

**ST JOSEPH COUNTY
CHAPTER 154: PLANNING AND ZONING**

TABLE OF CONTENTS

Section

Provisions of Common Applicability

- 154.001 Title
- 154.002 Interpretation
- 154.003 Scope
- 154.004 Frontage on improved public road
- 154.005 Number of buildings on lot
- 154.006 Yards; generally
- 154.007 Height of buildings and structures in vicinity of airports
- 154.008 Sewage treatment and water supply
- 154.009 Dams and watercourses
- 154.010 Floor area ratio application in particular cases
- 154.011 Subdivision of land
- 154.012 General use provisions; permitted uses
- 154.013 Exemptions

Zoning Districts and Zone Maps

- 154.025 Districts established
- 154.026 Official zoning map
- 154.027 Identification of the official zoning map
- 154.028 Official zoning map change
- 154.029 Retention and preservation of record
- 154.030 Interpretation of the official zoning map
- 154.031 Disconnected territory

Nonconforming Lots, Uses, Buildings, Structures or Signs

- 154.045 Intent
- 154.046 Incompatibility of legally established nonconforming uses
- 154.047 Avoidance of undue hardship
- 154.048 Legally established nonconforming lots
- 154.049 Legally established nonconforming buildings or structures (excluding signs)
- 154.050 Legally established nonconforming uses of land
- 154.051 Discontinuation of legally established nonconforming use of land
- 154.052 Discontinuation of legally established nonconforming uses within legally established buildings or structures
- 154.053 Legally established nonconforming uses within legally established nonconforming buildings or structures

Table of Contents

- 154.054 Repairs and maintenance of legally established nonconforming buildings or structures (excluding signs)
- 154.055 Legally established nonconforming signs
- 154.056 Determination of cost of construction
- 154.057 Reconstruction, remodeling or enlargement of a legally established nonconforming single-family dwelling or two-family dwelling
- 154.058 Agricultural nonconforming use

General Regulations

- 154.070 Accessory uses, buildings and structures
- 154.071 Temporary uses, buildings and structures
- 154.072 Home occupations
- 154.073 Performance standards
- 154.074 Zoning violations
- 154.075 Additional development standards
- 154.076 Requirements for all private streets and private alleys
- 154.077 Exemptions for anti-terrorism devices and portable towers
- 154.078 Clear sight area requirements
- 154.079 Trailers, mobile homes and tents

Agricultural District

- 154.090 Intent
- 154.091 Permitted uses
- 154.092 General development standards

R: Single-Family District

- 154.105 Intent
- 154.106 Permitted uses
- 154.107 General development standards

R-2: Residential District

- 154.120 Intent
- 154.121 Permitted uses
- 154.122 General development standards

O/B: Office/Buffer District

- 154.135 Intent
- 154.136 Permitted uses
- 154.137 General development standards

O: Office District

- 154.150 Intent
- 154.151 Permitted uses
- 154.152 General development standards

B: Business District

- 154.165 Intent
- 154.166 Permitted uses
- 154.167 General development standards

C: Commercial District

- 154.180 Intent
- 154.181 Permitted uses
- 154.182 General development standards

I: Industrial District

- 154.210 Intent
- 154.211 Permitted uses
- 154.212 General development standards

Planned Unit Development District

- 154.225 Intent
- 154.226 Permitted uses, development standards and minimum requirements
- 154.227 Procedure for approval of a planned unit development
- 154.228 Modification of preliminary plan or secondary approval
- 154.229 Secondary plat approval
- 154.230 Maintenance of common open space
- 154.231 Appeals of Executive Director’s decisions
- 154.232 Special regulations for mobile home parks in a PUD District

HP: Historic Preservation Overlay District

- 154.245 Intent
- 154.246 Permitted uses
- 154.247 Development standards
- 154.248 Establishment
- 154.249 Membership
- 154.250 Powers and duties; generally
- 154.251 Adoption of bylaws, rules, and regulations
- 154.252 Annual budget; approval of personnel; public meetings
- 154.253 Historic landmarks designation and Historic Preservation District establishment
- 154.254 Powers within Historic Preservation Districts

Table of Contents

- 154.255 Historic landmarks and districts; establishment of preservation standards
- 154.256 Historic landmarks and districts; development of plans
- 154.257 Public relations and community education programs
- 154.258 Assistance to owners of historic landmarks
- 154.259 Requests to County Council to delay alteration of historic landmarks
- 154.260 Gifts, grants, legacies, bequests and endowments
- 154.261 Processing national register of historic places inventory; nomination forms
- 154.262 Acceptance of conservation easements
- 154.263 Fees of certificate of appropriateness

U: University District

- 154.275 Intent
- 154.276 Permitted uses
- 154.277 Development standards

FP: Floodplain Regulations

- 154.290 Intent
- 154.291 Statutory authorization
- 154.292 Definitions
- 154.293 Duties of Administrator
- 154.294 Regulatory flood elevation
- 154.295 Improvement location permit
- 154.296 Preventing increased damages
- 154.297 Protecting buildings
- 154.298 Other development requirements
- 154.299 Variances
- 154.300 Disclaimer of liability
- 154.301 Abrogation and greater restrictions
- 154.302 Separability

Landfill Overlay District

- 154.315 Intent
- 154.316 Permitted uses
- 154.317 General development standards

Landscape Regulations

- 154.330 Intent
- 154.331 General landscaping provisions
- 154.332 Landscaping of required front yards and required side and rear yards abutting residential districts and residential uses
- 154.333 Foundation landscaping
- 154.334 Interior off-street parking area landscaping
- 154.335 Off-street parking area screening

- 154.336 Minimum plant material sizes at time of planting
- 154.337 Installation of landscaping
- 154.338 Maintenance of landscaping
- 154.339 Alternate landscape plan approval

Lighting Regulations

- 154.350 Intent
- 154.351 General requirements
- 154.352 Special regulations for sport and athletic field lights
- 154.353 Exempt lights
- 154.354 Temporary lights
- 154.355 Prohibited lights

Sign Regulations

- 154.370 Intent
- 154.371 Applicability
- 154.372 General Regulations
- 154.373 Exempt Signs
- 154.374 Prohibited Signs
- 154.375 Sign Measurement
- 154.376 On-Premise Signs; Generally
- 154.377 On-Premise Signs; Building
- 154.378 On-Premise Signs; Freestanding
- 154.379 Temporary Signs
- 154.380 Off-Premise Signs

Off-Street Parking Regulations

- 154.415 Intent
- 154.416 Applicability
- 154.417 Existing parking areas
- 154.418 Location of parking areas
- 154.419 Design and construction of off-street parking areas
- 154.420 Minimum number of required off-street parking spaces
- 154.421 Required bicycle parking
- 154.422 Required parking for the disabled
- 154.423 Required off-street parking

Off-Street Loading Regulations

- 154.435 Intent
- 154.436 Loading for buildings, structures or uses
- 154.437 Design and construction of loading areas
- 154.438 Location of off-street loading areas
- 154.439 Use of required loading areas

Table of Contents

- 154.440 Surface of loading areas
- 154.441 Special regulations for gasoline service stations
- 154.442 Minimum number of off-street loading spaces

Special Regulations for Wireless Telecommunication Facilities

- 154.455 Intent
- 154.456 Wireless telecommunication facilities requirements
- 154.457 Siting hierarch of wireless telecommunication facilities
- 154.458 Development standards
- 154.459 Abandonment and removal of telecommunication towers, antenna arrays, associated equipment and buildings
- 154.460 Limitations on special uses

Special Regulations for Controlled and Adult Uses

- 154.475 Intent
- 154.476 Controlled uses
- 154.477 Locations permitted
- 154.478 Adult business uses

Special Regulations for Residential Facilities for the Mentally Ill

- 154.490 General provisions

Renewable Energy Systems

- 154.505 Wind energy conversion systems; Intent
- 154.506 Wind energy conversion systems; General
- 154.507 Small wind energy conversion systems; development standards
- 154.508 Wind energy facility; generally
- 154.509 Wind energy facility; approval
- 154.510 Wind energy facility; abandonment discontinuation or decommissioning of wind turbines and removal of wind energy facilities
- 154.511 Solar Energy Systems (“SES”); Intent
- 154.512 Solar Energy Systems (“SES”); Applicability
- 154.513 Solar Energy Systems (“SES”); General
- 154.514 Building-Mounted Solar Energy Systems (“SES”); Development Standards
- 154.515 Ground-Mounted Solar Energy Systems (“SES”); Development Standards
- 154.516 Abandonment and Removal of Ground-Mounted Solar Energy Systems

Agritourism

- 154.520 Intent
- 154.521 Agritourism; General
- 154.522 Agritourism; Development Standards

County Council

154.525 General Provisions

Area Plan Commission

154.540 Establishment
154.541 Membership, qualifications and terms
154.542 Duties and powers
154.543 Commitments

Board of Zoning Appeals

154.555 Establishment and jurisdiction
154.556 Membership, qualifications and terms
154.557 Duties and powers
154.558 Conditions
154.559 Amendments
154.560 Commitments
154.561 Rules
154.562 Variance of development standards
154.563 Conditional Uses
154.564 Other powers

Staff Agencies

154.580 Establishment
154.581 Administration of planning and zoning authority
154.582 Duties and powers of the Executive Director and Zoning Administrator
154.583 Staff

Development Review Procedures

154.595 Intent
154.596 Improvement location permits
154.597 Compliance with other laws, ordinances, rules or regulations
154.598 Application form and plan requirements
154.599 Zoning ordinance amendment procedures
154.600 Variance and special use procedures
154.601 Modification or termination of commitments

Enforcement

154.615 Authority
154.616 Alleged violations
154.617 Responsibility for violations
154.618 Inspection of property; right of entry

Table of Contents

- 154.619 Cease and desist order
- 154.620 Violations

Definitions

- 154.635 Interpretation of terms or words
- 154.636 Definitions

- 154.999 Penalty

- Appendix A: Commitments concerning the use or development of real estate made in connection with a zone map change or planned unit development
- Appendix B: Commitments modifying or terminating existing commitments concerning the use or development of real estate made in connection with a zone change or planned unit development
- Appendix C: Commitments concerning the use or development of real estate made in connection with a special use, conditional use or a variance grant from the terms of the zoning ordinance
- Appendix D: Commitments modifying or terminating existing commitments concerning the use or development of real estate made in connection with a special use, conditional use or a variance

PROVISIONS OF COMMON APPLICABILITY

154.001 TITLE.

The ordinance codified in this Chapter shall be known, cited, and referred to as “The St. Joseph County Zoning Ordinance.” (*Ord. 51-05, 5/10/05*)

154.002 INTERPRETATION.

(A) In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.

(B) Where the conditions imposed by any provisions of this Chapter, upon the use of land or buildings or upon the bulk of buildings, are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this Chapter or of any other law, ordinance, resolution, rule or regulation of any kind the regulations which are more restrictive or which impose higher standards or requirements shall govern.

(C) This Chapter is not intended to abrogate any easement, covenant, or any other private agreement; provided, that where the regulations of this Chapter are more restrictive or impose higher standards or requirements than such easements, covenants, or other private agreements, the requirements of this Chapter shall govern.

(D) Nothing contained in this Chapter shall be deemed to be a consent, license, or permit to use any property, or to locate, construct or maintain any building, structure or facility or to carry on any trade, industry, occupation or activity.

(E) The provisions in this Chapter are cumulative and additional limitations upon all other laws and ordinances, heretofore passed or which may be passed hereafter, governing any subject matter in this Chapter.

(F) Illustrations, diagrams, and flowcharts are included in this Ordinance to illustrate the intent and requirements of the text. In the case of a conflict between the text and any illustrations, diagram, or flowchart, the text controls. (*Ord. 52-20, 8/25/20*) (*Ord. 51-05, 5/10/05*)

154.003 SCOPE.

(A) Where a building permit for a building or structure has been issued in accordance with law prior to the effective date of the ordinance codified in this Chapter, and provided that construction is begun within six months of the effective date and diligently prosecuted to completion, said building or structure maybe completed in accordance with the approved plans on the basis of which the building permit has been issued, and, further, may upon completion be occupied under a certificate of occupancy by the use for which originally designated, subject thereafter to the provisions for nonconforming buildings, structures and uses in §§ 154.045 through 154.058.

CHAPTER 154: PLANNING AND ZONING
Provisions of Common Applicability

(B) Where the Building Commissioner of the county has issued a permissive use permit, a special use permit, or a permit for a variance pursuant to the provisions of this Chapter, such permit shall become null and void unless work thereon is substantially underway within six months of the date of the issuance of such permit, or within the period of time beyond six months granted by the Board of Zoning Appeals or a specific permit.

(C) A special use permit shall be deemed to authorize only one (1) particular special use. A special use established on or after the effective date of the ordinance codified in this Chapter or a special use existing prior to the effective date of the ordinance codified in this Chapter shall expire if it ceases for more than twelve (12) months for any reason.

(D) Where a lot is to be occupied for a permitted use without buildings, the side yards and front yard required for such lot shall be provided and maintained unless otherwise stipulated in this Chapter; except, that yards shall not be required on lots used for growing of crops in the open, nor on lots used for public recreation areas without buildings or structures.

(E) No land which is located in a residential district shall be used for driveway, walkway, or access purposes to any land which is located in a business, commercial, industrial or manufacturing district, or used for any purpose not permitted in a residential district, unless approved by the Board of Zoning Appeals as a conditional use pursuant to the procedures set forth in §§ 154.555 through 154.565. (*Ord. 51-05, 5/10/05*)

154.004 FRONTAGE ON IMPROVED PUBLIC ROAD.

Except for individual lots located within a project created under the authority of IC 32-1-6, no building permit shall be issued for any primary structure on any lot unless said lot has frontage on a dedicated, accepted and improved public road as required by Ordinance #APC 240-78 adopted on April 11, 1978 and is in conformance with the lot width requirements contained in this Chapter. The requirement for frontage on an improved public road shall not apply to existing structures located in the A: Agricultural District.

(*Ord. 51-05, § 8.01.01D, 5/10/05*) Penalty, see § 154.999

154.005 NUMBER OF BUILDINGS ON LOT.

In the A: Agricultural District and R: Single Family District, not more than one (1) principal detached dwelling shall be located on a lot, nor shall a principal detached dwelling be located on the same lot with any other principal building except as maybe authorized as a special use in accordance with procedures set forth in this Chapter.

(*Ord. 51-05, § 8.01.01E, 5/10/2005*) Penalty, see § 154.999

154.006 YARDS – GENERALLY.

(A) All yards and other open spaces allocated to a building, or group of buildings comprising one principal use, shall be located on the same lot as such building and the maintenance of yards and other open space and minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or of the property on which it is located, as long as the building is in existence. Furthermore, no legally required yards, other open space, or minimum lot area allocated to any building shall, by virtue of change of ownership or for any other reason, be used to satisfy yard, other open space, or minimum lot area requirements for any other building.

(B) No improved lot shall hereafter be divided into two or more lots and no portion of any improved lot shall be sold unless all improved lots resulting from each such division or sale shall conform with all the applicable bulk regulations of the zoning district in which the property is located and the regulations of the St. Joseph County Subdivision Control Ordinance, as codified in Chapter 153.

(C) No yards, now or hereafter provided for a building existing on the effective date this Chapter, shall subsequently be reduced below, or further reduced if already less than, the minimum yard requirements of this Chapter for equivalent new construction.

(Ord. 51-05, § 8.01.01F, 5/10/05) Penalty, see § 154.999

154.007 HEIGHT OF BUILDINGS AND STRUCTURES IN VICINITY OF AIRPORTS.

Airports and surroundings are subject to the applicable federal and state regulations and to the regulations of the Board of Aviation Commissioners of the county, as well as to the following requirements:

(A) Building height in areas surrounding public use airports, as defined in I.C. 8-21-10-2, are regulated pursuant to Indiana Statutes where such heights are more restrictive than those that may be contained in this chapter.

(B) No special use shall be issued for a public use airport, as defined in I.C. 8-21-10-2, as amended from time to time, unless:

(1) A certificate of approval from the Aeronautics Commission of Indiana has been first obtained; or

(2) The issuance of this special use is conditioned on the certificate of approval of the Aeronautics Commission of Indiana being obtained.

(C) Special use permits for airports, public and private, shall be issued pursuant to the standards for special uses set out elsewhere in this Chapter. In determining whether adequate safety standards are met by an airport, other than a public use airport, the Board of Zoning Appeals shall be guided by applicable rules and regulations of the Aeronautics Commission of Indiana.

CHAPTER 154: PLANNING AND ZONING
Provisions of Common Applicability

(D) Nothing in this section shall be construed to limit an owner of property surrounding such nonpublic use airport as to the height of structures he may build or permit to be built thereon, or to prohibit the rezoning of such surrounding property to residential, business or commercial uses, or to permit the operation of an airport where a change in condition renders continued operation unsafe.

(Ord. 51-05, § 8.01.01H, passed 5/10/05) Penalty, see § 154.999

154.008 SEWAGE TREATMENT AND WATER SUPPLY.

Regardless of other provisions of this Chapter, there shall be, if required, additional lot area over the minimum lot area designated for any use in all districts to provide for sufficient ground area, unoccupied by a building, structure, or paving, for installation of proper systems of sewage treatment and water supply conforming with the standards and requirements of the County Health Officer and the Indiana State Board of Health. Plot plans accompanying building permit applications shall show clearly the proposed sewage treatment system and well locations.

(Ord. 51-05, § 8.01.01I, 5/10/05) Penalty, see § 154.999

154.009 DAMS AND WATERCOURSES.

The County Council reserves the right to enact appropriate zoning regulations governing the erection of dams and the use of land in conjunction therewith, and nothing contained in this Chapter shall be deemed to regulate, prevent or control the erection or maintenance of dams on natural watercourses and the overflowing of any lands in connection therewith.

(Ord. 51-05, § 8.01.01J, 5/10/05) Penalty, see § 154.999

154.010 FLOOR AREA RATIO APPLICATION IN PARTICULAR CASES.

In all cases where two or more contiguous lots are in common ownership and there was, at the adoption date of this Chapter, an existing building on one of such lots with less than the permitted maximum floor area ratio, the owner may elect to add the unused portion of the floor area ratio of the existing building to the maximum permitted floor area ratio of any addition to the existing building to be constructed on the adjoining lot; and in the event that such existing building was lawfully existing at the date of adoption of the ordinance codified in this Chapter, and exceeds the permitted maximum floor area ratio, an addition to the existing building to be constructed on an adjoining lot shall be entitled to the maximum floor area ratio permitted in the district in which it is located.

(Ord. 51-05, § 8.01.01K, 5/10/2005)

154.011 SUBDIVISION OF LAND.

Subdivision of land per the County Subdivision Ordinance may occur in all zoning districts.

(Ord. 51-05, § 8.01.01L, 5/10/05)

154.012 GENERAL USE PROVISIONS – PERMITTED USES.

(A) Primary Uses.

Primary uses of land or buildings, as listed in this Chapter in each zoning district shall be allowed in the districts indicated under the conditions specified, subject to the provisions of §§ 154.475 through 154.478.

(B) Special Uses.

Special uses, as listed in this Chapter in each zoning district, may be allowed only in the zoning district indicated, subject to the issuance of special use permits in accordance with the procedures set forth in § 154.555 through 154.565, including approval by the legislative body, with the exception of the following: where a building or structure and the use thereof or use of land lawfully exists on the effective date of the ordinance codified in this Chapter, and such use is classified by this Chapter as an allowable special use in the zoning district where it is located, the existing building or structure and the use thereof or the use of land where no building or structure is involved, comprising such a special use, shall be considered a lawful special use; except, a special use permit shall be required in accordance with regulations set forth in § 154.555 through 154.565 for any expansion of physical development or use of land for such special use, including new buildings or structures or additions or enlargements to existing buildings or structures and extension of land improvements or expansion of such use of land where no buildings or structures are involved.

(C) Conditional Uses.

Conditional Uses may be permitted by the Board of Zoning Appeals in any zoning district in accordance with the procedures set forth in § 154.564.

(Ord. 51-05, § 8.01.01M, 5/10/05; Ord. 68-09, § 1, 8/11/09)

154.013 EXEMPTIONS.

The following uses are exempted by this Chapter and permitted in any district:

(A) Poles, towers, wires, cables, conduits, vaults, laterals, pipes, mains, valves, or any other similar installation for telephone, electric, gas, water and sewer systems; provided, that installations shall conform with rules and regulations of federal, state, county, and other authorities having jurisdiction.

(B) Nothing in this Chapter is intended to affect and shall not be deemed or construed to affect the powers conferred upon the board of aviation commissioners of the county by I.C. 8-22-1, as amended.

(Ord. 51-05, § 8.01.01N, 5/10/05)

ZONING DISTRICTS AND ZONE MAPS

154.025 DISTRICTS ESTABLISHED.

(A) For the purposes of accomplishing the objectives set forth in the preamble of the ordinance codified in this Chapter, the unincorporated portions of the County are organized into the following districts:

- (1) A Agricultural District
- (2) R Single Family District
- (3) R-2 Residential District
- (4) O/B Office / Buffer District
- (5) O Office District
- (6) B Business District
- (7) C Commercial District
- (8) I Industrial District (*Ord. 76-19, 9/10/2019*)
- (9) PUD Planned Unit Development

(B) The following overlay or special zoning districts are established:

- (1) HP Historic Preservation District.
- (2) U University District.
- (3) FP Floodplain Regulations.

(Ord. 51-05, § 8.01.02A, 5/10/05)

154.026 OFFICIAL ZONE MAP.

In order to carry out the purpose of this chapter and to allow a variety of uses in different districts which are appropriate in location, arrangement, and density to the character of the individual districts and the establishment of a well considered pattern of development for St. Joseph County, all real property located within the unincorporated areas of St. Joseph County are hereby divided into districts as shown on the Official Zone Map which, together with all explanatory matter, is incorporated by reference and declared to be a part of this chapter.

(Ord. 51-05, § 8.01.02B, 5/10/05)

154.027 IDENTIFICATION OF THE OFFICIAL ZONE MAP.

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

CHAPTER 154: PLANNING AND ZONING
Zoning Districts and Zone Maps

(B) If the Official Zone Map is maintained as a paper hard copy, the Official Zone Map may be identified by the signature of the President of the County Council and the signature of the Executive Director under the following words: "This is to certify that this is the Official Zone Map of St. Joseph County, Indiana", together with the date of adoption of this Chapter.

(C) If the Official Zone Map is maintained in electronic format, the Executive Director shall be the custodian of the electronic format Official Zoning Map. The Executive Director may depict the Official Zone Map, in total or in part, in various formats and scales as appropriate to the need.

(Ord. 51-05, § 8.01.02C, 5/10/05)

154.028 OFFICIAL ZONE MAP CHANGES.

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

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

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

(D) No change of any nature shall be made in the Official Zone Map, or matter shown thereon, except in conformity with the amendment procedures set forth in this Chapter.

(Ord. 51-05, § 8.01.02D, 5/10/05)

154.029 RETENTION AND PRESERVATION OF RECORD.

Unless the prior Official Zone Map has been lost or completely destroyed, the prior Official Zone Map, along with all available records pertaining to its adoption or amendment, shall be retained and preserved in the office of the Area Plan Commission.

(Ord. 51-05, § 8.01.02E, 5/10/05)

154.030 INTERPRETATION OF THE OFFICIAL ZONE MAP.

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

- (A) Boundaries indicated as approximately following the center lines of thoroughfares, highways, streets or alleys shall be construed to follow the center lines.
- (B) Boundaries indicated as approximately following platted lot lines shall be construed to follow the platted lot lines.
- (C) Boundaries indicated as approximately following the corporate boundary of any municipality within St. Joseph County shall be construed as following such corporate boundary.
- (D) Boundaries indicated as approximately following the boundary of St. Joseph County shall be construed as following such county boundary.
- (E) Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks.
- (F) Boundaries indicated as approximately following the along a public right-of-way which is subsequently vacated shall be construed to follow the center line of the vacated public right-of-way.
- (G) Boundaries indicated as approximately following the center lines of streams, rivers, lakes or other bodies of water shall be construed as following the center lines of such bodies of water.
- (H) Boundaries indicated as approximately following floodplain lines shall be construed to follow the floodplain lines. If the floodplain lines are changed, either naturally or as permitted by law, and such floodplain line changes are documented and concurred with by the County Engineer, such boundary shall be construed as moving with such change.
- (I) Boundaries indicated as following the contours of certain elevations or soils of a particular type shall be construed as following the actual height or soil contour as determined by accepted surveying practices.
- (J) Boundaries indicated as parallel to or extensions of features indicated in the subsections above shall be so controlled.

CHAPTER 154: PLANNING AND ZONING
Zoning Districts and Zone Maps

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

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

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

(N) Where a district boundary line divides a lot in single ownership, the regulations for either portion of the lot may, in the owner's discretion, extend to the entire lot, but not more than forty feet beyond the boundary line of the district.

(Ord. 51-05, § 8.01.02F, 5/10/05)

154.031 DISCONNECTED TERRITORY.

Any additions to the unincorporated area of the county, resulting from disconnection by municipalities or otherwise, shall be automatically classified in an agricultural district and may be subsequently classified to another zoning district by amendment in accordance with procedures set forth in this Chapter.

(Ord. 51-05, § 8.01.02G, 5/10/05)

154.032 EXISTING BUILDINGS AND STRUCTURES – CHANGE OF ZONING DISTRICT.

In those instances where buildings and structures exist on a lot or parcel that is being proposed to another zoning district (a/k/a zone map amendment), those buildings and structures shall be exempt from seeking variances from the required side, rear, or front yard development standards of that zoning district. All existing structures at the time of the rezoning shall be deemed to be legal nonconforming buildings or structures and shall comply with all provisions of Section 154.045 from that point forward. *(Ord. 64-13, 10/8/13)*

NONCONFORMING LOTS, USES, BUILDINGS, STRUCTURES OR SIGNS

154.045 INTENT.

(A) Within the districts established by this Chapter, there exist:

- (1) nonconforming lots of record;
- (2) nonconforming buildings or structures;
- (3) nonconforming uses of land;
- (4) nonconforming uses within nonconforming buildings or structures; and,
- (5) nonconforming signs which were legally established prior to the effective date of this chapter, but which would be prohibited, regulated or restricted under the provisions of this chapter.

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

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

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

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

(Ord. 51-05, § 8.01.03A, 5/10/2005)

154.046 INCOMPATIBILITY OF LEGALLY ESTABLISHED NONCONFORMING USES.

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

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

(Ord. 51-05, § 8.01.03B, 5/10/05) Penalty, see § 154.999

CHAPTER 154: PLANNING AND ZONING
Nonconforming Lots, Uses, Buildings, Structures or Signs

154.047 AVOIDANCE OF UNDUE HARDSHIP.

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

(A) The construction of such building or structure (excluding signs) is commenced within six (6) months of such effective date, or the construction of any such sign is commenced within thirty (30) days of such effective date;

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

(C) Construction of such building or structure (excluding signs) shall be completed within two (2) years of the issuance of said improvement location permit, or construction of such sign shall be completed within ninety (90) days of the issuance of said improvement location permit.

(Ord. 51-05, § 8.01.03C, 5/10/05)

154.048 LEGALLY ESTABLISHED NONCONFORMING LOTS.

(A) *Legally Established Nonconforming Lots of Record.* Any legally established lot recorded or any legally established platted lot recorded prior to the effective date of this chapter, having less than the required minimum lot area or minimum lot width required by the applicable district regulations of this chapter, shall be deemed a permitted exception to such minimum lot area or minimum lot width and may be used for any permitted use within the applicable district in which such lot is located provided that all other development standards are met.

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

(C) *Buildable Lots.* A nonconforming lot of record shall be deemed a legally established nonconforming lot of record may be used as a buildable lot if such nonconforming lot of record complies with one (1) of the following:

(1) Any lot, in its entirety, of a subdivision that was recorded in the Recorder's Office prior to the adoption of this Chapter.

(2) Any part of a lot or any combination of parts of lots of a subdivision provided that prior to the adoption of this ordinance all of the following provisions are complied with:

CHAPTER 154: PLANNING AND ZONING
Nonconforming Lots, Uses, Buildings, Structures or Signs

- (a) the subdivision was recorded in the Recorder's Office;
- (b) recorded evidence of ownership describing the property as a single and separate ownership was recorded in the Recorder's Office;
- (c) the property met or exceeded the lot area and width requirements of the zoning district in which the property is located; and
- (d) the property had frontage in conformance with the requirements of the zoning ordinance along an improved, dedicated, and accepted public road.

(3) A parcel described by a metes and bounds description, or as lots or any combination of parts of lots of an unrecorded subdivision provided that all of the following provisions are complied with:

- (a) recorded evidence of ownership describing the parcel as a single and separate ownership was recorded in the Recorder's Office prior to March 20, 1961;
- (b) the current legal description describes the parcel as recorded in the Recorder's Office prior to March 20, 1961; and
- (c) the parcel has frontage along an improved, dedicated, and accepted public road.

(4) A parcel described by a metes and bounds description, or lots or any combination of parts of lots of unrecorded subdivisions provided that all of the following provisions are complied with:

- (a) recorded evidence of ownership describing the parcel as a single and separate ownership was recorded in the Recorder's Office between March 20, 1961 and March 30, 1966;
- (b) the current legal description describes the parcel as recorded in the Recorder's Office between March 20, 1961 and March 30, 1966;
- (c) the parcel met or exceeded the lot area and width requirements of the zoning district in which the parcel is located; and
- (d) the parcel has frontage along an improved, dedicated, and accepted public road in conformance with the requirements of this chapter.

(5) A parcel of land 10 acres or more in size that is zoned A: Agricultural and was zoned R: Single Family prior to April 13, 1979, provided that all of the following provisions are complied with:

- (a) the property is to be used for an agricultural use as defined in this chapter; and

CHAPTER 154: PLANNING AND ZONING
Nonconforming Lots, Uses, Buildings, Structures or Signs

(b) the property meets or exceeds the then required 100 feet of frontage along an improved, dedicated, and accepted public road; and (*Ord. 68-09*)

(c) recorded evidence of ownership describing the parcel as a single and separate ownership was recorded prior to April 13, 1979 in the Recorder's Office.

(6) A parcel of land 10 acres or more in size that is zoned A: Agricultural and was zoned A: Agricultural prior to April 13, 1979, provided that all of the following provisions are complied with:

(a) the property is to be used for an agricultural use as defined in this Chapter;

(b) the property meets or exceeds the then required 300 feet of frontage along an improved, dedicated, and accepted public road; and

(c) recorded evidence of ownership describing the parcel as a single and separate ownership was recorded prior to April 13, 1979 in the Recorder's Office.

(7) A parcel of land 10 acres or more in size zoned R: Single Family provided that all of the following provisions are complied with:

(a) the parcel has frontage along an improved, dedicated, and accepted public road in conformance with the requirements of Ordinance #78-97 (APC Amendment #669-97);

(b) recorded evidence of ownership describing the parcel as a single and separate ownership was recorded in the Recorder's Office prior to July 8, 1997; and

(c) the current legal description describes the parcel as recorded in the Recorder's Office prior to July 8, 1997.

(8) A parcel of land described by a metes and bound description, or as a lot or lots or any combination of parts of lots of an unrecorded or recorded subdivision that does not meet any of the other sections of this definition and provided that prior to June 27, 2008 the following were met: (*Ord. 68-09*)

(a) recorded evidence of ownership describing the property as a single and separate ownership was recorded in the Recorder's Office; and

(b) a primary structure existed on the property.

(9) A lot of record as defined in items a. through h. above which is reduced in area as a result of action by a governmental unit or entity.

(*Ord. 51-05, § 8.01.03D, 5/10/05; Ord. 68-09, § 2, 8/11/09*)

154.049 LEGALLY ESTABLISHED NONCONFORMING BUILDINGS OR STRUCTURES (EXCLUDING SIGNS).

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

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

(B) Should such legally established nonconforming building or structure, or legally established nonconforming portion of a building or structure, be damaged or destroyed by any means to the extent that restoration will exceed fifty (50) percent of the cost of construction of the entire building or structure at the time the damage or destruction is reported, as determined pursuant to § 154.056, below, said building or structure shall not be reconstructed except in conformity with the provisions of this chapter; and

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

(Ord. 51-05, § 8.01.03E, 5/10/05) Penalty, see § 154.999

154.050 LEGALLY ESTABLISHED NONCONFORMING USES OF LAND.

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

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

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

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

(Ord. 51-05, § 8.01.03F, 5/10/05) Penalty, see § 154.999

CHAPTER 154: PLANNING AND ZONING
Nonconforming Lots, Uses, Buildings, Structures or Signs

154.051 DISCONTINUATION OF LEGALLY ESTABLISHED NONCONFORMING USES OF LAND.

If any legally established nonconforming use of land, other than single family residential is: (*Ord. 13-14, 3/11/14*)

(A) Abandoned for any period of time; or,

(B) Discontinued for more than six (6) consecutive months (except when a probate related court order or government action impedes access to the premises), any subsequent use of such land shall conform to the provisions of this Chapter.

(*Ord. 51-05, § 8.01.03G, 5/10/05*) Penalty, see § 154.999

154.052 DISCONTINUATION OF LEGALLY ESTABLISHED NONCONFORMING USES WITHIN LEGALLY ESTABLISHED BUILDINGS OR STRUCTURES.

If any legally established nonconforming use with a legally established building or structure is:

(A) Abandoned for any period of time; or,

(B) Discontinued for more than twelve (12) consecutive months (except when a probate related court order or government action impedes access to the premises), any subsequent use of such land shall conform to the provisions of this Chapter.

(*Ord. 51-05, § 8.01.03H, 5/10/05*) Penalty, see § 154.999

154.053 LEGALLY ESTABLISHED NONCONFORMING USES WITHIN LEGALLY ESTABLISHED NONCONFORMING BUILDINGS OR STRUCTURES.

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

(B) If any legally established nonconforming use is located within a legally established nonconforming building or structure and such legally established nonconforming building or structure is damaged or destroyed by any means to the extent that restoration will exceed fifty (50) percent of the cost of construction of the entire building or structure at the time the damage or destruction is reported, as determined pursuant to § 154.056, below, the legally established nonconforming use previously being conducted in such legally established nonconforming building or structure shall be extinguished and no longer permitted.

(*Ord. 51-05, § 8.01.03I, 5/10/2005*) Penalty, see § 154.999

**154.054 REPAIRS AND MAINTENANCE OF LEGALLY ESTABLISHED
NONCONFORMING BUILDINGS OR STRUCTURES (EXCLUDING SIGNS).**

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

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

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

(D) *Parking Area, outside storage area or outside operations area.*

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

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

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

(2) In case of disagreement with the determination of the Zoning Administrator, any aggrieved party may file and appeal with the Board of Zoning Appeals pursuant to the provision of §§ 154.555 through 154.565 of this chapter. Such hardsurfacing shall require an improvement location permit and shall also be subject to full review under and compliance with the storm drainage requirements of St. Joseph County.

(Ord. 51-05, § 8.01.03J, 5/10/05) Penalty, see § 154.999

CHAPTER 154: PLANNING AND ZONING
Nonconforming Lots, Uses, Buildings, Structures or Signs

154.055 LEGALLY ESTABLISHED NONCONFORMING SIGNS.

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

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

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

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

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

(4) If a legally established nonconforming sign is damaged or destroyed by any means to the extent that the repair or reconstruction of the sign exceeds fifty (50) percent of the cost of construction of the entire sign, determined pursuant to § 154.056, below, said legally established nonconforming sign shall not be reconstructed except in conformity with the provisions of this chapter;

(5) If the cost of normal and routine repair and maintenance of a legally established nonconforming sign exceeds fifty (50) percent of the cost of construction of the entire sign, determined pursuant to § 154.056, below, said legally established nonconforming sign shall not be repaired, maintained or reconstructed except in conformity with the provisions of this Chapter; and,

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

(Ord. 51-05, § 8.01.03K, 5/10/05) Penalty, see § 154.999

154.056 DETERMINATION OF COST OF CONSTRUCTION.

In determining the reported cost of construction of a building or structure (excluding signs) or the cost of construction of a sign, the Zoning Administrators may consider the following items:

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

(B) Sign - documentation prepared by and provided by an appraiser licensed by the State of Indiana to appraise the type of property involved; or,

(C) Other documentary evidence relevant to reported cost of construction deemed appropriate by the Zoning Administrator.

(Ord. 51-05, § 8.01.03L, 5/10/05)

154.057 RECONSTRUCTION, REMODELING OR ENLARGEMENT OF A LEGALLY ESTABLISHED NONCONFORMING SINGLE FAMILY DWELLING OR TWO FAMILY DWELLING.

Notwithstanding any provision of this Chapter to the contrary, any legally established nonconforming single-family dwelling or two-family dwelling, and accessory buildings may be:
(Ord. 19-20, 2/18/20)

(A) Reconstructed if damaged or destroyed by fire, natural disaster or for any other reasons; or,

(B) Remodeled or enlarged, provided that such remodeling or additions comply with the development standards of the R: Single Family District related to maximum lot coverage, minimum yards and building setbacks, maximum building height, and off-street parking.

(Ord. 51-05, § 8.01.03M, 5/10/05)

154.058 AGRICULTURAL NONCONFORMING USE.

An agricultural nonconforming use may be changed to another agricultural use without losing agricultural nonconforming use status, provided, however, such agricultural nonconforming use shall be:

(A) Maintained for at least any three (3) year period in a five (5) year period;

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

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

(Ord. 51-05, § 8.01.03N, 5/10/05)

GENERAL REGULATIONS

154.070 ACCESSORY USES, BUILDINGS AND STRUCTURES.

(A) *Permitted Accessory Uses, Buildings and Structures.*

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

(2) Accessory uses, buildings or structures shall be permitted for any legally established residential use in any non-residential district and shall comply with the provisions of Chapter 154.070 (C) (1). (*Ord. 64-13, 10/8/13*)

(3) Accessory uses, buildings or structures shall not be established on a lot prior to the establishment of the primary use on the lot, unless the lot abuts the associated primary use and is under the same ownership. (*Ord. 19-20, 2/18/20*)

(4) By way of example only, some typical accessory uses, buildings and structures are:

(a) In Agricultural Districts: barns; grain silos; fences; solar panels; and storage buildings. (*Ord. 17-20, 2/18/20*)

(b) In Residential Districts: garages; carports; porches; decks; awnings; canopies; mini-barns; storage sheds; patios; outdoor fireplaces; bathhouses; cabanas; children's playhouses; swings; game courts, including tennis or basketball courts; fences; parking areas; signs; swimming pools; hot tubs; radio sending and receiving antennas; satellite dish antennas; solar panels; and, storage buildings. (*Ord. 17-20, 2/18/20*)

(c) In Business / Commercial Districts: garages; storage sheds or buildings; fences; trash containers; recycling containers; drive through facilities; solar panels; gasoline pump islands and canopies. (*Ord. 17-20, 2/18/20*)

(d) In Industrial Districts: garages; storage sheds or buildings; fences; trash containers; solar panels; and, recycling containers. (*Ord. 17-20, 2/18/20*)

(B) *Development Standards for Accessory Uses, Buildings or Structures in All Districts.*

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

(2) No accessory building, structure, or use shall encroach upon that side yard of a corner lot which is adjacent to the street, upon that side yard of a reversed corner lot which is adjacent to the street, upon that part of a rear yard of a through lot which is within the required setback from the street.

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

154.070 ACCESSORY USES, BUILDINGS AND STRUCTURES. (CONTINUED)

(C) *Additional Development Standards for Accessory Uses, Buildings or Structures.*

(1) Residential Districts – Accessory uses, buildings or structures permitted in any Residential District or as an accessory use, building or structure to any residential use in any other district established by this Chapter shall also comply with the following additional development standards:

(a) *Accessory Buildings. (Ord. 35-19, 3/12/19)*

1. Accessory buildings in residential districts will have maximum heights and sizes according to the following table: *(Ord. 19-20, 2/18/20)*

Table 154-GR1 Maximum Height and Size of Accessory Structure in Residential Districts				
	Detached		Attached	
Lot Size	Maximum Area of all detached accessory buildings	Maximum Height	Maximum Area	Maximum Height
Less than 1 acre	1x the square footage of the ground floor of the primary structure or 960 sq. ft., whichever is greater	19 feet	Less than or equal to the main floor area of the primary building	Maximum height of the applicable zoning district
1 to less than 3 acres	1.5x the square footage of the ground floor of the primary structure	22 feet		
3 to less than 5 acres	2x the square footage of the ground floor of the primary structure	24 feet		
5 acres or more, Agricultural uses	Unlimited	Unlimited		
5 acres or more, All other uses	2x the square footage of the ground floor of the primary structure	24 feet		

2. Accessory buildings must meet the required front and side setback and be no less than eight (8) feet from the rear property line.

(b) *Swimming Pools or Hot Tubs.*

1. A swimming pool or hot tub shall not be located in any minimum front yard, minimum side yard or minimum rear yard for an accessory building.
2. The swimming pool or hot tub, either above or below ground, shall comply with the applicable requirements of the Indiana Swimming Pool Code (675 IAC 20).
3. No pool or hot tub shall be erected or constructed unless adequate distance from overhead electrical wires is provided in accordance with the National Safety Code and the National Electrical Code, current editions.
4. Abandoned or unused swimming pools or hot tubs, situated on a premise which are not occupied for periods of thirty (30) days or more, shall be drained or equipped with a cover adequate to prevent persons, children or animals from danger or harm.
5. All swimming pools or hot tubs, including associated decking and aprons over 30" above grade, shall be included in the calculation of maximum lot coverage.

(c) *Stoops, Patios, Porches, Gazebos and Decks.*

1. Stoops, patios, porches, gazebos and decks over 30" above grade or which include a roof or roof-like structure (e.g., trellis, arbor, etc.) shall comply with all minimum yards and building setback, and maximum building height regulations of the applicable district for accessory structures.
2. Notwithstanding anything in this Chapter to the contrary, stoops, patios, porches and decks less than 30" above grade and which do not include a roof or roof-like structure may be located in a:
 - a. Minimum front yard, provided however, such stoop, patio, porch or deck shall not encroach more than ten (10) feet into such minimum front yard; or,
 - b. Minimum side yard or minimum rear yard.

CHAPTER 154: PLANNING AND ZONING
General Regulations

(d) *Fences (including but not limited to chain link, solid, shadow-box, stockade, architectural screen, lattice-work or masonry).*

1. *Individual lots; front yards.* Fences located in a minimum front yard or in the buildable area of a lot located between the front line of the primary building and the minimum front yard shall not exceed:

a. Thirty-six (36) inches in height above grade, if the open space percentage of the fence is equal to or less than seventy (70) percent; or,

b. Forty-eight (48) inches in height above grade if the open space percentage of the fence is greater than seventy (70) percent.

2. *Corner lots; front yards.* In the case of a corner lot containing 9,000 square feet or less, one (1) front yard, as determined by the Zoning Administrator, may be treated as a side yard for the purpose of regulating fences in front yards on individual lots.

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

4. *All other fences.* Fences located elsewhere on a lot shall not exceed:

a. Six (6) feet in height above grade, if the open space percentage of the fence is equal to or less than seventy (70) percent; or,

b. Eight (8) feet in height above grade if the open space percentage of the fence is greater than seventy (70) percent.

5. *Clear sight.* Fences provided for in (C)(1)(d)2 and (C)(1)(d)3. above shall also comply with § 154.078.

6. *Security fencing.* Fences, including but not limited to barbed wire, electric, razor wire or other types of security wire fencing:

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

b. The Zoning Administrator shall have the authority to determine the extent and location of such fences. (*Ord. 91-07, 10/9/07*)

(e) *Grade Level Improvements.* Grade level improvements which do not include a foundation shall be permitted as follows:

1. In a minimum front yard – walkways and driveways.
2. In a minimum side yard or minimum rear yard – walkways, and interior access drives.

(f) *Game Courts.* Game courts shall be located in compliance with the setback regulations for an accessory building.

(g) *Renewable Energy Systems.* See §§ 154.505 through 154.516. (Ord. 17-20, 2/18/20)

(h) *Signs.* Shall comply with §§ 154.370 through 154.380. (Ord. 52-20, 8/25/20)

(i) *Trash Containers.* Any trash container exceeding thirty-six (36) cubic feet in capacity shall:

1. Be screened on at least three sides by a building wall or a solid-walled enclosure, not less than six (6) feet in height nor more than ten (10) feet in height above grade, equipped with an opaque screen gate;
2. Not be located between the front façade of the primary building and the front lot line; and,
3. Not be located in any minimum front yard, minimum side yard or minimum rear yard.

(2) *Business/commercial districts and industrial districts.* Accessory uses, buildings or structures permitted in any Business / Commercial District or any Industrial District shall also comply with the following additional development standards:

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

1. Located in a minimum front yard or in the buildable area of a lot located between the front line of the primary building and the minimum front yard shall not exceed:

a. Thirty-six (36) inches in height above grade, if the open space percentage of the fence is equal to or less than seventy (70) percent; or,

b. Forty-eight (48) inches in height above grade if the open space percentage of the fence is greater than seventy (70) percent.

CHAPTER 154: PLANNING AND ZONING
General Regulations

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

3. Shall not include any barbed, electric, razor or other similar types of security wire when located in a minimum front yard or between the front façade of the primary building and the required front yard; and,

4. Shall comply with § 154.078.

(b) *Trash containers.* Trash containers exceeding thirty-six (36) cubic feet shall:

1. Be screened on at least three (3) sides by a building wall or a solid-walled enclosure, not less than six (6) feet in height nor more than ten (10) feet in height above grade, equipped with an opaque screen gate;

2. Not be located between the front façade of the primary building and the front lot line; and,

3. Not be located in any minimum front yard, minimum side yard, or minimum rear yard.



Solid Walled Trash Enclosure with Optional Foundation Plantings



Solid Walled Trash Enclosure with Opaque Screen Gate

(c) *Signs.* Shall comply with §§ 154.370 through 154.380. (*Ord. 52-20, 8/25/20*)

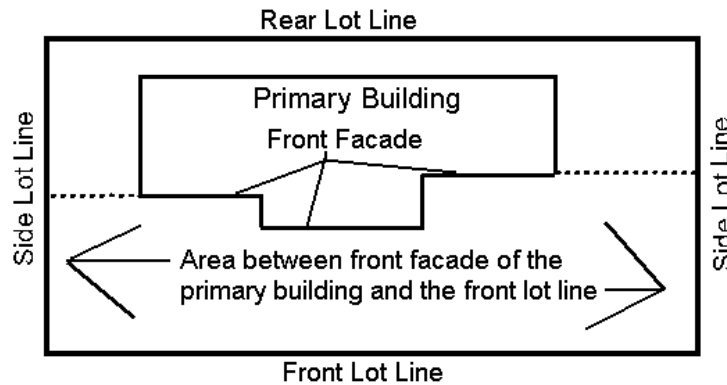
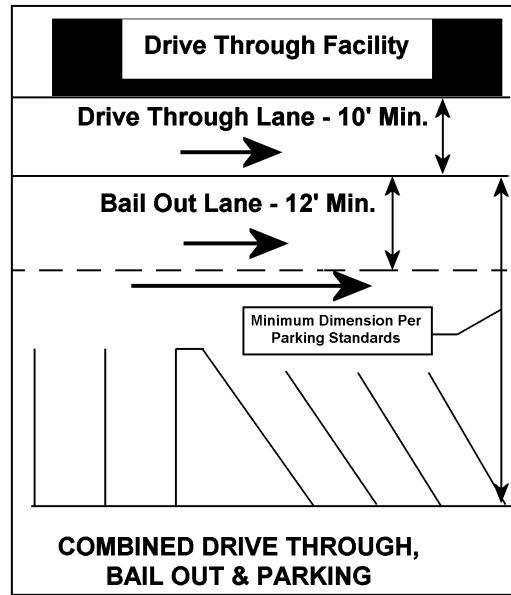
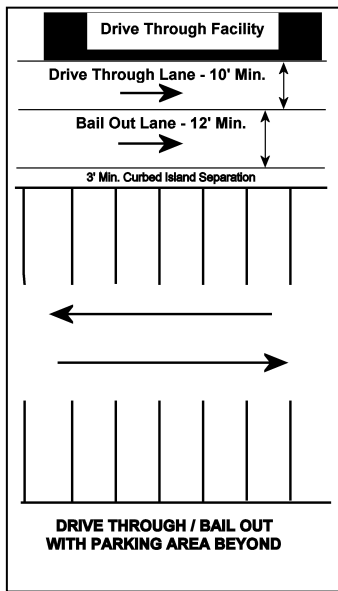
(d) *Parking Areas.* Shall comply with the provisions of §§ 154.415 through 154.423.

(e) *Loading Areas.* Shall comply with the provision of §§ 154.435 through 154.442.

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

1. Drive through lanes do not conflict with the safe and efficient flow of traffic into and out of required parking spaces or loading spaces;

2. Drive through lanes have a "bail out" capability for all vehicles which have entered the drive through lane;



3. The minimum drive through facility standards include:

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

b. A "bail out" lane with a minimum width of twelve (12) feet measured from and running parallel to the full length of the drive through lane;

4. If a "bail out" lane also serves as an interior access drive providing access to parking spaces, the "bail out" lane / interior access drive shall be limited to a one-way traffic pattern following the direction of the drive through lane;

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

CHAPTER 154: PLANNING AND ZONING
General Regulations

6. Provide at least five (5) waiting spaces prior to the first occurrence of any ordering, pick-up or service facility; and,

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

(g) *Gasoline Dispensers and Pump Island Canopies.* Gasoline dispensers and pump island canopies shall:

1. Not be located within any minimum front yard, side yard or rear yard, unless specifically authorized in the "Use of Yards" sub-Section of the applicable district; and,

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

(h) *Renewable Energy Systems.* See §§ 154.505 through 154.516. (Ord. 17-20, 2/18/20) (Ord. 51-05, § 8.01.04A, 5/10/05; Ord. 91-07, § 2, 10/9/07) Penalty, see § 154.999

154.071 TEMPORARY USES, BUILDINGS AND STRUCTURES.

(A) *Permits Required.* An improvement location permit is required for any temporary use, building or structure, unless otherwise stated. Building permits are required for any temporary building or structure. (Ord. 19-20, 2/18/20)

(B) *Permitted temporary uses, buildings and structures.* By way of example only, permitted temporary uses, buildings and structures include:

(1) In residential districts: construction trailers, sales offices (either freestanding or in portions of model homes), garage and yard sales, temporary dwelling units and signs as regulated in §§ 154.370 through 154.381. (Ord. 19-20, 2/18/20)

(2) In business/commercial districts and industrial districts: construction trailers, sales offices, mobile offices, temporary seasonal retail sales and signs as regulated in §§ 154.370 through 154.381. (Ord. 19-20, 2/18/20)

(3) In agricultural districts: construction trailers, garage and yard sales, temporary dwelling units and signs as regulated in §§ 154.370 through 154.381. (Ord. 19-20, 2/18/20)

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

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

in which the temporary use, building or structure is located. Temporary construction trailers, temporary freestanding sales offices, and other temporary uses which shall not be converted into a permanent primary or accessory use, shall be exempt from the requirement to provide a hard-surfaced parking area.

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

(F) *Temporary seasonal retail sales in commercial and industrial districts.* Any temporary seasonal retail sales use, structure or building in the B: Business, C: Commercial, or I: Industrial Districts shall also comply with the following regulations: (*Ord. 76-19, 9/10/19; Ord. 19-20, 2/18/20*)

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

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

(3) The location of the temporary seasonal retail sales use and its required amount of parking spaces shall not interfere with any required parking spaces or safe and efficient flow of vehicular and pedestrian traffic around the parking area for the permanent primary use of the site;

(4) Signs for the temporary seasonal retail sales shall comply with the provisions of §§ 154.370 through 154.380 regarding temporary signs; and (*Ord. 19-20, 2/18/20*)

(5) Notwithstanding the provisions above to the contrary, seasonal retail sales uses shall not exceed forty-five (45) consecutive days per occurrence nor a total of one-hundred and twenty (120) days during any calendar year.

(G) *Temporary construction trailers or sales offices in residential districts.* (*Ord. 19-20, 2/18/20*)

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

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

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

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

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

CHAPTER 154: PLANNING AND ZONING
General Regulations

(H) *Garage sales and yard sales.* Notwithstanding any regulations above to the contrary, a garage sale may be conducted on a premise which includes a dwelling unit subject to the following regulations: *(Ord. 19-20, 2/18/20)*

(1) A garage sale/yard sale may be conducted three (3) times each calendar year per lot and shall not exceed three (3) consecutive days in duration;

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

(3) All personal property exhibited outdoors during a garage sale/yard sale shall be placed within a building or structure or otherwise removed from the premises immediately following the end of the garage sale;

(4) Garage/yard sale signs shall comply with the applicable provisions of §§ 154.370 through 154.380; *(Ord. 19-20, 2/18/20)*

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

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

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

(I) *Temporary dwelling unit for a care giver / care receiver.* *(Ord. 19-20, 2/18/20)*

(1) Temporary dwelling units for a care giver / care receiver shall be a conditional use in all districts subject to the following requirements:

(a) Only one temporary dwelling unit is allowed;

(b) Such dwelling shall be limited for a period of time not to exceed three (3) years from the date of approval;

(c) Such dwellings shall be occupied by who either provides or receives not less than weekly assistance to or from the occupants of the primary dwelling unit; and

(d) A certification from a medical doctor shall be provided stating the need of such assistance and the frequency required.

(J) *Temporary dwelling unit when constructing a new home.* Temporary dwelling units may be used when constructing a new home for a period of time not to exceed six (6) months where a permit has been issued for the construction of a permanent primary dwelling. *(Ord. 19-20, 2/18/20)*

(K) *Temporary dwelling unit when constructing a home destroyed by natural disaster.* Temporary dwelling units may be used when constructing a new home for a period of time not to exceed six (6) months on any lot where the primary dwelling was damaged or destroyed by fire or other natural disaster. A permit for construction for a permanent primary dwelling unit shall be requested within three (3) months of the occurrence of the damage or destruction and intends to begin reconstruction of a permanent dwelling as soon as practicable. (Ord. 19-20, 2/18/20)

(L) *Temporary office or business.* Temporary office or business locations shall be permitted for a period of time not to exceed six (6) months where additional office or business space is required due to a temporary need or while construction of permanent office or business facilities is being undertaken. Where a permanent building already exists on a lot, such temporary office shall be located behind the established front building line of the existing building. (Ord. 19-20, 2/18/20)

154.072 HOME OCCUPATIONS.

(A) *Development Standards.* Home occupations shall be permitted for any residential use subject to the following development standards:

- (1) There shall be no outside storage;
- (2) There shall be no change in the outside appearance of the building or premises and no sign or display is to be used which indicates the building is being used for anything other than a dwelling or residential accessory structure other than signs as permitted in §§ 154.370 through 154.380; (Ord. 62-19; 7/9/19; Ord. 52-20; 8/25/20)
- (3) All activities related to the home occupation shall be conducted within the dwelling unit or a permitted accessory structure and no equipment or process shall be used which creates noise, vibration, glare, fumes, odor or electrical interference outside the dwelling unit or accessory building in an amount greater than present under normal circumstances; (Ord. 62-19; 7/9/19)
- (4) No commercial or industrial grade equipment shall be installed (i.e. equipment which is not routinely marketed to consumers). No more than one commercial vehicle shall be stored and utilized for activities related to the home occupation. The commercial vehicle must be in compliance with Section 154.620 (C)(1) of this ordinance; (Ord. 62-19; 7/9/19)
- (5) No person is to be employed other than a member of the family residing on the premises; (Ord. 62-19; 7/9/19)
- (6) Deliveries and out-going shipments related to the home occupation shall not be transported on vehicles larger than those customarily used for delivery to a residence; (Ord. 62-19; 7/9/19)
- (7) The home occupation shall serve no more than 2 on premise customers at a time, including those waiting for service. (Ord. 62-19; 7/9/19)

CHAPTER 154: PLANNING AND ZONING
General Regulations

(B) *Permitted Home Occupations.* By way of example only, the following uses, when conducted in compliance with the above development standards, qualify as permitted home occupations:

- (1) Artist or musician studio;
- (2) Food preparation, not including on premise consumption, subject to County Health Department standards;
- (3) Technological services and internet commerce;
- (4) Tailoring or sewing;
- (5) Personal office;
- (6) Teaching, tutoring or training, such as but not limited to academic subjects, art, dance, musical instruments, or athletics;
- (7) Professional service, such as but not limited to: accountant, insurance agent and photographer;
- (8) Barber or cosmetologist, limited to (1) chair;
- (9) Other uses that comply with the intent and conditions set forth above in this Section, as determined by the Zoning Administrator. (*Ord. 62-19; 7/9/19*)

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

- (1) Automobile, vehicle, lawn mower, and large appliance repair or service;
- (2) Medical or dental office or clinic;
- (3) Freight, trucking, or shipping;
- (4) Painting of vehicles, trailers, boats, etc.;
- (5) Restaurants, eating or drinking establishments;
- (6) Tool or equipment rentals;
- (7) Tooling, welding, or machine shop;
- (8) Any use not in compliance with the intent and conditions set forth in this Section, as determined by the Zoning Administrator. (*Ord. 62-19; 7/9/19*)

154.073 PERFORMANCE STANDARDS.

(A) *Scope and Applicability.* All uses in existence prior to the effective date of this chapter or established after the effective date of this chapter in any business/commercial District or Industrial District shall comply with the performance standards of the applicable county, state or federal regulations pertaining to: vibration; smoke, dust and particulate matter; noxious matter; odor; noise; heat; glare; or, waste, and shall be subject to enforcement action by the applicable county, state or federal agency responsible for monitoring and enforcing such regulations.

(B) *Performance Standards.*

(1) *Noise.* No use shall produce noise levels in such a manner at any point beyond a lot line as to endanger the public health, safety or welfare or cause injury to property. Operational or production noise shall be muffled so as not to be come detrimental due to intermittence, beat frequency, shrillness or vibration.

(2) *Vibration.* No use shall cause earth-borne vibration or concussions detectable at any point beyond a lot line without the aid of instruments.

(3) *Smoke, dust and particulate matter.* Smoke, dust and particulate matter and any other airborne material shall not exceed the limits established by the Indiana Department of Environmental Management Rules regarding fugitive dust.

(4) *Toxic and noxious matter.* No use shall, at any time, cause the discharge of toxic, noxious or corrosive matter or fumes or gases at any point beyond a lot line in such concentrations as to be detrimental to or endanger the public health, safety, comfort, or welfare or cause injury or damage to property or business.

(5) *Odorous matter.* No use, activity or operation shall cause, at any time, the discharge of odorous matter in such concentrations as to be readily detectable without the use of instruments at any point beyond a lot line.

(6) *Heat.* No use shall produce heat in such a manner as to create a public nuisance or hazard from any point beyond a lot line.

(7) *Glare.* No use shall produce light or glare so as to create a nuisance or hazard perceptible from any point beyond a lot line.

(8) *Waste.* No use shall accumulate within the lot or discharge beyond any lot line any waste matter, whether liquid or solid, in violation of the applicable standards and regulations of the St. Joseph County Health Department, the Indiana Board of Health, or the Stream Pollution Control Board of the State of Indiana, in such a manner as to endanger the public health, safety, or welfare or cause injury to property or business.

(Ord. 51-05, § 8.01.04D, 5/10/05) Penalty, see § 154.999

154.074 ZONING VIOLATIONS.

The following shall be deemed violations of this Chapter and shall be enforceable by St. Joseph County as set forth in §§ 154.615 through 154.620:

(A) *In residential districts.*

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

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

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

(4) *Large Vehicles.*

(a) No tractor, trailer, tractor-trailer combination, or vehicle (including but not limited to a tow truck, dump truck, flatbed truck, semi-trailer, and the like) equal to or in excess of one and one half (1 ½) tons capacity, or which has a bed more than eight (8) feet long, may be parked upon any land or premises in any Residential District. However, the foregoing shall not apply to:

1. School buses used for the transportation of school children to and from school or to and from a school sponsored activity; or,
2. Any vehicle used for personal transportation to and from work.

(b) Nothing in this section is intended to affect the already regulated parking on designated snow routes during a snow emergency, or other areas in which parking is regulated by duly authorized signs.

(5) *Parking of vehicles; general.*

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

(B) If a primary building exists on a lot of record, parking on said lot of record shall be accessory to the use of the primary building located on said lot of record.

(B) *In business/commercial districts.*

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

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

(3) The failure to comply with the terms, provisions or conditions of: a grant of variance or special use; an approval of a conditional use district; or, other approval grant authorized by this chapter.

(Ord. 51-05, § 8.01.04E, 5/10/05) Penalty, see § 154.999

154.075 ADDITIONAL DEVELOPMENT STANDARDS.

(A) *Additions along a legally established nonconforming setback.*

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

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

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

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

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

(3) The provisions of this division shall not be applicable to any lot in a business/commercial district or any industrial district which abuts a residential district along a side lot line or a rear lot line.

CHAPTER 154: PLANNING AND ZONING
General Regulations

(B) *Additional front setback provisions.*

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

(2) *Public streets and private streets.*

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

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

(C) *Obstructions.* The following shall not be considered to be obstructions when located in the required yards specified:

(1) *In all yards.* Open terraces not over thirty (30) inches above the average level of the adjoining ground, but not including a permanently roofed-over terrace or porch; awnings and canopies; steps four (4) feet or less above grade which are necessary for access to a permitted building or for access to a lot from a street or alley; chimneys projecting eighteen (18) inches or less into the yard; arbors and trellises, flag poles, and trees and shrubs;

(2) *In front yards and side yards adjoining a street.* One story bay windows, overhanging eaves and gutters projecting three (3) feet or less into the required yard; fences or walls not to exceed six (6) feet in height in agricultural districts; and, in residential districts, fences not to exceed four (4) feet in height provided such fence is composed of at least seventy-five (75) percent open space to permit the unobstructed passage of light, air and vision through such space. A side yard adjoining a street shall be considered a front yard, and on corner lots, no fence, wall, hedge, or other shrubbery, shall be erected, constructed, grown or maintained to a height exceeding thirty (30) inches above the grade of the adjoining streets on that portion of the required yards situated within thirty-five (35) feet of a lot corner formed by the intersection of any two (2) street right-of-way lines.

(3) *In rear yards.* Enclosed, attached, or detached off-street parking spaces; open off-street parking spaces; private swimming pools; tennis courts, recreational and laundry-drying equipment; sheds, tool rooms, or similar buildings or structures customarily accessory to the principal use; balconies; breezeways and open porches; one-story bay windows projecting three (3) feet or less into the yard; over-hanging eaves and gutters projecting three (3) feet or less into the yard; and open or solid fences or walls not to exceed six (6) feet in height, except in manufacturing districts the height may be increased.

(4) *In side yards.* Overhanging eaves and gutters projecting eighteen (18) inches or less into the yard; open accessory off-street parking spaces; and open or solid fences not to exceed six (6) feet in height, except in industrial and manufacturing districts the height may be increased.

(D) *Exemption to front yard setback and lot area requirements in the event of right-of-way conveyance.* The setback and lot area requirements set forth in this chapter shall not be applicable to existing structures which are located on parcels of which a portion thereof has been conveyed to a unit of government for additional public right-of-way. In such cases, the required front yard setback shall be the distance from the closest structure, which was in existence prior to such conveyance, upon such property to the newly established right-of-way line; provided, however, that nothing contained in this section is intended to, nor shall be construed to render any building or other structure located, or to be located within the county, which is or would be in violation of the setback and yard size requirements of this chapter prior to the conveyance of a portion of the property upon which such building or structure is located, in compliance with such setback and yard size requirements by reason of this section, and amendment, to the ordinance codified in this chapter.

(E) *Rear yard setback exception.* In the event of irregular shaped lots where the rear lot line does not run parallel or generally parallel with the front lot line, the rear yard setback shall be the average measurement of each corner of a wall or wall segment located closest to said rear lot line.

(F) *Additional standards of manufactured home dwellings, type A.*

(1) *General requirements.* All manufactured home dwellings, type A, shall:

- (a) Be constructed after January 1, 1981;
- (b) Have more than nine hundred and fifty (950) square feet of occupied space and is composed of more than one (1) section;
- (c) Be placed onto a permanent underfloor foundation in accordance with approved installation standards, as specified below;
- (d) Be placed into a permanent perimeter enclosure, in accordance with approved installation standards, as specified below;
- (e) Have wheels, axles, and hitch mechanisms removed;
- (f) Have siding material of a type customarily used on site constructed homes, as specified below; and,
- (g) Have roofing material of a type customarily used on site constructed homes, as specified below.

CHAPTER 154: PLANNING AND ZONING
General Regulations

(2) *Installation standards.*

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

(b) *Support system (foundation).* All load-bearing foundations shall be installed in conformance with the regulations in the One and Two-Family Dwelling Code and with the manufacturer's installation specifications.

(3) *Siding standards.* The following siding materials are approved for usage on Manufactured Home Dwellings, Type A:

- (a) Residential horizontal aluminum lap siding.
- (b) Residential horizontal vinyl lap siding.
- (c) Cedar or other wood siding.
- (d) Wood grain, weather resistant, press board siding.
- (e) Stucco siding.
- (f) Brick or stone siding.

(4) *Roofing standards.* The following materials are approved for usage on Manufactured home dwellings, type A:

- (a) Asbestos shingles on a roof pitched according to the design specifications of the shingles.
- (b) Fiberglass shingles on a roof pitched according to the design specifications of the shingles.
- (c) Shake shingles on a roof pitched according to the design specifications of the shingles.
- (d) Asphalt shingles on a roof pitched according to the design specifications of the shingles.
- (e) Slate materials on a roof pitched according to the design specifications of the materials.
- (f) Tile materials on a roof pitched according to the design specifications of the materials.

