

CHAPTER 156: ZONING CODE

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GENERAL PROVISIONS

§ 156.001 TITLE; PURPOSE.

- (A) This chapter is established for the purpose of:

- (1) Classifying, regulating and limiting the height, area, bulk and use of buildings hereafter erected;
- (2) Regulating and determining the area of front, rear and side yards and other open spaces about buildings and structures;
- (3) Regulating and determining the use and density of use of land and lot areas;
- (4) Classifying, regulating and restricting the location of trades, callings, industries, commercial enterprises and the location of buildings designed for specified uses;
- (5) Dividing the town into districts of such kind, character, number, shape and area as may be deemed necessary to carry out the purpose of this chapter; to provide for administration of and penalties for the violation of its provisions; authorizing the creation of a Board of Zoning Appeals and providing for review of the decisions of such Board by the court.

(B) This chapter, and chapters supplemental or amendatory thereto, shall be known as the Zoning and Master Plan of Whiteland, Indiana.

(Ord. 70-2, passed 5-11-70)

§ 156.002 INTERPRETATION.

(A) In interpreting and applying the provisions of this chapter, the provisions shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, morals, convenience and general welfare.

(B) It is not intended by this chapter to interfere with, abrogate or annul any easements, covenants or other agreements between parties, nor to interfere with or abrogate or annul any chapters, rules, regulations or permits previously adopted or issued and not in conflict with any of the provisions of this chapter or which shall be adopted or issued pursuant to law, regarding the use of buildings or land; provided, where this chapter imposes a greater restriction upon the use of buildings or land, or upon the height of buildings, or requires larger open spaces or greater lot areas per family than are required by or imposed by such easements, covenants or agreements between parties, or by such chapters, rules, regulations or permits, the provisions of this chapter shall control.

(Ord. 70-2, passed 5-11-70)

§ 156.003 DEFINITIONS.

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

ACCESSORY BUILDING. A subordinate building or a portion of a main building, the use of which is incidental to that of the main building.

ACCESSORY USE. A use which is incidental to the main use of the premises.

ALLEY. A public thoroughfare which affords only secondary means of vehicular access to abutting property and not more than 20 feet in width.

APARTMENT. A building or portion thereof designed for or occupied by more than two families. See **DWELLING, MULTIPLE.**

AUTOMOBILE OR TRAILER SALES AREA. An open area, other than a street, used for the display, sale or rental of new or used automobiles or trailers, and where no repair work is done except minor incidental repair of automobiles or trailers to be displayed, sold or rented on the premises.

AUTOMOBILE WRECKING. The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, obsolete or wrecked vehicles or their parts.

BASEMENT. A story, wholly or partially underground, which, unless subdivided into rooms and used for tenant purposes, shall not be included as a story for the purpose of height measurement.

BOARDING HOUSE. A building where meals are regularly served for compensation for three or more persons but not exceeding 12 persons, not open to transients, in contradistinction to hotels and restaurants open to transients.

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

BUILDING. A structure having a roof supported by columns or walls for the shelter, support, enclosure or protection of persons, animals, chattel or property. When separated by party walls without openings, each portion of such building shall be considered a separate structure.

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

CAMP, PUBLIC. Any area or tract of land used for or designed to accommodate two or more automobile house trailers or two or more camping parties, including cabins, tents or other camping outfits. See **MOTEL** or **TOURIST LODGE.**

COMMISSION. The Town Plan Commission.

COMMERCIAL. See **BUSINESS.**

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

DWELLING. Any building or portion thereof which is designed or used exclusively for residential purposes.

DWELLING, DOUBLE. A two-family dwelling designed to house two families living side by side.

DWELLING, DUPLEX. A two-family dwelling designed to house two families living one above the other.

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

DWELLING, TWO-FAMILY. A detached building designed for or occupied by two families living independently.

DWELLING, MULTIPLE. See **APARTMENT.**

FAMILY. A group of one or more persons occupying a building and living as a single housekeeping unit.

FARM PRODUCER. A person or entity that raises or produces farm products on land that the person or entity farms and owns, rents, or leases.

FARM PRODUCTS. Fruits, vegetables, grains, straw/hay, mushrooms, herbs, nuts, shell eggs, honey or other bee products, flowers, nursery stock, livestock food products (including meat, milk, cheese and other dairy products), and fish.

FARMERS' MARKET. An outdoor market open to the public, operated by a governmental agency, a nonprofit corporation, or one or more farm producers, at which at least 75% of the products sold are farm products or value-added farm products, and at least 75% of the vendors regularly participating during the market's hours of operation are farm producers, or family members or employees of farm producers.

FILLING STATION. Any building, structure, premises or enclosure or other place used for the dispensing, sale or offering for sale at retail of fuels or oils for motor vehicles. When the dispensing, sale or offering for sale is incidental to the conduct of a public garage, the premises shall be classified as a public garage.

FLEX SPACE. Industrial space that can be configured as needed for offices, manufacturing, assemblage, or warehousing.

FRONT YARD LINE. The line establishing a front yard between which line and the street, the location of buildings, uses or portions of building is regulated by this chapter.

GARAGE, PRIVATE. An accessory building with capacity for not more than three motor vehicles for storage only, not more than one of which may be a commercial vehicle of not more than three tons capacity. Provided, however, that a garage designed to house one motor vehicle for each family housed in an apartment shall be classed as a private garage.

GARAGE, PUBLIC. Any building or premises, except those defined above as a **PRIVATE GARAGE**, used for the storage or care of motor vehicles or where such vehicles are equipped for operation, repair or kept for remuneration, hire or sale.

GROUP HOUSE. A group of dwellings constructed in a row, with the dwelling units separated by vertical party walls without opening.

GRADE.

(1) For buildings having walls, adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street.

(2) For buildings having walls adjoining more than one street, the average of the elevation of the sidewalk at the center of all walls adjoining the streets.

(3) For buildings having no wall adjoining the street, the average level of the ground adjacent to the exterior walls of the building.

Any wall approximately parallel to and not more than five feet from a street line is considered adjoining the street.

HEIGHT OF BUILDING. The vertical distance from the grade to the highest point of the building for flat roofs; to the deck line for mansard roofs; and to the main height level, between eaves and ridges for gables and hip roofs.

HOME OCCUPATION. Any occupation carried on by a member of the family residing on the premises in connection with which there is used one professional sign, other than the name plate, not more than one square foot in area, that will indicate from the exterior that the building is being used in part for any other purpose than that of a dwelling; there is kept no stock in trade; no commodity is sold on the premises; and no person is employed other than a member of the family residing on the premises.

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

INSTITUTION. A building occupied by a nonprofit corporation or a nonprofit establishment for public use.

KENNEL. Any lot or premises on which four or more dogs, at least four months of age, are kept.

LODGING HOUSE. A building where lodging only is provided for compensation to three or more but not exceeding 12

persons, not open to transients, distinct from a hotel, which is opened to transients.

LOT. A parcel of land occupied or intended for occupancy by a use permitted in this chapter, including one main building and its accessory buildings, and the open spaces required by this chapter, and having its principal frontage on a street or an officially designated and approved place.

LOT, CORNER. A lot abutting two or more streets at their intersection.

LOT, DEPTH OF. The main horizontal distance between the front line and the rear line of the lot.

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

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

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

LOT OF RECORD. A lot which is part of a subdivision, the map of which has been recorded in the office of the County Recorder; or a parcel of land, the deed to which has been recorded in the office of the County Recorder, prior to the passage of this chapter.

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

LOT, THROUGH. A lot having frontage on two streets at opposite ends of the lot.

MANUFACTURING, LIGHT. The assembly, fabrication or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication or processing takes place, where such processes are housed entirely within an enclosed building. **LIGHT MANUFACTURING** generally includes processing and fabrication of finished products predominantly from previously prepared materials and includes processes. Also referred to as **LIGHT INDUSTRIAL ASSEMBLY AND PRODUCTION**.

MOTEL. A building or group of buildings in which lodging is provided and offered to the public for compensation and catering primarily to the public traveling by motor vehicle.

NONCONFORMING USE. A building or premises which does not conform in its use and otherwise with all the regulations of the district in which such building or premises is located.

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

PARKING LOT. A parcel of land devoted to unenclosed parking space for five or more motor vehicles for compensation or otherwise.

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

PROFESSIONAL OFFICE. When conducted in a residential district, a **PROFESSIONAL OFFICE** shall be incidental to the residential occupancy of the building, shall be conducted entirely within a residential building and shall include only the office of doctors, lawyers, engineers, theologians or similar occupations that involve mental, rather than manual, labor.

SEASONAL RETAIL SALES. Outdoor sales of merchandise or materials of a seasonal nature, conducted by an established business on its own premises, or by a vendor contracted with an established business on its own premises. Examples may include sales of mulch, pumpkins, lawn equipment or furniture, snow blowers, and the like.

SITE ALTERATION. Activities that would change the land form and natural vegetative characteristics of a site. Examples include, but are not limited to, fill, grading, excavation, removal of topsoil, placement of impervious or gravel surface, clearing of wooded areas (except as part of an agricultural operation), damming, and changes to water courses.

STABLE, PRIVATE. A detached accessory building for the keeping of horses owned by the occupants of the premises and not kept for remuneration, hire or sale.

STABLE, PUBLIC. A stable other than a private stable.

STORAGE CONTAINER. A shipping container, semi-truck trailer, "POD", or similar portable container or vehicle used for storage. A shipping container converted to a permanent non-storage use is not included in this definition.

STORY. That portion of a building included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, the space between such floor and the ceiling next above it shall be the **STORY**.

STORY, HALF. That portion of a building under a sloping gable, hip or gambrel roof, the wall plates on at least two opposite walls of which are not more than five feet above floor level of such half story.

STREET. A public thoroughfare 20 feet or more in width between property lines which affords principal means of vehicular access to abutting property.

STRUCTURE. Anything constructed or erected, the use of which requires more or less permanent location on the ground or which is attached to something permanently located on the ground.

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

TEMPORARY USE. A use of land that is designed, operated, and occupies a site for a limited or finite duration, typically less than 12 months.

TEMPORARY FIREWORKS SALES. Businesses or persons selling fireworks (as defined by I.C. 22-11-14-1) as the majority of their sales for a short-term duration. This applies to all fireworks sales occupying a temporary structure and those occupying a permanent structure with less than a six-month lease. This does not apply to general retail businesses selling fireworks as a minor component of total sales, wholesalers, or permanently established fireworks retailers that have public business hours throughout the year.

TOURIST HOME. A residence in which lodging for not more than five transient guests is provided, which has not required structural alterations and which the residential use has not been discontinued.

TOURIST LODGE. See **MOTEL.**

TRANSIENT RETAIL SALES. Short-term sales of merchandise, food products, or services, by a person or business that is not previously established on the premises on which the sale occurs.

VALUE-ADDED FARM PRODUCT. Any product processed by a farm producer from a farm product, such as baked goods, jams, and jellies.

YARD, FRONT. An open, unoccupied space between the front line of the building and the front line of the lot. The front line of the building shall be the line of the main wall nearest to and facing the street, including sun parlors and enclosed porches and excluding only steps below the first floor level and entranceways and open unroofed porches and terraces.

YARD, REAR. An open space between the rear line of the lot and the rear line of the building, extending the full width of the lot and unoccupied except for authorized accessory buildings.

YARD, SIDE. An open, unoccupied space on the same lot with a building between the side line of the building and side line of the lot and extending to a point 25% of the depth of the lot measured from the front to the rear line of the lot.

ZONE. See **DISTRICT.**

(Ord. 70-2, passed 5-11-70; Am. 2012-09, passed 1-14-13; Am. Ord. 2013-01, passed 2-11-13; Am. Ord. 2013-08, passed 8-12-13; Am. Ord. 2020-21, passed 12-8-20)

§ 156.004 ANNEXED OR VACATED AREAS.

(A) Territory which may be annexed to the town shall immediately be included in the R-1 Single-Family Residential District or as otherwise designated in the annexation ordinance until the required amendment to this chapter has been adopted.

(B) Whenever any street, alley, public way, railroad right-of-way, waterway or other similar area is vacated by proper authority, the districts adjoining each side of such street, alley, public way, railroad right-of-way, waterway or other similar area shall be extended automatically to the center of such vacation and all areas included in the vacation shall be subject to all appropriate regulations of the extended districts.

(Ord. 70-2, passed 5-11-70; Am. Ord. 2006-08, passed 6-29-06)

§ 156.005 USE RESTRICTED TO THAT PERMITTED.

No building or land shall be used and no building shall be erected, reconstructed or structurally altered which is arranged, intended or designed to be used for any purpose other than a use which is permitted and specified in a district in which such building or land is located.

(Ord. 70-2, passed 5-11-70) Penalty, see § 156.999

§ 156.006 HEIGHT.

No building shall be erected, reconstructed or structurally altered to exceed in height the limits established and specified for the district in which such a building is located.

(Ord. 70-2, passed 5-11-70) Penalty, see § 156.999

§ 156.007 YARDS; LOT AREA; SIZE OF BUILDINGS.

No building shall be erected, reconstructed or structurally altered in any manner which will encroach upon or reduce in any manner the yards, lot areas per family or size of building regulations established and specified for the district in which such

building is located.

(Ord. 70-2, passed 5-11-70) Penalty, see § 156.999

§156.008 LOTS.

Every building hereafter erected shall be located on a lot which fronts a street and in no case shall more than one building and its customary accessory buildings be erected on any lot.

(Ord. 70-2, passed 5-11-70) Penalty, see § 156.999

§ 156.009 AMENDMENTS.

The Town Council may, from time to time, amend, supplement or change the regulations and districts fixed by this chapter in the manner prescribed in Sections 63 and 64 of Chapter 174 of the Acts of the Indiana General Assembly of 1947.

(Ord. 70-2, passed 5-11-70)

§ 156.010 REMEDIES.

