side of another structure
- d) A Satellite Receiving Dish having printed matter on its surface shall be treated as a sign and required to be in conformance with the sign regulations in Chapter 15. The foregoing provision shall not apply to manufacturer's logos or other manufacturer's identifying symbols which appears on any Satellite Receiving Dish or Antenna. A Satellite Receiving Dish located entirely within a building or structure that is entirely enclosed shall not be governed by this Section.

Q.7 Installation All ground mounted Satellite Receiving Dish mounts and antennas must be attached to a single rectangular concrete foundation which extends a minimum of 4" beyond all projections of the mount to a depth of 3'-6" below grade.

- a) Electrical power supply to a Satellite Receiving Dish or Antenna shall be:
 - i) Buried a minimum of 6" below grade.
 - ii) Placed in rigid conduit
 - iii) Extended a minimum of 8" above grade at the point connection to the dish.
- b) Each Satellite Receiving Dish or Antenna must be grounded to a minimum of 1/2" x 8'0" ground rod.

- c) All cables and connections from a Satellite Receiving Dish or Antenna to other equipment on the premises shall be buried underground a minimum of six (6) inches.
- d) Each Satellite Receiving Dish or Antenna must have all potentially hazardous mechanisms completely enclosed.
- e) All other electrical requirements of a Satellite Receiving Dish or Antenna shall comply with the latest edition of the National Electrical Code.

Q.8 Building Permit and Approval. No Satellite Receiving Dish or Antenna shall be erected for use without the issuance of a Building Permit. Before work is commenced on the construction or erection of any Satellite Receiving Dish or Antenna, an application for permit to construct or erect, and the plans and specifications and pertinent explanatory data shall be submitted to the Town for its approval, and no part of the work shall be commenced or erected until the Town has granted such approval by a written permit to construct or erect the dish or antenna. Electrical work other than antenna communications cables shall be performed by an Electrical Contractor who is registered to perform work within the limits of the Town. Additionally, no permit shall be required for the installation of a television VHF or UHF antenna.

Q.9 Variances. The Board of Zoning Appeals of the Town of St. John may grant Developmental Variance in individual cases, upon a showing of good cause, with respect to the height, nature or location of the Satellite Receiving Dish or Antenna.

Q.10 Nonconforming satellite dishes. Satellite Receiving Dishes and Antennas legally in existence on January 25, 1996, shall be considered as non-conforming, and are not required to comply with this Section.

Section R Day spas

R.1 Day spa without massage. In the Zoning Districts where they are allowed, they are classified as permitted use. No special license is required from the Town.

R.2 Day spa with massage. This use is classified as a Special Exception. In addition, the owner shall apply for an annual license, subject to a criminal background check and Indiana license, if applicable. The Town may inspect the premises to ensure compliance. The Town shall hold a hearing if an owner or employee is arrested for prostitution, keeping a place of prostitution or public indecency and may revoke the license if the continued operation would permit criminal activity.

Section S Live entertainment establishments

S.1 Taverns, restaurants and banquet halls without live entertainment.

These uses are classified as a Permitted Use or Special Exception depending on the zoning district where they are located. No special license is required from the Town unless the owner expects to obtain a liquor license.

S.2 Live entertainment establishments. This use is classified as a Special Exception. In addition, an owner shall apply for an annual license from the Town, subject to ongoing compliance with performance standards for noise. The Town may inspect premises and surrounding areas to ensure compliance. The Town Council shall hold a hearing if the police issue a citation for noise violation and may revoke the license if the establishment fails to comply with noise regulations more than one time in a twelve (12) month period.

Section T Electric-Generating Wind Devices

T.1 DEFINITIONS

The following definitions apply to this Section.

Electric-Generating Wind Device – An aggregation of parts including the base, tower, generator, rotor, blades, supports, guy wires, and accessory equipment such as electric utility interconnections and battery banks, in such configuration as necessary to convert the power of wind into mechanical or electrical energy and most commonly known as wind charger, windmill, wind turbine, and windspire.

Electric-Generating Wind Device Height or Height – The total vertical distance from ground level to the tip of the wind turbine blade when it is at its highest point.

Lattice Tower – A self-supporting tower consisting of metal pieces that form a lattice tower structure used for an Electric-Generating Wind Device, but does not include any towers that use guy wires.

Monopole / Unipole Structure – A self-supporting, free standing structure consisting of a single metal pole used for an Electric-Generating Wind Device.

Rooftop Mounted Monopole / Unipole - A single metal pole attached to a roof or the side of a structure that is used for an Electric-Generating Wind Device.

Windspire – An Electric-Generating Wind Device with a turbine on a vertical axis which has a rated capacity of up to 60 kilowatts operating at the rated wind speed and is intended to supply electrical power for on-site use.

T.2 General Provisions

The following provisions apply to all Electric-Generating Wind Devices permitted by this Section:

- a) General Requirements.
 - i) Electric-Generating Wind Devices shall not cause electrical signal interference.
 - ii) Electric-Generating Wind Devices shall not have any illumination located on the device or the structure supporting the device.
 - iii) There shall be no more than one (1) Electric-Generating Wind Device permitted for each parcel or lot of record.
 - iv) Electric-Generating Wind Devices shall comply with all other building codes and other federal, state, and local regulations and the manufacturer's requirements for installation and operation.

- v) All Electric-Generating Wind Devices and all components must be commercially made product, U.L. approved, and acceptable to the local electric provider company.
 - vi) All Electric-Generating Wind Device battery banks shall be installed and located within the primary structure, shall comply with manufacturer specifications, and shall be vented to the exterior of the structure. In the event that a battery bank is installed with the Electric-Generating Wind Device, then the location and connections shall be submitted as part of the building permit application. Further, the Building and Planning Department shall notify the Fire Department of any building permits issued for Electric-Generating Wind Devices with battery banks included.
 - vii) Electric-Generating Wind Devices shall be a non-obtrusive color such as tan, sand, gray, black, white, or similar colors. Galvanized steel or other metal is acceptable for the support structure for the Electric-Generating Wind Device.
 - viii) All towers, structures, and supports with Electric-Generating Wind Devices shall be utilized for only the Electric-Generating Wind Devices and shall not have affixed any other components, appurtenances, or advertising signs.
 - ix) All climbing apparatus shall be located at least fifteen (15) feet above the ground and the tower must be designed to prevent climbing within the first fifteen (15) feet from top of foundation.
 - x) Any Electric-Generating Wind Device that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owners of such device shall remove all structures within ninety (90) days of receipt of notice from the Town notifying the owner of such abandonment. If such device and structure is not removed within ninety (90) days, the Town may remove all devices and structures at the owner's expense and lien the property for costs of the removal.
- b) Rooftop Mounted Electric-Generating Wind Devices Requirements.
- i) Noise levels shall not exceed 60dBA, as measured at the owner's property line. The level, however, may be exceeded during short-term events such as utility outages and/or severe wind storms.
 - ii) No Rooftop Mounted Electric-Generating Wind Device shall be installed until evidence has been submitted that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off- grid systems shall be exempt from this requirement.
- c) Application Requirements – The following are required to be submitted with the Building Permit Application for any Electric-Generating Wind Devices:
- i) A standard drawing of the Electric-Generating Wind Device and support structure, including the tower, base, and electric connections.
 - ii) A plot plan or survey that shows the proposed location of the Electric-Generating Wind Device, including proposed setbacks in compliance with this Section, and height of existing residences, if any.
 - iii) All permit fees shall be paid at the time of the issuance of the Building Permit, including the Building Permit Fee, Zoning Fee, and Electrical Permit Fee.

T.3 Open Space Zoning Districts

Lattice Towers and Monopole / Unipole Structures with attached Electric-Generating Wind Devices are permitted in Open Space Zoning Districts subject to the following requirements:

- a) The Electric-Generating Wind Device Height shall not exceed ninety (90) feet.
- b) Electric-Generating Wind Device towers shall maintain a setback from all property lines equal to twice the Electric-Generating Wind Device Height.
- c) Minimum grounds clearance shall be at least twenty five (25) feet from grade level to the blade tip at the lowest point.

T.4. Residential Zoning Districts

a) Monopole / Unipole Structures supporting Electric-Generating Wind Devices are permitted in all Residential Zoning Districts subject to the following requirements:

- i) The Residential Zoning lot must be a minimum of five (5) acres.
- ii) An Electric-Generating Wind Device Height shall not exceed forty five (45) feet.
- iii) Electric-Generating Wind Device towers shall maintain a setback from all property lines equal to two hundred percent (200%) of the Electric-Generating Wind Device Height.
- iv) Minimum grounds clearance shall be at least twenty five (25) feet from grade level to the blade tip at the lowest point.

b) Rooftop Mounted Electric-Generating Wind Devices are permitted in all Residential Zoning Districts subject to the following requirements:

- i) The Electric-Generating Wind Device shall not exceed six (6) feet in height measured from the peak of the roof to the center of the turbine.
- ii) The Electric-Generating Wind Device shall have a minimum clearance of two (2) feet from the roof peak to the blade tip at its lowest point.
- iii) The Rooftop Mounted Electric-Generating Wind Device is prohibited in any required setbacks.
- iv) Rooftop Electric-Generating Wind Devices shall only be located in an area bounded by the roof peak of the residence, the sideyard setback, and rearyard setback. Rooftop Electric-Generating Wind Devices are prohibited from being located on any face of a residence facing any street from roof peak toward the street.

T.5. Windspires

Windspires are allowed in all zoning districts subject to the following requirements:

- a) The Windspire Height shall not exceed the maximum height for buildings and structures in the zoning district where the device is to be installed.
- b) The Windspire shall be located in the rearyard.
- c) The Windspire shall maintain a setback from all property lines equal to the Windspire Height plus five (5) feet."

Chapter 12 - Parking and Loading Requirements

Section A Off-street Parking Requirements

There shall be provided, in all districts at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces. The number of off-street parking spaces, in conjunction with all land or building uses, shall be provided prior to the issuance of a building permit, as hereinafter set forth.

A.1 For all non-residential uses, off-street parking shall be either on the same lot or within three hundred (300) feet of the building it is intended to serve as measured from the nearest point of the building to the nearest point of the off-street parking space. Ownership shall be shown on all lots or parcels intended for use as parking by the applicant. The 300 feet allowance shall not include properties on the opposite side of a main arterial road.

A.2 Required residential off-street parking spaces shall consist of a driveway, garage, or combination thereof and shall be located on the premises they are intended to serve. None of the previously mentioned parking shall be located closer than 3 feet from the property line in RC-1, RC-2, R-1 and R-2 districts.

A.3 Minimum required off-street parking spaces shall not be replaced by any other use unless and until equal parking facilities are provided elsewhere.

A.4 Off-street parking existing at the effective date of this Ordinance, in connection with the operation of an existing building or use, shall not be reduced to an amount less than hereinafter required for a similar new building or new use.

A.5 Two or more buildings or uses may collectively provide the required off-street parking, in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately. In all cases where two or more uses collectively provide the required off-street parking, cross parking and access agreements from all such uses shall be submitted and approved by the Town and recorded with the Office of the Lake County Recorder after Town approval.

A.6 In the instance of dual function of off-street parking spaces where operating hours of buildings do not overlap, the Zoning Administrator may grant in writing a zoning compliance certificate for the parking requirements only for the specified dual function uses as applied.

A.7 The storage of merchandise, motor vehicles for sale, truck parking, or the repair of vehicles is prohibited.

A.8 For those uses not specifically mentioned hereinafter, the petitioner shall submit to the Town a study analyzing projected traffic volumes and parking demand, based on comparable geographic locations with similar demographic characteristics. The Plan Commission will review the traffic study and shall approve the required parking based upon the traffic study.

A.9 When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half (1/2) shall be disregarded and any fraction over one half (1/2) shall require one (1) parking space.

A.10 For the purpose of computing the number of parking spaces required, the definition of "net floor area" in the Definitions section of this Ordinance shall govern. However, notwithstanding the foregoing, the Zoning Administrator, with the concurrence of the Plan Commission, may also exclude from "net floor area" washrooms and storage closets and areas where the primary use of the building is not used substantially for storage purposes.

Section B Schedule of Minimum Parking Spaces

B.1 Schedule of Minimum Parking Spaces

The minimum number of off-street parking spaces by type of use are required in accordance with the following schedule:

USE	NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
a) Residential	
Residential, One-Family & Two Family	Two (2) for each dwelling unit
Residential, Multiple-Family	Two (2) for each dwelling unit
Senior Housing – independent living	One (1) for each dwelling unit
Senior housing - assisted living facility	One (1) for each employee and one (1) per ten beds for guest parking
Mobile home park	Two (2) for each mobile home site and one (1) for each employee of the mobile home park
b) Institutional	
Churches or Temples	One (1) for each two (2) seats or four (4) feet of pews in the main worship room.
Cemeteries	One (1) per acre
Colleges or Universities	Ten (10) for each classroom
Hospitals	Two (2) for each bed
Outpatient Services	Three (3) for each 1000 sq. ft. of net interior floor area
Convalescent or Nursing Homes	One (1) for each four (4) beds
Elementary and junior high schools	One (1) for each teacher, employee, and administrator, in addition to the requirements of the auditorium

USE	NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
Senior High Schools	One (1) for each one (1) teacher, employee or administrator, and one (1) for each ten (10) students, in addition to the requirements of the auditorium
Private clubs or lodge halls	One (1) for each fifty (50) sq. ft. of net floor area
Private golf clubs, swimming pool clubs, tennis clubs or similar uses.	One (1) for each two (2) members or individuals plus spaces required for each accessory use such as a restaurant or bar
Golf courses open to general public (excludes miniature or "par-3" courses)	Six (6) for each golf hole and one (1) for each employee, plus spaces required for each accessory use, such as a restaurant or bar
Baseball Fields	Twenty Five (25) for each baseball field
Basket Ball Courts	Five (5) for each basket ball court
Tennis Courts	Two (2) for each tennis court
Playground Area	Five (5) for playground area
General Park Space	One (1) for each 5,000 sq. ft. of outdoor area
Interior Public Recreational Uses	One (1) for each three hundred (300) sq. ft. of net interior recreational floor area, plus one per employee
Soccer Fields	Twenty (20) for each soccer field
Stadium, sports arena or similar place of outdoor assembly	One (1) for each two (2) seats or four (4) feet of benches
Theaters and auditoriums	One (1) for each two (2) seats plus one (1) for each two (2) employees
Nursery school, day nurseries or childcare centers	One (1) for each three hundred fifty (350) sq. ft. of net floor area
Museums	One (1) per five hundred (500) sq. ft. of net floor area
c) Commercial	
Planned commercial or shopping center	One (1) for every one hundred (100) sq. ft. of net floor area for the first 15,000 sq. ft.
	One (1) for each two hundred (200) sq. ft. for the next 15,000 to 450,000 sq. ft. of net floor area; and
	One (1) for each two hundred fifty (250) sq. ft. for that area in excess of 450,000 sq. ft. of net floor area

USE	NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
Auto wash (automatic)	One (1) for each employee. In addition, reservoir parking spaces equal in number to five (5) times the maximum capacity of the auto wash. Maximum capacity of the auto wash shall mean the greatest number of automobiles possible undergoing some phase of washing at the same time, which shall be determined by dividing the length in feet of each wash line by twenty feet (20')
Auto wash self-service or coin operated	Five (5) for each washing stall in addition to one (1) for each employee.
Beauty parlor or barber shop	Three (3) spaces for each of the first two (2) beauty or barber chairs and one and one-half (1-1/2) spaces for each additional chair
Boat Sales	One (1) for each five hundred (500) sq. ft. of net floor area
Bowling alleys	Five (5) for each bowling lane plus accessory uses
Business, commercial or trade schools	Ten (10) for each classroom
Drive-in restaurant facilities	One (1) for each seventy-five (75) sq. ft. of net floor area.
Establishment for sale and consumption on the premises of beverages, food or refreshments	One (1) for each seventy-five feet of net floor area or one (1) for each two (2) persons allowed within the maximum occupancy load as established by governmental fire, building or health codes, whichever is greater.
Entertainment establishments, taverns, nightclubs	One (1) for each seventy five (75) sq. ft. of net floor area
Furniture and appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician or similar trade, shoe repair and other similar uses.	One (1) for each eight hundred (800) sq. ft. of net floor area. For floor area used in processing, one (1) additional space shall be provided for each two (2) employees
Greenhouses, nurseries, garden stores	One (1) for each three hundred (300) sq. ft. of net floor area, plus one for each five hundred (500) sq. ft. of outdoor sales area
Kennels	One (1) for each employee, plus one (1) for each one thousand (1,000) sq. ft. of net floor area
Automobile service stations	Two (2) for each lubrication stall, rack or pit and one (1) for each gasoline pump

USE	NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
Laundromats and coin operated dry cleaners	One (1) for each two (2) washing and dry-cleaning machines
Lumber and, building material sales; home improvement stores	One (1) for each three hundred (300) sq. ft. of net floor area, plus one space for each twelve hundred (1,200) sq. ft. of outdoor or warehouse sales area
Miniature or "par3" golf courses	Three (3) for each golf hole plus one (1) for each employee
Catering hall, dance hall	One (1) for each fifty (50) sq. ft. of net floor area
Motel, hotel or other commercial lodging establishment	One (1) for each occupancy unit plus one (1) for each employee
Mortuary and funeral parlor	One (1) for each 50 sq. ft. of net floor area
Motor vehicle sales and service establishments	One (1) for each two hundred (200) sq. ft. of net floor area of sales room and one (1) for each one (1) auto service stall in the service area
Pool or billiard parlors, roller skating rinks, exhibition halls, and assembly halls without fixed seats	One (1) for each two (2) persons allowed within the maximum occupancy load as established by local, county or state fire, building or health codes
Private dance, music and similar schools	One (1) for every two hundred (200) sq. ft. of net floor area
Railroad passenger stations, bus depots or other passenger terminal facilities	To be determined by Plan Commission based upon submitted traffic study and parking plan
Recording studios, broadcasting studios	One (1) for every three hundred (300) sq. ft. of net floor area
Recreational vehicle sales	One (1) for each three hundred (300) sq. ft. of interior net floor area and one (1) for each two thousand (2,000) sq. ft. of outdoor sales area
Retail stores except as otherwise specified herein	One (1) for each two hundred fifty (250) sq. ft. of net floor area.
Stables	One (1) for each two (2) animal stalls
Veterinary hospitals	One (1) for each three hundred (300) sq. ft. of net floor area
d) Offices	
Banks	One (1) for each three hundred (300) sq. ft. of net floor area
Business office or professional office	One (1) for each three hundred (300) sq. ft. of net floor area
Governmental offices	One (1) for each three hundred (300) sq. ft. of net floor area, plus one for each official vehicle

USE	NUMBER OF MINIMUM PARKING SPACES PER UNIT OF MEASURE
Post Office, postal substation	One (1) for each five hundred (500) sq. ft. of net floor area, plus one (1) for each official vehicle and one (1) for each employee
Professional office of doctors, dentists or similar medical professions	One (1) for each fifty (50) sq. ft. of net floor area in waiting rooms, and one (1) for each examining room, dental chair, laboratory, or similar use area to be occupied by patients or employees.
e) Industrial	
Industrial establishments and related accessory offices	One (1) for every five hundred (500) sq. ft. of net floor area. Space on site shall also be provided for all construction workers during periods of plant construction
Research laboratories	One (1) for each three hundred (300) sq. ft. of net floor area
Self storage establishments	One (1) for each five hundred (500) sq. ft.
Warehouses and wholesale establishments and related accessory offices	One (1) for every one thousand (1,000) sq. ft. of net floor area

Section C Parking Layout, Standards, Construction, Maintenance and Shared Spaces

C.1 Off-Street Parking Space Layout, Standards, Construction and Maintenance

Whenever the off-street parking requirements in Section B require the installation of an off-street parking facility, such off-street parking lots shall be laid out, constructed, and maintained in accordance with the following standards and regulations:

- a) No parking lot shall be constructed or altered unless and until a permit is issued by the Building Commissioner. Applications for a permit shall be submitted to the Building Department in such form as may be determined by the Building Commissioner and shall be accompanied with two (2) sets of Development Plans for the development and construction of the parking lot showing that the provisions of this Section will be fully complied with.

- b) Plans for the layout of off-street parking facilities comply with the following minimum requirements:

Parking Pattern	Maneuvering Lane Width	Parking space Width	Parking Space Length
° (Parallel parking)	12 ft.	8.5 ft.	23 ft.
30° to 53°	12 ft.	9 ft.	20 ft.
54° to 74°	24 ft.	10 ft.	20 ft.
75° to 90°	24 ft.	10 ft.	20 ft.

- c) All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street or frontage road is prohibited.
- d) Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles.
- e) All maneuvering lane widths shall permit one-way traffic movement, any 90° pattern may permit two-way traffic movement.
- f) Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential use shall be at least twenty-five feet (25') from adjacent property located in any single-family residential zoning district. A landscaped area fifteen feet (15') in width shall be provided within the twenty-five feet (25') area.
- g) The off-street parking area shall be provided with a continuous and obscuring wall not less than five (5) feet in height measured from the surface of the parking area. This wall shall be provided on all sides where the adjacent zoning district is designated as a Residential zoning district. The wall must adhere to allowable building façade materials. i) When a front yard setback is required, all land between the wall and the front property line or street right-of-way line shall be kept free from refuse and debris and shall be landscaped with deciduous shrubs, evergreen material and ornamental trees. The ground area shall be planted and kept in grass. All such landscaping and planting shall be maintained in a healthy, growing condition, neat and orderly in appearance.
- h) The off-street parking area shall have perimeter landscaping and interior landscaping as required by Chapter 13.
- i) The parking area finish coat shall be surfaced within one (1) year of the date the Occupancy Permit is issued.
- j) Off-street parking areas shall provide on-site retention or detention as necessary and be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings.
- k) All lighting used to illuminate any off-street parking area shall be so installed as to be confined within and directed onto the parking area only.
- l) In all cases where a wall extends to an alley which is a means of ingress and egress to an off-street parking area, it shall be permissible to end the wall not more than ten (10) feet from such alley line in order to permit a wider means of access to the parking area.

- m) All open off-street automobile parking areas either created or redesigned or rebuilt subsequent to the adoption of this ordinance shall be improved with a six and one-half (6-1/2) inch stone base, a two (2) inch binder and a one and one-half (1-1/2) inch paved surface, marked with appropriate strips and lines to indicate parking stalls and circulation ways.

Section D Handicapped Parking

Handicapped parking facilities in the Town shall be required to be provided in accordance with State and Federal law, as amended, and any administrative rules and regulations passed pursuant to the authority thereof.

Section E Pedestrian Paths

E.1 Pedestrian Paths

Off-street parking areas shall provide landscaped sidewalks connecting the parking area to the buildings, pedestrian circulation within the parking lot and pedestrian connections to adjacent developments and to pedestrian routes and trails. Pedestrian paths will be reviewed and approved during the Development Plan review.

Section F Loading Requirements, Location, Size

F.1 Loading Requirements

In any non-residential District, sufficient space for the loading or unloading of vehicles shall be provided on the lot in connection with any commercial or industrial use so that the public street shall at all times be free and un-obstructed to the passage of vehicular and pedestrian traffic. Such space shall be at least ten by fifty feet (10' x 50'), or five hundred (500) sq. ft. in area, with a clearance of at least fourteen (14) feet in height.

F.2 Commercial and industrial facilities

Loading and Unloading berths shall be required as follows:

- a) 3,000 - 15,000 sq. ft. of gross floor area: One (1) berth;
- b) 15,001 - 40,000 sq. ft. of gross floor area: Two (2) berths; and
- c) Each additional 40,000 sq. ft.: One (1) additional berth.

F.2 Office Buildings

Loading and Unloading berths shall be required as follows:

- a) 100,000 or less sq. ft. gross floor area: One (1) berth;
- b) 100,001 - 300,000 sq. ft. gross floor area: Two (2) berths; and
- c) Each 100,000 additional sq. ft.: One (1) additional berth.

Chapter 13 - Landscaping Requirements

Section A Purpose

The purpose of these landscaping requirements is to underscore the importance landscape materials play in the responsible development of real property and overall enhancement of the community. The minimum landscape standards contained herein are intended to benefit the public welfare through improved aesthetics, preservation of green space, improved and/ or maintained air quality and the reduction of storm water run off, glare, and heat build-up.

Section B Applicability

The minimum landscape standards contained herein shall apply to all developments except detached single family and agricultural uses in the Town and previously approved and platted developments unless new Development Plan approval is being sought.

Section C Planting Standards

Under no circumstances shall any artificial plant be installed as part of the plantings required by this Chapter. All plant materials required by this Chapter shall be living and shall meet the additional requirements contained in this Chapter.

Section D Conflicts in Standards

In any case in which conflicts exist between the landscaping requirements of this Chapter and the landscaping requirements of any other applicable Town Ordinances, the stricter standard shall apply.

Section E General Requirements

All plant materials required by this Chapter shall be free of disease, insects and /or damage and shall be correctly labeled indicating species at the time of the final inspection by the Town. The planting patterns of the plant material shall be staggered and mixed to avoid long, monotonous and repetitive edges, especially along roadways.

Section F Screening Requirements

F.1 Ground mounted heating and cooling units and above ground fuel tanks must be screened from the view from public streets and adjacent properties.

F.2 All trash dumpsters, trash pads, loading areas, loading docks, building service areas, and outside storage areas shall be screened from the view from residentially zoned property or uses and shall be screened from the view from a public street. Such screening may be achieved by using a minimum six feet (6) high opaque screen consisting of material similar to the Principal Building.

F.3 Vision clearance triangles shall be kept clear of landscaped materials greater than two (2) feet in height.

F.4 All trees and scrubs must be planted a minimum of five (5) feet behind the right -of-way.