(Ord. 51-05, § 8.01.04F, 5/10/05) Penalty, see § 154.999

154.076 REQUIREMENTS FOR ALL PRIVATE STREETS AND PRIVATE ALLEYS.

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

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

<i>Residential Districts</i>	
One-way traffic	12 feet
Two-way traffic	24 feet
<i>Business/Commercial Districts or Industrial Districts</i>	
One-way traffic	18 feet
Two-way traffic	36 feet

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

Residential districts	12 feet
Business/commercial districts or industrial districts	16 feet

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

(D) *Emergency vehicles.* The geometric design of private streets or private alleys shall provide for the through movement or turn-around of emergency vehicles. Turn-around design may include cul-de-sac, hammerhead or other design approved by the County Engineer.

(E) *Maintenance/services.* Prior to the issuance of an improvement location permit or obtaining secondary plat approval, the developer or subdivider shall file documentary assurances with the Board of Commissioners that all lots served by the private streets or private alleys shall be provided with the following services: regular trash pick-up; leaf pick-up; snow removal; daily mail delivery service; roadway maintenance and repair, including, but not limited to, driving surface, roadway subgrade, subsurface drainage, roadside drainage, curbs, sidewalks, street lights, street name signs, traffic control signs, and traffic control signals; and, powers to enforce speed control and parking regulations. Such services shall be provided in accordance with the specifications approved by the Board of Commissioners, which shall include the establishment of a maintenance fund or escrow account by the developer or subdivider, which may be supplemented by regular or special assessments against each lot owner provided such assessments are at reasonable and non-discriminatory rate of charge. Such documentary assurances shall be incorporated into the applicable final plat that is recorded in the Office of the Recorder of St. Joseph County, Indiana, or otherwise provided for through legally binding perpetual agreements as approved by the Board of Commissioners. (Ord. 51-05, § 8.01.04G, 5/10/05) Penalty, see § 154.999

154.077 EXEMPTION FOR ANTI-TERRORISM DEVICES AND PORTABLE TOWERS.

Sensors and special devices specifically designed to monitor air quality and to alert governmental authorities of biological, chemical or nuclear attack(s) shall be allowed on any building or structure, including telecommunications towers, subject to the final review of the Zoning Administrator. Integrated portable tower systems, which are specifically designed to monitor air quality and which may alert governmental authorities of biological, chemical or nuclear attack(s) may be permitted on an emergency basis, subject to the final review of the Zoning Administrator with regard to location(s) and duration.

(Ord. 51-05, § 8.01.04H, 5/10/05)

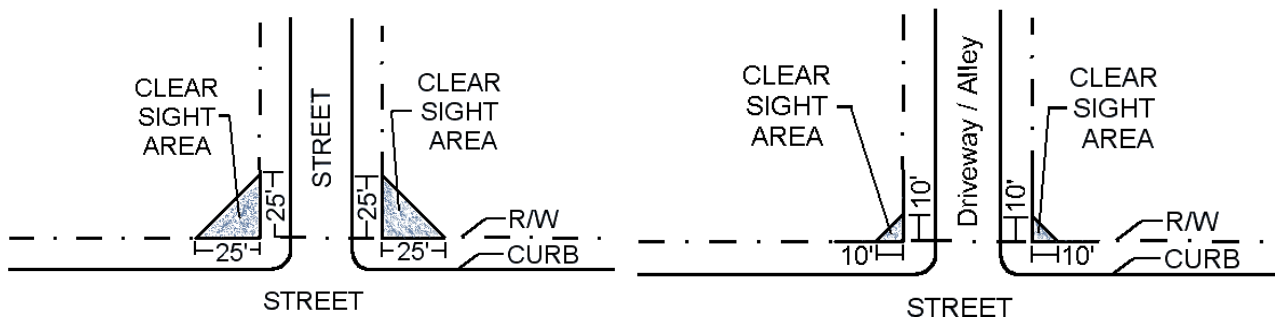
154.078 CLEAR SIGHT AREA REQUIREMENTS.

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

(B) A clear sight area shall be established for all streets, whether public or private, in one of the following manners:

(1) At the intersection of streets, clear sight areas are formed at each corner by the street right-of-way lines and a line connecting points on the right-of-way lines located twenty-five (25) feet away from the intersection of such street right-of-way lines. In the case of a round or corner-cut right-of-way, the measurement shall be taken from the intersection of the right-of-way lines extended; or,

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



(Ord. 51-05, § 8.01.04I, 5/10/05) Penalty, see § 154.999

154.079 RECREATIONAL VEHICLES, TRAILERS, MOBILE HOMES AND TENTS.

(A) Mobile homes shall not be parked, stored, or occupied for dwelling purposes or lodging purposes except as an approved temporary use.

(B) Trailers and mobile homes shall not be permitted in any district as accessory buildings except as an approved temporary use.

(C) Recreational vehicles shall be subject to the following development standards:

(1) Stored on real estate occupied by the owner of the trailer;

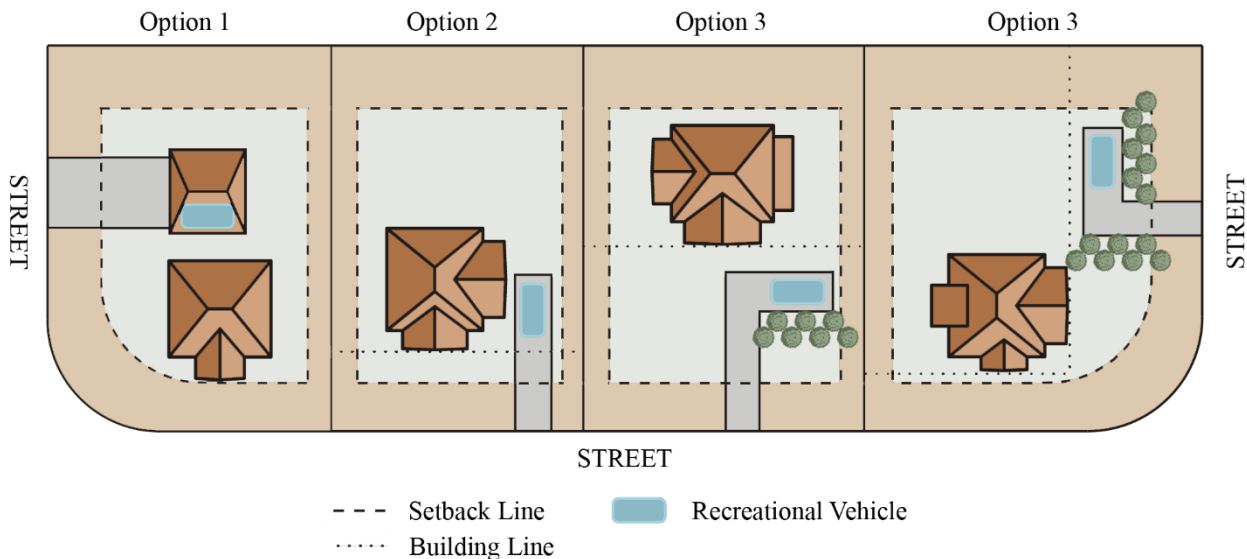
(2) Shall be located:

(a) inside a permanent, fully enclosed structure;

(b) behind the front building line; or,

(c) between the front building line and minimum front yard, screened from view from the right-of-way with Type 2: full screening landscaping as defined in Section 154.331.

(3) Shall not be located in any minimum yard.



(4) Secured and no time used for a dwelling unit, extra bedroom, playroom or storage place for items not normally contained in the recreational vehicle when in use.

(D) A recreational vehicle belonging to a guest of the occupant of a dwelling in an agricultural district or residential district, may be parked and occupied for lodging purposes on the same lot as the dwelling but not for more than seventy-two (72) hours in a thirty-day (30) period.

(E) Tents shall not be erected, used or maintained for dwelling, lodging, or other purposes, except that permits may be issued for the erection and use of tents for a specific period of time for purposes such as temporary carnivals, churches, voluntary organizations such as Boy Scouts and Girl Scouts, eleemosynary uses, tourist camps, or revival meetings, provided,

CHAPTER 154: PLANNING AND ZONING
General Regulations

however, that said tents or operations are in conformance with all other ordinances and codes of St. Joseph County.

(F) Trailers which are owned and maintained by governmental agencies or by private or public health or medical institutions, libraries and educational institutions, and which are used primarily for research, demonstration, survey, public health and educational uses shall be exempted from the restrictive provisions of this Chapter.

(Ord. 19-20, 2/13/20)

A: AGRICULTURAL DISTRICT

154.090 INTENT.

The A: Agricultural Districts are established to allow Agricultural Uses in accordance with the Comprehensive Plan, to preserve prime agriculture land, to conserve the desirable characteristics of the land, and to protect rural/agricultural areas from the encroachment of scatter urban-type uses and the detrimental economic impacts of urban sprawl. Areas zoned to the A: Agricultural District are those areas being used for agricultural activities, flood plain, natural areas and other rural uses, located beyond the periphery of the incorporated municipalities where intensive urban or suburban uses are not anticipated.

(Ord. 51-05, § 8.02.01, passed 5-10-2005)

154.091 PERMITTED USES.

(A) *Primary uses.*

- (1) Agricultural uses, including the principal dwelling unit;
- (2) Child care home (that is used as the primary residence of the person who operates the child care home) *(Ord. 102-21, 10/12/21)*
- (3) Cemetery (Note: Grave sites shall comply with the development standards applicable to minimum yards);
- (4) Concentrated animal feeding operation (CAFO), including the principal dwelling unit, provided however, that the provisions of Chapter 116, Concentrated Animal Feeding Operations, are met and a permit is obtained from the Indiana Department of Environmental Management and the St. Joseph County Health Department; *(Ord. 68-09, passed 8-11-2009)*
- (5) Confined feeding operation (CFO) including the principal dwelling unit; provided, however, that provisions of the use are: *(Ord. 68-09, passed 8-11-2009)*
 - (a) Lot shall not be less than twenty (20) acres in area.
 - (b) No confined feeding operation shall be located any closer than a one-half (1/2) mile radius from:
 1. The corporate limits of a city or town; or,
 2. The boundary of any residential zoning district;
- (6) Convent, monastery, parsonage or rectory;
- (7) Dwelling, Single-family; *(Ord. 68-09; 8-11-2009)*

CHAPTER 154: PLANNING AND ZONING
A: Agricultural District

- (8) Golf Courses;
- (9) Libraries and community centers when affiliated with a public or governmental agency;
- (10) Private park – passive; (*Ord. 17-20, 2/18/20*)
- (11) Public park – active or passive; (*Ord. 17-20, 2/18/20*)
- (12) Religious use;
- (13) Renewable Energy Systems. See §§ 154.505 through 154.516. (*Ord. 17-20, 2/18/20*)
- (14) Schools; elementary, junior high, high;
- (15) Short-term rental, owner occupied; (*Ord. 17-20, 2/18/20*)
- (16) Utility substation, radio and television transmitting or relay station and antenna towers, subject to the following development standards:
 - (1) The lot shall not exceed five (5) acres in area;
 - (2) There shall be no outside storage, including vehicles; and,
 - (3) The facilities shall be unmanned.
- (17) Veterinary clinic and hospitals; and (*Ord. 17-20, 2/18/20*)
- (18) Wireless Telecommunication Facilities, per the requirements of § 154.4573(C)(1)(a).

(B) *Special uses.*

- (1) Adult care facilities offering care for no more than five (5) adults on a parcel that meets the requirements of a legal lot of record;
- (2) Airport, heliport;
- (3) Boarding school;
- (4) Club, conservation, hunt and gun;
- (5) Campground (seasonal) (*Bill 92-20, 10/13/20*)
- (6) Concentrated animal feeding operation (CAFO): upgrade/maintenance of existing concentrated animal feeding operations. A confined feeding operation, existing as a legally established non-conforming use that does not meet the requirements of Chapter 116,

Concentrated Animal Feeding Operations may be allowed to upgrade or expand its facilities to provide a healthier, cleaner or more efficient operation provided that:

(a) The impact of the concentrated animal feeding operation on surrounding properties is lessened or remains the same; and

(b) Plans for the proposed expansion or upgrade are reviewed by the Area Plan Commission Staff, the County Building Commissioner, and the St. Joseph County Health Department to assure that the proposed operation is in conformance with the provisions and spirit of this chapter. Said plans shall be sufficiently detailed to allow such review; (*Ord. 68-09, passed 8-11-2009*)

(7) Confined feeding operations (CFO): upgrade/maintenance of existing confined feeding operations. A confined feeding operation, existing as a legally established non-conforming use closer than a one-half mile radius from the corporate limits of a city or town or the boundary of any residential zoning district, may be allowed to upgrade or expand its facilities to provide a healthier, cleaner or more efficient operation provided that:

(a) The impact of the confined feeding operation on surrounding properties is lessened or remains the same; and

(b) Plans for the proposed expansion or upgrade are reviewed by the Area Plan Commission Staff and the County Building Commissioner to assure that the proposed operation is in conformance with the provisions and spirit of this chapter. Said plans shall be sufficiently detailed to allow such review; (*Ord. 68-09; 8-11-2009*)

(8) Dwelling unit intended for temporary occupancy by farm labor, accessory to an agricultural use or confined feeding operation permitted under this Chapter;

(9) Gun shops and gunsmith shops, subject to the following development standards:

(a) No firearms or ammunition shall be sold in any gun sales or gunsmith shops within two-hundred (200) feet of any:

1. any public or parochial school for children in any grades from K through 12;
2. child care center; or,
3. child care ministry; and.

(b) The operator shall reside in the dwelling unit located on the property as their primary place of residence;

(10) Home based business, including on-site sales of merchandise constructed on-site or which are incidental to services performed on-site;

CHAPTER 154: PLANNING AND ZONING

A: Agricultural District

(11) Highway maintenance shops and yards; (*Ord. 17-20, 2/18/20*)

(12) Land Reclamation;

(13) Mineral and material mining including but not limited to mining and hauling of sand gravel or other aggregate, and the processing thereof, subject to the following development standards:

(a) Such use shall be located on a lot not less than ten (10) acres in area having direct access to an improved public right-of-way;

(b) Such use shall be located a minimum of fifty (50) feet from an adjacent property line; provided, however, that when the adjacent property is also being mined, there shall be no side or rear yard requirement along the common property line; and, further provided, that where such an operation is located adjacent to a residential district or principal residential use, the side and rear yard requirement shall be increased to one hundred (100) feet;

(d) All roads and access drives within the site shall be treated and maintained so as to remain dust-free at all times;

(e) Asphalt producing, crushing, washing or similar processing operation, equipment, and facility shall be located so as to minimize noise, vibration and dust;

(f) If excavations are made to a water-producing depth, such depth shall not be greater than six feet below the low water mark, and the areas which are not permanently submerged shall be graded so as to eliminate the collection of stagnant water; and

(g) Prior to commencing such use, the owner shall execute an indemnity agreement in favor of the Board of County Commissioners for the purpose of assuring the restoration and reclamation of the site according to the following specifications and within a specified period of time, as established in the agreement:

1. A uniform contour which blends in with the topography of the surrounding area shall be established throughout the excavated area,

2. Soil suitable for growing vegetation shall be replaced over the slopes to a permanent uniform depth of not less than six inches, and

3. The excavated area shall be seeded, landscaped and maintained with perennial plant material until a permanent-type ground cover is established to prevent erosion;

(14) Police station, fire station or other emergency services;

(15) Private park – active; (*Ord. 17-20, 2/18/20*)

(16) Recycling drop-off center, not accessory to churches schools or community centers, subject to the following development standards:

(a) The bins shall be constructed so as to prevent leakage and to provide protection from weather and moisture, and

(b) The center shall be screened by a decorative fence or masonry wall, evergreen hedge, earth berm, or any combination thereof from an adjoining residential use or residential district;

(17) Renewable Energy Systems. See §§ 154.505 through 154.516. (*Ord. 17-20, 2/18/20*)

(18) Sanitary Landfill or Solid or Liquid Waste Disposal Facility, provided that no sanitary landfill, or solid or liquid waste disposal facility, shall be approved as a special use which does not meet the following minimum development standards, in addition to whatever additional requirements may be required in order for the Board of Zoning Appeals to make a favorable recommendation and for the legislative body make affirmative Findings of Fact as required by Article 10.03 of this Chapter:

(a) No such special use shall be operated on a site of less than forty (40) acres in area;

(b) No portion of such site within fifty (50) feet from adjacent property lines shall be utilized for such special use; provided, however, that where a residential district or principal residential use shares contiguous boundaries with the site of the special use at the time such special use is approved by the legislative body, no portion of such site within one hundred (100) feet of the boundary lines of such residential district or the property lines of such principal residential use shall be utilized for such special use.

(c) Drainage plans for such special use and the proposed site thereof shall have been approved by the County Engineer and the County Surveyor, and curb cuts within and upon such proposed site shall have been approved by the County Engineer.

(d) No sanitary landfill, or solid or liquid waste disposal facility, shall be approved as a special use which does not also qualify as an urban drain as defined in Article 12 of this chapter.

(e) No sanitary landfill, or solid or liquid waste disposal facility, shall be approved as a special use until the applicant therefore and the owner of the proposed site therefore shall execute an agreement in favor of St. Joseph County by the terms of which such applicant and owner shall agree to maintain the site until being utilized for the special use, and to restore and reclaim the site within a time period specified in such agreement, following termination of such use, according to the following minimum specifications:

1. A uniform contour which blends in with the topography of the surrounding area shall be established and maintained throughout the area.

CHAPTER 154: PLANNING AND ZONING

A: Agricultural District

2. Impervious soil and soil suitable for growing vegetation, shall be replaced over the site to permanent uniform depths not less than that then required by applicable state standards and regulations.

3. The site shall be seeded, landscaped, and maintained with perennial plant material until a permanent type ground cover is established to prevent erosion.

(19) Shooting ranges; (*Ord. 17-20, 2/18/20*)

(20) Utility Substation, radio and television transmitting or relay station and antenna towers, not meeting one or more requirements of division (A)(12) above;

(21) Wireless Telecommunication Facilities, per the requirements of § 154.457(C)(1)(b).

(C) *Accessory Uses.*

(1) Agritourism, accessory to an agricultural use. See §§ 154.520. (*Ord. 18-20, 2/18/20*)

(2) Swimming Pool;

(3) Kennel, subject to the following development standards:

(a) Such use, including outdoor pens and runs, shall be located a minimum of two hundred (200) feet from side and rear lot lines, provided, however, that where such a use is located adjacent to a residential district or principal residential use, side and rear yard requirements shall be increased to three hundred (300) feet; and,

(b) The sanitary system for such use shall be approved by the County Health Officer.

(4) Private Sewer System and Private Water System;

(5) Parish hall or fellowship hall, accessory to a religious use;

(6) Crematories, when accessory to a cemetery, and subject to the following development standard: lot area shall not less than ten (10) acres;

(7) Recycling drop-off center as an accessory use to churches, schools or community centers;

(8) Renewable energy systems. §§ 154.505 through 154.516. (*Ord. 17-20, 2/18/20*)

(9) Roadside stand, subject to the following development standards: (*Ord. 18-20, 2/18/20*)

(a) The stand shall be erected solely for the purposes of displaying and selling agricultural products, the majority of which were produced on the premises;

- (b) There shall not be more than one (1) roadside stand per lot; and
- (c) On-street parking is prohibited.

(D) *Temporary Uses.* See § 154.071.

(E) *Home Occupations.* See § 154.072.

(Ord. 51-05, § 8.02.01A, passed 5-10-2005; Ord. 91-07, § 3, passed 10-9-2007; Ord. 101-07, § 1, passed 11-13-2007; Ord. 68-09, § 3, passed 8-11-2009; Ord. 69-09, §§ 1, 2, passed 8-11-2009) Penalty, see § 154.999

154.092 GENERAL DEVELOPMENT STANDARDS.

(A) *Minimum lot area:*

Agricultural uses; single-family dwellings uses; golf course uses; nurseries, retail; club, conservation, hunt and gun uses; and kennels	Not less than 20 acres
All other uses	Not less than 1 acre, except as otherwise regulated in this chapter for a specific primary or special use

(B) *Minimum lot width:*

Lots less than twenty (20) acres in area	200 feet
Lots twenty (20) acres or more in area	600 feet

(C) *Minimum lot frontage:*

Lots less than twenty (20) acres in area	200 feet
Lots twenty (20) acres or more in area	600 feet

(D) *Minimum yards and building setback.* Yards shall be as follows, except when this chapter specifies a greater yard requirement for a particular permitted primary use, conditional use, special use or accessory use, the greater specified yard requirements shall control:

Front yard and building setback shall be determined as follows	
State or federal highway	40' from right-of-way
Subdivision streets	
40' right-of-way	25' from right-of-way
41' + right-of-way	35' from right-of-way

CHAPTER 154: PLANNING AND ZONING

A: Agricultural District

County roads/no subdivision	75' from centerline
Side yard and building setback	30' feet from lot line
Rear yard and building setback	30' feet from lot line

(E) *Maximum building height:* Unlimited.

(F) *Use of yards:* All minimum yards shall be landscaped in compliance with the requirements for perimeter yard landscaping as set forth in § 154.330 through 154.339 and shall be maintained as open space free from buildings or structures except where expressly permitted below:

(1) *Minimum front yard.* Minimum front yards may include: driveways, sidewalks, greenways, fences, and signs as regulated by §§ 154.370 through 154.380.

(2) *Minimum side or rear yards.* Minimum side or rear yards may include interior access driveways, sidewalks, greenways, and fences.

(Ord. 52-20; 8/25/20)

(G) *Landscaping.* See §§ 154.330 through 154.339.

(H) *Lighting.* See §§ 154.350 through 154.355.

(I) *Signs.* See §§ 154.370 through 154.380. (Ord. 52-20; 8/25/20)

(J) *Off-Street Parking.* See §§ 154.415 through 154.423. (Ord. 52-20; 8/25/20)

(K) *Off-Street Loading.* See §§ 154.435 through 154.442. (Ord. 52-20; 8/25/20)

(L) *Greenway Connection.* Residential developments, schools, religious uses, businesses or other uses which encourage public access, located on a lot or parcel which abuts any portion of a greenway shall provide a direct linkage from the project to such greenway. (Ord. 77-19; 9/10/2019)

(M) *Pedestrian connection.* Residential developments, schools, religious uses, businesses or other uses which encourage public access, shall, if located on a lot or parcel which abuts any portion of a sidewalk, provide a direct linkage from the project to such sidewalk. (Ord. 77-19; 9/10/2019)

(Ord. 51-05, § 8.02.01B, passed 5-10-2005) Penalty, see § 154.999

R: SINGLE FAMILY DISTRICT

154.105 INTENT.

The R: Single Family Districts are established to protect, promote and maintain the development of single family dwellings as well as provide for other limited residential, public and institutional uses that are compatible with residential development located at the periphery of an urban area. (*Ord. 51-05, § 8.03.01A, passed 5-10-2005*)

154.106 PERMITTED USES.

(A) *Primary uses.*

- (1) Agriculture and related accessory uses, subject to the following development standard: lot shall not be less than five (5) acres in area;
- (2) Cemeteries;
- (3) Child care home (that is used as the primary residence of the person who operates the child care home);
- (4) Dwelling, single-family;
- (5) Golf courses, subject to the following development standard: lot shall be no less than 20 acres in area;
- (6) Libraries and community centers when affiliated with a public or governmental agency;
- (7) Meeting halls and offices for agricultural, horticultural, rural or conservation public agencies;
- (8) Private parks – passive; (*Ord No. 19-20, 2/18/20*)
- (9) Public park – active or passive; (*Ord. 19-20, 2/18/20*)
- (10) Religious uses;
- (11) Renewable energy systems. See §§ 154.505 through 154.516 (*Ord. 17-20, 2/18/20*)
- (12) Residential facility for the mentally ill;
- (13) Residential facility for the developmentally disabled;
- (14) Schools, non-boarding - nursery, elementary, junior high or high;
- (15) Short-term rental, owner occupied. (*Ord. 19-20, 2/18/20*)

CHAPTER 154: PLANNING AND ZONING

R: Single Family District

(B) *Special uses.*

(1) Adult care facilities offering care for no more than five (5) adults on a parcel that meets the requirements of a legal lot of record, subject to all general development standards of this division for single family residences;

(2) Airports or heliports, public or private - aircraft landing fields, runways, flight strips and flying schools, together with hangars, terminal buildings and other auxiliary facilities;

(3) Community centers, county-wide (public or semi-publicly owned or operated but not for profit), subject to the following development standards: lot shall be no less than 25 acres in area for such uses as: agricultural and horticultural fairs, and displays, shows and exhibits conducted by rural and agricultural organizations and other public or semi-public voluntary organizations such as Boy Scouts, Girl Scouts, Izaak Walton League and similar organizations; office and administration buildings of Federal, State or County agricultural agencies for the conduct of organized programs of public agencies and voluntary organizations - including dining halls, theaters, indoor demonstrations and organized activities; administration and maintenance buildings; heating plants; and, off-street parking and loading spaces, provided that no commercial race tracks shall be erected or operated;

(4) Concentrated animal feeding operation (CAFO): upgrade/maintenance of existing concentrated animal feeding operations. A confined feeding operation, existing as a legally established non-conforming use that does not meet the requirements Chapter 116, Concentrated Animal Feeding Operations may be allowed to upgrade or expand its facilities to provide a healthier, cleaner or more efficient operation provided that:

(a) There is no increase in the size and scope of the operation;

(b) The impact of the confined feeding operation on surrounding properties is lessened or remains the same; and

(c) Plans for the proposed expansion or upgrade are reviewed by the Area Plan Commission Staff, the County Building Commissioner, and the St. Joseph County Health Department to assure that the proposed operation is in conformance with the provisions and spirit of this Chapter. Said plans shall be sufficiently detailed to allow such review. (*Ord. 68-09, 8-11-09*)

(5) Confined feeding operations: upgrade/maintenance of existing confined feeding operations. A confined feeding operation, existing as a legally established non-conforming use, may be allowed to upgrade its facilities to provide a healthier, cleaner or more efficient operation provided that:

(a) There is no increase in the size and scope of the operation;

(b) The impact of the confined feeding operation on surrounding properties is lessened or remains the same; and,

(c) Plans for the proposed upgrade are reviewed and evaluated by the Area Plan Commission Staff and the County Building Commissioner to assure that the proposed operation is in conformance with the provisions and spirit of this chapter. Said plans shall be sufficiently detailed to allow such review. *(Ord. 68-09, passed 8-11-2009)*

(6) Dwelling, two family; *(Ord. 68-09, passed 8-11-2009)*

(7) Dwelling, three family; *(Ord. 68-09, passed 8-11-2009)*

(8) Dwelling, four family; *(Ord. 68-09, passed 8-11-2009)*

(9) Educational and institutional uses, including but not limited to:

(a) Schools, boarding - nursery, elementary, junior high, and high and accessory uses, buildings and structures;

(b) Convalescent, nursing, and rest homes and accessory uses, buildings and structures;

(c) Hospitals and sanitariums - and accessory uses, buildings and structures;

(d) Institutions for the care of the aged and for children and accessory uses, buildings and structures;

(e) Philanthropic and eleemosynary institutions - and accessory uses, buildings, and structures, but not including businesses sponsored by such institutions, except same building as such institution proper;

(f) Convents, seminaries, monasteries and nunneries;

(10) Group residences; *(Ord. No. 108-08, 12-2-2008)*

(11) Gun shops and gunsmith shops, subject to the following development standards:

(a) No firearms or ammunition shall be sold in any gun sales or gunsmith shops within two-hundred (200) feet of any:

1. Public or parochial school for children in any grades from K through 12;
2. Child care center; or,
3. Child care ministry.

(b) The operator shall reside in the dwelling unit located on the property as their primary place of residence.

CHAPTER 154: PLANNING AND ZONING

R: Single Family District

(12) Kennels (on a lot not less than ten (10) acres in area) – subject to the following development standards: (*Ord. 68-09, 8-11-2009*)

(a) The use, including outdoor pens and runs, shall be located a minimum of two hundred (200) feet from side and rear lot lines, provided, however, that where such a use is located adjacent to a residential district or principal residential use, side and rear yard requirements shall be increased to three hundred (300) feet; and,

(b) The sanitary system for such use shall be approved by the County Health Officer; and

(c) Such use shall be accessory to a permitted primary use.

(13) Mineral and material mining including but not limited to mining and hauling of sand, gravel or other aggregate, and the processing thereof, subject to the following development standards:

(a) The use shall be located on a lot not less than ten (10) acres in area having direct access to an improved public right-of-way;

(b) The use shall be located a minimum of fifty (50) feet from an adjacent property line; provided, however, that when the adjacent property is also being mined, there shall be no side or rear yard requirement along the common property line; and, further provided, that where such an operation is located adjacent to a residential district or principal residential use, the side and rear yard requirement shall be increased to one hundred (100) feet;

(c) All roads and access drives within the site shall be treated and maintained so as to remain dust-free at all times;

(d) Asphalt producing, crushing, washing or similar processing operation, equipment, and facility shall be located so as to minimize noise, vibration and dust;

(e) If excavations are made to a water-producing depth, such depth shall not be greater than six (6) feet below the low water mark, and the areas which are not permanently submerged shall be graded so as to eliminate the collection of stagnant water; and

(f) Prior to commencing such use, the owner shall execute an indemnity agreement in favor of the Board of County Commissioners for the purpose of assuring the restoration and reclamation of the site according to the following specifications and within a specified period of time, as established in the agreement:

1. A uniform contour which blends in with the topography of the surrounding area shall be established throughout the excavated area;

2. Soil suitable for growing vegetation shall be replaced over the slopes to a permanent uniform depth of not less than six inches; and

3. The excavated area shall be seeded, landscaped and maintained with perennial plant material until a permanent- type ground cover is established to prevent erosion.

(14) Private park – active; (*Ord No. 19-20, 2/18/20*)

(15) Public service uses.

(a) Utility substation, radio and television transmitting or relay station and antenna towers;

(b) Filtration Plant, pumping station and water reservoir, public or community;

(c) Sewage treatment plant, public or community;

(d) Railroad passenger station; and

(e) Police or fire station.

(16) Renewable energy systems. See §§ 154.505 through 154.516 (*Ord. 17-20, 2/18/20*)

(17) Sanitary landfill, or solid or liquid waste disposal facility; provided that no sanitary landfill, or solid or liquid waste disposal facility, shall be approved as a special use which does not meet the following minimum developments standards in addition to whatever additional requirements maybe required in order for the Board of Zoning Appeals to make a favorable recommendation and for the legislative body to make affirmative Findings of Fact as required by §§ 154.555 through 154.565 of this chapter:

(a) No such use shall be operated on a site of less than forty (40) acres;

(b) No portion of such site within fifty (50) feet from adjacent property lines shall be utilized for such; provided, however, that where a residential district or principal residential use shares contiguous boundaries with the site of the use at the time such use is approved by the legislative body, no portion of such site within one hundred (100) feet of the boundary lines of such residential district or the property lines of such principal residential use shall be utilized for such use;

(c) Drainage plans for such use and the proposed site thereof shall have been approved by the County Engineer and the County Surveyor, and the curb cuts within and upon such proposed site shall have been approved by the County Engineer;

(d) No sanitary landfill, or solid or liquid waste disposal facility, shall be approved as a special use which does not also qualify as an urban drain as defined in § 154.636 of this chapter;

(e) No sanitary landfill, or solid or liquid waste disposal facility, shall be approved as a special use until the applicant therefore and the owner of the proposed site

CHAPTER 154: PLANNING AND ZONING

R: Single Family District

therefore shall execute an agreement in favor of St. Joseph County by the terms of which such applicant and owner shall agree to maintain the site while being utilized for the special use, and to restore and reclaim the site within a time period specified in such agreement, following termination of such use, according to the following minimum specifications:

1. A uniform contour which blends in with the topography of the surrounding area shall be established and maintained throughout the area;
2. Impervious soil and soil suitable for growing vegetation, shall be replaced over the site to permanent uniform depths not less than that then required by applicable state standards and regulations;
3. The site shall be seeded, landscaped, and maintained with perennial plant material until a permanent type ground cover is established to prevent erosion.

(18) Wireless telecommunication facilities, per the requirements of §154.457(C)(1)(c).
(*Ord. 91-07, 10-9-2007, 68-09, 8-11-2009, 69-09, 8-11-2009*)

(C) *Accessory uses.* See § 154.070. Further, accessory uses, incidental to and on the same lot as a permitted principal use shall also be permitted, including the following:

- (1) Agritourism, accessory to an agricultural use. See §§ 154.520 through 154.522. (*Ord. 18-20, 2/18/20*)
- (2) Uses customarily accessory to single-family dwelling uses such as:
 - (a) On residential lots with less than 5 acres, keeping of horses, other livestock and poultry, subject to the following development standards: (*Ord. 40-17, § 1, 6-13-2017*)
 1. Buildings or structures for their shelter shall be located behind the rear building façade of the residential structure and not less than twenty (20) feet from the nearest residential dwelling, including the primary structure on the lot, and any side or rear lot lines; (*Ord. 40-17, § 1, 6-13-2017*)
 2. Outdoor area used for pens and runs shall not be located over any septic field or drainage easement; (*Ord. 40-17, § 1, 6-13-2017*)
 3. Outdoor areas used for pens and runs shall comply with all required setbacks as established for an accessory building, except on lots less than 1 acre the front setback shall be equal to the front building façade of the residential structure; (*Ord. 40-17, § 1, 6-13-17*)
 4. Any outdoor area used for pens or runs which are located closer than 20' from a side or rear lot line shall be screened from the affected lot line with a solid fence not less than six (6) feet in height or Type 2: full screening landscaping; (*Ord. 40-17, § 1, 6-13-17*)
 5. Non-Commercial Use Only – Unless otherwise permitted as an agricultural use on a lot exceeding five (5) acres, commercial activities are prohibited. Animals

authorized under this section shall be kept as pets or for personal use, By-products, such as but not limited to eggs and manure, shall not be sold on the premises. There shall be no butchering of animals on the premises; and (*Ord. 40-17, § 1, passed 6-13-2017*)

6. Adequate shelter and care shall be provided as regulated by the St. Joseph County Animal Control Ordinance. (*Ord. 40-17, § 1, passed 6-13-2017*)

(b) Laundry drying and playground equipment and apparatus;

(3) Uses customarily accessory to a residential development, including but not limited to common recreation facilities which are provided primarily for the use and enjoyment of the residents of the residential development, including but not limited to: community buildings; gazebo; tennis courts/basketball courts; tot lots; neighborhood parks; etc.;

(4) Uses customarily accessory to educational and recreational uses such as:

(a) Open and enclosed off-street parking spaces and off-street loading berths;

(b) Athletic fields and stadiums;

(c) Gymnasiums and auditoriums;

(d) Natatoriums, outdoor swimming pools and bathhouses, and tennis courts;

(e) Playgrounds, including playground apparatus;

(f) Recreation or community center buildings, including the sale of food and non-alcoholic refreshments; and

(g) Temporary structures accessory to libraries and schools.

(5) Uses customarily accessory to institutional uses such as:

(a) Offices;

(b) Schools, non-boarding nursery, elementary, junior high, and high; and

(c) Convents, parsonages, rectories, parish houses, or parish hall.

(6) Crematories, when accessory to a cemetery not less than 10 acres in area.;

(7) Recycling drop-off center as an accessory use to churches, schools, libraries, or community centers; and

(8) Renewable energy systems. See §§ 154.505 through 154.516. (*Ord. 69-09, 8-11-2009; Ord. 17-20, 2/18/20*)

(9) Roadside stand, subject to the following development standards:

CHAPTER 154: PLANNING AND ZONING
R: Single Family District

(a) The stand shall be erected solely for the purposes of displaying and selling agricultural products, the majority of which were produced on the premises;

(b) There shall not be more than one (1) roadside stand per lot; and

(c) On-street parking is prohibited.

(D) *Temporary uses.* See § 154.071.

(E) *Home occupations.* See § 154.072.

(Ord. 51-05, § 8.03.01A, 5-10-2005; Ord. 91-07, § 4, 10-9-2007; Ord. 108-08, § 1, 12-2-2008; Ord. 68-09, § 4, 8-11-2009; Ord. 69-09, §§ 3, 4, 8-11-2009) Penalty, see § 154.999

154.107 GENERAL DEVELOPMENT STANDARDS.

(A) *Lot area.* Lot area requirements shall be as follows:

(1) Agricultural uses, not less than five (5) acres;

(2) All other nonresidential uses, not less than one (1) acre, except as otherwise regulated in this chapter for a specific permitted primary or special use;

(3) Single-family detached dwelling:

(a) Not less than 21,780 square feet, or as may be required by the Indiana State Board of Health or the County Health Officer, whichever is larger; (Ord. No. 91-07, 10-9-07)

(b) In a subdivision where all lots in the subdivision are served by a public or municipal sewerage system – not less than twelve thousand (12,000) square feet, or as may be required by the Indiana State Board of Health or the County Health Officer, whichever is larger;

(c) In a subdivision where all lots in the subdivision are served by public or municipal sewerage and water systems – nine thousand (9,000) square feet; and,

(d) In a subdivision platted after June 12, 2005, and where all lots in the subdivision are served by public or municipal sewerage and water systems – the greater of:

1. six thousand (6,000) square feet; or,

2. the minimum lot area requirement for the municipality which will provide the public or municipal sewerage and water systems, but, in no case, shall the required minimum lot area be greater than nine thousand (9,000) square feet.

(4) Two-family dwellings, three family dwellings or four family dwellings shall be located where:

(a) Lots are in a subdivision platted after June 12, 2005;

(b) All lots in the subdivision are served by public or municipal sewerage and water systems; and,

(c) A minimum lot area of six thousand (6,000) square feet is provided per dwelling unit.

(B) *Lot width.* Minimum lot width requirements, measured within the buildable area, shall be as follows:

For residential uses	
Lots without public or municipal water or sewerage system	100 feet
Lots with public or municipal sewerage system	75 feet
Lots with public water and sewerage system	60 feet
All other uses	Not less than 100 feet except as otherwise regulated in this chapter for a specific permitted or special use

CHAPTER 154: PLANNING AND ZONING

R: Single Family District

(C) *Minimum yards and building Setback.* Yards shall be as follows, except when this chapter specifies a greater yard requirement for a particular permitted primary use, conditional use, special use or accessory use, the greater specified yard requirements shall control:

(1) *Front yard and building setback.*

State or federal highway	40 feet
Streets with a dedicated right-of-way	
40 feet right-of-way	25 feet
Greater than 40 feet right-of-way	35 feet
Cul-de-sac	25 feet (<i>Ord. 91-07;10/9/07</i>)
Streets without dedicated right-of-way (<i>Ord. 75-19, 7/9/19</i>)	75 feet from centerline

(2) *Side yard and building setback. (Ord. 75-19, 7/9/19)*

Single family and two family dwellings	
Lots having an area of less than 12,000 square feet	6 feet or the width of an existing, recorded easement, whichever is greater
Lots having an area of 12,000 square feet or more	8 feet
Three family dwellings, four family dwelling, and all other uses	20 feet
Attached dwelling units	A side setback is not required between shared walls of attached dwelling units.

(3) *Rear yard and building setback. (Ord. 75-19, 7/9/19)*

Lots on private septic.	40 feet
Lots on municipal sewer.	25 feet

(D) *Use of yards*: All minimum yards shall be landscaped in compliance with the requirements for perimeter yard landscaping as set forth in § 154.330 through 154.339 and shall be maintained as open space free from buildings or structures except where expressly permitted below:

(1) *Minimum front yard*. Minimum front yards may include: driveways, sidewalks, greenways, fences, and signs as regulated by §§ 154.370 through 154.380.

(2) *Minimum side yards*. Minimum side yards may include interior access driveways, sidewalks, greenways, and fences.

(3) *Minimum rear yards*. Minimum rear yards may include: parking areas and interior access drives provided that they be located no closer than 20 feet to a rear lot line; interior access driveways, sidewalks, greenways, and fences.

(Ord. 52-20; 8/25/20)

(E) *Floor area ratio*. Floor area ratio shall not exceed 0.4.

(F) *Building height*. Building height shall not be more than two and one-half stories, or forty (40) feet, whichever is lower, except for libraries, religious uses and schools.

(G) *Landscaping*. See §§ 154.330 through 154.339.

(H) *Lighting*. See §§ 154.350 through 154.355.

(I) *Signs*. See §§ 154.370 through 154.380. (Ord. 52-20; 8/25/20)

(I) *Off-Street Parking*. See § 154.415 through 154.423. (Ord. 52-20; 8/25/20)

(K) *Off-Street Loading*. See §§ 154.435 through 154.442. (Ord. 52-20; 8/25/20)

(L) *Greenway connection*. Residential developments, schools, religious uses, businesses or other uses which encourage public access, located on a lot or parcel which abuts any portion of a greenway, shall provide a direct linkage from the project to such greenway. (Ord. 51-05, § 8.03.01B, 5-10-2005; Ord. 91-07, § 5, 10-9-2007; Ord. 77-19, § 2, 9-10-19)

(M) *Pedestrian Connection*. Residential developments, schools, religious uses, businesses or other uses which encourage public access, shall, if located on a lot or parcel which abuts any portion of a sidewalk, provide a direct linkage from the project to such sidewalk. (Ord. 77-19, § 2, 9-10-19)

Penalty, see § 154.999

R-2: RESIDENTIAL DISTRICT

154.120 INTENT.

The R-2 Districts are established to protect, promote and maintain the development of a wide range of housing opportunities ranging from single family dwellings to multifamily complexes as well as provide for other limited residential, public and institutional uses that are compatible with residential development, all in accordance with the comprehensive plan.

(Ord. 51-05, § 8.03.02A, passed 5-10-2005)

154.121. PERMITTED USES.

(A) *Primary uses.*

- (1) Assisted living facilities;
- (2) Dwelling, single-family;
- (3) Dwelling, two-family;
- (4) Dwelling, three-family;
- (5) Dwelling, four-family;
- (6) Dwelling, multifamily;
- (7) Police or fire station;
- (8) Private park – passive; *(Ord. 19-20, 2/18/20)*
- (9) Public park – active or passive; *(Ord. 19-20, 2/18/20)*
- (10) Religious uses; *(Ord. 91-07, 10-9-2007)*
- (11) Renewable energy systems. See §§ 154.505 through 154.516; *(Ord. 17-20, 2/18/20)*
- (12) Short-term rental, owner occupied. *(Ord. 19-20, 2/18/20)*

(B) *Special uses.*

- (1) Convalescent, nursing and rest homes and accessory uses, buildings and structures;
- (2) Gun Shops and Gunsmith Shops, subject to the following development standards:

(a) No firearms or ammunition shall be sold in any gun sales or gunsmith shops within two-hundred (200) feet of any:

1. any public or parochial school for children in any grades from K through 12;
2. child care center; or,
3. child care ministry.

CHAPTER 154: PLANNING AND ZONING
R-2: Residential District

(b) The operator shall reside in the dwelling unit located on the property as their primary place of residence.

(3) Private park – active; (*Ord. 19-20, 2/18/20*)

(4) Renewable energy systems. See §§ 154.505 through 154.516; (*Ord. 17-20, 2/18/20*)

(5) Wireless Telecommunication Facilities, per the requirements of § 154.457(C)(1)(c).

(C) *Accessory uses.* See § 154.070. Further, accessory uses, incidental to and on the same lot as a permitted principal use shall also be permitted, including the following:

(1) Multi-family accessory uses:

(a) Community centers,

(b) Private garages, carports, and other accessory structures commonly associated with a family living area;

(c) Project sales and rental offices and model homes representing only the project within which such uses are located;

(d) Swimming pools, private.

(2) Recycling drop-off center as an accessory use to a fire station, police station, or a multifamily complex subject to the following development standard: if located as an accessory to a multifamily complex, the multifamily complex shall contain twenty (20) or more units.

(3) Renewable energy systems. See §§ 154.505 through 154.516. (*Ord. 69-09, § 5, 8-11-2009*); (*Ord. 17-20, 2/18/20*)

(D) *Temporary uses.* See § 154.071.

(E) *Home occupations.* See § 154.072.

(*Ord. 51-05, § 8.03.02A, 5-10-2005; Ord. 91-07, § 6, 10-9-2007; Ord. 69-09, § 5, 8-11-2009*) Penalty, see § 154.999

154.122 GENERAL DEVELOPMENT STANDARDS.

(A) *Lot size.* Minimum lot size requirements shall be as follows:

(1) *Single-family detached dwelling:*

(a) Not in a subdivision: not less than 21,780 square feet, or as may be required by the Indiana State Board of Health or the County Health Officer, whichever is larger;

(b) In a subdivision where all lots in the subdivision are served by a public or municipal sewerage system – not less than twelve thousand (12,000) square feet, or as may be required by the Indiana State Board of Health or the County Health Officer, whichever is larger;

(c) In a subdivision where all lots in the subdivision are served by public or municipal sewerage and water systems – nine thousand (9,000) square feet; and,

(d) In a subdivision platted after June 12, 2005, and where all lots in the subdivision are served by public or municipal sewerage and water systems – the greater of:

1. Six thousand (6,000) square feet; or,

2. The minimum lot area requirement for the municipality which will provide the public or municipal sewage and water systems, but, in no case, shall the required minimum lot area be greater than nine thousand (9,000) square feet.

(2) *Two-family dwellings, three-family dwellings or four-family dwellings.* Shall be located where:

(a) Lots are in a subdivision platted after June 12, 2005;

(b) All lots in the subdivision are served by public or municipal sewerage and water systems; and,

(c) A minimum lot area of six thousand (6,000) square feet is provided per dwelling unit.

(3) *Multi-family developments.* Five (5) acres.

(4) All other nonresidential uses, not less than one acre, except as otherwise regulated in this chapter for a specific permitted primary or special use.

CHAPTER 154: PLANNING AND ZONING
R-2: Residential District

(B) *Lot width.*

(1) For single-family, two-family, three-family or four-family dwellings located on individual lots, the minimum lot width requirements, measured within the buildable area, shall be as follows:

Lots without public or municipal water or sewerage system	100 feet
Lots with public or municipal sewerage system	75 feet
Lots with public or municipal water and sewerage system	60 feet

(2) Multi-family dwelling projects: 200 feet.

(3) All other uses, not less than 100 feet except as otherwise regulated in this Chapter for a specific permitted or special use.

(C) *Minimum yards and building setback.* Yards shall be as follows, except when this Chapter specifies a greater yard requirement for a particular permitted primary use, conditional use, special use or accessory use, the greater specified yard requirements shall control:

(1) *Front yard and building setback.* Shall be determined as follows:

State or federal highway	40 feet from right-of-way
Subdivision streets	
40 feet right-of-way	25 feet from right-of-way
41' + right-of-way	35 feet from right-of-way
County roads/no subdivision	75 feet from centerline

(2) *Side yard and building setback.* Ten feet from lot line, except on the street side of corner lots where the front yard requirements shall be applicable.

(3) *Rear yard and building setback.* Forty feet from lot line.

(D) *Use of yards:* All minimum yards shall be landscaped in compliance with the requirements for perimeter yard landscaping as set forth in § 154.330 through 154.339 and shall be maintained as open space free from buildings or structures except where expressly permitted below:

(1) *Minimum front yard.* Minimum front yards may include: driveways, greenways, sidewalks, fences, and signs as regulated by §§ 154.370 through 154.380.

(2) *Minimum side yards.* Minimum side yards may include interior access driveways, greenways, sidewalks, and fences.

(3) *Minimum rear yards.* Minimum rear yards may include: parking areas and interior access drives, provided that they be located no closer than 20 feet to a rear lot line; interior access driveways, greenways, sidewalks, and fences. (*Ord. 52-20; 8/25/20*)

(E) *Building height.* The maximum height of any building or structure shall be 40 feet.

(F) *Multi-family development standards.* The following development standards shall be applicable to multi-family developments only:

(1) *Maximum gross density.* The maximum gross density shall be 12 dwelling units per acre.

(2) *Building coverage.* Building coverage shall not exceed 20 percent of the gross project area.

(3) *Livable open space.* Livable open space shall be a minimum of 52 percent of the gross project area.

(4) *Access.* Access shall be from arterial or higher classified streets, as shown on the major street systems map and/or as approved by the Area Plan Commission.

(5) *Public utilities.* The petitioner shall submit a survey showing that adequate public utilities have been or shall be provided, or:

(a) A feasibility report stating reasons for the use of a private sewage utility system, which proposed system shall be subject to approval by the State Department of Public Health;

(b) A feasibility report stating the type and water quality of a proposed on-site water system.

(6) *Drainage system.* The proposed drainage system shall be in accordance with the county drainage program and be approved by the County Engineer.

(7) *Interior yards.* Interior yards shall be provided between buildings as follows:

CHAPTER 154: PLANNING AND ZONING
R-2: Residential District

(a) There shall be a minimum distance of 30 feet between building walls of up to two stories in height and having a window(s) with an additional ten feet required between buildings for each additional story.

(b) There shall be a minimum distance of 30 feet between a building wall of up to two stories in height and having a window(s) and a blank building wall with an additional ten feet required between buildings for each additional story.

(G) *Landscaping.* See §§ 154.330 through 154.339.

(H) *Lighting.* See § 154.350 through 154.355.

(I) *Signs.* See §§ 154.370 through 154.380. (*Ord. 52-20; 8/25/20*)

(J) *Off-Street Parking.* See §§ 154.415 through 154.423. (*Ord. 52-20; 8/25/20*)

(K) *Off-Street Loading.* See §§ 154.435 through 154.442. (*Ord. 52-20; 8/25/20*)

(L) *Greenway Connection.* Residential developments, schools, religious uses, businesses or other uses which encourage public access located on a lot or parcel which abuts any portion of a greenway, shall provide a direct linkage from the project to such greenway. (*Ord. 77-19, § 3, passed 09-10-2019*)

(M) *Pedestrian Connection.* Residential developments, schools, religious uses, businesses or other uses which encourage public access, shall, if located on a lot or parcel which abuts any portion of a sidewalk, provide a direct linkage from the project to such sidewalk. (*Ord. 77-19, § 3, passed 09-10-2019*)

(*Ord. 51-05, § 8.03.02B, passed 5-10-2005*) Penalty, see § 154.999

O/B: OFFICE/BUFFER DISTRICT**154.135 INTENT.**

The intent of the O/B: Office/Buffer District is to provide specific areas where only certain limited offices may be developed. Since the district excludes retail, clinics, and business and commercial uses, and requires extensive screening and landscaping of permitted uses and associated parking areas, it may serve as a buffer between residential areas, and business and commercial developments. The O/B: Office/Buffer District is expressly intended to be limited to the area in association with commercial areas and certain streets where a gradual transition from existing residential use should occur.

(Ord. 51-05, § 8.04.01, passed 5-10-2005)

154.136 PERMITTED USES.**(A) Primary uses.**

(1) Any office for professional, business, governmental, and quasi governmental use, and any religious use, subject to the following use regulations: not exceeding 5,000 square feet, provided: *(Ord. 91-07, § 7, passed 10-9-2007)*

(a) An existing primary residential building located on property rezoned to O/B: Office/Buffer may be used through its entirety as an office building provided however that if the building contains less than 5,000 square feet the building may not be expanded beyond 5,000 square feet;

(b) A building constructed or enlarged after a property is rezoned to O/B: Office/Buffer shall not be larger than 5,000 square feet;

(c) Any new office building to be constructed is limited to a maximum of 5,000 square feet, including space within the primary building used for an accessory use or off-street parking or loading. New buildings larger than 5,000 square feet are not a permitted use in the O/B: Office/Buffer District. For the purpose of this section, that portion of a basement used solely for storage, parking of vehicles, or maintenance of mechanical equipment shall be not included in calculating the square footage of the building;

(d) An existing residential building located on a site rezoned to O/B: Office/Buffer may be larger than 5,000 square feet. However, an existing residential building rezoned to O/B: Office/Buffer shall not be enlarged or expanded to exceed 5,000 square feet.

(2) Police or fire station;

(3) Private park – passive; *(Ord. 19-20, 2/18/20)*

(4) Public park – active or passive; *(Ord. 19-20, 2/18/20)*

CHAPTER 154: PLANNING AND ZONING

O/B: Office/Buffer District

(5) Renewable energy systems. See §§ 154.505 through 154.516. (*Ord. 17-20, 2/18/20*)

(6) Short-term rental, owner occupied; (*Ord. 19-20, 2/18/20*)

(7) Veterinary clinic and hospitals. (*Ord. 19-20, 2/18/20*)

(B) *Special uses:*

(1) Private park – active; (*Ord. 19-20, 2/18/20*)

(2) Bed and breakfast; and (*editor's note: this line is to be deleted in next update*)

(3) Renewable energy systems. See §§ 154.505 through 154.516. (*Ord. 17-20, 2/18/20*)

(4) Wireless telecommunication facilities, per the requirements of §154.457(C)(1)(c). (*Ord. 91-07, § 7, passed 10-9-2007*)

(C) *Accessory uses.* See § 154.070. Further, accessory uses, incidental to and on the same lot as a permitted principal use shall also be permitted, including the following:

(1) One dwelling unit provided that the dwelling unit is located within the building containing the permitted principal use;

(2) A child care home incidental to and located within the building containing the permitted use;

(3) Accessory structures existing at the time the property is zoned to O/B: Office/Buffer regardless of the square footage such structure may remain;

(4) Notwithstanding anything in § 154.070 to the contrary, new accessory structures shall be subject to the following development standard: A new accessory structure shall not cause the total square footage of all accessory structures to exceed 576 square feet.

(5) Renewable energy systems. See §§ 154.505 through 154.516. (*Ord. 17-20, 2/18/20*)

(D) *Temporary uses.* See § 154.071.

(E) *Controlled uses.* See §§ 154.475 through 154.478. (*Ord. 19-20, 2/18/20*)

(*Ord. 51-05, § 8.04.01A, passed 5-10-2005; Ord. 91-07, § 7, passed 10-9-2007; Ord. 69-09, § 6, passed 8-11-2009*) Penalty, see § 154.999

154.137 GENERAL DEVELOPMENT STANDARDS.

(A) *Minimum lot area.* Minimum lot area shall be as follows:

(1) 21,780 square feet when served with both on-site water and sewage disposal systems, or as may be required by the Indiana State Board of Health or the County Health Officer, whichever is larger;

(2) 12,000 square feet when served either by a public water or a sewage disposal system, or as may be required by the Indiana State Board of Health or the County Health Officer, whichever is larger; or,

(3) 9,000 square feet when served with both public water and public sewage systems.

(B) *Minimum lot width.* Minimum lot width shall be as follows:

(1) 100 feet when served with both on-site water and sewage disposal systems, or as may be required by the Indiana State Board of Health or the County Health Officer, whichever is larger;

(2) 75 feet when served either by a public water or sewage disposal system, or as may be required by the Indiana State Board of Health or the County Health Officer, whichever is larger; or

(3) 60 feet when served with both public water and public sewage systems.

(C) *Minimum yards and building setback.* Yards shall be as follows, except when this chapter specifies a greater yard requirement for a particular permitted primary use, conditional use, special use or accessory use, the greater specified yard requirements shall control:

(1) *Front yard and building setback.* Shall be determined as follows:

State or federal highway	40 feet from right-of-way
Subdivision streets	
40 feet right-of-way	25 feet from right-of-way
41' + right-of-way	35 feet from right-of-way
County roads/no subdivision	75 feet from centerline

CHAPTER 154: PLANNING AND ZONING

O/B: Office/Buffer District

(2) *Side yard and building setback.* Eight feet from lot line.

(3) *Rear yard and building setback.* Forty feet from lot line.

(D) *Use of yards.* All minimum yards shall be landscaped in compliance with the requirements for perimeter yard landscaping as set forth in §§ 154.330 through 154.339 and shall be maintained as open space free from buildings or structures except where expressly permitted below: (Ord. 52-20; 8/25/20)

(1) *Minimum front yards.* Minimum front yards may include parking areas, interior access drives, and interior access driveways, provided that no portion of such area may be located closer to the right-of-way than 15 feet; driveways, greenways, sidewalks, fences, and signs as regulated by §§ 154.370 through 154.380. (Ord. 52-20; 8/25/20)

(2) *Minimum side yards.* Minimum side yards may include: interior access driveways, greenways, sidewalks, and fences. (Ord. 52-20; 8/25/20)

(3) *Minimum rear yards.* Minimum rear yards may include: parking areas and interior access drives, provided that no portion of such area may be located closer than 20 feet to a rear lot line; interior access driveways, greenways, sidewalks, and fences. (Ord. 52-20; 8/25/20)

(4) *Minimum side or rear yards abutting a residential district or an alley.* Minimum side or rear yards abutting a residential district or an alley adjacent to any residential zoning district shall not be used for access to property zoned O/B: Office Buffer.

(E) *Maximum building height.* Building height shall not be more than two and one-half stories, or 35 feet, whichever is lower.

(F) *Landscaping.* See §§ 154.330 through 154.339.

(G) *Lighting.* See § 154.350 through 154.355.

(H) *Signs.* See § 154.370 through 154.380. (Ord. 52-20; 8/25/20)

(I) *Off-street parking.* See §§ 154.415 through 154.423.

(J) *Off-street loading.* See §§ 154.435 through 154.442.

(K) *General requirements.*

(1) *Indoor operations.* All activities associated with permitted uses, except for off-street parking or loading, trash containers, and renewable energy systems shall be conducted within completely enclosed buildings. (Ord. 52-20; 8/25/20)

(2) *Truck limit.* The parking of trucks as part of a permitted use or as an

accessory use to a permitted use shall be limited to vehicles not exceeding one and one-half tons.

(3) *Number of buildings.* Not more than one primary building shall be located on a lot zoned O/B: Office/Buffer.

(4) *Drive-through.* Drive-through facilities of any type are not permitted uses in the O/B: Office/Buffer District.

(5) *Lighting.* Outside lighting, including parking lot lights, shall not exceed the height of the building located on the site, and further all lighting shall be located, installed and maintained so that light does not shine on adjoining buildings or property, or public streets.

(6) *Mechanical equipment.* Outside mechanical equipment, including roof-mounted equipment, shall be screened so as not to be visible from adjoining buildings or property or public streets.

(L) *Greenway connection.* Uses which encourage public access if located on a lot or parcel which abuts any portion of a greenway shall provide a direct linkage from the project to such greenway. (Ord. 77-19, 09/10/2019)

(M) *Pedestrian Connection.* Uses located on a lot or parcel which abuts any portion of a sidewalk shall provide a direct linkage to the main entrance. (Ord. 77-19, 09/10/2019)

(N) *Architecture.*

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

(2) *Exterior renovations, major additions and accessory buildings.* Exterior renovations, major additions and accessory buildings to existing buildings or facilities are encouraged to comply with the provisions in division (N)(3), below, for new construction, however, the minimum requirement for exterior renovations, major additions and accessory buildings shall be the same as in division (N)(1), above, for additions to existing buildings.

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

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

1. At least two architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, etc.); or,

CHAPTER 154: PLANNING AND ZONING

O/B: Office/Buffer District

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

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

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

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

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

(Ord. 51-05, § 8.04.01B, passed 5-10-2005) Penalty, see § 154.999

O: OFFICE DISTRICT

154.150 INTENT.

(A) The intent of the O: Office District is to provide specific areas where only certain limited offices and businesses may be developed. Since the district excludes retail and commercial uses, and requires extensive screening and landscaping of permitted uses and associated parking areas, it may serve as a buffer between residential areas and commercial developments. The O: Office District is expressly intended to be limited to the area in association with commercial areas, and the intersection of certain arterial streets, where a gradual transition from residential uses should occur, with other arterial and collector streets. O: Office uses and buildings shall be compatible in architectural type and style with adjacent residential uses and structures.

(B) Along arterial streets where a gradual transition from residential uses should occur, O: Office Districts should be limited to the intersection of the arterial Street with other arterial or collector streets. Along arterial streets where a gradual transition from residential uses should occur, O: Office Districts should not be allowed at the intersection of the arterial street and a street which is an entrance street into a residential neighborhood or subdivision.

(Ord. 51-05, § 8.04.02, passed 5-10-2005)

154.151 PERMITTED USES.

(A) Primary uses.

- (1) Any office for professional, business, governmental and quasi-governmental uses;
- (2) Banks and financial institutions;
- (3) Barber and beauty shops;
- (4) Child care centers;
- (5) Funeral homes;
- (6) Medical and dental clinics;
- (7) Microblading *(Ord. 60-19; 7-10-2019)*
- (8) Photography studio; *(Ord. 140-12; 11-13-2012)*
- (9) Police or fire station;
- (10) Private park – passive; *(Ord. 19-20, 2/18/20)*

CHAPTER 154: PLANNING AND ZONING
O: Office District

(11) Public park – active or passive; *(Ord. 19-20, 2/18/20)*

(12) Religious uses.

(13) Renewable energy systems. See §§ 154.505 through 154.516. *(Ord. 17-20, 2/18/20)*

(14) Short-term rental, owner occupied; *(Ord. 19-20, 2/18/20)*

(15) Veterinary clinic and hospitals. *(Ord. 19-20, 2/18/20)*

(B) *Special uses:*

(1) Private park – active; *(Ord. 19-20, 2/18/20)*

(1) Bed and breakfast; and *(editor's note: this line is to be deleted in next update)*

(2) Renewable energy systems. See §§ 154.505 through 154.516. *(Ord. 17-20, 2/18/20)*

(3) Wireless telecommunication facilities, per the requirements of § 154.457(C)(1)(c). *(Ord. 91-07; 10-9-2007)*

(C) *Accessory uses.* See § 154.070. Further, accessory uses, incidental to and on the same lot as a permitted principal use shall also be permitted, including the following:

(1) One dwelling unit provided that the dwelling unit is located within the building containing the permitted principal use;

(2) A child care home incidental to and located within the building containing the permitted use;

(3) Accessory structures existing at the time the property is zoned to O: Office regardless of the square footage such structure may remain;

(4) Notwithstanding anything in § 154.070 to the contrary, new accessory structures shall be subject to the following development standard: A new accessory structure shall not cause the total square footage of all accessory structures to exceed 576 square feet; and

(5) Renewable energy systems. See §§ 154.505 through 154.516. *(Ord. 69-09; 8-11-2009; Ord. 17-20, 2/18/20)*

(D) *Temporary uses.* See § 154.071.

(E) *Controlled uses.* See §§ 154.475 through 154.478. *(Ord. No. 19-20, 2/18/20)*

(Ord. 51-05, § 8.04.02A, passed 5-10-2005; Ord. 91-07, § 8, passed 10-9-2007; Ord. 69-09, § 7, passed 8-11-2009) Penalty, see § 154.999

154.152 GENERAL DEVELOPMENT STANDARDS.

(A) *Minimum lot area.* Minimum lot area shall be as follows:

(1) 21,780 square feet when served with both on-site water and sewage disposal systems, or as may be required by the Indiana State Board of Health or the County Health Officer, whichever is larger;

(2) 12,000 square feet when served either by a public water or a sewage disposal system, or as may be required by the Indiana State Board of Health or the County Health Officer, whichever is larger; or,

(3) 9,000 square feet when served with both public water and public sewage systems.

(B) *Minimum lot width.* Minimum lot width shall be as follows:

(1) 100 feet when served with both on-site water and sewage disposal systems, or as may be required by the Indiana State Board of Health or the County Health Officer, whichever is larger;

(2) 75 feet when served either by a public water or sewage disposal system, or as may be required by the Indiana State Board of Health or the County Health Officer, whichever is larger; or

(3) 60 feet when served with both public water and public sewage systems.

(C) *Minimum yards and building setback.* Yards shall be as follows, except when this chapter specifies a greater yard requirement for a particular permitted primary use, conditional use, special use or accessory use, the greater specified yard requirements shall control:

(1) *Front yard and building setback.* Shall be determined as follows:

State or federal highway	40 feet from right-of-way
Subdivision streets	
40 feet right-of-way	25 feet from right-of-way
41' + right-of-way	35 feet from right-of-way
County roads/no subdivision	75 feet from centerline

(2) *Side yard and building setback.* Twenty feet from lot line.

CHAPTER 154: PLANNING AND ZONING
O: Office District

(3) *Rear yard and building setback.* Forty feet from lot line.

(D) *Use of yards.* All minimum yards shall be landscaped in compliance with the requirements for perimeter yard landscaping as set forth in §§ 154.330 through 154.339 and shall be maintained as open space free from buildings or structures except where expressly permitted below: (Ord. 52-20; 8/25/20)

(1) *Minimum front yards.* Minimum front yards may include parking areas, interior access drives, and interior access driveways, located no closer to the right-of-way than 15 feet; driveways, greenways, sidewalks, fences, and signs as regulated by §§ 154.370 through 154.380. (Ord. 52-20; 8/25/20)

(2) *Minimum side yards.* Minimum side yards may include: interior access driveways, greenways, sidewalks, and fences. (Ord. 52-20; 8/25/20)

(3) *Minimum rear yards.* Minimum rear yards may include: parking areas and interior access drives, provided that no portion of such area may be located closer than 20 feet to a rear lot line; interior access driveways, greenways, sidewalks, and fences. (Ord. 52-20; 8/25/20)

(4) *Minimum side or rear yards abutting a residential district or an alley.* Minimum side or rear yards abutting a residential district or an alley adjacent to any residential zoning district shall not be used for access to property zoned O: Office.

(E) *Maximum building height.* Building height shall not be more than two and one-half stories, or 40 feet, whichever is lower.

(F) *Landscaping.* See §§ 154.330 through 154.339.

(G) *Lighting.* See § 154.350 through 154.355.

(H) *Signs.* See § 154.370 through 154.380. (Ord. 52-20; 8/25/20)

(I) *Off-street parking.* See §§ 154.415 through 154.423.

(J) *Off-street loading.* See §§ 154.435 through 154.442.

(K) *General requirements.*

(1) *Indoor operations.* All activities associated with permitted uses, except for off-street parking or loading, trash containers, and renewable energy systems shall be conducted within completely enclosed buildings. (Ord. 52-20; 8/25/20)

(2) *Truck limit.* The parking of trucks as part of a permitted use or as an accessory use to a permitted use shall be limited to vehicles not exceeding one and one-half tons.