The Town Plan Commission, the Board of Zoning Appeals, the Building Commissioner, or any designated enforcement official, or any person, firm or corporation, jointly or severally aggrieved, may institute a suit for injunction in the Circuit Court and/or the Superior Courts of Johnson County to restrain any individual or a government unit from violating the provisions of this chapter. The Town Plan Commission or Board of Zoning Appeals also may institute a suit for mandatory injunction directing an individual, corporation or government unit to remove a structure erected in violation of the provisions of this chapter. Any building erected, raised or converted, or land or premises used in violation of any provision of this chapter or the requirements thereof, is hereby declared a common nuisance and as such may be abated in a manner as the nuisances are now or hereafter may be abated under existing law.

(Ord. 70-2, passed 5-11-70; Am. Ord. 1989-6, passed 9-11-89)

ADMINISTRATION AND ENFORCEMENT

§ 156.020 AUTHORITY OF PLAN COMMISSION AND THE TOWN COUNCIL.

The Plan Commission and the Town Council are hereby designated and authorized to enforce this chapter.

(Ord. 70-2, passed 5-11-70)

DISTRICTS AND BOUNDARIES

§ 156.040 DISTRICTS.

The town is hereby divided into ten districts in order to carry out the purposes of this chapter. The districts shall be known as follows:

- (A) R-1, Single-Family Residential District.
- (B) R-2, Single-Family Residential District.
- (C) R-3, Multi-Family Residential District.
- (D) A-1, Apartment District.
- (E) B-1, Business District.
- (F) C-1, Commercial District.
- (G) C-2, Commercial District.
- (H) I-1, Industrial District.
- (I) L-1, Light Industrial District.
- (J) AG, Agricultural.

(Ord. 70-2, passed 5-11-70; Am. Ord. 96-16, passed 12-9-96)

§ 156.041 ZONE MAPS.

(A) The zone map which accompanies and is hereby declared to be a part of this chapter shows the boundaries of and areas covered by the districts named in § 156.040 above. Notations, references, indications and other matters shown on the zone map are as much a part of the ordinance as if they were fully described in the text of the chapter.

(Ord. 70-2, passed 5-11-70)

(B) The zoning map approved by the Town Plan Commission and certified to the Town Council for consideration is hereby approved and all prior zoning maps are hereby repealed. Said zoning map is hereby incorporated to the Zoning

Code by reference.

(Ord. 97-5, passed 12-8-97)

§ 156.042 DETERMINATION AND INTERPRETATION OF DISTRICT BOUNDARIES.

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

(B) Where uncertainty exists as to the exact boundaries of any district as shown on the zone map, the following rules shall apply:

(1) Where district boundaries are indicated as following street, alley or lot lines or approximately along such lines, such lines shall be construed to be district boundaries.

(2) In unsubdivided areas or where a district boundary subdivides a lot, the exact location of the boundary shall be determined by use of the scale of the zone map.

(3) In the case of further uncertainty, the Board of Zoning Appeals shall interpret the intent of the zone map as to the location of the boundary in question.

(Ord. 70-2, passed 5-11-70)

R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT

§ 156.050 USES PERMITTED.

No building or premises shall be used and no building shall be erected, reconstructed or structurally altered which is arranged, intended or designed to be used for other than the following uses, unless otherwise provided herein:

(A) Single-family dwelling.

(B) Church or other building for religious worship.

(C) Public school, elementary or high; and educational institutions having courses of study equivalent to those of public schools.

(D) Home occupation.

(E) Public park or public playground and essential accessory buildings thereof.

(F) Railroad right-of-way but not railroad yards, shops, stations or other buildings.

(G) Child care homes used as primary residence of the person who operates child care home pursuant to IC 36-7-4-1108.

(H) Vegetables and flower gardens, orchards and farming but not the raising of livestock and poultry and provided that no sign, display or sales stand is used in conjunction therewith; provided however, backyard chickens may be kept in accordance with the provisions of § 156.181 of the Whiteland Zoning Code.

(I) Church or public building bulletin boards not exceeding 12 square feet in area.

(J) Sign of a temporary character, not exceeding six square feet in area, pertaining to the lease, hire or sale of a building or premises, which sign shall be removed as soon as the building or premises has been leased, hired or sold.

(Ord. 70-2, passed 5-11-70; Am. Ord. 96-17, passed 12-9-96; Am. Ord. 2007-5, passed 1-14-08; Am. Ord. 2023-02, passed 7-11-23) Penalty, see § 156.999

§ 156.051 HEIGHT SPECIFICATIONS.

(A) Dwellings.

(1) Maximum 35 feet or 2½ stories.

(2) Maximum 45 feet, if building is set back from required side and rear yard lines one foot for each two feet of height above 35 feet.

(B) Public or semipublic buildings, churches, temples or schools: maximum 80 feet, if building is set back from required yard lines, one foot for each two feet of height above 35 feet.

(C) Spires, church steeples, chimneys, cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, tanks, stage towers, scenery lofts, water towers, transmission towers, farm buildings or necessary mechanical appurtenances permitted in this district: any height not in conflict with other ordinances or regulations.

(Ord. 70-2, passed 5-11-70; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.052 INTENSITY OF USE.

- (A) Minimum lot area: 12,500 square feet.
- (B) Minimum width of lot: 90 feet at building line.

(Ord. 70-2, passed 5-11-70; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.053 SIZE OF BUILDINGS.

- (A) One-story dwelling, exclusive of open porches and terraces and garages: minimum area 1,200 square feet.
- (B) Two-story dwelling, exclusive of open porches and terraces and garages: minimum first floor area, 900 square feet, with total area not less than 1,200 square feet.
- (C) A minimum of two car garage with hard surface driveway to be same width of garage door or all doors.

(Ord. 70-2, passed 5-11-70; Am. Ord. 96-17, passed 12-9-96; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.054 YARDS.

(A) Buildings shall be set back from the front, rear and side lines of all lots in order to establish open areas designated as front, rear and side yards.

(B) The minimum setbacks for such purposes shall be as follows:

(1) Front yard:

(a) The minimum front building line shall be 40 feet.

(b) In a block where 25% of lots are occupied by buildings, the average depth of front yards establish the front yard for the block.

(c) Where front yard or setback line is established in a recorded subdivision, such lines establish the front yards, provided such line is not closer to the front line than the provisions hereof.

(d) Lots extending through from one street to another, front yards required on each street.

(e) Detached building other than garages. The front line of such building shall be in the rear of the rear line of the principal structure on the lot.

(2) Side yard:

(a) Twelve-foot minimum on one side and 15-foot minimum on the other side, including 27 feet in both side yards, except corner lots where the side yard set back on the side street shall be the same as front yard set back.

(b) Accessory buildings located in rear yards may not be located within 12 feet of a side lot line.

(3) Rear yard:

(a) Normally 25% of the lot; minimum required, 30 feet.

(b) Where an alley abuts rear of lot: depth of rear yard may be measured from the center line of the alley.

(c) Accessory building. May not be located closer than six feet of the rear lot line.

(d) Accessory building detached from main building: maximum occupancy of rear yard, 20%.

(e) Lots extending through from street to street: may waive rear yard if compensated by other open space on the same lot.

(4) General yard specifications.

(a) Ordinary projections of skylights over basements, sills, belt courses, cornices, chimneys and flues and ornamental features not to exceed 12 inches; open or lattice-enclosed fire escapes, fireproof outside stairways, balconies and by windows projecting not more than four feet permitted; otherwise, yards must be open and unobstructed to the sky.

(b) Required yards for one building shall not be used again for another building.

(Ord. 70-2, passed 5-11-70; Am. Ord. 96-17, passed 12-9-96; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.055 LOTS DEFICIENT IN AREA OF WIDTH.

(A) Lot included in a recorded subdivision at the time of passage of this chapter deficient in area or width may be used as a building lot for single-family dwellings.

(B) Lot in single ownership at time of passage of this chapter deficient in area or width may be used as a building lot for a single-family dwelling.

(Ord. 70-2, passed 5-11-70; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.056 OFF-STREET PARKING.

See §§ 156.215 and 156.216.

(Ord. 70-2, passed 5-11-70; Am. Ord. 2007-5, passed 1-14-08)

§ 156.057 EXTERIOR MATERIALS.

(A) Single-family dwelling units shall be constructed with exterior finishes consisting of either brick or stone covering 75% of the aggregate total area of all exterior walls, exclusive of doors, windows, and associated trim.

(B) All chimneys constructed on any such building or structure shall have exterior finishes consisting exclusively of brick or stone from the grade level to the caps thereof.

(C) All other permitted uses within the R-1 Single-Family Residential District shall have exterior finishes consisting exclusively of brick or stone covering 100% of the aggregate total area of all exterior walls, exclusive of doors, windows, and associated trim.

(D) For all new structures located within the R-1 Single-Family Residential District and located on a lot of a subdivision platted, replatted, or resubdivided after June 13, 2016, all asphalt roof shingles shall be dimensional (also known as architectural) shingles (not 3-tab shingles) with a minimum 25 year life rating.

(Ord. 2007-5, passed 1-14-08; Am. Ord. 2016-04, passed 6-13-16) Penalty, see § 156.999

R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT

§ 156.065 USES PERMITTED.

Specifications for this district are identical with those prescribed for R-1 Single-Family Residential District, except as specified in §§ 156.066 through 156.068.

(Ord. 70-2, passed 5-11-70; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.066 INTENSITY OF USE.

(A) Minimum lot area: 9,500 square feet.

(B) Minimum lot width: 80 feet at the building line.

(Ord. 70-2, passed 5-11-70; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.067 SIZE OF BUILDINGS.

(A) One-story dwelling, exclusive of open porches, terraces and garages, minimum ground floor area 1,000 square feet;

(B) One and one-half story or two-story dwelling, exclusive of open porches, terraces and garages, minimum ground floor area 720 square feet, and a total area of not less than 1,000 square feet;

(C) A minimum of two car garage with hard surface driveway to be same width as the garage door or all doors.

(Ord. 70-2, passed 5-11-70; Am. Ord. 96-18, passed 12-9-96; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.068 YARDS.

(A) Buildings shall be setback from front, rear and sidelines of all lots in order to establish open areas designated as front, rear and side yards.

(B) The minimum set backs for such purposes shall be as follows:

(1) Front yard. The minimum front building line shall be 40 feet, or 20% of depth of lot, whichever is more.

(2) Side yard.

(a) Twelve feet minimum on each side, except corner lots where the side yard set back on the side street shall be the same as front yard set back.

(b) Accessory building located in rear yard may not be located within 12 feet of the side yard line.

(3) Rear yard.

(a) Normally 25% of the lots, minimum required 25 feet.

(b) Where an alley abuts rear of lot, depth of rear yard may be measured from center line of alley.

(c) Accessory buildings may not be located closer than six feet of the rear lot line.

(Ord. 70-2, passed 5-11-70; Am. Ord. 96-18, passed 12-9-96; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.069 EXTERIOR MATERIALS.

(A) Single-family dwelling units shall be constructed with exterior finishes consisting of either brick or stone covering 75%

of the aggregate total area of all exterior walls, exclusive of doors, windows, and associated trim.

B) All chimneys constructed on any such building or structure shall have exterior finishes consisting exclusively of brick or stone from the grade level to the caps thereof.

(C) For all new structures located within the R-2 Single-Family Residential District and located on a lot of a subdivision platted, replatted, or resubdivided after June 13, 2016, all asphalt roof shingles shall be dimensional (also known as architectural) shingles (not 3-tab shingles) with a minimum 25 year life rating.

(Ord. 2007-5, passed 1-14-08; Am. Ord. 2016-04, passed 6-13-16) Penalty, see § 156.999

R-3 SINGLE- OR MULTI-FAMILY RESIDENTIAL DISTRICT

§ 156.080 USES PERMITTED.

(A) Uses permitted and specified: for R-1 and R-2 Single-Family Residential Districts.

(B) Additional uses: two-family dwelling.

(Ord. 70-2, passed 5-11-70; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.081 HEIGHT SPECIFICATIONS.

Identical with those prescribed in § 156.051.

(Ord. 70-2, passed 5-11-70; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.082 INTENSITY OF USE.

(A) Single-family dwellings:

- (1) Minimum lot area: 7,500 square feet.
- (2) Minimum lot width at building line: 70 feet.

(B) Two-family dwelling:

- (1) Minimum lot area: 7,500 square feet
- (2) Minimum lot width at building line: 70 feet

(Ord. 70-2, passed 5-11-70; Am. Ord 96-19, passed 12-9-96; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.083 SIZE OF BUILDINGS.

(A) Single-family or duplex (one family above the other) dwellings, exclusive of open porches, terraces and garages, minimum area of 800 square feet.

(B) Double (one family beside the other) dwellings, exclusive of open porches, terraces and garages, 800 square feet for each living unit.

(C) A minimum of two car garage with hard surface driveway to be the same width as garage door or all doors for single-family residence.

(D) A minimum of one car garage for each unit of a double or duplex with hard surface driveway to be the same width as garage door or all doors.

(Ord. 70-2, passed 5-11-70; Am. Ord. 96-19, passed 12-9-96; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.084 YARDS.

(A) Buildings shall be set back from the front, rear, and side lines of all lots in order to establish open areas designated as front, rear and side yards.

(B) Minimum set backs for such purposes shall be as follows:

(1) Front yard.

(a) The minimum front building line shall be 30 feet.

(b) Any block where 25% of the lots are occupied by buildings, the average depth of front yards established by the front yards for the block.

(c) Where front yard or set back line is established in a recorded subdivision, such lines establish the front yards, provided such line is not closer to the front line than the provisions hereof.

(d) Lots extending through from one street to another, front yards required on each street.

(e) Detached building other than garages, the front line of such building shall be in the rear of the rear line of the

principal structure on the lot.

(2) Side yard.