F.5 Landscaping and Screening

- a) In all Zoning Districts, all developed uses shall provide a green or landscaped yard along all streets. Such yard shall be kept clear of all structures and storage. Such yard shall be at least eight (8) feet in depth along all streets measured from the street right-of-way. Except for driveways, the yard shall extend the entire frontage of the lot and along both streets in the case of a corner lot.
- b) Screening shall be provided on all peripheral lot lines where the adjacent property has a different land use. An opaque screen shall be installed and maintained and shall have a total height of not less than six (6) feet nor more than seven (7) feet. Where there is a difference in elevation on opposite sides of the screen, the height shall be measured from the highest elevation. A screen shall consist of one or more of the following types:
 - i) Walls: A wall shall consist of concrete, stone, brick, tile or similar type of masonry material, a minimum of eight (8) inches thick.
 - ii) Berms: A berm may be banked on both sides or with one side banked toward the lot line with a retaining wall. A berm shall be not less than twenty (20) feet wide at the base, shall have an undulating contour and shall be sloped for ease of maintenance. It shall be constructed of earthen materials and shall be landscaped.
 - iii) Planting: Plant materials, when used as a screen, shall consist of a mixture of compact evergreen plants and taller deciduous plants. They shall be of a kind and used in such a manner so as to provide screening, having a minimum width of three (3) feet within eighteen (18) months after initial installation. Plant materials shall not be limited to a maximum height. The Building Commissioner may require that either (i) or (ii) above shall be installed if, after 18 months following installation, plant materials have not formed an opaque screen or if an opaque screen is not maintained.
 - iv) Any landscaped area shall be separated from an adjacent vehicular area by a wall or curb at least six (6) inches higher than the adjacent vehicular area.
 - v) Landscaping shall be limited to a height of not more than three (3) feet within twenty (20) feet of the point of intersection of two or more vehicular traffic ways, driveways or streets.
 - vi) Underground sprinkling facilities shall be provided for all landscaped area.
 - vii) Required landscaping shall be maintained in a neat, clean and healthy condition. This shall include proper pruning, mowing of lawns, weeding, removal of litter, fertilizing, replacement of plants as necessary, and the regular watering of all plants.
 - viii) Existing topographic patterns shall be preserved, except where modifications will specifically contribute to increased utility of the site, and/or enhancement of the site.
 - vix) All open automobile parking areas containing more than four parking spaces shall be effectively screened on each side adjoining or fronting on any residential property. Wheelstops of masonry, steel, or heavy timber shall be placed not nearer than five (5) feet from the street line in districts where a front yard is not required, or from side lot lines.

- x) A plan of screening and landscape development shall, where required, be submitted with the Preliminary Plat of a Subdivision or Land Use Application for a building.
- c) In addition to the aforementioned screening discussion, the following Fence information shall apply:
 - i) Definitions.
 - Fence: A structure or tree or shrub hedge which is a decoration or barrier and used as a landscape decoration boundary or other means of protection or confinement
 - Open Fence: A fence including gates, which has for each one foot wide segment extending over the entire length and height of the fence, 50 percent of the surface area in open spaces which afford a direct view through the fence.
 - Solid Fence: A fence including gates which conceals from view from adjoining properties, streets, or alleys, activities conducted behind it.
 - F: Denotes front yards and side yards adjoining streets
 - S: Denotes interior side yards
 - R: Denotes rear yards
 - ii) Regulations. The fences and heights are allowed in each district as follows:
 - (1) Open Fences located in:
 - (a) Agriculture districts, not more than eight feet in height. (FSR)
 - (b) Residence districts, not more than six feet in height. (SR)
 - (c) Residence districts, not more than four feet in height. (F)
 - (d) Business and manufacturing districts, not more than eight feet in height. (SR)
 - (2) Solid Fences located in:
 - (a) Agriculture districts, not more than eight feet in height. (SR)
 - (b) Residence districts, not more than six feet in height. (SR)
 - (c) Business districts, not more than eight feet in height. (SR)
 - (d) Manufacturing districts, not more than eight feet in height. (SR)
 - iii) Fence materials shall be approved by Plan Commission at the time of Development Plan approval.
 - iv) Chain link fence is prohibited when adjacent to an existing residence or residential subdivision unless a solid buffer is provided on the residential side of the chain link fence.

Section G Landscape Plan Required Content

G.1 A landscape plan is required for each lot within a proposed development. It is recommended that the landscape plan be prepared by a landscape architect, nurseryman, or other professional experienced in landscape design and the installation and care of plant materials.

G.2 All landscape plans submitted for approval as a component of a required Development Plan shall show the entire Zoning Lot to scale on 24" x 36" sheets unless the Town Manager allows otherwise and shall contain the following information:

- a) The location and dimension of all existing and proposed structures, parking lots and drives, roadways and right- of- way, sidewalks, bicycle paths, ground signs, refuse disposal areas, bicycle parking areas, freestanding electrical equipment, recreation facilities, utility lines and easements, freestanding structural features, and other landscape improvements, such as earth berms, walls fences, screened, sculptures, fountains, street furniture, lights, and courts or paved areas;
- b) The name and address of the owner, developer, and plan preparer, the date the plan was prepared, scale, and north arrow;
- c) The location, quantity, size, and botanical and common name of all proposed planting materials;
- d) The locations, size, and common name of existing trees and individual shrubs, areas of dense trees or shrubs, and other natural features, indicating which are to be preserved and which are to be removed;
- e) The approximate location and generic identification of existing structures and plant materials within the yard of adjoining properties;
- f) Existing and proposed grading of the site, including proposed berming, indicating contours at not more than two-foot intervals;
- g) Specifications of the type and boundaries of all proposed vegetative ground cover;
- h) Design of fences and all other accessory structures;
- i) The location of barriers to be placed at or beyond the drip line of any trees to be preserved, and the type of material to be used for the barrier;
- j) Planting and installation details as necessary to ensure conformance with all required standards;
- k) Details indicating specific grading measures or other protective devices where trees are to be preserved in areas of cut and fill; and
- l) A tabulation clearly displaying the relevant statistical information necessary for the Plan Commission to evaluate compliance with the provisions of this Ordinance.

G.3 No construction activity of any kind shall take place within the area defined by the drip-line of any vegetation that is to be retained and counted as fulfilling these requirements. In the event that said retained vegetation ceases to be living, it shall be replaced with plantings that conform to the American Standard for Nursery Stock, (ANSI Z60.1-2004), published May 12, 2004 by the American Nursery and Landscape Association, 1000 Vermont Avenue, NW, Suite 300, Washington, DC 20005 incorporated herein by reference, as amended and supplemented. Plantings shall also conform to hardiness zone 5 standards of the United States Department of Agriculture (USDA), Miscellaneous Publication No. 1475, issued January 1990, incorporated herein by reference, as amended and supplemented. The map is available through the USDA and other cooperative extensions. A web-based interactive Plant Hardiness Zone Map (2001 US National Arboretum "Web Version" of the USDA Plant Hardiness Zone Map) can be found in the United States National Arboretum website at <http://www.usna.usda.gov/Hardzone/ushzmap.html>.

G.4 All new trees required to be planted by this Chapter shall be measured as follows:

- a) All shade trees proposed to be used in accordance with any Landscaping Plan shall at the time of planting be a minimum of eight to ten feet in overall height and have a minimum trunk diameter, twelve (12) inches above the ground, of two and one-half inches (2½"). They should be of a variety which will attain an average mature spread greater than twenty (20) feet.
- b) All evergreen trees shall be a minimum of five (5) feet in height at the time of planting, measured from the top of the rootball.
- c) All shrubs shall be a minimum of eighteen inches (18") in height at the time of planting, measured from the top of the rootball.
- d) Landscaping materials selected should be appropriate to local growing and climatic conditions. Wherever appropriate, existing trees should be conserved and integrated into the Landscaping Plan.

G.5 Earth mounds and berms shall be physical barriers that block or screen the view similar to a hedge, fence or wall. Mounds shall be constructed with proper and adequate plant material to prevent erosion. A difference in elevation between areas requiring screening does not constitute an existing earth mound and shall not be considered as fulfilling any screening requirement. Where mounds are to be moved, the maximum permitted slope is 3:1 (run:rise)

G.6 Grass shall be planted in species normally grown as permanent lawns in northern Indiana. In swales or other areas subject to erosion, solid sod, an erosion reducing net or suitable mulch shall be used.

Section H Design Standards

All purposed landscape materials should complement the form of existing trees and plantings. Light, water, soil conditions, and on-going maintenance requirements should be considered in selecting plant materials.

Generally, design standards shall assure that the layout of the development harmonizes with existing plans affecting the development and its surrounding area and shall be in conformity with the Comprehensive Plan for the development of the entire area.

H.1 Vehicle Overhang

Parked vehicles may hang over the landscaped area up to two and one-half feet (2.5'). In no instance shall this overhang be counted as part of the required parking space area.

H.2 Groundcover

All areas not landscaped with hedges, walls, or trees shall be provided with grass or other acceptable vegetative ground cover. In no case shall any required landscaping area be covered with rock, mulch, or other non-living material. However, this provision shall not be interpreted to prohibit the placement of mulch around plantings.

H.3 Street Trees

Shade trees shall be planted along all streets within the rights-of-way, parallel to the street. Species, size, and installation shall be per the standards of the Town. Allowable species are listed in Appendix I Tree Planting Species.

H.4 Bicycle and Pedestrian Access

The Development Plan shall include specific provisions for incorporating pedestrian and bicycle access, circulation and amenities into the development. Such bicycle and pedestrian access considerations shall include linking pedestrian and bicycle facilities to adjacent development, the overall U.S. 41 Corridor, and, the Town's overall system of bicycle and pedestrian trails and routes.

H.5 Protection of Existing Tree

Sites with existing trees or stands of trees should make reasonable efforts to protect and incorporate them into the overall site design. The Landscape Plan must preserve not less than seventy percent (70%) of all trees that are:

- a) nine inches (9") diameter at breast height or larger; and
- b) located within the Greenbelt, Planting Strips, and perimeter buffering.

H.6 Public Art

Public art that is included as part of a Development Plan shall be displayed in a location that is visually accessible to the public and visible from public right of way.

Section I Buffer Yard Landscape Requirements

The requirements of this Chapter shall be applicable to buffer yards required elsewhere in Town Ordinances, as well as parking lots. Bufferyards that are intended to physically separate and visually screen adjacent land uses that are not fully compatible must be a solid, opaque screen of at least six feet (6') in height. Plants used exclusively for screening must reach a minimum height of 48 inches within three (3) years of installation, and be at least 24 inches tall when planted.

I.1 Residential Buffer

A fifteen-foot (15') landscaped and maintained front yard area, composed of trees not less than two and one-half inches (2½") diameter and spaced fifty feet (50') on center, shall be provided next to existing residences or platted residential subdivisions unless otherwise determined by the Town Manager or unless otherwise approved by the Board of Zoning Appeals.

I.2 Side and Rear Landscaped Yards

A landscaped and maintained yard area shall be provided, including a solid visual buffer or screen of at least five (5) feet in height. The width shall be as follows:

- a) Next to Existing Residences or a platted Residential zoned Development: Forty (40) feet.
- b) Next to Undeveloped Residential zoning districts: Thirty (30) feet.
- c) Next to Commercial zoning districts or Developments: Fifteen (15) feet.
- d) Next to Industrial zoning districts or Developments: Five (5) feet.

Section J Vision Clearance Triangle

No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the street, shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines, or in the case of a rounded property corner, from the intersection of the street lines extended. The same sightline limitations shall apply to any lot within 10 feet from the intersection of a street-line with the edge of a driveway, pavement, or alley line.

Section K Property Interior Requirements

Landscaping shall be required on each lot based on the use of that lot as provided in Chapter 13, Section K.4.

K.1 Mixed use properties: Where a lot is occupied by a combination of the land uses listed in the Site Interior Plantings Requirements Table, only the planting consistent with the requirements for the land use that would result in the most landscaping is required.

K.2 Tree locations: All required trees may be located in clusters or dispersed throughout the yard.

K.3 Yard calculations: For the purpose of this Chapter, the yard shall mean all areas of the property not covered with structures, parking areas or other hard surfaces. Other areas required to be landscaped by this Chapter and required Bufferyards shall not be included in the calculation of yard area.

K.4 Site Interior Planting Requirements Table is as follows:

SITE INTERIOR PLANTING REQUIREMENTS TABLE

<i>For this land use type:</i>	<i>1 deciduous, evergreen or ornamental tree shall be required for every...</i>
Multi-family residential	750 square feet of yard area
Commercial	750 square feet of yard area
Institutional	1,000 square feet of yard area
Industrial	2,500 square feet of yard area

Section L Town Center District

Landscaping shall be designed in accordance with the adopted landscaping style and species palette established for the Town Center by the Plan Commission.

L.1 Landscaping

- a) The front yard setback will be landscaped with shade trees, low shrubs, planting beds and grass or ground cover, as approved by the Town.
- b) Alternatively, up to fifty percent (50%) of the front yard setback may be paved with decorative pavers to allow seating areas or outdoor tables, which areas shall be surrounded by low shrubs or planting beds.
- c) On-site parking lots or structured parking adjacent to a public street must be separated from the street right-of-way with a minimum six (6) feet landscaped strip containing shade trees and shrubs or low fences/walls up to four (4) feet high.

Section M Light Industrial Districts

A landscaped and maintained yard area shall be provided adjacent to the front of the building which is equal to an area that runs the entire length of the front of the building and the depth shall be a distance of not less than twenty-five percent (25%) of the height of the building.

Section N Business Park District

N.1 Landscaping.

- a) The front yard setback will be landscaped with shade trees, low shrubs, planting beds and/or grass or ground cover as approved by the Town.
- b) Fences are not allowed in the front setback area.

Section O U.S. Highway 41 Overlay District Landscaping Standards

O.1 Greenbelt

- a) The Greenbelt along U.S. Highway 41 shall be a minimum of thirty (30) feet in width and landscaped per the requirements of this Section O.
- b) The Greenbelt shall be unoccupied except for plant material, steps, walks, terraces, bike paths, lighting standards, signs, and other similar structures excluding private parking areas. Mounding and other innovative landscaping treatments are to be encouraged in this area.
- c) A base-planting unit for each one hundred (100) linear foot increment of the Greenbelt shall be required as follows:
 - i) Five (5) shade trees;
 - ii) Three (3) ornamental trees; and
 - iii) Fifteen (15) shrubs or three (3) evergreen trees;

O.2 Planting Strip

- a) A planting strip with a minimum width of ten (10) feet shall be provided adjacent to any Collector or Arterial Street or Parkway right-of-way within the U.S. 41 Highway Overlay District.
- b) Adjacent to an Entry Drive: Minimum width ten (10) feet.
- c) Adjacent to any parking area: Minimum width as follows:
 - i) five feet (5') wide when adjacent to non-residential zoned property.
 - ii) fifteen feet (15') wide when adjacent to residential use or zoned property.
- d) The planting strip shall be unoccupied except for plant material, steps, terraces, driveway, and pathway crossings, lighting standards, signs, benches, and other similar structures.
- e) The base planting unit for planting strips shall be as follows:
 - i) Adjacent to Parallel Collector, Arterial Roadways, and Adjacent to entry drives:: For each one hundred (100) linear foot increment:
 - (1) Three (3) shade trees;
 - (2) Two (2) ornamental trees, and
 - (3) Ten (10) shrubs.
 - ii) Adjacent to parking areas: same as required by Section I of this Chapter.

O.3 Planting Adjacent to Buildings along U.S. 41 Highway

- a) A planting area equal to an area measuring twenty-five (25) feet in depth by the width of the front of the building plus twenty (20) feet (to extend ten (10) feet out on both sides) shall be installed along building façades that face U.S. 41 Highway.
- b) A planting area equal to an area ten (10) feet in depth by the remaining sides of the building shall be installed on all other sides of the building(s).
- c) Sidewalks up to eight (8) feet in width may be permitted in these areas, but shall not occupy the entire planting area on any side of a building.
- d) If an approach driveway or sidewalk cuts into a planting area, the area displaced by the driveway or sidewalk shall be added to the building perimeter planting.
- e) These adjacent planting areas need not be rectangular in shape as long as the required amount of space is landscaped. Innovative and original designs are encouraged.

O.4 Planting Within Parking Lots

A minimum of one (1) shade tree and five (5) shrubs shall be planted within each parking lot for every nine (9) spaces provided, or not less than eighteen (18) trees per acre of parking. See Section J4 for minimum planting area requirements.

O.5 Side Yard and Rear Yard Landscaping

Planting shall be provided on a minimum of 15% of side yard and rear yard.

O.6 Greenbelt Buffers shall be established within required side and rear yards pursuant to Section I of this Chapter.

O.7 Total Landscaping Required

Inclusive of the Greenbelt, the planting adjacent to the buildings, the Greenbelt Buffers, planting strip, and the planting within parking lots, a minimum of fifteen percent (15%) of the project area shall be landscaped.

Section P Parking Lot Requirements

P.1 Parking Lot Perimeter

All parking lots, including parking spaces, interior drives, and loading/unloading areas, shall be separated from all Thoroughfare Plan recommended street rights-of-way by a landscaping area that is a minimum of ten feet (10') in width. The landscape area shall be planted either of the following options or a combination of both:

- a) Trees and shrubs: A minimum of one (1) tree shall be provided for every 250 square feet of landscaped area. The trees may be a combination of deciduous, evergreen, and ornamental trees. In addition, a minimum of one (1) shrub shall be provided for every 100 square feet of landscaped area.
- b) Landscape berm: A landscaped berm that is a minimum of three (3) feet in height shall be provided along the length of the landscaped area. A minimum of one (1) shrub shall be provided for every five (5) linear feet of berm.

P.2 Parking lot interior requirements

To help reduce excessive heat buildup and emissions from large areas of hard surfacing, landscape areas must be provided within parking lots as follows:

- a) Landscaped areas required: Landscape islands with a surface area equal to five percent (5%) of the area of the paved surface, including all parking spaces, interior drives, loading docks, drop-of/pick-up lanes, and access drives beyond the right-of-way shall be provided in all parking lots.
- b) Landscaped area standards: The required landscape areas shall meet the following minimum requirements:
 - i) All required landscaped areas shall consist of curbed islands or peninsulas that are surrounded on at least two (2) sides by pavement;
 - ii) Landscaping on the perimeter of the parking lots shall not be counted toward complying this requirement;
 - iii) Landscape islands must be located on a lot line that is immediately adjacent to another commercial lot while at the

- same time leaving space for vehicular and pedestrian access between adjacent commercial lots;
- iv) A minimum of one (1) deciduous tree shall be provided for 200 square feet of landscaped area required; and
 - v) A landscaped island shall be provided at the end of every twenty (20) parking spaces or 100 linear feet, whichever is less.

Section Q Maintenance Requirements

Trees, vegetation, irrigation systems, fences, walls, and other landscape elements are considered elements of a project in the same manner as parking and other site details. The owner of the property shall be responsible for the continuous proper maintenance of all landscaping materials, and shall keep them free from refuse and in good repair at all times. The owner of the property shall either remove all debris prior to mowing of the landscaped areas or shall bag as the mowing activity occurs so as to not discharge debris onto the neighboring properties.

Q.1 Installation

All required landscaping shall be installed prior to the issuance of a Certificate of Occupancy by the Town. If it is not possible to install the required landscaping because of weather conditions, the property owner shall post a bond for an amount equal to the total cost of the required landscaping prior to the issuance of the temporary Certificate of Occupancy. The temporary Certificate of Occupancy shall expire within six months and shall not be renewed unless the property owner demonstrates to the Town Manager that failure to comply was due to unique circumstances.

Q.2 Maintenance

It shall be the responsibility of the owners to insure proper maintenance of the landscaping in accordance with the standards set by this Chapter, including, but is not limited to, providing appropriate irrigation systems, replacing dead plantings with identical varieties or a suitable substitute approved by the Town, and keeping the area free of refuse and debris.

Q.3 Replacement of landscaping materials

All unhealthy or dead plant material shall be replaced by the next planting season. Other required landscape material that becomes defective shall be replaced or repaired within three (3) months of the occurrence of the defect.

Q.4 Trimming plant material

Landscape materials are intended to grow, spread, and mature over time. Landscape materials used to fulfill requirements of this Ordinance may not be pruned or otherwise treated so as to reduce overall height or level of opacity below the minimum requirements. Pruning, limbing-up, topping, and other inhibiting measures including removal may only be practiced to insure the public

safety, to maintain a neat and attractive appearance, and to preserve the relative health of the material involved.

Q.5 Changes after Approval

No landscaping which has been approved by the Plan Commission may later be altered, eliminated, or sacrificed without first obtaining further Plan Commission approval.

Q.6 Inspection

The Town by its duly authorized representatives shall have the authority to visit any lot to verify compliance with the landscaping requirements.

Section R Grading

All grading or change of grade in any subdivision or building area of the Town shall be in conformance with the grade level established by the Town for the approved building, storm water discharge, and the health, welfare, and safety of the residents of the Town. No grading will be permitted so as to interfere with storm water drainage as established by the Town Ordinances or to divert discharges of water or other substances. Any grading on building property other than the levels established by the Town Ordinances shall require a land use permit.

Chapter 14 – Outdoor Lighting Plan Requirements

SECTION A APPLICABILITY

All zoning lots in all existing zoning districts and in all zoning districts that may be created after the effective date of this Chapter shall comply with the provisions of this Chapter unless specifically exempted herein.

SECTION B CONFORMANCE

B.1 Compliance for All Non-Conforming Uses Any existing luminaire installation used for outdoor lighting in any zoning district that does not presently comply with the requirements of this Chapter will be considered a legal non-conforming use. Except as set forth in section B.2, such non-conforming uses must comply with the current requirements or must be removed if any of the following occur:

- a) The height or location of the luminaire is changed;
- b) The luminaire is changed or replaced (excluding routine maintenance and bulb replacement of equal light output) except if it is part of a parking lot lighting installation consisting of an array of three (3) or more identical luminaires and poles or supporting structures;
- c) The supporting structure for the luminaire is changed or replaced except if it is part of a parking-lot lighting installation consisting of an array of three (3) or more identical luminaires and poles or supporting structures; or
- d) The luminaire is producing glare that is deemed to create a hazard or nuisance by the Town.

B.2 Criteria Requiring Full Compliance or Complete Removal In the event that a cumulative total of fifty percent (50%) or more of the non-conforming luminaires or their supporting structures are changed, replaced (excluding routine maintenance and bulb replacement of equal light output), or relocated, then all of the luminaire installations must be removed or comply with the current requirements of this Chapter.

SECTION C ILLUMINATION STANDARDS

C.1 Gross Emission of Light

The total light output from all luminaires used for outdoor lighting on any zoning lot in a commercial lighting zone shall not exceed 100,000 lumens per net acre. Lighting installations located under canopies shall only contribute fifty percent (50%) toward this limit. This section shall not apply to street lighting, outdoor display lots, lighting installations for non-internally illuminated signage not exceeding 800 lumens, and outdoor lighting of playing fields on public property.

C.2 Light Intensity and Uniformity

a) Commercial and Industrial Lighting Zones

During permitted hours of operation as defined within this Chapter, outdoor lighting on any zoning lot in a commercial or industrial lighting zone shall comply with the following requirements for light level as measured in the plane of the illuminated surface:

Illuminated Surface	Minimum Light Level	Maximum Light Level
Non-Internally – Illuminated Signs, Building, and Ground – (light color)	---	5.0 footcandles
Non-Internally – Illuminated Signs, Building, and Ground – (medium color)	---	10.0 footcandles
Non-Internally – Illuminated Signs, Building, and Ground – (dark color)	---	15.0 footcandles
Auto Dealerships: Front Row and Feature Displays Other Merchandise Areas	--- ---	20.0 footcandles 10.0 footcandles
Public Parking Areas*	---	5.0 footcandles
Vehicular Entrances from Right-of-Way*	0.2 footcandles	4.5 footcandles
Baseball/softball playing fields-infield Baseball/softball playing fields-outfield All other fields or tennis courts	--- --- ---	60.0 footcandles 30.0 footcandles 30.0 footcandles
Automobile Service Station – Pumping Area	10 footcandles	30 footcandles
Drive-In / Drive-Through Canopies	---	15 footcandles
Building Entrance and Exit*	1.0 footcandles	5.0 footcandles
Stairways and Steps*	1.0 footcandles	5.0 footcandles

*Maximum to Minimum light level ratio shall not exceed 15:1.

b) Outdoor Dynamic Display (Digital Signage)

The luminance for any outdoor dynamic display (Digital Signage) shall not exceed 5000 Nits during daylight hours or 150 Nits at all other times. Brightness must be measured from the brightest element of the sign's face. The applicant shall provide written certification from the sign manufacturer that the light intensity has been factory pre-set so that it will not exceed the luminance levels for day and night.

C.3 Light Direction and Control

a) Residential, Commercial, and Industrial Lighting Zones

Any luminaire which is used for uplighting on any zoning lot in a residential, commercial, or industrial lighting zone shall have the necessary shielding and/or beam-angle control and/or shall be aimed to substantially confine the directed light to the object intending to be illuminated. Uplighting shall only be permitted for landscape lighting, architectural lighting, flag lighting, and lighting of ground-mounted signs that are not internally illuminated. Uplighting applications shall meet the following requirements:

Uplighting Application	Maximum Inclination	Maximum Light Output
Landscape Lighting	60°	1100 lumens [†] (up to 45°) 800 lumens [‡] (up to 60°)
Architectural Lighting	45°	1100 lumens [†]
Flag Lighting*	60°	1100 lumens [†] (up to 45°) 800 lumens [‡] (up to 60°)
Sign Lighting **	45°	1100 lumens [†]

*The tradition of lowering flags at sunset is encouraged to avoid the need for lighting.

**Ground-mounted, non-internally-illuminated signs only.

[†]Typical 75W incandescent bulb or 50W low-voltage halogen landscape bulb.