(3) *Lighting.* Outside lighting, including parking lot lights, shall not exceed the height of the building located on the site, and further all lighting shall be located, installed and maintained so that light does not shine on adjoining buildings or property, or public streets.

(4) *Mechanical equipment.* Outside mechanical equipment, including roof mounted equipment, shall be screened so as not to be visible from adjoining buildings or property or public streets.

(L) *Greenway connection.* Uses which encourage public access located on a lot or parcel which abuts any portion of a greenway shall provide a direct linkage from the project to such greenway. (Ord. 77-19, 09/10/19)

(M) *Pedestrian connection.* Uses located on a lot or parcel which abuts any portion of a sidewalk shall provide a direct linkage to the main entrance.

(N) *Architecture.*

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

(2) *Exterior renovations, major additions and accessory buildings.* Exterior renovations, major additions and accessory buildings to existing buildings or facilities are encouraged to comply with the provisions in division (N)(3), below, for new construction, however, the minimum requirement for exterior renovations, major additions and accessory buildings shall be the same as in division (N)(1), above, for additions to existing buildings.

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

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

1. At least two architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, etc.); or,

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

CHAPTER 154: PLANNING AND ZONING

O: Office District

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

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

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

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

(Ord. 51-05, § 8.04.02B, passed 5-10-2005) Penalty, see § 154.999

B: BUSINESS DISTRICT

154.165 INTENT.

The B: Business District is established to provide for businesses which provide for the full range of convenience uses necessary to meet the daily needs of residential neighborhoods. Permitted uses within the B: Business Districts are regulated in character to assure harmonious development with the nearby residential districts served.

(Ord. 51-05, § 8.04.03, passed 5-10-2005)

154.166 PERMITTED USES.

(A) *Primary uses.*

- (1) Antique shops;
- (2) Art and school supply stores;
- (3) Art galleries, but not including auction rooms;
- (4) Banks and financial institutions;
- (5) Barber shops;
- (6) Beauty parlors;
- (7) Bookstores and stationery stores;
- (8) Business machine sales and service;
- (9) Camera and photographic supply stores;
- (10) Candy and ice cream stores;
- (11) Carpet and rug stores;
- (12) Clothes pressing establishments;
- (13) China and glassware stores;
- (14) Coin and philatelic stores;
- (15) Custom dressmaking;
- (16) Day care centers;
- (17) Department stores;
- (18) Drug stores;
- (19) Dry-cleaning and laundry-receiving stations, processing to be done elsewhere;
- (20) Dry goods store;
- (21) Electrical and household appliance stores, including radio and television sales;
- (22) Fire station;
- (23) Florist shops and conservatories;
- (24) Food stores, grocery stores, meat markets, fish markets, bakeries and delicatessens;
- (25) Frozen food stores, including locker rental in conjunction therewith; *(Ord. 68-09; 8-11-2009)*
- (26) Funeral homes;
- (27) Furniture stores, including upholstery when conducted as part of the retail operations and secondary to the principal use;
- (28) Furrier shops, including the incidental storage and conditioning of furs;

CHAPTER 154: PLANNING AND ZONING

B: Business District

- (29) Garden supply and seed stores;
- (30) Gift shops;
- (31) Haberdasheries;
- (32) Hardware stores;
- (33) Hobby shops, for retail of items to be assembled or used away from the premises;
- (34) Interior decorating shops, including upholstering and making of draperies, slip covers, and other similar articles, when conducted as part of the retail operations articles, and secondary to the principal use;
- (35) Jewelry stores, including watch repair;
- (36) Launderettes, automatic, self only, or hand laundries, employing not more than two persons in addition to one owner or manager;
- (37) Leather goods and luggage stores;
- (38) Liquor stores, package;
- (39) Medical and dental clinics;
- (40) Microblading;
- (41) Millinery shops; (*Ord. 60-19; 7-9-19*)
- (42) Musical instrument sales and repair;
- (43) Newspaper distribution agencies for home delivery and retail trade;
- (44) Offices, business and professional;
- (45) Office supply stores;
- (46) Optician sales, retail;
- (47) Paint and wallpaper stores;
- (48) Phonograph record and sheet music stores;
- (49) Photography studios, including the developing of film and pictures when conducted as part of the retail business on the premises;
- (50) Physical culture and health services, including gymnasiums, reducing salons, massage salons, and public baths; (*Bill 103-20, 11/10/20*)
- (51) Picture framing, when conducted for retail trade on the premises only;
- (52) Police station;
- (53) Post offices;
- (54) Private park – active or passive; (*Ord. 19-20, 2/18/20*)
- (55) Public park – active or passive; (*Ord. 19-20, 2/18/20*)
- (56) Recycling Drop-Off Center;
- (57) Religious Uses;
- (58) Renewable energy systems. See §§ 154.505 through 154.516. (*Ord. 17-20, 2/18/20*)
- (59) Restaurants, including the serving of alcoholic beverages if incidental to the serving of food as the principal activity, but not including live entertainment or dancing;
- (60) Sewage treatment units, individual;
- (61) Sewing machine sales and service, household appliances only;
- (62) Schools, nursery;
- (63) Shoe stores;
- (64) Short-term rental, owner occupied; (*Ord. 19-20, 2/18/20*)
- (65) Sporting goods stores;

- (66) Tailor shops;
- (67) Taverns;
- (68) Telegraph offices;
- (69) Telephone booths, outdoor;
- (70) Temporary buildings for construction purposes, for a period not to exceed the duration of such construction:
 - (71) Temporary real estate offices for a period not to exceed two years;
 - (72) Ticket agencies, amusement;
 - (73) Tobacco shops;
 - (74) Toyshops;
 - (75) Travel bureaus and transportation ticket offices;
 - (76) Variety stores;
 - (77) Veterinary clinic and hospitals; (*Ord. 19-20, 2/18/20*)
 - (78) Water systems, individual; and
 - (79) Wearing apparel shops.

(B) *Special uses.*

(1) Boat sales, rentals, storage and repair; sales and service of marine motors, boat parts and accessories and boat fuel sales, subject to the following development standard: on lots having no less than 100 feet of frontage on a waterway used by the general public for boating activities; provided, that no principal building, accessory building or uses are within 200 feet from a residence district boundary;

(2) Manufacturing Retailer (*Ord. 42-13; 7-9-2013*)

(3) Parking lots, open and other than accessory, for the storage of private passenger automobiles, subject to applicable development standards set forth in chapter;

(4) Public utility and service uses, including:

- (a) Bus terminals, bus turnarounds (off-street), bus garages, or bus lots;
- (b) Electric substations and distribution centers;
- (c) Gas regulator stations;
- (d) Railroad passenger stations;
- (e) Railroad rights-of-way, but not including railroad yards and shops other than for passenger purposes;
- (f) Telephone exchanges, telephone transmission equipment buildings, and microwave relay towers; and
- (g) Waterworks, reservoirs, pumping stations, and filtration plants.

CHAPTER 154: PLANNING AND ZONING
B: Business District

(5) Renewable energy systems. See §§ 154.505 through 154.516. (*Ord. No. 17-20, 2/18/20*)

(6) Wireless Telecommunication Facilities, per the requirements of § 154.457(C)(1)(c). (*Ord. 91-07; 10-9-2007*)

(C) *Accessory uses*. See § 154.070. Further, accessory uses, incidental to and on the same lot as a permitted principal use shall also be permitted, including the following:

(1) One dwelling unit provided that the dwelling unit is located within the building containing the permitted principal use; and

(2) Renewable energy systems. See §§ 154.505 through 154.516. (*Ord. 69-09; 8-11-2009; Ord. 17-20, 2/18/20*)

(D) *Temporary uses*. See § 154.071.

(*Ord. 51-05, § 8.04.03A, passed 5-10-2005; Ord. 91-07, § 9, passed 10-9-2007; Ord. 68-09, § 5, passed 8-11-2009; Ord. 69-09, § 8, passed 8-11-2009*) Penalty, see § 154.999

154.167 GENERAL DEVELOPMENT STANDARDS.

(A) *Lot area*. Lot area shall not be less than 2,500 square feet of lot area for each business establishment.

(B) *Lot width*. The minimum lot width shall be 35 feet.

(C) *Minimum yards and building setback*. Yards shall be as follows, except when this Chapter specifies a greater yard requirement for a particular permitted primary use, conditional use, special use or accessory use, the greater specified yard requirements shall control:

(1) *Front yard and building setback*. Front yard and building setback shall be 40 feet in depth measured from the right-of-way line.

(2) *Side yard and building setback*. Side yard and building setback shall be provided from the lot line as follows:

(a) If a side yard is provided along an interior lot line, it shall be not less than five feet in width.

(b) On a corner lot, a side yard adjoining a street shall be not less than 40 feet in width, except if a corner lot of record, recorded prior to March 21, 1961, has insufficient width to provide such a yard of 40 feet in width and still to maintain a buildable width of 30 feet, then the side yard adjoining a street may be reduced by the distance necessary to maintain such buildable width.

(3) *Side yard and building setback abutting a residential district or residential use.* Side yard and building setback abutting a residential district or residential use shall not be less than 20 feet in depth from the lot line, provided, however, when an alley separates such lots, the side yard shall be not less than five feet in width.

(4) *Rear yard and building setback.* Rear yard and building setback shall not be less than 20 feet in depth from the lot line, provided, however, when an alley separates such lots, the rear yard shall be not less than five feet in width.

(D) *Use of yards:* All minimum yards shall be landscaped in compliance with the requirements for perimeter yard landscaping as set forth in § 154.330 through 154.339 and shall be maintained as open space free from buildings or structures except where expressly permitted below. (Ord. 52-20; 8/25/20)

(1) *Minimum front yards.* Minimum front yards may include:

(a) Along limited access highways may include: loading areas located no closer to the right-of-way than 15 feet;

(b) All front yards may include: parking areas, interior access drives, interior access driveways, and fuel pumps, air pumps, water pumps, and freestanding canopies in conjunction with automobile service stations located no closer to the right-of-way than 15 feet; driveways, greenways, sidewalks, fences, or signs as regulated by §§ 154.370 through 154.380. (Ord. 52-20; 8/25/20)

(2) *Minimum front yards across from a residential district or residential use.* Minimum front yards across from a residential district or residential use may include: driveways, greenways, sidewalks, fences, and signs as regulated by §§ 154.370 through 154.380. (Ord. 52-20; 8/25/20)

(3) *Minimum side and rear yards.* Minimum side and rear yards may include: interior access drives, interior access driveways, greenways, sidewalks, and fences. (Ord. 52-20; 8/25/20)

(4) *Minimum side and rear yards abutting a residential district or residential use.* Minimum side and rear yards abutting a residential district or residential use may include interior access driveways, greenways, sidewalks, and fences. (Ord. 52-20; 8/25/20)

(E) *Floor area ratio.* Floor area ratio shall not exceed 1.0.

(F) *Maximum building height.* Unlimited, provided, however, when a building or structure exceeds 40 feet in height, the yard required above shall be increased by two feet in width for each one foot of building height over 40 feet.

(G) *Landscaping.* See §§ 154.330 through 154.339.

(H) *Lighting.* See §§ 154.350 through 154.355.

CHAPTER 154: PLANNING AND ZONING
B: Business District

(I) *Signs.* See §§ 154.370 through 154.380. (*Ord. 52-20; 8/25/20*)

(J) *Off-street parking.* See §§ 154.415 through 154.423.

(K) *Off-street loading.* See §§ 154.435 through 154.442.

(L) *General requirements.*

(1) All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.

(2) All business, servicing, or processing, except for off-street parking or loading, trash containers, and renewable energy systems shall be conducted within completely enclosed buildings. (*Ord. 52-20; 8/25/20*)

(3) Establishments where the principal use is the drive-in type offering goods or services directly to customers waiting in parked motor vehicles are not permitted.

(4) All activities involving the production, processing, cleaning, servicing, testing, or repair of materials, goods, or products shall conform with the requirements set forth in § 154.073, as applied at the boundaries of the lot on which such activities take place.

(M) *Greenway connection.* Uses which encourage public access located on a lot or parcel which abuts any portion of a greenway shall provide a direct linkage from the project to such greenway. (*Ord. 77-19, 09/10/2019*)

(N) *Pedestrian Connection.* Uses located on a lot or parcel which abuts any portion of a sidewalk shall provide a direct linkage to the main entrance. (*Ord. 77-19, 09/10/2019*)

(O) *Architecture.*

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

(2) *Exterior renovations, major additions and accessory buildings.* Exterior renovations, major additions and accessory buildings to existing buildings or facilities are encouraged to comply with the provisions in division (O)(3) below, for new construction, however, the minimum requirement for exterior renovations, major additions and accessory buildings shall be the same as in division (O)(1) above, for additions to existing buildings.

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

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

1. At least two architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, etc.); or,
2. At least two colors of brick, with the secondary color constituting a minimum of 10% of the façade (excluding windows, display windows, doors, roofing, fascia or soffit materials); or,

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

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

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

(Ord. 51-05, § 8.04.03B, passed 5-10-2005) Penalty, see § 154.999

C: COMMERCIAL DISTRICT

154.180 INTENT.

The C: Commercial District is established to provide a location for those retail sales and service functions whose operations are typically characterized by: outdoor display or sales of merchandise; major repair of motor vehicles; commercial amusement and recreational activities; or, activities or operations conducted in structures which are not completely enclosed. The types of uses found in the C: Commercial District are often brightly lighted and noisy. Permitted uses contained in this district are such that this district may be used to form a grouping of similar uses along certain portions of major commercial thoroughfares. Special attention should be paid to buffering whenever this district is located adjacent to any residential district or residential uses.

(Ord. 51-05, § 8.04.04, passed 5-10-2005)

154.181 PERMITTED USES.

(A) *Primary uses.*

- (1) All uses listed as primary uses in the B: Business District of this chapter;
- (2) Amusement establishments, including bowling alleys, pool halls, dance halls, gymnasiums, swimming pools, skating rinks, archery ranges, shooting galleries and similar uses;
- (3) Amusement parks, including permanent carnivals, kiddie parks, golf driving ranges, par three and miniature golf courses, and other similar outdoor amusement facilities;
- (4) Animal hospitals;
- (5) Auction rooms;
- (6) Automobile accessory stores;
- (7) Automobile service stations for the retail sale and dispensing of fuel, lubricants, tires, batteries, accessories, and supplies including installation and minor services customarily incidental thereto; facilities for chassis and gear lubrication are permitted only if enclosed in a building;
- (8) Automobile laundry/car wash, permitted only if enclosed in a building;
- (9) Bakeries, including the sale of bakery products to restaurants, hotels, clubs, and other similar establishments when conducted as part of the retail business on the premises;
- (10) Battery and tire service stations;
- (11) Bicycle sales, rental, and repair stores;
- (12) Blueprinting and photostatting establishments;
- (13) Boat showrooms;
- (14) Building material sales, for retail sales of dimension lumber, millwork, cabinets, and similar building materials, but not including processing or manufacture of millwork;
- (15) Bus passenger stations and terminals;
- (16) Butcher (including limited live slaughtering and retail sale on premises);
- (17) Cartage and express facilities;
- (18) Catering establishments;
- (19) Clothing and costume rental stores;

CHAPTER 154: PLANNING AND ZONING
C: Commercial District

- (20) Clubs and lodges (nonprofit);
- (21) Contractors or construction offices, shops, without outside storage;
- (22) Convention halls and meeting halls;
- (23) Crematories;
- (24) Dry-cleaning establishments, with no limitation on number of employees;
- (25) Employment agencies;
- (26) Exhibition halls;
- (27) Exterminating shops;
- (28) Feed stores;
- (29) Frozen food lockers;
- (30) Fuel and ice sales, for retail sales of coal and other solid fuels and oil and other liquid fuels; provided, such liquid fuels in excess of 120 gallons are stored in underground tanks;
- (31) Garages, for storage, repair, and servicing of motor vehicles of not over one and one-half tons capacity, including body repair, painting, and engine rebuilding;
- (32) Greenhouses, wholesale and retail;
- (33) Hotels and motels;
- (34) Laboratories, medical and dental;
- (35) Launderettes, automatic, self-service only, or hand laundries, with no limitation on number of employees;
- (36) Laundries, with no limitation on number of employees;
- (37) Linen, towel, diaper, and other similar supply services;
- (38) Live bait stores;
- (39) Locksmith shops;
- (40) Machinery sales;
- (41) Mail order houses.;
- (42) Meat markets including the sale of meats and meat products to restaurants, hotels, clubs, and other similar establishments when conducted as part of the retail business on the premises;
- (43) Model homes or garage displays;
- (44) Monument sales;
- (45) Motor vehicle sales;
- (46) Orthopedic and medical appliance stores, but not including the assembly or manufacture of such articles;
- (47) Packing and crating;
- (48) Parcel delivery stations;
- (49) Parking lots, open and other than accessory, for storage of motor vehicles of not over one and one-half tons capacity;
- (50) Recycling drop-off center;
- (51) Pawnshops;
- (52) Pet shops;
- (53) Philanthropic and eleemosynary institutions;
- (54) Plumbing showrooms and shops;
- (55) Printing;

- (56) Public utility service substations and distribution centers, electric, gas, telephone, and water;
- (57) Publishing;
- (58) Radio and television service and repair shops;
- (59) Radar installations and towers;
- (60) Radio and television studios, stations, and towers, transmitting and receiving;
- (61) Recording studios;
- (62) Religious uses;
- (63) Renewable energy systems. See §§ 154.505 through 154.516; (*Ord. 17-20, 2/18/20*)
- (64) Restaurants, including live entertainment and dancing;
- (65) Riding academies;
- (66) Schools, commercial or trade;
- (67) Schools, music, dance, or business;
- (68) Secondhand stores and rummage shops;
- (69) Stadiums, auditoriums, and arenas, open or enclosed;
- (70) Storage, warehousing, and wholesale establishments;
- (71) Trailer sales and rental, for use with private passenger motor vehicles;
- (72) Taverns, including live entertainment and dancing;
- (73) Taxidermists;
- (74) Telephone booths, outdoor;
- (75) Theaters, indoor;
- (76) Vending machines, ice and milk sales; and
- (77) Wireless telecommunication facilities, per the requirements of § 154.457(C)(1)(c). (*Ord. 91-07, § 10, passed 10-9-2007*)

(B) *Special uses.*

- (1) All uses listed as Special Uses in the B: Business District of this chapter;
- (2) Automobile laundry/car wash (not enclosed in a building);
- (3) Automobile testing grounds;
- (4) Automobile wrecking yards;
- (5) Fairgrounds and race tracks of all kinds, including grandstand seating and other accessory uses customarily incidental thereto, subject to the following development standard: the lot contains not less than 320 acres of area of which 120 acres shall be used along its perimeter as a landscaped open area surrounding commercial and organized activity areas, buildings, structures, off-street parking and other service uses;
- (6) Garages, for storage, repair, and servicing of motor vehicles of over one and one-half tons capacity, including body repair, painting, and engine rebuilding; Renewable energy systems. See §§ 154.505 through 154.516. (*Ord. 17-20, 2/18/20*)

CHAPTER 154: PLANNING AND ZONING
C: Commercial District

(7) Gun Shops and gunsmith shops, subject to the following development standards: no firearms or ammunition shall be sold in any gun sales or gunsmith shops within two-hundred (200) feet of any:

- (a) any public or parochial school for children in any grades from K through 12;
- (b) child care center; or,
- (c) child care ministry;

(8) Highway maintenance shops and yards;

(9) Kennels;

(10) Miniature automobile tracks;

(11) Mining, loading and hauling of sand, gravel or other aggregate and/or the processing thereof, on a lot no less than ten acres in area, subject to the following development standards:

(a) The operations and uses shall not be conducted within 50 feet of any property line unless a greater distance is recommended by the Board of Zoning Appeals and specified by the Legislative Body, where such is deemed necessary for the protection of adjacent property. Beginning at the above required setback, the banks of all excavation areas shall not be excavated to a slope greater than 45 degrees from the horizontal; provided, however, when the adjacent property is being mined for sand and/or gravel, the setback requirements may be waived along any common property line;

(b) A continuous fence, comprised of four feet of woven wire fabric with a strand of barbed-wire two inches above and two inches below the woven wire, shall be erected and maintained along the property line around the entire site. In addition, an evergreen planting screen shall be required around the entire site within the required setback. Such screen planting shall be comprised of pine seedlings which are staggered six feet on center in two rows which are six feet apart; provided, however, when the adjacent property is being mined for sand and/or gravel the fence and screen planting requirements may be waived along any common property line;

(c) All access roads, beginning at the existing roadway surface and extending a distance of not less than 250 feet inward shall be hard surfaced;

(d) Asphalt producing facilities, buildings, structures, and equipment for screening, crushing, washing, storage or other similar processing may be recommended by the Board of Zoning Appeals and/or authorized by the Legislative Body as a specific variation, which may be limited by the recommendation of the Board of Zoning Appeals and/or the determination of the Legislative Body to a definite period of time, provided that such operations conform the regulations of § 154.073;

(e) Prior approval of the special use every applicant shall execute an acceptable indemnity agreement in favor of the Board of County Commissioners in a form

approved by the County Engineer, which indemnity agreement shall be for the purpose of assuring the restoration, rehabilitation and reclamation of mined out areas within a reasonable time and to the satisfaction of the Board of Zoning Appeals and the Legislative Body and to further assure that the following minimum requirements will be met:

1. A uniform rolling contour shall be established throughout all excavation areas;
2. The banks of all excavation areas shall be restored to a 2-foot horizontal and 1-foot vertical ratio and the slopes seeded, landscaped and maintained until a permanent type ground cover is established to prevent erosion;
3. Soil, suitable for growing vegetation, shall be replaced over the slopes to a uniform depth of not less than 2 inches;
4. If excavations are made to a water producing depth, such depth shall not be less than 6 feet below the low water mark and the areas which are not permanently submerged shall be so graded as to eliminate the collection of stagnant water and
5. In addition to the foregoing, the Board of Zoning Appeals may recommend and the Legislative Body may impose such other conditions, requirements or limitations concerning the nature, extent of the use and operation of such excavation operations as the Board of Zoning Appeals and/or the Legislative Body may deem necessary for the protection of adjacent properties and the public interest.

(f) The requirements of land reclamation may be waived where the landowner has, prior to application, entered into an agreement with a public authority to utilize the land for refuse disposal in compliance with the refuse disposal ordinance of the county.

(12) Off-track para-mutual wagering facility, approved hotels, casinos, or buildings wherein gambling games are conducted, provided that the development standards described in § 154.182 are complied with (In the case of conflicting regulations, the more restrictive shall apply.) (*Ord. 52-20; 8/25/20*)

- (a) Minimum floor area of the principal building shall be 6,000 square feet;
- (b) The lot shall have direct access from an arterial street as determined by the Board of County Commissioners;
- (c) In addition to the regulations set forth in §§ 154.415 through 154.423, the following landscaping and screening development standards shall apply:
 1. Off parking, associated drives and maneuvering areas shall not be located less than 20 feet from any side or rear lot line; and
 2. All security fencing shall be effectively screened;
- (d) An off-track para-mutual wagering facility, approved hotels, casinos, or buildings wherein gambling games are conducted, shall not be located within 500 feet of any residential use zoning district in St. Joseph County or any municipality in St. Joseph County.

CHAPTER 154: PLANNING AND ZONING
C: Commercial District

(13) Parking lots for storage of motor vehicles over one and one-half tons capacity; *(Ord. 19-20, 2/18/20)*

(14) Renewable energy systems. See §§ 154.505 through 154.516; *(Ord. 17-20, 2/18/20)*

(14) Theaters, drive-in establishments, subject to the following development standards:

(a) Vehicular entrance and exit points are along secondary thoroughfares within a commercial or manufacturing district and traffic-control regulations, either traffic signal lights or other means, are provided;

(b) No building or structure including enclosing fence or wall shall set back from a property line adjoining a street less than 40 feet, and from property lines not adjoining a street, not less than 20 feet, except not less than 40 feet from a property line adjoining a residential district boundary line;

(c) Artificial lighting shall be arranged in such a manner that direct rays of light shall not beam upon adjoining properties and streets; and,

(d) Off-street parking spaces are installed, equal in number to 10% of the vehicle capacity of the theater.

(15) Tourist camps on lots no less than five acres in area and constructed and operated in accordance with applicable State and county standards and regulations.

(16) Welding shops, subject to the following development standards:

(a) All operations including accessory storage, are conducted in enclosed buildings in such a manner as not to be visible from a street and surrounding properties;

(b) A building or part of building used for welding operations shall be located not less than 50 feet from a residence district boundary line; except, when located on a lot across the street from a residence or business district, it shall be located not less than fifty (50) feet from the lot line adjoining the street.

(18) Wireless telecommunication facilities, per the requirements of § 154.457(C)(1)(c). *(Ord. No. 91-07)*

(C) *Accessory uses*. See § 154.070. Further, accessory uses, incidental to and on the same lot as a permitted principal use shall also be permitted, including the following:

(1) One dwelling unit provided that the dwelling unit is located within the building containing the permitted principal use;

(2) Renewable energy systems. See §§ 154.505 through 154.516. *(Ord. 17-20, 2/18/20)*

(D) *Temporary uses*. See § 154.071.

(E) Controlled uses. See §§ 154.475 through 154.478. Renewable energy systems. See §§ 154.505 through 154.516. (*Ord. 17-20, 2/18/20*)

(*Ord. 51-05, § 8.04.04A, passed 5-10-2005; Ord. 91-07, § 10, passed 10-9-2007; Ord. 69-09, §§ 9, 10, passed 8-11-2009*) Penalty, see § 154.999

154.182 GENERAL DEVELOPMENT STANDARDS.

(A) *Lot area.* Lot area shall not be less than 2,500 square feet of lot area for each business establishment.

(B) *Lot width.* The minimum lot width shall be 35 feet.

(C) *Minimum yards and building setback.* Yards shall be as follows, except when this chapter specifies a greater yard requirement for a particular permitted primary use, conditional use, special use or accessory use, the greater specified yard requirements shall control:

(1) *Front yard and building setback.* Front yard and building setback shall be 40 feet in depth measured from the right-of-way line.

(2) *Side yard and building setback.* Side yard and building setback shall be provided from the lot line as follows:

(a) If a side yard is provided along an interior lot line, it shall be not less than five feet in width.

(b) On a corner lot, a side yard adjoining a street shall be not less than 40 feet in width, except if a corner lot of record, recorded prior to March 21, 1961, has insufficient width to provide such a yard of 40 feet in width and still to maintain a buildable width of 30 feet, then the side yard adjoining a street may be reduced by the distance necessary to maintain such buildable width.

(3) *Side yard and building setback.* Side yard and building setback abutting a residential district or residential use shall not be less than 20 feet in depth from the lot line, provided, however, when an alley separates such lots, the side yard shall be not less than five feet in width.

(4) *Rear yard and building setback.* Rear yard and building setback shall not be less than 20 feet in depth from the lot line, provided, however, when an alley separates such lots, the rear yard shall be not less than five feet in width.

(D) *Use of yards.* All minimum yards shall be landscaped in compliance with the requirements for perimeter yard landscaping as set forth in §§ 154.330 through 154.339 and shall be maintained as open space free from buildings or structures except where expressly permitted below:

(1) *Minimum front yards.* Minimum front yards may include:

CHAPTER 154: PLANNING AND ZONING
C: Commercial District

(a) Along limited access highways may include: loading areas located no closer to the right-of-way than 15 feet;

(b) All front yards may include: parking areas, interior access drives, interior access driveways, and fuel pumps, air pumps, water pumps, and freestanding canopies in conjunction with automobile service stations located no closer to the right-of-way than 15 feet; driveways, greenways, sidewalks, fences, or signs as regulated by §§ 154.370 through 154.381.

(2) *Minimum front yards across from a residential district or residential use.* Minimum front yards across from a residential district or residential use may include: driveways, greenways, sidewalks, fences, and signs as regulated by §§ 154.370 through 154.381.

(3) *Minimum side and rear yards.* Minimum side and rear yards may include: interior access drives, interior access driveways, greenways, sidewalks, and fences.

(4) *Minimum side and rear yards abutting a residential district or residential use.* Minimum side and rear yards abutting a residential district or residential use may include interior access driveways, greenways, sidewalks, and fences.

(Ord. 52-20; 8/25/20)

(E) *Floor area ratio.* Floor area ratio shall not exceed 1.2.

(F) *Maximum building height.* Unlimited, provided, however, when a building or structure exceeds 40 feet in height, the yard required above shall be increased by two feet in width for each one foot of building height over 40 feet.

(G) *Landscaping.* See §§ 154.330 through 154.339.

(H) *Lighting.* See §§ 154.350 through 154.355.

(I) *Signs.* See §§ 154.370 through 154.380. *(Ord. 52-20; 8/25/20)*

(J) *Off-Street parking.* See §§ 154.415 through 154.423.

(K) *Off-street loading.* See §§ 154.435 through 154.442

(L) *General requirements.*

(1) All activities involving the production, processing, cleaning, servicing, testing, or repair of materials, goods, or products shall conform with the requirements set forth in § 154.073, as applied at the boundaries of the lot on which such activities take place.

(2) All business, storage, servicing, or processing shall be conducted within completely enclosed buildings, with the following exceptions:

(a) Establishments of the drive-in type offering goods or services directly to customers waiting in parked motor vehicles:

(b) Storage, auxiliary to the principal use, is permitted in the open if it occupies not more than twenty percent of the gross lot area;

(c) Storage of merchandise on display for sale to the public may be located in any area on a lot where off-street parking may be located;

(d) Off-street parking and loading;

(e) Trash containers; and (*Ord. 52-20; 8/25/20*)

(f) Renewable energy systems. (*Ord. 52-20; 8/25/20*)

(3) Where any use which is not within a completely enclosed building abuts a residential district at a side or rear lot line, or is separated from a residential district only by an alley along a side or rear lot line, such use shall be effectively screened from such residential district by a solid wall or fence, including solid entrance and exit gates, at least six feet in height, extending along such rear or side lot line.

(M) *Greenway connection.* Uses which encourage public access located on a lot or parcel which abuts any portion of a greenway shall provide a direct linkage from the project to such greenway. (*Ord. 77-19, 09/10/2019*)

(N) *Pedestrian Connection.* Uses located on a lot or parcel which abuts any portion of a sidewalk shall provide direct linkage to the main entrance. (*Ord. 77-19, 09/10/2019*)

(O) *Architecture.*

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

(2) *Exterior renovations, major additions and accessory buildings.* Exterior renovations, major additions and accessory buildings to existing buildings or facilities are encouraged to comply with the provisions in division (O)(3) below, for new construction, however, the minimum requirement for exterior renovations, major additions and accessory buildings shall be the same as in division (O)(1) above, for additions to existing buildings.

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

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

CHAPTER 154: PLANNING AND ZONING
C: Commercial District

1. At least two architectural elements (e.g., quoins, pilasters, soldier courses, lintels, friezes, cornices, dentils, architraves, etc.); or,

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

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

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

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

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

(Ord. 51-05, § 8.04.04B, passed 5-10-2005) Penalty, see § 154.999

I: INDUSTRIAL DISTRICT

154.210 INTENT.

The I: Industrial District is established to provide for development of industrial uses. Permitted uses in this district tend to generate heavy traffic, require extensive community facilities, and may require outdoor storage and operation. Extensive amounts of outdoor storage and operations require substantial screening to protect the surrounding properties from potential negative impacts. The permitted uses provided for in this district should be separated from residential districts with adequate setbacks and screening.

154.211 PERMITTED USES.

(A) *Primary uses.*

(1) Any establishment engaged in production, assembly, disassembly, cleaning, servicing, testing, repair, or storage of materials, goods, or products;

(2) Agriculture;

(3) Automobile accessory stores;

(4) Automobile laundries and car washes;

(5) Automobile service and gas stations;

(6) Building material sales;

(7) Child care center;

(8) Community centers;

(9) Contractor yard and offices;

(9a) Convention halls and meeting halls; (*Ord. 19-20, 2/18/20*)

(10) Distillery, brewery or winery;

(11) Distribution facilities and truck terminals;

(12) Dry-cleaning and laundry;

(13) Electric power generating facilities, public, subject to the following development standards:

(a) For nonrenewable power generation, all building and structures (including outdoor storage and/or operations) directly associated with power generation shall not be located within two-hundred (200) feet of any property line;

(b) For renewable energy systems, see §§ 154.505 to 154.516. (*Ord. 17-20, 2/18/20*)

(14) Exterminating shops;

(15) Garages for storage, repair, and servicing of motor or recreational vehicles;

(16) Greenhouses, wholesale and retail;

(17) Gun shops and gunsmith shops;

(18) Highway maintenance shops and yards;

(19) Kennels;

(20) Libraries;

CHAPTER 154: PLANNING AND ZONING

I: Industrial District

- (21) Locksmith shops;
- (22) Manufacturing retailer;
- (23) Medical clinics and institutions, hospitals;
- (24) Motor vehicle sales;
- (25) Offices, business and professional;
- (26) Parking lots;
- (27) Printing services;
- (28) Private park – passive;
- (29) Public park – active or passive;
- (30) Public utility and service uses, including:
 - (a) Bus stations, bus terminals, bus garages, and bus lots;
 - (b) Electric substations and distribution centers;
 - (c) Fire stations;
 - (d) Gas regulator stations;
 - (e) Police stations;
 - (f) Railroad passenger stations;
 - (g) Telephone exchanges, telephone transmission equipment buildings, and microwave relay towers;
 - (h) Utility service stations, electric, gas, telephone, and water; and,
 - (i) Waterworks, reservoirs, pumping stations, and filtration plants, and sewage treatment plants, public;
- (31) Radar installations and towers;
- (32) Radio and television studios, stations and towers;
- (33) Recreational vehicle sales, rentals, parts, and storage;
- (34) Recycling drop-off center;
- (35) Religious uses;
- (36) Restaurants;
- (37) Schools;
- (38) Stadiums, auditoriums, and arenas, open or enclosed;
- (39) Short-term rental, owner occupied; (*Ord. 19-20, 2/18/20*)
- (40) Trailer sales, rentals, parts, and storage
- (41) Veterinary clinic and hospitals; and
- (42) Wireless telecommunication facilities, per the requirements of § 154.457(C)(1)(a).

(B) *Special uses.*

- (1) Amusement park;
- (2) Automobile testing grounds;
- (3) Air, railroad, and water freight terminals;
- (4) Airports and heliports/helipads;
- (5) Asphalt producing and processing facilities
- (6) Electric power generating facilities, private, subject to the following development standards:

(a) For nonrenewable power generation, all building and structures (including outdoor storage and/or operations) directly associated with power generation shall not be located within two-hundred (200) feet of any property line;

(b) For renewable energy systems, see §§ 154.505 to 154.516. (*Ord. 17-20, 2/18/20*)

(7) Fairgrounds;

(8) Junkyards and salvage yards;

(9) Mining and/or processing of sand, gravel or other aggregate, subject to the following development standards:

(a) The operations and uses shall be setback a minimum of one-hundred (100) feet of any property line; provided, however, when the adjacent property is being mined for sand and/or gravel, the setback requirements may be waived along any common property line;

(b) Beginning at the above required setback, the banks of all excavation areas shall not be excavated to a slope greater than forty-five (45) degrees from the horizontal;

(c) A continuous solid fence or wall with barbed wire located on top of the fence or wall shall be erected and maintained along the property line around the entire site;

(d) *Required landscaping.*

1. An evergreen planting screen shall be required around the entire site within the required setback as follows:

a. *Adjoining or across from a residential district or residential portion of a PUD.* Type 2: Full Screening Landscaping per the requirements of § 154.332; Table 154-1; or,

b. *Adjoining or across from all other districts.* The screen planting shall be comprised of six (6) foot tall evergreen trees planted twelve and one-half (12 ½) feet on center.

2. Provided, however, when the adjoining property is being mined for sand and/or gravel, the fence and screen planting requirements may be waived along any common property line.

(e) Driveways and interior access drives must be paved for the first two-hundred-fifty (250) feet from their access to the public or private street;

(f) Prior to approval of the special use every applicant shall execute an acceptable indemnity agreement in favor of the Board of County Commissioners in a form approved by the Board of Zoning Appeals and the Legislative Body, which indemnifying

CHAPTER 154: PLANNING AND ZONING

I: Industrial District

agreement shall be for the purpose of assuring the restoration, rehabilitation and excavation of mined out areas within a reasonable time and to the satisfaction of the Board of Zoning Appeals and the Legislative Body.

- (10) Penal and correctional institutions;
- (11) Private park – active;
- (12) Railroad switching and classification yards;
- (13) Racetracks;
- (14) Recycling processing center;
- (15) Sanitary landfill or solid or liquid waste disposal facility, subject to the

following development standards:

(a) No such special use shall be operated on a site of less than forty (40) acres in area;

(b) No portion of the landfill shall be located within one-hundred (100) feet of any property line; provided, however, when the adjacent property is being used for the sanitary landfill or solid or liquid waste disposal facility, the setback requirements may be waived along any common property line;

(c) No sanitary landfill, or solid or liquid waste disposal facility, shall be approved as a special use which does not receive approval from the County Drainage Board; and

(d) No sanitary landfill, or solid or liquid waste disposal facility, shall be approved as a special use until the applicant therefore and the owner of the proposed site therefore shall execute an agreement in favor of St. Joseph County by the terms of which such applicant and owner shall agree to maintain the site until being utilized for the special use, and to restore and reclaim the site within a time period specified in such agreement, following termination of such use, according to the following minimum specifications:

1. A uniform contour which blends in with the topography of the surrounding area shall be established and maintained throughout the area;

2. Impervious soil and soil suitable for growing vegetation, shall be replaced over the site to permanent uniform depths not less than that then required by applicable state standards and regulations;

3. The site shall be seeded, landscaped, and maintained with perennial plant material until a permanent type ground cover is established to prevent erosion.

(e) *Required landscaping.*

1. An evergreen planting screen shall be required around the entire site within the required setback as follows:

a. *Adjoining or across from a residential district or residential portion of a PUD.* Type 2: Full Screening Landscaping per the requirements of § 154.332; Table 154-1; or,

b. *Adjoining or across from all other districts.* The screen planting shall be comprised of six (6) foot tall evergreen trees planted twelve and one-half (12 ½) feet on center.

2. Provided, however, when the adjacent property is being used for the sanitary landfill or solid or liquid waste disposal facility, the setback requirements may be waived along any common property line;

- (16) Sewage treatment plants;
- (17) Shooting ranges;
- (18) Slaughterhouse;
- (19) Theaters, drive-in;
- (20) Tourist camps;
- (21) Wireless telecommunication facilities, per the requirements of § 154.457(C)(1)(b).

(C) *Accessory uses.* See § 154.070. Further, accessory uses, incidental to and on the same lot as a permitted principal use shall also be permitted, including the following:

- (1) One (1) single-family dwelling unit; and
- (2) Renewable energy systems. See §§ 154.505 through 154.51. (*Ord. 17-20, 2/18/20*)

(D) *Temporary uses.* See § 154.071

(E) *Controlled uses.* See §§ 154.475 through 154.478. (*Ord. No. 19-20, 2/18/20*)

CHAPTER 154: PLANNING AND ZONING
I: Industrial District

154.212 GENERAL DEVELOPMENT STANDARDS.

(A) *Minimum lot width.* 100 feet.

(B) *Minimum yards and building setback.* Yards shall be as follows, except when this Chapter specifies a greater yard requirement for a particular use:

Front yard and building setback	50 feet
Side yard and building setback	
Side yard abutting an industrial district	10 feet
Side yard abutting a business/commercial district	20 feet
Side yard abutting an agricultural district or a residential district	50 feet
Rear yard and building setback	
Rear yard abutting an industrial district	10 feet
Rear yard abutting a business/commercial district	20 feet
Rear yard abutting an agricultural district or a residential district	50 feet

(C) *Use of yards.* All minimum yards shall be landscaped in compliance with the requirements for perimeter yard landscaping as set forth in §§ 154.330 through 154.339 and shall be maintained as open space free from buildings or structures except where expressly permitted below:

(1) *Minimum front yards.* Minimum front yards may include:

(a) Along limited access highways may include: loading areas located no closer to the right-of-way than 15 feet;

(b) All front yards may include: parking areas, interior access drives, interior access driveways, and fuel pumps, air pumps, water pumps, and freestanding canopies in conjunction with automobile service stations located no closer to the right-of-way than 15 feet; driveways, greenways, sidewalks, fences, or signs as regulated by §§ 154.370 through 154.381.

(2) *Minimum front yards across from a residential district or residential use.*

Minimum front yards across from a residential district or residential use may include: driveways, greenways, sidewalks, fences, and signs as regulated by §§ 154.370 through 154.381.

(3) *Minimum side and rear yards.* Minimum side and rear yards may include:

interior access drives, interior access driveways, greenways, sidewalks, and fences.

(4) *Minimum side and rear yards abutting a residential district or residential use.*

Minimum side and rear yards abutting a residential district or residential use may include interior access driveways, greenways, sidewalks, and fences.

(Ord. 52-20; 8/25/20)

(D) *Maximum building height.* Unlimited, however, when a building or structure exceeds fifty (50) feet in height, the yard required above shall be increased by two (2) feet for each one (1) foot of building height over fifty (50) feet.

(E) *Landscaping.* See §§ 154.330 through 154.339.

(F) *Lighting.* See §§ 154.350 through 154.355.

(G) *Signs.* See §§ 154.370 through 154.380. (Ord. 52-20; 8/25/20)

(H) *Parking.* See §§ 154.415 through 154.423.

(I) *Loading.* See §§ 154.435 through 154.442.

(J) *Greenway connection.* Uses which encourage public access located on a lot or parcel which abuts any portion of a greenway shall provide a direct linkage from the project to such greenway.

(K) *Pedestrian connection.* Uses located on a lot or parcel which abuts any portion of a sidewalk shall provide a direct linkage to the main entrance.

(L) *Outdoor storage and operations.*

(1) *Special use required.* Outdoor storage and/or operations in excess of fifty (50) percent of the project area shall require a special use.

(2) *Operations.* All operations, servicing and processing located within five-hundred (500) feet of a residential district boundary (except permitted outdoor storage, trash containers, renewable energy systems, off-street parking and off-street loading) shall be conducted within completely enclosed buildings. (Ord. 52-20; 8/25/20)

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

(a) Within completely enclosed buildings; or,

CHAPTER 154: PLANNING AND ZONING
I: Industrial District

(b) Within a defined storage area in compliance with the following:

1. *Location of Outdoor Storage.* Outdoor storage shall not be permitted in any minimum front yard, minimum side yard or minimum rear yard;

2. *Screening.* Outdoor storage areas shall be screened from view from all public rights-of-way, residential districts, residential uses and commercial districts by buildings or:

a. A chain link, lattice, or similar type fencing with an open space of thirty (30) percent or greater, supplemented by a Type 2: Full Screening Landscaping (see §§ 154.330 through 154.339 for details) located between the edge of the outdoor storage area and lot line; or,

b. An ornamental, solid wall, architectural screen, masonry or similar type fence with an open space of less than thirty (30) percent, including entry/exit gates made of materials compatible with the fence, supplemented by a Type 1: Open Landscaping (see §§ 154.330 through 154.339 for details) located between the edge of the outdoor storage area and the lot line.

3. *Height of Fence.* The height above grade of said fence shall be at least six (6) feet and shall not exceed ten (10) feet; and

4. *Height of Outdoor Storage.* Outdoor storage of materials or products shall not exceed the height of the fence if located within five-hundred (500) feet of a residential district. At no time shall the height of outdoor storage exceed twenty (20) feet.

PLANNED UNIT DEVELOPMENT DISTRICT

154.225 INTENT.

- (A) The Planned Unit Development (PUD) District is intended to:
- (1) Establish a compatible and efficient mix of land uses and open space;
 - (2) Ensure compatibility with the Comprehensive Plan, surrounding developments and future development needs;
 - (3) Establish a creative approach in building design through architectural compatibility with adjacent buildings, general neighborhood design or by creating a unique style;
 - (4) Achieve flexibility and provide incentives for development that will sustain a wider range of choice in satisfying the changing needs of the community; and
 - (5) Provide for any individual land or a combination of land uses not otherwise specified elsewhere in this Ordinance.
- (B) The PUD District is not intended for the development of residential subdivisions, Permitted Uses, or Special Uses which are provided for within any district of this Ordinance.
- (C) The PUD District is not intended for developments seeking relief from developments standards within a district in which the use is permitted.

(Ord. 42-15, § 154.225, passed 8-11-2015)

154.226 PERMITTED USES AND DEVELOPMENT STANDARDS.

- (A) Permitted Uses.
- (1) Primary uses in the PUD District shall be any use or range of uses specified in the PUD District Ordinance establishing such District.
 - (2) Accessory uses, home occupations or temporary uses, unless otherwise specified in the PUD District, shall be permitted in a manner customarily associated with the primary use specified in the PUD District Ordinance.
- (B) Development Standards.
- (1) The PUD District shall specify development standards applicable to each permitted use in the PUD District and, at a minimum, shall adopt or include a variation of each development standard that is applicable to each such use in the district in which each such use is first permitted.

Chapter 154: PLANNING AND ZONING
Planned Unit Development District

(2) In any case in which an applicable development standard has not been specified in the petition for zone map change to the PUD District, the development standard shall be that which is specified in the district in which the use is first permitted.

(Ord. 42-15, § 154.226, passed 8-11-2015)

154.227 PROCEDURE FOR APPROVAL OF A PLANNED UNIT DEVELOPMENT.

(A) General.

(1) The complete review and approval process for a PUD consists of three (3) components:

(a) Submittal of a Concept Plan per §154.227 (B) Concept Plan;

(b) Submittal of a Petition for zone map change per §154.227 (C) Petition for Zone Map Change to PUD District; and,

(c) Submittal for Secondary Approval per §154.227 (G) Secondary Approval.

(2) Petition for Zone Map Change to PUD District and Secondary Approval may be filed separately, or may be combined for joint approval as set forth in §154.227 (E) (2), below.

(3) If filed separately, the procedure for filing for approval of a zone map change shall be the same as that required for any other petition for zone map change before the Area Plan Commission, except as otherwise provided for in this chapter.

(B) Concept Plan.

(1) The filing of a Concept Plan is required. The review of the Concept Plan by the Staff will create an understanding between the Staff and the developer which may help to alleviate future misunderstandings and extensive revisions.

(2) A Concept Plan shall be submitted a minimum of ten (10) business days prior to filing a petition for zone map change to the PUD District, which shall include the following:

(a) A statement demonstrating how the proposed PUD meets the intent of §154.225 Intent;

(b) Proposed locations and types of uses within the area proposed;

(c) Preliminary layout of streets, open space, and other elements basic to the proposal in relationship to existing site conditions and adjacent properties;

(3) Staff shall review the proposed Concept Plan taking into consideration the following:

(a) That the proposed PUD District meets the requirements of §154.225 Intent;

(b) Protection and enhancement of the natural and environmentally sensitive features on the site, including, but not limited to topography, wooded areas, water features, wetlands, floodways, floodplains and regulated drains;

(c) Development of common areas, open space or recreational areas (passive or active) accessible to the residents or users of the PUD by way of sidewalks, footpaths or combined walkways/bikeways;

(d) Building designs which achieve added value to the community; and,

(e) Relationship to surrounding properties.

(4) The Staff shall notify the petitioner of any comments related to the submitted Concept Plan within ten (10) business days of the submittal. Upon receipt of the Staff comments, the petitioner may modify the Concept Plan and resubmit a revised Concept Plan for additional review by Staff or file a petition for zone map change as set forth per § 154.227 (C) Petition for Zone Map Change to PUD District.

(5) Neither the Staff's review of the Concept Plan submitted for review nor Staff's comments to the petitioner shall be considered a denial, approval or decision concerning the proposed PUD District.

(C) Petition for Zone Map Change to PUD District.

(1) A request for a zone map change to a PUD District shall contain the following:

(a) All documentation and requirements as regulated by §154.599 (B) Zone Map Amendments;

(b) A Preliminary Plan that satisfies the requirements below, and shall specify in either General Terms or Detailed Terms the permitted uses and development standards that will apply to the PUD District:

i. Detailed Terms. A Preliminary Plan which includes a detailed description of all development requirements that apply to the proposed PUD District on any of

Chapter 154: PLANNING AND ZONING
Planned Unit Development District

the site plans, building elevations, landscape plans, sign plans, or any other plan required by this Ordinance in sufficient detail to fulfill the requirements for the issuance of an Improvement Location Permit;

ii. General Terms. A Preliminary Plan which do not comply with the requirements above for Detailed Terms shall be deemed to have expressed the development requirements that apply to the proposed PUD in General Terms only and shall require Secondary Approval, as set forth below, prior to the issuance of an Improvement Location Permit.

(2) Preliminary Plan. A Preliminary Plan shall consist of the following:

(a) A PUD District Ordinance in 8 ½" x 11" format consisting of the following:

- i. Proposed name of the PUD District;
- ii. Legal description of the proposed PUD District;
- iii. Statement on how the proposed PUD District meets the requirements of §154.225 Intent;
- iv. Permitted uses, accessory uses and temporary uses by location;
- v. Site development standards by use, such as but not limited to setbacks, densities, use of yards;
- vi. Proposals for handling traffic, general circulation and access points, sewage disposal, drainage, and other pertinent development features;
- vii. Landscaping, buffering, tree preservation and use of open space;
- viii. Lighting standards;
- ix. Signs standards;
- x. Parking and Loading standards;
- xi. Building design standards; and

(b) A Site Plan of the overall PUD on plan sheets not to exceed twenty-four by thirty-six (24" x 36") in size consisting of the following:

- i. Proposed name of the PUD District
- ii. North arrow, written and graphic scale;

- iii. Boundaries of property with dimensions;
- iv. General location of proposed land uses;
- v. Easements of record;
- vi. General layout of public and private streets, open space and other basic elements of the development;
- vii. General location of all drainage and other utility features and any other pertinent development features; and
- viii. Statement regarding how the PUD will be served by water and sewer; i.e. well and septic or municipal water and sewer.

(c) Any other information requested in writing by the Executive Director or Area Plan Commission that would need to be included and/or addressed in either the PUD District Ordinance or the Site Plan.

(D) Determination by the Area Plan Commission.

In its determination of the appropriateness of the proposed PUD, the Area Plan Commission shall pay reasonable regard to the extent to which the proposal accomplishes the intent set forth in §154.225 Intent, above, and provides for the protection or provision of the site features and amenities outlined above.

(E) Preliminary Plan Approval.

(1) If the Preliminary Plan expresses development standards in General Terms, as described above, secondary approval as set forth in §154.227 (G) Secondary Approval, shall be required.

(2) If the Preliminary Plan expresses development standards in Detailed Terms, as described above, the Petitioner may request Secondary Approval in connection with the approval of the zone map change to the PUD District, provided that any such approval shall be conditioned upon the Council adopting the zone map change to the PUD District.

(F) Conditions.

Conditions may be imposed on the approval of a PUD District which are reasonably necessary to assure compliance with the permitted use, development standards and minimum requirements of the PUD District Ordinance.

Chapter 154: PLANNING AND ZONING
Planned Unit Development District

(G) Secondary Approval

(1) Secondary Approval is required in the PUD District as a prerequisite to the issuance of an Improvement Location Permit.

(2) The petitioner must file an application requesting Secondary Approval and submit the following:

(a) A final PUD District Ordinance which expresses the development standards in Detailed Terms addressing all of the requirements established and approved under Preliminary Plan Approval; and

(b) A final site plan of the overall PUD on plan sheets not to exceed twenty-four by thirty-six (24" x 36") in size, consisting of all of the requirements of §154.227 (C) 2 (b) in detail, including any additional requirements approved under §154.227(E) Preliminary Plan Approval.

(c) Any other information requested in writing by the Executive Director that would need to be included and/or addressed for Secondary Approval.

(3) As part of the Secondary Approval, the following documentation may be required in order to meet the requirements for approval by the reviewing agencies.

(a) Location of all existing and proposed utility facilities and easements, including, but not limited to: sanitary sewer, water, storm water management, electric, gas, telephone and cable within two-hundred (200) feet of the real estate;

(b) Drainage plan;

(c) An erosion control plan for all areas of site disturbance.

(d) Topographic contour every two (2) feet superimposed upon the proposed site plan portion of the site covered by the submitted plans;

(e) Proposed elevation of all building pads within the proposed development;

(f) Plans and specifications for all infrastructure improvements required or proposed in the PUD;

(g) Any other information specified elsewhere in this Ordinance as a prerequisite to the issuance of an improvement location permit; and

(4) The Executive Director, during Secondary Review, shall specify any additional plan documentation or supporting information beyond that required by this subsection, which must be provided before the issuance of an Improvement Location Permit.

(H) Secondary Approval Authority.

(1) Authority for Secondary Approval is hereby delegated to the Executive Director. The Executive Director shall have a period of not more than fifteen (15) business days in which to review the proposed Secondary Approval application and either:

(a) Render a decision of approval or denial concerning the Secondary Approval; or

(b) Request in writing additional information from the applicant. If additional information is requested, the Executive Director shall have an additional period of fifteen (15) business days to review the information from the date the requested information is received.

(2) The Executive Director may seek the advice and comment of the Executive Committee of the Area Plan Commission or other government review agencies prior to Secondary Approval.

(3) Any decision of the Executive Director under this Section may be appealed by any interested party to the Area Plan Commission in accordance with the procedures of §154.231 Appeals of Executive Director's Decisions, below.

(I) Proceedings/Notice.

The proceedings required for Secondary Approval shall be the same as those required by this zoning ordinance for the review and issuance of an Improvement Location Permit.

(J) Required Findings.

(1) The Area Plan Commission or Executive Director may issue Secondary Approval only upon a finding that the plans submitted for Secondary Approval satisfy the PUD District Ordinance establishing such PUD District;

(2) Secondary Approval shall be sealed with the Seal of the Area Plan Commission and retained in the office of the Area Plan Commission to be used in its continuing administration of the PUD.

Chapter 154: PLANNING AND ZONING
Planned Unit Development District

(K) Surety.

Bonds or other written assurance may be required which are reasonably necessary to guarantee the timely completion of a public improvement required by the PUD District Ordinance. Such bond or other written assurance shall be satisfactory to the Executive Director, and shall run to the Board of Public Works or any other public agency that will be responsible for the construction and maintenance of the public improvement.

(L) Expiration.

Secondary Approval of a PUD District Ordinance, whether submitted in its entirety or in development phases, does not expire. Upon an application for an Improvement Location Permit for the use or development of the property, whether in its entirety or in development phases, all required improvements shall be designed and constructed with the latest standards in effect at the time.

(Ord. 42-15, § 154.227, passed 8-11-2015)

154.228 MODIFICATION OF PRELIMINARY PLAN OR SECONDARY APPROVAL

(A) Request for modification.

Request for determination of minor/major modification shall be provided in writing to the Executive Director detailing the extent of the change or changes. The Executive Director may request additional documentation that would be needed to determine whether the proposed changes qualify as Minor Modifications or Major Modifications and outlined below.

(B) Minor Modifications.

Minor modifications to a Preliminary Plan or Secondary Approval which has already received approval from the Area Plan Commission or the Executive and which do not involve the designation of additional land uses; or an encroachment into any drainage easement, regulated drain setback or floodplain, may be authorized by the Executive Director without a public hearing in its continuing administration of the PUD if, in the determination of the Executive Director, the requested minor modifications do not adversely impact the purpose or intent of the overall development.

(C) Major Modifications.

If the Executive Director determines that the proposed modification does not meet the criteria above or is of such a nature as to adversely impact the purpose or intent of the overall development the petitioner shall be required to file a new petition for zone map amendment.

(Ord. 42-15, § 154.228, passed 8-11-2015)

154.229 SECONDARY PLAT APPROVAL

The process for the approval and recording of a secondary plat for any development in a PUD approved pursuant to this section shall be issued in a manner consistent with that for any other subdivision within the St. Joseph County as set forth in the St. Joseph County Subdivision Control Ordinance, as amended, and with any additional requirements or commitments entered into in connection with the approval of the preliminary plan pursuant to this section. The approval and recording of a secondary plat is required prior to the issuance of an improvement location permit for any improvements on a lot.

(Ord. 42-15, § 154.229, passed 8-11-2015)

154.230 MAINTENANCE OF COMMON OPEN SPACE

In those PUD Districts in which open space, common areas or recreation areas are provided for the use and enjoyment of residents or users of the PUD District, the petitioner shall file documentary assurances that the permanent dedication and continuous maintenance of open space, common areas or recreation areas shall be made in accordance with the approved preliminary plan and secondary approval, and that the open space, common areas and recreation areas shall be made available to the residents and users of the overall development in the PUD at a reasonable and non-discriminatory rate of charge. Such documentary assurances shall be incorporated into the secondary plat that is recorded in the Office of the St. Joseph County Recorder or otherwise provided for through legally binding perpetual agreements as approved by the Area Plan Commission and the County. Such open space shall perpetually run with the PUD and shall not be developed or separated from the overall development in the PUD at a later date (unless no development of any portion of the PUD which is benefited by the open space, common areas or recreation areas has occurred and the entire area subject to the PUD is presented for zone map change).

(Ord. 42-15, § 154.230, passed 8-11-2015)

154.231 APPEALS OF EXECUTIVE DIRECTOR'S DECISIONS

(A) Generally.

Any order, requirement, decision or determination by the Executive Director regarding a secondary approval, or a modification of a preliminary plan or secondary approval, may be appealed to the Area Plan Commission by any person claiming to be adversely affected by that order, requirement, decision or determination.

(B) Appeal Process.

The procedures for such an appeal are as follows:

Chapter 154: PLANNING AND ZONING
Planned Unit Development District

(1) Every appeal shall be filed within thirty (30) days from the order, requirement, decision or determination.

(2) All appeals shall be determined by the Area Plan Commission at a public hearing for which any person claiming to be adversely affected by that order, requirement, decision, or determination shall comply with, and bear all costs associated with, the notification requirements as provided by rule of the Area Plan Commission.

(3) The Area Plan Commission hearing shall be de novo, in the same manner as though the application was originally filed with the Area Plan Commission.

(4) The decision of the Area Plan Commission with respect to a secondary approval, or a modification of a preliminary plan or secondary approval, shall be a final decision that may be reviewed only by certiorari procedures as provided in I.C. 36-7-4-1016.

(Ord. 42-15, § 154.231, passed 8-11-2015)

154.232 SPECIAL REGULATIONS FOR MOBILE HOME PARKS IN A PUD DISTRICT.

(A) *Intent.* The intent of these Special Regulations for Mobile Home Parks in a PUD District is to: permit the development of mobile home parks and subdivisions in a manner which protects and preserves property values of adjacent properties; and, establishes standards which will permit mobile home parks and subdivisions to become an asset to the community.

(B) *Permitted uses.* Permitted which may be included in a PUD District Ordinance intended for mobile home parks and subdivisions include:

- (1) Mobile home park;
- (2) Mobile home subdivision;
- (3) Accessory buildings customarily incidental to any of the uses permitted within this district;
- (4) Self-service laundry establishments, subject to the following development standards:
 - (a) The use is located within a mobile home park and is so placed as to be used by the residents within the park, only, and so as not to present any visible evidence of its commercial nature to the area outside the park; and,
 - (b) There shall be two improved off-street parking spaces or one per three principal operating machines, whichever is greater;
- (5) Customary agricultural uses, except farms operated for disposal of refuse, garbage, offal and this, or farms which are to be operated for slaughter, pen feeding and stock raising;
- (6) Service building and other community buildings for exclusive use of the residents of only the mobile home park;
- (7) No tractor-trailer combination vehicle or other truck detached trailer in excess of three-fourths tons capacity may be parked upon any land or premises in an a Mobile Home Park PUD District.; and
- (8) Recycling drop-off center as an accessory use to a mobile home park.

(C) *Design requirements for mobile home subdivision.* The following design standards shall be construed as minimum requirements for all mobile home subdivisions:

- (1) All mobile home subdivisions shall meet the requirements of § 154.122(A) through (C).

Chapter 154: PLANNING AND ZONING
Planned Unit Development District

(2) All mobile home subdivision development must meet the procedural requirements and design standards of the St. Joseph County Subdivision Control Ordinance.

(3) The regulations of this chapter shall not prohibit the construction of dwelling units which meet the regulations concerned with dwelling units within St. Joseph County.

(4) Consideration will be given to any developer who wishes to develop a planned unit development and/or wishes to control his development with a homes association.

(5) The minimum area of a mobile home subdivision shall be ten acres with a minimum of 200 feet frontage on a public street.

(6) No more than one mobile home shall be placed on any one lot.

(7) No mobile home with less than 500 square feet in a primary unit, exclusive of cabanas, shall be permitted on any lot in a mobile home subdivision.

(D) *Additional preliminary plan requirements.* In addition to the regulations for a preliminary plan required by § 154.227(C)(4)(a), above, all preliminary plans shall indicate the petitioner's intent relative to the general land use and circulation arrangement and also show the following:

(1) A typical arrangement of lots along a street with dimensions;

(2) Tabulated data stating acreage of site, number of lots, density (gross and net), percentage of land in open space, percentage covered including walks, patios, roofs, streets, etc.;

(3) Dimensioned cross-section of the entrance roads;

(4) Soil map; and

(5) Location of adjacent streets, sanitary and storm sewers within one mile.

(E) *Amendment to final development plan.* Notwithstanding the provision of § 154.228, above, amendments or additions to a secondary approval shall be submitted to the Area Plan Commission for their approval. No deviation from the originally approved plan shall be permitted unless approval for the amendment or addition is so noted on the final development plan with the commission's seal.

(F) *Additional requirements by Area Plan Commission.* Before recommending approval of a PUD District Ordinance intended for mobile home parks and subdivisions to the County Council or during the review of the secondary approval, the Area Plan Commission may impose reasonable additional requirements as set forth in § 154.227(E), above, as to landscaping,

and maintenance thereof, lighting, signs, screening, access ways, curb cuts, traffic control, height of buildings, and setbacks of buildings.

(G) *Minimum design requirements generally.* The following design standards shall be construed as minimum requirements for all mobile home parks:

(1) *Applicability of state requirements.* Mobile home parks shall meet the requirements as set forth in I.C. 16-41-27-1 et seq., or any subsequent law-regulation concerning any element of mobile home parks and/or subdivisions.

(2) *Utilities.* Each mobile home lot shall be provided with water and sewage disposal as determined by I.C. 16-41-27-1, and/or the Area Plan Commission. Each lot shall also be connected to electricity.

(3) *Refuse containers.* Each mobile home lot shall be provided with submerged or hidden refuse containers which have tight sealing lids.

(4) *Minimum area and access to thoroughfares.* The minimum area of a mobile home park shall be ten acres, with a minimum of 200 feet of frontage on a major thoroughfare or have access to a major thoroughfare as approved by the Area Plan Commission.

(5) *Minimum lot area.* The minimum area per mobile home lot shall be 4,000 square feet.

(6) *Minimum lot width.* The minimum mobile home lot width shall be 40 feet, except around cul-de-sacs where the minimum frontage accepted shall be 25 feet; provided, that on a radial, 30 feet from the pavement edge, the lot width shall be 40 feet.

(7) *Landscaping.* Except at established entrances and exits serving the mobile home park, a dense greenbelt of evergreen trees and/or shrubs, not less than six feet high at the time of planting and which at maturity are not less than 12 feet high, shall be located and effectively maintained at all times along the boundary of the mobile home park.

(8) *Lighting.* The mobile home park shall be adequately lighted as determined by the County Engineering Department, so as to permit safe movement of vehicles and pedestrians.

(9) *Lighting.* All lights shall be located and shielded in such a manner as to prevent direct illumination of sleeping areas as much as possible and any area outside of the mobile home park.

(10) *Distance required between mobile homes.* The minimum distance between any mobile home and any other mobile home or structure shall be ten feet at any one point and average at least 20 feet the entire length or width of each mobile home or structure. Each mobile

Chapter 154: PLANNING AND ZONING
Planned Unit Development District

home shall be at least ten feet back from the edge of the pavement of a private roadway within the park and at least 20 feet from the property line of the mobile home property.

(11) *Foundations required for each lot.* Each mobile home lot shall be provided with a foundation designed to support the maximum anticipated loads during all seasons and approved by the Building Commissioner. When solid concrete slabs are not used, the area between the foundation shall be filled with a four-inch layer of washed rock.

(12) *Distance of buildings from street right-of-way.* No mobile home park office, mobile home, service building or structure shall be closer to a public street right-of-way than 40 feet.

(13) *Off-street parking.* Off-street parking shall be provided to accommodate at least one and one-half (1 ½) vehicles per mobile home lot. There shall be conveniently located area(s) for visitor parking at a ratio of one-half space per lot with a minimum of 25 spaces. All parking spaces must be surfaced with a dustproof material.

(14) *Surface and pavement of roads.*

(a) All roads within a mobile home park must have a concrete or hot or cold bituminous concrete surface of at least 20 feet in width.

(b) Entrance roads must have pavement width of at least 34 feet.

(15) *Additions to mobile homes restricted.* No addition shall be made to a mobile home except a canopy and/or porch open on three sides or an addition made by the mobile home manufacturer.

(16) *Area required for recreational purposes.* At least 250 square feet per mobile home lot, not to include streets, parking areas, park service area(s) and not a part of mobile home lots, shall be provided in one or more locations on the premises for recreational purposes. The minimum of such recreation area(s) shall be 20,000 square feet, or the above, whichever is greater.

(17) *Waterproof structure required for storage.* Each mobile home park shall be provided with either one central waterproof structure, with one space per lot, available to all mobile home lots, or a single waterproof structure on each mobile home lot suitable for storage of goods and the usual personal effects of persons occupying the mobile home park.

(18) *Drainage.* The mobile home park shall be drained in such a manner as not to increase the storm water runoff to adjoining property which results from the development.

(19) *Sidewalks.* Concrete sidewalks, a width of four feet minimum, shall be constructed and located in such a manner as to provide access front all lots to all common use areas in the park. Also, sidewalks must be provided from all entrances to mobile homes to adjacent streets and/or sidewalks.