(a) Ten-foot minimum on each side, except corner lots where the side yard set on the side street the back shall be the same as front yard set back.

(b) Accessory buildings located in rear yards may not be located within 10 feet of the side lot line.

(3) Rear yard.

(a) Normally 25% of the lot, minimum required, 25 feet.

(b) Where an alley abuts rear lot, depth of rear yard may be measured from the center line of the alley.

(c) Accessory buildings may not be located closer than six feet of the rear lot line.

(Ord. 96-19, passed 12-9-96; Am. Ord. 2007-5, passed 1-14-08)

§ 156.085 LOTS DEFICIENT.

Lots deficient in area or width and off-street parking for motor vehicles are identical with those prescribed in §§ 156.055, 156.215 and 156.216.

(Ord. 70-2, passed 5-11-70; Am. Ord. 96-19, passed 12-9-96; Am. Ord. 2007-5, passed 1-14-08)

§ 156.086 OFF-STREET PARKING.

See §§ 156.215 and 156.216.

(Ord. 70-2, passed 5-11-70; Am. Ord. 96-19, passed 12-9-96; Am. Ord. 2007-5, passed 1-14-08)

§ 156.087 EXTERIOR MATERIALS.

(A) Single and two-family dwelling units shall be constructed with exterior finishes consisting of either brick or stone covering 75% of the aggregate total area of all exterior walls, exclusive of doors, windows, and associated trim.

(B) All chimneys constructed on any such building or structure shall have exterior finishes consisting exclusively of brick or stone from the grade level to the caps thereof.

(C) For all new structures located within the R-3 Multi-Family Residential District and located on a lot of a subdivision platted, replatted, or resubdivided after June 13, 2016, all asphalt roof shingles shall be dimensional (also known as architectural) shingles (not 3-tab shingles) with a minimum 25 year life rating.

(Ord. 2007-5, passed 1-14-08; Am. Ord. 2016-04, passed 6-13-16)

APARTMENT DISTRICT

§ 156.095 USES PERMITTED.

(A) Uses permitted and specified for use for the R-1 Single-Family and R-3 Multi-Family Residential Districts, excluding backyard chickens regulated under § 156.181.

(B) Additional uses:

(1) Apartment for more than two families.

(2) Group houses.

(3) Lodging houses.

(4) Boarding houses.

(5) Hotel in which business may be conducted for the sole convenience of the occupants of the building and provided there shall be no entrance to such place of business except from the inside of the building and that no display of stock of goods for sale shall be so arranged that it can be viewed from the outside of the building.

(6) Tourist home.

(7) Private clubs and lodges except those the chief activity of which is a service customarily carried on as a business.

(8) Spires, churches, steeples, chimneys, cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, tanks, stage towers, scenery lofts, water towers, transmission towers, farm buildings or necessary mechanical appurtenances are permitted in this district.

(Ord. 70-2, passed 5-11-70; Am. Ord. 2007-5, passed 1-14-08; Am. Ord. 2023-02, passed 7-11-23) Penalty, see § 156.999

§ 156.096 HEIGHT SPECIFICATIONS.

(A) Single-family and two-family dwellings, three- and four-family apartments: same as prescribed in §156.082.

(B) Apartments for more than four families.

(1) Minimum lot area: 8,000 square feet for the first four families plus 500 square feet for each additional family to be housed in the apartment.

(2) Minimum lot width: 65 feet.

(Ord. 70-2, passed 5-11-70; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.097 INTENSITY OF USE.

(A) Single-family and two-family dwellings, three- and four-family apartments, see §156.082.

(B) Apartments for more than four families.

(1) Minimum lot area of 8,000 square feet for the first four families, plus 500 square feet for each additional family to be housed in the apartment.

(2) Minimum width of lot: 65 feet.

(Ord. 70-2, passed 5-11-70; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.098 SIZE OF BUILDINGS.

(A) Three- or four-family apartments: 500 square feet per living unit.

(B) Apartments for more than four families: minimum ground floor area: 1,000 square feet.

(Ord. 70-2, passed 5-11-70; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.099 YARD SPECIFICATIONS.

(A) Yard specifications for lots deficient in area or width and off-street parking for motor vehicles are identical with those prescribed in §§ 156.055, 156.215 and 156.216.

(B) Front yard, side yard and accessory buildings the same as prescribed in §156.084.

(Ord. 70-2, passed 5-11-70; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.100 OFF-STREET PARKING.

See §§ 156.215 and 156.216.

(Ord. 70-2, passed 5-11-70; Am. Ord. 2007-5, passed 1-14-08)

§ 156.101 EXTERIOR MATERIALS.

(A) All multiple-family dwelling units consisting of three or more units shall have exterior finishes consisting exclusively of brick or stone covering 100% of the aggregate total area of all exterior walls, exclusive of doors, windows, and associated trim.

(B) All chimneys constructed on any such building or structure shall have exterior finishes consisting exclusively of brick or stone from the grade level to the caps thereof.

(C) For all new structures located within the A-1 Apartment District, excluding structures associated with single-family or two-family dwellings not located on a lot of a subdivision platted, replatted, or resubdivided after June 13, 2016, all asphalt roof shingles shall be dimensional (also known as architectural) shingles (not 3-tab shingles) with a minimum 25 year life rating.

(D) For an existing structure within the A-1 Apartment District, excluding structures associated with single-family or two-family dwellings not located on a lot of a subdivision platted, replatted, or resubdivided after June 13, 2016, in the event 100% of the asphalt roof shingles are to be replaced with asphalt roof shingles, such shingles shall be replaced with dimensional shingles with a minimum 25 year life rating.

(Ord. 2007-5, passed 1-14-08; Am. Ord. 2016-04, passed 6-13-16) Penalty, see § 156.999

B-1 BUSINESS DISTRICT

§ 156.110 USES PERMITTED.

(A) Uses permitted and specified for R-1 Residential districts.

(B) Additional uses.

(1) Library.

(2) Insurance agencies.

- (3) Real estate agencies.
- (4) Law offices.
- (5) Investment services except banks.
- (6) Accounting, bookkeeping, tax consultants, and notary offices.
- (7) Home occupations.
- (8) Utility offices.
- (9) Bed and breakfasts.
- (10) Commercial research facilities.
- (11) Professional office.
- (12) Information technologies.
- (13) Churches.
- (14) Public schools.

(Ord. 96-20, passed 12-9-96; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.111 HEIGHT SPECIFICATIONS.

(A) Dwelling:

- (1) Maximum of 35 feet or 2½ stories.
- (2) Maximum of 45 feet, if building is set back from required side and rear yard lines one foot for each two feet in height above 35 feet.

(B) Public or semi-public buildings, churches, temples or schools: maximum of 80 feet, if building is set back from required yard line, one foot for each two feet in building height above 35 feet.

(C) Spires, church steeples, chimneys, cooling towers, elevator bulk heads, fire towers, monuments, penthouses, stacks, tanks, stage towers, scenery lofts, water towers, transmission towers, farm buildings or necessary mechanical appurtenances permitted in this district, any height not in conflict with other ordinances or regulations.

(Ord. 96-20, passed 12-9-96; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.112 INTENSITY OF USE.

- (A) Minimum lot area: 12,500 square feet
- (B) Minimum width of lot: 90 feet at building line

(Ord. 96-20, passed 12-9-96; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.113 SIZE OF BUILDINGS.

- (A) One story dwelling, exclusive of open porches, terraces and garages: minimum area of 1,200 square feet.
- (B) Two story dwelling, exclusive of open porches, terraces and garages: minimum first floor area 900 square feet, with a total of 1,200 square feet.

(Ord. 96-20, passed 12-9-96; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.114 YARD SPECIFICATIONS.

(A) Buildings shall be set back from the front, rear and side lines of all lots in order to establish open areas designated as front, rear and side yards.

(B) The minimum setbacks for such purposes shall be as follows:

- (1) Front yard:
 - (a) The minimum front building line shall be 40 feet.
 - (b) In a block where 25% of lots are occupied by buildings, the average depth of front yards establish the front yard for the block.
 - (c) Where front yard or setback line is established in a recorded subdivision, such lines establish the front yards, provided such line is not closer to the front line than the provisions hereof.
 - (d) Lots extending through from one street to another, front yards required on each street.

(e) Detached building other than garages. The front line of such building shall be in the rear of the rear line of the principal structure on the lot.

(2) Side yard:

(a) Twelve-foot minimum on one side and 15-foot minimum on other side, including 27 feet in both side yards, except corner lots where the side yard set back shall be the same as front yard set back.

(b) Accessory buildings located in rear yards may not be located within 12 feet of a side lot line.

(3) Rear yard:

(a) Normally 25% of the lot, minimum required, 30 feet.

(b) Where an alley abuts rear of lot: depth of rear yard may be measured from the center line of the alley.

(c) Accessory building may not be located closer than six feet of the rear lot line.

(d) Accessory building detached from main building: maximum occupancy of rear yard, 20%.

(4) General yard specifications.

(a) Ordinary projections of skylights over basements, sills, belt courses, cornices, chimneys and flues and ornamental features not to exceed 12 inches; open or lattice-enclosed fire escapes, fireproof outside stairways, balconies and by windows projecting not more than four feet permitted: otherwise, yards must be open and unobstructed to the sky.

(b) Required yards for one building shall not be used again for another building.

(Ord. 96-20, passed 12-9-96; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.115 LOTS DEFICIENT IN AREA OF WIDTH.

(A) Lot included in a recorded subdivision at the time of passage of this amendment which is deficient in area or width may be used as a building lot for B-1 Business District structures.

(B) Lot in single ownership at time of passage of this amendment deficient in area or width may be used as a building lot for Business District.

(Ord. 96-20, passed 12-9-96; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.116 OFF-STREET PARKING.

See §§ 156.215 and 156.216

(Ord. 70-2, passed 5-11-70; Am. Ord. 96-20, passed 12-9-96; Am. Ord. 2007-5, passed 1-14-08)

§ 156.117 EXTERIOR MATERIALS.

(A) All structures permitted within the B-1 Business District shall be constructed with exterior finishes consisting of brick, stone, or other approved masonry material covering 100% of the aggregate total area of all exterior walls, exclusive of doors, windows, and associated trim.

(B) For all new structures located within the B-1 Business District, excluding structures associated with single-family or two-family dwellings not located on a lot of a subdivision platted, replatted, or resubdivided after June 13, 2016, all asphalt roof shingles shall be dimensional (also known as architectural) shingles (not 3-tab shingles) with a minimum 25 year life rating.

(C) For an existing structure within the B-1 Business District, excluding structures associated with single-family or two-family dwellings not located on a lot of a subdivision platted, replatted, or resubdivided after June 13, 2016, in the event 100% of the asphalt roof shingles are to be replaced with asphalt roof shingles, such shingles shall be replaced with dimensional shingles with a minimum 25 year life rating.

(Ord. 2007-5, passed 1-14-08; Am. Ord. 2016-04, passed 6-13-16)

C-1 COMMERCIAL DISTRICT

§ 156.125 USES PERMITTED.

(A) Uses permitted and specified for B-1 Business District, excluding uses permitted and specified in R-1 Residential Districts.

(B) Additional uses:

(1) Gas stations not engaging in motor vehicle services.

(2) Business services including:

(a) Banks and loan offices.

- (b) Engineering and architectural offices.
- (3) Personal and social services including:
 - (a) Public education.
 - (b) Day care centers.
 - (c) Employment offices (Human Resources Management).
 - (d) Dance studios and academies.
- (4) Health services including:
 - (a) Nursing homes.
 - (b) Medical labs.
 - (c) Medical offices.
 - (d) Emergency health care offices.
- (5) Clothing service uses including:
 - (a) Dry cleaning.
 - (b) Self service laundries.
 - (c) Tailors, dressmakers, and millinery.
 - (d) Shoe repair.
- (6) Equipment and retail service uses including:
 - (a) Computer and electronic sales and service.
 - (b) Appliance stores.
 - (c) Record, tape or compact disc stores.
 - (d) Personal and small business printing trades.
 - (e) Building trades.
 - (f) Retail general merchandise.
 - (g) Auto sales without motor vehicle service.
 - (h) Drugstores.
 - (i) News dealers and magazine shops.
 - (j) Flower shops and greenhouses in conjunction with a flower shop.
- (7) Food service uses including:
 - (a) Grocery.
 - (b) Meat markets.
 - (c) Delicatessens.
 - (d) Retail food.
 - (e) Restaurants and fast-food.
 - (f) Micro-brewery in conjunction with retail food sales.
- (8) Boarding houses.

(Ord. 96-21, passed 12-9-96; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.126 HEIGHT SPECIFICATIONS.

(A) Dwelling:

- (1) Maximum of 35 feet or two stories.
- (2) Maximum of 45 feet, if building is set back from required side and rear yard lines one foot for each two feet in height above 35 feet.

(B) Public or semi-public buildings, churches, temples or schools: maximum of 80 feet, if building is set back from required yard line, one foot for each two feet in building height above 35 feet.

(C) Spires, church steeples, chimneys, cooling towers, elevator bulk heads, fire towers, monuments, penthouses, stacks, tanks, stage towers, scenery lofts, water towers, transmission towers, farm buildings or necessary mechanical appurtenances permitted in this district, any height not in conflict with other ordinances or regulations.

(Ord. 96-21, passed 12-9-96; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.127 [RESERVED].

§ 156.128 [RESERVED].

§ 156.129 YARD SPECIFICATIONS.

(A) Front yard. No structures shall be erected closer than 100 feet from the edge of the pavement of any public road or street or closer than the front of existing buildings at the time of passage of this section.

(B) Side yard. Where a District 2 adjoins a residential district, five feet required along the line separating the C-2 District from such a residential district.

(Ord. 70-2, passed 5-11-70; Am. Ord. 96-21, passed 12-9-96; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.130 OFF-STREET PARKING; DOCKING.