[‡]Typical 60W incandescent bulb or 35W low-voltage halogen landscape bulb.

b) Residential Lighting Zones

Any luminaire with a light output exceeding 1100 lumens or 75 watts, which is used for outdoor lighting on any zoning lot in a residential lighting zone shall have the necessary shielding and/or beam-angle control and/or shall be aimed so that the direction of all directly emitted light is at or below horizontal. If a motion-activated sensor that illuminates for no more than 5 minutes upon activation is used, then such luminaire may have a light output of up to 2200 lumens or 150 watts. Any luminaire with a light output exceeding 2200 lumens or 150 watts, which is used for outdoor lighting on any zoning lot in a residential lighting zone shall have the necessary shielding and/or beam-angle control and/or shall be aimed so that the light source is not visible along any property line, as viewed at a height of sixty inches (60") above grade.

c) Commercial or Industrial Lighting Zones

Except as otherwise stated herein, any luminaire on any zoning lot in a commercial or industrial lighting zone which emits light directed at a building or outdoor feature shall be located at or above the top of the object and aimed and controlled so that the direction of all emitted light is at or below horizontal and the directed light is angled downward substantially confined to the object intending to be illuminated (example: flag, statue, and related)

C.4 Light Trespass Except for street lighting, light emitted from outdoor lighting on any zoning lot shall not cause the light level along any property line, as measured at a height of sixty inches (60") above grade in a plane at any angle of inclination, to exceed the following limits:

Emitting Zoning Lot	Impacted Zoning Lot	Maximum Light Level
Residential Lighting Zone	Residential Lighting Zone	0.0 footcandles
Residential Lighting Zone	Commercial/Industrial Lighting Zone	0.5 footcandles
Commercial/Industrial Lighting Zone	Residential Lighting Zone	0.0 footcandles
Commercial/Industrial Lighting Zone	Commercial/Industrial Lighting Zone	0.5 footcandles
Public Lighting Zone	Commercial Lighting Zone	0.5 footcandles
Public Lighting Zone	Residential Lighting Zone	0.0 footcandles

Any property used for governmental purposes shall be exempt from the requirements of this Section.

C.5 Permitted Hours for Outdoor Lighting

a) Commercial and Industrial Lighting Zone

Except for street lighting, outdoor lighting (including, but not limited to, parking lot, area, architectural, landscape, and related) on any zoning lot in a commercial or industrial lighting zone is permitted to be lighted between one-half hour before sunset and 10:00 p.m. (CST) or one (1) hour after the close of business based on normal hours of operation of the business, whichever is later. Thereafter, for safety and security purposes, security lighting is permissible at a total light output not greater than twenty-five percent (25%) of the total light output from all outdoor lighting located on the zoning lot during permitted outdoor lighting hours. During security lighting hours, no luminaire may exceed its light output exhibited during permitted outdoor lighting hours.

b) Property Used for Governmental and Public Purposes

Any zoning lot in any zoning district used for governmental or public purposes, except for street lighting, shall comply with the permitted hours and security lighting limitations for commercial lighting zones. In addition, outdoor lighting of the playing field of an organized sporting event on public property that is in progress at the close of permitted outdoor lighting hours shall be allowed to remain illuminated until thirty (30) minutes after the conclusion of the event but no later than 11:00 p.m. (CST) No outdoor lighting of the playing field for any sport or recreational purpose shall be initiated after 9:00 p.m. (CST)

SECTION D LUMINAIRE STANDARDS

D.1 Full-Cutoff Requirement

a) Commercial and Industrial Lighting Zones

Except for uplighting applications permitted within this Chapter, any luminaire used for outdoor lighting in a commercial or industrial lighting zone shall be a full-cutoff luminaire and shall be installed in the proper orientation to achieve full-cutoff performance with respect to a horizontal plane.

b) Street Lighting

Any luminaire used for street lighting shall be a full-cutoff 100 watt high pressure sodium (HPS) luminaire and shall be installed in the proper orientation to achieve full-cutoff performance with respect to a horizontal plane at intersections only. The luminaire, as well as any poles, brackets, supports, and mounting hardware shall comply with current Town standards set forth in the *Town Design Standard Manual*.

D.2 Installed Height The installed height of any luminaire used for outdoor lighting on any zoning lot, except for street lighting, shall not exceed Twenty Five Feet (25'), including the luminaire.

SECTION E PROHIBITED OUTDOOR LIGHTING

The following outdoor lighting applications are prohibited in all zoning districts:

1. The use of a laser light source;
2. The use of flickering, flashing, blinking, scrolling, or rotating lights and any illumination that changes intensity;
3. The use of upward directed lighting, except as otherwise permitted herein;
4. Architectural lighting of any portion of a building or structure with a polished or glass exterior surface that uses uplighting;
5. The use of searchlights;
6. The use of neon light to accent buildings or architectural features;
7. The use of Mercury vapor light source except for existing light sources used in Open Space zoning districts; and
8. Any luminaire creating glare that is deemed by the Town to create a hazard or nuisance.

SECTION F EXEMPT OUTDOOR LIGHTING

The following outdoor lighting applications are exempt from all requirements of this Chapter:

1. Underwater lighting used for illumination of swimming pools and fountains;
2. Lighting required by county, state, or federal law;
3. Temporary lighting used for holiday decorations;
4. Decorative yard lighting characterized like a flame source;
5. Portable lighting temporarily used for maintenance or repair that is not deemed by the Town or State to create a hazard or nuisance;

6. Emergency lighting used by police, firefighting, emergency management, or medical personnel at their discretion as long as the emergency exists;
7. Lighting approved by the Town for temporary events such as carnivals, circuses, festivals, picnics, fairs, civic events, and exhibitions; and
8. Temporary lighting required for road construction or other public improvements.

SECTION G PROCEDURAL REQUIREMENTS

G.1 Plan Submission For subdivision and land-development applications where outdoor lighting is required or proposed, lighting plans shall be submitted to the Plan Commission for review and approval at a public meeting and shall include:

1. A site plan complete with all structures, parking spaces, building entrances, traffic areas (both vehicular and pedestrian), vegetation that might interfere with lighting, and all adjacent uses. The site plan shall show, by location, and identify each existing and proposed luminaire and shall specify its installed height, pole foundation details, and mounting methods;
2. Iso-footcandle plots for individual lighting installations, or 10' x 10' illuminance-grid plots for multi-fixture lighting installations, which demonstrate compliance with all applicable requirements as set forth in this Chapter. The plots shall indicate the location of each existing and proposed luminaire, the installed height of said luminaires, and the overall light levels in foot candles on the entire zoning lot and at the property lines;
3. A summary table identifying the maximum and minimum light levels for all parking areas, entryways, signs, and walkways; and
4. A description of each luminaire identified in the site plan including the manufacturer, model number, a photograph or catalog cut, photometric data verifying any compliance requirements specified within this Chapter, light output in initial lumens, shielding or glare reductions devices, lamp type, and on/off control devices.

G.2 Post – Approval Alterations Post-approval alterations to lighting plans or intended substitutions for approved lighting equipment shall be submitted to the Plan Commission for review with all plan submission requirements set forth within this Chapter, prior to installation. Any Plan Commission approval under this Section shall be by a “waiver” as provided in Section H.

G.3 Right of Inspection The Town shall have the right to conduct a post-installation inspection to verify compliance with the requirements of this Chapter and, if appropriate, to require remedial action at the expense of the applicant and/or owner for non-conformance with the approved plan.

SECTION H WAIVERS

H.1 Application Request for a waiver from the requirements of this Chapter may be initiated by written application, which specifically denotes what provisions of this Chapter relief is being sought.

H.2 Application Review and Approval The application for waiver will be considered and approved by the Plan Commission. The Plan Commission may grant waivers of the requirements of this Chapter in cases where it is demonstrated that practical difficulties exist on the property whereby the full requirements of this Chapter are impractical to implement fully. The Plan Commission may impose conditions when approving a waiver request.

SECTION I ENFORCEMENT

The St. John Town Manager, Inspectors and such persons who are duly appointment as Code Enforcement Officials are hereby authorized to inspect luminaires and lighting installations in the zoning districts subject to this Chapter to determine compliance with the applicable provisions and, if necessary, to issue notices of violation to the owner, operator or other person(s) or entity responsible for maintenance of the luminaire or lighting installation, if the luminaire or lighting installation fails to comply with the provision of this Chapter.

SECTION J DEFINITIONS

For the purposes of this Chapter, the following terms shall have the following respective meanings:

ARCHITECTURAL LIGHTING: Outdoor lighting directed at buildings, facades, structures, monuments, and other architectural features.

COMMERCIAL LIGHTING ZONE: Any zoning lot in any zoning district that does not have as its primary use a single-family residential dwelling, a two-family residential dwelling, land used for agriculture, or land used for industrial purposes.

CST: Central Standard Time, including the local change in time for daylight savings time.

FOOTCANDLE: A unit of measurement of luminous flux.

FULL-CUTOFF: light distribution from a luminaire (excluding not more than 0.5% incidental uplight from poles, mounting brackets, and other supporting structures), as determined by photometric test and certified by the manufacturer, such that no light is emitted at or above an angle of 90° above nadir in any direction and the luminous flux emitted in the band between 80° and 90° above nadir in all directions is no more than 10% of the total luminous flux for the luminaire.

GLARE: A visual disturbance produced by a distinct light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted.

HID LIGHTING: A high-intensity discharge family of lighting that includes high-pressure sodium, fluorescent, mercury vapor, and metal halide type bulbs,

ILLUMINANCE: The amount of luminous flux falling onto a unit of surface area, correlating to the perception of brightness by the human eye. Illuminance is typically measured in lumens per square foot (footcandles) or lumens per square meter (lux).

INDUSTRIAL LIGHTING ZONE: A lighting area on any zoning lot in an Industrial zoning district that is used typically relating to, concerning or arising from the manufacturing, assembling, fabrication, finishing, packaging, or processing of goods.

INSTALLED HEIGHT: The height above grade of the lowest point on an installed luminaire.

INTERNALLY ILLUMINATED SIGN: A sign illuminated by a light source internal to the sign enclosure which is not directly visible externally, including neon-light signs.

LAMP: The source of light being emitted from a luminaire, such as a bulb.

LANDSCAPE LIGHTING: Outdoor lighting directed at trees, shrubs, plants, flower beds, fountains, gardens, and other natural or landscaped features.

LIGHT: Electromagnetic radiation within a range of wavelengths sufficient for visual perception by the normal unaided human eye.

LIGHT LEVEL: The illuminance as measured in accordance with the practices contained in the Illumination Engineering Society of North America Lighting Handbook, Eight Edition.

LIGHT OUTPUT: The initial lumen rating declared by the manufacturer, which consists of the lumen rating of a lamp at the end of 100 hours of operation.

LIGHTING INSTALLATION: An arrangement of one or more luminaires including any mounting hardware, brackets, and supporting structures.

LUMEN: A unit of measure of luminous flux. "Lumens" denotes initial lumens for HID lighting applications.

LUMINAIRE: An individual lighting assembly including the lamp and any housings, reflectors, globes, lenses, shields or other components designed to block or distribute light, but does not include internally illuminated signs.

LUMINANCE: A measure of the brightness of a surface which is emitting light. The unit of measurement most commonly used is candelas per square meter, often referred to as nits in the USA (1 nit = 1 cd/m²). The nocturnal appearance and environmental effect of objects such as internally lit signs may be analyzed both by total light output (lumens) and by their surface brightness (nits).

LUMINOUS FLUX: The power emitted from a source of electromagnetic radiation, such as a light bulb, in the form of visible light. Luminous flux is measured in lumens (or lux) and is typically specified by the manufacturer for a given lamp or luminaire. Typical luminous flux values for incandescent bulbs are 100W: 1550 lumens, 75W: 1080 lumens, 60W: 780 lumens, and 40W: 450 lumens.

MOTION-ACTIVATED SENSOR: A sensor which causes a luminaire to become illuminated automatically upon the presence of motion or infrared radiation or a combination thereof within its field of view.

NADIR: The direction pointing directly downward from the light source of the luminaire that originates from a horizontal plane at the lowest point on the luminaire.

NEON LIGHT: Brightly colored light generated by using electric current to excite a gas or gas mixture (including neon, argon, helium, and other gases) typically contained in a tube which can be bent into various forms or use as decoration or signs. Fluorescent tubes are not considered a neon light.

NIT(s): A unit of measure of luminance.

ORGANIZED SPORTING EVENT: A prearranged sports or recreational event involving at least one (1) group or team with a published roster and schedule.

OUTDOOR DISPLAY LOT: An outdoor area whose primary function is the sale of displayed merchandise, often requiring accurate color perception by customers.

OUTDOOR LIGHTING: Light generated from an indoor or outdoor source that provides illumination to a surface, building, sign, structure, device, or other outdoor feature which is visible to an observer located outdoors. Outdoor Lighting does not include the light source inside an internally illuminated sign.

PLAYING FIELD: An open outdoor field or court used for playing sports such as baseball, soccer, football, tennis, skate park, volleyball, and basketball.

PUBLIC PARKING AREAS: A drivable surface intended for use by the general public for parking motorized vehicles.

RESIDENTIAL LIGHTING ZONE: Any zoning lot in a residential or agricultural zoning district that has as its primary use a single-family residential dwelling or a two-family residential dwelling.

SEARCHLIGHT: A lighting installation designed to project a high-intensity beam of approximately parallel rays of light that is typically used to sweep the sky for promotional purposes.

SHIELDING: A luminaire which uses shielding, lenses, or other means to provide distinct directional focused beam of emitted light.

STREET LIGHTING: One or more luminaires or light installations designed to illuminate a public roadway or intersection.

UPLIGHTING: Lighting applications which direct light above a horizontal plane.

Chapter 15 - Signs

Section A Purpose

There is a significant relationship between the standards used in displaying signs and public safety, and the value and economic stability of adjoining property. The reasonable display of signs is necessary as a public service and necessary to the conduct of competitive commerce and industry. The regulations of this Chapter establish minimum standards for the display of signs in direct relationship to the functional use of property and to the intensity of development permitted within the zoning districts which are provided in this Zoning Ordinance, in order to provide, preserve and enhance a visually favorable environment for residents and businesses.

Section B General Guidelines

B.1 Design

Every sign shall be designed as an integral architectural element of the building and site to which it principally relates.

B.2 Colors, Materials and Lighting

The colors, materials and lighting of every sign shall be restrained and harmonious with the building and site to which it principally relates. Any illumination shall be by way of internal lighting and shall not cause any distraction or hazard in any Zoning District.

B.3 Landscape and Design

Every sign must have landscaping and design features to present an attractive appearance that is in harmony with existing signs and design features of the site.

B.4 Review and Approval

All new residential subdivisions, commercial, and industrial entry signs require the approval of the Plan Commission at the time of Primary Plat approval.

Section C General Requirements

C.1 Permits Required

No person shall erect, alter, or relocate within the Town any permanent or temporary sign without first obtaining a sign permit from the Building Commissioner and making payment of the required fee. Permanent signs and sign face changes shall require approval of the Building Commissioner prior to a permit being issued. Any lawfully erected sign that conforms to the requirements of this Chapter may not be removed and then replaced with an exact copy of the sign without first obtaining a building permit.

- a) No permit is required for nonstructural repairs for lawfully erected signs that do not conform to the requirements of this Chapter.
- b) A sign permit and Building Commissioner approval is required for structural repairs for lawfully erected signs that do not conform to the requirements of this Chapter and the sign must be brought into compliance with this Chapter.

- c) All sign permits issued by the Building Commissioner shall expire within one (1) year of the date of issuance and if the sign has not been completed by such time, a new sign permit is required.
- d) Sign permit fees are set forth in Town Schedule of Fees.

C.2 License Required

No person shall erect, alter, or relocate within the Town, any permanent or temporary sign without first obtaining a contractor's license from the Building & Planning Department and making payment of the required fee.

C.3 Signs with Multiple Surfaces

In the case of a sign with multiple surfaces, the gross surface area shall be the square foot area of the largest single side of the sign.

C.4 Unsafe or Obsolete Signs

- a) Unsafe Signs. If any sign is found to be unsafe or unsecured or is a menace to the public, the Building Commissioner shall give written notice to the owner of the sign. If the owner fails to remove or alter the sign so as to comply with the notice and with the standards set forth herein within ten days after such notice, such sign shall be removed or altered to comply by the Building Commissioner at the expense of the owner of the property upon which the sign is located. The Building Commissioner may cause any sign that is an immediate danger to persons or property to be removed summarily and without notice.
- b) Obsolete signs. Any obsolete sign that does not advertise an existing business or a product, including the poles, posts, pylons, pipes, or frames to which it is affixed, shall be taken down and removed by the owner within thirty (30) days after written notice from the Building Commissioner. If such sign is covered, it may remain covered for a period of time not to exceed six (6) months. Upon failure to comply with such notice within the time specified, the Building Commissioner shall cause removal or coverage of such sign, including the poles, posts, pylons, pipes, or frames to which it is affixed, and any expense incidental thereto shall be paid by the owner of the property to which such sign is attached.
- c) Lien. In the event the Building Commissioner shall cause removal or coverage of any sign, including the poles, posts, pylons, pipes, or frames to which it is affixed, under subsection (a) or (b) of this Section, a notice of lien of the cost and expense thereof incurred by this Town may be filed with the Lake County Recorder's Office. Upon payment of the cost and expense after notice of lien has been filed, the lien shall be released by this Town, and the release shall be filed of record in the same manner as filing the notice of lien.

C.5 Exemptions

The following signs are exempt from all requirements, except the safety regulations, of this Chapter:

- a) Memorial signs and tablets displayed on private property, or the building names and/or dates of erection into any masonry surface, not exceeding two (2) square feet in area;

- b) Address numerals and signs not exceeding two (2) square feet in area, which may bear the names of occupants of the premises; Government flags and insignia;
- c) Legal notices;
- d) A traffic control or information sign used by the Municipal Police Department;
- e) All municipal signs or signs erected or installed by the Town;
- f) ATM and vending machines;
- g) Lettering, logos, and signage on vehicles and trailers, provided that the primary purpose is not advertising; and
- h) Any temporary window sign shall be exempt only from the permit and fee requirements, but all other applicable provisions shall remain in full force and effect.

C.6 Sign Appearance

The owner or operator of any sign or other advertising structure shall maintain all exposed parts and supports frequently enough to maintain an attractive appearance. All signs and other advertising structures and their supports shall be secured to remain upright, plumb, and level.

C.7 Mansard Signs

Signs may be erected on the plane of a mansard-style roof or mansard wall facing, provided the angle of such mansard roof or wall facing is constructed at an angle of not less than seventy degrees from the horizontal plane.

C.8 Wall signs

Signs on awnings, fascias, marquees, and canopies shall be considered wall signs under the terms of this Chapter and are subject to the regulations for wall signs.

C.9 Prohibited signs

The following signs are prohibited:

- a) Signs blocking any required access way;
- b) Signs installed in the public right-of-way, including, but not limited to, attached to a tree or utility pole;
- c) Illumination used to make a sign visible that results in a traffic hazard;
- d) Flashing signs or flashing advertising structure;
- e) Any sign or advertising structure using the words "stop," "go," "look," "slow," or "danger" or any similar word, phrase, symbol or character, unless part of a business name and not dangerous to traffic;
- f) Any sign or advertising structure that obstructs traffic vision;
- g) Wind-actuated signs, except as permitted in Section G of this Chapter;
- h) Plywood signs, except as permitted in Section G of this Chapter;
- i) Off-site signs, unless a Developmental Variance is obtained from the Town;
- j) Portable reader-board signs, except where exempted.
- k) Roof signs in all zoning districts;
- l) Moving signs;
- m) Signs displaying obscene or illegal matter;
- n) Signs on fences, utility poles, street lights, or trees;

- o) Signs which resemble, or are confusingly similar to any official marker erected by the Town, State, or any other governmental unit or agency, or which by reason of position, shape or color would confuse or conflict with the proper functioning of any traffic sign or signal;
- p) Signs on any property without the consent of the party having the right of present possession; and
- q) Bench signs.

C.10 Notification and Penalties

Any owner or operator of a sign or other advertising structure who violates any Section of this Chapter shall receive written notice of the violation from the Building Commissioner. The notice shall include a description of the violation, the corrective action required, the penalty for the violation, and shall allow thirty (30) days from the date of the notice for correction of the violation. If the violation is not corrected within thirty days of the date of the notice, the owner or operator of the sign or other advertising structure shall receive a notice to appear in court, and shall be subject to a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), for each day the violation continues after the deadline for compliance.

C.11 Variances and Appeals

- a) Any property owner affected by the strict application of this Chapter may request a Developmental Variance from the Board of Zoning Appeals, which has jurisdiction to approve or deny variances from developmental and technical standards.
- b) Any affected property owner may appeal any decision of an administrative official, staff member, or Building Commissioner under this Chapter, or the denial by any such official of the approval of a sign permit to the Zoning Appeals pursuant to the provisions of this Zoning Ordinance, the rules and regulations of the Board of Zoning Appeals and pursuant to state statute (I.C. 36-7-4-918.1). Any appeal filed with the Board of Zoning Appeals must specify the grounds of the appeal and must be filed with ten (10) days from the date of the action being appealed.

C.12 Zoning Districts

For purposes of this Chapter, Residential Districts includes R-1, RC-1, R-2, RC-2 R-3, OS and FP zoning districts. Commercial and Industrial Districts include C-1, C-2, C-3, C-4, I, BP, TC, PB, US 41 Overlay and Route 231 Overlay zoning districts.

Section D Sign Standards for Residential Districts

D.1 Residential Districts Provisions

In all Residential Districts, the following signs are permitted, subject to the requirements set forth in this Chapter.

D.2 Signs for Dwellings

- a) House number signs shall be required for all premises. All residential dwellings shall have the dwelling address attached to or mounted at the front of the dwelling. The numbers shall be at least four inches (4") in height and colored so that they can be read from the street.
- b) Nameplates and identification signs: There may be only one (1) nameplate, not exceeding two (2) square foot in area, for each dwelling unit indicating the name and address of the occupant.
- c) Non-Illuminated Construction Sign. In connection with the construction or remodeling of a building, there shall be permitted one sign not exceeding ten (10) square feet in area on a lot and the sign shall be removed within one week after the completion of the structure indicated.
- d) Height. The following height and setback requirements shall apply in all Residential Zoning Districts: the height of any sign or support structure shall not exceed six (6) feet and cannot be closer than ten (10) feet from the property line or five (5) feet from the street right-of-way
- e) Projection. No sign shall project beyond the property line.
- f) Signs announcing a private garage, basement, or yard sale of property owned by the property owner on whose property the sale is to be conducted. The maximum display area shall not exceed four (4) square feet. Any such sign shall be removed on the last day of the sale.

D.3 Residential Development Advertising Signs

- a) If an advertising sign is erected in connection with a development as a whole or a combination of two (2) or more lots, said sign shall be removed upon the issuance of a building permit for 95% of the lots in the development. The owner or developer shall have thirty (30) days to remove the sign upon notice from the Town.
- b) A sign in this category shall not exceed twenty (20) square feet per side.
- c) Height and construction standards shall conform to the restrictions of the zoning district in which the sign is located.

D.4 "For Sale," "For Rent" or "Sold" Signs

"For Sale", "For Rent" and "Sold" signs are subject to the following:

- a) Area and Number. There shall be not more than one non-illuminated sign per zoning lot, the sign shall not exceed four (4) square feet in area, and the sign shall be located at least ten (10) feet from adjacent lots.
- b) Height. No sign height shall exceed six (6) feet above the curb height of the property.
- c) Projection. No sign shall project beyond the property line.

D.5 Business signs for a home occupation are prohibited in Residential Districts.

D.6 Church bulletins and signs for public or quasi-public buildings are subject to the following:

- a) Area and Number. There shall be not more than one (1) sign per zoning lot, the sign shall not exceed twelve (12) square feet in area, and the sign shall be located at least ten (10) feet from adjacent lots.
- b) Height. No sign height shall exceed six (6) feet above curb level.
- c) Projection. No sign shall project beyond the property line.
- d) Official signs, such as traffic control, parking restrictions, information and notices, shall not exceeding eight (8) square feet of display area.

Section E Sign Standards For Commercial and Industrial Districts

E.1 District Provisions

In all Commercial and Industrial Districts, the following signs are permitted, subject to the requirements set forth in this Chapter.

E.2 Permitted Signs and Restrictions

- a) All signs and nameplates permitted in Residential Districts.
- b) Business signs, as regulated by this Chapter.
- c) Signs on marquees, canopies, and awnings, subject to the following:
 - i) Marquees and Canopies. No sign shall extend vertically or horizontally beyond the limits of the marquee or canopy. Marquees and canopies shall have headroom of not less than eight (8) feet. One (1) sign per entrance, which shall not exceed six (6) square feet per sign.
 - ii) Awnings. Any sign located on an awning shall be affixed flat to the awning surface, shall be non-illuminated and nonflashing, and shall indicate only the name and/or address of the establishment on the premises. Further, no such sign shall extend vertically or horizontally beyond the limits of the awning. Awnings shall have headroom clearance of not less than eight (8) feet. Signs located on awnings shall not cover more than twenty-five percent (25%) of the awning.
- d) Directional Signs. One (1) each for the principal and secondary accesses to the zoning lot and a maximum of two (2) square feet for each sign.
- e) Window Signs, painted, posted, or displayed by any other means in a window may not occupy more than twenty-five percent (25%) of the gross window area, nor more than fifty percent (50%) of an individual window area, when combined with temporary window signs. The area of permanent window signs shall be included in the calculations of the total area of permanent signs permitted on the zoning lot.
- f) Flowing Information Signs. Electric signs giving the time and/or temperature are permitted subject to all other requirements of this Chapter. This type of sign must be incorporated into the primary sign, notwithstanding the restrictions of the zoning district.
- g) Temporary Signs are regulated by Section H.
- h) Billboards – a billboard shall not be permitted within six hundred (600) feet of a Residential District, street intersection, or railroad crossing. There shall be a minimum of 1,500 feet between billboards on the same side of a street or highway, and billboards shall not be closer than twenty (20) feet to a dedicated right-of-way, nor closer than ten (10) feet from the side or rear property line. A billboard shall not be

permitted within four hundred (400) feet of an existing building. It shall not contain advertising space in excess of three hundred (300) square feet of display area per side. It shall not exceed twenty-five (25) feet in height above road grade, shall not exceed twenty-five (25) feet in width, and shall have a minimum ground clearance of ten (10) feet and must be supported by a single steel pole. A billboard may be permitted in a C-2 Zoning District and Industrial Zoning Districts by Special Exception only. The billboard permit, once issued, shall be subject to annual renewal upon payment of the permit fee and review by the Building Commissioner for continued compliance with this Chapter.