(20) *Security against tornadic winds.* All mobile homes and other portable structures shall be properly secured and anchored against the force of tornadic winds in accordance with the requirements of the St. Joseph County Building Department.

(21) *Storage area for trailers and boats.* There shall be sufficient off-street storage area for trailers, boats, etc., located in a common-use area in the park.

(22) *Setback requirements.* Mobile home park setback requirements shall be as follows:

(a) *From street.* No mobile home shall be closer than 40 feet to a public street right-of-way;

(b) *Side yard.* No mobile home shall be closer than 20 feet to any property line; and

(c) *Rear yard.* No mobile home shall be closer than 35 feet to any rear property line.

(Ord. 51-05, § 8.06.011, passed 5-10-2005) Penalty, see § 154.999

HP: HISTORIC PRESERVATION OVERLAY DISTRICT

154.245 INTENT.

The HP: Historic Preservation District is an overlay or secondary zoning district which is intended to preserve and protect the historic or architecturally worthy buildings, structures, sites, monuments, streetscapes and neighborhoods within St. Joseph County, Indiana, which impart a distinct aesthetic quality to the County and which serve as visible reminders of the historic heritage of the County.

(Ord. 51-05, § 8.07.01, passed 5-10-2005)

154.246 PERMITTED USES.

The HP Historic Preservation District shall be an overlay district only and shall not eliminate the pre-existing zoning classification.

(Ord. 51-05, § 8.07.01A, passed 5-10-2005)

154.247 DEVELOPMENT STANDARDS.

All uses permitted in the zoning district which is also subject to the HP Historic Preservation District shall be permitted subject to terms, conditions and standards in that zoning district; provided, however, that such permitted uses shall be subject to the provisions of this HP: Historic Preservation District, as the same may be amended and supplemented from time to time, which ordinance concerns itself with historic preservation and enhancement.

(Ord. 51-05, § 8.07.01B, passed 5-10-2005) Penalty, see § 154.999

154.248 ESTABLISHMENT.

There is established and perpetuated an Historic Preservation Commission with the membership and general powers and duties as set forth in the Interlocal Agreement between St. Joseph County and the City of South Bend, dated December 12, 2017 as the same may be amended from time to time in accordance with the law. *(Ord. No.7-18; 1/9/2018)*

(Ord. 51-05, § 8.07.01C, passed 5-10-2005)

154.249 MEMBERSHIP.

(A) A nonpartisan Historic Preservation Commission of nine members shall continue to be appointed, all whom shall be interested and knowledgeable in historic preservation in the local area. The membership shall be appointed as follows: *(Ord. No.7-18; 1/9/2018)*

(1) The Board of Commissioners of the county and County Council, the Mayor, and Common Council of the City of South Bend, and shall each appoint two at-large

CHAPTER 154: PLANNING AND ZONING
HP: Historic Preservation Overlay District

members, designating not more than one member from any major political party and giving consideration to persons residing in areas having historic significance; and,

(2) The eight members appointed as provided in (A)(1) above shall in turn appoint the ninth member, who shall be an architectural historian.

(B) Each member of the Historic Preservation Commission shall serve without compensation for a term of three (3) years, which terms shall continue to be staggered in accordance with the original provisions for appointment in effect in 1973 which was then as follows: (*Ord. No.7-18; 1/9/2018*)

(1) The Board of Commissioners of the county and County Council, the Mayor and Common Council of the City of South Bend, each shall make one appointment for a term of one year and one appointment for a term of two years; and,

(2) The ninth member shall be appointed for a term of three years.

(C) If a vacancy occurs by resignation or otherwise, the unexpired term shall be filled within 30 days of such vacancy by the appropriate appointing body.

(D) Whenever a Commissioner fails to attend four consecutive, regularly scheduled meetings, the Historic Preservation Commission may determine the position to be vacant and certify to the appropriate appointing body the position is vacant. Within a reasonable time after receiving such certification, the appropriate appointing body shall appoint another and different Commissioner for the remainder of the unexpired term. (*Ord. No.7-18; 1/9/2018*)

(E) Each member of the Historic Preservation Commission will serve at the pleasure of his or her appointing body, and may be removed at any time for any reason or no reason. (*Ord. No.7-18; 1/9/2018*)

(*Ord. 51-05, § 8.07.01D, passed 5-10-2005*)

154.250, 154.251, 154.252 RESERVED. (*Ord. No.7-18; 1/9/2018*)

154.253 HISTORIC LANDMARK DESIGNATION AND HISTORIC PRESERVATION DISTRICT ESTABLISHMENT.

(A) The Historic Preservation Commission shall survey, identify, plan for, and advise the County Council and the Area Plan Commission concerning the designation of historic landmarks and the establishment of Historic Preservation Districts located within the unincorporated areas of St. Joseph County. The Historic Preservation Commission shall recommend the designation of historic landmarks and the establishment of Historic Preservation Districts on the basis of historical and cultural significance, educational value, and suitability for preservation. (*Ord. No.7-18; 1/9/2018*)

(B) Historic landmarks shall be designated and Historic Preservation Districts established by the County Council through the passage of an ordinance. Said ordinance shall be initiated in the usual manner:

- (1) By a member of the County Council;
- (2) By a petition of the owners of fifty percent or more of the subject area; or,
- (3) By the Area Plan Commission.

(C) If any proposed ordinance is introduced to the County Council for the purpose of creating a new Historic Preservation District, or repealing, altering, or modifying an established Historic Preservation District, then prior to referral to the Area Plan Commission, the proposed ordinance shall be referred by the County Council to the Historic Preservation Commission which shall hold a Public Hearing within 90 days of the referral, unless such public hearing was conducted by the Historic Preservation Commission prior to introduction of the proposed ordinance which shall satisfy this requirement of a public hearing. The public hearing before the Historic Preservation Commission shall be for the purpose of hearing comments on the proposed ordinance and for the purpose of delivering either a favorable or unfavorable recommendation to the County Council. Notice of such hearing shall be given to all the owners of property in the affected Historic Preservation District. Failure of the Historic Preservation District to deliver a recommendation within 90 days following referral by the County Council shall be considered a favorable recommendation.

(D) If any proposed ordinance is introduced to the County Council for the purpose of creating a new historic landmark, or repealing, altering, or modifying an established historic landmark, then prior to the County Council's public hearing, the proposed ordinance shall be referred by the County Council to the Historic Preservation Commission which shall hold a public hearing within 90 days of the referral, unless such public hearing was conducted by the Historic Preservation Commission prior to introduction of the proposed ordinance which shall satisfy this requirement of a public hearing. The public hearing before the Historic Preservation Commission shall be for the purpose of hearing comments on the proposed ordinance and for the purpose of delivering either a favorable or unfavorable recommendation to the County Council. Notice of such a hearing shall be given to all the owners the affected historic landmark. Failure of the Historic Preservation Commission to deliver a recommendation within 90 days following referral by the County Council shall be considered a favorable recommendation.

(E) Interim Protection.

(1) Upon the first reading of a proposal for a historic landmark before the Historic Preservation Commission or upon the filing of an ordinance before the County Council for the purpose of creating a new historic landmark, the Commission may declare such proposed new landmark to be under interim protection.

(2) Not more than two working days after declaring a building, structure, or site to be under interim protection under this section, the Historic Preservation Commission shall

CHAPTER 154: PLANNING AND ZONING
HP: Historic Preservation Overlay District

provide the owner of the building, structure or site with a written notice of declaration by personal delivery or certified mail. The Historic Preservation Commission shall also notify the County Council and the St. Joseph County/South Bend Building Department. In the event the owner cannot be located after due diligence, the Historic Preservation Commission shall affix a notice of interim protection to the building, structure. or site. Written notice under this division must:

(a) Cite the authority of the Historic Preservation Commission to put the building, structure, or site under interim protection under this section;

(b) Explain the effect of putting the building, structure, or site under interim protection; and,

(e) Indicate that the interim protection is for a maximum period of six months.

(3) A building or structure put under interim protection under this subsection remains under interim protection for a period of six months or until an ordinance designating the landmark is approved or rejected by the County Council, whichever occurs first.

(4) While a building, structure, or site is under interim protection under this section:

(a) The building, structure, or site may not be demolished or moved; and,

(b) The exterior appearance of the building, structure, or site may not be conspicuously changed by:

1. Addition;
2. Reconstruction; or,
3. Alteration.

(5) The Commission may approve a Certificate of Appropriateness at any time during the period of interim protection, provided the proposed change meets the criteria for considering effect of actions on historic buildings in § 154.254, below, of this Ordinance and any proposed preservation guidelines prepared by the Historic Preservation Commission for the affected building, structure, or site.

(Ord. 51-05, § 8.07.01H, passed 5-10-2005)

154.254 PROCEDURES AND RESPONSIBILITIES WITHIN HISTORIC PRESERVATION DISTRICTS.

Within HP Historic Preservation Districts, the Historic Preservation Commission shall have the following powers:

(A) The Historic Preservation Commission shall issue a certificate of appropriateness before any one of the following actions is taken: the construction, reconstruction, alteration, demolition, or moving of any exterior feature of any building, structure or use. This provision shall be in force on the effective date of the ordinance codified in this chapter. Certificates of appropriateness shall be issued in accordance with the stipulations of this chapter.

(B) Nothing in this chapter shall be construed to prevent the ordinary maintenance and repair of any building, structure, or use which will not involve a change in any exterior features or to prevent the construction, reconstruction, alteration, demolition, or moving of any building, structure, or use which the Building Commissioner or other official having such power may certify as required by the public safety because of an unsafe or dangerous condition.

(C) An application for a building permit, demolition permit, sign permit, or moving permit shall also be deemed to be an application for a certificate of appropriateness. Within five working days of receipt of such application relative to a building, structure, or use in said district, the Building Commissioner shall forward the application to the Historic Preservation Commission for review and approval prior to the issuance of a permit.

(D) Where no other permit is required, an application for a certificate of appropriateness shall be filed with the Historic Preservation Commission on the form prescribed by the Commission. Said application shall include the following information:

1. Name, address and telephone number of the applicant;
2. Location of the subject building, structure, or use;
3. Structural drawings and specifications, floor plans, elevations, cross sectional plans, renderings, diagrams, or other such plans;
4. Landscaping plans;
5. Samples of materials to be used, including colors;
6. Where the proposed change includes a sign, a scale drawing showing the location of the sign on the structure or property, the type of lettering, and the method of illumination; and,
7. Other such information as the Historic Preservation Commission may require under the provisions of this chapter.

CHAPTER 154: PLANNING AND ZONING
HP: Historic Preservation Overlay District

(E) The Historic Preservation Commission shall consider the application within 30 days following its receipt of the application for a certificate of appropriateness, and shall either:

1. Issue a certificate of appropriateness stating that the proposed construction, reconstruction, alteration, demolition, or moving is in conformance with the provisions of this chapter and authorizing the Building Commissioner to issue a building permit, demolition permit, sign permit, or moving permit if required; or,

2. Deny the application stating in writing the reason(s) for such denial. Upon such denial, the applicant may appeal said denial to the County Council which shall make a final determination of the application. Failure of the Historic Preservation Commission to take action within 45 days after receipt of the application by the Commission shall constitute approval of the application.

(F) In making a determination regarding a certificate of appropriateness, the Historic Preservation Commission shall consider the following:

1. Appropriateness of the proposed construction, reconstruction, alteration, demolition, or moving to the preservation of the historic landmark, specifically, and/or the historic preservation district, generally;

2. The detriment to the public welfare if the proposed construction, reconstruction, iteration, demolition, or moving is permitted even though it is not deemed appropriate; and,

3. The potential hardship that the denial of a certificate of appropriateness would cause the applicant.

(G) The Historic Preservation Commission may petition the Building Commissioner to use the legal means available to him to cause the maintenance and/or repair of any historic landmark in accordance with the intent of this subchapter.

(H) Within each of the historic preservation districts established in accordance with the provisions of this subchapter, the Historic Preservation Commission shall establish neighborhood development committees to advise the Historic Preservation Commission in matters relative to the district which the Committee represents.

(Ord. 51-05, § 8.07.011, passed 5-10-2005)

154.255 HISTORIC LANDMARKS AND DISTRICTS – ESTABLISHMENT OF PRESERVATION STANDARDS.

The Historic Preservation Commission shall establish reasonable and just standards for the preservation of historic landmarks and Historic Preservation Districts located within the unincorporated areas of St. Joseph County, including architectural treatment, site development requirements and provisions concerning construction, reconstruction, alteration, demolition, or removal of any building or structures, or parts thereof provided, however, that no standards may

be adopted that are not in keeping with the intent and purpose of this Chapter, and such standards shall be applicable only to exterior features of historic landmarks and of buildings and structures within Historic Preservation Districts. *(Ord. No.7-18; 1/9/2018)*

(Ord. 51-05, § 8.07.01J, passed 5-10-2005)

154.256 HISTORIC LANDMARKS AND DISTRICTS--DEVELOPMENT OF PLANS.

The Historic Preservation Commission shall develop historic preservation plans for historic landmarks and districts and, together with other public or private agencies or officials, assist in the administration and implementation of such plans.

(Ord. 51-05, § 8.07.01K, passed 5-10-2005)

154.257 RESERVED. *(Ord. No.7-18; 1/9/2018)*

154.258 RESERVED. *(Ord. No.7-18; 1/9/2018)*

154.259 REQUESTS TO COUNTY COUNCIL TO DELAY ALTERATION OF HISTORIC LANDMARKS.

(A) Where the Historic Preservation Commission deems it necessary, the Commission may petition the County Council for a temporary delay in the issuance of the required permit(s) for proposed construction, reconstruction, alteration, demolition, or moving of a designated historic landmark for the purpose of preparing a preservation plan for said landmark. Such petition shall be for a specified period of time.

(B) The County Council, by resolution or ordinance, shall approve the Commission's petition when it finds that:

1. Such action will not cause the owner of the subject property to suffer hardship;

2. Such delay will not be injurious to the public health, safety, or welfare; and,

3. In keeping with the intent of this chapter, such action is necessary and appropriate. In no case may the delay approved by the County Council exceed one year, but the Commission may petition the County Council for a continuance of any such delay approved by the County Council in accordance with the same procedures set forth above for the initial petition.

(Ord. 51-05, § 8.07.01N, passed 5-10-2005)

154.260 GIFTS, GRANTS, LEGACIES, BEQUESTS AND ENDOWMENTS.

The Historic Preservation Commission may accept, in the name of the City of South Bend, through gift, grant, legacy, bequest, or endowment monies and preservation easements in

CHAPTER 154: PLANNING AND ZONING
HP: Historic Preservation Overlay District

real property for the purpose of the preservation of historic landmarks and Historic Preservation Districts. Such monies, regardless of the source, must be deposited and may be expended only in accordance with the terms of the Interlocal Agreement between St. Joseph County and the City of South Bend, dated December 12, 2017 as the same may be amended from time to time in accordance with the law. *(Ord. No. 7-18; 1/9/2018)*

(Ord. 51-05, § 8.07.01O, passed 5-10-2005)

154.261 PROCESSING NATIONAL REGISTER OF HISTORIC PLACES INVENTORY--NOMINATION FORMS.

The Historic Preservation Commission, as the local government certified by the Indiana State Historic Preservation Officer and the Secretary of the Interior of the United States, shall process National Register of Historic Places Inventory - Nomination Forms, with respect to any property located in the unincorporated areas of St. Joseph County, in accordance with regulations established by the Historic Preservation Commission consistent with the Indiana Certified Local Government Regulations. *(Ord. No. 7-18; 1/9/2018)*

(Ord. 51-05, § 8.07.01P, passed 5-10-2005)

154.262 ACCEPTANCE OF CONSERVATION EASEMENTS.

The Historic Preservation Commission shall receive and accept preservation easements, determined by the Commission to be appropriate and acceptable, as follows:

(A) The preservation easements shall be created and conveyed in accordance with the provisions of I.C. 32-23-1 et seq. (“Act”);

(B) The Commission shall receive, accept, administer, monitor and enforce the preservation easements in accordance with the provisions of the Act and rules and regulations adopted by the Commission under the Interlocal Agreement between St. Joseph County and the City of South Bend, dated December 12, 2017, as the same may be amended from time to time in accordance with the law. *(Ord. No. 7-18; 1/9/2018)*

(C) The Commission may charge any person granting a preservation easement to the Commission a filing fee and an administration fee, as such fees may be prescribed by the Commission from time to time. The fees shall be reasonably related to the Commission’s costs of processing, recording and periodically reviewing and monitoring the preservation easements; *(Ord. No. 7-18; 1/9/2018)*

(D) The Commission may enforce the terms and provisions of the documents creating any preservation easement and may collect from the person or persons against whom such enforcement is sought the Commission’s costs of enforcement, including without limitation court costs and attorneys’ fees, and the document creating any preservation easement accepted by the Commission shall provide for the payment of such enforcement costs;

(E) The Commission may accept a preservation easement only if all persons with an interest in the subject real property at the time that the easement is granted join in the grant and conveyance of the easement to the Commission; and,

(F) As used herein, “preservation easement” means a non-possessory interest of the Historic Preservation Commission in real property imposing limitations or affirmative obligations for the purpose of preserving the historical, architectural, archaeological, or cultural aspects of such real property.

(Ord. 51-05, § 8.07.01Q, passed 5-10-2005)

154.263 FEES OF CERTIFICATES OF APPROPRIATENESS.

The submission of a certificate of appropriateness shall be accompanied by fees as prescribed by the Historic Preservation Commission from time to time. *(Ord. No. 7-18; 1/9/2018)*

(Ord. 51-05, § 8.07.01R, passed 5-10-2005)

U: UNIVERSITY DISTRICT

154.275 INTENT.

The U: University District is established to promote the development, expansion and modernization of a major college or university campus, in which a diversity of uses, functions, and facilities is necessary to best perform the functions of a college or university and to permit appropriate uses necessary to facilitate the highest level of education. The U: District may also provide for a wide range of commercial type uses which are accessory to or typically associated with a college or university campus (e.g., bookstore, hotel, food sales & service, school supplies, personal services, convenience stores, etc.) and located on the campus.

(Ord. 51-05, § 8.07.02, passed 5-10-2005)

154.276 PERMITTED USES.

(A) *Primary uses.* University Uses, including but not limited to:

- (1) Administrative offices;
- (2) Assembly halls;
- (3) Athletic or convocation facilities;
- (4) Classroom buildings;
- (5) Library;
- (6) Renewable energy systems. See §§ 154.505 through 154.516. *(Ord. 17-20, 2/18/20)*
- (7) Teaching or research facilities or Laboratories;
- (8) Stadiums or arenas;
- (9) Student housing, including but not limited to dormitories, graduate student housing, married student housing, fraternity houses, sorority houses or other group dwellings; and
- (10) Student unions.

(B) *Special uses.* Any use which is indirectly related to the operations of a major college or university, but which use may include characteristics more typically associated with heavy commercial or industrial districts, including but not limited to:

- (1) Airport;
- (2) Heliport;
- (3) Radar installations and towers;

CHAPTER 154: PLANNING AND ZONING

U: University District

(4) Renewable energy systems. See §§ 154.505 through 154.516; and (*Ord. 69-09, passed 8-11-2009; Ord. 17-20, 2/18/20*)

(5) Wireless communication facilities. (*Ord. 57-07, passed 7-17-2007*)

(C) *Accessory uses.* Any use which is appropriate and incidental to the primary uses permitted within the U District, and which is owned or occupied by the applicable college or university. Such accessory uses, by way of example, shall include but not be limited to:

(1) Cemetery;

(2) Child Care Center;

(3) Crematory;

(4) Golf Course;

(5) Renewable energy systems. See §§ 154.505 through 154.516; and (*Ord. 69-09, passed 8-11-2009; Ord. 17/20, 2/18/20*)

(6) Utilities (water plants, power plants, treatment plants, etc.).

(D) *Temporary uses.* Buildings and structures incidental to construction work only for the period of such work.

(*Ord. 51-05, § 8.07.02A, passed 5-10-2005; Ord. 57-07, passed 7-17-2007; Ord. 69-09, §§ 15, 16, passed 8-11-2009*). Penalty, see § 154.999

154.277 DEVELOPMENT STANDARDS.

(A) *Minimum lot width and frontage.* Each college or university shall have a minimum lot width and frontage on a public street of 100 feet.

(B) *Minimum district area.* Each University District shall include a minimum of five contiguous acres.

(C) *Yards and building setbacks.*

(1) *Front.* A front yard and building setback measured from the greater of the proposed right-of-way or existing right-of-way shall be as provided as follows. Notwithstanding any other provision of this Zoning Ordinance, a yard adjacent to a private street shall be considered a side yard and a lot line which is adjacent to or the centerline of a private street shall be considered to be a side lot line, and the minimum side yard and setback shall be applied. (*Ord. 45-21, 5/11/21*)

Limited access highway	50 feet
All other streets	25 feet

(2) *Minimum side yard and setback.* The minimum side yard and setback shall be as follows provided below. In the case of lot lines which are centerlines of a private street, the minimum setback shall be measured from a line within the lot which is parallel to the centerline and 30' from the centerline. (*Ord. 45-21, 5/11/21*)

Abutting any U District	0 feet
Minimum side yard	10 feet
Minimum side yard abutting a residential district	20 feet

(3) *Minimum rear yard and setback.* The minimum rear yard and setback shall be as follows:

Abutting any U District	0 feet
Minimum rear yard	10 feet
Minimum rear yard abutting a Residential District	20 feet

(D) *Use of yards.* All yards shall be landscaped in compliance with the requirements for perimeter yard landscaping as set forth in §§ 154.330 through 154.339 and shall be maintained as open space free from buildings or structures except where expressly permitted below:

CHAPTER 154: PLANNING AND ZONING
U: University District

(1) *Minimum front yards.* Minimum front yards may include:

(a) Along limited access highways may include: loading areas located no closer to the right-of-way than 15 feet;

(b) All front yards may include: parking areas, interior access drives, and interior access driveways, located no closer to the right-of-way than 15 feet; driveways, greenways, sidewalks, fences, or signs as regulated by §§ 154.370 through 154.380.

(2) *Minimum front yards across from a residential district or residential use.* Minimum front yards across from a residential district or residential use may include: driveways, greenways, sidewalks, fences, and signs as regulated by §§ 154.370 through 154.380.

(3) *Minimum side and rear yards.* Minimum side and rear yards may include: interior access drives, interior access driveways, greenways, sidewalks, and fences.

(4) *Minimum side and rear yards abutting a residential district or residential use.* Minimum side and rear yards abutting a residential district or residential use may include interior access driveways, greenways, sidewalks, and fences.

(Ord. 52-20; 8/25/20)

(E) Maximum building height – unlimited, provided, however, whenever a minimum setback is measured from:

(a) A front lot line across from a district which permits single family dwellings as a permitted use (either under this Chapter or a zoning ordinance adopted by an abutting jurisdiction); or,

(b) A side lot line or rear lot line abutting a district which permits single family dwellings as a permitted use (either under this chapter or a zoning ordinance adopted by an abutting jurisdiction), the maximum building height shall not exceed 35 feet plus one additional foot of setback for each one foot or portion thereof in building height in excess of 35 feet.

(F) *Landscaping.* See §§ 154.330 through 154.339.

(G) *Lighting.* See §§ 154.350 through 154.355.

(H) *Signs.* See §§ 154.370 through 154.380. (Ord. 52-20; 8/25/20)

(I) *Off-Street Parking.* See § 154.415 through 154.423. (Ord. 52-20; 8/25/20)

(J) *Off-Street Loading.* See §§ 154.435 through 154.442. (Ord. 52-20; 8/25/20)

(Ord. 51-05, § 8.07.02B, passed 5-10-2005) Penalty, see § 154.999

FP: FLOODPLAIN REGULATIONS

154.290 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES.

(A) *Statutory Authorization.* The Indiana Legislature has in IC 36-7-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the County Council of St. Joseph County, Indiana does hereby adopt the following floodplain management regulations.

(B) *Findings of Fact.*

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

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

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

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

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

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

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

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

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

CHAPTER 154: PLANNING AND ZONING
FP: Floodplain Regulations

- (D) *Objectives.* The objectives of this ordinance are:
- (1) To protect human life and health;
 - (2) To minimize expenditure of public money for costly flood control projects;
 - (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - (4) To minimize prolonged business interruptions;
 - (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains; and
 - (6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas.

154.291 DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. In addition to the definitions contained in Sub-Chapter Definitions, Section 154.635, the following definitions shall apply to the Floodplain Regulations of this Chapter.

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

(1) **Zone A:** Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown.

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

(3) **Zone AO:** Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

(4) Zone AH: Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone.

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

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

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

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

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance.

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

Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) means the elevation of the one-percent annual chance flood.

Basement means that portion of a structure having its floor sub-grade (below ground level) on all sides.

Boundary River means the part of the Ohio River that forms the boundary between Kentucky and Indiana.

Boundary River Floodway means the floodway of a boundary river.

Building - see "Structure."

Community means a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

Community Rating System (CRS) means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

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

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

Development means any man-made change to improved or unimproved real estate including but not limited to:

- (1) construction, reconstruction, or placement of a structure or any addition to a structure;
- (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 180 days;
- (3) installing utilities, erection of walls and fences, construction of roads, or similar projects;
- (4) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- (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.

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

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

Elevation Certificate is a certified statement that verifies a structure's elevation information.

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

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

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA means the Federal Emergency Management Agency.

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

Flood Boundary and Floodway Map (FBFM) means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

CHAPTER 154: PLANNING AND ZONING

FP: Floodplain Regulations

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

Flood Prone Area means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See “Flood”)

Flood Protection Grade (FPG) is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (See “Freeboard”)

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

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

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

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

Floodproofing certificate is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

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

Freeboard means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many

unknown factors that could contribute to flood heights greater than those calculated for the base flood.

Fringe is those portions of the floodplain lying outside the floodway.

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

Highest adjacent grade means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

Historic structures means any structures individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

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

Letter of Final Determination (LFD) means a letter issued by FEMA during the mapping update process which establishes final elevations and provides the new flood map and flood study to the community. The LFD initiates the six-month adoption period. The community must adopt or amend its floodplain management regulations during this six-month period unless the community has previously incorporated an automatic adoption clause.

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

(1) **Letter of Map Amendment (LOMA)** means an amendment to the currently effective FEMA map that establishes that a property is not located in a SFHA through the submittal of property-specific elevation data. A LOMA is only issued by FEMA.

CHAPTER 154: PLANNING AND ZONING

FP: Floodplain Regulations

(2) **Letter of Map Revision (LOMR)** means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

(3) **Letter of Map Revision Based on Fill (LOMR-F)** means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

Lowest adjacent grade means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

Lowest floor means the lowest elevation described among the following:

- (1) The top of the lowest level of the structure.
- (2) The top of the basement floor.
- (3) The top of the garage floor, if the garage is the lowest level of the structure.
- (4) The top of the first floor of a structure elevated on pilings or pillars.
- (5) The top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:
 - (a) the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls; if a structure has more than one enclosed area, each shall have openings on exterior walls;
 - (b) the total net area of all openings shall be at least one (1) square inch for every one square foot of enclosed area; the bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,
 - (c) such enclosed space shall be usable solely for the parking of vehicles and building access.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

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

National Flood Insurance Program (NFIP) is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

National Geodetic Vertical Datum (NGVD) of 1929 as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction means any structure for which the “start of construction” commenced after the effective date of the community’s first floodplain ordinance.

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

Non-boundary river floodway means the floodway of any river or stream other than a boundary river.

North American Vertical Datum of 1988 (NAVD 88) as adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

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

One-percent annual chance flood is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See “Regulatory Flood”.

Physical Map Revision (PMR) is an official republication of a community’s FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

CHAPTER 154: PLANNING AND ZONING

FP: Floodplain Regulations

Public safety and nuisance means anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle means a vehicle which is: (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

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

Regulatory flood means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Section 154.292 (B) of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

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

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

Special Flood Hazard Area (SFHA) means those lands within the jurisdiction of St. Joseph County, Indiana subject to inundation by the regulatory flood. The SFHAs of the St. Joseph County, Indiana are generally identified as such on the St. Joseph County, Indiana and Incorporated Areas Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date. (These areas are shown on a FIRM as Zone A, AE, A1- A30, AH, AR, A99, or AO).

Start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings,

piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

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

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

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

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

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

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

Zone means a geographical area shown on a FHBM or FIRM that reflects the severity or type of flooding in the area.

Zone A (see definition for A zone).

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

154.292 GENERAL PROVISIONS

(A) *Lands to Which This Ordinance Applies.* This ordinance shall apply to all SFHAs and known flood prone areas within the jurisdiction of St. Joseph County, Indiana.

(B) *Basis for Establishing Regulatory Flood Data.* This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below:

(1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of St. Joseph County, Indiana shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of St. Joseph County, Indiana and Incorporated Areas dated January 6, 2011 and the corresponding Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date.

(2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of St. Joseph County, Indiana, delineated as an "A Zone" on the St. Joseph County, Indiana and Incorporated Areas Flood Insurance Rate Map dated January 6, 2011 as well as any future updates, amendments, or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.

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

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

(C) *Establishment of Floodplain Development Permit.* A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard.

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

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

(F) *Discrepancy between Mapped Floodplain and Actual Ground Elevations.*

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

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

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

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

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and,
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

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

CHAPTER 154: PLANNING AND ZONING

FP: Floodplain Regulations

(I) *Penalties for Violation.* Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Ordinance of St. Joseph County, Indiana. All violations shall be punishable by a fine (See Section 154.999 for a schedule of fines).

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

(2) The St. Joseph County Zoning Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

(3) Nothing herein shall prevent St. Joseph County, Indiana from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

154.293 ADMINISTRATION

(A) *Designation of Administrator.* The County Council of St. Joseph County, Indiana hereby appoints the Zoning Administrator to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

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

(1) *Application Stage*

(a) A description of the proposed development;

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

(c) A legal description of the property site;

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

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

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

(g) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to DNR for approval and then to FEMA as a Letter of Map Revision. (See Section 154.293 (C) (6) for additional information).

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

(3) *Finished Construction.* Upon completion of construction, an elevation certification (FEMA Elevation Certificate Form 81-31 or any future updates) which depicts the "as-built" lowest floor elevation is required to be submitted to the Floodplain Administrator. If the project includes a floodproofing measure, floodproofing certification (FEMA Floodproofing Certificate Form 81-65 or any future updates) is required to be submitted by the applicant to the Floodplain Administrator.

(C) *Duties and Responsibilities of the Floodplain Administrator.* The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

Duties and Responsibilities of the Floodplain Administrator shall include, but not be limited to:

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

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

(3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Section 154.294 (E) and Section 154.294 (G) (1) of this ordinance, and maintain a record of such authorization (either copy of actual permit or floodplain analysis/regulatory assessment);

CHAPTER 154: PLANNING AND ZONING

FP: Floodplain Regulations

- (4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits/authorizations are to be maintained on file with the floodplain development permit;
- (5) Maintain and track permit records involving additions and improvements to residences located in the floodway;
- (6) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA;
- (7) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and “as-built” elevation and floodproofing data for all buildings constructed subject to this ordinance;
- (8) Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community;
- (9) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
- (10) Review certified plans and specifications for compliance;
- (11) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Section 154.293 (B);
- (12) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed, in accordance with Section 154.293 (B);
- (13) Stop Work Orders:
 - (a) Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.
 - (b) Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.
- (14) Revocation of Permits:
 - (a) The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false statement or

misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

(b) The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.

154.294 PROVISIONS FOR FLOOD HAZARD REDUCTION

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

(1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

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

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

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

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

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

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

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

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

CHAPTER 154: PLANNING AND ZONING

FP: Floodplain Regulations

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

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

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

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

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

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

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

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

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

(1) In addition to the requirements of Section 154.294 (A), all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

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

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

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

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

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

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

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

(2) *Residential Structures.* New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor, including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 154.294 (B) (4).

(3) *Non-Residential Structures.* New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 154.294 (B) (4). Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

(a) A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the floodplain administrator as set forth in Section 154.293 (C) (12).

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

CHAPTER 154: PLANNING AND ZONING
FP: Floodplain Regulations

(4) *Elevated Structures.*

(a) New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

(b) Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:

1. Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
2. The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
3. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
4. Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
5. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
6. The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.
7. Property owners shall be required to execute and record with the structure's deed a non-conversion agreement declaring that the area below the lowest floor (where the interior height of the enclosure exceeds 6 feet) shall not be improved, finished or otherwise converted; the community will have the right to inspect the enclosed area. The non-conversion agreement shall be recorded in the office of the St. Joseph County Recorder.

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

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

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

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

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

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

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

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

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

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

2. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 154.294 (B) (4).

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

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

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

CHAPTER 154: PLANNING AND ZONING
FP: Floodplain Regulations

2. Fully enclosed areas formed by foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 154.294 (B) (4).

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

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

1. be on site for less than 180 days;

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

3. meet the requirements for “manufactured homes” as stated earlier in this section.

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

(a) Shall not be used for human habitation.

(b) Shall be constructed of flood resistant materials.

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

(d) Shall be firmly anchored to prevent flotation.

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

(f) Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 154.294 (B) (4).

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

(C) *Standards for Subdivision Proposals.*

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

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

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

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

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

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

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

(E) *Standards for Identified Floodways.*

(1) Located within SFHAs, established in Section 154.292 (B) of this ordinance, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of non-substantial additions/ improvements to residences in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources).

CHAPTER 154: PLANNING AND ZONING

FP: Floodplain Regulations

(2) No action shall be taken by the Floodplain Administrator until a permit (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 154.294 of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

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

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

(F) *Standards for Identified Fringe.* If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Section 154.294 of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

(G) *Standards for SFHAs without Established Base Flood Elevation and/or Floodways/Fringes.*

(1) Drainage area upstream of the site is greater than one square mile:

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

(b) No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway or a floodplain analysis/regulatory assessment citing the 100 year-flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

(c) Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Section 154.294 of this ordinance have been met.

(2) Drainage area upstream of the site is less than one square mile:

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

(b) Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section 154.294 of this ordinance have been met.

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

(H) *Standards for Flood Prone Areas.* All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet general standards as required per Section 154.294.

154.295 VARIANCE PROCEDURES

(A) *Designation of Variance and Appeals Board.* The St. Joseph County Area Board of Zoning Appeals (ABZA) shall hear and decide appeals and requests for variances from requirements of this ordinance.

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

(C) *Variance Procedures.* In passing upon such applications, the board (ABZA) shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

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

CHAPTER 154: PLANNING AND ZONING

FP: Floodplain Regulations

- (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (3) The importance of the services provided by the proposed facility to the community;
- (4) The necessity of the facility to a waterfront location, where applicable;
- (5) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (6) The compatibility of the proposed use with existing and anticipated development;
- (7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (8) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (9) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site; and,
- (10) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(D) *Conditions for Variances*

- (1) Variances shall only be issued when there is:
 - (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship; and,
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- (2) No variance for a residential use within a floodway subject to Section 154.294 (E) or Section 154.294 (G) (1) of this ordinance may be granted.

(3) Any variance granted in a floodway subject to Section 154.294 (E) or Section 154.294 (G) (1) of this ordinance will require a permit from the Indiana Department of Natural Resources.

(4) Variances to the Provisions for Flood Hazard Reduction of Section 154.294 (B) of this ordinance, may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.

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

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

(7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (see Section 154.295 (E)).

(8) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (see Section 154.295 (E)).

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

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

(2) Such construction below the flood protection grade increases risks to life and property. A copy of the notice shall be recorded by the owner in the office of the St. Joseph County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

(F) *Historic Structure.* Variances may be issued for the repair or rehabilitation of “historic structures” upon a determination that the proposed repair or rehabilitation will not

CHAPTER 154: PLANNING AND ZONING
FP: Floodplain Regulations

preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

(G) *Special Conditions.* Upon the consideration of the factors listed in Section 154.295, and the purposes of this ordinance, the St. Joseph County Area Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

154.296 SEVERABILITY. If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

L: LANDFILL OVERLAY DISTRICT

154.315 INTENT.

The Landfill Overlay District is established to promote the development and expansion of solid and liquid waste disposal facilities, landfills, and other comparable facilities, in order that the community is assured of a safe and responsible development. (*Ord. 101-07, § 2, passed 11-13-2007*)

154.316 PERMITTED USES.

(A) *Primary Uses.*

- (1) Those uses allowed as permitted uses in the underlying zoning district;
- (2) Sanitary landfill or solid or liquid waste disposal facility, subject to the following minimum development standards:

(a) The initial phase of the facility shall not be operated on a site of less than 40 acres in area. Additions to the initial site may be in smaller acreages.

(b) No portion of such site within 50 feet from adjacent property lines shall be utilized for such use; provided, however, that where a residential district or principal residential use shares contiguous boundaries with the site at the time such site was established, no portion of such site within 100 feet of the boundary lines of such residential district or the property lines of such principal residential use shall be utilized for such use.

(c) Drainage plans for such use and the proposed site shall have been approved by the County Engineer and the County Surveyor and the County Engineer shall have approved curb cuts within and upon such proposed site.

(4) No sanitary landfill, or solid or liquid waste disposal facility, shall be approved until the applicant and the owner of the proposed site shall execute an agreement in favor of St. Joseph County by the terms of which such applicant and owner shall agree to maintain the site being utilized for the said use, and to restore and reclaim the site within a time period specified in such agreement, following termination of such use, according to the following minimum specifications:

1. A uniform contour that is consistent with the approved site plan shall be established and maintained throughout the area;

2. Impervious soil and soil suitable for growing vegetation shall be replaced over the site to permanent uniform depths not less than that then required by applicable state standards and regulations; and

CHAPTER 154: PLANNING AND ZONING

L: Landfill Overlay District

3. The site shall be seeded, landscaped, and maintained with perennial plant material until a permanent type ground cover is established to prevent erosion.

(B) *Special Uses.* Those uses allowed as permitted uses in the underlying zoning district.

(C) *Accessory Uses.* Those uses allowed as permitted uses in the underlying zoning district

(Ord. 101-07, § 2-A, passed 11-13-2007) Penalty, see § 154.999

154.317 GENERAL DEVELOPMENT STANDARDS.

Those standards set out in the underlying zoning district except for those standards set out above for sanitary landfills or solid or liquid waste disposal facilities.

(Ord. 101-07, § 2-B, passed 11-13-2007)

LANDSCAPE REGULATIONS

154.330 INTENT.

Landscaping is an essential element of the site design process and is an important feature in promoting the public health, safety, comfort, convenience and general welfare of St. Joseph County. Landscaping is intended to: mitigate incompatibilities between adjacent land uses; reduce the negative impacts of higher intensity land uses on less intense adjacent land uses; provide a critical visual and noise buffering effect between higher intensity districts and less intense districts; lessen the impact of development on the environment by reducing glare and heat buildup; and, break up large expanses of pavement so as to reduce impervious surface area, storm water run-off and the level of pollutants from non-point sources.

(Ord. 51-05, § 8.08.01, passed 5-10-2005)

154.331 GENERAL LANDSCAPING PROVISIONS.

(A) *Applicability.* Within the unincorporated areas of St. Joseph County, all new developments and all additions to existing development (i.e., building additions, parking area expansions, etc.) shall provide landscaping as required by this subchapter for such new development or addition.

(B) *Location of Landscaping.* Required landscaping areas shall consist of four locations on a site:

- (1) Landscaping of required perimeter yards;
- (2) Foundation landscaping;
- (3) Interior parking area landscaping; and
- (4) Parking area screening.

(C) *Types of landscape screening.* Two types of landscape screening are provided for in this chapter: type 1: open; and, type 2: full screening.

(1) *Type 1: open landscaping.* The type 1: open landscaping creates a pleasant visual experience but provides a minimal visual or sound barrier. Therefore, type 1: open landscaping is intended for use on lots where the district of the abutting lots includes permitted uses with similar intensities, lights, sounds and regular operations and would have minimal, if any, negative impact on adjacent properties. Type 1: open landscaping requires a majority of the landscape materials to be of a shade tree variety with flexibility to add color, interest or heavier visual screening, if desired.

(2) *Type 2: full screening landscaping.* The type 2: full screening landscaping shall be designed to create a substantial visual barrier from grade to at least six feet above grade at time of planting. Type 2: full screening landscaping should also provide a sound

CHAPTER 154: PLANNING AND ZONING
Landscape Regulations

barrier effect. Type 2: full screening landscaping is intended to be placed on lots in higher intensity districts which abut lots located in lesser intense districts that may be adversely impacted by the lights, sounds and regular operations of the higher intensity district. Type 2: full screening landscaping requires significant use of evergreen trees to provide year-round buffering while allowing flexibility to add color and interest with deciduous trees or shrubs/hedge plants. Any evergreen species that drops its lower branches (e.g., white pines, etc.) shall not be permitted as a "evergreen" tree in a Type 2: full screening landscaping area.



Example of Type 1 – Open Landscaping



Example of Type 2: Full Screening Landscaping

(D) *Live vegetation.* All trees and shrubs required by this chapter shall be living vegetation.

(E) *Ground cover.* Ground cover within landscape areas may consist of: grasses; preserved existing natural vegetation (i.e., thickets); or, mulch, chipped bark or other natural forms of ground cover. Loose stone, rock or gravel may be used as a landscaping accent, but shall not exceed 20% of the area of the required landscape area in which it is used.

(Ord. 51-05, § 8.08.01A, passed 5-10-2005) Penalty, see § 154.999

154.332 LANDSCAPING OF REQUIRED FRONT YARDS AND REQUIRED SIDE AND REAR YARDS ABUTTING RESIDENTIAL DISTRICTS AND RESIDENTIAL USES.

(A) *Front yards.* The following landscaping requirements apply to any portion of a front yard, including yards along a limited access highway, which are located in any business/commercial district, industrial district, or residential districts for multifamily dwellings, residential districts for a special uses, nonresidential uses in a residential district, and which yard is not occupied by improvements permitted in the applicable district:

(1) *Deciduous shade trees.* A minimum of one shade tree planted for every 40 feet of the applicable lot line. Such trees may be evenly spaced at 40 feet on center or grouped together, provided however, in no case shall spacing between trees exceed 80 feet; or,

(2) *Deciduous ornamental trees.* A minimum of one ornamental tree planted for every 25 feet of the applicable lot line. Such trees may be evenly spaced at 25 feet on center or grouped together, provided however, in no case shall spacing between trees exceed 50 feet.

(B) *Side and rear yards abutting residential districts and residential uses.*
Landscaping required in any portion of a side yard or rear yard located in a:

- (1) Business/commercial district;
- (2) Industrial district; or,

(3) Residential district occupied by a special use or nonresidential use, and which is not occupied by improvements permitted in the applicable district, shall consist of either type 1: open landscaping, or type 2: full screening landscaping as specified below and in Table 154-1: Landscaping Abutting Residential Districts or Residential Uses.

Zoning of Adjacent Property	Zoning of Subject Property							
	SU / U ⁽¹⁾	O/B	O	B	C	I		PUD
R	1	1	1	2	2	2		(2)
R-2	1	1	1	2	2	2		(2)
PUD ⁽³⁾	1	1	1	2	2	2		(2)

(1) Special use located in a residential district; or U: University District or other special use districts
(2) Landscaping may be type 1: open landscaping or type 2: full screening landscaping and shall be determined as part of the review and determination of the planned unit development
(3) Residential portion of a PUD
1. Type 1: open landscaping. See § 154.332(A) above
2. Type 2: full screening landscaping shall contain a minimum of 4 evergreen trees for every 30 feet of the length of a lot line which abuts a residential district or a residential portion of a PUD district; the trees shall be evenly spaced in a staggered double row where the rows are not more than 12.5 feet apart.

(Ord. 76-19, 9/10/2019)

(C) *Utility easement landscaping.* In those instances where overhead utilities are located within required yards, plant material selections shall be limited to small growing trees which typically do not exceed 25 feet in height at maturity. Appropriate utility easement plant materials include: ornamental trees, such as the redbud, dogwood and crabapple; or, evergreen trees (narrow spread), such as the emerald green arborvitae. See § 154.339 for additional limitations.

(D) Note: See § 154.339 for alternate landscape materials or landscape design options.

(Ord. 51-05, § 8.08.01B, passed 5-10-2005) Penalty, see § 154.999

CHAPTER 154: PLANNING AND ZONING
Landscape Regulations

154.333 FOUNDATION LANDSCAPING.

Foundation landscaping shall be provided for all new buildings and building additions in all districts (except for the following: agricultural uses, single family dwellings or two family dwellings) in compliance with the following requirements.



Example of Foundation Landscaping

(A) *Generally.* Foundation landscaping shall be applicable to any elevation of a new building or building addition which:

(1) Is over 35 feet in width;
and,

(2) Includes the main or primary customer entrance or is oriented toward a front yard.

(B) *Requirements.* When required, foundation landscaping shall be provided at a rate of:

(1) One shade tree for every 50 feet of width of the applicable elevation;

(2) One ornamental tree or one evergreen tree for every 35 feet of width of the applicable elevation; or,

(3) Ten hedge plants or shrubs for every 50 feet of width of the applicable elevation.

(C) *Combined or pro-rated.* The above rates of foundation landscaping may be combined or pro-rated, as necessary, based upon the length of the applicable elevation.

(D) *Dimensions.* Foundation landscaping areas shall maintain a minimum dimension of six feet in the smallest dimension, with a minimum of 36 square feet of foundation landscaping area provided for each tree and for every two hedge plants or shrubs.

(E) *Location.* Foundation landscaping areas shall be located along or adjacent to the applicable building elevation, provided, however, where a portion of the building elevation is devoted to pedestrian ingress/egress, vehicular ingress/egress, loading or drop-off zones, foundation landscaping areas may be aggregated into one or more locations along or abutting such building elevation.

(F) *Relationship to buildings.* Foundation landscaping areas shall be located:

(1) Adjacent to the building; or,

(2) So as to begin within 15 feet of the building (i.e., to allow for a walkway or similar improvements adjacent to the building).

(Ord. 51-05, § 8.08.01C, passed 5-10-2005) Penalty, see § 154.999

154.334 INTERIOR OFF-STREET PARKING AREA LANDSCAPING.

All new surface, off-street parking areas containing 30 parking spaces or more and all expanded surface off-street parking areas which are increased by 30 parking spaces or more, whether such increase occurs at one time or in successive stages, which are located in any commercial/business district, residential district for multifamily dwellings, residential districts for special uses or nonresidential uses, shall be subject to the following regulations:

- (A) All such off-street parking areas shall include at least one required interior landscape island for every 30 parking spaces (or fraction thereof), or 10,000 square feet of off-street parking area, whichever yields the greater number.
- (B) Each required interior landscape island shall measure a minimum of eight feet by 18 feet.
- (C) Each required interior landscape island shall contain a minimum of one deciduous shade tree, one deciduous ornamental tree or one evergreen tree.
- (D) Interior landscape islands shall be located at the end of parking bays so as to define vehicular and pedestrian traffic patterns.
- (E) All trees shall comply with the size at time of planting as indicated in Table 154-2: Minimum Size at Time of Planting.
- (F) Area devoted to interior landscape islands shall be in addition to any required perimeter yard landscaping, foundation landscaping or parking area screening required by this Chapter.
- (G) Off-street parking areas shall include areas used for the parking or display or automobiles, boats, truck or farm equipment associated with a dealership or leasing business.
- (H) Off-street parking areas shall not include areas used for semi-truck loading areas, semi-truck maneuvering areas and semi-truck parking areas.



Example of Interior Off-Street Parking Area Landscaping

(Ord. 51-05, § 8.08.01D, passed 5-10-2005) Penalty, see § 154.999

154.335 OFF-STREET PARKING AREA SCREENING.

(A) The regulations of this section shall apply to all new surface, off-street parking areas and expanded surface off-street parking areas for any use except a single family dwelling or two family dwelling.

(B) In addition to perimeter yard landscaping, foundation landscaping and interior parking area landscaping, if an off-street parking area is located: between a front building line and a front lot line; between a side building line and any side lot line abutting a residential district or residential use; or, between a rear building line and any rear lot line abutting a residential district or residential use, the edge of the parking area facing such front lot line, side lot line or rear lot line shall be screened by a compact row of shrubs/hedge plants planted three feet on-center across the front of the parking area and a minimum of 24 inches in height at the time of planting and located between such front lot line, side lot line or rear lot line and the edge of the parking area.



Example of Off-Street Parking Area Screening

(Ord. 51-05, § 8.08.01E, passed 5-10-2005)
 Penalty, see § 154.999

154.336 MINIMUM PLANT MATERIAL SIZES AT TIME OF PLANTING.

All plant materials specified by this §§ 154.330 through 154.339 shall comply with the minimum sizes at time of planting as specified in Table 154-2: Minimum Size at Time of Planting.

<i>Table 154-2: Minimum Size at Time of Planting</i>	
<i>Plant Category</i>	<i>Minimum Size</i>
Deciduous Shade Tree (a.k.a. Overstory Tree)	2 ½ inch caliper at 6 inches above the ground
Deciduous Ornamental Tree (a.k.a. Understory Tree)	1 ½ inch caliper at 6" above the ground
Evergreen Tree	6' high
Evergreen Tree (Narrow Spread)*	4' high
Hedge Plants / Shrubs	24" high
* Evergreen tree (narrow spread), such as arborvitae, may only be used as an alternate plant material subject to the provisions of § 154.339	

(Ord. 51-05, § 8.08.01F, passed 5-10-2005) Penalty, see § 154.999

154.337 INSTALLATION OF LANDSCAPING.

All landscaping required by this chapter shall be installed prior to the issuance of a final certificate of occupancy for the use on the real estate. If seasons, weather conditions or other conditions beyond the applicants' control create a situation which is not appropriate for the installation of landscaping immediately prior to the issuance of a final certificate of occupancy, the Zoning Administrator may issue a temporary certificate of occupancy pending the installation of landscaping required by this chapter not later than three months after the start of the next planting season after the use of the real estate is commenced. The start of planting seasons shall be March 15 and August 15 of each year.

(Ord. 51-05, § 8.08.01G, passed 5-10-2005)

154.338 MAINTENANCE OF LANDSCAPING.

(A) The owner shall be responsible for the replacement of any required planting, which is removed or dies after the date of planting. Such replacement shall occur within three months after the start of the next planting season.

(B) Failure to maintain required landscape areas shall constitute a violation of this Ordinance enforceable under the provisions of §§ 154.615 through 154.620.

(Ord. 51-05, § 8.08.01H, passed 5-10-2005) Penalty, see § 154.999

154.339 ALTERNATE LANDSCAPE PLAN APPROVAL.

The Zoning Administrator, upon request by an applicant, shall have the authority to approve an alternate landscape plan prepared in accordance with the following requirements:

(A) *Redistribution of Plant Materials.* The Zoning Administrator may approve a redistribution of plant materials required for perimeter yard landscaping to other locations on the lot, or, a redistribution of plant materials required for a foundation landscaping area to other locations on the lot. The Zoning Administrator shall not have the authority to modify the landscape requirements of this subchapter pertaining to yards abutting residential districts or residential uses.

(B) *Credit for preservation of existing trees and vegetation.* In order to encourage the preservation of existing trees and vegetation, the Zoning Administrator may approve a Preservation Landscape Plan which utilizes the designation of one or more tree save areas in lieu of new plantings within a required yard, a required foundation landscaping area or an interior parking area island. Such Preservation Landscape Plan shall:

(1) Demonstrate that sufficient trees or vegetation shall be preserved to equal or exceed the level of screening required by the basic provisions of this subchapter; and,

(2) Provide that, in the event trees designated for saving in the tree save area are damaged or die within three years of completion of construction on the site, replacement

CHAPTER 154: PLANNING AND ZONING
Landscape Regulations

trees shall be planted in the designated tree save area sufficient to provide landscaping which is, at a minimum, equivalent to the minimum requirements of this subchapter for new plantings.

(C) *Alternatives for front yard, side yard and rear yards in all business/commercial districts, industrial districts, residential districts for multifamily dwellings and along a limited access highway.* In order to provide flexibility and creativity in landscape designs, the Zoning Administrator may approve the following plant substitutions in a required front yard, side yard or rear yard:

(1) Hedge plants or shrubs may be substituted for a maximum of 25% of the required number of shade trees (rounded down to the nearest whole number) at a rate of 10 hedge plants or shrubs for each shade tree so replaced;

(2) Hedge plants or shrubs may be substituted for a maximum of 25% of the required number of ornamental trees (rounded down to the nearest whole number) at a rate of six hedge plants or shrubs for each ornamental tree so replaced;

(3) Evergreen trees may be substituted for ornamental trees at a rate of one (1) evergreen tree for each ornamental tree so replaced;

(4) Evergreen trees may be substituted for shade trees at a rate of three evergreen trees for every two shade trees so replaced;

(5) Ornamental trees and shade trees may be substituted with each other at a rate of three ornamental trees for every two shade trees; and

(6) Evergreen trees (narrow spread) may be substituted for evergreen trees at a rate of three evergreen trees (narrow spread) for each evergreen tree.

(D) *Landscaping alternatives abutting residential districts or residential uses.* In order to provide flexibility and creativity in landscape designs, the Zoning Administrator may approve the following plant substitutions abutting residential districts or residential uses:

(1) Hedge plants or shrubs may be substituted for a maximum of 10% of the required number of evergreen trees (rounded down to the nearest whole number) at a rate of ten hedge plants or shrubs for each evergreen tree so replaced;

(2) Ornamental trees may be substituted for a maximum of 10% of the required number of evergreen trees (rounded down to the nearest whole number) at a rate of one ornamental tree for each evergreen tree so replaced;

(3) Shade trees may be substituted for a maximum of 10% of the required number of evergreen trees (rounded down to the nearest whole number) at a rate of one shade tree for each evergreen tree so replaced;

(4) Evergreen trees (narrow spread) may be substituted for a maximum of 10% of the required number of evergreen trees (rounded down to the nearest whole number) at a rate of four evergreen trees (narrow spread) for each evergreen tree; and

(5) In no case shall the total combined percentage of hedge plants or shrubs, shade trees, ornamental trees, or evergreen trees (narrow spread) which are substituted for evergreen trees exceed 25%.

(E) *Foundation landscape alternatives.* In order to provide flexibility and creativity in landscape designs, the Zoning Administrator may approve a foundation landscape plan which includes any combination of shade trees, ornamental trees, evergreen trees, or hedge plants/shrubs, provided that the total amount of plant materials along the building remains proportional to the base requirements of 154.333(B); above.

(F) *Parking area screening alternatives.* In order to provide flexibility and creativity in landscape designs, the Zoning Administrator may approve a parking area screening plan which includes hedge plants or shrubs in combination with: an ornamental or decorative fence; a masonry wall; or, an earthen berm, provided that:

(1) Between a front building line and a front lot line:

(a) The ornamental or decorative fence or masonry wall is not less than 24 inches in height nor more than 36 inches in height, with an open space percentage equal to or less than 70%; or,

(b) The earthen berm is not less than 24 inches in height nor more than 36 inches in height.

(2) Between a building line and any required side or rear lot line abutting a residential district or residential use:

(a) The ornamental or decorative fence or masonry wall is not less than three feet in height nor more than:

1. Six feet in height if the open space of the fence is less than 20%; or,

2. Ten feet in if the open space of the fence is 20% or greater; or,

(b) The earthen berm has a minimum height of not less than four feet and a maximum height not to exceed ten feet.

(3) The total number of shrubs/hedge plants shall not be reduced by more than 50% of the number of shrubs/hedge plants required in § 154.335, above.

CHAPTER 154: PLANNING AND ZONING
Landscape Regulations

(G) *Fence, wall or berm alternatives.* In order to provide flexibility and creativity in landscape designs, the Zoning Administrator may approve a fence, wall or berm installed in compliance with the following regulations as a substitute for up to 50% of the number of shade trees, ornamental trees or evergreen trees required to be installed in a perimeter yard pursuant to § 154.332.

(1) *Fence or wall in a front yard.* An ornamental, decorative fence or masonry wall may be used in conjunction with the landscaping required in a front yard or in a residential district for a special use or nonresidential use, provided such fence or wall used in a front yard shall:

- (a) Maintain a minimum height of three feet with a maximum open space of 20%;
- (b) Not exceed three feet in height if the open space of the fence is less than 20%; or,
- (c) Not exceed four feet in height if the open space of the fence is less than 50% but greater than 20%.

(2) *Fence or wall in a side or rear yard abutting a residential district, residential districts for special uses or residential districts for nonresidential uses.* An ornamental, decorative fence or masonry wall may be used in conjunction with the landscaping in a required side yard, rear yard or in a residential district for a special use or nonresidential use, provided such fence or wall shall not exceed:

- (a) Maintain a minimum height of six feet with a maximum open space of 20%;
- (b) Six feet in height if the open space of the fence is less than 20%; and
- (c) Ten feet in height in any business commercial district or industrial district if the open space of the fence is less than 50% but greater than 20% or greater.

(3) *Berm regulations.*

(a) *Berm in a front yard.* An undulating earthen berm, may be used in conjunction with the landscaping required in a front yard or in a residential district for a special use or nonresidential use, provided such berm shall have a maximum height not to exceed:

- 1. *Residential district or business/commercial district.* Three feet; or,
- 2. *Industrial district.* Six feet



Example of 6' Berm with Mature Landscaping

(b) *Berm in a side yard or rear yard abutting a residential district or residential use.* An undulating earthen berm, may be used in conjunction with the landscaping in a required side yard, rear yard, or in a residential district for a special use or nonresidential use, provided such berm shall have a minimum height of not less than four feet and a maximum height not to exceed 10 feet.

(c) *Construction of berm.* A berm utilized as a landscaping element shall be constructed in accordance with the following regulations:

1. Each berm shall have a minimum crown width of two feet;
2. Each berm shall have a side slope of not greater than three feet horizontal to one foot vertical;
3. Each berm shall be planted and covered with live vegetation; and,
4. A retaining wall may be used on the side of the berm facing away from the public right-of-way or away from the side lot line or rear lot line.

(d) *General regulations for a fence, wall or berm.* A fence, wall or berm may be used as an element of a landscape plan subject to the following regulations.

1. *Location of fence, wall or berm.* A fence, wall or berm shall be located in such a manner as to not interfere with any regulations of § 154.078.
2. *Design of fence, wall or berm.* A fence, wall or berm shall be designed to not interfere with any walkway or pedestrian/bikeway system serving the site.

CHAPTER 154: PLANNING AND ZONING
Landscape Regulations

(H) *Interior landscape island design alternatives.* The Zoning Administrator may approve a design in which the area devoted to individual interior landscape islands may be aggregated into one or more larger landscape islands. When aggregated into one or more larger landscape islands, such larger landscape islands shall, at a minimum, include the number of trees and area of landscaping as required for individual interior landscape islands, and shall function to: preserve existing trees; create boulevard treatments; create landscape features; create common open space areas for passive recreational activities; or, define vehicular and pedestrian traffic patterns.



Example of Aggregating Interior Off-Street Parking Area Landscaping

(I) *Appeals.* If the Zoning Administrator disapproves of a proposed alternative landscape plan, the applicant may, within five business days, appeal the Zoning Administrator's decision by filing an Administrative Appeal with the Board of Zoning Appeals, stating the reasons and justification for the appeal. Such petition shall be filed consistent with the provisions of §§ 154.555 through 154.565 and any applicable Rules of Procedure.

(Ord. 51-05, § 8.08.01I, passed 5-10-2005) Penalty, see § 154.999

LIGHTING REGULATIONS

154.350 INTENT.

The lighting regulations contained in this subchapter are intended to provide for the erection, design, or placement of outdoor light fixtures which: provide for illumination levels on individual lots which are adequate for the safe and efficient movement of individuals or vehicles to and from a lot and within a lot (i.e., areas that are dangerous if unlit, such as stairs, intersections or changes in grade); are designed to protect against the spillover of light onto abutting properties which may negatively impact occupants of abutting properties; and, are designed to protect against objectionable glare onto public rights-of-way which may impair the vision of motorists.

(Ord. 51-05, § 8.08.02, passed 5-10-2005)

154.351 GENERAL REQUIREMENTS.

All outdoor light fixtures on a lot shall comply with the following regulations:

(A) *Applicability.* The lighting regulations contained in this subchapter, unless specifically stated otherwise, are applicable only to any: residential district for a multifamily project, any special use or any nonresidential use; commercial business district; industrial district; planned unit development district; or, special use district contained in this chapter.

(B) *Minimum setback.* A freestanding outdoor light fixture may be located within a required front yard, side yard or rear yard, provided that the freestanding outdoor light fixture is located adjacent to the interior edge of such yard and adjacent to a permitted driveway, parking area, interior access drive, interior access driveway, or other outdoor use area requiring illumination.

(C) *Lighting standards.* Outdoor light fixtures shall comply with the standards set forth in Table 154-3: Lighting Standards.

(D) *Mounting of fixtures (except in industrial districts).* Full cutoff, cutoff and semi-cutoff outdoor light fixtures shall be mounted parallel to the ground and shall utilize a rigid mounting arm with no built-in uptilt and no adjustment feature.

(E) *Height of fixtures.* All outdoor light fixtures used to illuminate a particular area on a lot (i.e., a parking area; a loading area; or, an entry way, sidewalk or walkway areas) shall, within those areas, be of uniform size, design and height.

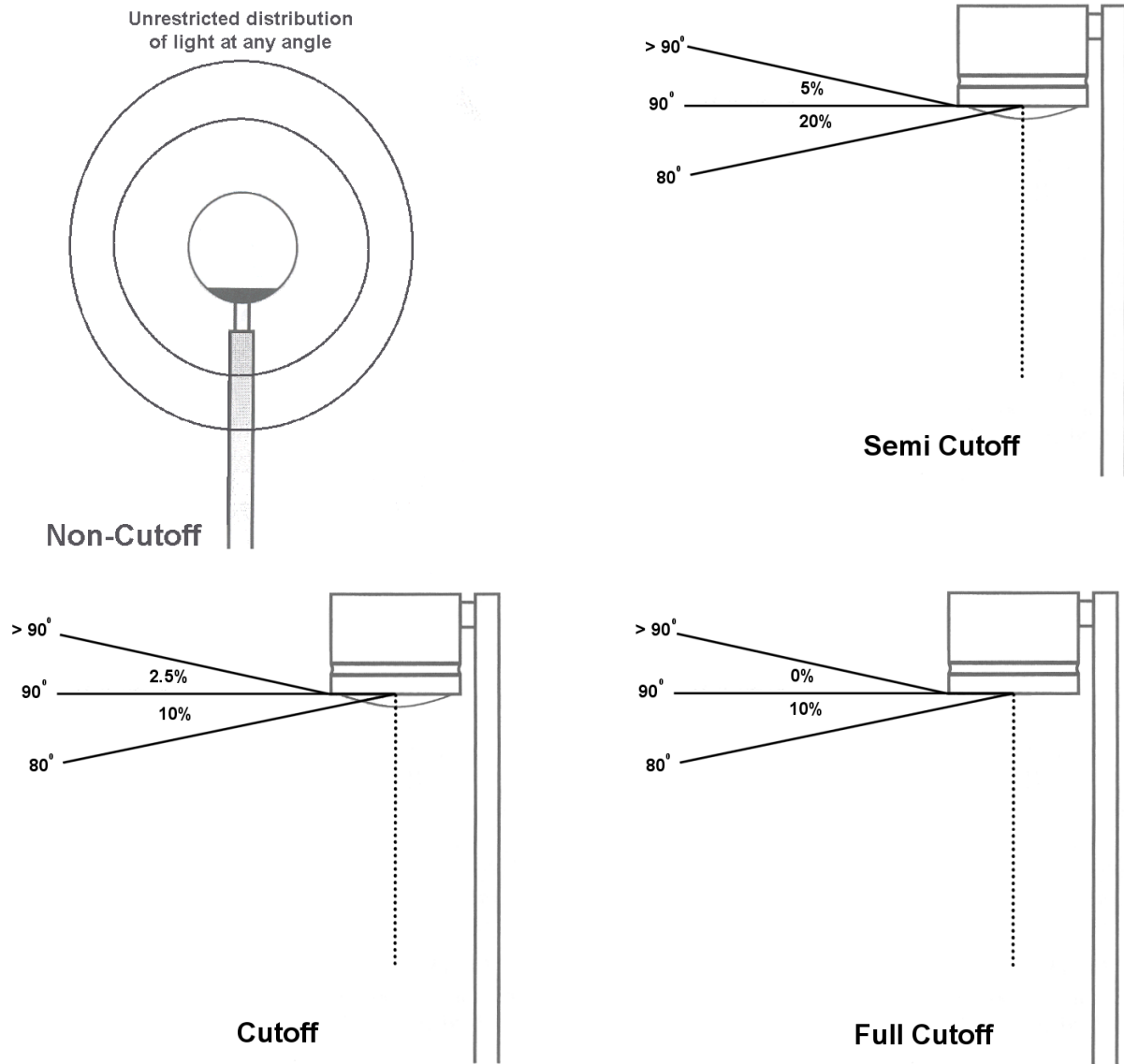
CHAPTER 154: PLANNING AND ZONING

Lighting Regulations

Table 154-3: Lighting Standards

<i>District</i>	<i>Type of Fixture</i>	<i>Maximum Combined Height of Pole and Base</i>	<i>Maximum Wattage</i>
<i>All Districts</i>	Non-cutoff (1)	20 feet	100
	Semi-cutoff	30 feet	400
	Cutoff	35 feet	400
	Full cutoff	40 feet	1,000

(1) Non-cutoff outdoor light fixtures shall be limited to locations along walkways, driveways, interior access drives, interior access driveways and outdoor seating areas.



(F) *Power supply.* Outdoor light fixtures located on light poles shall be provided power by underground wiring.

(G) *Wall pack lights.* Wall pack outdoor light fixtures shall be subject to the following regulations:

(1) Except in Industrial Districts, wall pack outdoor light fixtures located on a front or side elevations of a building or structure shall be full cutoff.

(2) In all commercial/business or industrial districts, wall pack outdoor light fixtures oriented toward a residential district or use shall be full cutoff.