See §§ 156.215 and 156.216.

(Ord. 70-2, passed 5-11-70; Am. Ord. 2007-5, passed 1-14-08)

§ 156.131 EXTERIOR MATERIALS.

(A) All structures permitted within the C-1 Commercial District shall be constructed with exterior finishes consisting of brick, stone, or other approved masonry material covering 100% of the aggregate total area of all exterior walls, exclusive of doors, windows, and associated trim.

(B) For all new structures located within the C-1 Commercial District, excluding structures associated with single-family or two-family dwellings not located on a lot of a subdivision platted, replatted, or resubdivided after June 13, 2016, all asphalt roof shingles shall be dimensional (also known as architectural) shingles (not 3-tab shingles) with a minimum 25 year life rating.

(C) For an existing structure within the C-1 Commercial District, excluding structures associated with single-family or two-family dwellings not located on a lot of a subdivision platted, replatted, or resubdivided after June 13, 2016, in the event 100% of the asphalt roof shingles are to be replaced with asphalt roof shingles, such shingles shall be replaced with dimensional shingles with a minimum 25 year life rating.

(Ord. 2007-5, passed 1-14-08; Am. Ord. 2016-04, passed 6-13-16)

C-2 COMMERCIAL DISTRICT

§ 156.140 USES PERMITTED.

(A) Uses permitted and specified for Apartment District, Business District and C-1 Commercial District, excluding uses permitted and specified in all Residential Districts.

(B) Additional uses:

- (1) Gas stations engaging in motor vehicle repair service.
- (2) Public parking lots.
- (3) Tire dealers and tire repair service.
- (4) Retail and department stores.
- (5) Hospitals.
- (6) Insurance companies.
- (7) Bakery.
- (8) Wholesale uses including:
 - (a) Wholesale storage and warehouses.
 - (b) Wholesale sales.
- (9) Recreational uses including:
 - (a) Amusement parks.
 - (b) Motion picture theaters but not drive-in theaters.

- (c) Golf courses and driving ranges.
- (d) Bowling alley.
- (e) Skating rink.
- (f) Billiard rooms.
- (10) Night clubs, bars or taverns and retail establishments selling alcoholic beverages by the drink.
- (11) Hotels and motels.
- (12) Private clubs.
- (13) Veterinary clinics without animal incineration.
- (14) Mobile home sales and service.
- (15) Public warehouses.
- (16) Retail hardware and building material sales.
- (17) Funeral homes.
- (18) General contracting and special trades services without outside storage:
 - (a) Heating and air conditioning contractors.
 - (b) Electrical contractors.
 - (c) Masonry contractors.
 - (d) General construction and home improvement contractors.
- (19) Motor vehicle sales and service.
- (20) Motor vehicle service including body shops, motor vehicle wash or motor vehicle detail shop.
- (21) Governmental services:
 - (a) Town halls.
 - (b) Assessors office.
 - (c) Postal offices.
 - (d) Campaign headquarters.
 - (e) Fire and police.

(Ord. 96-22, passed 12-9-96; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.141 HEIGHT SPECIFICATIONS.

(A) Maximum: 100 feet.

(B) Commercial, industrial, apartment or public buildings may be erected to heights above 100 feet if the portion above 100 feet is set back from the street line one foot for each two feet of additional heights.

(Ord. 70-2, passed 5-11-70; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.142 [RESERVED].

§ 156.143 [RESERVED].

§ 156.144 YARDS.

(A) Front yard: no structure shall be erected closer than 100 feet from the edge of the pavement of any public road or street or closer than the front of existing buildings at the time of the passage of this section.

(B) Side yard: where a District 2 adjoins a Residential District, five feet required along the line separating the C-2 District from such Residential District. See §§ 156.215 and 156.216.

(Ord. 96-22, passed 12-9-96; Am. Ord. 2007-5, passed 1-14-08) Penalty, see § 156.999

§ 156.145 OFF-STREET PARKING.

See §§ 156.125 and 156.216

(Ord. 70-2, passed 5-11-70; Am. Ord. 2007-5, passed 1-14-08)

§ 156.146 EXTERIOR MATERIALS.

(A) All structures permitted within the C-2 Commercial District shall be constructed with exterior finishes consisting of brick, stone, or other approved masonry material covering 100% of the aggregate total area of all exterior walls, exclusive of doors, windows, and associated trim.

(B) For all new structures located within the C-2 Commercial District, excluding structures associated with single-family or two-family dwellings not located on a lot of a subdivision platted, replatted, or resubdivided after June 13, 2016, all asphalt roof shingles shall be dimensional (also known as architectural) shingles (not 3-tab shingles) with a minimum 25 year life rating.

(C) For an existing structure within the C-2 Commercial District, excluding structures associated with single-family or two-family dwellings not located on a lot of a subdivision platted, replatted, or resubdivided after June 13, 2016, in the event 100% of the asphalt roof shingles are to be replaced with asphalt roof shingles, such shingles shall be replaced with dimensional shingles with a minimum 25 year life rating.

(Ord. 2007-5, passed 1-14-08; Am. Ord. 2016-04, passed 6-13-16)

§ 156.147 EXCEPTIONS TO ALL ZONING DISTRICTS.

The masonry portion of this ordinance only applies to newly platted subdivisions and does not apply to any lot platted or any building built prior to January 14, 2008.

(Ord. 2007-5, passed 1-14-08)

I-1 INDUSTRIAL DISTRICT

§ 156.155 USES PERMITTED.

(A) Uses permitted and specified in Apartment District, B-1 Business District, C-1 Commercial District, C-2 Commercial District and L-1 Light Industrial District, excluding uses permitted and specified in all Residential Districts.

(B) Additional permitted uses:

- (1) Light industrial assembly and production;
- (2) Warehouse/distribution facility;
- (3) Wholesale facility;
- (4) Conference center;
- (5) Data processing/call center;
- (6) Office uses; and
- (7) Government facility (non-office).

(C) Accessory uses traditionally associated with the permitted uses listed, which are secondary to the primary use in area, intent, and/or purpose, and are found on the same parcel as the principle use but are clearly subordinate or incidental, are permitted. Permitted accessory uses shall include, but not be limited to:

- (1) Parking and temporary storage of trailers;
- (2) Outdoor storage of machinery or materials;
- (3) Vehicle maintenance facilities; and
- (4) Fueling facilities.

(D) When a permitted primary use utilizes outdoor storage of machinery or materials, or similar, as a permitted accessory use, additional buffering and landscaping may be required as determined by town planning staff. Additional buffering shall be considered on a case by case basis and may not apply to the entire site.

(E) *Perimeter buffering.*

(1) Based on the final proposed use, additional perimeter buffering may be required in order to mitigate any potential negative impacts onto surrounding properties. This buffering will be determined by town planning staff at the time of site development plan and will be specific to the individual project.

(2) When the proposed site abuts a residential zoning classification or use, buffer yards must include a minimum setback of 25 feet in addition to the yard setback otherwise required by the I-1 (Industrial) Zoning District. Additionally, one large deciduous tree (a minimum of two inches in diameter, measured six inches above the root ball, at the time of planting) or two conifer trees must be planted in the buffer yard for every 30 feet of boundary between the subject property and adjoining properties. Buffer yards must also incorporate a six foot tall opaque fence, a row of evergreen trees, or an undulating mound (a minimum of five feet in height) planted with shrubs.

- (a) If an undulating mound is used, the slope of the mound must not exceed 3:1 (rise:run). One shrub must be

planted for every ten feet of boundary. Shrubs must be a minimum of 18 inches in height (measured from ground level) at the time of planting.

(b) If a row of evergreen trees is used, one tree must be planted for every 20 feet of buffer required. All trees must be a minimum of five feet in height (measured from the root ball) at the time of planting.

(c) A combination of treatments (fencing, mounding, and tree row) may be used to satisfy the requirements of this provision.

(F) Uses expressly not permitted:

- (1) Gas manufacture for commercial sale;
- (2) Acid manufacture;
- (3) Ammonia, bleaching powder, or chlorine manufacture;
- (4) Blast furnace;
- (5) Cement, lime, gypsum or plaster of paris manufacture;
- (6) Creosote manufacture;
- (7) Distillation of bones, wood or coal;
- (8) Dyestuff manufacture;
- (9) Explosives or fireworks manufacture or storage;
- (10) Fat rendering;
- (11) Garbage, offal or dead animals reduction or storage;
- (12) Glue or gelatine manufacture;
- (13) Petroleum refining;
- (14) Smelting of tin, copper, zinc or iron ores;
- (15) Tar distillation or manufacture; and

(16) Manufacture or industrial operations of any kind which is noxious or offensive more than 200 feet beyond the confines of the premises of building in which such operation is conducted by reason of the emission of smoke, dust, gas, fumes, odors, noise or vibrations.

(Ord. 70-2, passed 5-11-70; Am. Ord. 96-23, passed 12-9-96; Am. Ord. 2013-06, passed 3-11-13; Am. Ord. 2020-21, passed 12-8-20)

§ 156.156 HEIGHT SPECIFICATIONS.

(A) Maximum: 80 feet.

(B) Commercial and industrial buildings may be erected to heights above 80 feet if the portion above 80 feet is set back from the street line one foot for each two feet of additional height.

(Ord. 70-2, passed 5-11-70)

§ 156.157 INTENSITY OF USE; SIZE OF BUILDING.

Specifications for intensity of use and size of building (applicable to residential structures), are identical with those prescribed in §§ 156.097 and 156.098.

(Ord. 70-2, passed 5-11-70)

§ 156.158 YARDS.

(A) Residential structures: identical with those prescribed in § 156.054.

(B) Where an I-1 Industrial District is located directly opposite an R-1, R-2, R-3 or C-3 District the front yard shall conform to requirements of § 156.054.

(C) Where an I-1 Industrial District adjoins an R-1, R-2 or R-3 District a side yard of five feet is required along the side line separating the I-1 Industrial District from the R-1, R-2 or R-3 District.

(Ord. 70-2, passed 5-11-70) Penalty, see § 156.999

§ 156.159 OFF-STREET PARKING.

See §§ 156.215 and 156.216.

(Ord. 70-2, passed 5-11-70)

L-1 LIGHT INDUSTRIAL DISTRICT

§ 156.170 USES PERMITTED.

(A) Uses permitted and specified in Apartment Districts, B-1 Business Districts, C-1 Commercial District and C-2 Commercial District, excluding uses permitted and specified in all Residential Districts.

(B) Additional permitted uses.

- (1) Flex space, provided any manufacturing is light manufacturing.
- (2) Electronic parts fabrication.
- (3) Tool and die making.
- (4) Light manufacturing.
- (5) Machine shops.

(Ord. 96-24, passed 12-9-96; Am. Ord. 2013-06, passed 3-11-13; Am. Ord. 2020-21, passed 12-8-20)

§ 156.171 HEIGHT SPECIFICATIONS.

(A) Maximum: two stories or 30 feet.

(B) Commercial and industrial buildings may be erected to heights above 80 feet if the portion above 80 feet is set back from the street line a minimum of 15 feet.

(Ord. 70-2, passed 5-11-70)

§ 156.172 INTENSITY OF USE; SIZE OF BUILDINGS.

Specifications for intensity of use and size of buildings: 8,000 square feet.

(Ord. 70-2, passed 5-11-70)

§ 156.173 YARDS.

(A) Residential structures: identical with those prescribed in § 156.054.

(B) Where an L-1 Light Industrial District is located directly opposite an R-1, R-2, R-3 or C-3 District, front yard shall conform to requirements of § 156.054.

(C) Where an L-1 Light Industrial District adjoins an R-1, R-2 or R-3 District a side yard of 15 feet required along the side lines separating the L-1 Light Industrial District from the R-1, R-2 or R-3 District.

(Ord. 70-2, passed 5-11-70)

§ 156.174 OFF-STREET PARKING.

See §§ 156.215 and 156.216.

(Ord. 70-2, passed 5-11-70)

AG AGRICULTURAL DISTRICT

§ 156.177 USES PERMITTED.

(A) Uses permitted under the Agricultural District will be as follows:

(1) Production of crops, keeping and raising of livestock, operation of stables, commercial or wholesale nursery, orchards and vineyards.

(2) Any other use pertaining to agricultural use of land.

(Ord. 96-26, passed 12-9-96) Penalty, see § 156.999

SPECIAL USES AND EXCEPTIONS

§ 156.180 ENUMERATED.

The following uses or structural alterations thereto, which are hereby classified as special uses and exceptions, may be permitted by the Board of Zoning Appeals after public notice and hearing according to law and after a report by the Town Plan Commission and determination by the Board of Zoning Appeals that the special use on the site applied for is consistent with the spirit, purpose and intent of this chapter and will not substantially or permanently injure the appropriate use of neighboring property; and if of a public or semipublic nature, will substantially serve the public convenience and general welfare.

- (A) Museums and art galleries.
- (B) Churches.
- (C) Cemetery.
- (D) Colleges and universities.
- (E) Community centers.
- (F) Public utilities.

(Ord. 70-2, passed 5-11-70; Am. Ord. 96-25, passed 12-9-96)

§ 156.181 BACKYARD CHICKENS.

(A) This section provides the conditions and limitations for the keeping of chickens on residentially zoned properties of the town.

(B) Definitions. Terms used within this section and not defined below shall have the meanings provided within §156.003.

BACKYARD CHICKEN. A chicken allowed to be on residentially-zoned properties of the town in accordance with this section.

CHICKEN. The common domestic chicken fowl (*Gallus gallus domesticus*) or its young.

CHICKEN RUN. An outdoor enclosed or fenced area where chickens feed or exercise.

COOP. A cage or roofed enclosure in which chickens are kept.

HEN. A female adult chicken.

ROOSTER. A male adult chicken.