E.3 Commercial Development Advertising Signs

- a) If an advertising sign is erected in connection with a development as a whole or in combination with a development of two (2) or more lots, said sign shall be removed upon the sale, renting, or leasing of 95% of the development space. The owner/developer shall have thirty (30) days to remove the sign upon notice from the Town.
- b) A sign in this category shall not exceed fifty (50) square feet per side.
- c) Height and construction standards shall conform to the restrictions of the zoning district in which the sign is located.

E.4 Commercial Center Identification Signs

Each commercial center consisting of four (4) or more retail business uses which occupy separate spaces within a multi-activity building or group of buildings comprising an integrated commercial center may have one (1) such sign identifying the uses subject to the following:

- a) The sign must be a ground sign;
- b) The sign will not apply against other sign area restrictions;
- c) The sign area is limited to fifty (50) square feet per side; and
- d) The height of the sign shall not exceed the predominant height of the building to which it relates or ten (10) feet above the curb level, whichever is lower.

E.5 Area, Location, and Height Requirements

In all Commercial Districts, the permitted signs are subject to the following:

- a) Area
 - i) Total. The gross combined area of all permanent ground, wall and window signs on a zoning lot shall not exceed one hundred square feet.
 - ii) Ground and Monument Signs. The area of permanent ground signs shall not exceed thirty (30) square feet per zoning lot.
 - iii) Wall Signs and Permanent Window Signs. The area, in square feet, of a permanent wall sign, combined with permanent window signs, shall not exceed the lineal feet of frontage of a business.
 - iv) EXCEPTION: Each business shall be entitled to a maximum area of fifty square feet for permanent wall signs combined with permanent window signs, provided that each single tenant shall be allowed a maximum of thirty (30) square feet of such

signage. The maximum of fifty (50) square feet shall apply to a multiple tenant business.

- b) Number of signs
 - i) Total. Each business shall be permitted a maximum of two (2) permanent signs, not including permanent window signs.
 - ii) Ground and Monument Signs. Only one permanent ground sign shall be permitted on a zoning lot
 - iii) Wall Signs. Each business shall be permitted a maximum of two (2) wall signs, with no more than one (1) sign per wall. If there are two wall signs, no ground sign shall be permitted.
 - iv) Multiple Tenant Buildings. In multiple tenant buildings, one (1) wall sign shall be permitted for each business or professional use and only affixed on the first story of the building.
- c) Location of Signs. All signs shall be located entirely within the zoning lot of the business to which it applies. All signs shall front either the principal street, parking street, a parking area, or the side street in the case of corner buildings.
- d) Projection. Signs may project two (2) feet from the face of the building but shall not project into the public way, and the bottom of such signs shall not be less than eight (8) feet above the finished grade of the sidewalk.
- e) Height. No sign shall project higher than ten (10) feet above the curb level, or above the roof, or shall exceed the height of the principal building to which it relates, whichever is lower. No sign projecting or suspended from a building shall exceed twelve feet in vertical dimension and its location and arrangement shall be subject to approval by the Building Commissioner.

E.6 Content Required

Identification. The name and/or identification logo/trademark of a business shall be placed on all permanent signs.

Section F Sign Standards for the Public Building District

F.1 Public Building District Provisions

In the Public Building District, the following signs are permitted, subject to the requirements set forth in this Chapter.

F.2 Permitted Signs and Restrictions

- a) All signs and nameplates permitted in Residential Districts and Commercial and Industrial Districts, subject to the restrictions set forth in Sections D and Section E of this Chapter
- b) Temporary signs, as regulated by Section G of this Chapter.

F.3 Permanent Reader-Board Signs

Buildings in the Public Building district may be permitted to have a permanent reader-board sign, subject to the following:

- a) The sign must be a ground sign;
- b) The sign area for this sign will not apply against other sign area restrictions;
- c) The sign area is limited to thirty-two (32) square feet per side;

- d) The height of the sign shall not exceed: (i) the predominant height of the building to which it relates, or (ii) ten (10) feet above the curb level, whichever is lower;
- e) The reader-board must be enclosed to provide protection from damage. All messages displayed on the reader-board must be kept in good repair at all times; and
- f) The sign must have appropriate landscaping and design features to present an attractive appearance that is in harmony with existing signs and design features of the site.

F.4 Area, Height, and Location Requirements

In the Public Building District, the permitted wall signs are subject to the same requirements provided in Section E of this Chapter.

Section G Temporary Signs

G.1 Permitted Business Signs

- a) Temporary signs are permitted in Commercial or Industrial Districts subject to compliance with the height and location requirements of permanent business signs.
- b) The total area of a temporary business signs shall not exceed twenty percent (25%) of the gross area permitted for all signs on the zoning lot up to a maximum of twenty square feet, and if displayed in a window, the temporary signs shall not occupy more than twenty-five percent (25%) of the gross window area and shall not occupy more than fifty percent (50%) of an individual window area, when combined with permanent window signs.
- c) Each business may display a temporary business sign not more than once per calendar year for thirty days, or twice per calendar year for fifteen days.
- d) A temporary business sign shall not be a projecting sign.
- e) Permits. No temporary business sign, other than a temporary window sign, shall be erected or maintained except pursuant to a permit issued by the Building Commissioner. The Building Commissioner shall impose, as a condition of the issuance of a permit for temporary signs, such requirements as to the material, manner of construction, and method of erection of a sign as are reasonably necessary to assure the safety and convenience of the public.

G.2 Permitted Political Signs

- a) Political signs shall be allowed no more than thirty (30) days prior to a Primary, General, or Special Election, and shall be remove within forty-eight (48) hours after such election.
- b) Political banners are subject to the same restrictions as political signs.
- c) Political signs with a maximum total area of eight (8) square feet are not required to obtain a permit.
- d) Political signs between eight (8) square feet and sixteen (16) square feet in size are required to obtain a sign permit. These signs shall not exceed eight (8) feet in height.
- e) Political signs in excess of sixteen (16) square feet in size are prohibited.

- f) Political signs are prohibited from being attached to utility poles, trees, or any public or private signs.
- f) Political signs are allowed only with the permission of the owner of the premises.
- g) Political signs are allowed in parkways only with the permission of the owner of the premises.
- h) Political signs are prohibited in Town parks and on Town-owned property except for each election day at the location where the voting booths are located and the political signs shall be removed at the end of each election day.
- i) Political signs are prohibited on islands in the road right of way.
- j) Removal of political signs shall be the responsibility of the candidate(s) advertised. Failure to remove a sign, pursuant to the terms of this Section, shall result in a fine of Ten Dollars (\$10.00) for each day that violation is maintained.

G.3 Quasi-Public Signs

- a) A quasi-public sign may not be erected or maintained more than thirty (30) days prior to the date of which the event advertised is to occur and shall be removed within forty-eight (48) hours after the termination of the event.
- b) A quasi-public sign may be displayed in a window in any zoning district.
- c) Non-projecting wall or ground-type quasi-public signs, having an area not exceeding twenty (20) square feet, may be erected on the zoning lot on which the event advertised is to occur.
- d) No quasi-public sign shall be erected or maintained within any public right-of-way except pursuant to a permit authorized by the Town Manager or Building Commissioner.

G.4 Permitted Buntings, Banners, Pennants, and Flags

Incident and accessory to temporary business signs and quasi-public signs, buntings, banners, pennants, and flags may be erected and maintained pursuant to a permit issued by the Building Commissioner subject to the following provisions:

- a) Buntings, banners, pennants and flags accessory to temporary business signs shall be subject to the following provisions:
 - i) Shall be permitted in a Commercial or Industrial Districts only in accordance with the same provisions regulating the height and location of permitted business signs;
 - ii) Each business may display a temporary business sign not more than once per calendar year for thirty (30) days or twice per calendar year for fifteen days; and
 - iii) The Building Commissioner shall impose, as a condition of the issuance of a permit, such requirements as to the material, manner of construction, and method of erection of a sign as are reasonably necessary to assure the safety and convenience of the public.

- b) Buntings, banners, pennants and flags accessory to quasi-public signs shall be subject to the following provisions:
 - i) Shall not be erected or maintained within any public right-of-way except pursuant to a permit authorized by the Town Manager or Building Commissioner;
 - ii) May not be erected or maintained more than thirty (30) days prior to the date on which the event advertised is to occur and shall be removed within forty-eight (48) hours after the termination of the event; and
 - ii) The Building Commissioner shall impose, as a condition of the issuance of a permit, such requirements as to the material, manner of construction, and method of erection of a sign as are reasonably necessary to assure the safety and convenience of the public.
- c) Buntings, banners, pennants and flags shall not be erected or maintained in such a location or manner as may endanger the public safety or interfere with or obstruct pedestrian or vehicular travel or create a traffic safety issue as determined by the Building Commissioner.

G.5 Signs for the Sale of Motorized Vehicles and Trailers

In any zoning districts, signs offering any type of motorized vehicle or trailer for sale by anyone other than a dealer licensed by the State of new and/or used vehicles or trailers, are allowed subject to the following:

- a) "For Sale" signs shall be limited to two (2) signs, each a maximum of two (2) square feet in size and must be securely attached to the vehicle or trailer for sale;
- b) A vehicle or trailer, when not in use, with "For Sale" signs attached may only be displayed at the address to which it is currently registered and licensed, or at such other address not to exceed three (3) hours, unless it is the driver's place of employment; and
- c) "For Sale" signs for motorized vehicles or trailers shall not require a permit.

G.6 Conditions

When a permit is required for a temporary sign, the Building Commissioner shall impose as a condition of the issuance, such requirements as to the material, manner of construction and method of erection of a sign as are reasonably necessary to assure the safety and convenience of the public.

Section H Erection and Maintenance Standards

H.1 General Construction Standards

- a) Building and Electrical Code Applicable. All signs erected and maintained in the Town shall consist of noncombustible or approved combustible materials and shall be subject to the requirements of the applicable provisions of the Town building code as well as the provisions of this Chapter. In addition, all illuminated signs shall be subject to the provisions of the Town electrical code including permit fees required thereunder.

- b) Glass Requirements. Any glass forming a part of any sign shall be composed of a heavy safety glass with a minimum thickness of one-fourth inch (1/4"). Where any single piece or pane of glass has an area exceeding three (3) square feet, it shall be wired safety glass.
- c) Wind Pressure and Dead Load Requirements. Any sign including, but not limited to, marquees, awnings or canopies, shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of net surface area and shall be constructed to receive dead loads as required by the Town building code.

H.2 Wall Signs

- a) Every permanent wall sign of solid face construction shall be safely and securely attached to the building wall by means of metal anchors, bolts, or expansion screws of not less than three-eighths inch (3/8") in diameter and securely embedded in the wall. As an alternative method of attaching a wall sign to the building wall, such sign shall rest in, or be bolted to strong, heavy metal brackets or saddles set not over six feet (6') apart, each of which shall be securely fixed to the wall as herein described. In no case shall any wall sign be secured with wire, strips of wood, nails, or other common form of construction standard unless approved by the Building Commissioner.
- b) No wall sign shall cover wholly or partially any wall opening, or project beyond the ends or top of the wall to which it is attached.

H.3 Projecting Signs Construction

- a) Every projecting sign, including the frames, braces and supports thereof, shall conform to all construction standards contained herein and shall be approved by the Building Commissioner as being in compliance with the Town Building Code and the Town Electrical Code.
- b) Any moveable part of a projecting sign, such as the cover of a service opening, shall be securely fastened.
- c) Lettering or designs illuminated from the interior shall be composed of noncombustible materials.
- d) The thickness of a projecting sign, measured as the distance between the principal face and opposite face of the sign, shall not exceed twelve inches (12").
- e) Projecting signs shall not exceed nine (9) square feet and fifty (50) pounds in weight and shall be attached to a sound masonry wall with corrosion resistant expansion bolts of at least three-eighths inch (3/8") diameter which shall be securely embedded into the wall.

H.4 Ground Signs

- a) Construction
 - i) Every ground sign, including the frames, braces, and supports thereof, shall be securely built and shall conform to all construction standards contained herein, and shall be subject to approval by the Building Commissioner as being in compliance with the Town Building Code and the Town Electrical Code.

- ii) Any movable part of a ground sign, such as the cover or a service opening, shall be securely fastened.
- b) Erection
 - i) The members supporting every ground sign shall be set in concrete of strength and weight to securely and permanently support the pole mounted sign in the position in which it is installed.
 - ii) No ground sign shall be located within ten (10) feet of any electric power line, service drops or line conductors, or in any location where the Building Commissioner finds a reasonable danger that an electric power line would come in contact with the sign.

H.5 Temporary Signs

- a) Construction
 - i) No temporary sign of combustible material shall exceed four (4) feet in any of its dimensions.
 - ii) Every temporary sign with an area in excess of twenty (20) square feet shall be made of rigid materials.
 - iii) Every temporary sign with a weight in excess of fifty (50) pounds must comply with the safety requirements of the Town Building Code and be approved by the Building Commissioner.
- b) Erection
 - i) Every temporary sign shall be safely and securely attached to the wall or other stable structure.
 - ii) No temporary wall sign shall extend more than four inches beyond the face of the wall or structure to which it is attached.
 - iii) No inflatable promotional device shall exceed fifteen feet in height, or the height of the principal building to which it relates, whichever is lower. No inflatable promotional device shall be mounted on a roof of a building or structure.

H.6 Marquees

- a) Construction
 - i) Every marquee, including the anchors, bolts, supports, rods and braces thereof, shall be built securely, and shall be designed by a structural engineer or registered architect, and shall be approved by the Building Commissioner as being in compliance with the Town Building Code and the Electrical Code.
 - ii) The roof of every marquee shall be properly guttered and connected by downspouts to a storm sewer so that water therefrom will not drip or flow onto public property.
 - iii) No roof or marquee shall be used for any purpose other than to form and constitute a roof.
- b) Erection
 - i) Every marquee shall be supported solely by the building to which it is attached and columns and posts are prohibited as a support.

- ii) The roof of any marquee shall be designed and constructed to support a live load of not less than one hundred (100) pounds per square foot.
- iii) No marquee shall be erected on any building or other structure of wood frame construction.
- iv) No part of a marquee shall be less than eight feet above the level of the sidewalk or other public right-of-way over which it projects.
- v) No temporary sign shall be attached to or hung from a marquee.
- c) No advertising material shall be placed upon the roof of any marquee.

H.7 Fixed Canopies and Fixed Awnings

- a) Construction. Every fixed canopy and fixed awning may be constructed of non-ferrous material or other such material as approved by the Building Commissioner, provided, however, that all frames and supports shall be of corrosion-resistant material.
- b) Erection
 - i) The framework of all fixed canopies and fixed awnings shall be approved by the Building Commissioner, and be in compliance with the Town Building Code.
 - ii) Every fixed canopy and fixed awning shall be constructed and erected so that the lowest portion of the projecting frame thereof shall be not less than eight (8) feet above the sidewalk or other public right-of-way, and the lowest portion of the depending skirt shall not be less than eight (8) feet above the sidewalk or other public right-of-way.

H.8 Retractable Canopies and Awnings

- a) Construction. Every retractable canopy and retractable awning may be constructed of non-ferrous material or other such material as approved by the Building Commissioner, provided, however, that all frames and supports shall be of corrosion-resistant material.
- b) Erection
 - i) The framework of all retractable canopies and retractable awnings shall be approved by the Building Commissioner and be in compliance with the Town Building Code.
 - ii) Retractable canopies and retractable awnings shall be securely attached to and supported by the building.
 - iii) Every retractable canopy and retractable awning shall be constructed and erected so that the lowest portion of the projecting frame thereof shall be not less than eight (8) feet above the sidewalk or other public right-of-way, and the lowest portion of the depending skirt shall not be less than eight (8) feet above the sidewalk or other public right-of-way.
 - iv) No retractable canopy or retractable awning shall be within two feet of the curb line.

Section I Miscellaneous Provisions

I.1 Nonconforming Signs

- a) All nonconforming signs within the Town shall comply with the requirements of this Chapter when any of the following alterations are made to the nonconforming sign:
 - i) When the structural face of the sign is changed;
 - ii) When the sign is rebuilt;
 - iii) When the sign is enlarged; and
 - iv) When the sign is relocated.
- b) The following alterations to a nonconforming sign shall not require compliance with this Chapter:
 - i) The changing of parts and preventative maintenance of signs as long as the same does not constitute a structural change;
 - ii) A face change to a Commercial or Industrial identification sign if an individual tenant or business owner changes; and
 - iii) Any text, phrase, numerals, and similar changes on permanent Reader Board Sign.

Chapter 16 Non-Conforming Uses, Structures, and Lots

Section A Continuation

Any lawful building or other structure, or any lawful use of a building or other structure or land, existing on the effective date of this Ordinance, which does not conform with the provisions of this Ordinance, shall be considered a lawful non-conforming building, structure or use, and may be continued except as otherwise herein provided in this Ordinance.

Section B Extension

Any lawful non-conforming use of a portion of a building may be extended throughout the building and any lawful non-conforming use may be extended or enlarged upon the lot occupied by such building that is held in single and separate ownership on the effective date of this Ordinance, provided that the area of such buildings shall not be increased by more than a total of twenty-five (25%) percent of the total area of the first floor of such building existing on the date it first became a lawful non-conforming building or a building on which a lawful non-conforming use is made and provided further that any structural alteration, extension or addition shall conform with all height, area, width, yard and coverage requirements for the Zoning District in which it is located and shall comply with all provisions of this Ordinance.

Section C Change

Wherever a non-conforming use or a building or land has been changed to a conforming use, such conforming use shall not thereafter be changed to or revert to a non-conforming use.

Section D Restoration

Any lawful non-conforming building or other structure which has been involuntarily damaged or destroyed by fire, explosion, windstorm, or other similar active cause, to an extent of not more than fifty (50%) percent of its fair market value, may be reconstructed in the same location, provided that:

- a) The reconstructed building or structure shall not exceed the height, area or volume of the damaged or destroyed building or structure, except as provided in Section B of this Chapter, and
- b) Reconstruction shall begin within six (6) months from the date of damage or destruction and shall be carried on without interruption.

Section E Abandonment

If a lawful non-conforming use of a building or other structure is abandoned or discontinued for a continuous period of six (6) months or more, or if a lawful non-conforming use of land is abandoned or discontinued for a continuous period of six (6) months or more, subsequent use of such building or structure or land shall be in conformance with the provisions of this Ordinance.

Section F Lots Non-Conforming as to Area and Width Regulations and Lots of Unusual Dimensions

F.1 A building may be erected or altered on any lot held in single and separate ownership on the effective date of this Ordinance which is not of the required minimum area or width or is of such unusual dimensions that the owners would

have difficulty in providing the required open spaces for the Zoning District in which the lot is situated, provided however, notwithstanding anything in the above to the contrary, no building shall be constructed on a lot less than 6,000 square feet in area or less than 50 feet in width.

F.2 Where at least two (2) and not more than five (5) contiguous undeveloped lots are held in single ownership within a subdivision which has been duly recorded prior to the effective date of this Ordinance, which lots are individually not of the required minimum area or width for the Zoning District in which they are situated, no variance shall be required for the issuance of building permits, provided that such lots shall be developed in groups or fractions thereof, as single lots, to provide the minimum lot area required for each structure. Such groups or fractions of lots developed as single lots shall be re-subdivided as provided in the Subdivision Control Ordinance.

Section G Subdivisions Previously Approved

In the case of a plat of land, a plat for the subdivision of which into two (2) or more parcels or lots for the purpose of development and sale has, prior to the effective date of this Ordinance, been duly approved and recorded as required by law, which plat does not make provisions for full adherence to the regulations of this Ordinance governing minimum lot areas or widths, front, side or rear yards, or building coverage, but was in conformity with such regulations as were effective at the time such plan was approved and recorded, the development and sale contemplated by the plat may not proceed unless brought into complete compliance with this Ordinance.

CHAPTER 17 - DEVELOPMENT PLAN REQUIREMENTS

Section A Purpose

Development Plan approval by the Plan Commission shall be necessary prior to the establishment of any Use or construction of a Building for each zoning district, or the issuance of a Building Permit. However, an individual detached single family residence and work entirely on the interior of an existing structure are exempt from the requirements in this Chapter.

Section B Development Plan

B.1 Development Requirements

The Plan Commission shall review a Development Plan application to determine if the Development Plan satisfies the development requirements specified herein for the applicable zoning district. The Plan Commission's review shall include the following items:

- a) Compatibility of the development with surrounding land uses:
 - i) Consistency with the policies for the district as set forth in the Comprehensive Plan;
 - ii) Surrounding zoning and existing land use;
 - iii) Compatibility with existing platted residential uses; and
 - iv) Compatibility of proposed project with existing development within the district.
- b) Availability and coordination of:
 - i) The means and impact of water supply techniques; and
 - ii) The means and impact of sanitary sewers.
- c) Management of traffic in a manner that creates conditions favorable to health, safety, convenience, and the harmonious development of the community such that:
 - i) The design and location of proposed street and highway access points minimize safety hazards and congestion;
 - ii) The capacity of adjacent streets and highways is sufficient to safely and efficiently accept traffic that will be generated by the new development; and
 - iii) The entrances, streets, and internal traffic circulation facilities in the Development Plan are compatible with existing and planned streets and adjacent developments.
- d) Building setback lines.
- e) Building coverage.
- f) Building separation.
- g) Vehicle circulation, including:
 - i) Consistency with the policies for the district as set forth in the Comprehensive Plan;
 - ii) Dedication of streets and rights-of-way, and/or reservation of land to be sold to governmental authorities for future development of streets and rights-of-way. In developments that adjoin or include existing streets that do not conform to the minimum right-of-way dimensions as established by the Thoroughfare Plan, the developer shall dedicate additional width along either one or both sides or such streets of

- inadequate width so as to bring them up to standards, provided the area to be used for widening is owned by the sub-divider or under his control;
- iii) Location and character of streets.;
- iv) Access to public streets;
- v) Driveway and curb cut locations in relation to other sites;
- vi) Location and character of curbs and gutters;
- vi) General vehicular traffic;
- viii) Location and character of vehicle parking facilities; and
- ix) Vehicular internal site circulation.
- h) Pedestrian and bicycle circulation, including:
 - i) Consistency with the policies for the district as set forth in the Thoroughfare Plan;
 - ii) Location and character of sidewalks, pedestrian trails, and bicycle paths;
 - iii) Access to public sidewalks and multi-use paths;
 - iv) General pedestrian and bicycle traffic;
 - v) Location and character of bicycle parking and storage facilities; and
 - vi) Pedestrian and bicycle internal site circulation.
- i) Site landscaping and screening.
- j) Height, scale, materials, and style of improvements.
- k) Project signage.
- l) Open space.
- m) Exterior lighting.
- n) Existing site features, including topography and wooded areas.
- o) Zoning on site.
- p) Special and general easements for public or private use.
- q) Protective restrictions and/or covenants.

B.2 Development Plan Documentation & Supporting Information

The Development Plan and supporting documentation shall contain the following:

- a) The location and character of the following:
 - i) Existing and proposed principal structures and accessory structures.
 - ii) Exterior Elevations, Renderings, Exterior elevations, renderings depicting the exterior materials to be used, and a list of exterior materials relating to all buildings and other structures proposed in the area subject to Development Plan approval. The architectural design should reflect a unified design which is in character and proper relationship with the surrounding area.
 - iii) Site Plan, including:
 - (1) Location of special and general easements for public or private use;
 - (2) Building setback lines;
 - (3) Building coverage;
 - (4) Building separation; and
 - (5) The following information shall be included on the site plan:

- (i) A scale of not less than 1" = 50' if the subject property is less than three (3) acres and 1' = 100' if three (3) acres or more;
 - (ii) Date, arrow, and scale;
 - (iii) The dimensions of all lot and property lines showing the relationship of the subject property to abutting properties;
 - (iv) The location of all existing and proposed structures on the subject property and all existing structures within one hundred (100) feet of the subject property;
 - (v) The location of all existing and proposed drives and parking areas;
 - (vi) The location and right-of-way widths of all abutting streets, and utility and drainage easements;
 - (vii) The names and addresses of the architect, planner, designer, landscape architect, engineer, or person responsible for the preparation of the site plan;
 - (viii) Sewers and drainage information shall be furnished pursuant to the requirements of the Town including but not limited to the showing of invert and rim elevations, pipe slopes and type of pipe materials, and all water service lines;
 - (ix) Legal description;
 - (x) The existing and finished contours shown at 1 foot intervals;
 - (xi) The existing elevations based on M.S.L. datum at all property corners, exterior grades at all existing buildings, and finish floor elevations;
 - (xii) The location of all adjacent buildings, along with their exterior elevations;
 - (xii) The finished elevations in the case of any and all new construction shall be contained therein;
 - (xiv) The location, elevation and type of storm water pick-up shall be contained therein; and
 - (xv) The direction and quantity of all overland storm flow shall be designated on said plat.
- iv) Utilities, proposed and existing.
 - v) Sign Plan. All exterior signage proposed to be located in the development shall be shown and conformance or non-conformance with requirements of Chapter 15 herein shall be noted on the Plan.
 - vi) Landscape Plan. A detailed plan of the existing and proposed landscaping showing location, kind and caliper measurement size of trees, shrubbery and screening materials, as required by Chapter 13 herein.