(3) Low intensity (i.e., 100 watts or less), architectural style wall pack outdoor light fixtures (which may be cutoff, semi cutoff or non cutoff) may be used to accent architectural elements of the building or structure or to illuminate entrance areas.

(H) *Vehicular Canopy Light Fixtures.* Outdoor light fixtures located under a vehicular canopy of drive through structures (e.g., gasoline service station canopies, bank drive through canopies, etc.) shall be full cutoff fixtures with a maximum intensity of 400 watts.

(I) *Awning and canopy lighting.* Awnings and canopies used for building accents over doors, windows, walkways, and the like, may be internally illuminated or back-lit (i.e., lit from underneath or behind) provided, however, that the primary material is opaque and that translucent material is limited to the actual text or logo of the sign, if any, incorporated into the awning or canopy.

(J) *Glare on public right-of-way.* Flag and statue lights, architectural lights, floodlights, or sign lighting shall be so directed and shielded that the light element is not visible from any point along an adjacent public right-of-way.

(K) *Floodlights.* Outdoor light fixtures equipped with floodlights may only be permitted on a lot as follows:

(1) Floodlights shall be focused on the primary building or the area of the lot located between the floodlight and the primary building; or,

(2) Floodlights shall be shielded to the extent that the main beam from the luminaire is not visible from or causes any glare onto adjacent properties or rights-of-way.

(L) *Lighting plans.* The following information, at a minimum, shall be provided for all lighting plans submitted in connection with an application for an improvement location permit:

(1) A site plan which includes the outline of buildings, structures and other improvements (e.g., parking areas, loading areas, interior access drives, etc.) on the lot and the location of all outdoor light fixtures;

CHAPTER 154: PLANNING AND ZONING
Lighting Regulations

(2) A description of the outdoor light fixtures, including but not limited to manufacturers or electric utility catalog specifications sheets, drawings or photometric report, which indicate:

- (a) The outdoor light fixture classification (e.g., cutoff, semi-cutoff, full cutoff, or non-cutoff);
- (b) Mounting height of freestanding outdoor light fixtures; and,
- (c) Wattage proposed for each outdoor light fixture.

(Ord. 51-05, § 8.08.02A, passed 5-10-2005) Penalty, see § 154.999

154.352 SPECIAL REGULATIONS FOR SPORT AND ATHLETIC FIELD LIGHTS.

(A) Notwithstanding anything in this chapter to the contrary, the following special regulations shall apply to sport and athletic field lights.

(B) Freestanding outdoor light fixtures for sport and athletic fields:

- (1) Shall not exceed one-hundred and ten (110) feet in height above grade; and,
- (2) Shall be of a type and manufacturer that offers a spill and glare control package and shall be fitted with the manufacturer's spill and glare control package.

(Ord. 51-05, § 8.08.02B, passed 5-10-2005) Penalty, see § 154.999

154.353 EXEMPT LIGHTS.

The following shall be exempt lights.

- (A) *Holiday decorations.* Outdoor light fixtures used for holiday decorations.
- (B) *Public lighting.* All outdoor light fixtures originating from public areas and ways, including but not limited to parks, rights-of-way, public art or other public facilities, that are installed for the benefit of the public health, safety and welfare.
- (C) *Fossil fuel lights.* All outdoor light fixtures producing light directly from the combustion of fossil fuels (i.e., kerosene lanterns or gas lamps).
- (D) *Construction/emergency lighting.* All outdoor light fixtures provided in connection with construction work or the abatement of an emergency situation necessitating said lighting, provided that the use of such outdoor light fixtures are discontinued during hours when construction activity or emergency abatement is not in progress and that such outdoor light fixtures are removed upon completion of the construction activity or the abatement of the emergency.

(E) *Internal illumination of signs.* All outdoor light fixtures which are completely enclosed within a sign cabinet and which provide illumination only for a sign face.

(F) *Single family dwelling or two family dwelling lots.* All outdoor light fixtures used for the illumination of personal property, provided, however, that such outdoor light fixtures shall be subject to § 154.073(B)(7) regarding glare.

(Ord. 51-05, § 8.08.02C, passed 5-10-2005)

154.354 TEMPORARY LIGHTS.

(A) *Temporary lights permitted.*

(1) The following types of outdoor light fixtures may be approved on a temporary basis by the Zoning Administrator prior to placement or use.

(a) *Civic events.* Temporary outdoor light fixtures used for civic events.

(b) *Special events.* Temporary outdoor lighting fixtures for such activities as circuses, fairs, carnivals, sporting events, and the like.

(2) The temporary lights shall not be installed more than 30 days prior to the civic event or special event and shall be removed not more than 15 days after the civic event or special event.

(B) *Searchlights.* Notwithstanding anything contained in § 154.355 of this subchapter to the contrary, temporary outdoor light fixtures used in connection with a civic event or special event may include one portable, rotating searchlight provided, however, that such temporary outdoor light fixture:

(1) Shall not be permitted for more than three occurrences during a calendar year;

(2) Shall not be used for a period of more than two consecutive days during a civic event or special event;

(3) Shall not be operated between the hours of 12:00 midnight and 8:00 a.m.; and,

(4) Shall otherwise comply with all other applicable provisions of this chapter.

(Ord. 51-05, § 8.08.02D, passed 5-10-2005) Penalty, see § 154.999

154.355 PROHIBITED LIGHTS.

(A) *Flashing lights.* Any lights that flash, move, revolve, rotate, scintillate, blink, flicker, vary in intensity or color, or use intermittent electrical pulsation.

CHAPTER 154: PLANNING AND ZONING

Lighting Regulations

(B) *Floodlights.* Floodlights not in compliance with the regulations set forth above, or other form of outdoor light fixtures not specifically authorized by this chapter (including but not limited to stringer lights), that are ground mounted or attached to light poles, and used to illuminate the site, buildings or structures.

(C) *Outdoor strings of lights.* Outdoor strings of lights, including but not limited to those used to outline lot lines or outdoor display areas, provided, however, outdoor strings of lights may be allowed when complying with § 154.353(A).

(Ord. 51-05, § 8.08.02E, passed 5-10-2005) Penalty, see § 154.999

SIGN REGULATIONS

154.370 INTENT.

It is recognized that certain uses located in appropriately zoned districts need and have a right to advertise through the use of sign displays. It is the intent of this chapter to encourage creative and imaginative design and use of signs in order to create a more attractive economic and business climate. It is further the intent of this chapter to foster and improve the economic vitality of the community by enhancing and protecting the physical appearance of the community. In order to accomplish this purpose, it is necessary to regulate the size, location, construction, and manner of display of signs as set forth in this subchapter. (*Ord. 52-20; 8/25/20*)

154.371 APPLICABILITY.

All new, reconstructed, altered, or relocated signs must comply with the standards of this section. (*Ord. 52-20; 8/25/20*)

154.372 GENERAL REGULATIONS.

(A) *Permit required.* All sign types described in this section, require a permit before they may be constructed, reconstructed, altered, or relocated, except those listed as Exempt Signs in § 154.373, and as outlined below:

(1) *Exempt maintenance.* Painting, cleaning, refacing, or other normal maintenance and repair of a sign does not require a permit, provided that no change is made to any structural component of the sign. For awning signs, removal of the frame for resurfacing shall be considered normal maintenance provided the existing frame is reutilized and the sign complies with all other regulations of this section.

(2) *Signs in the right-of-way.* Any sign that encroaches into a public right-of-way requires approval from the County Engineer.

(B) *Minimum maintenance.* All signs shall be maintained in good repair and in operable condition. Painted faces or structural members shall be repainted whenever peeling or fading occurs. Neon tubes, lamps, ballasts, and transformers shall be kept in a good state of repair and safe condition. The County may order the removal of any sign which becomes a public hazard due to lack of maintenance or repair or which becomes insecure, in danger of falling, or otherwise unsafe.

(C) *Nonconforming Signs.* A nonconforming sign that was legally established and maintained in compliance with the provisions of all applicable laws in effect at the time of original installation, but that does not now comply with the provisions of this Ordinance, shall be deemed to be legal nonconforming and may be repaired or altered in accordance with § 154.055. All other signs which do not conform with said provisions of this chapter shall be deemed to be illegal nonconforming signs.

CHAPTER 154: PLANNING AND ZONING

Sign Regulations

(D) *Removal of Freestanding Signs.* Notwithstanding anything contained in § 154.055 to the contrary, freestanding on-premise signs and sign structures, shall be subject to the following removal provisions:

(1) When the building on the premise is removed, any sign and sign structure located on the lot and accessory to such building shall also be removed at the same time; and

(2) When a legally established nonconforming building, or any activity, business, commodity, or service on the premise, suffers a partial destruction in excess of the value specified in § 154.055 of this Ordinance and such building, or activity, must be removed and brought into compliance with the terms of this Ordinance, any sign or sign structure located on the lot shall also be brought into compliance with the terms of this Ordinance.

(E) *Cutting of Trees or Shrubs.* No person shall damage, trim, destroy, or remove any required trees, shrubs, or other vegetation for the purpose of increasing or enhancing the visibility of any sign.

(F) *Location.* Signs shall be installed subject to the following provisions:

(1) Each permanent sign, except for off-premise signs and multi-tenant signs, must be located on the same site as the subject of the sign.

(2) Freestanding signs shall have a minimum front yard setback of ten (10) feet, except limited access highways which shall have a minimum front yard setback of fifty (50) feet.

(3) Freestanding signs shall have minimum side and rear yard setbacks the same as required for accessory structures.

(4) No sign, other than signs placed by agencies of government with appropriate jurisdiction, or a sign whose placement is authorized by such agencies, may be erected or placed on public property, including rights-of-way.

(5) No signs may be installed in a way that obstructs free and clear vision, Clear Sight Area per § 154.078, or free use of any public right-of-way, intersection, ingress or egress point, transit stop, parking space, drive aisle, driveway, building entrance, fire escape, or accessibility ramp.

(6) No sign may obstruct or substantially interfere with any window, door, fire escape, stairway, ladder, or opening intended to provide ingress or egress to any building.

(G) *Illumination.* Illuminated signs are subject to the following provisions:

(1) External illumination shall be shielded so that it illuminates only the sign surface and does not shine on, cause glare to, or otherwise impair the vision of the driver of any motor vehicle traveling on a public right-of-way.

(2) Colored light must not be used at a location or in a manner that could be confused with a traffic control device.

(3) Signs that are illuminated at night may not exceed a maximum luminance level of 750 nits, regardless of the method of illumination. All illuminated signs must comply with the luminance level at least one-half hour before Apparent Sunset, as determined by the National Oceanic and Atmospheric Administration (NOAA). At Apparent Sunrise, as determined by NOAA, signs may resume luminance levels appropriate for daylight conditions.

(H) *Changeable Copy Signs.* A changeable copy sign is a sign on which the message changes either automatically through electrical means or manually through the placement of letters or symbols on a panel mounted in or on a track system. Changeable copy signs include electronic message centers (EMC).

(1) Changeable copy signs may be used as part of either a freestanding sign or building sign. Only one changeable copy sign is allowed per establishment.

(2) The changeable copy portion of an on-premise sign shall not exceed forty (40) percent of the sign surface area of any permitted sign type. (*Ord. 102-21, 10/12/21*)

(3) *Electronic Message Centers (EMC).* An electronic message center is a changeable copy sign that uses computer generated graphics or other electronic means of changing messages. EMCs, which shall also comply with the following regulations:

(a) EMC signs shall have automatic dimming controls, either by photocell or via software settings, in order to bring EMC lighting level at night into compliance with this section;

(b) EMC signs located within two-hundred (200) feet of a parcel used for residential purposes shall not be illuminated between the hours of 11 pm and 6 am;

(c) All message shall be static and displayed for a minimum of 8 seconds;

(d) Any change in an electronic message must be instantaneous without fading in, dropping in, spinning, rotating, or similar moving copy changes;

(e) Full motion video or film display via an electronic file imported into the EMC software or streamed in real time into the EMC is prohibited; and

(f) Any EMC sign that is malfunctioning must be turned off.

(I) *Freestanding canopy sign.* Signs on a freestanding canopy are subject to the following provisions:

(1) Freestanding canopy signs shall not exceed twenty-five (25) percent of the surface area of the façade of the canopy;

(2) Illuminated freestanding canopy signs are only allowed in the B: Business District, C: Commercial District, I: Industrial District, and U: University District;

CHAPTER 154: PLANNING AND ZONING

Sign Regulations

(3) The number and sign surface area of use-specific signs do not count toward the on-premise maximum standards; and

(4) Freestanding canopy signs shall have a maximum projection of twelve (12) inches above the canopy.

(J) *Place identification sign.* A place identification sign is a sign that only indicates the name of a recorded, platted residential subdivision, recognized neighborhood association, office or industrial park, education or medical campus, or other recognized place. Place identification signs are subject to the following provisions:

(1) Place identification signs shall be limited to freestanding monument signs;

(2) One place identification sign shall be permitted per quadrant of an intersection;

(3) A place identification sign shall not exceed thirty-two (32) square feet each or eight (8) feet in height; and

(4) All place identification signs shall be constructed of ornamental metal, masonry, or other permanent material. (*Ord. 52-20; 8/25/20*)

154.373 EXEMPT SIGNS.

The following signs do not require a sign permit if they meet the following conditions:

(A) *Address sign.* A sign that identifies the address of a lot, structure, or establishment, provided it does not exceed two square feet in area for a property with only a residential use or four square feet in area for a property with non-residential uses.

(B) *Authorized sign.* Public signs and notices erected, authorized, or mandated by governmental authority under any law, statute, or ordinance.

(C) *Architectural features.* Signs which are architecturally integral to the building when carved into stone, concrete or similar material or made of bronze, aluminum, or other permanent type construction and made an integral part of the building.

(D) *Campus signs.* Signs that are located interior to a campus or open space provided such signs are not legible from the street.

(E) *Flags.* Up to six flags having a maximum combined area not to exceed 120 square foot are permitted. Each flag shall be attached to a flag pole which is permanently anchored to the ground or attached to the principal building or accessory structure.

(F) *Fuel pump signs.* A fuel pump sign that is attached to a fuel pump may not exceed two square feet in area per pump. Operational and payment instructions on the face of the pump are exempt from this limitation.

(G) *Incidental signs.* Non-illuminated signs not exceeding two square feet, provided there is no more than two per street frontage per lot.

(H) *Menu boards.* A menu board is a permanently mounted sign at a drive-through establishment. Menu boards are exempt if they meet the following conditions:

- (1) Menu boards shall only be permitted in conjunction with a permitted drive-through use;
- (2) A maximum of two menu boards is permitted per drive-through lane; and
- (3) A menu board may not exceed forty-eight (48) square feet in area and eight (8) feet in height above grade.

(I) *Parking lot signs.* Signs located in parking lots are exempt if they meet the following conditions:

- (1) No more than two (2) signs per driveway or one (1) sign per critical turning point;
- (2) In the R: Single Family District, R-2: Residential District, O/B: Office/Buffer District, O: Office District, and U: University District, signs shall not exceed four (4) square feet in surface area and four (4) feet in height;
- (3) In the A: Agricultural District, B: Business District, and C: Commercial District, signs shall not exceed six (6) square feet in surface area and four (4) feet in height;
- (4) In the I: Industrial District, signs shall not exceed eight (8) square feet in surface area and four (6) feet in height; and
- (5) All signs shall be non-illuminated.

(J) *Sidewalk signs.* A sidewalk sign includes two-sided, portable signs that are placed outside of an establishment, constructed in the form of an “A” or a similar tent-like shape, or attached to a post with a heavy base in the form of an inverted “T”, and intended to be viewed from the sidewalk at close range, are exempt if they meet the following conditions:

- (1) A maximum of one sidewalk sign is permitted per establishment per street frontage;
- (2) Sidewalk signs shall not exceed ten (10) square feet in sign surface area per side and four (4) feet in height above grade;
- (3) A sidewalk sign may be placed outdoors on the premises or a public sidewalk during business hours only, and must be stored indoors at all other times;
- (4) The sign must not interfere with the ingress and egress points and must maintain a minimum of five (5) feet of sidewalk clearance at all times;

CHAPTER 154: PLANNING AND ZONING

Sign Regulations

(5) A sidewalk sign may not be illuminated or contain any electronic components; and

(6) A sidewalk sign may not be placed outdoors when high winds, heavy rain, or heavy snow conditions are present and may not interfere with any snow removal operations.

(K) *Window signs.* One window sign per non-residential use provided it does not exceed four (4) square feet and is non-illuminated.

(L) *Works of art.* Three-dimensional works of art and two-dimensional works of art which are not used for advertising or promotion of a business, product, service, or commercial activity. Two-dimensional works of art shall not be located on the front façade of a building. (Ord. 52-20; 8/25/20)

154.374 PROHIBITED SIGNS.

These signs, as well as any sign type not expressly allowed by this Ordinance, are prohibited:

(A) Signs which interfere with, obstruct the view of, imitate, copy, purport to be, or may be confused with any authorized official sign, traffic sign, traffic signal, or traffic control device.

(B) Signs on portable trailer frames; and signs attached to or painted on a vehicle parked and visible from the public right-of-way, provided however, a vehicle which is used in the normal day-to-day operation of a business use shall not be considered a portable sign if the vehicle is parked beside or behind the building in which the use is located, or if the sign on the vehicle contains less than nine (9) square feet in sign surface area.

(C) Signs or devices motivated by wind, thermal changes, or other environmental input, such as spinners, pinwheels, unsecured banner, pennant, streamers, balloons, air-inflated signs, or other wind-blown devices or displays that are designed to inform or attract attention, except for flags that conform with § 154.373.

(D) Signs attached to trees, street lights, or utility poles.

(E) Signs that bear or contain statements, words or pictures of an obscene, pornographic, immoral character, or which contain advertising matter which is untruthful or will offend public morals or decency.

(F) Any rotating beam, beacon, intermittent light, lights of changing colors, or degrees of intensity, or flashing illumination in connection with any sign surface, except as part of an electronic message center sign.

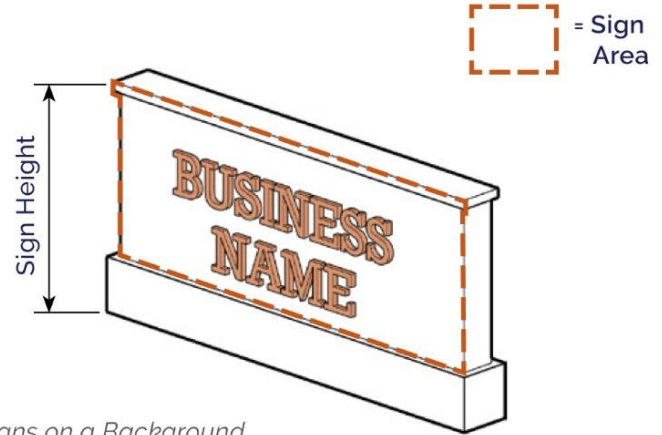
(G) Signs that feature facial recognition technology or any device that is used to obtain biometric data. (Ord. 52-20; 8/25/20)

154.375 SIGN MEASUREMENT.

(A) *Sign surface area.* Sign surface area shall be measured as follows:

(1) *Signs on a background.*

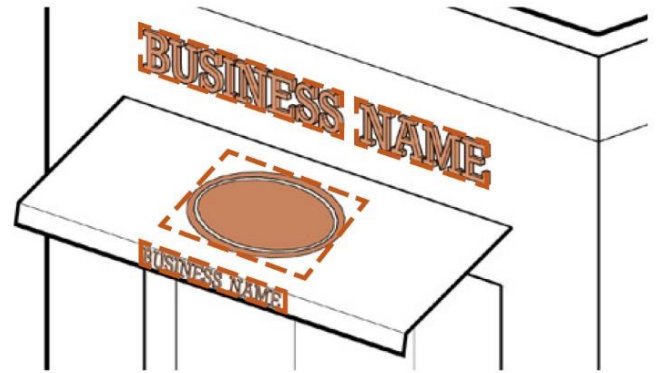
The entire area of the framework or background of the sign is calculated as sign area, including any material or color forming the sign face or background used to differentiate the sign from the structure against which it is placed.



Signs on a Background

(2) *Signs with a base.*

The base of a monument sign does not count as sign area if it is less than three (3) feet in height, provided the material used is masonry or consistent with the primary building material.



Individually Mounted Letters & Signs on an Awning

(3) *Individually mounted letters or features.*

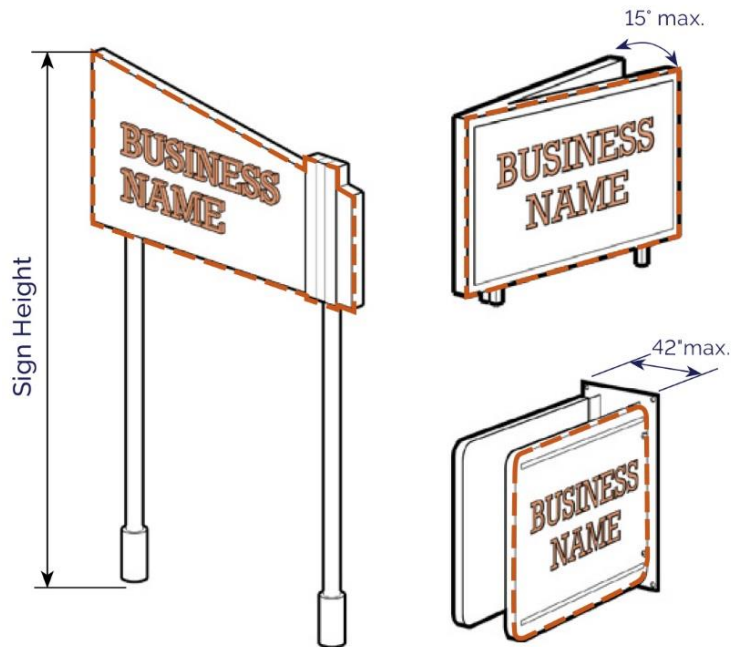
The sign area is calculated as the total area of each rectangle that encompasses each word or graphic element. Sign area does not include any supporting framework or bracing, unless such framework is part of the message or sign face.

(4) *Signs on an awning.*

The area of awning sign is calculated by drawing the smallest possible rectangle that encompasses each word or graphic element on the awning.

(5) *Signs with poles or brackets.*

For signs that include a pole, pole cover, or bracket, the portion of the structure that is not an integral part of the display area shall not be included in the overall calculation of sign area provided no pole or pole cover exceed two (2) feet in width.



Signs with Poles or Brackets

Signs with 2 or More Faces

(6) *Two or more faces.*

If the sign has two or more face, the area of all faces is included in determining the area of the

CHAPTER 154: PLANNING AND ZONING

Sign Regulations

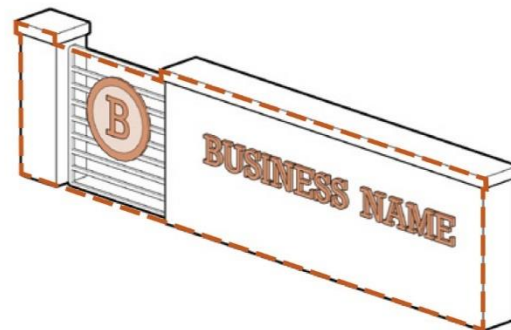
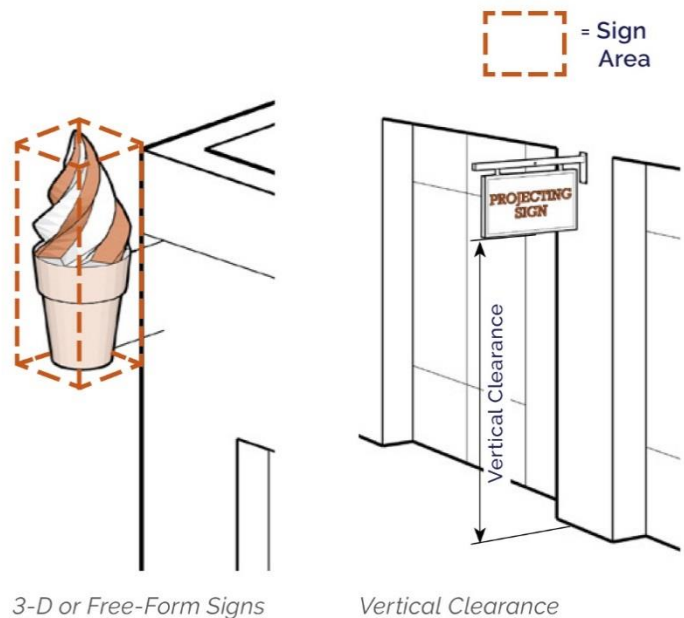
sign. However, if two sign faces are placed back to back, or at an angle no greater than fifteen (15) degrees from one another so that both faces cannot be viewed from any point at the same time, the sign surface area shall be calculated by the measurement of one of the sign faces. In addition, except for off-premise signs, such sign faces that are part of the same sign structure shall not be more than forty-two inches apart.

(7) *Three-dimensional, free-form, or sculptural (non-planer)*. The sign area is calculated as fifty (50) percent of the sum of the area of the four vertical sides of the smallest cube that would encompass the sign.

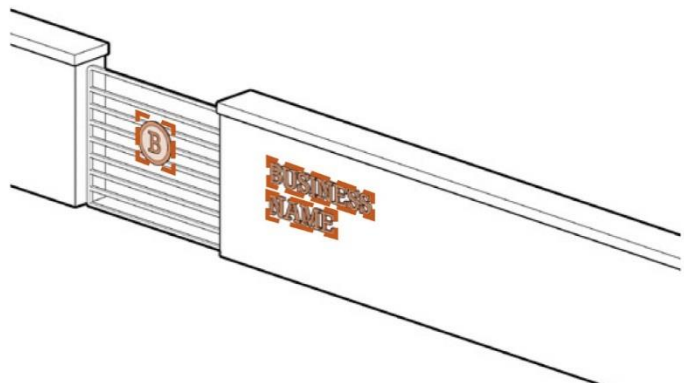
(8) *Landscape wall or fence sign*. The sign area of a sign face located on an ornamental, decorative fence, or masonry wall shall be limited to the area of the sign face only if the fence or wall has a length of at least three (3) times the width of the sign or message element. If a fence or wall is less than three (3) times the width of the sign or message element, the fence or wall shall the display used to differentiate the sign from the backdrop, and the entire area of the fence or wall shall be considered part of the sign surface area.

(9) *Signs at a building corner*. In the case of a building sign located on the corner of a building and oriented toward the intersection of two or more streets, such building sign shall count half its sign area toward the maximum permitted sign surface area for each street frontage.

(B) *Sign height*. Sign height is measured as the vertical distance from the street grade at the base of the sign or sign structure, to the highest point of the sign or sign structure.



*Signs on a Landscape Wall or Fence:
Wall is less than 3 times the width of the sign*



*Signs on a Landscape Wall or Fence:
Wall is more than 3 times the width of the sign*

(C) *Vertical clearance.* For signs attached to a structure, vertical clearance is measured as the vertical distance from the grade level to the lowest point of the sign.

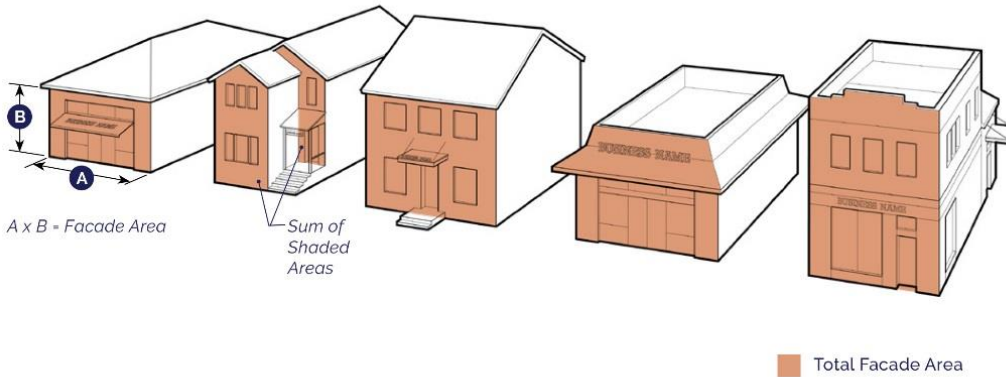
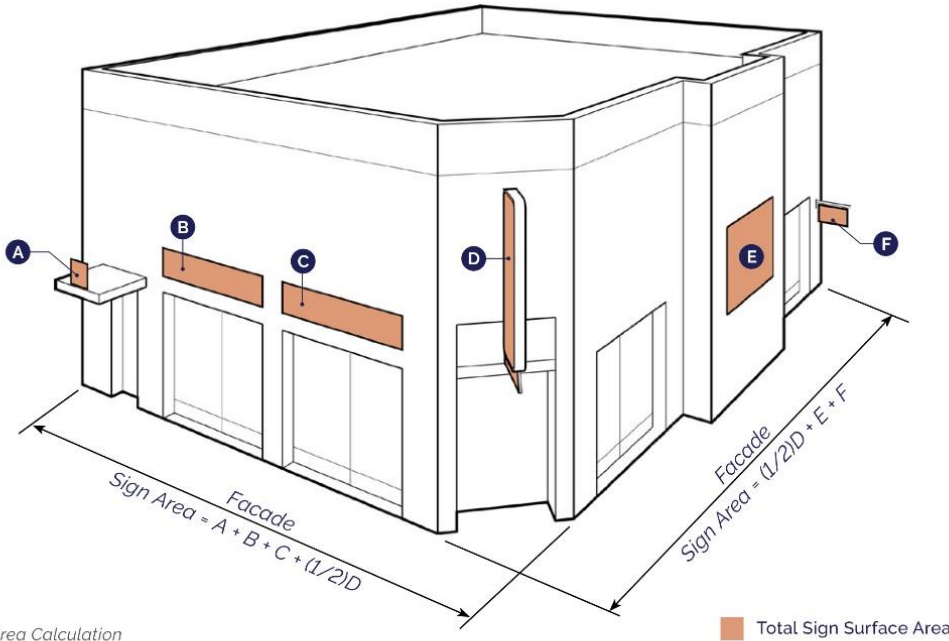
(D) When calculating the area of a façade upon which a building sign may be placed, the following standards apply:

(1)

The area of the façade shall be the actual surface area of the façade of the building or tenant space located above grade and beneath the top of the wall, not including the roof. Façade area shall include any two-dimensional area of the building elevation from which the façade, or portion thereof, may be viewed; and

(2)

The calculation of façade area is determined independently for each façade. (Ord. 52-20; 8/25/20)



154.376 ON-PREMISE SIGNS; GENERALLY.

Definition. An on-premise sign is a sign erected, maintained, or used for the purpose of the display of messages relating to the use of, products sold on, or the sale or lease of, the property on which it is displayed. (Ord. 52-20; 8/25/20)

CHAPTER 154: PLANNING AND ZONING

Sign Regulations

154.377 ON-PREMISE SIGNS; BUILDING.

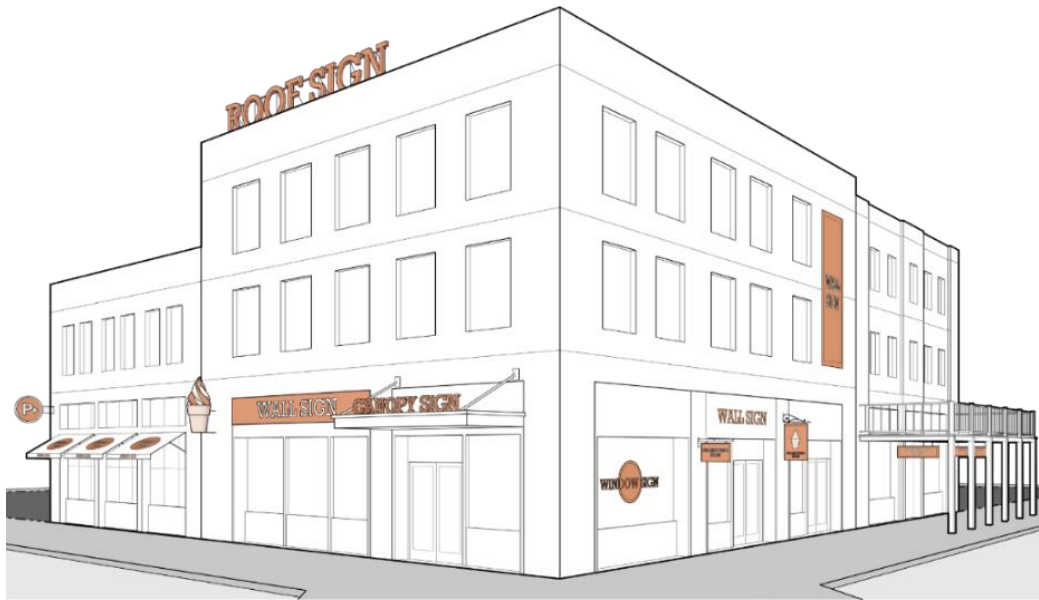


Table 154-S1: Building Sign Standards

Residential Uses			
Use	Orientation	Maximum Sign Surface Area	Maximum Number
4 or fewer dwelling units	Any	2 square feet	1
5 or more dwelling units	Any	32 square feet	
Home Occupation	Any	2 square feet	
Non-Residential Uses			
District	Orientation	Maximum Sign Surface Area (Total of All Signs)	Maximum Number
A, R, R-2, OB, O	Street or Parking Area	5% of façade area	Unlimited
	Other	3% of façade area	Unlimited
B, C, I, or U	Street or Parking Area	10% of façade area	Unlimited
	Other	3% of façade area	Unlimited

(A) *Definition.* A building sign is any sign attached to or supported by a building. Building signs include, but are not limited to awning or canopy signs, projecting signs, roof signs, suspended signs, walls signs, and window signs.

(B) *Number and area.* The number and sign surface area of building signs shall comply with the standards in Table 154-S1: Building Sign Standards and meet any of the following standards specific to the applicable sign type. The sign surface area of building signs is the sum of the sign surface area of all signs on the façade.

(C) *Awning or canopy signs.* A sign or graphic printed on or in some fashion attached directly to the material of an awning or canopy, subject to the following standards:

(1) A maximum of one sign is permitted per awning or canopy surface. Only awnings and canopies on the ground story may contain signs; and

(2) The sign surface area shall no exceed fifty (50) percent of the awning or canopy surface on which it is displayed.

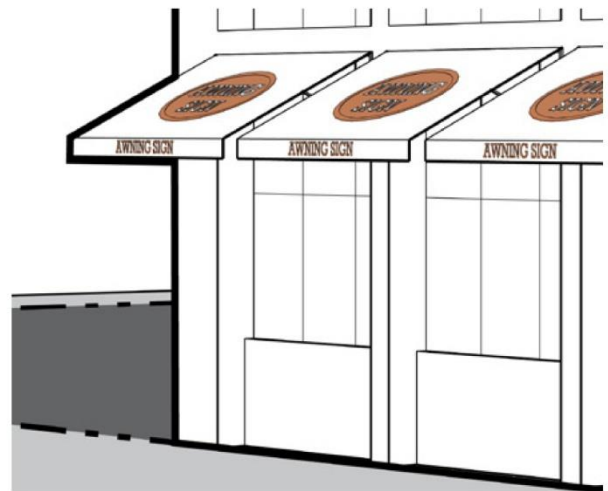
(D) *Projecting signs.* A two-sided or three-dimension sign that is affixed to a wall and project more than eighteen (18) inches beyond the exterior wall of a building, subject to the following standards:

(1) Projecting signs shall have a vertical clearance of at least eight (8) feet above a sidewalk or fifteen (15) feet above a driveway;

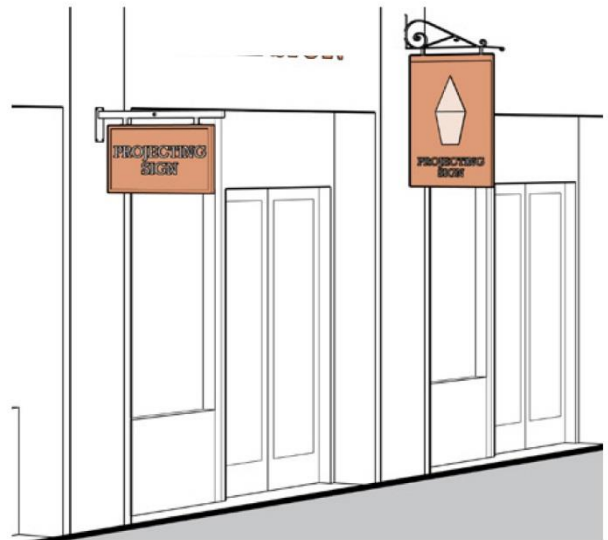
(2) Projecting signs shall not extend more than six (6) feet from the building face except a projecting marquee sign may extend to within eighteen (18) inches of a curb face;

(3) Projecting signs shall not extend more than four (4) feet above the building roof line on a flat roof or above the eave line for pitched roofs;

(4) A maximum of one projecting sign is permitted per establishment per frontage; and



Awning Signs



Projecting Signs

CHAPTER 154: PLANNING AND ZONING

Sign Regulations

(5) Projecting signs shall have a minimum of fifteen (15) feet between other projecting signs.

(E) *Roof signs.* A sign mounted on the roof or the uppermost architectural band of a building, subject to the following standards:

(1) Roof signs are only permitted in the A: Agricultural District, C: Commercial District, I: Industrial District, and U: University District;

(2) A maximum of one roof sign is permitted per building;

(3) Roof signs shall not be more than seventy-five (75) percent of the building width at the roof level and fifteen (15) feet in height;

(4) Roof signs must not extend below the upper lintel of windows of the highest story of a building;

(5) Roof signs may only be internally illuminated; and

(6) Roof signs must be constructed to allow ease of air flow.

(F) *Suspended signs.* A sign that is suspended, hung, or connected to the underside of a horizontal surface and intended to be viewed from the sidewalk at close range, subject to the following standards:

(1) A maximum of one suspended sign is permitted per ground floor establishment per frontage;

(2) Suspended signs shall have a maximum sign surface area of six (6) square feet; and

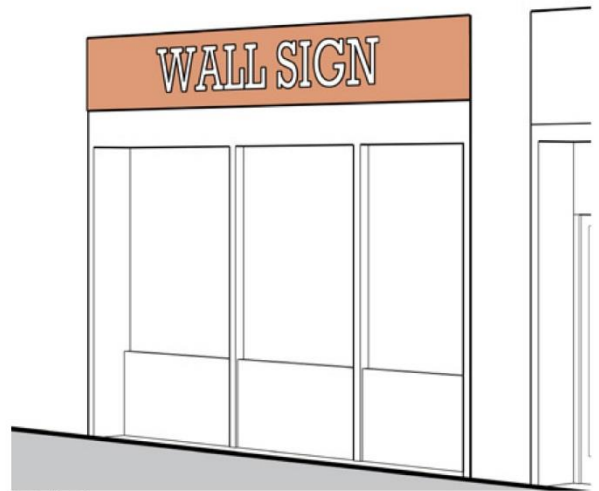
(3) Suspended signs shall have a vertical clearance of at least eight (8) feet above the finished grade below it.



Roof Sign



Suspended Signs



Wall Sign

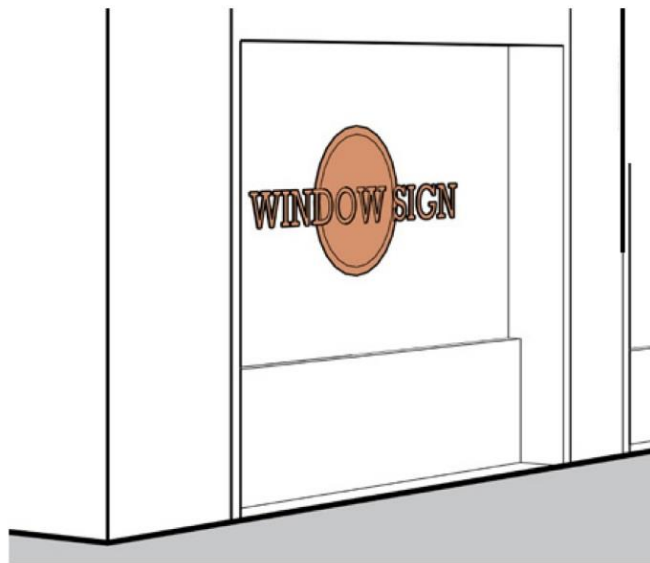
(G) *Wall signs.* Any sign attached to, applied to, or mounted on the wall of a building or structure, with the face of the sign parallel to that of the wall, subject to the following standards:

- (1) Wall signs shall not project more than eighteen (18) inches from the wall;
- (2) Wall signs shall not be more than eighty (80) percent of the building façade width; and
- (3) No wall sign may extend above the window sills of the second story, unless the establishment extends to the second story above. No portion of a wall sign may extend above the roofline or parapet wall of a building with a flat roof or above the lower eave of a building with a pitched roof.

(H) *Window signs.* A sign that is attached to, placed upon, printed on the interior or exterior of a window or door of a building, or displayed within the interior and clearly intended for public recognition outside the building, subject to the following standards:

(1) Window signs shall not exceed twenty-five (25) percent of the area of the window. In the case of multi-pane windows, the surface area of the window shall be the combined surface area of the individual panes; and

(2) Window signs attached to the glass shall have a clear background. (*Ord. 52-20; 8/25/20*)



Window Signs

CHAPTER 154: PLANNING AND ZONING

Sign Regulations

154.378 ON-PREMISE SIGNS; FREESTANDING.



Table 154-S2: Freestanding Sign Standards

Residential Uses			
Use	Maximum Height	Maximum Sign Surface Area	Maximum Number
4 or fewer dwelling units	4 feet	2 square feet	1
5 or more dwelling units	6 feet	32 square feet	
Home Occupation	4 feet	2 square feet	
Non-Residential Uses			
District	Maximum Height	Maximum Sign Surface Area	Maximum Number
A, R, R-2, OB, O	6 feet ¹	32 square feet ¹	1 per street frontage
U	8 feet	64 square feet	Unlimited
B, C, I	15 feet ²	100 square feet ³	1 per street frontage ⁴
¹ If lot frontage is greater than 200 feet, signs may increase to 64 square feet in sign surface area and up to 8 feet in height.			
² Sign height may increase to 25 feet for multi-tenant signs. Sign height may increase to 35 feet when oriented to a limited access highway.			
³ For multi-tenant signs, the sign area may be increased to 140 square feet for sites with less than 500 feet of frontage. Sign surface area may be increased to 300 square feet for site with more than 500 feet of frontage.			
⁴ If lot frontage is greater than 500 feet, then additional signs are allowed at a rate of one sign for every 500 feet of additional frontage, or portion thereof. Total sign area may be combined into one larger sign or divided between multiple signs with a minimum separation of 100 feet between signs.			

(A) *Definition.* A freestanding sign is a sign that is attached to, erected on, or supported by some structure that is not itself an integral part of or attached to a building. Freestanding signs include, but are not limited to: pylon, pole, pole with cladding, monument, yard signs and signs posted on a decorative fence or non-building wall.

(B) *Number and area.* The number, sign surface area, and height of freestanding signs shall comply with the standards in Table 154-S2: Freestanding Sign Standards and meet any of the following standards specific to the applicable sign type.

(C) *Separation of signs.* Freestanding signs shall have a separation of at least one-hundred (100) feet.

(D) *Monument signs.* A sign that is constructed in or on the ground surface with its sign display surface attached to a pedestal base or wall, subject to the following standards:

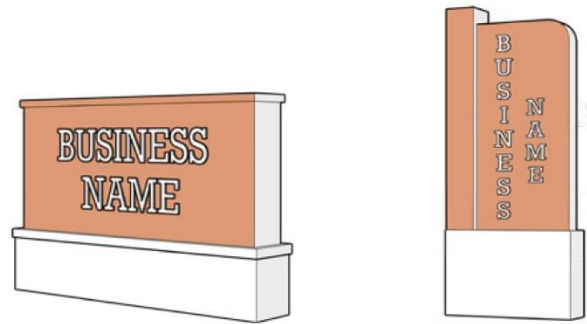
(1) The sign must be attached to a pedestal that is integral to the sign structure, or integral with a perimeter wall or fence; and

(2) The sign base must be at least seventy-five (75) percent of the width of the widest part of the sign.

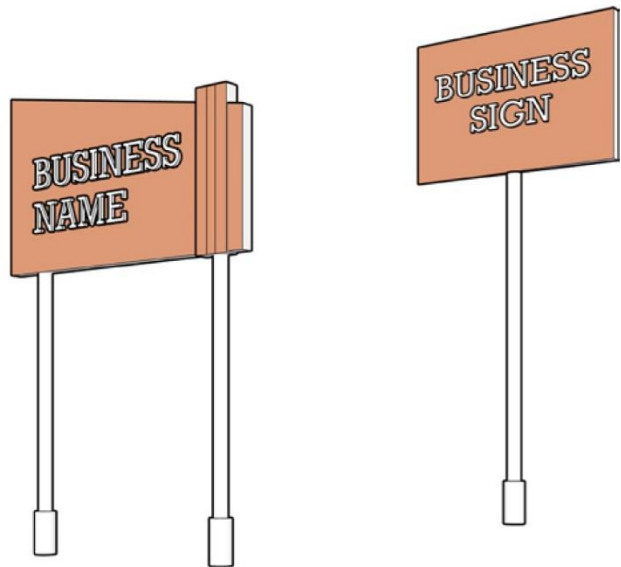
(E) *Pole signs.* A sign that is supported by one or more poles that are anchored in the ground and intended to be viewed from a distance, subject to the following standards:

(1) The lowest portion of the sign display shall have a vertical clearance of at least seven (7) feet above the grade below; and

(2) Pole signs are permitted only for lots where the front building façade is located more than twenty-five (25) feet away from the front lot line. Pole signs must be setback at least twenty-five (25) feet from the front lot line.



Monument Signs



Pole Signs

CHAPTER 154: PLANNING AND ZONING

Sign Regulations

(F) *Yard signs.* A two-sided sign that is mounted to or suspended by supporting posts or brackets and intended to be viewed at close range, subject to the following standards:

(1) A yard sign may be mounted onto a double set of posts or suspended from a single post in an L-shape configuration; and

(2) The sign display shall have a vertical clearance of at least twelve (12) inches above the grade below the sign.

(G) *Multi-tenant signs.* A multi-tenant sign is a sign that advertises three or more establishments within a building or series of buildings in an integrated center, subject to the following standards:

(1) Multi-tenant signs are only permitted in the B: Business District, C: Commercial District, and I: Industrial District;

(2) Any business that is displayed on a multi-tenant sign shall not be entitled to its own freestanding sign;

(3) Multi-tenant signs shall be permitted at a rate of one (1) multi-tenant sign for every five-hundred (500) feet of street frontage, provided that:

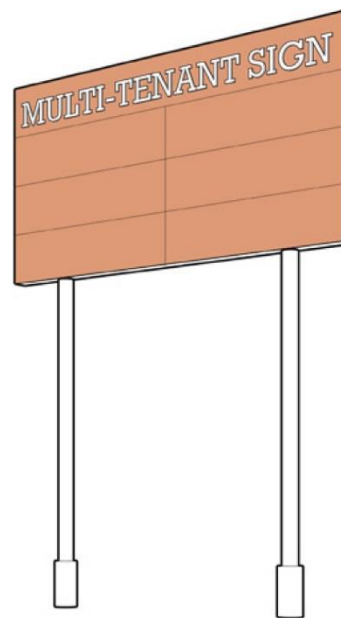
(a) the minimum separation between multi-tenant signs on a single development site, regardless of the street frontage to which the multi-tenant sign is oriented, shall be one-hundred (100) feet; and

(b) the minimum separation between multi-tenant signs oriented toward the same street frontage shall be three-hundred (300) feet.

(Ord. 52-20; 8/25/20)



Yard Signs



Multi-Tenant Sign

154.379 TEMPORARY SIGNS.

Temporary signs are allowed in all zoning districts and shall meet the standards in Table 154-S3: Temporary Signs below, and are subject to the following provisions:

(A) A temporary sign shall be located in compliance with all regulations for a permanent sign; and

(B) A temporary sign shall not be illuminated. (*Ord. 52-20; 8/25/20*)

Table 154-S3: Temporary Signs				
Temporary Sign Type	Maximum Number of Signs (Per Street Frontage)	Maximum Sign Surface Area	Maximum Sign Height	Maximum Duration
Construction Signs (Located on a Site with an Active Building Permit)				
Fence or Wall Wrap Sign	2	64 square feet for every 200 feet of street frontage or portion thereof.	8 feet	May be installed only after the approval of a building permit, and must be removed within 30 days of issuance of a certificate of occupancy or expiration of a building permit.
Construction Signs (All Other)		64 square feet max per street frontage		
Multiple Lot Developments (For Sale, Lease, or Rent Signs)				
	1	32 square feet	8 feet	May be installed after secondary plat approval is issued and must be removed when 75% of lots in the subdivision have received a Certificate of Occupancy.
Single Lot Developments (For Sale, Lease, or Rent Signs)				
Residential Districts	1	6 square feet	6 feet	May be installed at the time the property is listed for sale or lease, and must be removed upon final close of the sale or lease.
All Other Districts		32 square feet		
Temporary Use or Event				
Residential Districts	2	24 square feet max per street frontage	6 feet	30 days and no more than 4 times a year.
All Other Districts		48 square feet max per street frontage		

CHAPTER 154: PLANNING AND ZONING

Sign Regulations

154.380 OFF-PREMISE SIGNS.

(A) *Definition.* An off-premise sign is a sign erected, maintained, or used for the purpose of the display of messages relating to the activity, business, or products sold at a location other than the premises on which the sign is located. Off-premises signs may be either freestanding or wall signs.

(B) *Districts Permitted.* Off-premise signs shall only be permitted in the B: Business District, C: Commercial District, and I: Industrial District.

(C) *Advertising signs.* An advertising sign is a sign displaying advertisements that are meant to be viewed at a distance, typically oriented to a limited access highway or major arterial street. Advertising signs are subject to the following provisions:

(1) *Compliance with the Highway Beautification Act.* Advertising signs shall be located in compliance with the *Highway Beautification Act* (23 U.S. Code § 131, *Control of Outdoor Advertising*), as amended, and all of the standards of this Ordinance, whichever is stricter.

(2) *Sign surface area.* Sign surface area for advertising signs shall be as follows:

(a) Advertising signs facing a limited access highway or arterial roadway shall have a maximum sign surface area of six-hundred-seventy-two (672) square feet;

(b) Advertising signs oriented toward all other streets shall have a maximum sign surface area of three-hundred (300) square feet; and

(c) Temporary extensions or embellishments integrally incorporated into the sign surface of an advertising sign facing a limited access highway or arterial roadway may be allowed a maximum of an additional two-hundred (200) square feet in sign surface area, subject to the following development standards:

1. The temporary extensions or embellishments shall not have a vertical dimension more than four (4) feet in height above and one (1) foot below the main portion of the advertising sign; and

2. The temporary extensions or embellishments shall not have a horizontal dimension more than one (1) foot beyond the sides of the main portion of the advertising sign.

(3) *Concealment of sign supports.* The backs of advertising signs shall be concealed by another sign surface, screened by suitable architectural treatment, or painted to blend with the natural surroundings, so that the supports, tie rods, bracing or framework which supports the sign surface is screened from view;

(4) *Empty displays prohibited.* Empty sign surfaces, or signs without a display or message covering the entire sign surface, shall be prohibited. This regulation shall apply individually to each display surface;

(5) *Maximum height.* The maximum height of an advertising sign shall not exceed thirty-five (35) feet above grade;

(6) *Minimum setbacks.* The minimum setback for advertising signs shall be as follows:

(a) *Limited access highway.* The minimum front setback shall be fifty (50) feet from the right-of-way;

(b) *All other streets.* The minimum front setback shall be the same as required for any primary building or structure; and

(c) *Side and rear setback.* The minimum side and rear setback shall be the same as required for any primary building or structure.

(7) *Placement limitations along limited access highways.* No advertising sign shall be located within five-hundred (500) feet of an interchange, at-grade intersection, or rest area on any limited access highway. The method of measurement of the location restrictions along a limited access highway shall be along the centerline of the limited access highway or street, measured from the nearest point of the intersection of the centerline of the exit/entrance ramp or intersection street and the right hand lane of the main traveled way of the limited access highway closest to the off-premise sign;

(8) *Distance from certain districts or uses.* Distance between advertising signs and certain districts or uses shall be as follows:

(a) *Linear spacing.* The minimum distance between an advertising sign and a R: Single Family District, R-2 Residential District, O/B Office/Buffer District, Historic Preservation District, designated historic landmark, park and open space, trail, residential use, religious institution, school, or river shall be two-hundred (200) feet. Linear spacing regarding this standard is measured along the centerline of the right-of-way to which the advertising sign is oriented, from the point in the centerline closest to the leading edge of the advertising sign to the point in the centerline nearest the district boundary or lot line of a use specified herein;

(b) *Radial spacing.* The minimum distance between an advertising sign and a R: Single Family District, R-2 Residential District, O/B Office/Buffer District, Historic Preservation District, designated historic landmark, park and open space, trail, residential use, religious institution, school, or river shall be one-hundred (100) feet measured perpendicular from the nearest edge of the sign to the nearest district boundary or lot line of an applicable use; and

CHAPTER 154: PLANNING AND ZONING

Sign Regulations

(b) *Jurisdictional boundaries.* Required separation distances for advertising signs located within unincorporated St. Joseph County shall also be maintained from advertising signs located in adjacent municipalities or jurisdictional areas.

(9) *Distance between advertising signs.* Distance between advertising signs shall be as follows:

(a) *Linear spacing.* The minimum separation between advertising signs located along and oriented toward the same limited access highway shall be one-thousand (1,000) feet. The minimum separation between advertising signs located along and oriented toward the same street shall be seven-hundred-fifty (750) feet. Linear spacing regarding this standard is measured along the centerline of the limited access highway or street to which the sign is oriented, from the point in the centerline closest to the leading edge of the sign;

(b) *Radial spacing.* An advertising sign shall not be located closer than three-hundred (300) feet in any direction from any other advertising sign;

(10) *Construction materials.* The supports, uprights, bracing, and framework of an advertising sign shall be of steel construction.

(D) *Indirect business identification signs.* An indirect business identification sign is a freestanding sign that is associated with an activity, business, or building located within a shopping, entertainment, or business complex but with no direct street frontage. Indirect business identification signs are only permitted when the business it is advertising is not listed or cannot be added to a multi-tenant sign. Indirect business identification signs are subject to the following development standards:

(1) *Location.* Indirect business signs shall be located within five-hundred (500) feet of the main entrance to the associated establishment or building;

(2) *Sign type.* Indirect business identification signs shall be a freestanding monument sign;

(3) *Sign height and surface area.* The sign surface area and height of indirect business identification signs shall comply with Table 154-S2 for on-premise signs and meet the standards specific to freestanding signs within the applicable zoning district. Indirect business identification signs do not count against the on-premise maximum sign area or number of signs for the lot on which it is located; and

(4) *Distance between indirect business identification signs.* The minimum separation between an indirect business identification sign and any other freestanding signs on a lot, regardless of the orientation, shall be one-hundred (100) feet. (*Ord. 52-20; 8/25/20*)

OFF-STREET PARKING REGULATIONS

154.415 INTENT.

These off-street parking regulations are intended to provide for the provision of off-street parking areas which are adequate to support the needs of proposed uses and future uses of a site while at the same time assuring that the design and construction of such off-street parking areas meet minimum design standards necessary to promote efficient circulation and prevent undue traffic congestion.

(Ord. 51-05, § 8.08.04, passed 5-10-2005)

154.416 APPLICABILITY.

All new development, additions to buildings or structures, or conversions of use for which an improvement location permit is required by this chapter shall provide required off-street parking in accordance with the regulations of this subchapter. Such off-street parking areas may be provided in either a surface parking area or a parking garage. If off-street parking areas are provided in a parking garage, such parking garage shall be located in compliance with all other general development standards of the applicable district.

(Ord. 51-05, § 8.08.04A, passed 5-10-2005)

154.417 EXISTING PARKING AREAS.

Existing off-street parking areas shall not be reduced below the minimum requirement for such use as required by this subchapter. Any off-street parking areas existing prior to the effective date of this subchapter which were already below the standards established by this chapter shall not be further reduced.

(Ord. 51-05, § 8.08.04B, passed 5-10-2005)

154.418 LOCATION OF PARKING AREAS.

Off-street parking areas shall be located:

(A) On the same lot or combination of lots as the building, structure or use served by the off-street parking area; *(Ord. 66-19, 7/9/2019)*

(B) Within the same integrated center, business park, or industrial park as the building, structure or use served by the off-street parking area; or

(C) Within 500 feet, of the building, structure or use served by the off-street parking area, provided that such off-street parking area shall be located within a district which permits the use for which the off-street parking is provided. *(Ord. 66-19, 7/9/2019)*

(Ord. 51-05, § 8.08.04C, passed 5-10-2005) Penalty, see § 154.999

CHAPTER 154: PLANNING AND ZONING
Off-Street Parking Regulations

154.419 DESIGN AND CONSTRUCTION OF OFF-STREET PARKING AREAS.

The design and construction of all required off-street parking areas shall be in compliance with the stricter of the regulations contained in this subchapter, or the minimum specifications prescribed by the County Engineer.

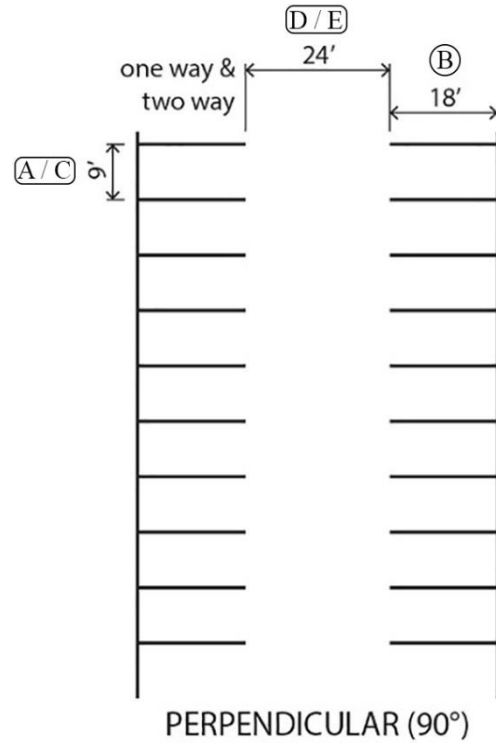
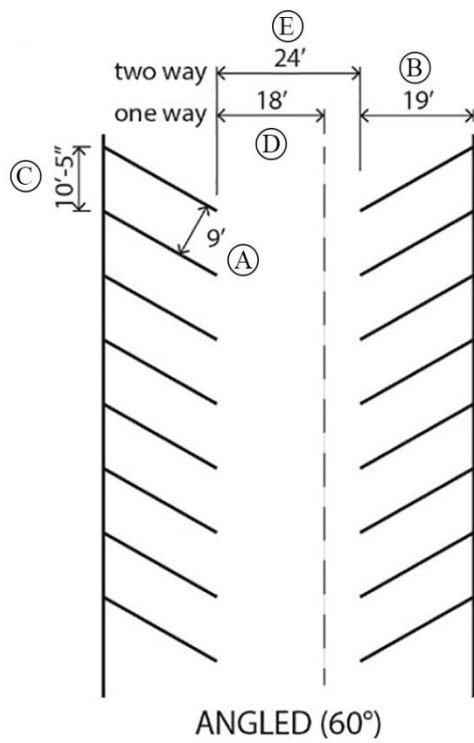
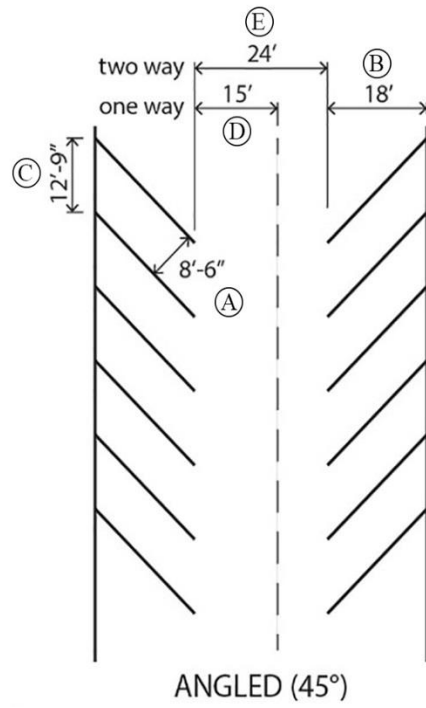
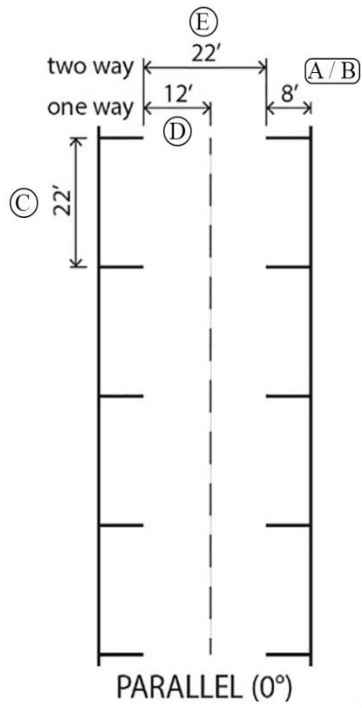
(A) *Design of parking areas.*

(1) *Layout.* The layout of all off-street parking areas shall be in compliance with Table 154-4: Parking Lot Design. An alley adjacent to the lot may be used to meet the requirement for drive aisle width. (Ord. 66-19, 7/9/2019)

Table 154-4: Parking Lot Design					
Space Angle	Minimum Space Width (A)	Minimum Parking Row Depth (B)	Minimum Curb Width (C)	Minimum Drive Aisle Width: One-Way (D)	Minimum Drive Aisle Width: Two-Way (E)
Parallel (0°)	8'	8'	22'	12'	22'
45°	8' 6"	18'	12' 9"	15'	24'
60°	9'	19'	10' 5"	18'	24'
Perpendicular (90°)	9'	18'	9'	24'	24'

(Ord. 66-19, 7/9/2019)

CHAPTER 154: PLANNING AND ZONING
Off-Street Parking Regulations



CHAPTER 154: PLANNING AND ZONING
Off-Street Parking Regulations

(2) *Landscaping.* Except for agricultural uses, individual single-family dwellings or two-family dwellings, the layout of all off-street parking areas shall comply with the design related regulations contained in §§ 154.334 and 154.337.

(3) *Lines and curbs.* Except for agricultural uses, individual single-family dwellings or two family dwellings, all off-street parking spaces shall be:

(a) Identified by painted lines (minimum four inches in width), raised curbs or other means to indicated individual spaces; and,

(b) Provided with a raised curb, wheel stops or other devices to ensure that motor vehicles do not encroach beyond the off-street parking area or into a required yard.

(B) *Surface materials.* Except for agricultural uses or individual single family dwellings, all required off-street parking areas and any driveway, interior access driveway or interior access drive to and from such off-street parking areas shall be hard surfaced with asphalt, concrete, pervious pavement, pavers or other material to provide a durable, dust-free surface, which meets or exceeds the minimum specifications prescribed by the County Engineer, provided, however, a temporary or seasonal use permitted by the district in which such temporary or seasonal use is located may use an unimproved or gravel surface for the duration of the temporary or seasonal use. If a temporary gravel surface is provided, such gravel shall be removed and the off-street parking area shall be returned to its prior condition immediately upon cessation of the temporary or seasonal use. (*Ord. 66-19, 7/9/2019*)

154.420 MINIMUM NUMBER OF REQUIRED OFF-STREET PARKING SPACES.

Off-street parking for all uses shall be provided in accordance with the minimum requirements set forth in Table 154-5: Minimum ADA Parking Spaces and Table 154-6: Required Off-Street Parking, except that the U: University District shall be exempt from the minimum requirements contained in Table 154-6: Required Off-Street Parking. When the computation of required off-street parking spaces results in a fraction of one-half or greater, the number of required off-street parking spaces shall be rounded up to the next whole number. (*Ord. 45-21, 5/11/21*)

(A) *Increase in intensity of use.* Additional off-street parking spaces shall be required whenever a change of use, units, or size of a building or structure results in an increase in the minimum number of required off-street parking spaces of twenty-five (25) percent or more from the number of off-street parking spaces existing on the effective date of this Ordinance, whether such total increase occurs at one (1) time or in successive stages. (*Ord. 66-19, 7/9/2019*)

(B) *Units of measurements.* Gross floor area shall be determined per the definition of gross floor area in 154.636. (*Ord. 66-19, 7/9/2019*)

(C) *Credits to minimum required off-street parking spaces.* The number of minimum required off-street parking spaces can be reduced by any of the following conditions:

(1) Legal, on-street parking spaces located immediately adjacent to and on the same side of the street as the front lot line may be counted toward off-street parking space requirements;

(2) The minimum number of off-street parking spaces may be reduced by ten (10) percent (rounded down to the nearest whole number) if the lot is located within one thousand (1,000) feet of a public transit line; or

(3) The required number of off-street parking spaces may be reduced by one (1) for every two (2) bicycle parking spaces provided above those otherwise required by 154.421(C), up to a maximum of ten (10) percent rounded down to the nearest whole number.

(Ord. 51-05, § 8.08.04E, passed 5-10-2005); (Ord. 66-19, 7/9/2019); Penalty, see § 154.999

154.421 REQUIRED BICYCLE PARKING. (Ord. 66-19, 7/9/2019)

(A) *Applicability.* All uses shall provide a minimum number of bicycle parking as indicated below, except that the U: University District shall be exempt from Section 154.421 (B) - (F). (Ord. 45-21, 5/11/21)

(B) *Location.* Bicycle parking shall be placed within one-hundred (100) feet of, and clearly visible from, the main entrance to the use served.

(C) *Unit of measurement.* Bicycle parking spaces shall be used to determine the minimum required bicycle parking. One (1) bicycle parking space is equal to each bike that a bike rack is designed to hold. For example, a single bike rack that is designed for parking two (2) bicycles will be counted as two (2) bicycle parking spaces.