(C) The keeping and raising of chickens shall be allowed on properties zoned for and used for a single-family or two-family dwelling (this is not intended for multi-family dwellings, i.e., apartments), provided that written consent from the property owner is required for any such properties that are a rental dwelling, subject to all of the following conditions and limitations:

(1) The resident of the property has applied for and been issued a backyard chickens permit in accordance with this section.

(2) The maximum number of adult hens allowed shall be six.

(3) Roosters are prohibited.

(4) Hens are allowed only within a coop, pen, or chicken run within in a fully fenced enclosure within the rear yard, except when being removed to be transported to, or returned from, a location off of the property, or when being temporarily confined in a garage or indoor space during periods of extreme cold or brooding. The fence must be at least four feet in height.

(5) A coop shall not exceed 120 square feet in area or ten feet in height, and shall comply with the requirements for accessory buildings.

(6) There shall be a minimum six square feet of run space per hen.

(7) A chicken coop shall be set back at least three feet from any building on the subject property and 25 feet from any residence on a neighboring property.

(8) Chicken feed must be kept secure from pests.

(9) All animal byproducts and waste must be collected and removed or composted on a regular basis, allowing the storage of one sealed container up to 20-gallon in size. All byproducts, waste, and carcasses must be properly disposed of in accordance with applicable law, including without limitation, the rules and regulations of the Indiana Board of Animal Health. Neither the waste, anything contaminated by the waste or carcasses may be disposed of through the town municipal trash services. If a permit holder fails to properly dispose of any chicken byproducts or chicken waste and or causes any potential contamination of the ground, the permit holder shall be responsible for the costs incurred to clean up and mitigate, as necessary, any and all such byproducts, waste, or contamination. Violations of this division are subject to the fines and penalties provided under § 156.181(F)(5).

(10) The keeping of chickens shall be for personal use only. No sales of eggs, chickens, chicks, slaughtered chickens or chicks, or fertilizer are allowed.

(11) The caretaker or owner of the chickens must reside on the same lot as the chickens.

(12) Odors from any chickens or chicken waste must not be discernible at any property line.

(13) No slaughtering of chickens shall occur on the property.

(14) Reasonable care of the chickens, in accordance with veterinary standards, must be afforded in all aspects including adequate and proper food, water, and clean living conditions, and proper handling, restraining, sheltering, exercise, grooming, nutrition, parasite control, and waste management. Poor condition or health of a chicken in the absence of veterinary supervision is prima facie evidence of a violation.

(15) No property owner or resident of property located within 200 feet of the property has objected to the proposed keeping and raising of chickens on the property showing that the requirements and conditions of this section have not been satisfied or showing that the issuance of a backyard chickens permit would likely result in a nuisance to them or their property.

(16) Compliance with all other generally applicable provisions of the Whiteland Zoning Code and the town code.

(17) A person is in violation of this section if the person is a holder of a backyard chickens permit and refuses, upon request by a town official during reasonable hours, to make his or her animals, premises, facilities, equipment, and any necessary registrations or permits, available for inspection. Regular inspections may occur to ensure that the property is in compliance with this section. The town may hire a third-party contractor to assist with inspections and/or other non-compliance matters. Addressing non-compliance matters shall be at the permit holder's expense.

(18) This section shall not supersede, replace, or have control over any recorded deed restrictions, covenants, homeowners association rules, or other applicable restrictions that prohibit the keeping of chickens on such property.

(19) Permittees must operate their property in a manner so as not to pose a threat to public health. Permittees shall isolate chickens that are sick or diseased so as to not endanger the health and well-being of other animal and humans. When necessary for the protection of public health and safety, the Town Manager and/or any public health official may require that a specified animal be kept confined in a secured enclosure. This provision is subordinate to any local, state, or federal code governing the treatment of chickens in the event of a threat to human health. For more information, please refer to the Indiana State Board of Animal Health.

(20) Applicants must complete the Indiana Premises Identification Registration through the Indiana Board of Animal Health and submit proof of registration.

(21) If a permit holder moves and leaves any chicken byproducts or chicken waste and/or any potential contamination of the ground, the permit holder shall be responsible for the costs incurred to clean up and mitigate, as necessary, any and all such byproducts, waste, or contamination.

(D) Chickens that are not kept as provided under this section shall be deemed a nuisance under §91.02 of the Whiteland Town Code.

(E) Backyard chickens permit. A person desiring to keep chickens pursuant to this section must first apply for and be issued a backyard chickens permit from the Planning and Zoning Department ("Department").

(1) In addition to paying the applicable non-refundable application fee at the time of filing, the applicant shall also:

(a) Submit a complete permit application on a form provided by the Department;

(b) Provide floor plans and side elevations for the proposed coop, or if a commercially available coop is to be used, a picture of the coop together with the manufacturer, model, and size of the coop;

(c) Provide a site drawing showing the proposed location for the coop and chicken run, along with all property lines, building lines, setbacks, fences, and other structures located or proposed to be located on the property;

(d) Provide written, notarized authorization from the property owner allowing backyard chickens if the applicant is a person other than the owner of the property on which the backyard chickens will be kept;

(e) Place a notice of the application on the property, in accordance with Rules of the Procedure of the Whiteland Board of Zoning Appeals, which notice shall remain on-site until final action on the application has been taken; and

(f) Provide notice, at the applicant's expense and in the form required by the Department, to all adjoining legal landowners of property within two property depths, or 660 feet of the subject property, in accordance with the Rules of Procedure of the Whiteland Board of Zoning Appeals. Such notice shall be made by certified mail, by certificate of mailing, or by personal service. Applicant shall provide the Department the certified mail receipts or the certificate of mailing and any unopened returned notices, or the dated signatures of property owners indicating personal receipt of the notice, accompanied by an affidavit signed by the applicant verifying that all persons entitled to receive notice pursuant to this section have been properly notified and that notice of the application has been placed on-site. No backyard chicken permit shall be issued until at least 15 days after the applicant has provided the Department with the required proof of the notice being delivered and posted at the property; and

(g) Complete the Indiana Premises Identification Registration through the Indiana Board of Animal Health and submit proof of registration to the Department.

(2) If all requirements and conditions of this section have been satisfied and no owners or residents of nearby properties entitled to notice have submitted to the Department a written objection to the proposed keeping of chickens on the applicant's property, the backyard chickens permit shall be issued by the Department.

(3) Prior to the issuance of a backyard chickens permit, a site inspection during reasonable hours may be conducted by

a representative of the Department to verify compliance with the requirements of this section.

(4) All backyard chickens permits issued under this section shall be nontransferable and valid only for the applicant and location for which it was originally issued. In the event the permit holder no longer resides at the property for which the permit was issued or no backyard chickens are on the property for a continuous period of 30 days, the permit terminates without refund; otherwise, a backyard chickens permit has an indefinite duration, subject to revocation as provided in this section.

(5) The Department may revoke a backyard chickens permit issued under this section or refuse to issue a permit if the permittee or applicant fails to meet the conditions and limitations of this section, refuses to permit inspections of the property, or violates any provision of this section.

(6) Revocations, denials, and appeals of actions or inactions of the Department under this section shall be handled in accordance with division (F) of this section.

(F) Permit revocation, denial, and appeal.

(1) The Department may issue a notice of revocation of any permit or deny an application for a permit under this section without prior warning, notice, or hearing if the permittee or applicant fails to meet the conditions and limitations of this section, refuses to make the property or chickens in its possession available for an inspection, seriously or repeatedly violates this section in a way that threatens the health or well-being of the permittee or applicant, the permittee's or applicant's neighbors, or animals in their care, fails to comply with any condition of the permit, or otherwise violates this section in any other way, if the Department gives the permittee or applicant notice that:

(a) States the reason(s) for the revocation or denial;

(b) States that the permittee or applicant may appeal the decision by submitting a timely written appeal to the Department; and

(c) Provides the name and the address of the Department official to whom an appeal may be submitted.

(2) An appeal of a revocation or denial must be made in writing within 15 days of the issuance of the notice of revocation or denial of a permit to the permittee or applicant. If no appeal request is received within the 15 day period, the revocation or denial of the permit becomes final. In the event of an appeal by a permittee or applicant, the permittee or applicant shall simultaneously provide notice of the appeal to all owners residents of adjacent properties entitled to notice of the original application, and to any residents who have submitted to the Department a written objection to the proposed keeping of chickens on the applicant's property, in accordance with the application notice requirements, and the applicant shall provide the Department the certified mail receipts or the certificate of mailing and any unopened returned notices, or the dated signatures of property owners or residents, as applicable, indicating personal receipt of the notice, accompanied by an affidavit signed by the applicant verifying that all persons entitled to receive notice pursuant to this section have been properly notified. No appeal hearing shall be held until at least 15 days after the applicant has provided the Department with the required proof of the notice being delivered.

(3) Upon receiving an appeal, and the notice affidavit if applicable, the Department shall hold a hearing at a reasonable time and place designated by the Department between 15 days and 30 days after the later of the filing of the appeal and the notice affidavit with the Department; and the Department shall give reasonable notice of the time and place of the hearing to all owners and residents of adjacent properties entitled to notice of the filing of the appeal. Upon completion of the hearing, the director of the Department shall make a ruling on the appeal. The director's decision on the appeal may be appealed to the Whiteland Board of Zoning Appeals (BZA) in accordance with the BZA's Rules of Procedure, provided the appeal to the BZA is filed with the Department within 15 days of the issuance of the director's decision to the permittee or applicant, and any other interested parties.

(4) The permittee or applicant may reapply for a new permit under this section at any time.

(5) The issuance of a revocation of a backyard chickens permit shall be a remedy in addition to, and not in lieu of, any penalty authorized by the town code, and shall not limit any other rights of the town to pursue other enforcement actions or remedies to address any violation of the provisions of this section or the town code. Whoever violates any provision of this section for which another penalty is not provided shall be fined no less than \$100 for the first offense, \$250 for the second offense, and \$500 for each offense thereafter. In addition, the town may refuse to grant or renew a permit and may revoke a backyard chickens permit if the applicant is unable to maintain his or her chicken so as to not create a nuisance as evidenced by three substantiated violations of the terms of this section within a period of 12 consecutive months.

(Ord. 2023-02, passed 7-11-23)

NONCONFORMING USES

§ 156.190 CONTINUATION PERMISSIBLE.

The lawful use of a building or premises, existing at the time of passage of this chapter, may be continued although such use does not conform to all the provisions of this chapter, except as hereinafter provided.

(Ord. 70-2, passed 5-11-70)

§ 156.191 EXTENSION.

A nonconforming use may be extended throughout a building provided no structural alterations are made therein, except those required by law.

(Ord. 70-2, passed 5-11-70)

§ 156.192 CHANGE.

A nonconforming use may be changed to another nonconforming use of the same or greater restrictions, provided no structural changes are made in the building. Whenever a nonconforming use has been changed to a conforming use or to a use permitted in a district of greater restrictions, it shall not thereafter be changed to a nonconforming use or a less restricted use.

(Ord. 70-2, passed 5-11-70)

§ 156.193 APPLICATION TO AMENDMENTS.

These provisions apply in the same manner to a use which may become a nonconforming use due to a latter amendment to this chapter.

(Ord. 70-2, passed 5-11-70)

§ 156.194 ERECTION OF BUILDINGS.

No building shall be erected upon any premises devoted to a nonconforming use, and no building located upon any such premises, which has been damaged by fire or other causes to the extent of more than 75% of its assessed valuation, shall be repaired or rebuilt, except in conformity with regulations of this chapter.

(Ord. 70-2, passed 5-11-70)

§ 156.195 DISCONTINUANCE.

(A) Use to conform after discontinuance. In the event a nonconforming use of any building or premises is discontinued for any period, the use of the same thereafter shall conform to the uses permitted in the district in which it is located.

(B) Discontinuance of nonconforming use of land. The lawful use of land for storage purposes which does not conform to the provisions of this chapter shall be discontinued within five years from the date of passage of this chapter and the use of land for storage purposes, which may become nonconforming use by reason of an amendment to this chapter, shall be discontinued within five years from date of passage of such amendment.

(Ord. 70-2, passed 5-11-70)

UNIT DEVELOPMENT PLAN

§ 156.205 DEVELOPMENT PLANS.

(A) *Purpose.* Development plan review is a process in which certain types of proposed construction and development are reviewed to ensure their compliance with the Zoning Code, Comprehensive Plan, and other applicable codes and requirements. This section shall apply to all zoning districts.

(B) *Types of review.*

(1) The Plan Commission staff, which for purposes of this section shall mean the Town Manager or his or her designee, shall have the duty to review the types of proposed construction and development specified in this section and to determine their compliance with the Zoning Code, Subdivision Control Code, Comprehensive Plan, and other applicable codes and requirements. The levels of review for the different types of development are outlined in the following table:

Table A: Plan Review	
Minor Development Plan Review	Major Development Plan Review

<ul style="list-style-type: none"> • Construction of or additions to single- and two-family dwelling • Construction of or additions to agricultural buildings in the AG zoning district • Enlargements of non-residential or multi-family structures not to exceed 25% of the area of the existing structure* • Residential accessory structures • Non-residential accessory structures not exceeding 200 square feet in area • Temporary uses and structures • Reconstruction of conforming structures due to natural disaster or emergency, provided that the structure is rebuilt using the pre-disaster footprint • Site alterations of less than 5 acres of disturbed soil 	<ul style="list-style-type: none"> • Construction of new non-residential and multi-family structures • Enlargements of non-residential or multi-family structures exceeding 25% of the area of the existing structure • Non-residential accessory structures exceeding 200 square feet • Site plans submitted as part of a rezoning petition • Site alterations exceeding 5 acres of disturbed soil
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(2) Minor development plans shall be reviewed to verify compliance with applicable codes and requirements but such review does not require a formal development plan, and such proposals are not otherwise subject to this section, except in cases of divisions (3) and (4) below.

(3) The sum of multiple enlargements to non-residential or multi-family structures cannot exceed 25% of the original structure area without major development plan review.