- b) The nature and intensity of uses in the development.
- c) The condition and size of public thoroughfares and parking, vehicle, and pedestrian facilities, including a traffic study with a comparative analysis of present volumes on streets bordering the development or with a direct bearing on the development versus potential capacity volumes of those streets. Consideration should be made of the effect of the proposed development and the traffic it would generate particularly at peak periods. A Circulation Plan should be included for all existing and proposed streets, both public and private, which will show recommendations for controlling, signaling, parking, storing, and warning both pedestrian and vehicular traffic.
- d) The location and capacity of drainage facilities and sewer systems serving the development, including detailed Drainage Plans and Construction Plans for all elements of the storm water drainage system, including curbs and gutters, storm sewers, open drainage waterways, drain tiles, culverts, retention reservoirs, and other necessary appurtenances. Among the necessary items of information are locations, grades, sizes, capacity and typical cross-sections of the Drainage Plan elements. A report shall be submitted with the following information:
 - i) Legal drains located in the development or relating to the development,
 - ii) The flooding potential of the development,
 - iii) The design of the storm water system to deal with such flooding potential, and
 - iv) The expected impact of the development's storm water runoff on any receiving stream or downstream property. Where flood plains as indicated by FP, FF or FW Districts herein, are involved, a statement from the Indiana Natural Resources Plan Commission to the extent it has jurisdiction shall be required with respect to location of floodways and flood plains.
- e) Other information as follows:
 - i) Covenants, Conditions & Restrictions. A list of the covenants, conditions, and restrictions, if any, which will run with the land and affect the use of the property within the area subject to Final Development Plan approval. The approved covenants shall be recorded with the Recorder of Lake County, Indiana, after approval by the Plan Commission.
 - iii) Erosion Control & Sedimentation Plan. A statement and plan setting forth the method of controlling erosion and sedimentation before, during and following development and construction, e.g., temporary seeding, sediment detention basins, erosion prevention devices and other similar means, that meet the Lake County Soil & Water Conservation requirements.
 - iv) Lighting Plan. Specifics are required concerning the easements, locations, size, height, type, intensity and luminance of proposed street and outdoor lighting in accordance to Chapter 14 herein.
 - v) Other Construction Plans. Other specific Construction Plans shall be submitted as necessary detailing information on, but

not limited to, streets, lighting, sanitary sewer system, storm water drainage system, curbs and gutters, sidewalks and the related appurtenances including locations, grades, sizes, capacities, typical cross-sections and related information.

These plans shall be drawn by a Registered Land Surveyor or a Professional Engineer licensed to do business in the State of Indiana in accordance with State Statutes.

- vi) Construction Timetable. A construction timetable or schedule shall include the approximate timing of completion and/or occupancy of the improvements proposed in the area subject to Development Plan approval.
- vii) Deeds of Dedication. Certification of dedication of streets, rights-of-way and other public property to the proper authorities, except so much thereof as are intended to remain private.
- viii) Certificate of Plan Commission Approval. Certificate of Approval by the Plan Commission shall be on each and every sheet of the Development Plan.

Section C Procedures for Submission and Review.

C.1 Development Plan

- a) Pre-Application Consultation with the Town Manager. Applicants shall meet with the Town Manager to review the zoning classification of the site, review the regulatory ordinances and materials, review the procedures and examine the proposed use and development of the property. The Town Manager shall aid and advise the applicant in preparing the application and supporting documents as necessary.
- b) Application
 - i) Town Manager. The applicant shall submit to the Town Manager:
 - (1) Two (2) copies of the written application form;
 - (2) Two (2) copies of the Existing Conditions Plan;
 - (3) Two (2) copies of the Development Plan; and
 - (4) As well as two (2) copies of all necessary supporting documents and materials.
 - ii) Initial Review of the Application and Supporting Documents and Material.
 - (1) Town Manager. Following the receipt of the written application, Development Plan, and necessary supporting documents and/or materials, the Town Manager shall review the materials for the sole purpose of determining whether the application is complete and in technical compliance with all applicable ordinances, laws and regulations. If in compliance, the applicant shall submit eight (8) copies of the information submitted to the Town Manager for the Plan Commission review.
 - (2) Plan Commission. Following the receipt and technical compliance of the written application, Development Plan, and necessary supporting documents and/or

- materials, the Town Manager shall place the application on the agenda of the Plan Commission.
- iii) Submittal to the Plan Commission
- (1) If the materials submitted by the applicant are not complete or do not comply with the necessary legal requirements, the Town Manager shall inform the applicant of the deficiencies. Unless and until the Town Manager formally accepts the application as complete and in technical compliance, it shall not be considered formally filed for the purpose of proceeding to succeeding steps toward approval as hereinafter set forth.
 - (2) If the materials submitted by the applicant are determined to be complete and in compliance, the Town Manager shall forward the materials to the Plan Commission. Within thirty (30) days of the formal acceptance of the Development Plan application, the Town Manager shall formally file the application by:
 - (a) Assigning a docket number;
 - (b) Setting a date and time for a public hearing; and
 - (c) Placing it upon the agenda of the Plan Commission.
- c) Fees. Fees are set forth in the Town Schedule of Fees.
- d) Public Notice. The applicant shall be responsible for the cost and publication of the required published legal notifications of the public hearing. The applicant shall also notify all interested parties and property owners as required by the Plan Commission Rules of Procedure.
- e) Public Hearing by the Plan Commission. The conduct of the public hearing shall be in accordance with the Plan Commission Rules of Procedure. Following the public hearing, the Development Plan shall be reviewed by the Plan Commission. For as of right projects, the Plan Commission shall hold a public meeting rather than a public hearing.
- f) Review. The Plan Commission shall review a Development Plan to determine if the Development Plan:
- i) Is consistent with the Comprehensive Plan; and
 - ii) Satisfies the development requirements specified in this Zoning Ordinance.
- g) Approval
- i) In determining whether approval shall be granted, the Plan Commission shall consider generally if the Development Plan:
 - (1) Creates and maintains a desirable, efficient and economical use of land with high functional and aesthetic value, attractiveness and compatibility of land uses, within the zoning District and with adjacent uses;
 - (2) Provides sufficient and well-designed access, parking and loading areas;

- (3) Provides traffic control and street plan integration with existing and planned public streets and interior access roads;
 - (4) Provides adequately for sanitation, drainage, and public utilities; and
 - (5) Allocates adequate sites for all uses proposed, the design, character, grade, location and orientation thereof being appropriate for the uses proposed, logically related to existing and proposed topographical and other conditions, and consistent with the Comprehensive Plan.
- ii) In determining whether approval shall be granted, the Plan Commission may:
 - (1) Impose conditions on the approval of a Development Plan if the conditions are reasonably necessary to satisfy the development requirements specified in the Zoning Ordinance.
 - (2) Provide that approval of a Development Plan is conditioned on furnishing to the Plan Commission a bond or written assurance that:
 - (a) Guarantees the timely completion of a proposed public improvement in the proposed development; and
 - (b) Is satisfactory to the Plan Commission.
 - (3) Permit or require the owner of real property to make a written commitment.
- iii) Time Limit. An approved Development Plan shall be valid for two (2) years from the date of approval. Upon written application to the Town Manager before the expiration of said approval, and upon good cause shown, the Plan Commission may extend the approval for a period not to exceed six (6) months.
- iv) If the Development Plan is substantially or materially altered in any way, resubmission and approval by the Plan Commission is required.
- v) Findings-of-Fact. The Plan Commission shall make written findings concerning each decision to approve or disapprove a Development Plan.

C.2 Memorandum of Interpretation

The Town Manager may request from the Plan Commission a memorandum of interpretation. The memorandum of interpretation is intended to serve as a clarification or interpretation of the standards or requirements of this Chapter and provides guidance to the Town Manager in processing and reviewing any permits or approvals required by this Chapter. The Town Manager shall set forth the issues, facts, and circumstances and may propose alternative interpretations. The memorandum of interpretation from the Plan Commission shall set forth the reasons, analysis, and standards on which their interpretation is based and shall be binding upon the Town Manager.

Section D Site Plan Review (All Districts)

- D.1** A Site Plan shall be submitted to the Plan Commission for approval of:
- a) Any use or development for which the submission of a site plan is required by any provision of this Ordinance.
 - b) Any development, except R-1, RC-1, R-2, and RC-2 Residential Zoning Districts, for which off-street parking areas are provided.
 - c) Any use in an R-3, R-4, C-1, C-2, C-3, C-4, Light Industrial, and Open Space Zoning District lying contiguous to or across a street from an R-1 or R-2 Residential District.
 - d) Any use, except R-1, RC-1, R-2, and RC-2 Residential Zoning Districts, which lies contiguous to a major thoroughfare or collector street.
 - e) All uses allowed by Special Exception in any Residential District.
 - f) Building additions or accessory buildings shall not require Plan Commission review unless off-street parking, in addition to that already provided on the site, is required.
 - g) Changes of building or property uses for which previous Site Plan approval was required.
 - h) Site plan review and approval as set forth in this Section is required prior to issuance of a building permit.
- D.2** Every site plan submitted to the Plan Commission shall conform with the requirements of this Ordinance. No Site Plan shall be approved until the same has been reviewed by the Building Department in coordination with the Fire Department and the Police Department.

Chapter 18 Administration and Enforcement

Section A Development Plan

Prior to the establishment of any use or building or the issuance of a building permit, the Development Plan shall be submitted and approved as required by Chapter 17.

Section B Design Review

Prior to the establishment of any use or building or the issuance of a building permit, the Town shall approve the design. Chapters 4 – 8, specify the regulations for each of the zoning districts and state whether the Town Manager or the Plan Commission is responsible for the review of the design.

Section C Building Permits

No building permit, including a foundation permit, shall be issued for any building, structure or purpose that conflicts with the provisions of this Zoning Ordinance. The Code Enforcement Officer shall issue a stop work order for any construction requiring a building permit that proceeds without the required building permit. The Code Enforcement Officer shall issue a stop work order for any construction that proceeds in violation of the terms of the building permit issued or any construction that is not in conformance with the plans submitted for the building permit.

Section D Board of Zoning Appeals

D.1 Establishment and Membership

A Board of Zoning Appeals is hereby established in accordance with Indiana Code 36-7-4-900 *et seq.*, as amended from time to time. The present members of the Town Board of Zoning Appeals are designated as members of the Board of Zoning Appeals created herein.

D.2 Powers

The Board of Zoning Appeals shall have all the powers provided in Indiana Code 36-7-4-900 *et seq.*, as amended from time to time. In the exercise of these powers, the Board of Zoning Appeals may impose such conditions, as it may deem advisable in the furtherance of the purposes of this Zoning Ordinance.

D.3 Rules of Procedure

- a) The Board of Zoning Appeals shall adopt rules of procedure provided that such rules of procedure shall not conflict with this Zoning Ordinance. A copy of the rules of procedure shall be available in the office of the Town Manager.
- b) Prior to the determination of an appeal or decision on a special exception, special use, contingent use, or conditional use, or decision on variances, the Board of Zoning Appeals shall fix a reasonable time for a hearing. Public notice shall be provided as required in this Chapter.

D.4 Meetings

The meetings of the Board of Zoning Appeals shall be held at the call of the chair or by a majority of the membership at such times as the Board of Zoning Appeals may determine. The Board of Zoning Appeals shall keep minutes of its proceedings and record the vote on all actions taken. All minutes and records shall be filed in records and are public records. The Board of Zoning Appeals, in all cases heard by it, shall make written findings of fact.

D.5 Jurisdiction

The Board of Zoning Appeals shall hear and determine appeals from and review:

- a) Any order, requirement, decision or determination made by an administrative official or staff member, under the Zoning Ordinance;
- b) Any order, requirement, decision or determination made by an administrative board or other body, except the Plan Commission, in relation to the enforcement of the Zoning Ordinance; and
- c) Any order, requirement, decision, or determination made by an administrative board or other body except the Plan Commission in relation to the enforcement of the Zoning Ordinance requiring the procurement of an improvement location or occupancy permit.

D.6 Exceptions and Uses

- a) The Board of Zoning Appeals shall approve or deny all:
 - i) Special Exceptions;
 - ii) Special Uses;
 - iii) Contingent Uses and
 - iv) Conditional Uses

from the terms of the Zoning Ordinance, as specifically required by this Zoning Ordinance. Special exceptions, special uses, contingent uses and conditional uses shall be, however, subject to a final determination by the Town Council pursuant to I.C. 36-7-4-918.6. A special exception or a special use may only be approved upon a determination in writing. The Board of Zoning Appeals, after hearing a petition, shall file the petition with the Clerk-Treasurer with a favorable recommendation, an unfavorable recommendation, or no recommendation for Town Council consideration.

- b) The Board of Zoning Appeals may impose such conditions as will ensure that:
 - i) The establishment, maintenance or operation of the special use, special exception, contingent use, or conditional use will not be detrimental to or endanger the public health, safety, comfort, morals or general welfare;
 - ii) The special exception, special use, contingent use, or conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish and impair property values within the neighborhood;
 - iii) The establishment of the special exception, special use, contingent use or conditional use will not impeded the normal

- and orderly development and improvement of surrounding property for uses permitted in the district;
- iv) The special exception, special use, contingent use or conditional use shall be required to comply with reasonable time limitations on commencement and duration of special exception, special use, contingent use or conditional use as well as holder of rights to the same;
 - v) Adequate utilities, access roads, drainage and/or other necessary facilities will be provided;
 - vi) Adequate measures will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
 - vii) The special exception, special use, contingent use, conditional use shall in all other respects conform to the applicable regulations of the Zoning District in which it is located.

D.7 Variances of Use from Terms of Zoning Ordinance

The Board of Zoning Appeals shall approve or deny all Variances of Use from the terms of this Zoning Ordinance. The foregoing shall be, however, subject to a final determination by the Town Council pursuant to I.C. 36-7-4-918.6. The Board of Zoning Appeals may impose reasonable conditions as part of its approval. The Board of Zoning Appeals, after hearing a petition, shall file the petition with the Clerk-Treasurer with a favorable recommendation, an unfavorable recommendation or no recommendation for Town Council consideration. A variance hereunder may only be approved upon a specific determination in writing that:

- a) The approval will not be injurious to the public health, safety, morals and general welfare of the community;
- b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
- c) The need for the variation arises from some condition peculiar to the property involved;
- d) The strict application of the terms of the Zoning Ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought; and
- e) The approval does not interfere substantially with the Comprehensive Plan of the Town.

D.8 Variance from Development Standards of Zoning Ordinance

The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk or area) of this Zoning Ordinance. A Variance may only be approved upon a specific determination in writing that:

- a) The approval will not be injurious to the public health, safety, morals and general welfare of the community;
- b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
- c) The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property.

D.9 Appeals to the Board

- a) An appeal filed with the Board of Zoning Appeals must specify the grounds of the appeal and must be filed within ten (10) days from the date of the action appealed. In the event appeal is not taken as specified herein, the right of appeal shall be terminated.
- b) The administrative official or other body, from which the appeal is taken, on the request of the Board of Zoning Appeals, shall transmit all documents, plans and papers constituting the record of the action from which an appeal was taken.
- c) Upon appeal, the Board of Zoning Appeals may reverse, affirm or modify the order, determination, requirement or decision appealed. For this purpose, the Board of Zoning Appeals has all the powers of the official, officer, board or body from which the appeal is taken.
- d) The Board of Zoning Appeals shall make a decision on any matter that it is required to hear, as specified in this Ordinance, either:
 - i) At the meeting at which that matter is first presented, or
 - ii) At the conclusion of the hearing on that matter, if it is continued.
- e) The Board of Zoning Appeals shall file in the Office of the Board a copy of its decision within five (5) days after making any decision.

D.10 Public Hearings.

Upon the filing with the Board of Zoning Appeals of an appeal, or of an application for special exception, special use, contingent use, conditional use, variance, or variance of use, a reasonable time and place for public hearing thereon shall be established and notice thereof shall be given as follows:

- a) By publishing a notice in a newspaper of general circulation, distributed in the Town of St. John at least (10) days before the date fixed for the public hearing.
- b) By mailing a notice thereof to the Town Clerk-Treasurer, the Zoning Administrator, the Chairman of the Board of Zoning Appeals and each member of the Board of Zoning Appeals, by first class mail at least twenty (20) days prior to the public hearing.
- c) By giving personal notice at least five days prior to the appointed time of the hearing to all owners of property within three hundred (300) feet of the lot, parcel or building subject to the public hearing. Such notice shall be given either by handing a copy thereof to the property owner or by leaving a copy thereof at the usual place of abode of said property owner if said owner occupies the property affected or is a resident of the Town. Also, notice may be given by sending written notice thereof by certified mail, return receipt requested, to the last known address of the property owner. The last known address shall be as shown by the most recent auditor's transfer list in Lake County
- d) Whenever said owners are non-residents of the Town such notice may be given by sending written notice by certified mail, return receipt requested to the last known address of the non-resident owner.

Section E Enforcement

E.1 All departments, officials, and public employees of the Town, which are vested with the duty or authority to issue permits or licenses, shall conform to the provisions of this Zoning Ordinance and shall issue no permit or license for any use, building or purpose, if the same would be in conflict with the provisions of this Zoning Ordinance.

E.2 Any permit or license, issued in conflict with the provisions of this Zoning Ordinance, shall be null and void.

Section F Violations

The Plan Commission, Board of Zoning Appeals, the Code Enforcement Officer and/or other duly designated Town representative shall have the duty to enforce the provisions of this Zoning Ordinance in the manner and form and with the powers provided in the laws of the State of Indiana and in this or any other Ordinances of the Town.

Section G Penalties

G.1 The Town will provide a written warning to any person who violates any provision of this Zoning Ordinance. If the violation is not corrected, the Town will issue a citation to any person who violates any of the provisions of this Zoning Ordinance. A penalty and fine of \$100.00 for the first offense, \$200.00 for the second offense, \$500.00 for the third offense and \$2,500.00 for the fourth and subsequent offenses. Such fines to inure to the Town. Each day of the existence of any violation shall be deemed a separate offense.

G.2 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 Zoning Ordinance, is hereby declared to be a violation of this Ordinance and unlawful.

G.3 The Town Attorney shall upon direction of the Town institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove any zoning violation. Such action may be instituted by any property owner also who may be especially damaged by any violation of this Zoning Ordinance. In addition to the foregoing, any person found liable shall also be liable for all costs of enforcement including attorney fees.

G.4 The remedies provided for herein shall be cumulative and not exclusive and shall be in addition to any other remedies provided by law.

Chapter 19 - Definitions

Section A Interpretation

The following general rules of construction and definitions shall apply to the regulations of this Ordinance:

- a) The singular number includes the plural and the singular, and the plural the singular, unless the context clearly indicates the contrary.
- b) Words used in the present tense include the past and future tenses, and the future present.
- c) The word "shall" is a mandatory requirement. The word "may" is a permissive requirement. The word "should" is a preferred requirement.
- d) The word "Building" or "Structure" includes any part thereof, and the word "Structure" includes the word "Building."
- e) Words not defined herein but defined in the Subdivision Control Ordinance shall be interpreted in accordance with the Subdivision Control Ordinance definitions.
- f) Words and terms not defined herein or in the Subdivision Control Ordinance shall be interpreted in accord with their normal dictionary meaning and customary usage.

Section B Definitions

Abut. Abut shall mean having a common property line or zoning district line.

Accessory Building or Structure. An accessory building or structure is a subordinate building or structure, including garages, or a part thereof, or a portion of a main building, the use of which is consistent with, and incidental to that of the principal building. An accessory building shall clearly be located on the lot of the principal building and shall not be used for habitation. An accessory building or structure includes:

- a) Domestic or agricultural storage in a barn, shed, tool room or similar building or other structure;
- b) Accessory radio or television towers; and
- c) Accessory satellite dish.

When "accessory" is used herein, it shall have the same meaning as accessory use.

Accessory Use. An accessory use is a use which:

- a) Is conducted on the same zoning lot as the principal use to which it is related, whether located within the same or an accessory use of land, except that, where specifically provided in the applicable district regulations, accessory off-street parking or loading need not be located on the same zoning lot;
- b) Is a use which is clearly incidental to, and customarily found in connection with, such principal use; and
- c) Is either in the same ownership as such principal use, or is operated and maintained on the same zoning lot substantially for the benefit or convenience of the owners, occupants, employees, customers, or visitors of the principal use.

Acreage. Any tract or parcel of land having an area of one acre or more which has not been subdivided or platted.

Adjacent. To lie near or close to, in the neighborhood or vicinity of.

Adjoining. Touching or contiguous, as distinguished from lying near or adjacent.

ADT. Means average daily traffic.

Adult Entertainment Establishments. Any Sexually Oriented Business as defined in Chapter 6, Section 4.

Agriculture. The use of land for farming, dairying, pasturage, agriculture, apiculture, horticulture, floriculture, viticulture, animal and poultry husbandry, and the necessary accessory uses for packing, treating, or storing the produce, provided that:

- a) The operation of any such accessory uses shall be secondary to that of normal agricultural activity;
- b) The above uses shall not include the feeding or sheltering of animals or poultry in penned enclosures within one thousand (1,000) feet of any residential zoning district;
- c) Agriculture does not include the operation or maintenance of a commercial stockyard or feedlot; and
- d) Agriculture does not include chemical storage or manufacturing associated with Agriculture.

Alley. Any dedicated minor way at the rear or side of the property affording only secondary access to the abutting property and not intended for general traffic circulation.

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

Alteration, Material. Any change to an approved plan of any type that involves the substitution of one material, species, element, and related items for another.

Alteration, Minor. Any change to an approved plan of any type that involves the revision of less than ten percent (10%) of the plan's total area or approved materials.

Alteration, Structural. Any change in the supporting members of a Building such as bearing walls, partitions, columns, beams, girders, or any substantial change in the exterior walls or the roof.

Alteration, Substantial. Any change to an approved plan of any type that involves the revision of ten percent (10%) or more of the plan's total area or approved materials.

Alteration of Real Property. Any act by which vegetative cover or soil is removed, or soil is graded and land changed that may result in erosion or the movement of sediments, or the covering of land surfaces with impermeable material on areas totaling more than fifteen thousand (15,000) square feet.

Amusement Establishment, Indoor. This use includes the following types of establishments: skating rinks, bowling alleys, racquetball facilities, golf domes, pool or billiards, bingo, foosball, table tennis, shuffleboard, amusement arcades, dance halls, shooting galleries, pinball machines and video games provided for public patronage.

Amusement Establishment, Outdoor. This use includes, but is not limited to, theaters, raceways, music arenas, theme parks, amusement parks, miniature golf, water slides, batting cages, go-cart courses, and skateboarding courses.

Animal Hospital. See **Veterinary Hospital**.

Antenna. A Structure or device that is used for the purpose of collecting or transmitting signals, images, sounds, or information of any nature by wire, radio, visual, or electromagnetic waves, including, but not limited to, directional or omni-directional antennas, panels, and microwave or satellite dishes, however, antenna does not include an amateur radio station antenna with a height that complies with the height requirements of the zoning district where the amateur radio station antenna is located.

Antenna, Dish-type Receiving (earth station or ground station). A signal receiving device or Structure, the purpose of which is to receive radio communications, television, data transmission or other signals from a satellite or satellites in earth orbit and is subject to all Town Ordinances relating to Structures.

Antenna, Radio or Television Transmission. A signal receiving device or Structure, the purpose of which is to transmit or receive radio communications or television signals.

Art Gallery. A room or structure in which original works of art or limited editions of original art are bought, sold, loaned, appraised or exhibited to the general public.

Arterial Street. See **Street, Arterials**.

Assembly. This use includes taking partially completed materials and semi-finishing, finishing or packaging them for transfer to another plant, firm, or customers.

Attached Dwelling. See **Dwelling, Attached**.

Auditorium. A room, hall, or building which is part of a church, theater, school, recreation building, or other building assigned to the gathering of people as an audience, to hear lectures, plays, presentations, or performances.

Automated Teller Machine (ATM). A mechanized consumer banking device operated by a financial institution for the convenience of its customers, whether outside or in an access-controlled facility.

Automobile. Means an automobile, truck, motorcycle, mobile home, or any other vehicle propelled or driven other than by muscular power.

Automobile Repair Station. A place where one or more of the following services are carried out:

- a) General repair;
- b) Engine rebuilding;
- c) Rebuilding or reconditioning of motor vehicles;
- d) Collision service, such as body, frame or fender straightening and repair, painting and undercoating of automobiles; and
- e) Accessory service, such as oil/lubrication, transmission repair, muffler service and the like.

Public parking and Open lot sales are prohibited at an automobile repair station.

Automobile Sales. Retail establishment that sells new automobiles, trucks, vans, recreational vehicles, trailers, motorcycles, or similar motorized transportation vehicles. The dealership may maintain an inventory of the vehicles on-site and may provide parts, service, minor repair and maintenance. Used vehicles may be sold only as part of an establishment that sells new vehicles, not as a stand-alone establishment exclusively selling used vehicles.

Automobile Service Center. An establishment in which the retail sale of accessories and services for automobiles are provided as the primary use, including the customary space and facilities for the installation of such commodities on or in such vehicles, but not including the space for facilities for major storage, repair, dumping, painting, refinishing and gas pumps. Public parking is not permitted in an automobile service center. Open lot sales are prohibited at an automobile service center.

Automobile Service Station. A place where petroleum products are stored only in underground tanks and lubricating oil or grease for operation of automobiles are offered for sale directly to the public on the premises, and including minor accessories and the servicing of automobiles, but not including major automobile repairs. The sale or storage of any motor vehicles or trailers is prohibited at automobile service stations.

Automobile Wash . A building or portion of a building containing facilities for washing one or more automobiles at any one time, by using production line methods, mechanical devices, or by providing space, water, soap and equipment for the cleaning of automobiles by the operator or the customer.