(D) *Minimum spaces required.* One (1) bicycle parking space for every ten (10) vehicle parking spaces rounded up to the nearest whole number. No more than sixteen (16) bicycle parking spaces shall be required. (Ord. 19-20, 2/18/20)

(E) *Surface materials.* All bicycle parking areas shall be hard surfaced with asphalt, concrete, pervious pavement, pavers, or other material to provide a durable, dust free surface.

(F) *Bike racks.* Bike racks shall be:

(1) Securely anchored;

(2) Able to support the bicycle frame in at least two places to prevent the bicycle from falling over; and

(3) Configured to allow the locking of the frame and at least one wheel with a U-lock.

CHAPTER 154: PLANNING AND ZONING
Off-Street Parking Regulations

154.422 REQUIRED PARKING FOR THE DISABLED.

Every off-street parking area and parking garage available to the public shall have parking spaces reserved for the use of physically handicapped persons as specified in Table 154-5: Minimum ADA Parking Spaces (as required by ADA Accessibility Guidelines for Buildings and Facilities, Chapter 4.1.2 (5)(a), published in the Federal Register, Volume 56, No. 144, dated July 26, 1991); provided, however, facilities which provide medical care and other services to persons with mobility impairments shall provide ADA Parking Spaces as follows:

Outpatient units and facilities	10% of the total number of off-street parking spaces
Units and facilities that specialize in treatment services for persons with mobility impairments	20% of the total number of off-street parking spaces

<i>Table 154-5: Minimum ADA Parking Spaces</i>	
<i>Total Parking Spaces Provided</i>	<i>Minimum Number of Reserved Spaces</i>
1 - 25	1
26 – 50	2
51 – 75	3
76 – 100	4
101 – 150	5
151 - 200	6
201 – 300	7
301 – 400	8
401 – 500	9
501 – 1000	2% of the total number of off-street parking spaces
1001 and over	20, plus 1 for each 100 off-street parking spaces over 1,000

154.423 REQUIRED OFF-STREET PARKING.

(A) *Minimum Required.* All uses shall provide a minimum number of off-street parking spaces as indicated below. (Ord. 66-19, 7/9/2019)

CHAPTER 154: PLANNING AND ZONING
Off-Street Parking Regulations

(B) The U: University District shall be exempt from the minimum required off-street parking regulations provided in Table 154.6. (*Ord. 45-21, 5/11/21*)

<i>Table 154-6: Required Off-Street Parking</i>	
<i>Use</i>	<i>Minimum Number of Parking Spaces per One Thousand (1,000) Square Feet of Gross Floor Area of Buildings (except as noted)</i>
<i>Automobile Sales, Service & Related Uses</i>	<i>2</i>
<i>Commercial: Hotels, Motels & Other Sleeping Establishments</i>	<i>1 per guest room</i>
<i>Commercial: Retail & Service</i>	<i>2</i>
<i>Commercial: Restaurants & Bars</i>	<i>8</i>
<i>Industrial</i>	<i>0</i>
<i>Institutional: Schools, Colleges, Universities</i>	<i>0.75</i>
<i>Institutional: Hospitals, Clinics, Assisted Living</i>	<i>2.5</i>
<i>Office</i>	<i>3</i>
<i>Public Assembly, Civic, Religious and Recreational Facilities</i>	<i>4</i>
<i>Residential</i>	<i>1 per dwelling unit</i>
<i>Minimum parking required</i>	<i>Except for residential uses, in no case shall any individual, non-related and separately operated use provide less than 2 parking spaces</i>
<i>Uses not specified</i>	<i>For any use not specified above, specific requirements shall be determined by the Zoning Administrator and shall be based upon requirements for similar uses, expected demand and traffic generated by the proposed use and other information from appropriate traffic engineering and planning criteria</i>

(*Ord. 51-05, Art. 8, passed 5-10-2005*); (*Ord. 66-19, 7/9/2019*); *Penalty, see § 154.999*

OFF-STREET LOADING REGULATIONS

154.435 INTENT.

These Off-Street Loading Regulations are intended to provide for the provision of off-street loading areas which are adequate to support the needs of the proposed use and future uses of a site while at the same time assuring that the design and construction of such off-street loading areas meet minimum design standards necessary to provide efficient circulation and prevent undue traffic congestion.

(Ord. 51-05, § 8.08.05, passed 5-10-2005)

154.436 LOADING FOR BUILDINGS, STRUCTURES OR USES.

All commercial / mixed use or industrial development or conversions of use for which an improvement location permit is required by this Chapter shall provide off-street loading areas in accordance with the following regulations.

(Ord. 51-05, § 8.08.05A, passed 5-10-2005) Penalty, see § 154.999

154.347 DESIGN AND CONSTRUCTION OF LOADING AREAS.

(A) The design and construction of all required loading spaces or excess loading spaces shall be in compliance with the stricter of the regulations contained in this section, or the minimum specifications prescribed by the County Engineer.

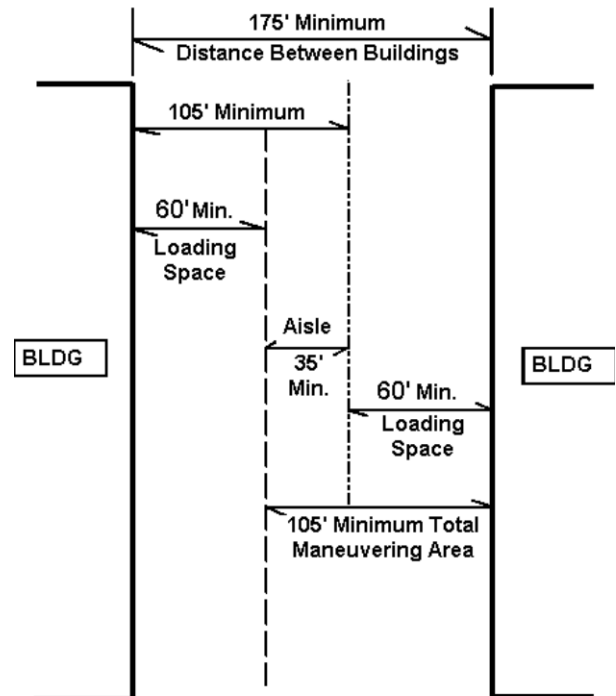
(B) The following standards shall apply to the design of off-street loading areas:

(1) *Loading space dimensions.*

A required or excess off-street loading space shall be at least 12 feet in width by at least 60 feet in length, exclusive of aisle and maneuvering space, and shall have a vertical clearance of at least 14 feet.

(2) *Minimum aisle width.*

Each required off-street loading space shall open directly upon an aisle or interior access drive with a width of at least 35 feet and creating a total maneuvering area, inclusive of the loading space, of at least 105 feet, unless subject to the provisions of division (B)(4), below regarding excess loading spaces.

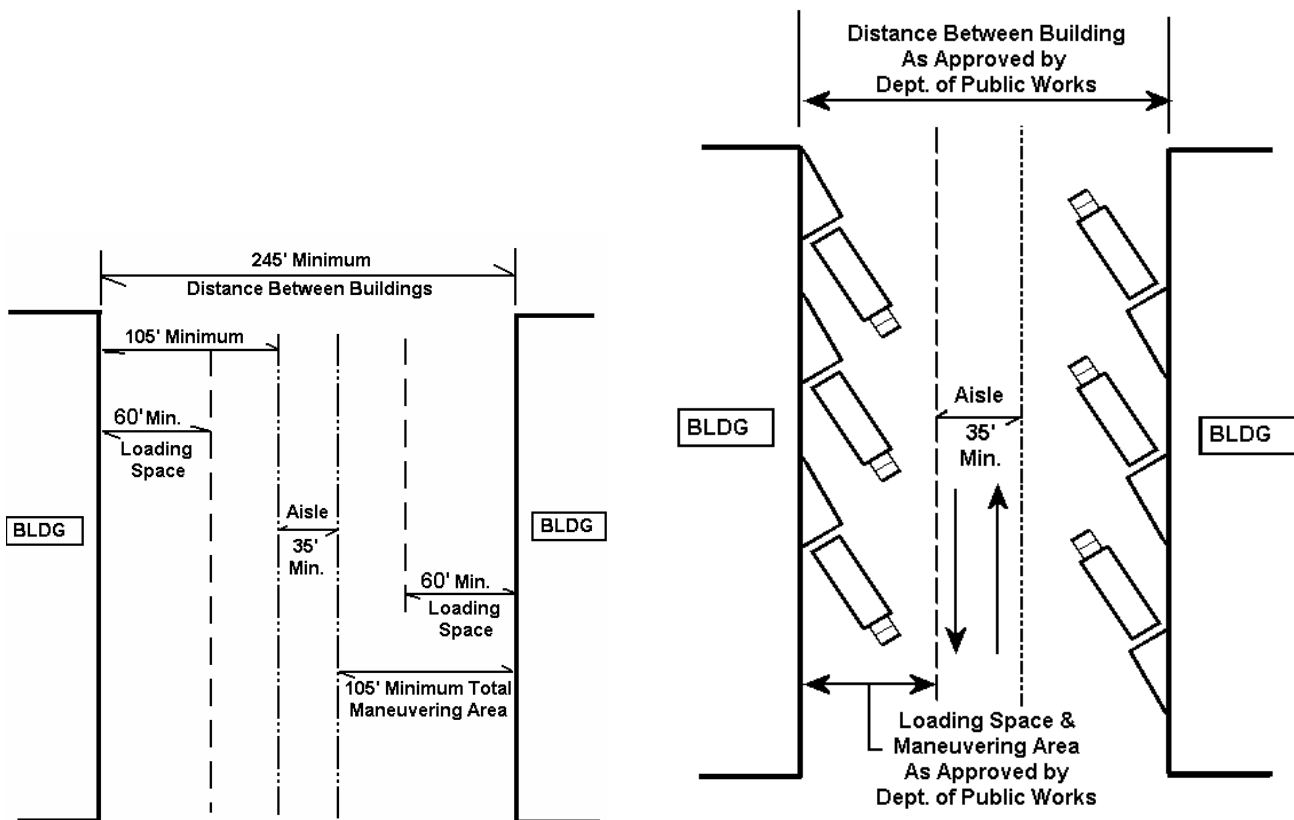


Loading Area Design

CHAPTER 154: PLANNING AND ZONING
Off-Street Loading Regulations

(3) *Maneuvering.* Each maneuvering area, aisle and interior access drive utilized to access a required loading space or an excess loading space shall be so designed and located as to provide safe and efficient ingress/egress to each loading space and so that trucks do not back from or into a public street, or onto an adjoining property (unless the subject property and the adjoining property are located within the same integrated center or industrial park and such maneuvering area is subject to a recorded easement allowing such maneuvering).

(4) *Design of Excess Loading Areas.* Any use which provides loading spaces at a rate of: greater than four loading spaces; and, more than two times the minimum required by this Ordinance, shall provide a total maneuvering area of at least 105 feet which is separate and distinct from the minimum aisle width requirement of 35 feet.



Design of Excess Loading Areas

Alternate Design for Loading Area

(5) *Alternate design for loading areas.* In those instances where insufficient area exists to provide for perpendicular loading spaces as allowed by division (B)(2) above or division (B)(4) above, angled or parallel loading spaces may be proposed, provided:

(a) The design of such loading area shall include either a one-way traffic pattern or orients the loading spaces so that traffic flow from the loading spaces is in the direction of traffic movement on the side of aisle on which the loading spaces are located;

(b) The loading spaces are accessed by an aisle or interior access drive having a width of not less than 35 feet plus sufficient maneuvering area outside of the aisle of the interior access drive, based upon the angle of the loading spaces, to provide safe and efficient maneuverability; and,

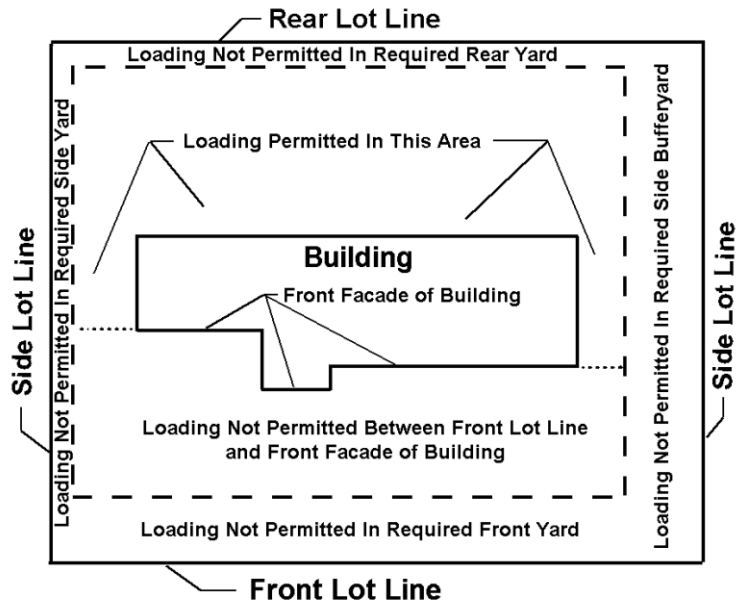
(c) The design of such angled or parallel loading spaces shall be subject to the approval of the Department of Public Works.

(Ord. 51-05, § 8.08.05B, passed 5-10-2005) Penalty, see § 154.999

154.438 LOCATION OF OFF-STREET LOADING SPACES.

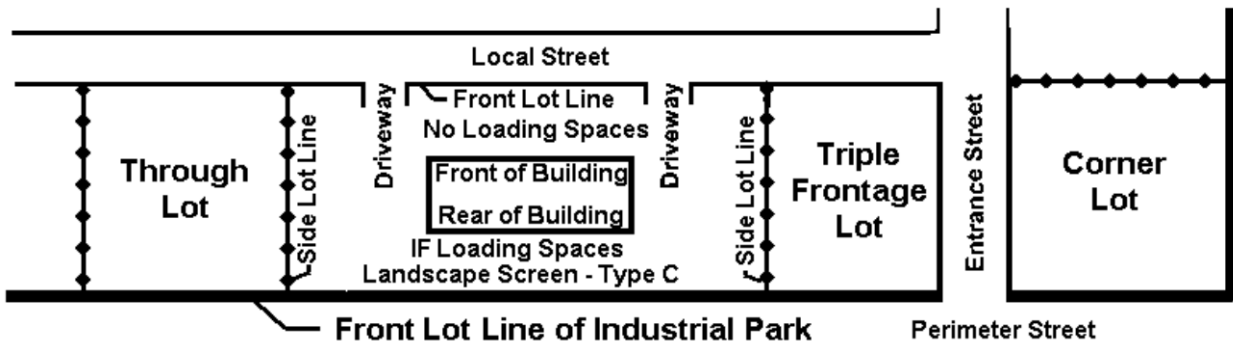
(A) All off-street loading spaces shall be located on the same lot as the use served.

(B) No off-street loading spaces shall be located between the front lot line and the front facade of any portion of the building served, provided, however, in the case of a double frontage lot, off-street loading spaces may be located between a front lot line of a perimeter street and the rear of the building served if: no access is provided across such front lot line; and, the yard between the off-street loading spaces and such front lot line is landscaped in compliance with the regulations of § 154.330 through 154.339 for a Type 2: Full Screening Landscaping, provided, however, the Type 2: Full Screening shall not apply to front lot lines along limited access highways where Type 1: Open Landscaping is required by §§ 154.330 through 154.339.



Locations for Off-Street Loading Spaces

CHAPTER 154: PLANNING AND ZONING
Off-Street Loading Regulations



Location of Off-Street Loading Areas on a Through Lot (Screening Required)

(C) All off-street loading spaces shall be oriented toward a side lot line or rear lot line.

(D) No off-street loading spaces shall be located in a required side yard, required rear yard, required side residential bufferyard or required rear residential bufferyard.

(E) Office, professional services, retail or other non-industrial uses may provide one required loading space per building in a "pull-off" loading area located adjacent to an interior access drive. A "pull-off" loading area shall not be subject to the prohibition against being located between the front lot line and front facade of any portion of the building served set forth in division (C) above.



Pull-Off Loading Area

(Ord. 51-05, § 8.08.05C, passed 5-10-2005) Penalty, see § 154.999

154.439 USE OF REQUIRED LOADING AREA.

Space allocated for required or excess off-street loading spaces and associated maneuverability shall not be used to satisfy off-street parking space requirements.

(Ord. 51-05, § 8.08.05D, passed 5-10-2005) Penalty, see § 154.999

154.440 SURFACE OF LOADING AREAS.

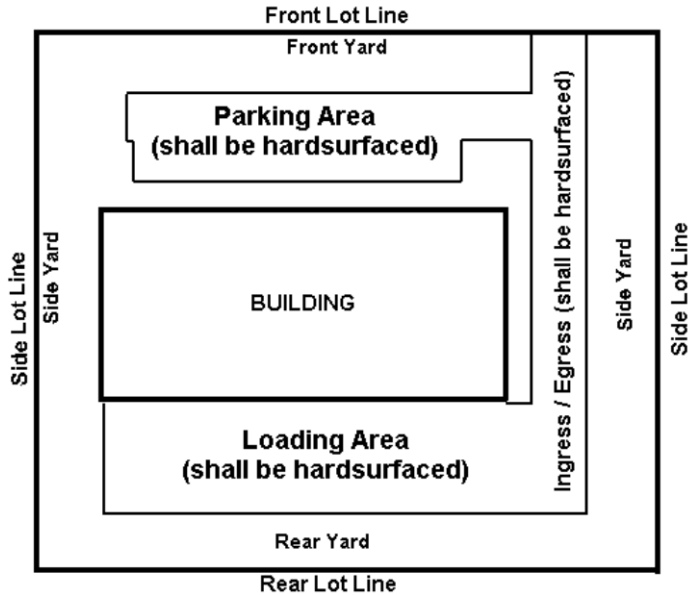
All off-street loading areas and the ingress/egress to and from such off-street loading areas located on such lot shall be hard surfaced with asphalt, concrete or other material to provide a durable dust-free surface.

(Ord. 51-05, § 8.08.05E, passed 5-10-2005) Penalty, see § 154.999

154.441 SPECIAL REGULATIONS FOR GASOLINE SERVICE STATIONS.

The site design of any gasoline service station shall provide for the safe and efficient ingress and egress to the site for fuel delivery vehicles and an area for such fuel delivery vehicles to park while unloading which does not interfere with or impede ingress or egress to or from any public street, required parking spaces or any gasoline sales area.

(Ord. 51-05, § 8.08.05F, passed 5-10-2005) Penalty, see § 154.999



Hard Surfacing of Loading Area Required

CHAPTER 154: PLANNING AND ZONING
Off-Street Loading Regulations

154.442 MINIMUM NUMBER OF OFF-STREET LOADING SPACES.

Off-street loading spaces for all buildings or uses shall be provided in accordance with the minimum requirements set forth in Table 154-7, below:

Table 154-7: Required Off-Street Loading		
Use	Gross Floor Area of Building (Square Feet)*	Required Number of Loading Spaces
Office / Professional Service	≤ 10,000	0
	10,000 – 100,000	1
	100,000 – 200,000	2
	Each additional 200,000 or portion thereof	1 additional
Retail	≤ 10,000	0
	10,000 – 25,000	1
	25,000 – 60,000	2
	60,000 – 120,000	3
	Each additional 100,000 or portion thereof	1 additional
Industrial	≤ 10,000	0
	10,000 - 40,000	1
	40,000 - 100,000	2
	100,000 - 200,000	3
	Each additional 200,000 or portion thereof	1 additional
Other Non-Residential	≤ 10,000	0
	10,000 – 100,000	1
	Each additional 100,000 or portion thereof	1 additional
* Interpretation of Numbers: Number ranges shall be interpreted as follows: "Over ##,###, and less than or equal to ##,####".		

(Ord. 51-05, § 8.08.05G, passed 5-10-2005) Penalty, see § 154.999

**SPECIAL REGULATIONS FOR WIRELESS TELECOMMUNICATIONS
FACILITIES**

154.455 INTENT AND POLICY.

(A) *Intent.* This subchapter creates the framework for the siting of wireless telecommunications facilities in a manner which: protects the public health, safety and general welfare of the community; provides comprehensive service to the community; protects the community from visual clutter; is compatible with existing and future land use; and, preserves significant view corridors.

(B) *Policy.* The following policy statements are set forth to provide guidance to wireless communication facility providers in the placement of wireless telecommunication facilities within St. Joseph County. It is hereby declared that the telecommunications policies for the unincorporated areas of St. Joseph County, Indiana, shall be to:

- (1) Facilitate the comprehensive provision of wireless telecommunication services to the residents and businesses of St. Joseph County:
- (2) Maximize the use of existing and approved telecommunication towers, buildings, and structures to accommodate new wireless telecommunication antennas in order to minimize the number of telecommunication towers needed to comprehensively serve the community;
- (3) Minimize the number, height, obtrusiveness, and the visual impacts of telecommunications towers, associated equipment, and buildings;
- (4) Encourage wireless telecommunication facilities to be located in areas which are least disruptive to residential, park, open space, and greenway uses and to be as unobtrusive and invisible as reasonably possible;
- (5) Ensure that the height of telecommunications towers has the least visual impact and is no greater than required to achieve service area requirements and potential co-location;
- (6) Site telecommunications towers to minimize locations which are visually solitary or prominent when viewed from residential areas or any public way;
- (7) Site telecommunications towers at locations which are obscured by vegetation, tree cover, topographic features, buildings or other structures to the maximum extent feasible;
- (8) Protect views of and vistas from architecturally or historically significant structures and historically significant landscapes so that these architectural or historical resources are not impaired or diminished by the placement of telecommunications towers; and
- (9) Avoid potential damage to adjacent properties from telecommunication towers failure through structural design standards and setback requirements.

(Ord. 51-05, § 8.09.01A, passed 5-10-2005)

CHAPTER 154: PLANNING AND ZONING
Special Regulations for Wireless Telecommunications Facilities

154.456 WIRELESS TELECOMMUNICATIONS FACILITIES REQUIREMENTS.

(A) *Applicability.* Notwithstanding any other provision of this subchapter to the contrary, wireless telecommunications facilities, when such are permitted by and in compliance with federal law and the laws of the State of Indiana (including but not limited to non-interference with public safety telecommunications), shall be regulated and governed by the regulations and requirements of this subchapter.

(B) *Amateur radio exemption.* This Division shall not apply to nor be construed to apply to amateur radio operators who are licensed to operate a radio or transmitter by the Federal Communications Commission under Part 97 of the Federal Communications Commission's Rules.

(C) *Compliance with other laws.* A telecommunications tower shall be erected and operated in compliance with the most current Federal Communication Commission and Federal Aviation Administration rules and regulations and other applicable federal and state standards. All telecommunications towers shall comply with all ordinances of St. Joseph County not in conflict with this subchapter.

(Ord. 51-05, § 8.09.01B, passed 5-10-2005) Penalty, see § 154.999

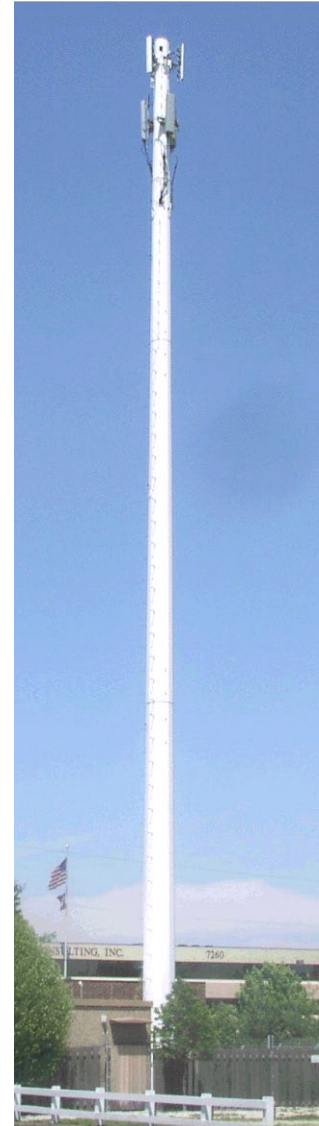
154.457 SITING HIERARCHY OF WIRELESS TELECOMMUNICATIONS FACILITIES.

Development of wireless telecommunications facilities shall be in accordance with the following siting alternatives hierarchy. The order of ranking, from highest to lowest, shall be from division (A), to division (B), to division (C), outlined below. Where a lower ranked alternative is proposed, the applicant must demonstrate by substantial evidence that higher ranked options are not technically feasible or available.

(A) *Co-location.* The co-location of antenna on existing telecommunication towers and associated equipment or buildings shall comply with the following regulations:

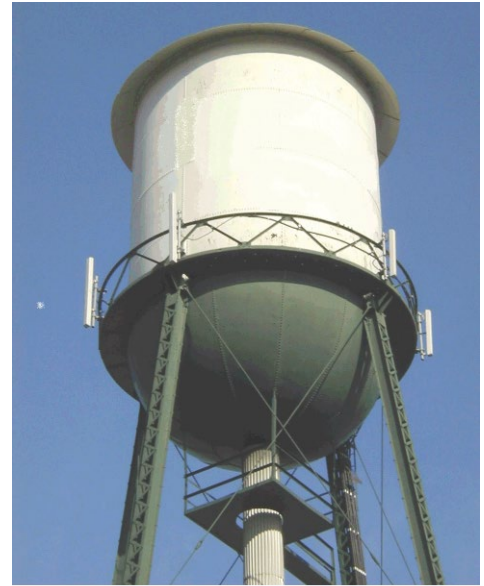
(1) The co-location or placement of new telecommunications antennas upon existing telecommunications towers are hereby declared as permitted uses in all districts and may be issued an improvement location permit provided all development standards outlined in § 154.458(B) below, are met.

(2) Associated equipment or buildings, when located within an existing compound area that is in compliance with this Ordinance, may be issued an improvement location permit provided all development standards outlined in § 154.458(C) below, are met.



**Tapering Monopole
with Co-Location
Using Slick Antenna**

(B) *Existing structure or building utilization.* The utilization of existing structures and buildings for placement of antenna and associated equipment or buildings, including surface-mounted and roof-mounted applications of telecommunication antennas on existing buildings and structure-mounted applications of telecommunication antennas on water towers, electric-line transmission towers, or other existing structures, shall comply with the following regulations:



Antenna on an Existing Structure

(1) The placement of new telecommunications antennas upon existing structures and buildings are hereby declared as permitted uses in all districts and may be issued an improvement location permit provided all development standards outlined in § 154.458(B), below, are met.

(2) Associated equipment or buildings, when located within an existing building or compound area that is in compliance with this Ordinance, may be issued an improvement location permit provided all development standards outlined in § 154.458(C) below, are met.

(C) *New telecommunications tower locations.* New telecommunications towers and associated equipment or buildings shall comply with the following regulations:

(1) *Where permitted.* Wireless telecommunications facilities requiring the construction of a telecommunications tower, building, or structure are hereby declared as:

(a) Permitted primary uses in the A: Agricultural District, I: Industrial District, when located more than five-hundred (500) feet from a residential district or residential structure, not including a residential structure occupied by the seller or landlord; (*Ord. 76-19, 9/10/2019*)

(b) Special use in the A: Agricultural District, I: Industrial District when located five-hundred (500) feet or less from a residential district or residential structure, not including a residential structure occupied by the seller or landlord; (*Ord. 76-19, 9/10/2019*)

(c) Special uses in all other districts requiring the approval of a special use prior to the issuance of an improvement location permit; and

(d) The applicant for any special use for a new wireless telecommunications tower shall demonstrate through the materials required by division (C)(4), below, that there are no other locations, buildings or structures beyond five-hundred (500) feet of a residential district or residential structure which are available and which can provide the necessary wireless telecommunications services to the residents and businesses of St. Joseph County.

CHAPTER 154: PLANNING AND ZONING
Special Regulations for Wireless Telecommunications Facilities

(2) *Alternatives exhausted.* The applicant for a wireless telecommunications facility special use shall demonstrate that they have exhausted all efforts to locate the proposed telecommunications antennas upon existing telecommunications towers, buildings or structures in the geographical area of the proposed telecommunications antennas. In the event that a wireless communications provider claims that efforts to locate the proposed telecommunications antennas upon existing telecommunications towers, buildings or structures failed because of the demanded lease amount of the owner of an existing telecommunications tower, such dispute over fair market value shall be settled as set forth in division (C)(3), below.

(3) *Fair market value.* In the event of dispute between wireless telecommunications providers regarding the fair market value of rental for a co-location on an existing telecommunications tower which is subject to a requirement to provide co-location at a reasonable and non-discriminatory basis and at a cost not materially exceeding fair market value, the applicant, at the applicant's cost, shall select an independent appraiser to determine fair market value of such rental. In the event of a dispute over the appraisal results, the wireless telecommunication providers shall employ a new appraiser subject to the approval of the Zoning Administrator. The new appraisal shall be performed at the expense of the wireless telecommunication providers involved in the dispute. The expense of the new appraisal shall be equally shared between the wireless telecommunication providers and the results shall be conclusive.

(4) *Additional special use filing requirements.* In addition to the requirements specified in § 154.563 and any applicable Rules of Procedure, all applications for a special use for a new telecommunications tower location shall include the following:

(a) A service plan for St. Joseph County. The service plan shall demonstrate efforts to minimize the size and number of telecommunications tower locations throughout the geographical area, taking into consideration existing technology. The service plan shall include, but not be limited to the following information:

1. A narrative detailing:
 - a. The reason of need (coverage, capacity, new users, etc.) for a telecommunications tower or wireless communication facility at the requested site;
 - b. The nature of any existing wireless communication facility sites indicated on the map required by division (C)(4)(a)2, below, shall be documented (i.e., freestanding structure with available heights noted, roof-mounted applications, existing telecommunications towers with information regarding co-location opportunities or limitations, service providers utilizing each such wireless communication facility site, etc.); and,
 - c. The manner in which the proposed placement will promote the Telecommunications Policies of St. Joseph County.
2. a. A map of St. Joseph County identifying the following:
 1. All existing telecommunications towers; and,

CHAPTER 154: PLANNING AND ZONING
Special Regulations for Wireless Telecommunications Facilities

2. All structures or buildings within a one-mile radius of the proposed site that have a height equal to or greater than the height of the proposed telecommunications tower minus 30 feet.

b. In the event that a telecommunications tower is proposed within one mile of the boundary of St. Joseph County, such map shall include the information required above for all areas within one mile of the proposed telecommunications tower.

3. a. If the applicant is a licensed provider of wireless communication services, the applicant shall supply individual coverage maps of the St. Joseph County jurisdiction which:

1. Identify all existing locations utilized by the licensed provider's network and reflects the current coverage levels to St. Joseph County; and

2. Identify the proposed coverage levels of the licensed provider's network after the installation of the proposed wireless telecommunication facility.

b. In the event that the licensed provider proposes multiple sites, a separate coverage map for each additional wireless telecommunication facility and an overall coverage map based upon all proposed wireless telecommunication facilities shall be provided.

(b) A certification, in a manner acceptable to St. Joseph County, from the owner of the telecommunications tower or the property on which the telecommunications tower is located, that the telecommunications tower is available for use by another wireless telecommunications provider on a reasonable and non-discriminatory basis and at a cost not exceeding the fair market value for the use of the facilities.

(c) A designation by the owner of the telecommunications tower or the property on which such telecommunications tower is located of an area which is set aside for the equipment of future users of the telecommunications tower and is located:

1. Within the proposed compound area; or,

2. Within a separate compound area located on the same lot and located no further from the telecommunications tower than the distance from the telecommunications tower to the proposed compound area plus 50 feet.

(d) Color photo simulations showing the site of the proposed telecommunications tower with a photo-realistic representation of the proposed telecommunications tower as it would appear viewed from the closest residential district and from adjacent public right-of-way, and photographs of the same views as in the photo simulations showing the current appearance of the site without the proposed telecommunications tower.

(Ord. 51-05, § 8.09.01C, passed 5-10-2005) Penalty, see § 154.999

154.458 DEVELOPMENT STANDARDS.

In addition to complying with the requirements for a special use for the district in which the lot is located, all wireless telecommunications facilities shall comply with the following additional development standards:

(A) *Telecommunication tower and antenna array.*

(1) *Height.* The maximum height of a telecommunications tower, including antenna array, shall be less than 200 feet above grade.

(2) *Telecommunications tower type.* All new telecommunications towers shall be of a tapering monopole construction unless a determination is made in connection with a special use request that an alternative design would better blend into the surrounding environment and is approved as a waiver of development standards as provided for and regulated in § 154.563.

(3) *Guys and guy anchors.* If a guyed telecommunication tower is approved, all guys and guy anchors shall be located within the buildable area of the lot and shall not be located within any required yard or required residential bufferyard

(4) *Security fencing.* The base of a telecommunications tower and all guy anchors shall be enclosed by security fencing. This fencing shall conform with the requirements detailed in (C)(1), below.

(5) *Structural design.* A telecommunications tower shall be designed and built so as to:

(a) Be capable of use by at least two wireless communications providers for a telecommunications tower less than 80 feet in height;

(b) Be capable of use by three or more wireless communications providers for a telecommunications tower of 80 feet in height or greater;

(c) Accommodate antenna arrays consisting of nine to 12 antennas for each antenna array, provided, however, this regulation shall not apply to slick antenna applications;

(d) Locate such antenna arrays within 15 vertical feet of each other;



**Tapering Monopole
with "Slick" Antenna**

(e) Have no more than three degrees of twist and sway at the top elevation; and,

(f) Provide internal cable routing for all tapering monopole telecommunication towers.

(6) *Antenna arrays and types.* To minimize adverse visual impacts, the antenna type used shall be in accordance with the following alternatives hierarchy. The order of ranking, from highest to lowest, shall be divisions (A)(6)(1), (2), (3), (4) and (5) outlined below. Where a lower ranked alternative is proposed, the applicant must demonstrate by substantial evidence that higher ranked options are not technically feasible or available.

(a) Flagpole antenna (with or without a flag, as appropriate to the setting).

(b) Slick antennas or stealth antennas other than flagpole antennas.

(c) Panel antennas, also known as directional or sectored antennas.

(d) Whip antennas.

(e) Dish antennas.



Panel Antenna



Stealth Flagpole
Antenna w/out flag



Stealth or "Slick"
Antenna

(7) *Signs.* No lettering, symbols, images, trademarks, signs (including banners, pennants or streamers), or advertising shall be placed on or affixed to any part of a telecommunications tower, antenna array or antenna, other than as required by Federal Communications Commission regulations regarding telecommunications tower registration or other applicable law.

CHAPTER 154: PLANNING AND ZONING
Special Regulations for Wireless Telecommunications Facilities

(8) *Safety.* Telecommunications towers shall be constructed to minimize potential safety hazards. Telecommunications towers shall be constructed so as to meet or exceed the most recent EIA-222 standards, and prior to issuance of an improvement location permit, the Zoning Administrator shall be provided with an engineer's certification that the telecommunications tower's design meets or exceeds such EIA-222 standards. Guyed telecommunications towers shall be located in such a manner that if the telecommunications tower should fall along its longest dimension, the telecommunications tower will remain within the lot lines and avoid dwelling units, habitable structures, public street rights-of-way, utility lines and other telecommunications towers.

(9) *Lights.* No signals, lights or other illumination (including holiday lights or outdoor strings of lights) shall be permitted on telecommunications towers unless required by the Federal Communications Commission, the Federal Aviation Administration, or St. Joseph County. When incorporated into the approved design of the telecommunications tower, outdoor light fixtures used to illuminate ball fields, parking areas, or similar areas, in compliance with the requirements of §§ 154.350 through 154.355, may be attached to the telecommunications tower.

(10) *Modifications.* If any additions, changes or modifications are to be made to a telecommunications tower, the Zoning Administrator shall have the authority to require proof, through the submission of engineering and structural data, that the addition, change or modification conforms to structural wind load and all other requirements of the current building code adopted by St. Joseph County.

(B) *Telecommunications antennas mounted on existing buildings or structures.*

(1) *Roof-mount.* Roof-mounted telecommunications antennas are permitted on buildings and structures in all districts, except for single family dwellings or two-family dwellings, without a special use, provided:

(a) A non-whip antenna:

1. Does not exceed the height of the building by more than ten feet; and,
2. Shall be no closer than ten feet to the perimeter of the building.

(b) A whip antenna:

1. Does not exceed the height of the building by more than 15 feet; and,
2. Shall be no closer than 15 feet to the perimeter of the building.

(c) Prior to installation of a roof-mounted telecommunications antenna or equipment, the Zoning Administrator shall be provided with an engineer's certification that the roof will support the proposed telecommunications antenna or associated roof-mounted equipment.

(2) *Surface-mount.* Surface-mounted telecommunications antennas are permitted on buildings or structures in all districts without a special use, provided:

(a) The antenna is of the non-whip antenna type;

(b) The non-whip antenna is mounted flush with the exterior of the building or structure so that it projects no more than 30 inches from the surface of the building or structure to which it is attached; and,

(c) The non-whip antenna's appearance is designed to blend with the color or texture of the surrounding surface of the building or structure.

(3) *Other existing structures.* Telecommunications antennas are permitted on existing utility, lighting, telecommunications towers and other structures in all districts without a special use, provided:

(a) The existing utility, lighting, telecommunications towers and other structure exceeds 50 feet in height above grade;

(b) The telecommunications antenna does not exceed the height of the structure by more than 10 feet if a non-whip antenna or 15 feet if a whip antenna.

(c) Existing structures may be rebuilt if necessary to support the load of the new telecommunications antenna without further zoning proceedings provided:

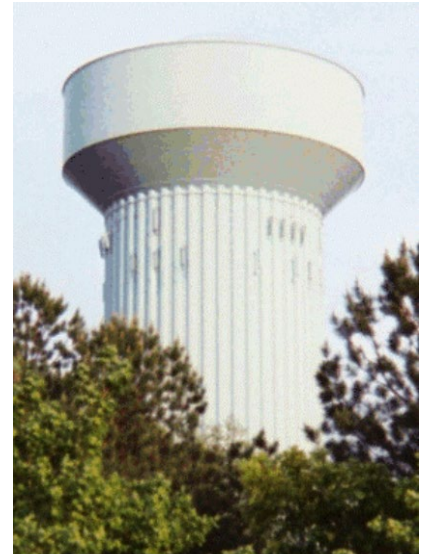
1. If the structure to be rebuilt is not an existing telecommunications tower, the rebuilt structure shall comply with all applicable regulations of the district in which such structure is located; or,

2. If the structure to be rebuilt is an existing telecommunications tower, the new telecommunications tower shall:

a. Not exceed the height of the existing telecommunications tower; and,

b. Comply with all other regulations contained in this Section for the erection of a new telecommunications tower, except that a special use shall not be required.

(4) *Application.* When an application for an improvement location permit to locate a telecommunications antenna on an existing building or other structure is made, the Zoning Administrator shall be provided with color photo simulations showing the site of the existing structure with a photo-realistic representation of the proposed telecommunications



Surface Mount Antenna

CHAPTER 154: PLANNING AND ZONING
Special Regulations for Wireless Telecommunications Facilities

antenna and the existing structure or any proposed reconstruction of the structure as it would appear viewed from the closest residential district and from adjacent public right-of-way. The applicant shall also submit photographs of the same views as in the photo simulations showing the current appearance of the site without the proposed telecommunications antenna.

(C) Associated equipment or buildings and compound area requirements.

(1) *Fencing and landscaping of ground mounted associated equipment or buildings.*

(a) *Fencing required.* The compound area and all guy anchors shall be secured with a board-on-board or chain link fence of not less than six feet in height nor more than 10 feet in height. A security wire (barbed, razor, etc.) may be located on the telecommunications tower-side of the fence but shall not extend above the top of the fence. A chain link fence, if used, shall be black vinyl coated.

(b) *Landscaping required.* Landscaping shall be installed around the perimeter of the fenced compound area running the full length of all sides of the compound area or building, except for entry gates or doors. The type of landscaping required shall be based upon the open space of the fence. If the fence has an open space of:

1. Fifty percent or greater, a 10 foot wide landscaping strip running the full length of all sides of the compound area or building, except for entry gates or doors, with a four evergreen trees for every 30 feet shall be installed on the outside of the fenced area; or,

2. Less than 50% but greater than 20%, a 10 foot wide landscaping strip running the full length of all sides of the compound area or building, except for entry gates or doors, with a two evergreen trees for every 25 feet shall be installed on the outside of the fenced area; or,

3. Twenty percent or less, a 10 foot wide landscaping strip running the full length of all sides of the compound area or building, except for entry gates or doors, with one ornamental tree (minimum one and one-half inch caliper) planted for every 25 feet shall be installed on the outside of the fenced area.

(c) Interior access drives or walkways that lead to the entry into the compound area or building shall be hard-surfaced with asphalt or concrete.

(2) *Exterior materials and roof pitch of associated equipment or buildings.*

(a) Associated equipment buildings, whether ground or roof-mounted and not enclosed by a fence providing a complete sight barrier (i.e., a fence with zero open space), shall be similar in color, exterior material, and character to the main or adjoining building or structure. If ground mounted the roof pitch of the associated equipment building shall match the pitch of any existing building or structure.



(b) When an equipment building is located on a lot that does not contain an existing building or structure and is not enclosed by a fence providing a complete sight barrier (i.e., a fence with zero open space), the exterior material shall be either brick or stone. The roof pitch shall not be less than a three-foot vertical rise for each 12-foot horizontal run nor greater than a 12 foot vertical rise for each 12 foot horizontal run.

(Ord. 51-05, § 8.09.01D, passed 5-10-2005) Penalty, see § 154.999

154.459 ABANDONMENT AND REMOVAL OF TELECOMMUNICATIONS TOWERS, ANTENNA ARRAYS, ASSOCIATED EQUIPMENT AND BUILDINGS.

(A) *Abandonment.* Telecommunications towers, antenna arrays, associated equipment and buildings which have not been used for a period of one year shall be deemed abandoned and shall be removed from the site.

(B) *Notice required.* The owner of the telecommunications tower and the last service provider to use a telecommunications tower shall notify the Zoning Administrator within 30 days that use of a telecommunications tower has been discontinued.

(C) *Security.*

(1) Every telecommunications tower owner and all service providers shall establish a cash security fund, bond or irrevocable letter of credit to secure the payment of removing the telecommunications towers, antenna arrays, associated equipment and buildings that have been determined to be abandoned, or found to be in non-compliance with this subchapter, and to provide St. Joseph County a fund from which to deduct fines and penalties for non-compliance with this subchapter or other applicable laws in the following amounts:

(a) The amount to be provided for each telecommunications tower shall be 125% of the cost of construction based upon a licensed engineer's estimate of the cost of construction of the telecommunications tower, and

(b) The amount for each antenna array on the telecommunications tower shall be 125% percent of the cost of construction based upon a licensed engineers estimate of the cost of installation of the antenna array.

(2) Any reduction in the security fund provided, because of deductions of fines, penalties, or removal costs, shall be replenished to the total of the required amount within

CHAPTER 154: PLANNING AND ZONING
Special Regulations for Wireless Telecommunications Facilities

30 days after notice from St. Joseph County of the amount deducted and the deficiency created hereby.

(D) Refund - Within a reasonable period of time, not to exceed three months after the telecommunications tower and/or antenna array is removed, any remaining funds on deposit with St. Joseph County pursuant to this subchapter, after application and above all expenses provided for herein, shall be refunded to the appropriate owner or provider who created the security fund.

(Ord. 51-05, § 8.09.01E, passed 5-10-2005) Penalty, see § 154.999

154.460 LIMITATIONS ON SPECIAL USES.

(A) A special use which does not fully comply with the telecommunications policies contained herein for telecommunications towers may be granted upon a determination that such a grant better accomplishes the telecommunications policies set out in this subchapter than would a strict application of these telecommunication policies. The deviations from the telecommunications policy shall be no greater than necessary to accomplish those policies.

(B) A special use which does not comply with the development standards of this subchapter may only be granted upon:

(1) Approval of a waiver of development standards as provided for in § 154.563 and regulated in § 154.562; or,

(2) Separate application for and approval of a variance of development standards filed for and obtained in accordance with the requirements of §§ 154.555 through 154.565 and any applicable Rules of Procedure.

(Ord. 51-05, § 8.09.01F, passed 5-10-2005) Penalty, see § 154.999

CONTROLLED USES & ADULT USES

154.475 INTENT.

Controlled uses and adult uses are hereby recognized as having objectionable secondary impacts. A concentration of such uses in a particular area can increase the impact of those objectionable secondary impacts to the point where a deleterious impact is created on area properties. In order to prevent the concentration of such uses and to prevent such deleterious impacts from leading to the development of blighted areas, any such use, in addition to the permitted use and development standard regulations specified in any applicable business/commercial district or industrial district, shall also be subject to the following additional regulations. (*Ord. 51-05; 5-10-05*)

154.476 CONTROLLED USES.

(A) *General.* In order to prevent the development of a blighted area, no building or premises may be used and no building may be erected, moved, structurally altered or enlarged, for any controlled use, if such building or premises is located within 1,000 feet of any two:

- (1) Uses listed below as controlled uses; or,
- (2) Family restaurant with lounge,

whether such uses are located within the unincorporated areas of St. Joseph County or within the corporate boundaries of any city or town within St. Joseph County.

(B) *Controlled uses.* Controlled uses include:

- (1) Adult bookstore;
- (2) Adult mini motion picture theater;
- (3) Adult motion picture theater;
- (4) Adult cabaret;
- (5) Establishment for the sale of beer or intoxicating beverages for consumption on the premises, excluding restaurants at which the serving of such beverages is incidental to the serving of food as the principal activity;
- (6) Pawnshop;
- (7) Pool or billiard hall;
- (8) Public dance hall;
- (9) Casinos, approved hotels, and all other areas where gambling games are conducted; or,
- (10) Off track, parimutuel wagering facility.

(*Ord. 51-05, § 8.09.02A, passed 5-10-2005*)

CHAPTER 154: PLANNING AND ZONING
Controlled Uses & Adult Uses

154.477 LOCATIONS PERMITTED.

Controlled uses shall be allowed as primary uses or special uses in business/commercial districts, industrial districts or PUD Districts as specified in the following Table:

<i>Table 154-8: Controlled Uses (Ord 76-19, 9/10/19)</i>							
Controlled Use	District						
	O/B	O	B	C	I		PUD
Adult Bookstore	-	-	-	-	P		*
Adult Mini Motion Picture Theater	-	-	-	-	P		*
Adult Motion Picture Theater	-	-	-	-	P		*
Adult Cabaret	-	-	-	-	P		*
Establishment for the sale of beer or intoxicating beverages for consumption on the premises, excluding restaurants at which the serving of such beverages is incidental to the serving of food as the principal activity	-	-	P	P	P		*
Pawnshop	-	-	-	P	P		*
Pool or Billiard Hall	-	-	SU	P	P		*
Public Dance Hall	-	-	-	P	P		*
Casinos, Approved Hotels and all other areas where gambling games are conducted	-	-	-	SU	P		*
Off track, pari-mutual wagering facility	-	-	-	SU	P		*
Tattoo, Body Piercing, Scarifying and Branding Establishments	-	-	SU	SU	P		*
P – Permitted as a Primary Use SU – Permitted only as a Special Use * – Permitted only if specified in the PUD District Ordinance - – Not Permitted							

(Ord. 51-05; 5-10-05) Penalty, see § 154.999

154.478 ADULT BUSINESS USES.

No building or premises may be used, and no building or premises may be erected, moved, or structurally altered or enlarged for any adult business use, as defined in § 154.636, within 500 feet of any boundary of any lot being lawfully used, entirely or in part, as either a single-family, two-family, or multiple-family dwelling, religious use, school use, park use, or within 500 feet of any of the following use districts: *(Ord. 68-09; 8-11-09) (Ord. 15-21; 2/9/21)*

- (A) In St. Joseph County:
 - (1) A: Agricultural District;
 - (2) R: Single Family District;
 - (3) R-2: Multifamily Residential District;
 - (4) O/B: Office / Buffer District;
 - (5) O: Office District;
 - (6) B: Business District;
 - (7) C: Commercial District; and,
 - (8) PUD: Planned Unit Development District (unless adult business uses are authorized and contained therein).

- (B) In the City of South Bend:
 - (1) Residential/neighborhood districts;
 - (2) UF Urban Neighborhood Flex;
 - (3) NC Neighborhood Center;
 - (4) OS Open Space; and,
 - (5) C Commercial.

- (C) In the City of Mishawaka:
 - (1) Residential districts;
 - (2) C-2 Shopping Center District;
 - (3) S-1 Extensive Open Space and Public Use District; and,
 - (4) S-2 Planned Unit Development District Projects (unless adult business uses are authorized and contained therein).

- (D) In the incorporated towns, within any incorporated town within St. Joseph County, all districts which permit residential uses as a primary use, all office districts and all commercial districts.

(Ord. 51-05; 5-10-05; Ord. 68-09, § 7, passed 8-11-2009) Penalty, see § 154.999

**SPECIAL REGULATIONS FOR RESIDENTIAL FACILITIES FOR THE
MENTALLY ILL**

154.490 GENERAL PROVISIONS.

A residential facility for the mentally ill as defined in this chapter and by I. C.12-7-2-167 may not be located within three thousand (3,000) feet of another residential facility for the mentally ill, as measured between lot lines.

(Ord. 51-05, § 8.09.03, passed 5-10-2005) Penalty, see § 154.999

RENEWABLE ENERGY SYSTEMS

154.505 WIND ENERGY CONVERSION SYSTEMS; INTENT.

This subchapter creates the framework for the siting of wind energy conversion systems, which convert the power of the wind into the generation of electricity. It is the intent of this subchapter to:

(A) Facilitate the comprehensive provision of wind energy conversion systems (“WECS”) to the residents and businesses of St. Joseph County;

(B) Minimize the height, obtrusiveness, and the visual impacts of WECS, and all associated equipment and buildings;

(C) Encourage WECS to be located in such a manner as to minimize their impact to residential uses; public parks, open space, and greenways; and streams, creeks and rivers;

(D) Ensure that the height of WECS have the least visual impact, and are no greater than required to achieve their designated service;

(E) Protect views of, and vistas from, architecturally or historically significant structures and historically significant landscapes so that these architectural or historical resources are not impaired or diminished by the placement of WECS; and

(F) Avoid potential damage to adjacent properties from the failure of a WECS, through structural design standards and setback requirements.

(Ord. 69-09, § 17, passed 8-11-2009; Ord. 17-20, 2/18/20)

154.506 WIND ENERGY CONVERSION SYSTEMS; GENERAL.

(A) *Classification.* WECS shall be classified as either:

(1) A Small Wind Energy Conversion System (“SWECS”), designed and installed exclusively for the on-site use of any associated electric power generation, or;

(2) a Wind Energy Facility (“WEF”), designed and installed exclusively for off-site use of any associated electric power generation.

(B) *Districts permitted.* SWECS and WEF shall be permitted in accordance with the following table:

CHAPTER 154: PLANNING AND ZONING
Renewable Energy Systems

<i>Use Table for Wind Energy Conversion Systems</i>		
<i>Accs. - Accessory Use</i> <i>SU - Special Use</i>		
<i>District</i>	<i>SWECS</i>	<i>WEF</i>
A: Agricultural	Accs.	SU
R: Single Family	Accs.	SU
R-2: Residential	Accs.	-
O/B: Office/Buffer	Accs.	-
O: Office	Accs.	-
B: Business	Accs.	-
C: Commercial	Accs.	SU
I: Industrial	Accs.	SU
U: University	Accs.	SU

(Ord. 17-20, 2/18/20)

(C) *Building permit.* A building permit is required for the installation of all WECS.

(1) Building permit applications for a SWECS shall be accompanied, at a minimum, by:

(a) Standard manufacturer’s drawings of the engineering specifications for the installation requirements of the wind turbine structure, including the tower, base, and footings. This analysis is frequently supplied by the manufacturer;

(b) A statement that the system shall comply with all applicable rules and regulations of the electric service provider for the property, and the Indiana Utility Regulatory Commission;

(c) A plot plan showing the location of the SWECS relative to all property lines, on-site structures, off-site structures within 1.5 times the height of the SWECS, utility locations (such as but not limited to overhead utilities, transformers, and junction boxes), and measured distances from all streams, creeks, rivers, public parks, public open space and greenways, and historic preservation districts;

(d) Certification that the installer of the SWECS is certified by the manufacturer of the SWECS, and has received the necessary training to properly and

safely install the SWECS. Owner-installed SWECS will require an affidavit certifying that the installation will comply with the manufacture's specifications, and the requirements of the electric service provider of the property; and

(e) A drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code. This information is frequently supplied by the manufacturer.

(2) Building permit applications for a WEF shall be accompanied by a certification of the approval of the Special Use by the County Council.

(D) *Compliance with other laws and ordinances.* All WECS shall comply with all Federal, State and local laws and ordinances not in conflict with this Division, including but not limited to placement in floodplains and historic preservation districts.

(E) *Compliance with Federal Aviation Agency (FAA) regulations.* WECS must comply with any applicable FAA regulations, including any necessary approvals for installations close to airports.

(F) *Electric utility notification.* No WECS shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected, customer-owned WECS. Off-grid systems shall be exempt from this requirement.

(G) *Signs.* No WECS turbine, tower or associated building or structure may be used to advertise or promote any product or service. No word or graphic representation that may be construed as advertising, other than appropriate warning signs and the manufacturers technical information, shall be placed on a wind turbine, tower or other associated building or structure.

(H) *Signal disturbance.* Generators and alternators should be constructed so as to prevent the emission of radio and television signals. Upon a complaint of any signal disturbance, the operation of the WECS shall cease. The owner/operator shall correct any signal disturbance problem that is identified before the operation of the system can resume.

(I) *Appearance, color and finish.* The exterior surface of any visible components must be a non-reflective, neutral color, and blend into the surrounding environment as practical as possible. White or light grey is the color of preference unless the manufacturers color preference is proven to better blend into the environment. Rotors (blades) or vanes may be painted black to better assist in the prevention of ice build-up. Decorative items, such as flags, streamers and holiday and commemorative decorations are prohibited.

(J). *Lighting.* No WECS shall be artificially lighted, unless required by the FAA or appropriate authority.

CHAPTER 154: PLANNING AND ZONING
Renewable Energy Systems

(K) *Support tower.* The tower component of any WECS shall be one that is recommended and certified by the manufacturer:

(1) A building-mounted SWECS must be firmly anchored to the building (roof or wall) according to the manufacturers recommendations. Additional support brackets or cables must be anchored to the structure on which the SWECS is located and

(2) A WECS mounted on a self-supporting tower shall be on a tower that is of monopole design, and does not require the use of guy wires or any other means of lateral support.

(Ord. 69-09, § 17, passed 8-11-2009) Penalty, see § 154.999

**154.507 SMALL WIND ENERGY CONVERSION SYSTEMS;
DEVELOPMENT STANDARDS.**

(A) *Accessory use.* A SWEC may be installed as an accessory use to a primary use. No SWEC shall be installed on any property without the existence of a primary use.

(B) *Minimum lot size, number, maximum height.* The minimum lot size, the maximum number of SWECS on a lot or parcel, and the maximum height of a SWEC shall be as specified in TABLE 154-9, below:

CHAPTER 154: PLANNING AND ZONING
Renewable Energy Systems

<i>Table 154-9: Minimum Lot Size; Number; Maximum Height</i>			
<i>District</i>	<i>Minimum Lot /Parcel Size</i>	<i>Maximum Number of SWECS</i>	<i>Maximum Height</i>
A: Agriculture	1 acre	1	60'
	5 acres	2	80'
	10 acres	3	80'
R: Residential	1 acre	1	60'
	10 acres	2	60'
R-2: Residential	1 acre	1	60'
	10 acres	2	60'
O/B: Office/Buffer	1 acre	1	60'
O: Office	1 acre	1	60'
B: Business	1 acre	1	60'
C: Commercial	1 acre	1	60'
	5 acres	2	80'
I: Industrial (<i>Ord 76-19, 9/10/19</i>)	1 acre	1	80'
	2 acres	2	80'
	5 acres	3	80'
U: University District	5 acres	1	80'
	10 acres	2	80'
	One (1) SWEC for every additional 40 acres		80'

(Ord. 43-12, § 17, passed 5-15-2012)

(C) *Height.* The height of a SWECS shall be measured from one foot above ground level to the highest extension of the blade, rotor, or vane. The minimum distance between the ground and the blade, rotor, or vanes shall be ten feet, as measured at the lowest point of the arc of the blade, rotor, or vane.

CHAPTER 154: PLANNING AND ZONING
Renewable Energy Systems

(D) *Noise.* SWECS shall not exceed 60 decibels (dB), as measured at the closest property line. However, the 60 dB standard may be exceeded during short-term events such as utility outages and/or severe windstorms.

(E) *Survival speed.* SWECS shall be rated by the manufacturer as having a minimum survival wind speed of 100 miles per hour.

(F) *Setback.* The minimum setback of a SWEC shall meet all of the following, measured from the edge of the support tower:

(1) Two hundred feet from public parks, public open space, public greenways, historic preservation districts, streams, and rivers, measured from the nearest property lines, district lines, and/or the top of any stream or river bank;

(2) One-half the height of the to the nearest occupied off-site structure; and

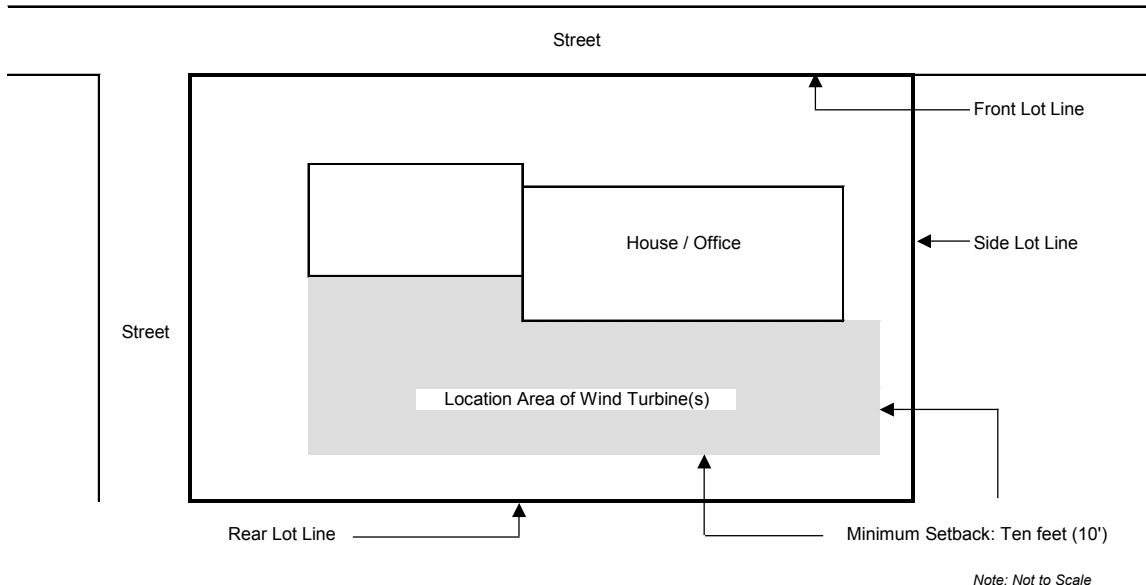
(3) Ten feet from any side and rear property line. Any property line adjacent to a street shall be deemed a front yard, and meet the location requirements in the following illustrations.

(G) *Location on property.* The location of a SWECS on a property shall be in accordance with division (F), above, and with the following illustrations.

Location Restrictions for Small Wind Energy Conversion System

Illustration 1

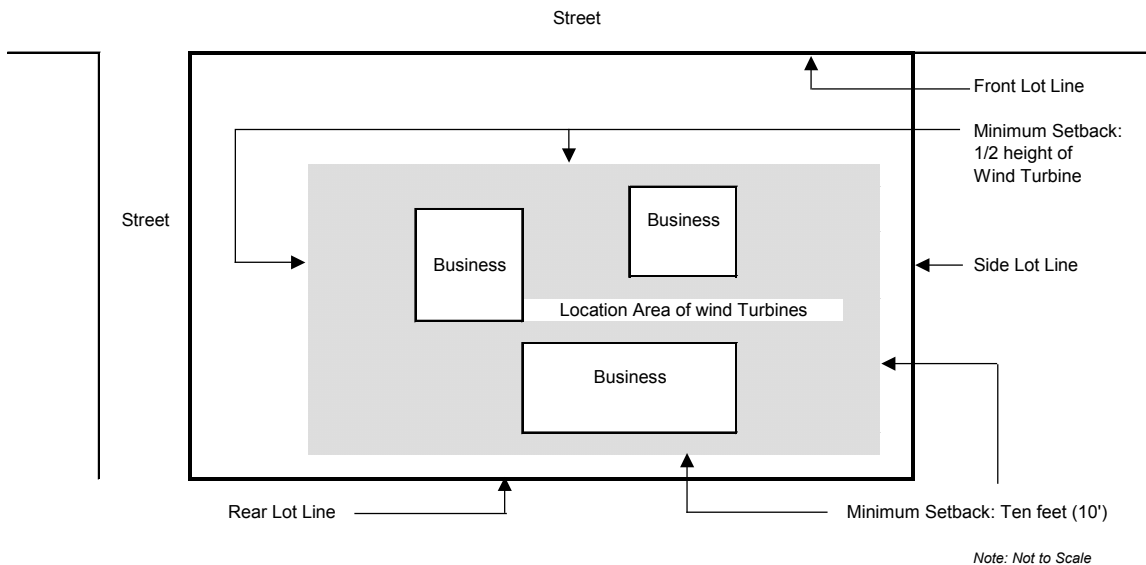
Zoning Districts: R: Residential; O/B: Office Buffer; O: Office; A: Agriculture



Location Restrictions for Small Wind Energy Conversion System

Illustration 2

Zoning Districts: C: Commercial; L: Light Industrial; M: Manufacturing; U: University



(Ord. 43-12, § 17, passed 5-15-2012)

H. *Abandonment.* A SWEC that is out of service for a continuous 24-month period will be deemed to have been abandoned, and shall be removed. Maintenance events which require extended periods of time beyond a 24-month period shall be brought to the attention of the Building Department.

(Ord. 69-09, § 17, passed 8-11-2009) Penalty, see § 154.999

154.508 WIND ENERGY FACILITY; GENERALLY.

(A) *Special exception use required.* A wind energy facility (WEF) is allowed in designated districts only as a special use, and after a public hearing by the Area Board of Zoning Appeals and approval by the County Council.

(B) *Preliminary site development project meeting required.* A WEF is a unique facility having to meet specific location and technical requirements. A preliminary site development project meeting is required with the local agencies, and where at a minimum, the following information is to be provided:

- (1) The location of the WEF identified on an aerial photograph, and the property tax ID numbers of the properties involved;
- (2) The number and specifications of the wind turbines;

CHAPTER 154: PLANNING AND ZONING
Renewable Energy Systems

- (3) The method and route of transportation of all equipment;
- (4) The construction timeline, and the production life of the WEF;
- (5) A site plan showing the location of floodplains; wetlands; forested areas; on-site structures; structures within 500 feet of the development site; streams and legal ditches; utility lines, cables and pipelines; and
- (6) Developers determination of public infrastructure needs.

(Ord. 69-09, § 17, passed 8-11-2009) Penalty, see § 154.999

154.509 WIND ENERGY FACILITY; APPROVAL.

(A) In addition to the requirements of division (B) below, the developer of the WEF shall provide all applicable information under § 154.506 and any additional information requested from the preliminary site development project meeting.

(B) Applications for a WEF as a special use shall be accompanied by the items outlined under § 154.563(C)(3) in addition to the following:

- (1) A site plan showing, at a minimum:
 - (a) North arrow, written and graphic scale, general location map;
 - (b) Legal description;
 - (c) The location and height (including the top of the arc of the blade) of the wind turbines;
 - (d) The location of all other supporting structures such as but not limited to sheds, offices, operation and maintenance facilities, drives, and parking areas;
 - (e) Location of all structures on adjacent properties, within 300 feet of all property lines;
 - (f) Topography lines at two-foot intervals;
 - (g) Location of all natural features such as streams, ditches, floodplain, wetlands, and tree canopy;
 - (h) Drainage and soil erosion control, including location of all drainage tiles; and

(i) Location of all utilities and utility corridors, such as but not limited to electric transmission lines, natural gas pipelines, petroleum pipelines, fiber optic lines, sewer and water lines.

(2) *Site development report.* A site development report including but not limited to the following items:

(a) The schedule and phasing of construction; the transportation route for the delivery of, and the maintenance of all equipment; provisions for the repair of any public infrastructure such as roads, ditches, and culverts;

(b) A statement describing the service area and the primary customers of the WEF;

(c) Statements indicating that all utilities have been contacted relative to the location and construction of the WEF along with their responses and requirements;

(d) Technical details of the facility and individual wind turbines, including but not limited to height of all wind turbines; power generation capacity; long term maintenance and replacement requirements; survival wind speed, and any other information deemed appropriate by the developer, and the professional staff of St. Joseph County;

(e) An analysis of how the WEF will affect the operations of other facilities such as radio and television transmissions, cell phone transmissions, and radar transmissions;

(f) A statement outlining the security arrangements that will be placed on the site;

(g) An analysis of the maximum decibel levels to be anticipated at all property lines, and at all inhabitable structures within 300 feet of all property lines;

(h) The maintenance plan that has been established for the WEF; and

(i) A decommissioning plan outlining the method, timing and cost of the removal of one or more of the wind turbines upon the termination, abandonment discontinuation, decommissioning or cessation of one or more of the wind turbines, or complete cessation of the operations of the WEF.