(4) Staff may determine in writing that a proposed development has particularly significant, unique, or otherwise special features that require major development plan review.

(C) *Application procedures.*

(1) *Pre-application conference.* In order to best review all applications, at least one pre-application conference between the applicant and staff is recommended to informally discuss application requirements, procedures, and details of the proposed development. Formal application or filing is not required, and any discussion is not binding on the Plan Commission staff or the town.

(2) *Development plan filing requirements.* Applications for review of major development plans shall include at least the following materials:

(a) List of interested parties names and addresses;

(b) Two full-scale copies and ten smaller scale (no larger than 11" x 17") copies of the development plan, containing at least the following information:

1. Scale drawing of the parcel with dimensions and acreage;
2. Locations and uses of proposed and existing structures;
3. Locations of existing structures within 25 feet of the subject parcel;
4. Proposed and existing rights-of-way, streets, and alleys, and street names;
5. Existing adjacent rights-of-way, streets, and alleys, and street names;
6. Easements on the parcel or adjacent to the parcel, including the easement holder and a description of the easement type;
7. Location of any existing or proposed drainage tile;
8. Elevation of existing and proposed structures;
9. Proposed and existing elevations, shown by two-foot contour lines;
10. Location of existing and proposed ponds, lakes, storm water detention basins and the like with normal pool elevations;
11. Location of any wetlands and floodplains/floodways;
12. Location of areas of mature trees, greater than nine inches in DBH;
13. Proposed landscaping plan;
14. Proposed lighting plan;
15. Proposed locations of dumpsters, recycling bins, free-standing signs, and/or other accessory items;
16. Location of existing and proposed utility lines, septic systems, wells, and the like; and
17. Vicinity map showing the site within context of the surrounding area, including at least the zoning classification

and existing use of surrounding parcels, nearby thoroughfares, and nearby water courses.

(c) Storm water management plan, including water quality control and soil erosion control measures;

(d) Calculations of existing and proposed lot coverage of structures and impervious areas (e.g. parking lots, driveways, sidewalks, and the like);

(e) Traffic impact analysis, to the satisfaction of the Plan Commission staff, that includes, without limitation, average daily and peak hour estimates and recommended public right-of-way improvements, which analysis may be required to include core sampling of existing streets, to be conducted and issued by a traffic engineer or other similarly qualified professional, and to be obtained by and at the expense of the applicant or developer of the property. The public right-of-way improvements recommended in the traffic impact analysis shall be constructed as part of the construction of the development. Additionally, whenever a proposed development borders an existing street, reconstruction or widening, or both, of such street may be required as a condition of approval;

(f) Drawings and elevations of proposed structures;

(g) Drawings and elevations of any proposed signage;

(h) For sectionalized developments, a proposed schedule of development phases;

(i) Application form;

(j) One digital copy of the above submitted materials in PDF format; and

(k) Filing fee.

(3) Staff may waive or reduce the detail of any of the above required information if not relevant or necessary for adequate review. Staff may also require any additional information reasonably necessary for review of complex or unique projects.

(D) *Notification requirements.* To the extent applicable, the applicant shall be responsible for notifying all interested parties and publishing legal notice in accordance with the Plan Commission Rules of Procedure.

(E) *Review procedures.*

(1) *Major development plan review.*

(a) The Whiteland Technical Review Committee (TRC) will review and comment on the development plan. The Committee's comments will be provided to the applicant at a scheduled TRC meeting.

(b) The Plan Commission Staff shall conduct at least one neighborhood meeting after providing reasonable notice, as determined by the Plan Commission staff, to the interested parties determined in accordance with the Plan Commission Rules of Procedure.

(c) The Plan Commission staff shall consider:

1. The development plan application and supporting information;

2. Any information presented by the Planning Director, Building Commissioner, TRC, and/or other department or agency;

3. Testimony of the applicant;

4. Input from members of the public during the neighborhood meeting(s);

5. Any applicable provisions of the Whiteland Zoning Code, Subdivision Control Code, Sign Code, Building Code, or other applicable code; and

6. Any other information as may be required by the Plan Commission staff to evaluate the application.

(d) Each development plan must satisfy the following criteria:

1. The development plan is consistent with the Town of Whiteland Comprehensive Plan.

2. The development plan does not cause a hazard or unsafe conditions on existing or proposed streets, or at points of access.

3. The development plan does not cause existing or proposed streets to exceed their capacity or cause excessive traffic congestion.

4. The development plan dedicates the necessary right-of-way for future expansion of perimeter roads as indicated in the thoroughfare plan and for any other improvements recommended in the traffic impact analysis for the development, including, without limitation, for reconstruction or widening of existing streets, and/or construction of deceleration lanes, acceleration lanes, passing blisters, or other improvements to the public thoroughfare system.

5. The development plan creates a safe environment for pedestrians and nonmotorized vehicles to safely move about the development and to connect to perimeter pedestrian facilities.

6. The development plan arranges buildings and structures appropriately for function and aesthetic appeal.
7. The development plan is compatible with surrounding uses, buildings, and zoning districts; or is designed to effectively and appropriately buffer or transition to surrounding uses, buildings, or zoning districts.
8. The development plan satisfies the applicable design and development standards of this Zoning Code.
9. The development plan satisfies the applicable design and development standards of Chapter 154, Subdivision Control.
10. The development plan satisfies the applicable design and development standards of §156.400, Sign Code.
11. The development plan satisfies the applicable design and development standards of Chapter 150, Building Code.

(e) Upon completion of its review of the application, the Plan Commission staff shall approve, approve with conditions, or deny the application.

(f) *Appeals of determinations by Plan Commission staff.* Any determination of the Plan Commission staff made under the authority of this section may be appealed in writing to the Plan Commission by any interested party. Such appeal shall request the Plan Commission to hold a hearing on the matter at the Plan Commission's next regularly scheduled meeting for which published notice of the appeal pursuant to I.C. 5-3-1 can be provided. Further, appeals of the Plan Commission's determination may be made in accordance with I.C. 36-7-4-1600 et seq. In the event of an appeal to the Plan Commission, upon determination of the appeal by the Plan Commission, the Plan Commission shall make written findings of fact, and in the event of a disapproval of an Application, the findings of fact shall specify the code provision(s) with which there is noncompliance.

(F) *Waivers.* In the event an application for development plan approval seeks a waiver, such waiver, or full application at the option of the applicant, shall be heard by the Plan Commission at a public hearing following notice in accordance with the Plan Commission Rules of Procedure. The Plan Commission may waive or modify sections of the Zoning and Sign Codes concerning the height, intensity of use, size of buildings, yard specifications, parking specifications, exterior materials, and/or the number, size, and location of permitted signs. Such waivers shall be supported by findings of fact. A waiver may be granted at the discretion of the Plan Commission if the Plan Commission determines that the following conditions (the "waiver conditions") are satisfied: (i) granting of the waiver will not be detrimental to the public safety, health, or welfare, or injurious to nearby property; (ii) the waiver will be consistent with the intent and purposes of the Zoning Code, and the vision, goals and recommendations of the Comprehensive Plan; (iii) the waiver will be compatible with the character of the general vicinity; and (iv) the waiver will not have a negative effect on adjoining property values. Notwithstanding the foregoing, the Plan Commission staff is authorized to approve a development plan waiver request related to sections of the sign code concerning the number, size, and location of permitted signs, including in the context of a development plan amendment, if the Plan Commission staff, in the exercise of its reasonable discretion, determines that the above stated waiver conditions are satisfied, and provided that the Plan Commission staff has held at least one neighborhood meeting after providing reasonable notice, as determined by the Plan Commission staff, to the interested parties determined in accordance with the Plan Commission Rules of Procedure.

(G) *Duration.*

(1) An approved development plan shall be valid for two years from the date of approval, unless the Plan Commission grants a different time period. It shall expire if development of the approved site improvements have not been completed within the two-year period, and it has not been granted an extension.

(2) The Plan Commission may grant two-year extensions of an approved development plan for cause; the applicant may submit a request for an extension along with any supporting documentation prior to the expiration of the development plan. The Plan Commission shall review the request and take action to approve the extension, approve an extension shorter than two years, or deny the extension. No further notification or hearing is required for an extension request.

(3) An approved development plan that has not expired shall be effective for as long as the project for which it was approved exists, or until superseded by a new or modified development plan.

(4) A denied development plan shall not be resubmitted for at least one year from the date of denial. A new, redesigned, development plan application may be submitted prior to one year, if the plan addresses the reasons for the denial.

(H) *Modifications.*

(1) Minor amendments to approved development plans may be authorized by the Plan Commission staff without an additional neighborhood meeting, if the proposed amendments do not:

- (a) Increase height, area, or intensity of land uses or structures;
- (b) Designate additional land uses;
- (c) Reduce setbacks, yards, or buffers;
- (d) Reduce the amount of landscaping;
- (e) Add driveways or vehicular access points;

- (f) Adversely impact the purpose or intent of the overall approved development; or
- (g) Adversely impact surrounding properties or the general public.

(2) Requests for amendments that involve changes to the above list, or that the Plan Commission staff determines are not minor amendments, are major amendments and shall require a new development plan application, review, and approval. The Plan Commission staff may consider amendments for signs as minor amendments; provided, however, any amendment requiring a waiver must be approved in accordance with division (F) of this section.

(Ord. 70-2, passed 5-11-70; Am. Ord. 96-27, passed 12-9-96; Am. Ord. 2012-09, passed 1-14-13; Am. Ord. 2020-04, passed 5-12-20; Am. Ord. 2023-07, passed 7-11-23)

OFF-STREET PARKING

§ 156.215 GENERAL PROVISIONS.

The following general and special provisions shall apply to the furnishing of off-street parking facilities for motor vehicles and loading and unloading berths:

(A) The vehicle parking spaces and loading berths required are the minimum areas to be provided. Open areas devoted to vehicle parking may be used in computing open spaces required by this chapter. Required parking space shall be counted only once in determining off-street parking requirements for individual buildings.

(B) Space for off-street vehicle parking may be provided on the lot occupied by the building which it serves or upon approval by the Board of Zoning Appeals on adjacent areas within 300 feet of such building provided the property is zoned to permit such use.

(C) The Board of Zoning Appeals may grant a permit for the establishment of a parking lot in a residential district, provided the entire area of the parking lot is within 200 feet of and adjacent to a C-1, C-2, C-3 or I District, or in the case of a church or other place of congregation in a residential district, immediately adjacent to such church or other place of congregation and provided further that:

- (1) There shall be no sales, dead storage, repair work, dismantling or servicing of any kind on said parking lot.
- (2) Entrances and exits shall be approved as to location by the Town Plan Commission.
- (3) No parking shall be permitted between the front yard line and the front lot line.
- (4) Except for approved entrances and exits, suitable guards shall be erected so as to conform with the required front yard line and may be required along boundaries of adjoining residentially zoned or used property.
- (5) The lot shall be paved with a dustproof or hard surface meeting the standard specifications of the town.
- (6) Lighting facilities, if provided, shall be so arranged as to be reflected away from residentially zoned or used property.
- (7) If, at any time after the issuance of the required permits, any of the provisions of this section are not complied with, the permits shall be revoked.

(D) A church or other place of congregation, which requires parking facilities at times when other nearby uses would not require their established parking facilities and, if such agreement is approved by the Board of Zoning Appeals, the Board may relieve the church or other place of congregation from establishing its own off-street vehicle parking facilities.

(E) Groups of stores or other buildings and uses requiring off-street parking facilities, as prescribed herein, may join in establishing group parking lots with adequate capacity for all the buildings and uses participating in their establishment.

(F) Open parking lots shall be paved with a dustproof or hard surface meeting the standard specifications of the town.

(Ord. 70-2, passed 5-11-70; Am. Ord. 1989-7, passed 9-11-89) Penalty, see § 156.999

§ 156.216 REQUIREMENTS.

In order to lessen or avoid congestion in the streets and to secure safety and promote general welfare, the following regulations are established to require that each building hereafter erected, reconstructed or structurally altered, which is arranged, intended or designed to be used for any of the following uses, shall provide off-street parking space of no less than 250 square feet for each space within the building or on the premises surrounding the building, or on other premises when specified, as follows:

- (A) Residence and apartment buildings: One vehicle parking space for each family housed in the building.
- (B) Hotels and lodging houses: One vehicle parking space for each two sleeping rooms.
- (C) Theaters, sports arenas, churches, temples, mortuaries and other places of congregation: One vehicle parking space for each five seats.
- (D) Bowling alleys, skating rinks, lodge halls, union halls, supermarkets, retail stores, restaurants, taverns and night clubs: Four square feet of parking space for each square foot of floor structure.
- (E) Industrial, manufacturing, wholesale and office uses: One vehicle parking space for each three employees or

occupants. The maximum number of employees of a manufacturing, industrial or wholesale use or occupants of an office building shall be used as a basis for determining the number of parking spaces to be provided.

(F) Roadside sales stand: A minimum of six vehicle parking spaces to be determined and required as a part of the permit for such special use.

(Ord. 70-2, passed 5-11-70)

§ 156.217 LOADING AND UNLOADING BERTHS.

Loading and unloading berths of not less than 250 square feet each shall be provided in connection with each building hereafter erected, reconstructed or structurally altered, which is arranged, intended or designated to be used for any of the following purposes:

(A) Building used for manufacturing, storage, wholesale and retail stores and hospitals:

- (1) Square feet of gross floor area 25,000 or less, number of berths: 1.
- (2) Square feet of gross floor area 25,001 to 84,000, number of berths: 2.
- (3) Square feet of gross floor area 84,001 to 156,000, number of berths: 3.

(B) Office buildings and hotels:

- (1) Square feet of gross floor area 100,000 or less, number of berths: 1.
- (2) Square feet of gross floor area 100,001 to 336,000, number of berths: 2.