Awning. A roof-like cover, temporary in nature, which projects from the wall of a building.

Banquet Halls. An establishment whose principal business is the sale of food and beverages for immediate consumption by customers within the building. Restaurants serve individual or small groups, with or without reservations, while banquet halls accommodate larger groups who reserve the establishment prior to their visit. Banquet Halls require food handler license.

Basement. A story partly or wholly underground. Where more than one-half of its height is above the average level of the adjoining grade where the curb-level has not been established, a basement shall be counted as a story for purposes of height measurement.

Bay. See **Berth or Bay, Loading and Unloading.**

Bed & Breakfast. A private, owner-occupied business with two (2) to ten (10) guest rooms where overnight accommodations and a morning meal are provided to transients for compensation and where the bed and breakfast inn is operated primarily as a business.

Berm. A man-made earthen mound of definite height and width used for obscuring purposes, generally constructed at a three-to-one slope.

Berth or Bay, Loading and Unloading. The off-street area required for the receipt or distribution by vehicles of material or merchandise.

Billboard. See **Sign, Billboard.**

Block. A tract of land bounded by streets or, in lieu of a street or streets, by public parks, cemeteries, railroad rights-of-way, bulkhead lines or shore line of waterways, or corporate boundary lines of municipalities.

Block Frontage. Property having frontage on one (1) side of a street and lying between the two (2) nearest intersecting streets or railroad right-of-way, waterway, park, cemetery, bulkhead lines or other barrier.

Board of Trustees. See **Town Council.**

Board of Zoning Appeals (BZA). The Board of Zoning Appeals of the Town of St. John, Lake County, Indiana.

Boarding or Rooming House. A building originally designed for and used as a single or two-family dwelling, all or a portion of which contains lodging rooms which accommodate persons who are not members of the keeper's family. Lodging or meals or both are provided for compensation for three (3) or more, but no more than five (5) persons on any given day. This accommodation shall not be available to transients.

Buffer Area. A strip of land in a non-residential district at the point where the non-residential district touches a residential district. Bulk and yard requirements may be included in the required buffer area.

Buffer. The area of a development which abuts the perimeter of the development and which is designed specifically to provide a buffer and visual screen to adjacent land.

Buffer or Screen, Solid, or Opaque Visual. Means a Buffer or Screen composed of a solid evergreen hedge; stone, brick, or wood fence; earth mounding; or other suitable material or any combination a minimum of six (6) feet in height. A chain link fence with or without screen slats shall only be allowed in combination with a minimum of a six (6) feet high solid evergreen hedge on the side of fence that abuts the adjoining property.

Buffer Strip. See **Green Strip**.

Build-to-Line. A line appearing on the development plan, stated as the setback dimension from the Right-of-way along which a Building façade must be placed.

Buildable Area. The space remaining on a zoning lot after the minimum open space and setback requirements have been met.

Building. Any structure with substantial walls and roof securely affixed to the land and entirely separated on all sides from any other structure by space or by exterior walls in which there are not communicating doors, windows or openings; and which is designed or intended for the shelter, enclosure, or protection of persons, animals or chattels. Any structure with interior areas not normally accessible for human use, such as gas holders, oil tanks, water tanks, grain elevators, coal bunkers, oil cracking towers, and other similar structures are not considered a building.

Building, Accessory. See **Accessory Building**.

Building, Attached. A building which has a common wall with an adjacent building.

Building, Completely Enclosed. A building separated on all sides from the adjacent open space, or from other buildings or structures, by a permanent roof and by exterior walls, pierced only windows and normal entrance and exit doors.

Building Coverage. The lot area covered by the principal building and any accessory buildings with roofs and excluding accessory structures that are open to the sky.

Building, Detached. A building that has no structural connection with another building.

Building, Height of. The vertical distance from the average curb level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the roof or any projection above the roof.

Building Line. The line nearest the front of and across a zoned lot, establishing the minimum open space and setback to be provided between the front line of a building or structure and the street right-of-way.

Building, Non-Conforming. See **Non-Conforming Building**.

Building Penthouses. See **Penthouse, Building**.

Building Permit. A permit issued by the Town that authorized the construction, reconstruction, erection, alteration, expansion or demolition of a building or structure.

Building, Principal. The main, chief, leading, primary or original building constructed on a parcel or lot, as opposed to an accessory building.

Building Materials Sale. A building, or portion of a building, in which the principle use is the selling of lumber or other associated building materials and supplies in bulk to contractors and the general public.

Building, Semi-Detached. A building which has only one party wall in common with another building.

Building, Setback Line. See **Setback Line**.

Building, Temporary. Any building not designed to be permanently located in the place where it is or where it is intended to be placed or affixed.

Burning. Combustion, whether slow, moderate, free, or intense. All burning shall comply with regulations in the Town of St. John Fire Prevention Code and shall comply with all requirements of the Town of St. John Fire Chief.

Business Establishment: Means a place of commercial or industrial enterprise with its furnishings and staff.

Bus lot. Any lot or land area used for the storage or layover of passenger busses or motor coaches.

Campground. Any area or tract of land used or designed to accommodate two (2) or more camping parties, including cabins, tents or other camping facilities.

Canopy. A roof like structure which projects from the wall of a building and overhangs into a public way.

Capacity in Persons. The maximum number of persons that can avail themselves of the services or goods of an establishment or use at any one time, with reasonable comfort and safety.

Car Wash. See **Automobile Wash**.

Carnivals, Fairs, or Circuses. A traveling or transportable group or aggregation of rides, shows, games or concessions or any combination thereof.

Carport. A roofed-over area attached or detached to the principal building for vehicle storage, which may be open on all sides.

Catering Establishment. An establishment providing meals and/or refreshments for public or private entertainment for a fee.

Cattery. See **Kennel**.

- Cemetery.** Land used or intended to be used for the burial of the human or animal remains, and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries, if operated in connection with and within the boundaries of such cemetery for which perpetual care and maintenance is provided.
- Center, Civic.** A place, structure, area, or other facility, whether indoor or outdoor, used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community.
- Centerline.** A line lying midway between the sidelines of a street or alley right-of-way and/or pavement.
- Certificate of Occupancy.** A certificate signed by the Town Building Commissioner stating that the occupancy and usage of land or a Building or Structure complies with the provisions of this Ordinance and all applicable Town codes.
- Channel.** A natural or artificial watercourse of perceptible extent, with definite bed and banks to confine and conduct continuously or periodically flowing water.
- Church, Temple, or Place of Worship.** A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which buildings, together with its accessory buildings and uses is maintained and controlled by a religious body organized to sustain public worship.
- Clinic or Medical Center.** An outpatient establishment where licensed physicians, surgeons, dentists or other licensed medical professionals are engaged in the practice of medicine or dentistry, operating on a group or individual basis with pooled facilities, such as coordinated laboratory, X-ray and allied departments, and the diagnosis and treatment of humans, which may include a drug prescription counter (not a drug store) for the dispensing of drugs and pharmaceutical products to the patients of said physicians, surgeons, and dentists or other licensed medical professionals.
- Closed Cup Flash Point.** The lowest temperature at which a combustible liquid, under prescribed conditions, will give off a flammable vapor which will burn momentarily.
- Club.** A building or portion thereof, or premises owned or operated by a person for social, literary, political, educational, or recreational purposes, primarily for the exclusive use of members of their guests, but not including any organization, group or association with the principal activity of which is to render a service usually and ordinarily carried on as a business.

Club or Lodge, Private. A non-profit association of persons who are bona fide members paying annual dues, which owns, hires or leases a building or portion thereof, the use of such premises being restricted to members and their guests. It shall be permissible to serve food and meals on such premises provided that adequate dining room space and kitchen facilities are available. The sale of alcoholic beverages to members and their guests shall be allowed in conjunction with the operation of a dining room for the purpose of service food and meals, though such beverages may be served in a separate room or rooms, and provided that such sales of alcoholic beverages is in compliance with the applicable federal, state, county and local laws.

Collector Street. See **Street, Collector.**

College or University. An Institution accredited at the college level by an agency or association recognized by the U.S. Secretary of Education and legally authorized to offer at least a one-year program of study creditable towards a degree.

Commission. See **Plan Commission.**

Common Open Space. An area within any development designed and intended for the use or enjoyment of all residents of the development, or for the use and enjoyment of the public in general.

Common Property. Land and/or facilities owned and/or maintained by a property owners association or with ownership in common by a condominium association in which members of the association have certain rights of usage.

Community Center. A public building including one or more of the following facilities: meeting and recreation rooms, dining rooms and kitchen facilities, and family day care centers, all for the common use of residents.

Comprehensive Plan. See **Plan, Comprehensive.**

Conditional Use. A use of land, water, or building which is allowable only after approval by the Board of Zoning Appeals as specified in this Ordinance.

Conditional Use Permit. A permit issued by the duly designated Town Official, upon approval by the Board of Zoning Appeals, to allow a use other than a Permitted Use or Special Exception within the zoning district.

Condominium. Any real estate lawfully subjected to the Indiana Horizontal Property Law by the recordation of condominium instruments.

Condominium Unit. An enclosed space consisting of one or more rooms occupying all or part of a floor or floors in a structure of one or more floors or stories, regardless of whether it is designed for residence, for office, for the operation of any business, or for any other type of independent use, with either a direct exit to a public street or highway or an exit to a thoroughfare or to a given common space leading to a thoroughfare, together with the undivided interest in the common elements appertaining to that unit of space.

Conforming Building or Structure. A building or structure which:

- a) Complies with all of the regulations of this Zoning Ordinance or of any amendment thereto governing the zoning district where the building or structure is located; or
- b) Is designed or intended for a permitted use or special exception as allowed in the zoning district in which it is located.

Construction. The placing of construction materials, including landfill, in permanent position and fastened in a permanent manner. Where excavation, demolition or removal of an existing building has been substantially begun in preparation for rebuilding or building, such excavation, demolition or removal shall be deemed construction.

Construction, Commencement of. The date that a building permit is issued.

Construction Facility, Temporary. Temporary Buildings or Structures incidental to construction operations used during construction development.

Contiguous. Means abutting or adjoining.

Contractor's Equipment Storage Yard. A space used to store, service, or house building related products and equipment.

Convalescent or Nursing Home. See **Nursing Home**.

Convenience Store. See **Store, Convenience**.

Corner Lot. See **Lot, Corner**.

Council. See **Town Council**.

County. Lake County, Indiana.

Court. An open, unoccupied space on the same lot with a building or group of buildings and bounded on three or more sides by such building or buildings. The width of any court is its least horizontal dimension measured between opposite walls. The length of any court is its greatest horizontal dimension measured at right angles to its width.

Covenant. A recorded document restricting and/or requiring certain actions by the owner at the time of recording.

Cul-de-sac. See **Street, Cul-de-sac**.

Curb Cut. Lowering the grade level to allow motorized vehicular ingress to and egress from property.

Curb Level. The level of the established curb in front of the building measured at the center of such front. Where a building faces on more than one street, the "curb-level" shall be the average of the levels of the curbs at the center of the front of each street. Where no curb elevation has been established, the man level of the land immediately adjacent to the building shall be considered the "curb level".

Curb Line. A line located on either edge of the roadway, but within the right-of-way line.

Data Processing & Analysis Facility. Facility where electronic data is processed by employees, including, without limitation, data entry, storage, conversion or analysis, subscription and credit card transaction processing, telephone sales and order collection, mail order and catalog sales, and mailing list preparation.

Day Care/Nursery Center. A facility which is used by a person licensed by a department of state or local government to provide for the care and maintenance of children other than his or her own family and the children of close relatives, during a portion of the day.

Day Spa. An establishment that provides manicures, pedicures, hair styling, makeup guidance, and related services, but does not offer massage services.

Day Spa with Massage. An establishment that offers both day spa services and massage services.

Decibel. A unit of measurement of the intensity (loudness) of sound. Sound level meters, which are employed to measure the intensity of sound, are calibrated in decibels.

Density, Gross. The number of dwelling units per acre of the total land to be developed, including public rights-of-way.

Density, Net. The number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses, excluding public rights-of-way and other public sites.

Detached Structure. A structure surrounded by open space on a single lot.

Depth of Lot. See **Lot, Depth**.

Depth of Yard. See **Yard, Depth**.

Development. Any man-made change to improved or unimproved real estate including, but not limited to, the following:

1. construction, reconstruction, or placement of a building or any addition to a building;
2. 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 one hundred eighty (180) days;
3. installing utilities, erection of walls or fences, construction of roads, or similar projects;

4. construction of flood control structures such as levees, dikes, dams, channel improvements, and related;
5. mining, dredging, filling, grading, excavation, or drilling operations;
6. construction and/or reconstruction of bridges or culverts;
7. storage of materials; or
8. any other activity that might change the direction, height, or velocity of flood or surface waters.

The term does not include activities such as the maintenance of existing buildings and facilities including painting and re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent buildings.

Development Plan. A specific plan for the development of real property that is submitted for Plan Commission approval showing proposed facilities and structures. This plan review includes general landscaping, parking, drainage, erosion control, signage, lighting, screening, utilities and building information for a site. A development plan may include only parcels that are contiguous and not separated by the Right-of-way of any highway in the state highway system.

Development Requirements. Development standards, plus any additional requirements specified in this Ordinance which must be satisfied in connection of the approval of a Subdivision or Development Plan.

Dish. That part of the receiving station shaped like a saucer or dish. See also **Dish Type Receiving Antenna**.

District. A section of the Town for which uniform zoning regulations govern the use, height, area, size, and intensity of use of buildings and land and open spaces around buildings as established by this Ordinance.

Dog Run. Fenced in area for a dog.

Drain. See **Regulated Drain**.

Drive-In Establishment. A business establishment so developed that its retail or service character is dependent upon providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure, and to provide self-service for patrons.

Drive-In Restaurant or Refreshment Stand. See **Restaurant, Drive-through**.

Driveway. A right-of-way providing access to a parking area or residence.

Dry Cleaning Establishment with On-site Plant. An establishment or business maintained for the pickup and delivery of dry cleaning and/or laundry with an on-site plant and the maintenance or operation of any laundry or dry cleaning equipment on the premises.

Dry Cleaning Establishment without On-site Plant. An establishment or business maintained for the pickup and delivery of dry cleaning and/or laundry without an on-site plant.

Dwelling. A building or portion thereof, but not including a house trailer or mobile home, designed or used exclusively for residential occupancy, including one-family dwelling units, two-family dwelling units, and multiple-family dwelling units, but not including hotels, motels, boarding, or lodging houses.

Dwelling, Attached. A dwelling joined to two or more dwellings by party walls or vertical cavity walls, and above ground physically unifying horizontal structural elements.

Dwelling, Detached. A dwelling that contains one dwelling unit, which is developed with open yards on all sides and is not attached to any other dwelling or building.

Dwelling, Duplex. A dwelling which is part of two dwellings that are joined together with a party wall or vertical cavity wall, and above ground physically unifying horizontal structural elements, each having front and rear yards and entrances.

Dwelling, Modular Home. A detached residential dwelling unit designed for transportation, after fabrication, on streets or highway on flatbed or other trailers, arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking, assembly operations, permanent anchorage to the foundation and connection to utilities.

Dwelling, Town House. A dwelling which is part of two, but no more than four dwellings that are joined together with a party wall or vertical cavity wall, and above ground physically unifying horizontal structural elements, each having front and rear yards and entrances.

Dwelling Unit. Two or more rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking, sanitary and sleeping facilities.

Dwelling Unit, Multiple Family. A multi story building on a lot designed and used exclusively as a residence for two, but no more than 4 dwellings for families living independently of one another.

Dwelling Unit, Single Family. A building on a lot designed and occupied exclusively as a residence for one family.

Dwelling Unit, Two Family. A building on a lot designed and occupied exclusively as a residence for two families.

Dump. Land, or a part thereof, used primarily for the disposal by abandonment, dumping, burial, burning or any other means, and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

Easement. A right of use or privilege, in land, acquired from an owner, which at the same time restricts the rights of use or privilege of the owner. The types of easements include: ingress/egress easements to traverse property, utilities, such as publicly regulated utilities and drainage easements granted to the Town or to Lake County.

Educational Institution. Public, parochial, charitable, or non-profit junior college, college, or university, other than trade or business schools, including instructional and recreational areas, with or without living quarters, dining rooms, restaurants, heating plants and other incidental facilities for students, teachers and employees.

Enlargement. An addition to the floor area of an existing building, an increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an existing use. To enlarge is to make an enlargement.

Entertainment. Dancing to music provided either by mechanical means or by live musicians, live performances by musicians and other live presentations by individuals from the performing arts, excluding Adult Entertainment Establishments.

Essential Services. The erection, construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel or water transmission, or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals and hydrants, in connection herewith, but not including buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, or welfare.

Excavation. Any breaking of ground, except common household gardening and ground care or soil removal for building construction, below existing or established contiguous street grades for the removal of soil, earth, sand, rock or other such material.

Existing Conditions Plan. A site plan that describes the general conditions of a property and any distinguishing features such as roads, building footprints, site grades / topography, trees and other natural elements such as water bodies, wetlands, etc.

Extension. An increase in the amount of existing floor area used for an existing use, within an existing building. To extend is to make an extension.

Façade. Means the entire building front, or any other face of a building if on a street or court given special architectural treatment.

Face Brick. Means a substance with a minimum of a three and one-half inch (3 ½") depth made from natural cut stone or clay molded into oblong rectangle shapes and fired in a kiln.

Facility, Assisted Living. Housing wherein limited health care is provided for the aged.

Facility, Health and Fitness. A place providing space for exercise and physical fitness, although not necessarily under the supervision of a physical therapist.

Facility, Independent Living. A multiple family dwelling with occupancy limited to persons fifty-five years of age or older; however if two persons occupy a unit at least one shall be fifty-five years of age or older.

Facility, Nursing Home or Skilled Nursing facility. See **Nursing Home**.

Family. Means any number of individuals related by blood, marriage, or legal adoption, or a group of not more than three (3) adults (persons sixteen years of age or older) not related by blood or by marriage, and their dependent children, living together on the premises in a dwelling unit

Farm. Any tract of land used for the raising of agricultural products, forest products, livestock or poultry, and including facilities for the sale of such products from the premises where produced.

FEMA. Means Federal Emergency Management Agency.

Fence. A structure partially or completely surrounding a part of or the whole of a zoning lot which is intended to prevent intrusion from without and straying from within the area controlled, but not including a hedge or other natural growth.

Filling Station. See **Automobile Service Station**.

Financial Institution. This use includes establishments whose principal use or purpose is the provision of financial services including, but not limited to, back facilities for tellers, automated teller machines, credit unions, saving and loan institutions, mortgage companies, and currency exchanges.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land area from the overflow of inland waters.

Floodway. The channel of a river or stream in those portions of the flood plain adjoining the channel which are reasonably required to carry and discharge the flood water or flood flow of any river or stream.

Floodway Fringe. That portion of a flood hazard area outside the limits of the floodway, so designated by the Federal Insurance Administration.

Flood Plain. Land subject to inundation by the maximum flood of reasonable regional expectancy (One Hundred Year Flood), as determined by the Department of Natural Resources, Division of Water, of the State of Indiana. The flood plain includes the channel, floodway, and floodway fringe.

Floor Area, Gross. Area in square feet of all floors in all buildings including elevators and stairways. Measured from outside of exterior wall to outside of exterior wall and multiplied by the number of floors. Includes basements which are used in the primary function of the building.

Floor Area, Net. The area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts, hallways, foyers, and courts. The floor area of a building or portion thereof, not provided with surrounding exterior walls, shall be the usable area under the horizontal projection of the roof or floor above.

Floor Area Ratio (FAR). A figure expressing the maximum permissible square footage of floor area for a building on a lot. This figure is determined by dividing the total Floor Area of all Building(s), excluding basements and covered parking, on a Lot by the total area of that Lot.

Food Processing. The preparation, storage, or processing of food products, including activities such as bakeries, dairies, canneries, and related.

Foot-Lambert. A unit of brightness, usually of a reflecting surface. A diffusion surface of a uniform brightness reflecting or emitting an equivalent of the light from one candle at one foot distance over one square foot has a brightness of one foot-lambert.

Foot-Candle. A unit of illumination, equivalent to the illumination of all points which are one foot distant from a uniform point source of one candle power.

Freight Terminal. A building or area in which freight brought by motor truck or railroad freight cars is assembled or stored for routing in intra-state shipment by motor trucks or railroad freight cars.

Frequency. The number of oscillations per second in a sound wave, measuring the pitch of the resulting sound.

Front Lot Line. See **Lot line, Front.**

Front Yard. See **Yard, Front.**

Frontage. That portion of a lot line abutting a public street measured along the street line.

Frontage Street. See **Street, Frontage.**

Funeral Home or Mortuary with crematorium. An establishment providing services such as preparing the human dead for burial and arranging and managing funeral, and may include limited caretaker facilities and crematoriums.

Funeral Home or Mortuary without crematorium. An establishment providing services such as preparing the human dead for burial and arranging and managing funeral, and may include limited caretaker facilities.

Garage, Bus. Any building used or intended to be used for the storage of one (1) or more passenger motor buses, or motor coaches, used in public transportation, including school buses.

Garage, Public. A building other than a private garage, used for the care, servicing and sale of automobile supplies, or where motor vehicles are parked or stored for remuneration, hire or sale within the structure, but not including trucks, tractors, truck trailers and commercial vehicles exceeding one and one-half tons capacity.

Garage Sale. See **Sales, Rummage.**

Garage, Storage. See **Garage, Public.**

Garage, Service. See **Automobile Repair Station** and **Automobile Service Station.**

Garage, Truck. A building which is used or intended to be used for the storage of motor trucks, truck trailers, tractors and commercial vehicles exceeding one and one-half tons capacity. Used for the care, servicing and sale of truck supplies, or where trucks are parked or stored for remuneration, hire or sale within the structure.

Gasoline Service Station. See **Automobile Service Station.**

Glare. The brightness of a light source, which causes annoyance, discomfort or loss of visual performance.

Golf Course. Public, semi-public or private grounds over which the game of golf is played, including accessory buildings and land uses incidental thereto.

Grade. The average level of the finished surface of ground adjacent to the exterior walls of a building.

Greenbelt. A strip of land along U.S. 41 or along Route 231 of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this Ordinance.

Green Strip. A solid planting strip composed of grass and evergreen shrubs.

Ground area. Gross area of parcel of land.

Ground Floor Area. The square foot area of a residential building within its largest outside dimensions computed on one horizontal plane above the ground level, exclusive of open porches, breezeways, terraces, garages, and exterior stairways.

Group Home. See **Residential Care Home.**

Half Street. See **Street, Half.**

Helicopter Pad. A level surface designed to accommodate the landing and taking off of helicopters.

Heliport. A facility or land area with navigation devices for the takeoff and landing of helicopters with or without services available for aircraft.

Home Occupation. A gainful occupation conducted by members of the family only, within their place of residence provided that no article is sold or offered for sale on the premises except such as is produced by such occupation, that no stock in trade is kept or sold, that no mechanical equipment is used other than such as is permissible for purely domestic purposes and that no persons other than a member of the immediate family living on the premises is employed. Such occupation shall not produce offensive noise, vibration, smoke, dust, odors, heat, or glare.

Hospital. Any institution, place, building, or agency represented and held out to the general public as ready, willing and able to furnish care, accommodations, facilities and equipment for the use, in connection with the services of a physician, of persons who may be suffering from deformity, injury, or disease, or from any other condition, from which medical and surgical services would be appropriate for care, diagnosis, or treatment. Hospital does not include institutions operating solely for the treatment of insane persons, drug addicts, alcoholics, or other types of cases necessitating restraint of patients, and does not include convalescent, nursing, shelter care, or boarding homes.

Hospice. An establishment that provides palliative care and attends to the emotional and spiritual needs of terminally ill patients.

Hospital, Animal. See **Animal Hospital**.

Hotel, Motel, Inn. An establishment containing lodging accommodations designed for use by transients, or travelers or temporary guests. Facilities provided may include maid service, laundering of linen used on the premises, telephone and secretarial or desk service, restaurants, cocktail lounges and meeting rooms.

House Trailer. See **Mobile Homes**.

Illegal Use. Any use, whether of a building or other structure, or of a tract of land, in which a violation of any provision of this Ordinance has been committed or exists.

Illumination. Artificial light that shall not be blinking, fluctuating, or moving.

Impervious surface. Any hard-surfaced, man-made area that does not readily absorb or retain water, including, but not limited to, concrete, asphalt, brick, stone, terrazzo, tile, pavers and aggregate used for dwellings, garages, driveways, walkways, decks, porches, terraces, patios, swimming pools, and sports courts.

Improvement. Any change in Use, any major exterior remodeling of a Structure or grounds, any addition to a Structure or parking area, or any interior remodeling of over thirty percent (30%) of the gross square footage of a Structure. See also **Construction, Development and Alteration**.

Industrial Park. A unified development designed to accommodate a community of compatible and non-nuisance types of industry.

Industrial Waste or Reclamation Facility. Any facility used for the storage, transportation, reclamation, or disposal of any waste classified as hazardous or toxic by the United States Environmental Protection Agency in the State of Indiana.

Industrial Use, General. Manufacturing, processing, extraction, heavy repairing, dismantling, storage, or disposal of equipment, raw materials, manufactured products or waste, in which operations other than transportation may be performed in either open or closed areas. See also **Manufacturing, Light** and **Manufacturing, Heavy**.

Inspector: Means any Town employee working under the authority and direction of the Town Manager pursuant to this Ordinance or any other Town Ordinances.

Institution. Any non-profit organization established for public, charitable, educational, or religious purposes such as church, college or university, hospital, or school.

Interior Lot. See **Lot, Interior**.

Intermittent: Means stopping or starting in intervals of ten (10) or more per minute.

Junk. Any worn-out, cast off, or discarded article or material which is ready for destruction or has been collected or stored for salvage or conversion to some use and causes a nuisance.