(3) *Other information.*

(a) A list of all adjacent property owners within 300 feet of the project boundary lines, along with stamped and addressed envelopes;

CHAPTER 154: PLANNING AND ZONING
Renewable Energy Systems

(b) Reports from the following agencies, and responses to any concerns raised by the respective agencies:

1. Indiana Department of Environmental Management;
2. Indiana Department of Natural Resources;
3. St. Joseph County Parks;
4. Historic Preservation Commission of St. Joseph County;
5. St. Joseph County Engineer;
6. St. Joseph County Surveyor;
7. St. Joseph County Health Department; and
8. The appropriate emergency response provider.

(c) Any project-specific agreements, such as public infrastructure improvements or a payment-in-lieu-of-taxes agreement, must be approved prior to final project approval; and

(d) Liability Insurance covering bodily injury and property damage (naming St. Joseph County as an additional insurer) with limits of at least \$2,000,000 per occurrence, and \$5,000,000 in the aggregate, with a deductible of no more than \$5,000.

(e) The requirement for liability insurance under § 154.509 (B)(3)(d) shall not apply to a municipal corporation or a school corporation, as defined in IC 36-1-2-10 and 17 respectively, where any WECS within the WEF project site, is located at least one and one-half (1.5) times the height of the WECS from the nearest occupied structure.

(Ord. 43-12, § 17, passed 5-15-2012) Penalty, see § 154.999

**154.510 WIND ENERGY FACILITY - ABANDONMENT,
DISCONTINUATION OR DECOMMISSIONING OF WIND TURBINES AND
REMOVAL OF WIND ENERGY FACILITIES.**

(a) *Abandonment and/or decommissioning.* Wind turbines, wind energy facilities, and all associated equipment and buildings which have not been used for a continuous 24 - month from the last day of any known transmission of energy, shall be deemed abandoned and shall be removed from the site per the decommissioning plan. Maintenance events which require extended periods of time beyond a 24-month period, shall be brought to the attention of the Building Department.

(b) *Security fund.* The wind energy facility owner shall establish a cash security fund, bond or irrevocable letter of credit to secure the payment of removing any abandoned wind energy facility, including the wind turbines and associated equipment and buildings that have been determined to be abandoned, or found to be in non-compliance with this chapter, and to provide St. Joseph County a fund from which to deduct fines and penalties for non-compliance with this Chapter or other applicable laws

in the amount of 125% of the cost of demolition and removal of the wind energy facility based upon a licensed engineers estimate of the cost of demolition and removal. Any reduction in the security fund provided, because of deductions of fines, penalties, or removal costs, shall be replenished to the total of the required amount within 30 days after notice from St. Joseph County of the amount deducted and the deficiency created hereby. Within a reasonable period of time, not to exceed three months after the wind turbine facility is removed, any remaining funds on deposit with St. Joseph County pursuant to this Chapter, after application and above all expenses provided for herein, shall be refunded to the appropriate owner or provider who created the security fund.

(c) The requirement for a security fund under § 154.510 (b) shall not apply to a municipal corporation or a school corporation, as defined in IC 36-1-2-10 and 17 respectively.

(Ord. 43-12, § 17, passed 5-15-2012) Penalty, see § 154.999

154.511 SOLAR ENERGY SYSTEMS (“SES”); INTENT *(Ord. 17-20, 2/18/20)*

This subchapter provides for the implementation of solar energy systems, which convert the power of the sun into the generation of electricity. St. Joseph County finds that it is in the public interest to encourage the use and development of renewable energy systems that enhance energy conservation efforts and promote sustainable development. As such, the County supports the use of solar energy collection systems and in no way are these regulations intended to severely limit the siting of solar energy systems. These regulations consider the unique needs of solar energy systems and provide for the most efficient use of this renewable energy system. These sections are also intended to protect the character of residential neighborhoods and commercial corridors. Solar energy systems should be sited and constructed in a way that is harmonious and even benefit the agricultural uses in the County.

154.512 SOLAR ENERGY SYSTEMS (“SES”); APPLICABILITY *(Ord. 17-20, 2/18/20)*

All new development or additions to existing developments within unincorporated areas of St. Joseph County shall site, construct, install, and decommission any solar energy system (“SES”) as required by this subchapter.

154.513 SOLAR ENERGY SYSTEMS (“SES”); GENERAL *(Ord. 17-20, 2/18/20)*

(A) *Classification.* Solar energy systems (“SES”) shall be classified as either a Building-mounted SES or Ground-mounted SES.

(1) Building-mounted SES is a solar energy system that is structurally mounted to a building or structure. Building-mounted SES shall be further classified as follows:

(a) Roof-mounted SES is a Building-mounted SES that is structurally mounted and solely supported by the roof of a building or structure; or

CHAPTER 154: PLANNING AND ZONING
Renewable Energy Systems

(b) Façade-mounted SES is a Building-mounted SES that is structurally mounted and solely supported by the façade of a building or structure.

(2) Ground-mounted SES is a solar energy system that is structurally mounted to the ground. Ground-mounted SES shall be further classified as follows:

(a) Small-scale SES is a Ground-mounted SES that is less than or equal to 40,000 square feet in panel area; or

(b) Large-scale SES is a Ground-mounted SES that is more than 40,000 square feet in panel area.

(B) *Districts permitted.* SES shall be permitted in accordance with the following table:

<i>Use Table for Solar Energy Systems</i>				
<i>Accs. - Accessory Use P - Primary Use SU - Special Use</i>		<i>Building-mounted SES</i>	<i>Ground-mounted SES</i>	
<i>District</i>	<i>Lot Size</i>		<i>Small-scale SES</i>	<i>Large-scale SES¹</i>
A: Agricultural	Any	Accs.	P	P
R: Single Family	Less than 5 acres	Accs.	Accs.	SU
	5 acres or more	Accs.	P	SU
R-2: Residential	Less than 5 acres	Accs.	Accs.	SU
	5 acres or more	Accs.	P	SU
O/B: Office/Buffer	Any	Accs.	Accs.	SU
O: Office	Any	Accs.	Accs.	SU
B: Business	Any	Accs.	Accs.	SU
C: Commercial	Any	Accs.	P	SU
I: Industrial	Any	Accs.	P	P
U: University	Any	Accs.	P	P

¹*Preferred siting.* Large-scale Ground-mounted SES shall be a permitted use on any brownfield, sites on the Superfund National Priorities List, above a parking lot, and former landfills.

(C) *Building permit.* A building permit is required for the installation of all SES.

(D) *Compliance with other laws and ordinances.* All SES shall comply with all Federal, State and local laws and ordinances not in conflict with this Division, including but not limited to building codes, fire codes, placement in floodplains and historic preservation districts.

(E) *Compliance with Federal Aviation Agency (FAA) regulations.* SES must comply with any applicable FAA regulations, including any necessary approvals for installations close to airports.

(F) *Signs.* No signs, unless listed as Exempt Signs in § 154.373, shall be placed on SES structures.

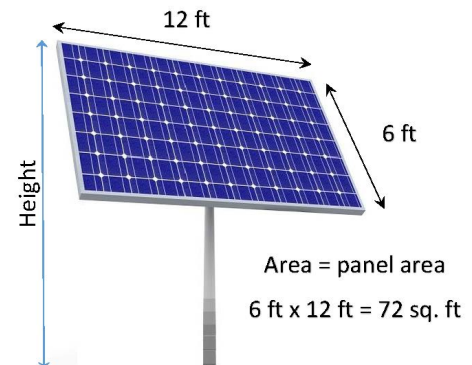
(G) *Method of Measurement.* SES are measured in the following manner:

(1) *Area* – The area of the SES shall be determined by the total surface area of all the panels located on a lot.

(2) *Height* – The height of the SES shall be calculated as the distance from grade or roof to the top of the solar panel at its greatest incline.

(3) *Projection* – The projection of a Façade-mounted SES is measured from the façade to the outside edge of the SES that is perpendicular to the ground.

(4) *Setback* – Setbacks for Ground-mounted SES shall be measured from the property line to the edge of the SES panels.



(H) *Historic Districts.* All SES within a local historic district or local landmark require a Certificate of Appropriateness from the Historic Preservation Commission.

(I) *Septic field.* Ground-mounted SES shall not be located over a septic field, unless approval is granted from the St. Joseph County Health Department.

**154.514 BUILDING-MOUNTED SOLAR ENERGY SYSTEMS (“SES”);
DEVELOPMENT STANDARDS** (Ord. 17-20, 2/18/20)

(A) *Height.* Roof-mounted SES may exceed the maximum allowed building height of the building or structure on which it is located by five (5) feet in residential districts and ten (10) feet in all other districts.

CHAPTER 154: PLANNING AND ZONING
Renewable Energy Systems

(B) *Projection.* Façade-mounted SES may project off a building façade up to three (3) feet into the required setback.

(C) *Legal nonconforming.* Building-Mounted SES may be installed on:

(1) Legally established nonconforming buildings as long as the installation of the SES does not increase the nonconformity, except for the allowances in height and projection as outlined above; or

(2) Accessory to legally established nonconforming uses as long as the installation of the SES does not increase the nonconformity.

(D) *Safety and Emergency Access.* Building-mounted SES shall be located in such a manner as to ensure emergency access to the roof, provide pathways to specific areas of the roof, provide for smoke ventilation opportunities, and provide emergency access to the roof. Building-mounted SES shall be located in accordance with the Indiana Fire Code and enforced by the City of South Bend / St. Joseph County Building Department.

**154.515 GROUND-MOUNTED SOLAR ENERGY SYSTEMS (“SES”);
DEVELOPMENT STANDARDS (Ord. 17-20, 2/18/20)**

(A) *Accessory buildings.* Ground-mounted SES shall not be calculated in the maximum area of accessory buildings.

(B) *Maximum height.* Ground-mounted SES shall not be taller than twenty-two (22) feet above grade.

(C) *Minimum setback.* Ground-mounted SES shall meet the required setbacks of the district in which they are located. Setbacks shall be the same as what is required for accessory buildings.

(D) *Maximum lot coverage.* Ground-mounted SES shall not be calculated in the floor area ratio of the district in which they are located.



(E) *Landscaping required.* Accessory use SES for residential uses shall be exempt from all required landscaping. All other SES shall be exempt from any required landscaping except for the following:

(1) Pollinator-friendly seed mixes and native plants are required around the SES at a rate of two (2) square feet of plantings for every one (1) square foot of solar

panels. For reference, best practices, and maintenance information see *Technical Guide: Establishment and Maintenance of Pollinator-Friendly Solar Projects (2020) – Northern Indiana – Michiana Area Council of Governments, as amended*.

(2) The Zoning Administrator may approve the redistribution of the required landscaping to other locations on the site.

(F) *Power lines.* Power transmission lines, not including lines that connect one panel to another or from the project to the main transmission lines, from Ground-mounted SES must be underground and must be completely shielded against shock hazard.

(G) *Pavement.* Driveways shall be paved with hard surfaced with asphalt, concrete, pervious pavement, pavers or other material to provide a durable, dust-free surface which meets the minimum specifications prescribed by the County Engineer for the first 50' from the edge of pavement. Interior access drives, and interior access driveways are not required to be paved.

(H) *Off-street parking.* Parking areas are exempt from the off-street parking regulations in §§ 154.415 through 154.423 but must still meet the required setbacks in the underlying zoning district and the landscaping requirements contained in this section.

154.516 ABANDONMENT AND REMOVAL OF GROUND-MOUNTED SOLAR ENERGY SYSTEMS (*Ord. 17-20, 2/18/20*)

(A) *Decommissioning and removal.* Any Ground-mounted SES which has reached the end of its useful life or has been abandoned shall be removed by the owner. The owner or operator shall physically remove the installation no more than 120 days after the date of discontinued operations, or by a timeframe determined by the Zoning Administrator for extenuating circumstances. For large-scale SES, decommissioning shall consist of:

- (1) Physical removal of all SES, structures, and equipment from the site;
- (2) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations; and
- (3) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Zoning Administrator may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

(B) *Abandonment.* Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the Ground-mounted SES shall be considered abandoned when it fails to operate for more than one year without the written consent of the Zoning Administrator.

CHAPTER 154: PLANNING AND ZONING
Renewable Energy Systems

(C) *Right to remove.* If the owner or operator of the Ground-mounted SES fails to remove the installation in accordance with the requirements of this section within 90 days of abandonment or the proposed date of decommissioning, the County retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous, or decommissioned Ground-mounted SES. As a condition of issuance of an Improvement Location Permit, the applicant and landowner shall agree to allow entry to remove an abandoned, hazardous, or decommissioned installation.

(D) *Security fund.* Any owner of a Ground-mounted SES over 200,000 square feet in panel area shall establish a cash security fund, bond, irrevocable letter of credit or other means to secure the payment of removing any abandoned SES, including the solar panels and associated equipment and buildings that have been determined to be abandoned, or found to be in non-compliance with this chapter, and to provide St. Joseph County a fund from which to deduct fines and penalties for non-compliance with this Chapter or other applicable laws in the amount of 125% of the cost of demolition and removal of the SES, up to a maximum of \$250,000, based upon a licensed engineers estimate of the cost of demolition and removal. Any reduction in the security fund provided, because of deductions of fines, penalties, or removal costs, shall be replenished to the total of the required amount within 30 days after notice from St. Joseph County of the amount deducted and the deficiency created hereby. Within a reasonable period of time, not to exceed three months after the SES is removed, any remaining funds on deposit with St. Joseph County pursuant to this Chapter, after application and above all expenses provided for herein, shall be refunded to the appropriate owner or provider who created the security fund. The requirement for a security fund shall not apply to a municipal corporation or a school corporation, as defined in IC 36-1-2-10 and 17 respectively.

AGRITOURISM

154.520 INTENT

These regulations are intended to allow agritourism uses in St. Joseph County while maintaining the rural character and preserving farmland of the County and protecting the health, safety and welfare of the citizens. Agritourism presents a unique opportunity to combine aspects of tourism and agriculture to provide a number of financial, educational and social benefits to tourists, producers and communities. Agritourism gives producers an opportunity to generate additional income and an avenue for direct marketing to consumers. It enhances the tourism industry by increasing the volume of visitors to an area and the length of their stay. This section will permit this growing tourism industry in a way that corresponds with the values and needs of the residents of St. Joseph County.

154.521 AGRITOURISM; GENERAL

(A) *Agritourism uses.* By way of example only, some typical agritourism uses are: farm markets; u-pick operations; Christmas tree farms; wineries and tasting rooms; breweries and tasting rooms; local product retail operations; corn mazes; agriculturally related educational and learning experiences; event spaces; nurseries; lodging; and any other use meeting the intent of this Section as determined by the Zoning Administrator.

154.522 AGRITOURISM; DEVELOPMENT STANDARDS

(A) *Districts permitted.* Agritourism uses are permitted in the following zoning districts:

(1) *A: Agricultural District.* Agritourism, accessory to an agricultural use, is a permitted accessory use in the A: Agricultural District.

(2) *R: Single Family District.* Agritourism, accessory to an agricultural use, is an accessory use in the R: Single Family District that also requires a special use.

(B) *Traffic management.* Access to lots which feature agritourism uses shall comply with the following traffic management development standards:

(1) Lots which feature an agritourism use must be located on a paved road;

(2) Driveways must be paved for the first 50' from their access to the public or private street; and

(3) Acceleration lanes, deceleration lanes and passing blisters must be provided to access the site.

CHAPTER 154: PLANNING AND ZONING

Agritourism

(C) *Landscaping.* Agritourism uses are exempt from all required landscaping except for the following:

- (1) Landscaping of required front yards; and
- (2) Portable bathrooms must be screened from view from the public right-of-way.

(D) *Off-street parking and drives.* Parking areas, driveways, and interior access drives are not required to be paved or include lines and curbs but must otherwise meet the requirements in §§ 154.415 through 154.423.

(E) *On-street parking.* On-street parking for agritourism uses is prohibited.

(F) *Hours of Operations.* Agritourism uses, except lodging, shall only be operational through the hours of 7:00 am and midnight.

(G) *Signs.* See §§ 154.370 through 154.380

COUNTY COUNCIL

154.525 GENERAL PROVISIONS.

In order to effectuate the purpose of this Ordinance regarding the implementation of the Comprehensive Plan and this Ordinance, the County Council of St. Joseph County, Indiana, shall, to the fullest extent permitted by applicable law, including without limitation IC 36-7-4 et. seq., have the powers and duties to:

- (A) Approve, reject or amend a comprehensive plan, or segment thereof, certified to it by the Area Plan Commission;
- (B) Initiate amendments to the text of this chapter;
- (C) Adopt, reject or amend proposals to amend or partially repeal the text of this chapter;
- (D) Initiate amendments to the text of the St. Joseph County Subdivision Control Ordinance;
- (E) Adopt, reject or amend proposals to amend or partially repeal the text of the St. Joseph County Subdivision Control Ordinance; (Ord. 68-09, passed 8-11-2009)
- (F) Initiate amendments to zone maps;
- (G) Adopt or reject proposals to amend zone maps;
- (H) Adopt, reject or modify a PUD District Ordinance;
- (I) Approve or disapprove all petitions for special uses after receiving such petitions from the Board of Zoning Appeals with a favorable recommendation, unfavorable recommendation or no recommendation; and
- (J) Such additional powers and duties as may be set forth for the County Council elsewhere in this chapter or Indiana State Law.

(Ord. 51-05, § 8.10.01, passed 5-10-2005; Ord. 68-09, § 8, passed 8-11-2009)

AREA PLAN COMMISSION

154.540 ESTABLISHMENT.

The area planning law is hereby re-adopted and the Area Plan Commission is hereby re-established as the plan commission for St. Joseph County, Indiana, accordance with Indiana Code 36-7-4-200 et seq.

(Ord. 51-05, § 8.10.02A, passed 5-10-2005)

154.541 MEMBERSHIP, QUALIFICATIONS AND TERMS.

The membership of the Area Plan Commission, the qualification of its members and the terms of membership shall be in accordance with Indiana Code 36-7-4-200 et seq.

(Ord. 51-05, § 8.10.02B, passed 5-10-2005)

154.542 DUTIES AND POWERS.

The Area Plan Commission is hereby vested with the duties and powers imposed upon and granted to an area plan commission under the area planning law, including, without limitation, the powers and duties listed below. To effectuate the purposes of this chapter, the Area Plan Commission may, to the fullest extent permitted by applicable laws:

- (A) Supervise and make rules for the administration of the affairs of the planning department;
- (B) Prescribe uniform rules pertaining to investigations and hearings, and other matters authorized by Indiana Planning and Zoning Laws;
- (C) Keep a complete record of all departmental proceedings;
- (D) Record and file all bonds and contracts and assume responsibility for the custody and preservation of all papers and documents of the planning department;
- (E) Prepare, publish and distribute reports, ordinances and other material related to the Area Plan Commission activities authorized by Indiana State Law or this chapter;
- (F) Adopt a seal;
- (G) Certify to all official acts;
- (H) Supervise the fiscal affairs of the planning department;
- (I) Prepare and submit an annual budget and be limited in all expenditures to the provisions made for expenditures by the legislative bodies of participating municipalities or the Board of Commissioners of St. Joseph County;

CHAPTER 154: PLANNING AND ZONING
Area Plan Commission

(J) Prescribe the qualifications of, with the consent of the Executive Director, fix the compensation of the employees of the planning department, which compensation shall conform to salaries and compensations fixed before that time by the Board of Commissioners of St. Joseph County;

(K) Delegate authority to its employees to perform ministerial acts in all cases except where final action of the Area Plan Commission is necessary;

(L) Designate a hearing examiner or a committee of the commission to conduct any public hearing required to be held by the Area Plan Commission;

(M) Appoint a plat committee to hold hearings on and approve plats and replats on behalf of the Area Plan Commission;

(N) Make recommendations to the County Council concerning:

(1) The adoption of the Comprehensive Plan and amendments to the Comprehensive Plan;

(2) The adoption or text amendment of this chapter, a replacement zoning ordinance, or the St. Joseph County Subdivision Control Ordinance;

(3) The adoption or amendment of a PUD District Ordinance; and,

(4) Zone Map Changes.

(O) Render decisions concerning and approve plats or replats of subdivisions;

(P) Assign street numbers to lots and structures or renumber lots and structures on streets or highways within the Area Plan Commission's jurisdiction to conform with the numbers of structures on streets within cities within St. Joseph County. The Area Plan Commission hereby delegates the assignment of street numbers to the County Surveyor of St. Joseph County;

(Q) The naming or renaming of streets when performed in connection with a plat or replat;

(R) Render decisions concerning development plans and amendments to development plans;

(S) Establish advisory committees of citizens interested in problems of planning and zoning which shall report to the Area Plan Commission and shall make inquiries and reports only on the subject and problems specified in the resolution establishing the advisory committee of citizens by the Area Plan Commission;

(T) Establish an executive committee which may act in the name of the Area Plan Commission as set forth in IC 36-7-4-408;

(U) Negotiate for grants-in-aid and agree to terms and conditions attached to such grants-in-aid;

(V) Subject to final confirmation and approval by the County Council of St. Joseph County, establish a schedule of reasonable fees to defray the administrative costs connected with:

(1) Processing and hearing administrative appeals and petitions for zone map change, special exception uses, variances, planned unit developments, and development plan approvals;

(2) Issuing improvement location permits; and,

(3) Other official actions taken under this chapter.

(W) Invoke any legal, equitable, or special remedy available under this Chapter or applicable law for the enforcement of the provisions of this chapter or actions taken hereunder; and

(X) Exercise all powers conferred on it by State law, local ordinance, or rule in the manner so prescribed. This section shall not be construed as a limitation on such powers.

(Ord. 51-05, § 8.10.02C, passed 5-10-2005)

154.543 COMMITMENTS.

(A) *Requirement of commitments by the Area Plan Commission.*

(1) The Area Plan Commission may, when in the discretion of the Area Plan Commission it is deemed necessary to:

(a) Assure the compatibility of a proposed development with surrounding properties; or,

(b) To minimize the potential for the occurrence of detrimental affects from any attributes of a proposed development on surrounding properties, require or allow the owner of a parcel of property to make written commitments concerning the use or development of the subject property in connection with:

1. A development plan approval;

2. A recommendation to the County Council regarding a zone map change to any district classification contained in this chapter;

3. A recommendation to the County Council regarding a PUD District Ordinance;

4. A secondary approval of a PUD; or,

CHAPTER 154: PLANNING AND ZONING
Area Plan Commission

5. A modification of permitted uses or development requirements of a PUD.

(2) The commitments shall be reduced to writing in recordable form and signed by the owner(s) of the real estate. The commitments shall be in effect for:

- (a) As long as the zone map applicable to the parcel remains unchanged;
- (b) The parcel is designed as a PUD under Article 8.06 of the Chapter; or,
- (c) Modified or terminated as provided below.

(3) Commitments required or allowed in connection with a zone map change or the adoption of a PUD District Ordinance shall be voted upon by the County Council as certified by the Area Plan Commission.

(4) The commitments shall authorize their recording by staff in the office of the Recorder of St. Joseph County, Indiana upon the final approval of the applicable petition. The staff shall be reimbursed by the petitioner for any and all fees associated with the recording of said commitments.

(5) Following the recording of the commitments, staff shall return the original recorded commitments to petitioner and shall retain a copy of the recorded commitments in its file.

(6) The Area Plan Commission, St. Joseph County Attorney, Zoning Administrator, appropriate enforcement official, Owners of all parcels of ground located within 300 feet of the real estate and all owners of real estate within the area included in the petition who were not petitioners for approval, and other specially affected persons designated in such commitments shall be entitled to enforce such commitments pursuant to Indiana Code 36-7-4-1015 or as otherwise provided by applicable law.

(7) The commitments required or allowed by the Area Plan Commission shall be in substantially the form set forth in Appendix A of this chapter.

(B) *Modification or termination of commitments by the Area Plan Commission.*

(1) Commitments required or allowed by the Area Plan Commission may be modified or terminated in the following manner:

(a) Commitments regarding development standards or site design issues may be modified or terminated by a decision of the Area Plan Commission, made at a public hearing after notice to adjoining owners has been given pursuant to the Rules of Procedure of the Area Plan Commission; and

(b) 1. Commitments regarding the use of real property may be modified or terminated upon receiving a favorable recommendation from the Area Plan Commission, made at a public hearing after notice to adjoining owners has been given pursuant to the Rules of Procedure of the Area Plan Commission. Such favorable recommendation shall be forwarded to the County Council which may approve or deny such modification at a public meeting.

2. If a proposed modification or termination of a commitment regarding the use of real property receives either an unfavorable recommendation or no recommendation from the Area Plan Commission, such modification shall be deemed denied.

(2) Any modification or termination of the commitments shall not be effective until:

(a) Reduced to writing;

(b) Approved by the Area Plan Commission;

(c) Executed and notarized by the present owner(s) of the real estate;

and,

(d) recorded in the Office of the Recorder of St. Joseph County,

Indiana.

(3) The modification or termination of commitments shall be in substantially the form set forth in Appendix B of this chapter.

(C) *Conditions, commitments, limitations or agreements made under prior regulations.*

(1) Any limitation on the use or development of real property entered into or imposed in connection with a petition for zone map change prior to the effective date of this chapter, whether under the guise of "a rezone subject to a final site development plan", "conditions", "written commitments", "parole covenants" or other verbal representations, which were recognized and enforceable under any prior St. Joseph County Zoning Ordinance, shall be deemed to be enforceable under the provisions of this chapter as commitments.

(2) Any change, modification or amendment of such limitation shall be reviewed by the Executive Director for conformity with the provisions of the chapter and for substantial conformity with the purpose and intent of such limitation. Any change, modification or amendment which, in the sole discretion of the Executive Director, represents substantial deviation, substantial modification or termination of such limitation may only be approved in accordance with the provisions set forth above.

(Ord. 51-05, § 8.10.02D, passed 5-10-2005)

BOARD OF ZONING APPEALS

154.555 ESTABLISHMENT AND JURISDICTION.

The Board of Zoning Appeals for St. Joseph County, Indiana, is hereby re-established in accordance with Indiana Code 36-7-4-900 et seq. The Board of Zoning Appeals for St. Joseph County, Indiana, shall have exclusive authority over all matters set forth under Indiana Code 36-7-4-900 et seq., within the unincorporated areas of St. Joseph County, Indiana.

(Ord. 51-05, § 8.10.03A, passed 5-10-2005)

154.556 MEMBERSHIP, QUALIFICATIONS AND TERMS.

(A) The membership of the Board of Zoning Appeals, the qualification of its members and the terms of membership shall be in accordance with Indiana Code 36-7-4-900 et seq.

(B) Initial membership of the Area Board of Zoning Appeals for St. Joseph County and the Towns of Lakeville, New Carlisle, North Liberty, Osceola, and Roseland will be prescribed as follows:

(1) Two (2) citizen members appointed by the Area Plan Commission from its membership as follows:

(a) One (1) municipal representative with an initial term of two (2) years;
and

(b) One (1) county representative with an initial term of three (3) years;

(2) One (1) citizen member appointed by the Board of County Commissioners with an initial term of one (1) years;

(3) One (1) citizen member appointed by the County Council with an initial term of one (1) years;

(4) One (1) citizen member appointed by the legislative bodies of the Towns of Lakeville, New Carlisle, North Liberty, Osceola, and Roseland, with an initial term of two (2) years; and

(5) Two (2) citizen members appointed by the County Council who may not be members of the Area Plan Commission, with an initial term of three (3) years.

(Ord. 84-19, passed 10-9-2019)

CHAPTER 154: PLANNING AND ZONING
Board of Zoning Appeals

154.557 DUTIES AND POWERS.

The Board of Zoning Appeals shall have the duty and power to:

(A) Hear and determine appeals from and review any order, requirement, decision, or determination made by staff, hearing officer or administrative official under this chapter;

(B) Hear and determine appeals from and review any order, requirement, decision, or determination made by an administrative board or other body except the Area Plan Commission in relation to the enforcement of this chapter;

(C) Hear and determine appeals from and review any order, requirement, decision, or determination made by an administrative board or other body except the Area Plan Commission in relation to the enforcement of those provisions of this chapter requiring the procurement of an improvement location permit or a certificate of occupancy;

(D) Hear, and make a favorable recommendation, unfavorable recommendation or no recommendation to the County Council on all special uses in accordance with the provisions of § 154.563, below;

(E) Hear and determine all variances from development standards of this ordinance; and

(F) Hear and determine all conditional uses.

(Ord. 51-05, § 8.10.03C, passed 5-10-2005)

154.558 CONDITIONS.

(A) The Board of Zoning Appeals, in connection with its making of a favorable recommendation, unfavorable recommendation or no recommendation to the County Council regarding the approval of a special use, may recommend that the County Council impose certain reasonable conditions as a part of the County Council's approval of any special use.

(B) The Board of Zoning Appeals may impose certain reasonable conditions as a part of the approval of any conditional use.

(C) Such conditions may include any reasonable site, development, operational standards, performance standards, requirements, and restrictions (including duration of approval) deemed necessary to ensure compliance with the findings of fact determinations.

(D) The Board of Zoning Appeals, in connection with its approving a variance from development standards (such as height, bulk, or area) of the zoning ordinance, may impose reasonable conditions as part of the Board's approval. *(Ord. 84-11, passed 8-9-11)*

(Ord. 51-05, § 8.10.03D, passed 5-10-2005)

154.559 AMENDMENTS.

The Board of Zoning Appeals, in connection with making a determination on a variance of development standards, may accept amendments to a petition which, in the sole discretion of the Board of Zoning Appeals, are necessary for the Board of Zoning Appeals to make the determination and findings of fact required by § 154.562, below.

(Ord. 51-05, § 8.10.03E, passed 5-10-2005)

154.560 COMMITMENTS.

(A) The Board of Zoning Appeals may recommend or the County Council may permit or require the owner of a parcel of property to make a written commitment concerning the use or development of that parcel in the case of a petition for a special use.

(B) The Board of Zoning Appeals may permit or require the owner of a parcel of property to make a written commitment concerning the development of that parcel in the case of a petition for a variance of development standards or conditional use.

(C) Such commitments may include any reasonable site, development, operational standards, performance standards, requirements, and restrictions (including duration of approval) deemed necessary to ensure compliance with the findings of fact determinations.

(D) All such commitments shall be in recordable form and shall be recorded in the office of the St. Joseph County Recorder and shall take effect upon the granting of the special use, conditional use or variance. A recorded commitment shall be binding on the owner of the parcel, each subsequent owner, and each other person acquiring an interest in the parcel.

(E) The commitments shall be in substantially the form set forth in Appendix C of this chapter.

(F) A recorded commitment may be modified or terminated only by a decision of the Board of Zoning Appeals made at a public hearing after notice.

(G) The modification or termination of commitments shall be in substantially the form set forth in Appendix D of this chapter.

(H) By recommending, permitting or requiring commitments, the Board of Zoning Appeals does not obligate itself to make a favorable recommendation nor does the County Council obligate itself to approve or deny any request.

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

(Ord. 51-05, § 8.10.03F, passed 5-10-2005)

CHAPTER 154: PLANNING AND ZONING
Board of Zoning Appeals

154.561 RULES.

(A) The Board of Zoning Appeals shall adopt rules concerning: the filing of appeals; applications for special uses, conditional uses and variances; the giving of notice; the determination of interested parties to receive notice; the conduct of hearings; the creation, form, recording, modification, enforcement and termination of commitments; and, the designation of which specially affected persons and classes of specially affected persons are entitled to enforce commitments.

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

(Ord. 51-05, § 8.10.03G, passed 5-10-2005)

154.562 VARIANCE OF DEVELOPMENT STANDARDS.

A variance from any of the development standards of this chapter may only be approved upon the Board of Zoning Appeals making a written determination and adopting appropriate findings of fact, based upon the evidence presented at a public hearing, that:

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

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

(C) The strict application of the terms of this chapter would result in practical difficulties in the use of the property.

(Ord. 51-05, § 8.10.03H, passed 5-10-2005)

154.563 SPECIAL USES.

(A) *Statement of purpose.* Certain land uses, while they may be generally appropriate in certain districts and under certain circumstances, may have characteristics and locational impacts which, if inappropriately located, may have a detrimental effect upon other land uses within the district and St. Joseph County. It is therefore recognized that such land uses should be regulated in order to preserve property values, as well as promote the public health, safety, comfort, community moral standards, convenience and general welfare of St. Joseph County.

(B) *Uses permitted by special use.* Only those uses identified in each district as uses permitted by special use shall be permitted by special use in each district.

(C) *Grant of a special use.*

(1) The Board of Zoning Appeals is hereby authorized to hear and make a favorable recommendation, unfavorable recommendation or no recommendation to the County Council on a petition for a special use.

(2) The County Council shall, within 60 days of a recommendation by the Board of Zoning Appeals, vote on the petition for a special use.

(3) All petitions for a special use shall comply with the following requirements:

(a) *Petition for special use.* A petition for special use shall be initially filed with the Board of Zoning Appeals in accordance with the requirements for the filing of a variance, except as such requirements may be modified in this sub-Section. Such petition shall include proposed detailed findings of fact pursuant to division (C)(3)(d), below, in support of the determinations required to be made.

(b) *Waiver of development standards.* A petition for special use may contain a request to waive development standards of the district determined to be inappropriate for the individual special use. The waiver may only be approved if such waiver is specifically requested in said petition and specifically approved at the public hearing. Any development standards which are waived in this manner shall require additional findings as specified in § 154.562, above, for the grant of a variance of development standards.

(c) *Basis of review of a special use.*

1. In reviewing a special use petition with regard to compliance with the required findings of fact, the Board of Zoning Appeals and County Council shall give consideration to the particular needs and circumstances of each special use application and shall examine the following items as they relate to the proposed use:

- a. Topography and other natural site features;
- b. Zoning of the site and surrounding properties;
- c. Driveway locations and street access;
- d. On-site and off-site accommodations for vehicular and pedestrian circulation patterns;
- e. Amount, location and design of parking areas and loading areas;
- f. Building character, including height, intensity, materials and architecture;
- g. Landscaping, screening and buffering of adjacent properties;

CHAPTER 154: PLANNING AND ZONING
Board of Zoning Appeals

h. Compatibility of the proposed use, site design and architecture with the district in which the use is proposed to be located;

i. Extent to which the proposed use, site design and architecture comply with the regulations and development standards that would be applicable if the site were zoned to a business/commercial district or industrial district of this chapter which would permit the proposed use as a primary use;

j. Open space and other site amenities; and,

k. Availability and adequacy of streets, sanitary facilities, potable water, storm water management system and other utilities.

2. The Board of Zoning Appeals and the County Council shall find that the above items are dealt with appropriately by the petition for special use such that divisions (C)(3)(d) and (C)(3)(e), below, are complied with.

(d) *Findings of fact for a special use.* A special use may only be granted upon making a written determination and adopting appropriate findings of fact, based upon the evidence presented at a public hearing, that:

1. The proposed use will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare;

2. The proposed use will not injure or adversely affect the use of the adjacent area or property values therein;

3. The proposed use will be consistent with the character of the district in which it is located and the land uses authorized therein; and,

4. The proposed use is compatible with the recommendations of the St. Joseph County Comprehensive Plan.

(e) *Requirements for the grant of a special use.* The grant of a special use shall comply with the following requirements:

1. The proposed use shall conform to all development standards of the applicable zoning district (unless a waiver of such development standards is requested as part of the special use petition and approved as set forth above); and

2. The proposed use shall conform to all conditions or commitments attached to the grant of the special use; and

3. The proposed use shall comply with the site plan that was approved by the County Council as part of the grant of the special use. (*Ord. 61-19; 7-9-19*)

(f) *Requests for modification of the site plan.* Site plans that were included in a petition of a special use that received approval from the County Council can be modified by a request in writing to the Executive Director detailing the extent of the change or changes. The Executive Director may request additional documentation that would be needed to determine whether the proposed changes qualify as Minor Modifications or Major Modifications and outlined below. (Ord. 61-19; 7-9-19)

1. *Minor modifications.* Minor modifications to a special use site plan which has already received approval from the County Council which do not involve the designation of additional land uses; or an encroachment into any drainage easement, regulated drain setback or floodplain, may be authorized by the Executive Director without a public hearing in its continuing administration of the special use if, in the determination of the Executive Director, the requested minor modifications do not adversely impact the purpose or intent of the overall development. (Ord. 61-19; 7-9-19)

2. *Major modifications.* If the Executive Director determines that the proposed modification does not meet the criteria above or is of such a nature as to adversely impact the purpose or intent of the overall development the petitioner shall be required to file a new petition for special use. (Ord. 61-19; 7-9-19)

154.564 CONDITIONAL USES.

(A) The Board of Zoning Appeals shall have the power to approve conditional uses, with or without conditions or commitments, if the Board of Zoning Appeals determines that:

- (1) The public convenience and welfare will be substantially served;
- (2) The nature, location, size and site layout of the conditional use will be compatible with the immediate area;
- (3) Adequate water, sanitary, ingress/egress, drainage and other necessary facilities have been or are being provided to assure safe and sanitary conditions in the vicinity of the request;
- (4) The proposed conditional use does not conflict with the Comprehensive Plan or any other plan duly adopted by St. Joseph County; and
- (5) The proposed use will not be unduly detrimental to the surrounding area.

(B) As part of its approval of a conditional use, the Board of Zoning Appeals may impose reasonable conditions regarding the location, site design, and other features of the proposed building, structure, use or site development as are reasonably related to the purposes of this chapter.

(Ord. 51-05, § 8.10.03J, passed 5-10-2005; Ord. 68-09, § 9, passed 8-11-2009)

CHAPTER 154: PLANNING AND ZONING
Board of Zoning Appeals

154.565 OTHER POWERS.

The Board of Zoning Appeals shall exercise all powers conferred on it by State law, local ordinance, or rule in the manner so prescribed. This subchapter shall not be construed as a limitation on such powers.

(Ord. 51-05, § 8.10.03K, passed 5-10-2005)

STAFF AGENCIES

154.580 ESTABLISHMENT.

The Office of the Area Plan Commission of St. Joseph County, Indiana, is hereby re-established as the planning department for St. Joseph County, Indiana.

(Ord. 51-05, § 8.10.04A, passed 5-10-2005)

154.581 ADMINISTRATION OF PLANNING AND ZONING AUTHORITY.

The Office of the Area Plan Commission is hereby delegated the authority to perform all ministerial acts of the Area Plan Commission not required by law to be performed by the Area Plan Commission or the Board of Zoning Appeals within the unincorporated areas of St. Joseph County, Indiana.

(Ord. 51-05, § 8.10.04B, passed 5-10-2005)

154.582 DUTIES AND POWERS OF THE EXECUTIVE DIRECTOR AND ZONING ADMINISTRATOR.

(A) It shall be the duty of the Executive Director to supervise the general administration of the Planning Department.

(B) It shall be the duty of the Executive Director to receive and review all applications required by this chapter for zone map changes, development plan approvals and planned unit developments.

(C) It shall be the duty of the Zoning Administrator to enforce and administer this chapter, receive and review all applications required by this chapter for determination by the Board of Zoning Appeals and issue improvement location permits.

(D) The Executive Director or Zoning Administrator shall, when requested by the Area Plan Commission or Board of Zoning Appeals, or when the interests of the County so require, make investigations in connection with matters referred to in this chapter and render written reports on the same.

(E) The Executive Director shall keep the records of the Planning Department, including, without limitation, records of: applications; and reports rendered. The Executive Director shall maintain records of all final determinations, decisions and recommendations of the Area Plan Commission.

(F) The Zoning Administrator shall maintain records including, without limitation, records of: all applications before the Board of Zoning Appeals; all final determinations, decisions and recommendations of the Board of Zoning Appeals; permits issued; certificates issues; inspections made; and, notice or orders issued.

CHAPTER 154: PLANNING AND ZONING
Staff Agencies

(G) The Executive Director shall transmit to the Area Plan Commission the recommendation of the Planning Department on all applications, petitions, or matters requiring official action by the Area Plan Commission.

(H) The Zoning Administrator shall transmit to the Board of Zoning Appeals technical advice on all applications, petitions, or matters requiring official action by the Board of Zoning Appeals.

(I) The Executive Director shall transmit to the Board of Zoning Appeals the recommendation of the Planning Department on applications, petitions, or matters requiring official action by the Board of Zoning Appeals.

(J) The Executive Director shall maintain the Official Zone Maps and designate on the Official Zone Maps all map amendments granted under the terms of this chapter.

(K) The Executive Director shall provide and maintain information for the public relative to all matters arising out of this chapter.

(L) The Executive Director may designate staff to assist in the daily administration of the duties and responsibilities set forth in this chapter.

(M) The Executive Director shall perform such other duties as the Area Plan Commission may direct in accordance with the provisions of this chapter.

(Ord. 51-05, § 8.10.04C, passed 5-10-2005)

154.583 STAFF.

The Zoning Administrator is hereby charged with the administration of this chapter and, in particular, shall have the jurisdiction, authority and duties described below:

(A) To conduct preliminary consultations with potential applicants regarding development proposals regulated by this chapter;

(B) To review all improvement location permit applications for compliance with the provisions of this chapter; and

(C) To issue improvement location permits upon a determination that such permit application is in full compliance with all terms and provisions of this chapter, the St. Joseph County Subdivision Control Ordinance, and all other duly adopted applicable ordinances, rules or regulations of St. Joseph County, Indiana.

(Ord. 51-05, § 8.10.04D, passed 5-10-2005)

DEVELOPMENT REVIEW PROCEDURES

154.595 INTENT.

The development review procedures for St. Joseph County, Indiana, are intended to provide for the protection of the public health, safety, morals and general welfare of the residential and business citizens of St. Joseph County by providing for the thorough review of all permit applications and development petitions so that informed decisions regarding such permit applications and development petitions may be rendered while balancing the needs of the development community for the timely review of those permit applications and development petitions.

(Ord. 51-05, § 8.10.05, passed 5-10-2005)

154.596 IMPROVEMENT LOCATION PERMITS.

A building permit issued by the Building Department of St. Joseph County, Indiana, which includes: the establishment of a use; the alteration, change, enlargement, placement, erection or location of any building, structure, improvement or sign which results in an increase in the height, area or bulk of such building, structure, improvement or sign, shall constitute an improvement location permit under this chapter. Any application for such building permit shall include all necessary plans, including without limitation, site plans, landscape plans, lighting plans, building elevation or sign plans necessary to determine compliance with the permitted use, development standards and other development requirements of this chapter.

(A) *Improvement location permit required.* No building, structure, improvement, sign or use of land may be altered, changed, enlarged, placed, erected or located, unless the building, structure, improvement, sign or use and its location conform to the provisions of this chapter and an improvement location permit for the alteration, change, placement, erection or location of such building, structure, improvement, sign or use has been issued.

(B) *Duration of improvement location permit.*

(1) An improvement location permit shall be valid for the longer of:

a. One year after date of issuance; or

b. The length of any required building permit, if such building permit is obtained for the building, structure, improvement or sign covered by the improvement location permit within one year after the date of issuance of the improvement location permit.

(2) The Zoning Administrator shall have the power to extend the period of validity of any improvement location permit one or more times, provided, however, the total time period of all extension(s) shall not exceed six months.

CHAPTER 154: PLANNING AND ZONING
Development Review Procedures

(C) *Review of improvement location permit application.*

(1) *Improvement location permits for single family and two family dwellings and related accessory buildings or structures.* The Zoning Administrator may take up to five business days to study an application for an improvement location permit. During such five business day period, the Zoning Administrator may consult with other Staff or appropriate technical consultants. If, after such five day period, the Zoning Administrator has not requested any additional information or stated any objections in writing to the applicant, and the proposed building, structure or improvement, and the proposed use conform in all respects to the provisions of this chapter, the Zoning Administrator shall issue the improvement location permit.

(2) Improvement location permits for all: multifamily, commercial / mixed use, industrial or special exception buildings, structures, improvements or uses; signs; and, accessory buildings, structures or improvements related to multifamily, commercial/mixed use, industrial or special exception uses. The Zoning Administrator may take up to 15 business days to study the application for an improvement location permit. During such 15 day period, the Zoning Administrator may consult with other Staff or appropriate technical consultants. If, after such 15 day period, the Zoning Administrator has not requested any additional information or stated any objections in writing to the applicant, and the proposed building, structure, improvement or sign, and the proposed use conform in all respects to the provisions of this chapter, the Zoning Administrator shall issue the improvement location permit.

(3) *Improvement location permits for buildings, structures, improvements, signs or uses authorized by variance.* In addition to the requirements above, an improvement location permit for a building, structure, improvement, sign or use authorized by variance shall not be issued until:

(a) Receipt by the Zoning Administrator of written notice from the Board of Zoning Appeals that the application therefore has been approved by the Board of Zoning Appeals; and,

(b) A determination by the Zoning Administrator that said improvement location permit application is in full compliance with the terms of any conditions which may have been imposed by the Board of Zoning Appeals and commitments which may have been made by the owner.

(4) *Improvement location permits for buildings, structures, improvements, signs or special uses.* In addition to the requirements above, an improvement location permit for a building, structure, improvement, sign or use authorized by special exception shall not be issued until:

(a) Receipt by the Zoning Administrator of written notice from the County Council that the application therefore has been approved by the County Council; and,

(b) A determination by the Zoning Administrator that said improvement location permit application is in full compliance with the terms of any conditions which may have been imposed by the County Council and commitments which may have been made by the owner.

(D) *Appeal of determination.* Any determination by the Zoning Administrator concerning the issuance of an improvement location permit may be appealed to the Board of Zoning Appeals by any party claiming to be adversely affected by that decision.

(E) *Record of permits.* A record of all improvement location permits shall be kept on file in the Office of the Zoning Administrator and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected and shall be available for public inspection and copying as provided by applicable State law.

(F) *Amended improvement location permit.* When a builder, developer or owner of any building, structure, improvement or sign for which an improvement location permit has been obtained, for any reason, proposes that the construction of said building, structure, improvement or sign deviate from the plans filed with the improvement location permit application and approved by the Zoning Administrator, the builder, developer or owner shall make application for an amended improvement location permit. the zoning administrator shall review the application for the amended improvement location permit in accordance with the procedures set forth above to determine compliance of the amended improvement location permit application with the provisions of this chapter and any other applicable conditions, commitments or restrictions. if such amended improvement location permit application is found to be in compliance, the zoning administrator shall issue an amended improvement location permit. any determination by the zoning administrator with respect to an amended improvement location permit shall be subject to the same appeal rights and procedures as set forth above for an initial application for an improvement location permit.

(G) *Revocation in event of violation.* If the Zoning Administrator determines that construction or development is proceeding or has proceeded in violation of any applicable law, ordinance, rule, regulation, site plan, or condition approval, or that the improvement location permit has been issued in violation of any applicable law, ordinance, rule, regulation, site plan, zoning commitment, or condition of approval, the Zoning Administrator may revoke said improvement location permit. In the event that an improvement location permit is revoked, the Zoning Administrator shall send written notice of the revocation to the permit applicant.

(H) *Fees.* Fees for improvement location permits shall be as established by ordinance approved by the County Council and County Commissioners.

(Ord. 51-05, § 8.10.05A, passed 5-10-2005) Penalty, see § 154.999

CHAPTER 154: PLANNING AND ZONING
Development Review Procedures

154.597 COMPLIANCE WITH OTHER LAWS, ORDINANCES, RULES OR REGULATIONS.

The issuance of an improvement location permit does not substitute for or supersede the requirement to obtain approvals specified in other laws, ordinances, rules and regulations, as the same may be amended from time to time, before the construction of any building, structure, improvement or sign, including, but not limited to:

- (A) St. Joseph County Building Codes, Chapter 151;
- (B) St. Joseph County Subdivision Control Ordinance, Chapter 153; and
- (C) Any other applicable federal, state or local law, ordinance, rule or regulation, including, but not limited to:
 - (1) Rule 5 Erosion Control Regulations;
 - (2) Sections 154.290 through 154.301, floodplain regulations;
 - (3) Driveway permit regulations for St. Joseph County, Indiana; and,
 - (4) State or federal environmental permits.

(Ord. 51-05, § 8.10.05B, passed 5-10-2005) Penalty, see § 154.999

154.598 APPLICATION FORM AND PLAN REQUIREMENTS.

All improvement location permit applications shall comply with the form of application specified by the Building Department of St. Joseph County, Indiana. When an improvement location permit is required by this chapter, additional site plans, landscape plans, lighting plans, sign plans and building elevations, as described below, may be required to determine compliance with the requirements of this chapter.

- (A) (1) A site plan for a single family dwelling or a two-family dwelling on a platted lot.
 - (a) North arrow;
 - (b) Address of the lot;
 - (c) Scale (not more than one inch equals 100 feet);
 - (d) Legal description of the lot;
 - (e) Names, center-lines and right-of-way widths of all streets, alleys, thoroughfares, public ways, water ways, or railroad right-of-ways abutting or within the lot;

- (f) The location and dimensions of all buildings, structures or improvements currently existing on the lot;
 - (g) Structures proposed for demolition should be indicated as such;
 - (h) The location and dimensions of all proposed buildings, structures or improvements, including fences, sheds, paved areas, storage areas, parking areas (indicate if parking is hard surfaced). Cross-hatch or shade lightly all proposed buildings;
 - (i) Location of any proposed or existing driveway and its width at the property line. (Any connection to an alley must also be indicated);
 - (j) The distance from lot lines for all existing and proposed buildings, structures or improvements (this distance is measured as a line from the point where the building, structure or improvement is closest to the property line. This measurement is taken perpendicular to the property line.);
 - (k) The height of the existing and proposed buildings, structures or improvements; and
 - (l) All other information required by the Zoning Administrator for the proper administration of this Chapter.
- (2) The Zoning Administrator may waive or relax any of the site plan requirements listed above, as circumstances dictate.
- (B) (1) A site plan for any business/commercial, industrial or special use.
 - (a) North arrow;
 - (b) Address of the site;
 - (c) Scale (not more than one inch equals 100 feet);
 - (d) The actual shape, size and dimensions of the lot;
 - (e) Area map or sketch to indicate the location of the lot.;
 - (f) Names, center-lines and right-of-way widths of all streets, alleys, thoroughfares, public ways, water ways, or railroad rights-of-way abutting or within the lot;
 - (g) The location and dimensions of all buildings, structures, improvements or signs currently existing on the lot;
 - (h) Structures proposed for demolition should be indicated as such;

CHAPTER 154: PLANNING AND ZONING
Development Review Procedures

(i) The location and dimensions of all proposed buildings, structures, improvements or signs, including fences, sheds, paved areas, storage areas, parking areas (indicate if parking is hard-surfaced). Cross-hatch or shade lightly all proposed buildings;

(j) Location of any proposed or existing driveway and its width at the property line. (Any connection to an alley must also be indicated);

(k) (If applicable) Location of all existing and proposed freestanding signs on the site. See division (D) sign plans, below, for requirements regarding proposed signs;

(l) The distance from lot lines for all existing and proposed buildings, structures, improvements or signs. (This distance is measured as a line from the point where the building, structure, improvement or sign is closest to the property line. This measurement is taken perpendicular to the property line.);

(m) The height of the existing and proposed buildings, structures or improvements;

(n) The number of dwelling units (if applicable) of existing and proposed buildings or structures;

(p) The current and proposed use to be made of all buildings, structures, improvements or lands within the lot (e.g. parking area, loading area, residence, office, outdoor storage);

(p) Locational engineering information regarding all utilities to provide service to the buildings or structures on the lot;

(q) The location and dimensions of all off-street parking areas and off-street loading areas and facilities;

(r) The location, size and dimension of all fences, walls or other screening and buffering devices;

(s) Site data summary (a text summary in table format describing: square footage of existing and proposed buildings; existing, proposed and required parking; existing, proposed and required loading; proposed and permitted maximum building height; accommodation of drainage, sanitary sewer, water and other utility services; legal description; lighting; and landscaping);

(t) The seal of the registered professional engineer or architect responsible for the site plan; and

(u) All other information required by the Zoning Administrator for the proper administration and enforcement of this chapter.

(2) The Zoning Administrator may waive or relax any of the site plan requirements listed above, as circumstances dictate.

(C) (1) Building Elevations.

- (a) Address of the site;
- (b) Proposed name of the development;
- (c) Scale;
- (d) Elevations for each facade of the building;
- (e) Specification or sample of the type and color of building materials to be used for all wall, window, roof and other architectural features; and
- (f) Any other information requested in writing by the Zoning Administrator.

(2) Zoning Administrator, in its sole discretion, may waive or relax any of the building elevation requirements listed above, as circumstances dictate.

(D) (1) Sign plans.

- (a) Address of the site;
- (b) Proposed name of the development;
- (c) Scale;
- (d) Freestanding signs; A site plan indicating the location of any existing or proposed freestanding signs;
- (e) Wall signs; A site plan indicating the location of any building upon which a sign is to be mounted, with the location of the signs indicated;
- (f) Elevation of proposed signs including size, materials and color;
- (g) Illumination details for proposed signs;
- (h) Placement, size, color and illumination details for any proposed wall sign; and
- (i) Any other information requested in writing by the Zoning Administrator.

(2) Zoning Administrator, in its sole discretion, may waive or relax any of the Sign Plan requirements listed above, as circumstances dictate.

CHAPTER 154: PLANNING AND ZONING
Development Review Procedures

- (E) (1) Landscape plans.
- (a) Address of the site;
 - (b) Proposed name of the development;
 - (c) Scale (not more than one inch equals 100 feet);
 - (d) The location of any existing or proposed freestanding signs;
 - (e) Outline of all existing or proposed buildings or structures, including parking areas and loading areas;
 - (f) Boundary lines of the site;
 - (g) Location of all floodway and floodway fringe areas within the boundaries of the site;
 - (h) All existing elevations and proposed land contour lines having at least two-foot intervals;
 - (i) Proposed sidewalk, walkway or alternate plan for pedestrian ways;
 - (j) Size, species and spacing (on center) of all proposed trees, landscaping and ground cover;
 - (k) Location of existing trees in required yards and required residential bufferyards, indicating type and size of trees and whether such trees are to be removed or preserved;
 - (l) Description of methods to preserve trees without injury and with sufficient area for the root system to sustain the tree;
 - (m) Description of protective care and physical restraint barriers at the drip line to prevent alteration, compaction or increased depth of the soil in the root system area prior to and during groundwork and construction; and
 - (n) Any other information requested in writing by the Zoning Administrator.

(2) Zoning Administrator, in its sole discretion, may waive or relax any of the Landscape Plan requirements listed above, as circumstances dictate.

- (F) (1) Lighting plans.
- (a) North arrow;
 - (b) Address of the site;

- (c) Scale (not more than one inch equals 100 feet);
- (d) Proposed name of the development;
- (e) Boundary lines of the site including all dimensions of the site;
- (f) Outline of buildings, structures and other improvements (e.g., parking areas, loading areas, interior access drives, etc.) on the lot and the location of all outdoor light fixtures;
- (g) A description of the outdoor light fixtures, including but not limited to manufacturers or electric utility catalog specifications sheets, drawings or photometric report, which indicate:
 - 1. The outdoor light fixture classification (e.g., cutoff, semi-cutoff, full cutoff, or non-cutoff);
 - 2. Mounting height of freestanding outdoor light fixtures; and,
 - 3. Wattage proposed for each outdoor light fixture.
- (h) If architectural building lighting is proposed, indicate the location, type and intensity of lighting on each building façade; and
- (i) Any other information requested in writing by the Zoning Administrator.

(2) Zoning Administrator, in its sole discretion, may waive or relax any of the Lighting Plan requirements listed above, as circumstances dictate.

(Ord. 51-05, § 8.10.05C, passed 5-10-2005)

154.599 ZONING ORDINANCE AMENDMENT PROCEDURES.

(A) *Generally.* The procedures and requirements for the preparation and consideration of proposal to amend or partially repeal of the text of this chapter of the St. Joseph County Code or to change the zone maps shall be as follows:

(1) *Text of zoning ordinance.* The County Council may, from time to time, upon its own motion or upon the petition of the Area Plan Commission, amend or partially repeal the text of this chapter in accordance with the provisions of Indiana Code 36-7-4-602, et seq.

(2) *Zone map change (a/k/a replacement zone map).* Proposals to change the zone maps, whether by incorporating an additional map or by amending or deleting a map, incorporated by reference into this chapter may be initiated by the County Council, the Area Plan Commission, or by a petition of the owners of property of at least 50% of the area involved in the petition in accordance with the provisions of Indiana Code 36-7-4-602, et seq.

CHAPTER 154: PLANNING AND ZONING
Development Review Procedures

(3) *County Council action.* In the case of proposal to amend or partially repeal the text of this chapter or in the case of a zone map change, the County Council may act upon such amendment only after a report has been presented by the Area Plan Commission after public notice and hearing in accordance with the provisions of Indiana Code 36-7-4-604, et seq. (*Bill 103-20, 11/10/20*)

(4) *County Council may initiate proposal.* The County Council may initiate and also require the Area Plan Commission to: prepare a proposal to amend or partially repeal the text of this chapter; or, consider and recommend a proposal for zone map change, and submit such amendment to a public hearing by the Area Plan Commission within 60 days after formal written request by the County Council.

(5) *Review procedure and time limits.* The procedure for the referral of a proposed amendment to the Area Plan Commission and the time limits for action by the Area Plan Commission and the County Council shall be as set forth in Indiana Code 36-7-4-607, et seq.

(6) *Right to veto.* The county executive shall have the right of veto any proposal to amend or partially repeal the text of this chapter or any proposal for a zone map change.

(B) *Zone map amendments (a/k/a rezoning petitions).* The procedures and requirements for the preparation and consideration of proposal to amend zone maps shall be as follows:

(1) *Filing; forms.* A proposal for zone map change (a/k/a rezoning petition) shall be filed in the office of the County Council of St. Joseph County, Indiana. The proposal shall be on forms substantially as provided by St. Joseph County and available from the Area Plan Commission.

(2) *Required Plans.* Each proposal for zone map change shall be accompanied by six copies of a proposed Site Plan which conforms generally to the requirements set forth in § 154.598, above. Requests for changes to the “R” Residential District shall be exempt from filing preliminary site plans.

(3) *Referral.* The County Council shall refer a proposal for zone map change to the Area Plan Commission for public hearing and recommendation.

(4) *Supplemental plans.* Depending on the nature of the proposal, the Executive Director shall have the authority to request the submission of other supplemental information including but not limited to Building Elevations, Sign Plans, Landscape Plans, Lighting Plans or traffic studies. If requested, such additional Building Elevations, Sign Plans, Landscape Plans or Lighting Plans shall conform to the requirements set forth in § 154.598, above.

(5) **Certification; generally.** After public hearing, the Area Plan Commission shall certify the proposal with a:

- (a) Favorable recommendation;
- (b) Unfavorable recommendation; or,
- (c) No recommendation.

(6) *Certification; written commitments.* The certification of a proposal by the Area Plan Commission to the County Council may include written commitments as set forth in § 154.543. The commitments may include: limitations upon certain uses; requirements for specific building or parking area setback or screening; requirements for specific site design features or project amenities; or, requirements that development conform with site plans, building elevations, sign plans, landscape plans or lighting plans which were submitted in connection with the proposal.

(7) *Adoption or rejection.* The County Council may adopt or reject the proposal for zone map change, as certified.

(8) *Right to veto.* The county executive shall have the right to veto any proposal for zone map change.

(Ord. 51-05, § 8.10.05D, passed 5-10-2005)

154.600 VARIANCE, SPECIAL USE AND CONDITIONAL USE PROCEDURES.

The procedures and requirements for the preparation and consideration of petition for a variance of development standards, special use or conditional use shall be as follows:

(A) *Petitions.* Petitions for a variance of development standards, special use or conditional use shall be filed in the office of the Area Plan Commission of St. Joseph County, Indiana. The proposal shall be on the form provided. *(Ord. No. 8-18; 1/9/2018)*

(B) *Required Plans.* Each petition for a variance of development standards, a special use or a conditional use shall be accompanied by a site plan which conforms to the requirements set forth in § 154.598, above.

(C) *Supplemental Plans.* Depending on the nature of the petition, the Zoning Administrator shall have the authority to request the submission of plans of operation, traffic studies, radio frequency studies, or other supplemental information including but not limited to building elevations, sign plans, landscape plans or lighting plans. if requested, such additional building elevations, sign plans, landscape plans or lighting plans shall conform to the requirements set forth in § 154.598, above.

(D) *Variance of development standards.* The Board of Zoning Appeals, at a public hearing, shall hear and determine all variances of development standards.

(E) *Special uses.* The Board of Zoning Appeals, at a public hearing, shall hear and make a favorable recommendation, unfavorable recommendation or no recommendation to the

CHAPTER 154: PLANNING AND ZONING
Development Review Procedures

County Council on all special uses. The County Council shall, approve or disapprove all petitions for special exception uses within 60) days after the Board of Zoning Appeals makes its recommendation. If the County Council does not vote to deny the petition for a special use within 60 days, the petition is approved.

(F) *Conditional uses.* The Board of Zoning Appeals, at a public hearing, shall hear and determine all conditional uses.

(Ord. 51-05, § 8.10.05E, passed 5-10-2005)

154.601 MODIFICATION OR TERMINATION OF COMMITMENTS.

In those instances where a property owner wishes to request that commitments which were entered into in connection with a zone map change, PUD District Ordinance, secondary approval of a PUD, modification of permitted uses or development requirements of a PUD, variance of development standards, a special use or a conditional use be modified or terminated, such request for modification or termination shall comply with the following requirements:

(A) *Form of filing.* Such request shall be filed as a petition for modification or termination of commitments with the body which permitted or required the commitments (i.e., the Area Plan Commission or the Board of Zoning Appeals).

(1) In the case of a modification or termination of commitments permitted or required by the Area Plan Commission, such petition shall be on forms provided by the Office of the Area Plan Commission.

(2) In the case of a modification or termination of commitments permitted or required by the Board of Zoning Appeals, such petitions shall be on forms provided by the Area Plan Commission of St. Joseph County. *(Ord. No. 8-18; 1/9/2018)*

(B) *Public hearing and notice.* Each request for modification or termination of commitments shall be determined after a public hearing. The notification requirements and other procedural requirements for conducting the public hearing on a modification or termination of commitments shall be the same as for the initial public hearing at which the commitments were originally permitted or required.

(C) *Reasons for modification or termination.* The petitioner or property owner shall be responsible for presenting convincing evidence to the Area Plan Commission or the Board of Zoning Appeals as to the reasons, need or justification for the proposed modification or termination of commitments.

(Ord. 51-05, § 8.10.05F, passed 5-10-2005)

154.602 COMBINED PUBLIC HEARING PROCEDURE.

(A) The Area Plan Commission may designate a hearing examiner or committee of the commission to conduct a combined hearing relative to developments that require more than one hearing under this Title.

(B) The decision to use this procedure shall be made by the applicant.

(C) In conducting a combined hearing, the hearing examiner or committee of the Commission may exercise the following:

(1) the powers of the Area Plan Commission in making recommendations to the County Council on rezoning petitions and text amendments under the I.C. 36-7-4-600 series.
(Bill 103-20, 11/10/20)

(2) the powers of the Plat Committee in approving or denying subdivision plats under the I.C. 36-7-4-700 series.

(3) the powers of the Board of Zoning Appeals to grant variances and make recommendations on special exceptions under the I.C. 36-7-4-900 series.

(4) the powers of the Executive Director, hearing examiner or committee of the Area Plan Commission as it concerns the approval of Development Plans under the I.C. 36-7-4-1400 series.

(D) Decisions of the hearing examiner or committee of the Area Plan Commission under the combined hearing procedure may be excepted to or appealed as follows:

(1) decisions made in relation to the powers granted under Chapter 154.602(C)(1) may be appealed to the Area Plan Commission not later than five days after the date the decision is made.

(2) decisions made in relation to the powers granted under Chapter 154.602(C)(2) may be appealed to the Area Plan Commission not later than five days after the date the decision is made.

(3) decisions made in relation to the powers granted under Chapter 154.602(C)(3) may be appealed to the Area Plan Commission not later than five days after the date the decision is made.

(E) The Area Plan Commission shall make rules governing the hearing of cases under the combined hearing procedure. The rules may not require a petitioner or an applicant to use the combined hearing procedure.

(Ord. 80-12, 7-10-2012)

ENFORCEMENT

154.615 AUTHORITY.

The Area Plan Commission, Historic Preservation Commission, and the Building Department are hereby designated to enforce the terms and provisions of this chapter in accordance with Indiana law. (*Ord. 8-18; 1/9/2018; Ord. 19-20, 2/18/20*)

(*Ord. 51-05, § 8.11A, passed 5-10-2005*)

154.616 ALLEGED VIOLATIONS.

Whenever staff receives a complaint or has reason to suspect that an alleged violation of the terms and provisions of this chapter are occurring, staff shall investigate the complaint or suspicion and shall take whatever action is warranted in accordance with the provisions of this subchapter.

(*Ord. 51-05, § 8.11B, passed 5-10-2005*)

154.617 RESPONSIBILITY FOR VIOLATIONS.

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists, directs, creates, or maintains any situation that is in violation of the terms and provisions of this chapter, may be held responsible for the violation, suffer the penalties, and be subject to the remedies herein provided.

(*Ord. 51-05, § 8.11C, passed 5-10-2005*) Penalty, see § 154.999

154.618 INSPECTION OF PROPERTY; RIGHT OF ENTRY.

(A) Staff may enter upon any building, structure or land or part thereof at any reasonable time for the purpose of inspecting all buildings, structures or lands located within the unincorporated areas of St. Joseph County for the purpose of carrying out their duties in the enforcement of this chapter. Prior to entering upon any premises, staff shall furnish sufficient identification and information to enable the owner, tenant or occupant to determine the purpose of the inspection and that the person conducting the inspection is an authorized representative of St. Joseph County.

(B) In the event that entry is denied by the owner, tenant or occupant of a premises, staff may make application to any court of competent jurisdiction for the issuance of a search warrant. Such application shall identify the premises upon which entry is sought and the purpose for which entry is desired. The application shall state the facts giving rise to the belief that a condition which is in violation of this chapter exists on the premises, or that such a violation in fact exists and must be abated, and that the condition or violation is not a lawful nonconforming

CHAPTER 154: PLANNING AND ZONING
Enforcement

use to the best of the affiant's belief. Any warrant issued pursuant to such application shall order such owner, tenant or occupant to permit entry to staff for the purposes stated therein.