(Ord. 70-2, passed 5-11-70) Penalty, see § 156.999

TELECOMMUNICATION TOWERS

§ 156.225 ZONING DISTRICT.

Telecommunications towers shall only be permitted on C-1 commercial district, C-2 commercial district, I-1 industrial district, L-1 light industrial district, and municipally owned property.

(Ord. 99-7, passed 1-10-00)

§ 156.226 TELECOMMUNICATION TOWER FACILITY STANDARDS.

(A) These telecommunication tower facility standards are intended to provide for adequate, Reliable public and private telecommunication service while maximizing the use of existing transmission towers and sites. The requirements seek to minimize the adverse, undesirable visual impact of towers through minimizing needed sites, design, and screening. These standards apply to all zoning districts in which telecommunication towers are a permitted use.

(B) *Required approvals.* The placement of telecommunication tower facilities shall meet the following approval requirements:

(1) *New antenna.* The installation of a new antenna on an existing tower, including legal non-conforming towers, and existing alternative structures (water towers, buildings, steeples, etc.) may be approved by the staff subject to conformance with other applicable requirements of this section. If a new antenna will add height to an existing tower by more than ten feet, it will be subject to the regulations for the installation of a new tower.

(2) *New accessory structure(s).* The installation of new accessory structures (i.e. equipment buildings) to support the installation of an antenna on an existing tower or alternate structure may be approved by the staff subject to conformance with other applicable requirements of the zoning code and the town code.

(3) *New tower.* The construction of a new tower shall be reviewed by staff in the case of a permitted use or by the Board of Zoning Appeals as a special exception use consistent with the provisions of this section.

(C) *Removal.* Property owner(s) are responsible for the removal and site restoration of a telecommunication tower that has been unused or abandoned for 12 consecutive months.

(D) *Required documentation.* All applications for new telecommunication towers shall provide the following documentation with application.

(1) *Engineer's report.* A report from a structural engineer, licensed in the State of Indiana, that:

- (a) Describes the tower height and design including a cross section, latitude, longitude, and elevation;
- (b) Documents the height above grade for all potential mounting positions for co-located antenna and the minimum separation distance between antenna;
- (c) Describes the tower's capability, including the type and number of antenna it can accommodate;
- (d) Documents the steps the tower owner will take to avoid interference with established public safety telecommunication facilities; and

(e) Includes the engineer's stamp and registration number.

(2) *Letter of intent.* A recordable letter of intent committing the tower owner, property owner, and their successors to permit the shared use of the tower if an additional user agrees to meet reasonable terms and conditions for shared use.

(3) *Proof of compliance.* Proof of compliance with all applicable Federal Communications Commission (FCC), Federal Aviation Administration (FAA), and Indiana Department of Transportation (INDOT) regulations.

(4) *Removal affidavit.* A recordable document committing the property owner and their successors to remove the tower and all related structures if the tower is abandoned.

(5) *Determination of need.* Any proposal for a new tower shall only be approved if the applicant submits verification from a professional engineer (holding a valid license in the State of Indiana) that the antennas planned for the proposed tower cannot be accommodated on any existing towers or other structures within a two mile radius of the proposed tower location due to one or more of the following reasons:

(a) *Inadequate structural capacity.* Antennas would exceed the structural capacity of existing facilities and the structure cannot be reinforced or modified to accommodate the needed antennae at a reasonable cost.

(b) *Interference.* The array would cause interference impacting the usability of other, existing, equipment at a tower site.

(c) *Inadequate height.* Existing towers or structures within the specified radius cannot accommodate the equipment at a height necessary to function.

(d) *Unforeseen circumstances.* Other, unforeseen reasons, that make it unfeasible or impossible to locate the planned equipment on existing towers or structures.

(e) *Reasonable lease agreement.* The tower owner is unable to enter into a reasonable lease term with existing tower/land owner(s).

(f) *Land availability.* Additional land area is not available to accommodate the needed facilities.

(E) *Design requirements.* All towers and facilities shall meet the following design requirements:

(1) *Contextual design.* Towers and antennae should generally be designed to blend into the surrounding environment through the use of color, camouflaging, and architectural treatment, except in an instance where color is dictated by Federal or state regulations.

(a) Wireless towers should generally be of a monopole design.

(b) The use of residentially compatible materials such as wood, brick, or stone is required for associated accessory structures that must be designed to architecturally match the exterior of adjacent residential or commercial structures.

(2) *Lighting.* Only when lighting is needed for safety or security reasons, or as required by the FAA or other authority shall it be permitted on the site. All ground level security lighting shall be oriented inward so as not to project onto surrounding properties.

(3) *Co-location.* All towers must be structurally designed to be able to accommodate additional equipment with an antenna loading equal to the initial user,

(4) *Tower height.* All towers and antenna shall conform with all FAA tall structure requirements. Tower height is measured from ground level in all instances. Maximum tower height shall be 200 feet; maximum height of any accessory structure shall be 15 feet.

(5) *Interference.* No new facility shall result in any interference with public safety telecommunications.

(6) *Signs.* Signs for all telecommunication tower facilities shall be limited to two square feet per user.

(F) *Site requirements.* All telecommunication tower facilities shall meet the following site requirements.

(1) *Residential areas.* No tower may be located closer than 500 feet from any property zoned residential (RI, R2, R3, A).

(2) *Staffing.* All facilities should be designed to be fully automated and unattended on a daily basis.

(3) *Access.* All vehicular access shall, whenever feasible, be provided along existing driveways. Access drives must be paved in all districts. Any portion of an entrance located within a right-of-way must be designed to meet the minimum standards outlined in the Whiteland Typical Construction Guidelines and Subdivision Design Standards and Specifications.

(4) *Site area.* Each parcel where a tower is located must be large enough to accommodate future anticipated accessory structures. The minimum lot size for a new tower must have width and depth equal to 1/2 the proposed height of the tower,

(5) *Setbacks.* The minimum front, side, and rear yard setbacks for all towers shall be 50feet from all property lines. In no instance shall any portion of the site encroach into a required front yard setback, including fencing, guide wires or bracing, and required landscaping.

(6) *Encroachment.* No part of any telecommunication tower facility, including lines, cables, equipment, wires, or braces, may extend across or over any part of a public right-of-way.

(7) *Fencing.* An eight foot tall security fence shall completely surround the tower and accessory equipment at the site. All fencing should be setback from the side and rear property lines a minimum of ten feet in order to accommodate required landscaping features.

(8) *Landscaping.* Evergreen buffer plantings are required around the outermost perimeter of the security fence. Evergreen hedges must be a minimum of 24 inches in height, at the time of planting, and planted a maximum of three feet on center, while evergreen trees must be a minimum of five feet in height, at the time of planting, and be planted a maximum of ten feet on center.

(G) *Construction requirements.* All antenna, towers, and accessory structures shall comply with applicable building code, OSHA regulations, and FAA lighting and marking requirements. An engineer's certification shall be submitted to document and verify the design specifications.

(H) *Existing facilities.* The following regulations shall apply to existing telecommunication tower facilities:

(1) *Expansion of existing facilities.* Subject to division (2) below, any expansion resulting from a co-location shall not be considered a substantial expansion for the purposes of the Zoning Code and the Town Code.

(2) *Installation of co-located antennas.* A request submitted to the town to install an antenna to be co-located on an existing tower will only require an improvement location permit and a copy of the contract between the applicant and the tower owner. If the new antenna will add height to an existing tower by more than ten feet, it shall be subject to the regulations for the installation of a new tower.

(Ord. 2019-04, passed 8-13-19)

§ 156.227 PERMIT.

A building permit shall be required for the telecommunication tower.

(Ord. 99-7, passed 1-10-00)

§ 156.228 CONFLICT.

If any portion of this section is found to be in conflict with any of the provisions of the zoning, building, fire, or health ordinance of the code, the provision which establishes the higher standard shall prevail.

(Ord. 99-7, passed 1-10-00)

§ 156.229 SMALL CELL FACILITIES.

The regulations of this section shall apply to the extent not inconsistent with I.C. 8-1-32.3-1 et seq.

(A) *Definitions.* The definitions provided within I.C. 8-1-32.3-1 et seq. shall apply to the extent the terms used within this section are not otherwise defined within the Zoning Code.

(B) *Existing facilities.* No communications service provider is required to obtain a permit or pay a fee for any of the following activities:

(1) Routine maintenance of wireless facilities;

(2) Replacement or improvement of existing utility poles, wireless facilities with wireless facilities, and wireless support structures that are substantially similar to or the same size or smaller than the facilities being replaced; or

(3) Installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with applicable codes by a communications service provider that is authorized to use the public rights-of-way.

(C) *Co-location.* The placement of small cell facilities on existing utility poles within public right-of-way is permitted. An Improvement Location Permit shall be obtained prior to co-location unless otherwise exempted.

(D) *New support structures.* The construction and placement of new support structures for small cell facilities shall be permitted within areas with a non-residential zoning classification and in residentially zoned areas with existing above ground utility infrastructure. An improvement location permit shall be required for all new support structures.

(E) *Prohibition.*

(1) The construction, placement, or use of above-ground small cell facilities and associated supporting structures shall be prohibited in areas of the town that satisfy all of the following criteria (a "Residential SUBU Area"):

(a) Is zoned for strictly residential use;

(b) Previously designated as a strictly underground and buried utilities area under Whiteland Town Council Resolution 2017-03;

(c) Zoned for strictly residential use before May 1, 2017; and

(d) All existing utility infrastructure is already buried; but only to the extent that such prohibition does not materially

inhibit wireless service.

(2) If the prohibition of this subsection would materially inhibit wireless service, the antenna and such other components of the small cell facilities and supporting structures as are reasonably deemed necessary to abate the material inhibition to wireless service, as determined by the Commission, may be placed above ground, with the remainder of the small cell facilities remaining underground.

(F) *Variance.* A variance from the prohibition against the installation of new utility poles or new wireless support structures in a Residential SUBU Area may be requested by applying to the Board of Zoning Appeals for a development standards variance.

(G) *Notice of application.* Upon receipt of an application for the construction, placement, or use of a small cell facility on one or more new utility poles or one or more new wireless support structures in a Residential SUBU Area, the town shall post notice of the application on the town's internet web site. The notice of the application required by this clause must include a statement indicating that the application is available to the public upon request.

(H) The prohibition and other restrictions with respect to the placement of new utility poles or new wireless support structures within Residential SUBU Areas shall be applied in a nondiscriminatory manner.

(Ord. 2019-03, passed 4-9-19)

SIGHT VISIBILITY TRIANGLES

§ 156.230 GENERALLY.

(A) *Sight Visibility Triangle required.* All properties shall maintain an area (the "Sight Visibility Triangle") at every intersection of an adjoining street with other streets and entrance drives. The sight visibility triangle shall be free of structures, vegetation, signs (other than street signs), and other opaque or partially opaque objects between a height of two-and-a-half and 12 feet measured from the nearest top-of-curb (or edge of pavement where curbs are not present).

(B) *Sight Visibility Triangle dimensions:* The Sight Visibility Triangle shall be established by connecting points located along the intersecting rights-of-way (or edge of pavement in the case of entrances) at the distances from the point of intersection required by the Sight Visibility Requirements table.

Intersecting street type	Distance from intersection
Arterial	35 feet
Collector	30 feet
Local	25 feet
Private entrance	10 feet

(Ord. 2014-04, passed 6-9-14)

TEMPORARY USES

§ 156.250 TEMPORARY USES.

(A) *Permits required.* Subject to the general and specific regulations set forth herein, and all other applicable regulations of the district in which a temporary use is located, the temporary uses set forth below may be allowed, provided that a temporary use permit is first obtained where required. In granting a permit for a temporary use, the Director of Planning and Zoning and/or the Building Commissioner may impose any reasonable conditions or restrictions that it finds necessary to protect the public safety, general welfare, and the spirit and intent of this section. A permit fee, in the amount specified in the Official Fee Schedule (see § 10.97), shall be required to be paid prior to permit issuance.

(B) *Duration.*

(1) Unless specifically provided otherwise in this section, a temporary use shall be permitted for a period not to exceed one year. Unless provided otherwise in this section, a temporary use permit may be renewed for additional periods of up to one year each by the Planning and Zoning Department upon showing of good cause.

(2) All structures, buildings, debris, and any other materials or improvements associated with a temporary use shall be immediately removed from the site upon completion or cessation of the temporary use or the expiration of the temporary use permit.

(C) *General regulations.*

(1) No temporary use shall be permitted in a district if it would have a significant negative impact, including aesthetic impact, on any adjacent property or on the area, as a whole, in which it is located.

(2) No temporary use shall be permitted that causes or threatens to cause an on-site or off-site threat to public safety.

(3) No temporary use shall be permitted if the additional vehicular traffic reasonably expected to be generated by such

temporary use would have undue detrimental effects on surrounding streets and uses. Unless otherwise provided, no temporary use shall be located within the public right-of-way.

(4) Temporary signs shall be permitted only in accordance with the provisions of Chapter 153.

(5) Except as expressly provided otherwise, every temporary use shall comply with the use regulations applicable in the district in which such temporary use is located.

(6) Every temporary use shall comply with any such other conditions as may be imposed by the Director of Planning and Zoning and/or Building Commissioner designed to be reasonably necessary to achieve the purposes of this section or to protect the public health, safety, and general welfare.

(7) Temporary uses regulated by this section that were in operation or existence on a premises on August 12, 2013 (the "temporary use grandfather date") shall be permitted to continue without a permit for a period, starting on the temporary use grandfather date, not to exceed the duration otherwise permitted for such temporary use under this section.

(D) *Temporary uses without permit required.* The temporary uses enumerated in this subsection may be allowed without the requirement of a temporary use permit being obtained, if such uses comply with the regulations of this subsection.