Junk Yard. Any lot, building, structure, enclosure, premises, or parts thereof, used for the storage, keeping or abandonment of any worn-out, cast off, or discarded or abandoned article, material, vehicle, automobile, machinery or parts thereof, which is ready for destruction, or has been collected or stored for salvage or conversion to some use, including scrap metal, paper, wood, cordage or other waste or discarded materials, articles, vehicles, automobiles that are inoperable or incapable of movement by their own locomotion or power, or vehicles or automobiles without a valid current state registration and license plate issued to said vehicle or automobile and to the occupant, owner, purchaser, lessor, lessee, of any lot, building, or structure therein or thereon situated.

Kennel or Cattery. Any lot or premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee or selling dogs or cats. Six (6) or more dogs or cats owned, harbored, possessed, cared for or kept in custody of any person shall be construed and constitute a Kennel.

Laboratory, Industrial. See **Research Laboratory**.

Laboratory, Medical. A place for gathering, sampling, handling, processing, observing, and testing human tissue, blood, and other similar items.

Lake or Pond, Artificial. A manmade body of water of five thousand (5,000) square feet or greater in area.

Lambert. 1/929th of a foot-lambert, usually used to designate intrinsic brightness of light sources.

Landscaping for Signs: Means any material used as a decorative feature, such as concrete bases, planter boxes, pole covers, decorative framing, and shrubbery or planting materials, used in conjunction with a sign but does not contain advertising copy.

Landscaping. The improvement of a lot with grass, berms, trees not less than 2" in diameter, shrubs, and bushes no smaller than 2 foot in height and flowerbeds, wood chips, retaining walls or other vegetation. Landscaping may include retention ponds, ornamental objects such as fountains, statues, and other similar natural or artificial objects designed and arranged to produce an aesthetically pleasing effect.

Lane. See **Street, Lane.**

Laundromat. A business that provides coin-operated, self service type washing, drying, dry-cleaning and ironing facilities, providing that no more than four (4) persons, including owners, are employed on the premises, and that no pick-up or delivery service is maintained.

Legal Drain. See **Regulated Drain.**

Legal Non-Conforming Sign. See **Sign, Legal Non-Conforming.**

Legislative Body. See **Town Council.**

Level. That portion of a building included between the surface of the floor above it or if there is no floor above, the space between the floor and the ceiling next above it. Any portion of a story exceeding fourteen (14) feet in height shall be considered as an additional story for each fourteen (14) feet or fraction thereof

Library. A public facility for the use, but not for the sale, of literary, reference, artistic, and musical materials.

Licensed Day-Care Center. A facility licensed by the State of Indiana. whether situated within the Town or not, that provides care, training, education, custody, treatment or supervision for more than four (4) children under fourteen (14) years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for less than twenty-four (24) hours a day, regardless of whether or not the facility is operated for profit or charges for the services it offers.

Limited Access Street. See **Street, Limited Access.**

Liquor store. An enclosed establishment principally engaged in selling beer, wine and liquor goods or merchandise to the public for personal or household consumption.

Live Entertainment Establishment. Any establishment, including, but not limited to, taverns, restaurants, and banquet halls that is utilized for live performers or patrons engaged in singing, playing musical instruments, dancing, and/or performing by live performers, employees, patrons, by mechanical or electronic means, whether indoors or outdoors and whether or not an admission fee is charged.

Loading Area. A completely off-street space or berth conveniently located on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public street or alley, however, the street or alley shall not be part of the required parking space or berth or movement for parking of vehicles.

Loading Space. An off-street space on the same lot with a building or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

Local Drain. Any drain other than a Regulated Drain.

Local Street. See **Street, Local**.

Lodging House. See **Boarding, or Rooming House**.

Logo. Means pictorial, geometric, abstract or any other type of symbol chosen by a business establishment to represent its identity.

Lot. A piece, parcel, or plot of land intended as a unit for transfer of ownership of at least sufficient size to meet minimum zoning requirements. Such lot shall have frontage on an improved public street or on an approved private street.

Lot Area. The area of a horizontal plane bounded by the vertical planes through the front, side, and rear lot lines.

Lot, Corner. A lot abutting two or more streets at their intersection.

Lot Coverage, Building. The percentage of the lot area covered by the Building Area.

Lot Coverage, Impervious Surface. The entire Lot or parcel that can be developed by principal buildings, garages, storage areas, parking lots, decks, patios, balconies, swimming pools, sports courts, and accessory buildings.

Lot, Depth of. The mean horizontal distance between the front and rear lot lines.

Lot, Double Frontage. A lot which has frontage on two approximately parallel streets and which is not a corner lot. Front yard setbacks shall be provided on the two parallel streets. Also known as a Through Lot.

Lot Line, Front. In the case of an Interior Lot, a line separating the Lot from the Right-of-way of the street, and in the case of a Corner Lot, a line separating the narrowest frontage of the Lot from the street, except in cases where deed or plat 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 ten (10) feet in length within the Lot, parallel to and at the maximum distance from the Front Lot Line.

Lot Line, Side. A Lot boundary line that is not a Front Lot Line or a Rear Lot Line.

Lot, Interior. A Lot other than a Corner Lot or Through Lot.

Lot Lines. A property boundary line of any lot except that where any portion of the lot extends to the abutting street or alley, the lot line shall be deemed to be the street or alley line.

Lot Remnant. Parcels of land remaining from subdivision, which are below minimum lot size.

Lot, Through. See **Lot, Double Frontage.**

Lot Width. The shortest distance between side lot lines measured at the building setback line.

Lot, Zoning. A tract of land located within a single block, which at the time of filing for a Zoning Permit, or if no Zoning Permit is required, at the time of filing for a Certificate of Occupancy, is designated by its owner or developer as a tract, all of which is to be used, developed or built upon as a unit.

Lot of Record. An area of land designated and dimensioned as a lot on a plat of subdivision recorded in the Office of the Lake County Recorder and which actually exists as so shown.

Lumber or Building Materials Sales. See **Building Material Sales.**

Maintenance and Storage Facilities. Land, Buildings, and structures devoted primarily to the maintenance and storage of equipment and material.

Manufacturing. Any use in which the major activity is the treatment, processing, rebuilding or repairing or bulk storage of material, products, or items and where the finished product is not acquired by the ultimate user on the premises distinguished from a retail use, where the treatment, processing, repairing, or storage is secondary to the sale, exchange, or repairing of materials or products on the premises.

Manufacturing, Light. Manufacturing or other industrial uses which are usually controlled operations and relatively clean, quiet, and free of objectionable or hazardous elements, such as smoke, noise, odor or dust, with operating and storing within the enclosed structures, and which generate little industrial traffic or nuisances.

Manufacturing, Heavy. Manufacturing, processing, assembling, storing, testing, and similar industrial uses which are generally major operations and extensive in character and require large sites, open storage and service areas, extensive services and facilities, with ready access to regional transportation. Such

operations normally generate some nuisances, such as smoke, noise, vibration, dust, glare, air pollution and water pollution, but not beyond the district boundary.

Manufactured Home. Means a dwelling unit fabricated in an off-site manufacturing facility for installations or assembly at the building site and bearing a seal certifying that it is built in compliance with the national Manufacturing Housing Construction and Safety Standards Code (42U.S.C. 54041 et seq.) and complying with the Uniform Building Code for One-and-Two Family Homes of the State of Indiana (Indiana Code 3607-4-1100). Such manufactured homes shall contain an excess of nine hundred fifty (950) square feet of occupied space and exceed a width of twenty-three (23) feet.

Manufactured Housing Construction and Safety Standards Code includes: Title IV of the 1974 Housing and Community Development Act (42 U.S.C. 5401 et seq.) as amended (previously known as the federal Mobile Home Construction and Safety Act), rules and regulations adopted there under which included H.U.D. approved information supplied by the home manufacturer and regulations and interpretations of said code by Indiana Administrative Building Council.

Manufactured Home, Underfloor Space. Underfloor space means that space between the bottom of the floor joist and the earth.

Manufactured Home, Occupied Space. Occupied space means that total area of earth horizontally covered by the structure, excluding accessory structures such as, but not limited to, garages, patios, porches, terraces, pullouts, and expansion rooms.

Manufactured Housing. Any housing unit or units, factory assembled in whole or in part, designed to be transported to a construction site, and intended primarily for permanent occupancy as a residence.

Marquee: Means a permanent structure attached to, supported by and projecting from a building and providing protection from the weather elements, but does not include a projecting roof. A freestanding permanent, roof-like structure providing protection from the elements, such as a canopy over a service station gas pump island, is considered a marquee.

Massage Services. The manipulation of tissue or body parts by rubbing, kneading, tapping with the hand or an instrument for therapeutic purposes, but not including services performed by a licensed physician, osteopath, chiropractor or physical therapist.

Master Plan. The comprehensive plan, including graphic and written proposals, indicating the general location for streets, parks, schools, public buildings, and all physical development of the Town, and includes any unit or part of such plan, and any amendment to such plan or parts thereof. Such plan may or may not be recommended by the Plan Commission and/or adopted by the Town Council.

Meeting or Party Hall. A building designed for public assembly, containing at least one room having an area equivalent for four hundred (400) square feet per dwelling unit or 2,400 gross square feet, whichever is greater.

Micron. A unit of length, equal to one-thousandth part of one millimeter (.001 millimeter).

Mining. See **Excavation**.

Minimum Building Size. The minimum square footage required for a new dwelling unit. The figure is based on the number of stories of the dwelling unit and the zoning district.

Minor Street. See **Street, Minor**.

Minor Structures. Any small, movable structure, such as birdhouses, pet houses, play equipment, arbors, and walls and fences not exceeding six (6) feet in height.

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 public streets or highways by either self-propelled or not self-propelled means, which is designed, constructed, reconstructed or added to by means of an enclosed addition or room in such manner as will permit the occupancy thereof as a dwelling for one or more persons, which is both used and occupied as a dwelling having no foundation other than wheels, jacks, skirting, or other temporary supports.

Modular Home. See **Manufactured Housing**.

Motel. See **Hotel**.

Motor Freight Terminal. A building or area in which freight brought by motor truck is assembled or stored for routing in intra-state or inter-state shipment by motor truck.

Motor Home or Recreational Vehicle. An automotive vehicle built on a truck or bus chassis and equipped as a self-contained traveling home or dwelling.

Motor Home Sales or Recreational Vehicle Sales. A building, structure, or premises used to sell or lease mobile homes or recreational vehicles, including the service or repair of vehicles.

Motor Vehicle Sales Lot. Any premises where two (2) or more motor vehicles are offered for sale or sold at any given time during any calendar year.

Motor Vehicle Wrecking Yard. Any place where two (2) or more motor vehicles not in running condition or otherwise legally operable on public ways, or parts thereof, are stored in the open and are not being restored to operation, or any land, building, or structure used for wrecking or storing of such motor vehicles or parts thereof, including farm machinery stored in the open, and not being restored to operating condition.

Municipality. The Town of St. John, Lake County, Indiana.

Municipal Facility. A building, structure, premises, or land, whether owned or leased, used by a local, county, state or federal unit of government.

Museum. An Institution that is established for the purpose of acquiring, conserving, studying, interpreting, assembling and exhibiting to the public for its instruction or enjoyment, a collection of artifacts of historical, scientific or cultural interest.

Nameplate. A sign indicating the name and/or address of a building or the name of an occupant thereof and the practice of a permitted occupation therein.

Net Floor Area. See **Floor Area, Net.**

Non-Conforming Use. A lawful use, which due to design, size or use does not conform to the use regulations of the zoning district in this Zoning Ordinance.

Non-Conforming Building. A building or structure, or portion thereof, lawfully designed, erected, or structurally altered that does not conform to the development regulations of the zoning district in this Zoning Ordinance.

Non-Conforming Lot. A lot of record lawfully existing at the effective date of this Zoning Ordinance, or amendments thereto, which does not conform to the lot area or lot width regulations of this Zoning Ordinance.

Non-Structural Repair: Means any form of general maintenance performed not in conjunction with a part of the sign that is needed, or necessary, for the construction of the Structure, building, or sign as a whole.

Noxious Matter or Material. A material which is capable of causing injury to living organisms by chemical reaction, or is capable of causing detrimental effects on the physically or economic well-being of individuals.

Nursing Home. An establishment for the care of children, aged, infirm or a place of rest for those suffering bodily disorders. The establishment includes spaces where people are housed and furnished with nursing care, medical care and meals, but does not provide surgical care or treatment for acute sickness or injury. This includes skilled nursing facilities, convalescent homes and rest homes, but does not include senior housing facilities or medical offices.

Nursery School. See **Day Care/Nursery Center.**

Nursery, Garden Supply or Greenhouse. Land, buildings, structures, or a combination thereof, for the storage, cultivation, transplanting of live trees, shrubs or plants offered for retail sale on the premises, including products used for gardening and landscaping.

Octave Band. A method of dividing the range of sound frequencies into octaves in order to classify sound according to pitch.

Office, Medical. See **Clinic or Medical Center.**

Office, Professional. This use includes business uses with little direct contact with customers present at the premises, which engage in the processing, manipulation, or application of business information or professional expertise. This includes, but is not limited to, accounting, insurance, investment services, computer services, architecture, engineering, legal services, real estate services, land surveyors, doctors or dentists offices, data processing and analysis facilities, utility company business offices, license bureaus, and not-for-profit agencies, but not medical clinics.

Office Building. A Building or portion of a Building wherein services are performed involving predominantly administrative, professional, or clerical operations not involving any equipment other than furniture and document processing and storage facilities.

Off-Street Parking. See **Parking, Off-Street.**

Off-Street Parking Structure. See **Parking, Off-Street Structure.**

Off-Street Parking Lot. See **Parking, Off-Street Lot.**

One Hundred Year Flood. The highest level of flood that on the average is likely to occur once every one hundred (100) years (i.e., that has a one percent chance of occurring each year)

Open Space. A public or private outdoor area expressly set aside for the use and benefit of many unrelated people. The area may include, along with natural environmental features, water areas, swimming pools, tennis courts, and other recreational facilities deemed permissive. Streets, parking areas, structures, or habitations, and the like shall not be included in open space area calculations.

Open Space Ratio. The square footage of site's Open Space provided for each square foot of Building Floor Area.

Open Sales Lot. A specific delineated area, not enclosed or covered, for the retail sales of goods.

Ordinance. A law set forth by governmental authority and a municipal regulation adopted by the legislative branch of the locality.

Overlay Zone. An additional, secondary zoning classification which establishes additional restrictions on the Use of land.

Parapet: Means a false front or wall extension above the roofline.

Park. A parcel of land owned by any local, county, state or federal governmental unit and used by the public principally for outside recreational activities.

Parking Area. An open off-street land area, including parking spaces and access and egress drives or aisles used or required by this Zoning Ordinance for the parking of automotive passenger vehicles of the occupants, patrons, employees, visitors for specified types of buildings or land uses, which is accessible from streets, alleys or private driveways leading to a street and in which automotive accessories, fuels and oils are not sold, automotive vehicles are not equipped, repaired, hired or sold, and on which no other business is conducted.

Parking Area, Private. An open, hard-surfaced area, other than a street or public way, designed, arranged, and made available for the storage of private passenger automobiles only, of occupants of the building or buildings for which the parking area is developed is accessory.

Parking Area, Public. An open, concrete or paved area, other than a street or public way, intended to be used for the storage of passenger automobiles, and commercial vehicles under one and one-half tons capacity, and available to the public, whether for compensation, free or as an accommodation to clients or customers.

Parking Space. Space within a public or private parking area exclusive of access drives, aisles, ramps, columns or office or work areas, for the storage of one passenger automobiles under one and one-half tons capacity.

Parking, Off-Street. A parcel of land with a durable surfaced area, enclosed in a main building or an accessory building, or unenclosed, sufficient in size to store at least one (1) standard automobile. Such open, unoccupied space shall be other than a street or alley, and the principal use of such parcel of the land, durably surfaced, enclosed or unenclosed, shall be for parking vehicles off the thoroughfares, within the corporate limits of the Town.

Parking, Off-Street Parking Structure. A building containing vehicular parking spaces along with the adequate drives and aisles for maneuvering and including access drives to and from streets or alleys.

Parking, Off-Street Parking Lot. A facility providing permanent, all weather surfaced vehicular parking spaces along with adequate drives and aisles for maneuvering, to provide access for entrance and exit for the parking of more than three (3) vehicles.

Particulate Matter. Finely divided solid or liquid matter, other than water, which is released into the atmosphere.

Party Wall. A wall starting from the foundation and extending continuously through all stories to or above the roof, which separates one unit from another and is in joint use by each unit.

Pedestrian-Way. Walkway used by persons without motorized or non-motorized vehicles.

Penthouse, Building: Area on a building roof with designated enclosures for mechanical equipment (such as elevator machine rooms, or Heating Ventilation Air Conditioning (HVAC) equipment).

Perimeter: Means geometric shape required to enclose a sign area.

Performance Bond, Surety Bond. An agreement by a subdivider or developer of the Town for the amount of the estimated construction cost, guarantying the completion of physical improvements according to the plans and specifications, within the time prescribed by the agreement.

Performance Standard. A criteria established to control smoke and particulate matter, noise, odor, toxic or noxious matter, vibration, fire and explosion hazards, glare or heat, or radiation hazards generated by or inherent in the uses of land or buildings.

Permitted Use. See **Use, Permitted.**

Person. An individual, proprietorship, partnership, corporation, limited liability company, association, organization, or other legal entity.

Personal Services. Any establishment for the provision of personal services directly to the consumer at the site of the business or which receives from /returns to the consumer goods that have been treated or processed at another location. This includes, but is not limited to, shoe repair, watch repair, barber shops, beauty parlors, interior design studios, package/mailling services, photography studios, tailors, pet grooming, self service laundries and dry cleaners (with off premise plant). This does not include retail establishments, office uses, or restaurants.

Personal Storage, Mini-warehouse. An enclosed storage facility containing independent, fully enclosed bays that are leased to individuals exclusively for short-term or long-term storage of non-hazardous household goods or personal property.

Phase. Any land area, whether platted or unplatted, building or buildings designated by the applicant in the Final Development Plan application.

Place. Any building, structure or place, or any separate part or portion thereof, whether permanent or not, or the ground itself.

Place of Worship. See **Church, Temple, or Place of Worship.**

Plan, Architectural. A plan for the construction of any structure designed by a qualified registered architect.

Plan, Comprehensive. A plan entitled Master Plan for St. John, IN that is a policy document which serves as a guide for the future physical development of public and private property within the Town of St. John, including the Thoroughfare Plan; Water and Sewer Plan; and Parks and Recreation Master Plan.

Plan Commission. The Plan Commission of the Town of St. John, Lake County, Indiana.

Planned Unit Development. A specialized classification that includes open space, access, utilities, and related, and encourages innovations in development, more flexible use of land and services allowing greater opportunity for better housing and recreation for all citizens.

Planting Strip. A section of land not less than ten (10) feet in width intended to contain plant materials for the purpose of creating a visual separation between uses or activities.

Plat. A scaled drawing indicating the boundaries of a parcel of land and/or indicating the boundaries of individual lots within the parcel.

Plat of Subdivision. The map, drawing or chart on which the subdivider's plan of subdivision is presented to the Plan Commission for approval.

Plat of Subdivision, Preliminary. A scaled drawing indicating planned location of individual lots and other information required by the Town Subdivision Control Ordinance.

Plat of Subdivision, Final. The final approved scaled drawing of a parcel and/or individual lots and other information required by the Town Subdivision Control Ordinance.

Plumbing Showroom or Contractors Shop. A building, or portion of a building, used by firms engaged in construction, building services or maintenance for retail sales, display of products, marketing of services, and administrative offices.

Porch. A structure, projecting out from the wall or walls of a main structure, and usually partly open to the weather.

Post Office. A federal facility that houses service windows for mailing packages and letters, post office boxes, offices, vehicle storage areas, and sorting and distribution facilities for mail.

Principal Building. See **Building, Principal**.

Principal Use. See **Use, Principal**.

Private School. See **School, Private**.

Private Street. See **Street, Private**.

Private swimming pools. These swimming pools are permitted in residential districts only and are restricted to occupants of the principal use of the property and guest for whom no admission or membership fees are charged.

Property Line. The line between any lot and contiguous lots.

Prohibited Use. See **Use, Prohibited**.

Professional Activities. The use of offices and related spaces for such professions services as are provided by medical practitioners, lawyers, architects, engineers and similar professions.

Professional Office. See **Office, Professional**.

Public Building. Any building owned, leased or held by the United States, the State of Indiana, Lake County, the Town of St. John, any special district, school district, or any other agency or political subdivision of the State of Indiana or the United States, which building is used for governmental purposes.

Public Open Space. Any publicly owned open area, including, but not limited to, parks, playgrounds, forest preserves, beaches, waterways, parkways and streets.

Public Park. Public land which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness areas, or other similar public land within the Town which is under the control, operation, or management of the Town park and recreation authorities.

Public Recreation Area. See **Public Park**.

Public Utility Facility. The erection, construction, alteration, operation, or maintenance of buildings, power plants or substations, water treatment plants or pumping stations, sewage disposal or pumping plants and other similar public service structures by a public utility, by a railroad, whether publicly or privately owned, or by a municipal or other governmental agency, including the furnishing of electrical, gas, rail transport, communications, water and sewerage services.

PUD. Means Planned Unit Development.

Railroad. All facilities owned and/or operated by a railroad, except switching facilities.

Rear Lot Line. See **Lot Line, Rear**.

Recreational Facility, Indoor. This use includes active indoor recreational uses such as community centers, senior centers, any type of sports training facility, gyms, indoor tennis, and other racquet courts, indoor pools, which are enclosed in buildings and are open to all residents or to those within certain developments or neighborhoods.

Recreational Facility, Outdoor. This use includes outdoor active recreational purposes and may include active recreational facilities, not enclosed within a building, open to the public or operated on a membership basis, such as playing fields, outdoor pools and tennis courts, but not including Sports Courts.

Recreation Space. Total open space minus paved areas in street, walks, and driveways, but including tennis courts, swimming pools and floor area of recreation facilities and is suitable for recreational pursuits.

Recreational Vehicle (RV). A vehicle primarily designed as temporary living quarters for recreation, camping, or travel, either with its own motor power or mounted on or towed by another powered vehicle.

Registered Contractor. Any person, firm or corporation registered to perform work within the limits of the Town as required by Town Code.

Regulated Drain. An open drain, a tiled drain, or a combination of the two that carries surplus water and was established under or made subject to any drainage statute.

Religious Institution. Any church, synagogue, mosque, temple, or other building, which is used primarily for religious worship and related religious activities.

Research Activities. Research, development and testing related to such fields as chemical, pharmaceutical, medical, electrical, transportation and engineering. All research, testing, and development shall be carried on within entirely enclosed buildings and no noise, smoke, glare, vibration or odor shall be detected outside of said building.

Research Laboratory. A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products.

Reservoir Standing Spaces. Those off-street parking spaces allocated for temporary standing of automobiles awaiting entrance to a particular establishment.

Residential Care Home. A dwelling unit shared by unrelated individuals who require assistance and/or supervision and who reside together with supervisory staff in a family-type environment as a single housekeeping unit and which is licensed by the state. Residential care home shall include facilities for the developmentally disabled and/or mentally ill, but not for persons who are currently addicted to alcohol or narcotic drugs or are criminal offenders serving on work release or probationary programs.

Residential District. Any zoning district classification established by this Ordinance with a residential designation including the R-1, R-2, R-3, RC-1, and RC-2 zoning district classifications.

Residential Use. The primary use of property for a dwelling or a platted Residential District subdivision.

Restaurant. Any land, building, or part thereof, other than a boarding house, where meals are provided for compensation, including a café, cafeteria, coffee shop, lunch room, tearoom, and dining room and including the serving of alcoholic beverages when served with and incidental to the serving of meals.

Restaurant, Drive-through. Any restaurant so developed that its character is primarily dependent on providing a driveway approach or parking spaces for motor vehicles to serve patrons while in the motor vehicle or to permit patrons to eat while in the motor vehicle, or primarily to provide self-service for patrons and food carryout.

Retail establishment. An establishment, the primary purpose of which is the sale of goods, products or materials directly to the consumer. This includes, but is not limited to, establishments that sell clothing, electronics, furniture, groceries, hardware, pets, toys, appliances, books, jewelry, office supplies and computers. It does not include restaurants or personal service establishments.

Riding Stable or Stable. Any place that has available for hire, boarding and/or riding instruction of any horse, pony, donkey, mule or burro; and any place that regularly buys, sells or trains the above animals, including a racetrack, trotting track or rodeo.

Right-of-Way. An easement granted or acquired for roads and/or utilities in excess of actual roadway or transit way, or for future location of same.

Right-of Way Line. The dividing line between a lot and a public street, legally open or officially platted by the Town, County or State, over which the owners or tenants of two (2) lots held in a single or separate ownership share the right-of-way.

Ringelmann Chart. The Chart described in the U.S. Bureau of Mines Information Circular 8333, on which are illustrated graduated shades of gray for use in estimating the light obscuring capacity of smoke-smoke density.

Road, Frontage. A local street or road auxiliary to and located on the side of an arterial highway for service to abutting property and adjacent areas and for control of access.

Road, Service. A local street or road auxiliary to and located on the side of an arterial highway for service to specific property and adjacent areas and for control of access.

Roadside Stand. A permitted temporary structure designed or used for the display or sale of agricultural and related products or novelties and other items of interest to the motoring public.

Rooming House. See **Boarding or Rooming House.**

Sanitary Landfill. A method of disposing of refuse or garbage by spreading and covering such refuse or garbage with earth.

Sales, Rummage - Private. Temporary sales of clothing and/or household items conducted only by the immediate members of one (1) or two (2) families in a residence, garage, porch, or yard.

Sales, Rummage - Public. Temporary sales, conducted by a non-profit organization such as a church or club, where the members of the group bring articles or items to a central building to be sold to raise money for use by the organization.