(Ord. 51-05, § 8.11D, passed 5-10-2005) Penalty, see § 154.999

154.619 CEASE AND DESIST ORDER.

Staff is empowered to issue a cease and desist order requiring the suspension of land improvement of any kind when any of the following circumstances exist:

- (A) A site improvement is occurring without an improvement location permit or any other permit required by this chapter having first been obtained; or,
- (B) A site improvement is occurring in violation of:
 - (1) The terms, conditions or provisions of this Chapter;
 - (2) The terms and conditions of an improvement location permit;
 - (3) The terms and conditions of any other permit required as a pre-requisite to the issuance of an improvement location permit;
 - (4) The terms, provisions, conditions or commitments of a variance or special use;
 - (5) The terms of commitments made or conditions imposed in connection with the approval of a development plan;
 - (6) Other approval grant authorized by this chapter; or,
 - (7) Other applicable federal, state or local law or ordinance.
- (C) The cease and desist order shall be posted on the property in a conspicuous place, or personally delivered to the owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists, directs, creates, or maintains any situation that is in violation of the terms and provisions of this chapter and state the conditions under which construction or other activity may be resumed. Staff shall meet with the recipient of a cease and desist order upon request to explain the conditions under which construction or other activity may be resumed.
- (D) In addition to any other remedies available pursuant to any other applicable law and this chapter, the St. Joseph County Attorney, Zoning Administrator or appropriate enforcement official may institute a lawsuit in a court of competent jurisdiction to enforce the provisions of a cease and desist order, including but not limited to injunctive relief.

(Ord. 51-05, § 8.11E, passed 5-10-2005)

154.620 VIOLATIONS.

Subject to the provisions of §§ 154.045 through 154.058, each of the following shall constitute a zoning violation which may be enforced by the Area Plan Commission and the Building Department in accordance with the provisions set forth in § 154.999, below: (*Ord. No. 8-18; 1/9/2018*)

(A) The location, erection, or maintenance of any sign not specifically permitted by this chapter;

(B) The failure to obtain an improvement location permit when one is required by the terms and provisions of this chapter;

(C) (1) The parking or storage, in any district the provisions of which do not specifically permit such a use, of any:

(a) Motor vehicle used or designed for use in pulling, towing, hauling, transporting; or,

(b) Motor vehicle or separate trailer as a temporary or permanent base, platform or support for equipment, machinery, materials or other goods (including but not limited to stake body trucks, dump trucks, trucks or tractors having dual rear wheels or more than two axles, semi-trailer tractors, semi-trailers and trailers having dual rear wheels or more than one axle or having an overall length of more than 12 feet).

(2) However, this provision does not apply to motor vehicles which are the primary source of transportation for an individual whose primary place of residence is the particular dwelling at which the commercial motor vehicle is parked on a regular basis;

(D) The outdoor storage or display of merchandise or goods in any district the provisions of which do not specifically permit such a use or in violation of the district development standards regulating such a use;

(E) The conduct of any activity in a residential district that is not specifically enumerated as a permitted primary or accessory use in that district, and which activity has not been legally established by a currently valid special use or other approval grant;

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

(G) The failure to comply with:

(1) The terms, provisions, conditions or commitments of a variance grant, special use grant or conditional use grant;

CHAPTER 154: PLANNING AND ZONING
Enforcement

(2) The terms of commitments made in connection with a zoning map change or the approval of a development plan;

(3) The terms, provisions or conditions of any other permit required as a prerequisite to the issuance of a improvement location permit; or,

(4) Other approval grant authorized by this chapter;

(H) The violation of a cease and desist order issued pursuant to this subchapter; and,

(I) Failure to comply with any other provisions of this chapter, or other applicable federal, state or local law or ordinance.

(Ord. 51-05, § 8.11F, passed 5-10-2005) Penalty, see § 154.999

Cross-reference:

Remedies or penalties for violation, fine, and additional remedies, see § 154.999

DEFINITIONS

154.635 INTERPRETATION OF TERMS OR WORDS.

The language of this Chapter shall be interpreted in accordance with the following regulations:

(A) The word **PERSON** includes a firm, association, organization, partnership, trust, limited liability company, corporation, or other legal entity, as well as an individual;

(B) The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular, in each case, if the context so requires;

(C) The word **SHALL** is mandatory, the word **MAY** is permissive;

(D) The words **USED** or **OCCUPIED** include the words **INTENDED, DESIGNED, CONSTRUCTED, MAINTAINED, ALTERED, or ARRANGED** to be used or occupied;

(E) The word **LOT** includes the words **PIECE, PLOT, TRACT, or PARCEL**;

(F) Where a regulation involves two or more items, conditions, provisions or events connected by the conjunction **AND, OR, or EITHER ... OR**, the conjunction shall be interpreted as follows:

(1) **AND** indicates that all the connected items, conditions, provisions or events shall apply.

(2) **OR** indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

(3) **EITHER ... OR** indicates that all the connected items, conditions, provisions or events shall apply singly but not in combination.

(G) The terms **MORE INTENSE** and **LESS INTENSE** are terms used herein to describe relationships between particular districts. This relationship is based upon the uses permitted within each district. A **MORE INTENSE** district permits more uses or a greater density of uses than a **LESS INTENSE** district. District intensity groupings progress from agricultural, to residential, to commercial, to industrial districts, in the sequence listed within each group of districts from least intense to the most intense.

(H) Any words not defined shall be construed in their general accepted meanings as defined by *Webster's Dictionary*.

(Ord. 51-05, § 8.12, passed 5-10-2005)

CHAPTER 154: PLANNING AND ZONING

Definitions

154.636 DEFINITIONS.

The following terms or words used in the text of this chapter shall have the following meanings, unless a contrary meaning is required by the context of a particular sentence or phrase; or, specifically prescribed in a particular sentence or phrase:

ACCESSORY BUILDING, STRUCTURE OR USE. A subordinate structure, building, or use that is customarily associated with , and is appropriately and clearly incidental and subordinate in use, size, area, and height, to the primary structure building, or use, and is located on the same lot as the primary building, structure, or use, unless otherwise permitted by this ordinance. (*Ord. 19-20, 2/18/20*)

ACCESSORY MOBILE HOME FOR A CARE GIVER. A dwelling authorized as a conditional use for an individual or family who provides weekly assistance to another individual or family.

ACCESSORY MOBILE HOME FOR A CARE RECEIVER. A dwelling authorized as a conditional use for an individual or family who receives weekly assistance from another individual or family.

ADULT BOOKSTORE. Any establishment having a significant portion of its stock in trade, books, magazines, other periodicals or any other publications which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment which sells or displays a significant number of such books, magazines, other periodicals or other publications.

ADULT BUSINESS. Any adult bookstore, adult mini motion picture theater, adult motion picture theater, adult cabaret or massage establishment.

ADULT CABARET. Any establishment at which topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers perform or at which topless dancing, go-go dancing, exotic dancing, striptease, male or female impersonation or similar activities are performed.

ADULT MINI MOTION PICTURE THEATER. An enclosed building having a seating capacity of one hundred fifty or less persons used for presenting material distinguished or characterized by an emphasis upon matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

ADULT MOTION PICTURE THEATER. An enclosed building having a seating capacity of more than one hundred and fifty persons used for presenting material distinguished or characterized by an emphasis upon matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

AGRICULTURE. The science and art of agricultural pursuits, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, truck gardening and animal husbandry, but not including confined feeding operations.

AIRCRAFT. A contrivance, now known or hereafter invented, for use in or designed for navigation of or flight in the air.

AIRPORT. An area of land or water which is used or intended for use for the landing and taking off of aircraft, and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, including all necessary taxiways, pads, aircraft storage and tiedown areas, hangars, and other necessary buildings and open spaces.

ALLEY. A public right-of-way which normally affords a secondary means of access to abutting property.

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

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

ANTENNA. Any structure or device designed and used to:

- (1) Receive direct broadcast satellite service, including direct-to-home satellite services;
- (2) Receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services;
- (3) Receive television broadcast signals; or,
- (4) Collect or radiate electromagnetic waves, including both directional antennas, such as panel antenna, and dish antenna, and omni-directional antennas, such as whip antennas, but no including satellite earth stations.

ANTENNA ARRAY. A structure attached to a telecommunications tower that supports a telecommunications antenna.

ANTENNA, DISH. A dish shaped device which may be free standing or mounted on a building or structure and is designed to receive direct broadcast satellite service.

ANTENNA, FLAGPOLE. A telecommunications tower designed to appear and function as a large diameter flagpole where panel antenna are integrally designed into and located inside of a telecommunications tower and are not visible from the exterior. A flagpole antenna may or may not include flying of a flag. A **FLAGPOLE ANTENNA** may be ground mounted or roof-mounted.

ANTENNA, NON-WHIP. An antenna which is not a whip antenna, such as dish antennas, panel antennas, etc.

ANTENNA, PANE. A flat, rectangular antenna or antenna array designed to concentrate a radio signal in a particular area. Panel antenna are also known as directional antenna or sectored antenna.

CHAPTER 154: PLANNING AND ZONING

Definitions

ANTENNA, RADIO/TELEVISION. A wire or combination of wires and support structures designed for directly transmitting electric waves (broadcast radio or television) into space, or receiving them therefrom.

ANTENNA, SLICK. Panel antennas that are mounted directly to tapering monopole telecommunications tower where the furthest point of the panel antenna is no greater than eighteen (18) inches from the exterior of the tapering monopole telecommunications tower.

ANTENNA, STEALTH.

(1) An antenna or antenna array placed on or in an existing or proposed building, structure, or telecommunications tower and designed or placed in a manner intended to disguise, hide, or minimize the appearance of such antenna or antenna array.

(2) A ***STEALTH ANTENNA*** may or may not have a secondary function (e.g., bell tower, church steeple, spire, flagpole, clock tower, cupola, etc.).

(3) ***STEALTH ANTENNA*** may include, but are not limited to:

(a) Flagpole antenna;

(b) Slick antenna; or,

(c) A surface-mount antenna with a color and appearance that is compatible with or blends with the color and materials of the surface of the building or structure to which the surface-mount antenna is attached.

ANTENNA, TELECOMMUNICATION. An antenna used to provide a telecommunications service.

ANTENNA, WHIP. An omni-directional dipole antenna of cylindrical shape which is no more than six inches in diameter.

APPROVED HOTEL. A hotel that contains at least 250 hotel rooms, or a lesser number established by the Indiana Gaming Commission; indoor public space used for exhibit space; meeting rooms; banquet rooms; restaurants; lobbies; lounges or bars; show theaters; parking areas; and shops where gambling games may be conducted. Said definition shall also include the definition of ***APPROVED HOTEL*** as defined in Indiana Code Section 4-33-2-3, as it may be amended from time to time.

AUTOMOBILE LAUNDRY. A building or portion thereof containing facilities for washing more than two automobiles, using production line methods with a chain conveyor, blower, steam cleaning device, or other mechanical devices.

AUTOMOBILE SERVICE STATION. A building or portion thereof or premises used for dispensing, or offering for sale at retail, gasoline when stored only in underground tanks, kerosene, lubricating oil or grease for operation of automobiles, and where tires, batteries, and similar automobile accessories may be offered for sale on the premises at retail; including minor services and installations customarily incidental thereto; and facilities other than automobile

laundry, for washing cars, only if enclosed in a building. Automobile service stations do not include open sales lots as defined in this chapter.

AUTOMOBILE WRECKING YARD.

(1) Any area of land not enclosed within a building used for wrecking or storing of two or more:

- (a) Unlicensed or inoperable motor vehicles or recreational vehicles;
- (b) Inoperable machinery or equipment drawn or operated by attaching to motor vehicles;
- (c) Inoperable mechanical units or farm equipment; or,
- (d) Parts thereof.

(Ord. 5-17, § 1, passed 1/17/2017)

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

BASEMENT. A portion of a building, all or in part below curb level as defined in this chapter.

BED AND BREAKFAST. See ***SHORT TERM RENTAL.*** *(Ord. 19-20, 2/18/20)*

BINGO. Shall have a definition set forth in Indiana Code Section 4-32.2-2-3, and it and all other games of chance regulated by Indiana Code Section 4-32-1 are not considered gambling games addressed by this ordinance.

BLOCK. A tract of land bounded by streets, or by a street or streets and any combination of boundary lines of public or institutionally owned lands, railroad rights-of-way, rivers and lakes and other lines of demarcation.

BOARD OF ZONING APPEALS. The Area Board of Zoning Appeals of St. Joseph County, Indiana.

BORROW PIT. A place or premises where dirt, soil, peat, sand, gravel, or other material is removed by excavation or otherwise, below the grade of surrounding land, for any purpose other than that necessary and incidental to grading or to building construction or operation on the premises.

BUILDABLE AREA. For the purpose of measuring lot width, means the narrowest width within the thirty feet of lot depth immediately in back of the front yard setback line.

BUILDING. A structure built for the shelter or enclosure of persons, animals, or property of any kind.

BUILDING, ACCESSORY. See ***ACCESSORY BUILDING, STRUCTURE OR USE.***
(Ord. 19-20, 2/18/20)

CHAPTER 154: PLANNING AND ZONING

Definitions

BUILDING, COMPLETELY ENCLOSED. A building separated on all sides from the adjacent open space, or from other buildings or other structures, by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance or exit doors.

BUILDING COVERAGE. The percent of the gross project area on or over which a building or structure stands.

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

BUILDING FAÇADE. That portion of any exterior elevation of a building extended from grade to the top of the parapet wall or eaves and the entire width of the building elevation, and which may also be referred to as the “building face”.

BUILDING HEIGHT. The vertical distance from ***GRADE*** to the highest point of the building or structure. Chimneys, spires, towers, elevator penthouses, tanks and similar projections other than signs shall not be included in calculating the height. (*Ord. 19-20, 2/18/20*)

BUILDING LINE. A line parallel to any front lot line, side lot line or rear lot line which passes through the nearest point of any completely enclosed building. (*Ord. No 34-19; 3/12/2019*)

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

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

- (1) Single-family detached dwellings;
- (2) Two-family dwellings; or,
- (3) Multiple-family dwellings.

BULK. The term used to indicate the size and setback of buildings or structures and the location of same with respect to one another and includes the following:

- (1) Size and height of buildings;
- (2) Location of exterior walls at all levels in relation to lot lines, streets, or to other buildings;
- (3) Gross floor area of buildings in relation to lot area (floor area ratio);
- (4) All open spaces allocated to buildings; or,
- (5) Amount of lot area provided per dwelling unit.

BUSINESS. An occupation, employment, or enterprise which occupies time, attention, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered.

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

CASINO. A building, facility or room where any gambling games as defined herein are conducted.

CHILD CARE. A service that provides for the care, health, safety and supervision of a child's social, emotional and educational growth. (For reference, see Indiana Code 12-7-2).

CHILD CARE CENTER.

- (1) A building where at least 17 children receive child care from a provider:
 - (a) While unattended by a parent, legal guardian, or custodian;
 - (b) For regular compensation; and,
 - (c) For more than four hours but less than 24 hours in each of ten consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.
- (2) This term also applies to a building where child care is provided to less than 17 children if the provider has applied for a license under IC 12-17.2-4 and meets the requirements under IC 12-17.2-4. (For reference see Indiana Code 12-7-2.)

CHILD CARE HOME.

- (1) A residential *structure* in which at least six children (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative) at any time receive child care from a provider:
 - (a) While unattended by a parent, legal guardian, or custodian;
 - (b) For regular compensation; and,
 - (c) For more than four hours but less than 24 hours in each of ten consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.
- (2) This term includes a Class I **CHILD CARE HOME** (that serves any combination of full-time and part-time children, not to exceed 12 at any one time) and a Class II **CHILD CARE HOME** (that serves more than 12 children but no more than any combination of 16 full-time and part-time children at any one time). (For reference see Indiana Code 12-7-2.)

CHILD CARE MINISTRY. A child care center operated by and in connection with a *religious use* that is recognized as a religious organization exempt from federal income taxation under § 501 of the Internal Revenue Code. (For reference see Indiana Code 12-7-2.)

CHILD CARING INSTITUTION.

- (1) A residential facility;
- (2) That provides Child Care on a 24 hour basis for more than ten children; or
- (3) With a capacity of not more than ten children that does not meet the residential Structure requirements of a group home; or
- (4) An institution that:

CHAPTER 154: PLANNING AND ZONING

Definitions

- (a) Operates under a license issued under IC 12-12.2;
- (b) Provides for delivery of mental health services that are appropriate to the needs of the individual; and,
- (c) Complies with the rules adopted under IC 4-22-2 by the Division of Family and Children. For reference see Indiana Code 12-7-2.)

CHURCH. See **RELIGIOUS USE**.

CLINIC, MEDICAL OR DENTAL. A building or portion thereof, the principal use of which is for offices of an organization of specializing physicians or dentists or both.

CLINIC, VETERINARY. A medical facility, including an animal hospital, for the treatment of animals.

CLUB. A facility, the use of which is restricted to members and their guests.

COLUMBARIUM. A vault with niches for incendiary urns.

COMMUNITY CENTER. A public building including meeting rooms, recreational facilities, and kitchen facilities for the common use of the residents of the project area.

CONCENTRATED ANIMAL FEEDING OPERATION (CAFO). Any property or contiguous properties and all structures and animals contained thereon that are owned in whole or in part by the same person(s) which confines 1000 animal units for at least 45 days in a 12 month period where there is insufficient growing vegetation in the confinement area during the normal growing season to sustain the animals. Each of the number, types, and sizes of animals listed in divisions (1) through (13) below is defined to be 1000 animal units. Any combination of the animal numbers, types, and sizes shown below which equals or exceeds 1000 animal units shall constitute a **CAFO**: (Ord. 68-09)

- (1) 700 mature dairy cows whether milked or dry;
- (2) 1,000 beef cattle or heifers;
- (3) 2,500 swine weighing more than 55 pounds;
- (4) 10,000 swine weighing less than 55 pounds;
- (5) 30,000 ducks (other than properties that use liquid manure systems);
- (6) 5,000 ducks (properties using liquid manure systems);
- (7) 30,000 chickens (properties using liquid manure handling systems);
- (8) 125,000 chickens except layers (other than properties using liquid manure handling systems);
- (9) 82,000 laying hens (other than properties using liquid manure handling systems);
- (10) 1,000 veal calves;
- (11) 500 horses;
- (12) 10,000 sheep or lambs; or
- (13) 55,000 turkeys.

CONFINED FEEDING OPERATION (CFO). The feeding of livestock, poultry, and/or small animals for commercial purposes, usually in lots, pens, sheds or buildings where food is supplied primarily by means other than grazing, foraging or other natural means.

(Ord. 68-09)

CONFORMING BUILDING OR CONFORMING STRUCTURE. Any building or structure which:

- (1) Complies with all the regulations of this chapter or of any amendment hereto governing bulk for the zoning district in which such building or structure is located;
- (2) Is designed or intended for a conforming use, for example:
 - (a) An office building in a commercial or business district, or
 - (b) A factory building in an industrial or manufacturing district.

CONTROLLED USE. Any use of property which is recognized as having serious objectionable characteristics, particularly when several of them are concentrated, which have or may have a deleterious effect upon adjacent areas, specifically including, but not necessarily limited to:

- (1) Adult bookstore;
- (2) Adult mini motion picture theater;
- (3) Adult motion picture theater;
- (4) Adult cabaret;
- (5) Establishment for the sale of beer or intoxicating beverages for consumption on the premises, excluding restaurants at which the serving of such beverages is incidental to the serving of food as the principal activity;
- (6) Pawnshop;
- (7) Pool or billiard hall;
- (8) Public dance hall;
- (9) Casinos, approved hotels, and all other areas where gambling games are conducted; or,
- (10) Off track, pari-mutuel wagering facility.

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

DISTRICT. A portion of the unincorporated territory of the county within which certain uniform regulations and requirements, or various combinations thereof, apply under the provisions of this chapter.

DRAIN, URBAN. A drainage system which has been approved by the County Drainage Board as specified in I.C. 36-9-27 (Drainage Law), as amended.

CHAPTER 154: PLANNING AND ZONING

Definitions

DRIVE-IN ESTABLISHMENT. An establishment which accommodates on the lot its patrons' automobiles, from which the occupants may watch, purchase, etc.

DRIVE, INTERIOR ACCESS. A way for internal vehicular movement in and around an individual lot or integrated center.

DRIVE-THROUGH FACILITY. A feature of an establishment which typically includes an opening in the exterior of the building, or the use of pneumatic dispatch or similar devices, which encourage or permit customers to receive goods or services while remaining in or on a motor vehicle.

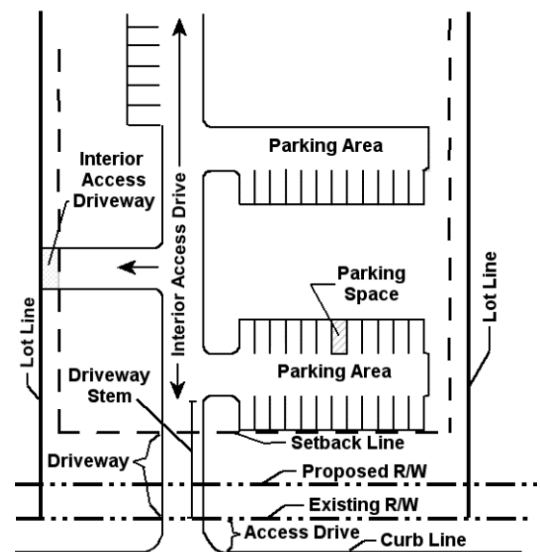
DRIVEWAY. Access for vehicular egress/ingress between the right-of-way of a public street or private street and the minimum required setback line on a lot.

DRIVEWAY, INTERIOR ACCESS. A way for vehicular egress/ingress between the minimum required setback lines of separate lots or between lots within the boundaries of an integrated center.

DWELLING UNIT. A room or group of rooms designed and equipped exclusively for use as living quarters for only one family and its household employees, including provisions for sleeping, lawful cooking, and sanitary facilities. The term shall include mobile dwellings, modular dwellings and manufactured dwellings but shall not include recreational vehicles. Dwelling units are further classified as follows: (Ord. 19-20, 2/18/20)

(1) **MANUFACTURED HOME.** A dwelling unit which is fabricated in one or more modules at a location other than the home site, by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process and which bears a seal certifying that it was built in compliance with the National Manufactured Housing Construction and Safety Standards Code.

(2) **MOBILE HOME.** Any vehicle or portable structure designed for long term occupancy, containing sleeping accommodations, a flush toilet, a bathtub or shower, kitchen facilities, and plumbing and electrical connections providing for attachment to outside systems; designed to be transported after fabrication on its own wheels, flatbed truck, or other trailer or detachable wheels; which, when arriving at the site where it is to be occupied as a complete dwelling unit, including major appliances, and ready for occupancy except for minor and incidental unpacking and assembly operation, is located on foundation supports, and is connected to external utilities and electrical system. **MOBILE HOME** does not include Modular Homes or Manufactured Homes, Type A.



Drives & Related Areas

(3) **MODULAR HOME.** A dwelling unit, designed and built in a factory, for installation or assembly at the building site, and which bears a seal certifying that it was built in compliance with I.C. 16-41-27-1 et seq.

(4) **MULTI-FAMILY DWELLING.** A building consisting of three or more dwelling units, including condominiums, with varying arrangements of entrances and party walls.

(5) **SINGLE-FAMILY DWELLING.** An individual, detached building containing one (1) dwelling unit which is either: built in compliance with the Indiana One-and Two-Family Dwelling Code and the St. Joseph County, Indiana Building Code, a modular dwelling; or, a manufactured dwelling. (*Ord. 68-09, 8/11/09*)

(6) **TWO-FAMILY DWELLING.** A building consisting of two dwelling units which may be either attached side by side or one above the other, and each dwelling unit having a separate or combined entrance.

ELECTRIC DISTRIBUTION CENTER. A terminal at which electric energy is received from the transmission system and is delivered to the distribution system only.

ELECTRIC POWER GENERATING PLANT. A power plant the purpose of which is to generate electric power for sale on the wholesale power market.

ELECTRIC SUBSTATION. A terminal at which electric energy is received from the transmission system and is delivered to other elements of the transmission system and, generally, to the local distribution system.

ELEEMOSYNARY INSTITUTION. A building or group of buildings devoted to and supported by charity.

EXTERIOR FEATURES. The arrangement and general design of a building, structure, or use, including the architectural style, scale, or form, architectural details such as windows, doors, light fixtures, fences, walls, steps, or other appurtenances, the color, type or texture of building materials, signs, natural features such as trees, rocks, or rock formations, or bodies of water.

FAMILY. One or more persons related by blood, legal adoption or marriage, living and cooking together as a single housekeeping unit, exclusive of household servants; or, a number of persons, but not exceeding two persons who are not related by blood, legal adoption or marriage, living and cooking together as a single housekeeping unit, shall be deemed to constitute a **FAMILY**. A person or persons residing with a **FAMILY** as hereinabove defined by reasons of placement by a publicly licensed placement agency shall be considered as members of that **FAMILY**.

FAMILY RESTAURANT WITH LOUNGE. See **RESTAURANT, FAMILY, WITH LOUNGE**.

FLOOR AREA:

(1) ***FLOOR AREA*** for determining floor area ratio, is the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings.

(2) The ***FLOOR AREA*** of a building includes the basement floor area when more than one-half of the basement height is above the established curb level, elevator shafts, and stairwells at each floor, floor space used for mechanical equipment, (except equipment, open or enclosed, located on the roof), penthouses, attic space having headroom of seven feet, ten inches or more, interior balconies and mezzanines, enclosed porches and floor area devoted to accessory uses. Floor area devoted to off-street parking or loading shall not be included in the ***FLOOR AREA*** of a building.

(3) The ***FLOOR AREA*** of structures devoted to bulk storage of materials, including but not limited to grain elevators and petroleum storage tanks, shall be determined on the basis of the height of such structure in feet; ten feet in height shall be deemed to be equal to one floor. If a structure measures more than five feet over such floor equivalent, it shall be construed to have an additional floor.

FLOOR AREA, GROSS. The sum of the gross horizontal areas of the several floors of the building, or portions thereof, devoted to a specific use, including accessory storage areas located within selling or working space such as counters, racks, or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. (*Ord. 66-19, 7/9/2019*)

FLOOR AREA RATIO. The floor area of the building or buildings on a lot divided by the area of such lot. Floor area ratio requirements, as set forth under each zoning district, shall determine the maximum floor area allowable for the building or buildings, including both principal and accessory buildings, in direct ratio to the gross lot area.

FRONTAGE OF A BLOCK. All of the property fronting on one side of a street, and as measured between side lot lines.

FRONTAGE LOT. All the property of such lots fronting on a street, and as measured between side lot lines.

GAMBLING GAME. Any of the activities governed by the Indiana Gaming Commission as a wagering device set forth in Indiana Code Section 4-33-2-9, as it may be amended from time to time.

GARAGE, PRIVATE. An accessory building or an accessory portion of the principal building, including a carport which is intended for and used for storing the private passenger vehicles of the family or families resident upon the premises, and in which no business, service, or industry connected directly or indirectly with the automotive vehicles is carried on; provided, that not more than one-half of the space may be rented for the private passenger vehicles of

persons not resident on the premises, except that all the space in a garage of one-car or two-car capacity may be so rented.

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

GARAGE, STORAGE. A building or premises used for housing only of motor vehicles pursuant to previous arrangements and not by transients; and where no equipment or parts are sold and vehicles are not rebuilt, serviced, repaired, hired, or sold, except that fuel, grease, or oil may be dispensed within the building to vehicles stored therein.

GRADE. The average level of the finished surface of the ground five (5) feet from the building, structure, or proposed location. (*Ord. 19-20, 2/18/20*)

GREENWAY. A greenway may include any of the following: (i) a linear open space established along either a natural corridor (i.e., a riverfront, stream valley or ridge line) or over land (i.e., along a railroad right-of-way, a canal, a scenic road or other route) converted to or available for recreational use; (ii) any natural or landscaped course for pedestrian or bicycle passage; or, (iii) an open space connector linking parks, natural features, cultural features, or historic sites with each other or with residential, employment or shopping area, which are designated on any officially adopted plan. (*Ord. 77-19, 09/10/2019*)

GROSS DENSITY. The number of dwelling units permitted per acre of gross project area.

GROUP RESIDENCE. A residential facility which, in addition to providing food and shelter, may also provide some combination of personal care, social services, counseling services or transportation to residents. **GROUP RESIDENCES** would include halfway houses, work release houses, student housing or any other similar form of residential facility for individuals who do not qualify as a family or any other form of residential facility expressly provided for in this ordinance. (*Ord. No. 108-08, 12/2/08*)

GUESTHOUSE. A detached accessory building located on the same lot as the principal building and containing living quarters for temporary non-paying guests.

GUEST, PERMANENT. A person or persons who occupies or has the right to occupy accommodations in a lodging house, motel, hotel, or apartment hotel as his domicile and place of permanent residence.

HISTORIC LANDMARK. A building, structure, object, district land use, area, or site of historical significance and designated as an historic landmark on the Historic Preservation Plan.

HISTORIC PRESERVATION. The research, protection, maintenance, restoration, rehabilitation, reconstruction, or development of historic landmarks. For purposes of this Chapter, this definition shall apply to the preservation of exterior features only.

CHAPTER 154: PLANNING AND ZONING

Definitions

HISTORIC PRESERVATION COMMISSION. The Historic Preservation Commission established under the provisions of this Chapter.

HISTORIC PRESERVATION PLAN. A comprehensive plan, including maps, surveys, or studies, prepared by the ***HISTORIC PRESERVATION COMMISSION*** for the preservation of an historic landmark and subsequently approved by the Area Plan Commission and officially adopted by the Board of Commissioners of the County.

HOME BASED BUSINESS. A home occupation based in the primary residential structure or in an accessory structure, which shall not have more than two on-premise employees who are not members of the immediate family.

HOME OCCUPATION. Deleted. See 154.072. (*Ord. 62-19, 7/9/19*)

HOTEL. An establishment which is open to transient guests, in contradistinction to a Lodging house, and is commonly known as a hotel in the community in which it is located and which provides customary ***HOTEL*** services such as maid service, furnishing and laundering of linen, telephone and secretarial or desk service. See also ***APPROVED HOTEL***.

HOTEL, APARTMENT. A hotel in which at least ninety percent of the hotel accommodations are occupied by permanent guests.

INCOMPATIBLE USE. A use or service which is incapable of direct association with certain other uses because it is contradictory, incongruous, or discordant.

INDUSTRIAL PARK. A planned development designed to accommodate a community of compatible and non-nuisance types of industry. ***INDUSTRIAL PARKS*** may be promoted or sponsored by private developers, community organizations, or governmental organizations.

INTEGRATED CENTER. (*Ord. 66-19, 7/9/19*) An area of development (commercial / mixed use, industrial, or any combination of commercial / mixed use, industrial and residential uses) of one or more lots or out lots, comprised of:

- (a) two or more individual, non-related and separately operated uses in one building sharing common site facilities;
- (b) one or more buildings containing non-related and separately operated uses occupying a common site, which utilizes one or a combination of common site facilities, such as driveways, parking areas, loading areas, interior access drives, maintenance and similar common services; or,
- (c) one or more buildings containing non-related and separately operated uses occupying individual sites, which are interrelated by the utilization of one or a combination of common facilities, such as driveways, internal public street or private street network developed in accordance with an approved master plan or preliminary plan of a subdivision, parking areas, loading areas, maintenance or other services.

JUNKYARD. An open area where wastes or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. **JUNKYARD** includes an auto wrecking yard, but does not include an establishment engaged only in the processing of scrap iron or other metals to be sold specifically for the manufacture of steel or metal alloys. (Ord. 5-17, 1/17/2017)

KENNEL. Any premise or portions thereof on which animals are maintained, boarded, bred, or cared for, in return for remuneration, or are kept for the purpose of sale. (Ord. 39-17, 6/13/17)

LANDFILL, SANITARY. A controlled method for refuse disposal, regulated by the State of Indiana.

LAND RECLAMATION. A controlled method of land restoration for depositing soil, concrete, cement, building debris and similar material.

LEGISLATIVE BODY. The St. Joseph County Council.

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

LIVEABLE OPEN SPACE. The gross project area, less the area allotted for building coverage and parking, and one-half the area allotted for covered open space, including patios and balconies.

LOADING SPACE. An area whose use is for standing, loading or unloading of motor vehicles or trailers.

LODGING HOUSE. A residential building, or portion thereof, other than a motel, apartment hotel, or hotel, containing lodging rooms for accommodation of five or more persons who are not members of the keeper's family and where lodging or meals or both are provided by prearrangement and for definite periods.

LODGING ROOM. A room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as one lodging room for the purposes of this Chapter.

LOT. A zoning lot; except, when the context indicates a lot of record, **LOT** means a lot of record.

CHAPTER 154: PLANNING AND ZONING

Definitions

LOT AREA, GROSS. The area of a horizontal plane bounded by the front, side and rear lot lines, but not including any area occupied by the waters of a duly recorded lake, river, or floodplain area.

LOT, CORNER. A lot situated at the intersection of two streets, the interior angle of such intersection not exceeding 135 degrees.

LOT DEPTH. The mean horizontal distance between the front lot line and rear lot line of a lot, measured within the lot boundaries.

LOT LINE, FRONT. The boundary of a lot which is along an existing or dedicated public street or, where no public street exists, is along a public way. Where such public way is not a dedicated street, the right-of-way shall be sixty feet unless otherwise provided. The owner of a corner lot may select either street lot line as the front lot line.

LOT LINE, REAR. The boundary of a lot which is most distant from, and which is or is most nearly parallel to, the front lot line.

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

LOT OF RECORD. A lot which is part of a subdivision, the plat of which has been recorded in the office of the Recorder of Deeds of the county; or a parcel of land, the deed to which was recorded in the office of said Recorder prior to the adoption of the ordinance codified in this chapter.

LOT, REVERSED CORNER. A corner lot where the side lot line adjoining a street is substantially a continuation of the front lot line of an adjacent interior lot.

LOT, THROUGH. A lot having a frontage on two nonintersecting streets as distinguished from a corner lot. Both street lines shall be deemed front lot lines.

LOT WIDTH. The horizontal distance between the side lot lines of a lot, measured at the narrowest width within the first 30 feet of lot depth immediately in back of the required front yard setback line.

LOT, ZONING. A single tract of land located within a single block, which at the time of filing for a building permit is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or unified control. A **Zoning Lot** may or may not coincide with a lot of record.

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

MANUFACTURING RETAILER. A food sales and service establishment where food or beverage products are produced in a limited quantity (not industrial manufacturing) sufficient to support on-site sales as a primary or accessory portion of the on-site business, such as, but not limited to confectioners and brew pubs. (*Ord. 42-13, § 5, passed 7-9-2013*)

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

MASSAGE ESTABLISHMENT. Any establishment, location or place where any person for any form of consideration whatsoever, engages in, conducts, carries on, or permits to be engaged in, conducted, or carried on, massages or baths.

MET TOWER. A meteorological tower used for the measurement of wind speed. (Ord. 69-09)

MOBILE HOME LOT. A designated site within a mobile home park for the exclusive use of the occupants.

MOBILE HOME PARK. A tract of land in single ownership which has been developed with all necessary facilities and services in accordance with a site development plan meeting all the requirements of this chapter and which is intended for the express purpose of providing a safe living environment for mobile home residents on a long term basis. It does not include a sales lot in which automobile or unoccupied mobile homes are parked for the purpose of inspection and/or sale.

MOBILE HOME SUBDIVISION. A parcel of land developed under single ownership but where lots are sold for use of single-family dwellings and where either public utilities are provided, or utilities are provided by management for a service charge.

MOTEL. An establishment consisting of a group of attached or detached living or sleeping accommodations with bathroom and closet space, located on a single lot and designed for use by transient automobile tourists. A **MOTEL** furnishes customary hotel services such as maid service and laundering of linen, telephone and secretarial or desk service, and the use and upkeep of furniture. In a **MOTEL**, less than 50% of the living and sleeping accommodations are occupied or designed for occupancy by persons other than transient automobile tourists.

MOTOR FREIGHT TERMINAL. A building or area in which freight brought by motor truck is assembled and/or stored for routing in intrastate and interstate shipment by motor truck.

MOTOR VEHICLE. A passenger vehicle, truck, truck-trailer, trailer, or semi-trailer propelled or drawn by mechanical power.

NATIONAL MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS CODE. Title VI 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 (including information supplied by the home manufacturer, which has been stamped and approved by a Design Approval Primary Inspection Agency, an agent of the U. S. Department of Housing and Urban Development pursuant to HUD rules), and regulations and interpretations of said code by the Indiana Administrative Building Council; all of which became effective for mobile/manufactured home construction on June 15, 1976.

CHAPTER 154: PLANNING AND ZONING

Definitions

NATURAL RESOURCES COMMISSION. The Natural Resources Commission of the state.

NEIGHBORHOOD DEVELOPMENT COMMITTEE. An advisory committee to the Historic Preservation Commission established under the provisions of this chapter.

NONCONFORMING BUILDING OR STRUCTURE. A building or structure which does not comply with all of the regulations of this chapter governing form, architecture, or of any amendment hereto governing bulk for the zoning district in which such building or structure is located; or is designed or intended for a nonconforming use. (*Ord. 19-20, 2/18/20*)

NONCONFORMING USE. A use of land, buildings, or structure which does not comply with all of the regulations of this chapter or of any amendment hereto governing use for the zoning district in which such use is located.

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

OCCUPIED SPACE. The total area of earth horizontally covered by the structure, excluding accessory structures, such as, but not limited to, garages, patios and porches.

ONE AND TWO FAMILY DWELLING CODE. The nationally-recognized model building code prepared by the Council of American Building Officials, adopted by the Indiana Administrative Building Council (ABC) as mandated through Public Law 360, Acts of 1971, and, which includes those supplements and amendments promulgated by the ABC.

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

OWNER OCCUPIED. Property that is the owner's primary residence. (*Ord. 19-20, 2/18/20*)

PARK, ACTIVE. An open space improved with active recreational facilities, including but not limited to: tennis or basketball courts; softball, baseball, football, lacrosse or soccer fields; slides; playgrounds; splash pads; zip lines; etc., and maintained for the continued use and enjoyment of area residents. (*Ord. 76-19, 9/10/19*)

PARK, PASSIVE. An open space improved with passive features, including but not limited to: park benches, picnic tables, gazebos, recreational trails, etc., and maintained for the continued use and enjoyment of area residents. (*Ord. 76-19, 9/10/19*)

PARKING, OFF-STREET. A parking area located completely on a lot or combination of lots and accessed via interior access drives and driveways in which no individual parking spaces gain direct access to a public street or private street. (*Ord. 66-19, 7/9/2019*)

PARKING, ON-STREET. A parking area located partially or completely within the right-of-way of a public street or private street. (Ord. 66-19, 7/9/2019)

PERFORMANCE STANDARDS. A criterion established to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, or glare or heat generated by, or inherent by, uses of land or buildings.

PERMANENT PERIMETER ENCLOSURE. A permanent perimeter structural system completely enclosing the space between the floor joists of the home and the ground.

PLANNED DEVELOPMENT. A tract of land developed under single ownership or control, the development of which is unique and of a substantially different character than that of surrounding areas.

PROPERTY LINES. Those lines bounding a lot.

PUBLIC. As in public sewage systems or public water systems, implies the provisions of such service by a person, firm or corporation, or governmental unit as authorized by law.

PUBLIC RIGHT-OF-WAY, IMPROVED. A roadway classified by the County Engineering Department as bituminous concrete, cement concrete or brick.

PUBLIC RIGHT-OF-WAY, MAJOR. Any of the following:

(1) **ARTERIAL ROADWAY.** A roadway that provides for through traffic movements between areas within the county and through the county.

(2) **COLLECTOR ROADWAY.** A roadway which carries traffic from local roadways to arterial roadways and may include the principal entrance roadway of developments.

PUBLIC RIGHT-OF-WAY, MINOR: Any of the following:

(1) **LOCAL COLLECTOR.** A roadway which provides access between the major road system and the minor roads.

(2) **LOCAL ROADWAY.** A roadway, the primary function of which is to provide direct access to residential, commercial, industrial or other abutting real estate.

(3) **MARGINAL SERVICE ROAD.** A roadway which is parallel and adjacent to a major public right-of-way, and which provides access to abutting properties and protection from through traffic.

PUBLIC WAY. A sidewalk, alley, street, or limited access highway.

RAILROAD RIGHT-OF-WAY. A strip of land with tracks and auxiliary facilities for track operation, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.

CHAPTER 154: PLANNING AND ZONING

Definitions

RECREATIONAL VEHICLE. A vehicular-type portable structure without permanent foundation that can be towed, hauled or driven and primarily designed as a temporary living accommodation for recreational, camping and travel use, including, but not limited to: travel trailers, truck campers, camping trailers, self-propelled motor homes; personal watercrafts; and, boats.

RECYCLING DROP-OFF CENTER. A facility open to the public, where household recyclables are collected for transfer to a processing center or markets. Recyclables include glass, plastic, newspapers, other paper products, cans, cardboard, Styrofoam and other types of plastic, but shall not include hazardous waste or substances, motor oils, and fuels. A **RECYCLING DROP-OFF CENTER** may also include a facility for the collection of used clothing and household goods.

RECYCLING PROCESSING CENTER. A building or enclosed space used for the collection, processing, and storage of recyclable materials.

RELIGIOUS USE. A facility devoted primarily to the purpose of divine worship. Includes related accessory uses, which are subordinate to and commonly associated with the religious institution use, such as schools and institutional facilities, daycare centers, and social uses. (Ord. 19-20, 2/18/20)

REST HOME or NURSING HOME. A private home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders. Such home does not contain equipment for surgical care or for the treatment of disease or injury.

RESTAURANT, DRIVE IN. Any family restaurant or fast food restaurant designed to permit or facilitate the serving of food or beverages directly to, or permitted to be consumed by patrons in or on motor vehicles parking or stopped on the premises.

RESTAURANT, DRIVE THROUGH. Any family restaurant or fast food restaurant designed to permit or facilitate the serving of food or beverages directly to patrons in or on motor vehicles at a drive-through facility.

RESTAURANT, FAMILY. Any establishment whose main business function is the retail sale of food for consumption on the premises, and which does not have on the premises an area from which minors are excluded pursuant to I.C. 7.1-5-7-9, 7.1-5-7-10 and 7.1-5-7-11 or pursuant to any policy of the establishment.

RESTAURANT, FAMILY, WITH LOUNGE. Any family restaurant which has on the premises an area constituting not more than 25% of the gross floor area from which minors are excluded pursuant to I.C. 7.1-5-7-9, 7.1-5-7-10 and 7.1-5-7-11 or pursuant to any policy of the establishment.

RESTAURANT, FAST FOOD. An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, on-premise or off-premise.

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

SANITARY LANDFILL. A controlled method for refuse disposal regulated by the State of Indiana.

SECTION (REGARDING MANUFACTURED HOMES). A component of a Manufactured Home, Type A, which is at least 12 body feet in width and 30 body feet in length and does not by itself constitute a dwelling unit.

SETBACK. The area on a lot in which no permanent structure shall be constructed or located, except as otherwise provided in this chapter.

SETBACK, FRONT YARD. An area on a lot generally parallel to the street right-of-way line in which no part of a building, structure or use shall project, except as otherwise provided in this chapter.

SHORT-TERM RENTAL. The rental of a single-family home or a dwelling unit for terms of less than thirty (30) days at a time. The term includes a detached accessory structure, including a guest house, or other living quarter that is intended for human habitation. (*Ord. 19-20, 2/18/20*)

SIGN. Any object, device, display, structure, fixture, placard, announcement, declaration, demonstrations, or insignia, or part thereof, used to draw attention; provide direction, information, identification; or advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including word, letters, figures, design, symbols, fixtures, colors, illumination. (*Ord. 52-20; 8/25/2020*)

SITE CONSTRUCTED HOME. A home, primarily constructed on the site where it is to be occupied, meeting the building codes in effect at the time of construction.

SMALL WIND ENERGY CONVERSION SYSTEM (SWECS):

(1) A wind energy conversion system consisting of a wind turbine with its associated tower and control or conversion electronics, whose dual purpose is to:

- (a) Primarily reduce on-site consumption of utility power, and
- (b) Produce clean, on-site energy for uses such as but not limited to homes, farms, schools, and businesses. (*Ord. 43-12, passed 5-15-2012*)

(2) A ***SMALL WIND ENERGY CONVERSION SYSTEM*** can consist of a system either designed to be firmly anchored into the ground using a self-supporting tower, or firmly anchored to the sides or roof of the primary or accessory structure, or a combination thereof. (*Ord. 69-09*)

CHAPTER 154: PLANNING AND ZONING

Definitions

SOLAR ENERGY SYSTEMS (SES). An energy system that uses the power of the sun to capture, store, and transmit energy. (Ord. 17-20, 2/18/20)

SPECIFIED ANATOMICAL AREAS. Less than completely covered:

- (1) Human genitals or pubic region;
- (2) Buttock;
- (3) Female breast below a point immediately above the top of the areola; or,
- (4) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy, and fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

STABLE. A building structure, or portion thereof, in which horses or ponies are boarded or trained with or without remuneration.

STORY. That portion of a building included between the surface of any floor and the surface of the floor next above or, if there is no floor above, the space between the floor and the ceiling next above; a basement having more than one-half the clear floor-to-ceiling height above curb level shall be considered a ***STORY***.

STREET. A partially or fully improved public or private right-of-way which affords the principal means of access to abutting property, not including driveways to buildings. (Ord # 75-19; 7/9/2019)

STREET, SECONDARY. A partially or fully improved public or private right-of-way which a lot abuts that does not provide the principal means of access to the property. Determination of the secondary street is up to the discretion of the Zoning Administrator. (Ord # 75-19; 7/9/2019)

STRUCTURAL ALTERATION. A change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as the addition, removal, or alteration of bearing walls, columns, beams, girders, or foundations.

STRUCTURE. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground.

TELECOMMUNICATIONS. The transmission between or among points specified by the user of information of the user's choosing, without change in the form or content of the information as sent and received.

TELECOMMUNICATIONS ANTENNA. See ***ANTENNA, TELECOMMUNICATIONS.***

TELECOMMUNICATIONS SERVICE. The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

TELECOMMUNICATIONS TOWER. A structure more than ten (10) feet tall, built primarily to support one or more telecommunications antennas.

TENT. A structure or enclosure, the roof and/or one-half or more of the sides of which are constructed of silk, cotton, canvas, fabric, or a similar light material.

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

TOURIST HOME. A dwelling in which sleeping rooms are provided or offered to transient guests for compensation. **TOURIST HOME** does not include a hotel, apartment hotel or motel.

TRAILER. A vehicle, house car, camp car, or any portable or mobile vehicle on wheels, skids, rollers, or blocks, either self-propelled or by any other means, which is used or designed to be used for dwelling, lodging, commercial or agricultural purposes.

TRAILER, CAMPING OR TRAVEL. A trailer designed and constructed for temporary dwelling purposes which may or may not contain cooking, sanitary and electrical facilities, and which conforms to the state limitations on size for highway travel without special permits.

URBAN DRAIN: See **DRAIN, URBAN.**

USE (OF PROPERTY). The purpose or activity for which the land or building thereon is designed, arranged, or intended, or for which it is occupied or maintained; it includes any manner of performance of activity or operation with respect to the performance standards of this chapter.

USE, CONDITIONAL. A use which, by its nature and potential impact upon adjacent property, a substantial portion of the entire county or the county as a whole, requires review and approval by the Board of Zoning Appeals, or a use which is an activity, service or facility traditionally provided by local government, but which may be provided by private business or industry through a contractual or franchise agreement with local government. (*Ord. 68-09*)

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

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

CHAPTER 154: PLANNING AND ZONING

Definitions

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

UTILITY SUBSTATION. A facility which provides the mechanical or electronic equipment of a utility.

WAGERING, OFF-TRACK PARI-MUTUAL FACILITY. A location, other than a racetrack, authorized by the Indiana Horse Racing Commission at which pari-mutuel wagering is conducted.

WASTE DISPOSAL FACILITY, SOLID OR LIQUID. A controlled method for solid or liquid waste disposal as regulated by the State of Indiana.

WHIP ANTENNA. See *ANTENNA, WHIP*.

WIND ENERGY CONVERSION SYSTEM. Any combination of equipment that converts and then stores or transfers energy from the wind into usable forms of energy and includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, turbine, vane, wire, or other component used in the system. A **WIND ENERGY CONVERSION SYSTEM** includes, but is not limited to, a small wind energy conversion system and a wind energy facility. (Ord. 69-09)

WIND ENERGY FACILITY. An electricity generating facility consisting of (1) one or more commercially-rated wind turbines under common ownership or operating control, and whose main purpose is to supply electricity to off-site customer(s), and includes but is not limited to substations, MET Towers, cables/wires and operations and maintenance buildings accessory to such facility. Also known as a **WIND FARM** or a **WIND POWER PLANT**. (Ord. 69-09)

WIRELESS TELECOMMUNICATIONS FACILITY. Any facility constructed by or constructed for use by a licensed wireless telecommunication service provider and which consists of the equipment and structures involved in the receiving and transmitting of electromagnetic waves associated with wireless telecommunication services.

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

YARD FRONT. A yard extending along the full length of the front lot line.

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

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

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

YARD, TRANSITIONAL. A yard which must be provided on a lot in a commercial / business district or industrial district which adjoins a lot in a residential district.

ZONING ADMINISTRATOR. The individual having the responsibility for the interpretation and administration of this Ordinance. The *Executive Director* of the *Area Plan Commission* or his or her designee is hereby designated as the *Zoning Administrator*.
(Ord. No. 8-18; 1/9/2018)

ZONING DISTRICT. A section or sections of the unincorporated territory of the county for which the regulations and requirements governing use, lot and bulk of buildings and premises are uniform.

(Ord. 51-05, § 8.12, passed 5-10-2005; Ord. 108-08, § 2, passed 12-2-2008; Ord. 68-09, § 10, passed 8-11-2009; Ord. 69-09, § 18, passed 8-11-2009)

154.999 PENALTY.

(A) *Floodplain regulations.* Failure to obtain an improvement location permit in the special flood hazard area or failure to comply with the requirements of a permit or conditions of a variance shall be deemed to be a violation of §§ 154.290 through 154.301. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of §§ 154.615 through 154.620.

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

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

(3) Nothing herein shall prevent St. Joseph County from taking other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

(B) *Remedies or penalties for violation.*

(1) Any owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists, directs, creates, or maintains any situation that is in violation of the terms and provisions of this chapter as defined in § 154.620, above, may be issued a citation by staff.

(2) Subject to the provisions of divisions (B)(2)(a) and (B)(2)(b), below, each day a zoning violation remains uncorrected is a distinct and separate zoning violation subject to an additional citation and fine in the amount prescribed in this chapter.

(a) *Procedures for initial notice of zoning violation or citation.*

1. Staff may issue a notice of zoning violation to a person (i.e., any owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person) who commits a zoning violation or allows a zoning violation to be committed on real estate in which the person has a possessory interest. The notice of zoning violation may be served by: personal service; certified mail, return receipt requested; registered mail; or, by posting such notice in a conspicuous place on the property where the violation occurs, and shall serve as notice that a zoning violation has been committed.

2. No citation shall be issued unless notice as required by division (B)(2)(a)1. has been provided at least ten days before the citation is issued, in order to allow the person receiving notice an opportunity to correct the violation and to come into compliance with the terms and provisions of this chapter, provided, however, the service of a notice of zoning violation and the provision of time to correct the zoning violation is not required before issuing a citation for:

CHAPTER 154: PLANNING AND ZONING

Penalty

a. Violation of a cease and desist order issued pursuant to § 154.619; or,

b. Violation of § 154.458(A)(3) or (A)(5) regarding signs or lights located on a wireless telecommunications facility. If upon re-inspection, the zoning violation remains unabated, a second notice of zoning violation may be served, or a citation accompanied by the fines as specified in division (C) below, may be issued.

(b) *Action after second notice or citation.* A person (i.e., any owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person) who is served with a second notice of zoning violation or receives a citation shall have ten days from service of a second notice of zoning violation or receipt of citation to take one of the following actions:

1. The person may elect to file a petition for zoning map change, variance, special use or development plan approval to correct such violation, in which case the person must indicate the intent to file such a petition on the served second notice or citation and return a copy to the Zoning Administrator or appropriate enforcement official. During the pendency of said petition the issuance of additional notices or citations and additional monetary fines as prescribed in division (C) as set forth in the Appendix: Schedule of Fines and Fees, shall be stayed. A person who files the petition within said time period shall pursue the petition in an expeditious and diligent manner. If the petition is denied, withdrawn or dismissed and the zoning violation continues, then a lawsuit may be commenced by the St. Joseph County Attorney, Zoning Administrator or appropriate enforcement official as provided by applicable laws.

2. The person or any other interested party may elect to appeal the decision of the enforcement official pursuant to § 154.557, as an Administrative Appeal before the Board of Zoning Appeals.

(c) *Legal action for failure to correct violation.* If an owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who is served with a second notice of zoning violation or receives a citation fails to either correct the violation or take such actions to come into compliance within ten days as set forth in division (B)(2)(b), above, then the St. Joseph County Attorney, Zoning Administrator or appropriate enforcement official may institute legal action in a court of competent jurisdiction to enforce the terms and conditions of this Chapter, including, but not limited to: enforcement of a Cease & Desist Order as provided in § 154.619; assessment and collection of fines as provided in division (C) below or, the pursuit of injunctive and other equitable relief and remedies available under Indiana law.

(C) *Fines.*

(1) Monetary fines for zoning violations shall be assessed and shall be as set forth in the Appendix: Schedule of Fines and Fees.

(2) Each day that a zoning violation remains uncorrected shall constitute a violation which may result in the issuance of a subsequent citation.

(3) All fines prescribed by this division (C) for zoning violations shall be paid as follows:

(a) All fines thus received shall be deposited with the applicable fund for fines of the Building Department; and

(b) The person making the payment shall receive a receipt stating the amount and purpose for which the fine has been paid, a duplicate of which shall be made a part of the records of St. Joseph County.

(4) If a person who receives a citation fails to:

(a) Pay the assessed fine within:

1. In an agricultural district or residential district, 14 days after the issuance of a citation;

2. In a business/commercial district or industrial district, seven days after the issuance of a citation; or

3. For a wireless telecommunications facility, five days after the issuance of a citation or day upon which a fine has accrued;

(b) File a petition as prescribed in division (B)(2)(b)1. above; or

(c) Give notice of his or her intention to stand trial as prescribed in division (B)(2)(c) above, the St. Joseph County attorney, Zoning Administrator or appropriate enforcement official may file a lawsuit as provided by applicable law to enforce the terms and provisions of this chapter.

(5) *Violations in a planned unit development (PUD District).* In the event of a citation for a zoning violation in a planned unit development district, fines shall be assessed based upon the use authorized for the property on which the violation has occurred. Any property approved for residential uses only shall be assessed as if the property was located in a residential district. Any property approved for business/commercial development or industrial uses shall be assessed as if the property was located in a business/commercial district or an industrial district. Any property used for a wireless telecommunications facility shall be assessed as specified above for a wireless telecommunications facility.

CHAPTER 154: PLANNING AND ZONING

Penalty

(6) *Violations by special uses.* In the event of a citation for a zoning violation by a special use, fines shall be assessed based upon the use authorized for the property on which the violation has occurred. Any special use for residential purposes shall be assessed as if the property was located in a residential district. Any special use for business/commercial development or industrial uses shall be assessed as if the property was located in a business/commercial district or an industrial district.

(D) *Additional remedies.*

(1) Seeking a penalty as authorized in this chapter does not preclude the designated enforcement entity from seeking alternative and additional relief from the court in the same action, or from seeking injunctive relief or any other remedy in a separate action for the enforcement of this chapter available under applicable Indiana law.

(2) In the event that a violation of this chapter is determined to exist by a court of competent jurisdiction, the owner, tenant or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists, directs, creates or maintains any situation that is in violation of the terms and provisions of this chapter shall be liable to St. Joseph County for the county's reasonable attorney fees in accordance with state law.

(Ord. 51-05, § 8.07.03K, § 8.11G, H, I, passed 5-10-2005)

EXHIBIT "A"

NOTE: The St. Joseph County Zoning Ordinance, requires the use of this form in recording commitments made with respect to Zone Map Changes or Planned Unit Developments in accordance with I.C. 36-7-4-613 or I.C. 36-7-4-615.

COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH A ZONE MAP CHANGE OR PLANNED UNIT DEVELOPMENT REQUIRED BY THE ST. JOSEPH COUNTY ZONING ORDINANCE

In accordance with I.C. 36-7-4-615, the Owner of the real estate located in St. Joseph County, Indiana which is described below, makes the following COMMITMENTS concerning the use and development of the following described parcel of real estate:

LEGAL DESCRIPTION:

STATEMENT OF COMMITMENTS:

- 1.
- 2.
- 3.

These COMMITMENTS shall run with the land, be binding on the Owner of the above-described real estate, subsequent owners of the above-described real estate and other persons acquiring an interest therein. These COMMITMENTS may be modified or terminated by a decision of the Area Plan Commission of St. Joseph County made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the approval of petition # _____ pursuant to the St. Joseph County Zoning Ordinance, and shall continue in effect until: (i) the real estate is rezoned; or, (ii) modified or terminated by the Area Plan Commission of St. Joseph County.

These COMMITMENTS may be enforced jointly or severally by:

1. The Area Plan Commission of St. Joseph County;
2. St. Joseph County, Indiana;
3. Owners of all parcels of ground adjoining the real estate within three-hundred (300) feet of the subject parcel and all owners of real estate within the area included in the petition who were not petitioners for approval; and
4. _____

The undersigned hereby authorizes the Executive Director of the Area Plan Commission of St. Joseph County to record this Commitment in the Office of the Recorder of St. Joseph County, Indiana, upon final approval of petition #_____.

IN WITNESS WHEREOF, Owner has executed this instrument this ___ day of _____, _____.

(Individual Owner)

Signature _____ (Seal)

Signature _____ (Seal)

Printed _____

Printed _____

(Organization Owner)

By _____

Printed _____

Title _____

(Individual Acknowledgment)

STATE OF _____)
)
COUNTY OF _____)

SS:

Before me, a Notary Public in and for said County and State, personally appeared _____, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this ____ day of _____, _____.

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

(Organization Acknowledgment)

STATE OF _____)
)
COUNTY OF _____)

SS:

Before me, a Notary Public in and for said County and State, personally appeared _____, the _____ of _____, a(n) _____, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument in such capacity and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this ____ day of _____, _____.

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

This instrument was prepared by _____.

EXHIBIT "B"

NOTE: The St. Joseph County Zoning Ordinance requires the use of this form in recording commitment modification(s) or termination(s) with respect to a Zone Map Change or Planned Unit Development in accordance with I.C. 36-7-4-615.

COMMITMENTS MODIFYING OR TERMINATING EXISTING COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH A ZONE MAP CHANGE OR PLANNED UNIT DEVELOPMENT.

In accordance with I.C. 36-7-4-615, the Owner of the real estate located in St. Joseph County, Indiana, which is described below, makes the following modification(s) or termination(s) of commitment(s) concerning the use and development of the following described parcel of real estate:

LEGAL DESCRIPTION:

STATEMENT OF MODIFICATION OR TERMINATION OF COMMITMENTS:

- 1.
- 2.
- 3.

These MODIFICATION OR TERMINATION OF COMMITMENTS shall run with the land, be binding on the Owner of the above-referenced real estate, subsequent owners of the above-referenced real estate and other persons acquiring an interest therein. These COMMITMENTS may be modified or terminated by a decision of the Area Plan Commission of St. Joseph County made at a public hearing after proper notice has been given.

MODIFICATION OR TERMINATION OF COMMITMENTS contained in this instrument shall be effective upon adoption of modification or termination approved by the Area Plan Commission of St. Joseph County in petition # _____: (i) the real estate is rezoned; or, (ii) modified or terminated by the Area Plan Commission of St. Joseph County.

These COMMITMENTS may be enforced jointly or severally by:

1. The Area Plan Commission of St. Joseph County;
2. St. Joseph County, Indiana;
3. Owners of all parcels of ground adjoining the real estate within three-hundred (300) feet of the subject parcel and and all owners of real estate within the area included in the petition who were not petitioners for approval; and
4. _____

The undersigned hereby authorizes the Executive Director of the Area Plan Commission of St. Joseph County to record this MODIFICATION OR TERMINATION OF COMMITMENTS in the Office of the Recorder of St. Joseph County, Indiana, upon final approval petition # _____ by the Area Plan Commission of St. Joseph County.

IN WITNESS WHEREOF, Owner has executed this instrument this ____ day of _____, _____.

(Individual Owner)

Signature _____ (Seal)

Signature _____ (Seal)

Printed _____

Printed _____

(Organization Owner)

By _____

Printed _____

Title _____

(Individual Acknowledgment)

STATE OF _____)

SS:

COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared _____, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this ____ day of _____, _____.

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

(Organization Acknowledgment)

STATE OF _____)

SS:

COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared _____, the _____ of _____, a(n) _____, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument in such capacity and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this ____ day of _____, _____.

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

This instrument was prepared by _____.

EXHIBIT "C"

COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH A SPECIAL USE, CONDITIONAL USE OR A VARIANCE GRANT FROM THE TERMS OF THE ZONING ORDINANCE.

In accordance with I.C.36-7-4-921, the Owner of the real estate located in St. Joseph County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of the following described parcel of real estate:

LEGAL DESCRIPTION:

STATEMENT OF COMMITMENTS:

- 1.
- 2.
- 3.
- 4.

These COMMITMENTS shall be binding on the Owner, subsequent owners of the above-described real estate, and other persons acquiring an interest in the above-described real estate.

These COMMITMENTS may be modified or terminated by a decision of the Area Board of Zoning Appeals of St. Joseph County made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the grant of petition # _____ by the County Council / Area Board of Zoning Appeals of St. Joseph County, Indiana.

These COMMITMENTS may be enforced jointly or severally by:

1. St. Joseph County, Indiana;
2. Owners of all parcels of ground adjoining the real estate within three -hundred (300) feet from the subject property, and all owners of real estate within the area included in the petition who were not petitioners. Owners of real estate entirely located outside of St. Joseph County, Indiana, are not included, however; and
3. _____

The undersigned hereby authorizes the Clerk of the County Council / Secretary of the Area Board of Zoning Appeals of St. Joseph County, Indiana, to record this Commitment in the office of the Recorder of St. Joseph County, Indiana, upon final approval of petition # _____.

IN WITNESS WHEREOF, Owner has executed this instrument this ____ day of _____, _____ .

(Individual Owner)

Signature _____ (Seal)

Signature _____ (Seal)

Printed _____

Printed _____

(Organization Owner)

By _____

Printed _____

Title _____

(Individual Acknowledgment)

STATE OF)
) SS:
COUNTY OF)

Before me, a Notary Public in and for said County and State, personally appeared _____, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this ____ day of _____, _____.

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

(Organization Acknowledgment)

STATE OF)
) SS:
COUNTY OF)

Before me, a Notary Public in and for said County and State, personally appeared _____, the _____ of _____, a(n) _____, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument in such capacity and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this ____ day of _____, _____.

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

This instrument was prepared by _____.

EXHIBIT "D"

COMMITMENTS MODIFYING OR TERMINATING EXISTING COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH A SPECIAL USE, CONDITIONAL USE OR A VARIANCE FROM THE TERMS OF THE ZONING ORDINANCE.

In accordance with I.C.36-7-4-921, the Owner of the real estate located in St. Joseph County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of the following described parcel of real estate:

LEGAL DESCRIPTION:

STATEMENT OF MODIFICATION OR TERMINATION OF COMMITMENTS existing in Instrument Number _____ as recorded in the Office of the Recorder of St. Joseph County, Indiana, as made in connection with petition # _____:

- 1.
- 2.
- 3.
- 4.

These modified COMMITMENTS shall be binding on the Owner of the above-described real estate, subsequent owners of the above-described real estate, and other persons acquiring an interest in the above-described real estate.

These modified COMMITMENTS may be further modified or terminated by a decision of the Area Board of Zoning Appeals of St. Joseph County, Indiana, made at a public hearing after proper notice has been given.

Modified COMMITMENTS contained in this instrument shall be effective upon the adoption of modification or termination approved by the Area Board of Zoning Appeals of St. Joseph County, Indiana, in petition # _____.

These COMMITMENTS may be enforced jointly or severally by:

- 1. St. Joseph County, Indiana;
- 2. Owners of all parcels of ground adjoining the real estate to a depth of three-hundred (300) feet from the subject property, and all owners of real estate within the area included in the petition who were not petitioners. Owners of real estate entirely located outside of St. Joseph County, Indiana, are not included, however; and
- 3. _____

The undersigned hereby authorizes the Secretary of the Area Board of Zoning Appeals of St. Joseph County, Indiana, to record this Commitment in the office of the Recorder of St. Joseph County, Indiana, upon final approval of modification and/or termination of commitment(s) by the Area Board of Zoning Appeals in petition # _____.

IN WITNESS WHEREOF, Owner has executed this instrument this ___ day of _____, _____.

(Individual Owner)

Signature _____ (Seal)

Signature _____ (Seal)

Printed _____

Printed _____

(Organization Owner)

By _____

Printed _____

Title _____

(Individual Acknowledgment)

STATE OF)
) SS:
COUNTY OF)

Before me, a Notary Public in and for said County and State, personally appeared _____, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this _____ day of _____, _____.

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

(Organization Acknowledgment)

STATE OF)
) SS:
COUNTY OF)

Before me, a Notary Public in and for said County and State, personally appeared _____, the _____ of _____, a(n) _____, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument in such capacity and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this _____ day of _____, _____.

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

This instrument was prepared by _____.