Sandmining. See **Excavation**.

Satellite Receiving Dishes and Antenna: Any dish, antenna, mast, or tower used to receive or send signals including satellite dishes, amateur ham radio antenna, radio receiving antenna and television receiving antenna, excluding telecommunications antenna.

School. Any public or private educational facility including, but not limited to, child day-care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, colleges and universities, and includes the school grounds, but does not include facilities used primarily for another purpose which are only incidentally used as a school.

School, Public. An institution wholly financed with tax funds which conducts regular academic instruction.

School, Private. An institution not wholly financed with tax funds and mainly supported by private tuition payments which conducts regular academic instruction.

School, Trade or Business. School or college when not publicly owned; or when not owned or conducted by or under the sponsorship of a religious, charitable or non-profit organization; or when not accredited by an agency or association recognized by the U.S. Secretary of Education. May also include a school conducted as a commercial enterprise for teaching instrumental music, dancing, the performing arts, the visual arts, culinary arts, barbering or hairdressing, drafting, technical arts, vocational or industrial training and business/commercial schools.

Screening. A hedge, fence or wall, or any combination thereof, used to reduce visual and audible effects of adjoining uses.

Secondary Street. See **Street, Secondary**.

Senior Housing. Housing designed for and occupied by elderly persons, which provides living unit accommodations and may provide space for common social and recreational activities and may include food, health, and/or supportive services to maintain a resident's functional status and includes independent living facilities, assisted living facilities, and continuum of care facilities, but does not include nursing homes.

Setback. The minimum horizontal distance between the street line and the nearest point of a building or any projection thereto, including eaves, porches, and any other building projection.

Setback Line. A line established by this Zoning Ordinance for each zoning district, generally parallel with and measured from the lot or property line, defining the limits of a yard in which no buildings, other than accessory buildings, or structures, may be located above ground, except as may be provided in this Zoning Ordinance.

Shopping Center. A group of commercial establishments planned and developed, owned or managed as a unit, with off-street parking and loading provided on the premises and related in its location, size, and type of stores to the trade area which it serves.

Shopping Center, Community. A moderate scale shopping center designed to provide general merchandising of a limited nature, such as junior department stores, variety stores, and home furnishings in a community trade area.

Shopping Center, Neighborhood. A small scale shopping center designed for the sale of convenience goods and personal services in a neighborhood trade area.

Shopping Center, Regional. A large scale shopping center designed to provide general merchandising and opportunities to the consumer for comparison shopping in a regional trade area.

Side Yard. See **Yard, Side.**

Sidewalk. That portion of the road right-of-way outside the street, which is improved for the use of pedestrian traffic.

Sign. Any words, letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names, or trade marks by which information is made known and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity, or product and which is visible from any public street, highway or pedestrian way.

Sign, Area of. Means for individual-letter signs: the area of the smallest square or rectangle that can be superimposed, to fully enclose all letters or other graphic elements and for all other signs, the gross surface area of the outside dimensions, excluding structural supports.

Sign, Awning. A sign painted or otherwise applied to the surface of an awning.

Sign, Banner. A sign made of cloth, fabric, paper, non-rigid plastic or similar types of material. National flags, flags of political subdivisions, symbolic flags of an institution or business, and house flags are not a Banner Sign.

Sign, Bench. Any form of advertising located on or attached to a public or private bench, other than a manufacturer's label.

Sign, Billboard. A freestanding illuminated or non-illuminated structure advertising a business, product or event not available on the premises where the structure is located.

Sign, Box. A sign with featured printed matter enclosed by hairlines, a border, or white space and placed within or between text columns.

Sign, Business. Any sign placed on the building or in front or on the premises to designate the name and nature of the business or profession or trades occupying the building or premises upon which the sign appears.

Sign, Commercial or Industrial Development Advertising. Any sign erected in any commercial zoning district for the purpose of advertising a development with lots or buildings for sale, rent or lease.

Sign, Directional. Means:

- a) a sign permanently erected or permitted by the Town, Lake County, or the State of Indiana to denote the name of any thoroughfare, the route to any city, town, county or the federal government, educational institution, public building, historic place, shrine or hospital, to direct and regulate traffic, to denote any railroad crossing, bridge, ferry or other transportation or transmission company for the direction or safety of the public;
- b) A sign, notice or symbol as to the location of regular civic meetings and religious activities and services; and
- c) A sign which has only exit, entrance, or parking information and contains no form of advertising copy or the name of any advertiser.

Sign, Double-Faced. A sign with two faces, which project in two (2) different directions.

Sign, Electric. Any sign containing electric wiring which has characteristics, letters, figures, designs, faces, backgrounds, or outlines illuminated by incandescent or fluorescent lamps or luminous tubes as part of the sign proper.

Sign, Fascia. Any sign attached flush to a building and no part of which extends more than sixteen inches beyond the building wall or part thereof or is no longer than the horizontal face of the building.

Sign, Flashing. A sign or accessory light which is illuminated on an intermittent cycle.

Sign, Freestanding. See **Sign, Ground.**

Sign, Ground. A sign mounted on freestanding pylons, pipes, piers, posts or other self-supporting structures which is not attached to a building and sometimes referred to as a freestanding or pole sign.

Sign, Identification. A sign containing only the name and/or address of the occupant or business establishment.

Sign, Illuminated. Any sign which has characters, letters, figures or outlines illuminated by electric lights, luminous tubes or any other means of internal or external illumination, other than natural light sources.

Sign, Inflatable Promotional Device. Any inflatable shape or figure designed or used to attract attention to a business, event or location. Inflatable promotional devices shall be considered to be temporary signs under the terms of this title and subject to the regulations thereof where applicable.

Sign, Legal Non-Conforming. Any sign legally existing at the time of enactment of this Zoning Ordinance, which does not conform to the regulations of this Zoning Ordinance.

Sign, Mansard. A sloped roof or roof-like façade architecturally able to be treated as a building wall.

Sign, Marquee. Any sign, which is suspended from or forms part of a marquee.

Sign, Monument. A sign standing directly on the ground or on a solid base.

Sign, Moving. A sign, which rotates, revolves, moves, or gives the visual impression of rotation or movement.

Sign, Off-Site. Any sign, including billboards, which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where such sign is located or to which it is affixed.

Sign, Pole. See **Sign, Ground.**

Sign, Portable. Any sign by nature of its construction, may be moved from one location to another.

Sign, Premises. The real property upon which a sign or signs are located.

Sign, Projecting. A sign, other than a flat wall sign, which is attached to and projects from a structure face.

Sign, Pylon. See **Sign, Ground.**

Sign, Quasi-public: A sign giving notice of events and activities sponsored by civic, patriotic, religious, or charitable organizations for noncommercial purposes, but not by a private entity or individual.

Sign, Reader Board. Any sign designated for manual changeable copy.

Sign, Real Estate. A temporary sign erected by the owner, or his agent, advertising the real estate upon which the sign is located for rent, for lease, or for sale.

Sign, Residential Development Advertising. Any sign erected in any Residential Zoning District for the purpose of advertising a development with lots or houses for sale.

Sign, Revolving. A sign or any part of a sign, which rotates in any manner.

Sign, Roof. Any sign erected, constructed and maintained upon, or over, the roof or top of the wall, wall tower or turret of any building with the principal support on the roof structure.

Sign, Temporary Building. A sign erected and maintained on premises undergoing construction.

Sign, Temporary. Any sign that is to be displayed for a limited time, including inflatable promotional devices.

Sign, Town. A Town of St. John sign.

Sign, Wall Sign. Any sign attached, applied to, posted or painted on the exterior wall of any building or structure.

Sign, Window. Any sign on or within twelve inches of the window surface, whether permanent or temporary, that is painted, posted or displayed by any other means, in order to be visible through a window.

Single-Family Cluster. Means single-family homes in an approved Planned Unit Development where homes may be clustered on a portion of the site to preserve open space on the remainder of the site.

Smoke. The visible discharge from a chimney, stack, vent, exhaust, or combustion process that is made up of particulate matter and any establishment that emits smoke shall comply with all state and federal requirements in addition to any requirements of this Ordinance.

Sound Level. The intensity of sound of an operation or use as measured in decibels.

Sound Level Meter. An instrument standardized by the American Standards Association for the Measurement of the Intensity of Sound.

Special Exception. A use allowable only pursuant to the terms of the Zoning Ordinance, which because of its unique characteristics cannot properly be classified as a permitted use and where specific conditions are required to be met in the zoning district in which such special exception is sought and may only be granted by recommendation of the Board of Zoning Appeals and approval of the Town Council.

Spill. Light rays that illuminate adjoining property since they are not arranged to deflect away from the property lines. Illumination shall be directed and shielded so that it complies with the standards of Chapter 14.

Sports Court. Improvements allowable by a Special Exception in any Residential District, which requires the installation of an impervious surface, for the playing of any sports, including, but not limited to, basketball, tennis, volleyball, and racquetball, but does not include the installation of a basketball pole adjacent to a driveway for a residence.

Spot Zoning. See **Zoning, Spot.**

Stable. See **Riding Stable.**

Station, Transportation. Improvements and facilities at selected points along motor bus or railroad routes for passenger pickup, drop off, and waiting and includes shelters, benches, signs, structures, and other improvements to provide security, protection from weather, and access to nearby services.

Storage or Distribution Facility. A facility where goods are received and/or stored for delivery to the ultimate customer at remote locations. This includes food products distributing stations, trucking terminals, and packaging facilities.

Storage and/or Warehousing, Outdoor. The keeping of any goods, junk, material, merchandise or vehicles in the same place, in an unroofed and/or unenclosed area, for more than twenty-four (24) hours.

Storage Shed. Any detached structure in a Residential District used for any purpose provided it is not used for human occupancy and is not used as garage.

Store, Convenience with or without Gas Sales. Retail centers that are usually open fifteen (15) to twenty four (24) hours per day and under 8,000 square feet in Gross Floor Area. There shall be no repair or maintenance of Vehicles. A Convenience Store, which includes gas sales, may incorporate a pump canopy designed and constructed with exterior finish materials and detailing consistent with its associated Convenience Store Building.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding fourteen feet in height shall be considered an additional story for each fourteen feet or fraction thereof.

Story, Half. That portion of a building under a gable, hip, mansard roof, and wall plates of which on at least two (2) opposite exterior walls are not more than four and one-half feet above the finished floor of each story. In the case of one-family dwellings, two-family dwellings, and multi family dwellings less than three (3) stories in height, a half-story in a sloping roof shall not be counted as a story.

Street. A right-of-way other than an alley, dedicated or otherwise established for public use which affords the principal means of access to abutting property.

Street Arterial. A street which provides for the movement of relatively heavy traffic to, from, or within the Town, has a secondary function of providing access to abutting land, has an Average Daily Traffic count in excess of 3,000, and is designed to provide fast, efficient access between major activity centers and to provide access to major highway systems, including interstate systems.

Street, Minor Arterial. A system of streets and roads which link other cities, large towns and traffic generators, and provides a substantial amount of interstate and intra-county service in rural areas, or interconnects and augments with the principal arterials to provide service to trips of moderate length for intra-community continuity in urban areas.

Street, Principal Arterial. A system of streets and roads which serve corridor traffic movements having trip length and travel density characteristics indicative of substantial statewide or interstate travel, or connect major population centers in rural areas or serve major centers of activity and the highest traffic volume corridors with the longest trip desires in the urban areas.

Street, Collector. A street which collects and distributes internal traffic within an urban area such as a residential neighborhood between arterial and local streets, which has an Average Daily Traffic count of 1,000 to 3,000, and that provide access to arterial streets and abutting property in an efficient manner.

Street, Cul-de-Sac. A short street having but one end open to traffic and the other end being permanently terminated in a vehicular turn-around.

Street, Dead-end. A local street open at one end only and without a special provision for vehicles turning around.

Street, Elevation. The elevation of the established street in front of the building, measured at the center of such street.

Street, Frontage. A street used in commercial and residential areas to provide access to collector or arterial streets when isolation to some commercial or residential areas would otherwise result and shall be bounded by permanent markers such as curbs or raised islands sufficient to clearly mark the boundaries.

Street, Half. A street having only one-half of its intended roadway width developed to accommodate traffic.

Street, Highway. A term applied to streets and roads that are under the jurisdiction of the Indiana Department of Transportation.

Street, Lane. A lane has an Average Daily Traffic count of 76 to 200, is usually a short, branching street or cul-de-sac, and is designed to provide access to dwelling units with little or no through traffic.

Street Line. A dividing line between a lot, tract, or parcel of land and a contiguous street.

Street, Limited Access. A street which abutting properties are denied access.

Street, Local. A street that primarily provides access to abutting properties and access to higher order streets.

Street, Loop. A local street with both terminal points on the same street of origin.

- Street, Minor.** A right-of-way including Place or Lane, providing access from driveways to collector streets.
- Street, Partial.** A dedicated right-of-way providing only a portion of the required street width, usually along the edge of a subdivision or tract of land.
- Street, Perimeter.** Any existing street to which the parcel of land to be subdivided abuts on only one (1) side.
- Street, Place.** A street which has an Average Daily Traffic count of 75 or less; is usually a short street, cul-de-sac, or court; and is designed to provide direct access to dwelling units with no through traffic.
- Street, Private.** A privately-owned street complying with all conditions of either a minor or a collector street.
- Street, Public.** A street under the control of and maintained by a governmental unit.
- Street, Secondary.** Street designed to facilitate the collection of traffic from feeder streets and usually located on neighborhood boundaries.
- Structure.** Anything constructed or erected which requires location on the ground or is attached to something having location on the ground, including, but not limited to, a fence or free-standing wall. Signs, billboards, and other advertising mediums, whether detached or projecting, are not considered a structure.
- Structural Alterations.** See **Alteration, Structural**.
- Structural Repair:** The removal and/or replacement of deteriorated or damaged portion of a structure or sign.
- Subdivision.** The division of a parcel of land into lots, parcels, tracts, units or interests, in the manner defined and prescribed by the Town Subdivision Control Ordinance.
- Swale.** A long narrow trough depression that drains water during a rain storm or snow melt.
- Swimming Pool.** An outdoor structure designed as a receptacle for water, or an artificial pool of water, having a depth at any point of more than two and one half (2 1/2) feet, intended for the purpose of immersion or partial immersion therein of human beings, and including all appurtenant equipment, whether such structure is built "in-ground", "above-ground", or a combination thereof.
- Tavern without Live Entertainment.** An establishment in which the principal business is the retail sale or distribution of alcoholic beverages to patrons for consumption on the premises, which may offer food to patrons, and includes bars, lounges, cabarets, and nightclubs.

Theater, Indoor. A building or part of a building devoted to showing motion pictures, or for dramatic, dance, musical, or other live performances, including, but not limited to, movie theaters and performing arts centers.

Telecommunications Towers and Antennas. Any ground or roof mounted pole, spire, structure or combination thereof, including supporting lines, cables, wires, braces and masts intended primarily for the purpose of mounting above ground an antenna for transmitting signals, sounds, images, data or a radio transmission or television transmission antenna, or a microwave, cellular, wireless communication antenna or similar apparatus.

Thoroughfare. A public way or public place that is included in the thoroughfare plan of the Town, including the entire right-of-way for public use of the thoroughfare and all surface and subsurface improvements on it, such as sidewalks, curbs, shoulders and utility lines and mains.

Tobacco Shop. An enclosed establishment principally engaged in selling tobacco goods or merchandise to the public for personal or household consumption.

Town. The Town of St. John, Lake County, Indiana.

Town Council. The legislative body of the Town of St. John, Lake County, Indiana.

Townhouse. See **Dwelling, Townhouse.**

Tower. A ground or roof-mounted pole, spire, structure, or combination thereof taller than fifteen (15) feet, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an Antenna, a Meteorological device, or other similar apparatus above grade, but does not include a public utility or municipal water tower or any pole, spire, structure, or combination thereof on which an amateur radio station antenna is mounted.

Tower, Radio or Television Transmission. Any ground-mounted pole, spire, structure, or combination thereof, including supporting lines, cables, wires, braces, masts, intended primarily for the purpose of mounting a radio or television transmission antenna above ground and excluding amateur radio station antennas.

Toxic Materials. A liquid, solid, or gaseous substance, which by reason of an inherent deleterious property, tends to destroy life or impair health as defined by OSHA, IOSA, Indiana Board of Health, Indiana Board of Hazardous Materials, or Environmental Protection Agency regulations.

Trade or Business School. See **School, Trade or Business.**

Trailer. Any vehicle or portable structure constructed so as to permit temporary occupancy thereof for use as an accessory building or structure in the conduct of business, trade, or occupation.

Transportation Facility. A location where the principle use is loading, unloading and transferring passenger rail traffic. It may include accessory uses such as new-stands, restaurants and restrooms, but does not include the handling or storage of rail freight.

Travel Trailer Home. Any vehicle designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight (8) feet so constructed as to permit its being used upon the public streets or highways.

Truck Terminal. Any place where trucks are stored, dispatched, or where freight is brought, transferred, and dispatched by truck, including temporary storage of freight.

Use, Accessory. A use which is incidental to the primary use of the premises.

Use, Lawful. The use of any building, structure, or land that conforms with all of the regulations of this Zoning Ordinance, or any amendment hereto, and which conforms with all of the codes, ordinances, and all other legal requirements, as existing at the time of the enactment of this Zoning Ordinance, or any amendment thereto, for the structure or the land that is being examined.

Use, Non-Conforming. See **Non-Conforming Use**.

Use, Permitted. Any use which is or may be lawfully established in a particular zoning district, provided it conforms with all requirements, regulations and when applicable, performance standards of this Zoning Ordinance for the zoning district in which such use is located.

Use, Principal. The main use of land or buildings as distinguished from a subordinate or accessory use.

Use, Prohibited. Any use classified as not permitted in a particular zoning district.

Use, Public. Public parks, schools, administrative and cultural buildings and structures, and similar uses, as permitted by this Zoning Ordinance.

Use, Temporary. Short-term or seasonal uses which may be associated with construction projects or which are intended to sell or promote specific merchandise or products and shall include, but not be limited to, special events, outdoor seasonal sales, temporary construction facilities, residential model homes, and temporary sales offices.

Variance, Developmental. An exception from the strict and specific development standards and requirements of this Zoning Ordinance as approved by the Board of Zoning Appeals.

Variance, Use. An exception to the land use requirements of this Zoning Ordinance, as distinguished from the development standards, as recommended by the Board of Zoning Appeals and approved by the Town Council.

Vehicle. See **Automobile.**

Veterinary Hospital. Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis, and treatment of diseases and injuries of animals.

Vibration. The periodic displacement, measure in inches, of earth at designated frequency or cycles per second.

Video Editing Establishment or Recording Studio. A building or portion thereof used for the production, recording and editing of media programming, including audio, film and video products used in radio, television, and film industries, but does not include broadcasting stations.

Vision Clearance. An unoccupied triangular space at the corner of a corner lot that is bounded by the street lines and a setback line connecting points determined by measurements from the corner of each street line.

Wading pools. An outdoor structure designed as a receptacle for water, or an artificial pool of water, having a depth at all points that is less than two and one-half (2 1/2) feet, intended for the purpose of immersion or partial immersion therein of human beings,

Warehouse. A building used for the temporary storage of materials, supplies, or personal goods from which materials and supplies are intended for further distribution.

Waste, Solid. All putrescible waste in a form other than a liquid, semi-solid or gaseous form, whether contained in any form or object, and which is not hazardous waste nor waste which contains any biological, chemical, bacteriological, radioactive or any other contaminant which may be harmful or injurious to the public health, safety or welfare of the domestic, commercial, industrial, agricultural, recreational or conservation concerns, but does not include human remains and sewage.

Water Plant. A public or privately owned facility engaged in the treatment, pumping, storage, or distribution of raw or potable water.

Wetland. Land transitional between terrestrial and aquatic systems where the water table is usually at or near the surface of the land and is covered by shallow water. In order to be classified as a Wetlands, one or more of the following attributes must be present: (1) at least periodically, the land supports predominantly hydrophytes; (2) the substrate is predominantly undrained hydric soil; and (3) the substrate is non soil and is saturated with water or covered by shallow water at some time during the growing season of each year.

Wholesaling Facility. A facility primarily engaged in the selling and/or distributing of bulk merchandise to retailers, industrial, commercial, institutional, or professional business users, or to other wholesalers and not open to the public for retail sales and may include a transportation facility.

Wireless Telecommunications Service. Licensed commercial wireless telecommunications services, including but not limited to cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and other similar services that are marketed to the general public.

Yard. An open space on the same zoned lot with a principal building or group of buildings, which is unoccupied and unobstructed for its lowest level upward, except as otherwise permitted, and which extends along a lot line and at right angles thereto to a depth or width specified in the yard regulations for the district in which the zoned lot is located.

Yard, Front. A yard extending the full width of the lot, being the minimum horizontal distance between the front lot line and the nearest part of the main building.

Yard, Rear. A yard extending the full width of the lot, being the minimum horizontal distance between the rear lot line and the nearest part of the building.

Yard, Side. A yard extending from the front yard to the rear yard, being the minimum horizontal distance between the nearest part of a building and the side lot line.

Zone. An area within which certain uses of land and buildings are permitted, and within which others are prohibited, yards, and other green spaces are required, lot areas, building size limits and other requirements are established, all of the foregoing being identical for the zone in which they apply.

Zoning. The legislative division of a community into segments reserved for specific uses and regulations pertaining to such uses.

Zoning Administrator. The term shall mean the Zoning Administrator employed by the Town and such deputies or designees.

Zoning Board. The Board of Zoning Appeals.

Zoning Districts. The districts into which the Town of St. John, Lake County, Indiana, has been divided for zoning regulations and requirements as set forth on the Official Zoning Map.

Zoning Lot. See **Lot, Zoning**.

Zoning Map. The map or maps incorporated herein designating zoning districts.

Zoning Ordinance. This Zoning Ordinance of the Town of St. John, Lake County, Indiana, as amended from time to time.

Zoning, Spot. A modification of a zoning plan that affects only the use of a particular piece of property, or a small but specific area of the Town that is unrelated and inconsistent with the surrounding zoning districts.

Chapter 20 Amendment of the Zoning Ordinance and Zoning Map

Section A Power of Amendment

The Town Council and Plan Commission may, from time to time, amend, supplement, change, modify, or repeal this Zoning Ordinance, including the Zoning Map, pursuant to Indiana Code §36-7-4-600, *et seq.*, as amended.

Section B Zoning Ordinance Amendments

Such amendments shall be considered as amendments to the Comprehensive Plan of the Town of St. John as provided for in the Indiana Code, as amended from time to time.

Chapter 21 Adoption of the Zoning Ordinance

Section A Adoption of the Ordinance

The Town Council may adopt this Zoning Ordinance by proceeding in the manner provided by State Law (I.C. 36-7-4-600, et seq., as amended.)

Section B Repeal of Conflicting Ordinance

B.1 Ordinances or parts of Ordinances in conflict with this Zoning Ordinance, or inconsistent with the provision of this Ordinance, are hereby repealed to the extent necessary to give this Zoning Ordinance full force and effect.

B.2 This Zoning Ordinance shall take effect upon its passage and approval by the Town Council of the Town of St. John.

Section C Printing and Publication

This Ordinance shall be printed and published by order of the Town Council of the Town of St. John, Lake County, Indiana.

Section D Emergency

Whereas an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage.

Appendix I Tree Planting Species

TREE PLANTING SPECIES	
LARGE TREES	
Scientific Name	Common Name
<i>Fraxinus pennsylvanica</i>	Green Ash
<i>Ginkgo biloba</i>	Ginkgo
<i>Gleditsia triacanthos inermis</i>	Honeylocust
<i>Quercus bicolor</i>	Swamp White Oak
<i>Quercus imbricaria</i>	Shingle Oak
<i>Quercus palustris</i>	Pin Oak
<i>Quercus phellos</i>	Willow Oak
<i>Quercus rubra</i>	Northern Red Oak
<i>Tilia americana</i>	Basswood / American Linden
<i>Tilia cordata</i>	Littleleaf Linden
<i>Tilia tomentosa</i>	Silver Linden
<i>Zelkova serrata</i>	Japanese Zelkova
MEDIUM TREES	
<i>Acer rubrum</i>	Red Maple
<i>Carpinus betulus 'Fastigiata'</i>	European Hornbeam
<i>Carpinus caroliniana</i>	American Hornbeam
<i>Celtis occidentalis</i>	Hackberry
<i>Cercidiphyllum japonicum</i>	Katsura Tree
<i>Corylus colurna</i>	Turkish Filbert
<i>Ostrya virginiana</i>	American Hophornbeam
<i>Pyrus calleryana</i>	Callery Pear
<i>Quercus acutissima</i>	Sawtooth Oak
<i>Quercus robur</i>	English Oak
<i>Ulmus parvifolia</i>	Chinese Elm

SMALL TREES	
<i>Acer campestre</i>	Hedge Maple
<i>Acer ginnala</i>	Amur Maple
<i>Acer truncatum</i>	Shantung Maple
<i>Amelanchier canadensis</i>	Serviceberry
<i>Cercis canadensis</i>	Eastern Redbud
<i>Crataegus</i> spp.	Hawthorn
<i>Koelreuteria paniculata</i>	Goldenraintree
<i>Maackia amurensis</i>	Amur Maackia
<i>Malus</i> spp.	Crabapple
<i>Prunus cerasifera</i>	Purpleleaf Plum
<i>Prunus</i> 'Okame'	Okame Cherry
<i>Prunus padus</i>	European Birdcherry
<i>Prunus sargentii</i>	Sargent Cherry
<i>Prunus serrulata</i> 'Kwanzan'	Japanese Flowering Cherry
<i>Prunus virginiana</i> 'Schubert'	Schubert Cherry
<i>Prunus x yedoensis</i>	Yoshino Cherry
<i>Syringa reticulata</i>	Japanese Tree Lilac