(1) Garage sales (also known as yard sales, moving sales, and the like) may be permitted in any residential district or on a residentially-used property, subject to the following conditions:

(a) Sale merchandise shall be limited to the personal possessions of the owner or occupant of the dwelling unit at which the sale is being conducted. However, one or more owners may conduct a combined garage sale on one of the premises owned by a participant, provided that all other conditions are complied with.

(b) Such use shall be limited to a period not to exceed five consecutive days.

(c) No more than four such sales shall be conducted from the same residence in any calendar year.

(d) Hours of operation shall be limited to dawn to dusk.

(2) Private personal property sales may be permitted in any residential district or on a residentially-used property, subject to the following conditions:

(a) Sale merchandise shall be limited to the personal possessions of the owner or occupant of the dwelling unit at which the sale is being conducted.

(b) No more than three merchandise items shall be offered for sale at any one time.

(c) The duration of sales shall be limited to no more than 30 consecutive days in any 180 day period.

(3) Seasonal retail sales may be permitted in any commercial district, or on a commercially-used property, subject to the following conditions:

(a) An established non-temporary use business shall be in operation on the premises on which the sale/display is located, and such sale/display shall be conducted only by or on behalf of said business.

(b) If located on a parking lot, adequate traffic flow and safe traffic patterns must be maintained.

(c) Sales/displays shall not infringe upon or otherwise interfere with public rights-of-way.

(d) The duration of such use shall be longer than two weeks and not longer than six months.

(4) Contractors' offices, equipment sheds, or construction trailers may be permitted in any district subject to the following conditions:

(a) The use shall be accessory to an active construction project and shall be located on the same lot or within the same section of the subdivision under construction.

(b) Such use shall be limited to a period not to exceed the duration of the active construction phase of such project.

(5) Tents may be erected in conjunction with any permitted temporary, permanent, or accessory use, subject to the following conditions:

(a) The tent shall be erected not more than two days before the start of the permitted temporary use, and shall be removed not more than two days after the conclusion of the permitted temporary use.

(b) A building permit may be required to be obtained.

(6) Portable classrooms may be placed on any public school property, subject to obtaining any required building permit(s).

(7) Charity collection points (e.g. collection kettles, donation bins, and the like) may be allowed, subject to the following conditions:

(a) The use shall be limited to a period not to exceed 60 consecutive days in any 180-day period.

(b) The location of the use shall not interfere with pedestrian or vehicular movement on the premises.

(8) Storage containers may be permitted in any district for a period not to exceed 14 days.

(9) Charity carwashes may be allowed, provided that the use is sponsored by, or directly benefits, a non-profit organization located within Johnson County, and that the use does not adversely affect public right-of-way.

(10) Other similar temporary uses may be permitted in any district provided that in the opinion of the Director of Planning and Zoning or the Building Commissioner the use is consistent with the purpose and intent of this section and for the district in which it is proposed to be located.

(E) *Temporary uses with permit required.* The temporary uses listed in this division may be allowed upon issuance of a temporary use permit from the Planning and Zoning Department.

(1) Transient retail sales may be permitted in any commercial district, subject to the following conditions:

- (a) Written permission of the property owner shall be required.
- (b) A valid Registered Retail Merchants Certificate for the business conducting the sale shall be required.
- (c) No part of such operation shall be less than 100 feet from the edge of pavement of any public street.
- (d) The duration of such use shall be limited to three consecutive days in any 180-day period.
- (e) No solicitation shall occur, except in accordance with Chapter 112.

(2) Temporary fireworks sales may be permitted in any C-2 district, subject to the following conditions:

- (a) Such use shall be limited to a period not to exceed 60 days.
- (b) Such use shall provide adequate customer parking, traffic access, and the absence of an adverse impact on other properties.

(c) No more than one temporary use permit for the sale of fireworks shall be issued per site within any calendar year.

(3) Christmas/holiday tree sales may be permitted in any non-residential district or on the property of any public school or nonprofit organization, subject to the following conditions:

- (a) Such use shall be limited to a period not to exceed 45 days.
- (b) Such use shall conclude no later than December 31 of the permit year.
- (c) Such use shall provide adequate customer parking, traffic access, and the absence of an adverse impact on other properties.
- (d) Not more than one temporary trailer or structure shall be permitted to be located as part of the use.
- (e) Lighting, if any, shall not adversely affect adjacent properties or rights-of-way.

(4) Farmers' markets may be permitted in any non-residential district, subject to the following conditions:

- (a) Restrictions on duration and hours shall be imposed based on the location of the market and its effect on surrounding streets and properties.
- (b) Markets may recur throughout the year under one permit.
- (c) All farmers' markets shall have a Market Manager authorized to direct the operations of all vendors participating in the market on the site of the market during all hours of operation.
- (d) Public property or right-of-way may be utilized for such use, dependent on obtaining a right-of-way permit and/or other required approvals.

(5) Auctions and estate sales may be permitted in any district, subject to the following conditions:

- (a) A plan for adequate parking and traffic control shall be required. On-street parking may be allowed with approval by the Town Marshal.
- (b) Restrictions on hours shall be imposed based on the location of the auction and its effect on surrounding streets and properties.
- (c) Notification of surrounding property owners prior to the date of the event may be required as a condition of the temporary use permit.
- (d) The duration of the use shall not exceed three consecutive days.

(6) Real estate offices (e.g. model homes, sales trailers, model units) maybe permitted in any district, subject to the following conditions:

- (a) The use shall be accessory to an active new development and shall not be commenced prior to final plat approval by the Plan Commission. No building permits for permanent structures shall be issued prior to final plat recordation.
- (b) Such use shall not also be used as a dwelling unit.

(c) Such use shall be limited to the duration of the active selling or leasing of lots, units, or space in such development or phase of a subdivision, and to activities related to the development in which such office is located.

(d) No such use shall be used as a general office for business beyond the active selling or leasing of lots, units, or space.

(e) An Improvement location permit/building permit may also be required.

(7) Storage containers may be allowed with a permit in any non-residential district for a period exceeding 14 days, subject to the following conditions:

(a) No containers shall be placed within the front setback.

(b) No materials shall be stored on top of any container.

(c) Permits for storage containers located in non-industrial districts shall be limited to one non-renewable permit not to exceed one year in duration. No permit shall be required for storage containers located in industrial districts.

(d) The storage or placement of empty containers for lease or sale on a property that permits such use is not regulated as a temporary use.

(8) Concerts.

(9) Fairs and festivals.

(10) Circuses and carnivals.

(11) Temporary uses listed in division (D) that do not comply with the regulations of that division, with conditions to be imposed by the Director of Planning and Zoning or the Building Commissioner to ensure that the purpose and intent of this section are maintained.

(12) Other similar temporary uses may be permitted in any district provided that in the opinion of the Director of Planning and Zoning or the Building Commissioner the use is consistent with the purpose and intent of this section and for the district in which it is proposed to be located.

(F) *Prohibited temporary uses.* The following temporary uses are prohibited.

(1) Temporary outdoor gun, rifle, or firearm shooting ranges.

(2) Sexually-oriented businesses.

(3) Sales or displays of materials that are of obscene, pornographic, or immoral character.

(Ord. 2013-08, passed 8-12-13)

PLANNED UNIT DEVELOPMENTS

§ 156.300 PLANNED UNIT DEVELOPMENTS.

(A) *Purpose and intent.* As provided for by IC 36-7-4-1500 et seq., the purpose of these regulations is to allow greater design flexibility in development of land while remaining consistent with the goals of the Comprehensive Plan. The regulations are intended to encourage developments that are innovative and/or responsive to unique opportunities or constraints of a site. Planned unit developments should be used to address unique environmental aspects, provide a mix of land uses, or otherwise better implement the goals of the Comprehensive Plan than what could be accomplished with established zoning districts. Planned unit developments should be avoided where the proposed development could be achieved using a combination of established zoning districts.

(B) *Uses allowed.*

(1) All uses are subject to the discretion and approval of the Plan Commission and Council during the adoption of a planned unit development (PUD). Uses must be compatible with the intent of the Comprehensive Plan and surrounding existing and future land uses.

(2) Permitted and special exception uses shall be specified in the PUD proposal. Special exception uses should be minimized.

(C) *Development standards.*

(1) Development standards and requirements shall be stated as part of a planned unit development proposal. All proposed development standards shall be subject to review and approval of the Plan Commission and Council during the approval process.

(2) Generally, PUD proposals may provide standards in place of lot or development standards stated in this chapter; sign development standards stated in Chapter 153, the Sign Code; and standards in Chapter 154, the Subdivision Control.

(3) No PUD proposal shall reduce the restrictions of Chapter 151, Flood Damage Prevention.

(4) Minimum land area. In order to encourage innovative design in a variety of scales, there is no minimum land area

required for a PUD.

(5) Minimum open space.

(a) In recognition that innovative designs, particularly those proposing town center plans, may require flexibility in the amount of open space provided in the development, there is no minimum open space required.

(b) However, proposals with less than 20% of the gross area dedicated as open space must detail the design elements that justify lower amounts of open space.

(6) Development standards that are not specified in the PUD shall revert to the standards of the closest comparable established zoning district.

(D) *Origin of proposals.*

(1) An applicant may propose a planned unit development district in accordance with the procedures established in this section.

(2) The applicant must be the land owner(s) or intended developer of the development.

(3) The area proposed for a PUD may or may not be under single ownership. If under multiple ownership, the owners must have a contractual agreement to develop the property in accordance with the unified plan stipulated in the PUD and to assure the completion of the PUD as planned and to the satisfaction of the Plan Commission.

(E) *Limitation on zoning ordinance amendments.*

(1) Any amendment of the zoning ordinance that would affect an approved planned unit development prior to its completion shall not be applied to the PUD.

(2) New amendments to the zoning ordinance shall only apply to PUDs that have expired or that have been completely developed.

(F) *Procedures for approval.* Application shall be accompanied by all plans and documents required by this code and by the planning staff. A three-step application process shall be used: pre-design conference, concept plan approval, and PUD master plan approval.

(G) *Pre-design conference.* Prior to filing a formal application for approval of a planned unit development, the applicant shall schedule a pre-design conference with the planning staff. The purposes of this conference shall be:

(1) To allow the applicant to present a general concept and to discuss characteristics of the proposed development; and

(2) To allow the planning staff to inform the applicant of applicable policies, standards, and procedures.

(3) This pre-design conference is for informational purposes only, and no decision made during the conference is binding upon either party or upon the Plan Commission.

(4) There is no limit to the number of pre-design meetings requested by the applicant, if the meetings serve to advance the design and planning of the proposal.

(H) *Concept plan approval.*

(1) An application for planned unit development, the PUD concept plan, written development standards, other documentation, and filing fee shall be submitted to the planning staff by the application deadline indicated on the Plan Commission calendar. Written development standards shall include, at a minimum, standards for the following:

(a) Lot size(s);

(b) Height;

(c) Density or intensity;

(d) Setbacks;

(e) Floor area;

(f) Open space;

(g) Permitted uses;

(h) Any other relevant development standard, as determined by the planning staff. The planning staff shall confirm the application to be complete and ready for review by the Technical Review Committee.

(2) The planning staff and the Technical Review Committee shall review the proposal and prepare comments and recommendations.

(3) The application, TRC comments, planning staff report, and other pertinent documents shall be forwarded to the Plan Commission for its consideration, public hearing, and recommendation.

(4) The Plan Commission shall hold a public hearing on the application in accordance with its Rules of Procedure.

(5) After the public hearing and review of the application, the Plan Commission shall certify the application to the Town Council with a favorable recommendation, an unfavorable recommendation, or no recommendation.

(6) The Town Council shall act upon the certified proposal as in the case of any rezoning petition.

(7) Upon Council approval of the PUD concept plan, the PUD zoning shall become effective and shown on the zoning map designated as a planned unit development. After approval, the use and development of the site shall be governed by the planned unit development concept plan, subject to the approval of a PUD master plan. No permit of any kind shall be issued in the PUD district until a PUD master plan has been approved.

(I) *Planned unit development master plan approval.* The purpose of the PUD master plan is to set the specific regulations for development of the planned unit development. The PUD master plan shall show the exact location of each building and improvement to be constructed and a designation of the specific internal use(s) within each building. The PUD master plan shall conform to the approved PUD concept plan.

(1) The PUD master plan and supporting data shall be submitted to the planning staff.

(2) The planning staff and the Technical Review Committee shall review the proposed master plan in accordance with §156.206, Development Plans.

(3) The master plan shall be reviewed by the Plan Commission at a public hearing in accordance with its Rules of Procedure. The Commission may approve, deny, or approve with conditions the application.

(4) No permit of any kind shall be issued within a planned unit development unless in accordance with the approved PUD master plan.

(J) *PUD plan content requirements.* Planned unit development PUD plans shall include all documentation listed in this section of the zoning ordinance, unless certain documentation is deemed superfluous or irrelevant by the planning staff due to specific circumstances of the particular request.

(1) *Pre-design conference plans.*

(a) A letter of intent from the applicant setting forth the applicant's intention for developing the site, including at least the proposed uses and a draft of development standards.

(b) A scale sketch drawing of the site showing the proposed location and extent of land uses, major streets, and other significant proposed improvements, and the approximate location of all existing natural features, topographic or geologic constraints, and easements and rights-of-way.

(2) *PUD concept plans.*

(a) A drawing of the planned unit development shall be submitted at a scale appropriate to the size of the proposed development. The drawing shall show in concept the major circulation pattern, general location and dimension of buildings, structures, parking areas and other improvements, recreation facilities, stormwater facilities, and other details to indicate the character of the proposed development. The submission shall include at least:

1. Site location map;
2. The proposed name of the development and "Concept Plan" title;
3. Boundary lines and acreage of each component land use;
4. Projected phasing of the PUD;
5. Existing easements, including location, width, and purpose;
6. Existing land use(s) on abutting properties;
7. Other conditions on adjoining property: topography, use and location of major buildings, railroads, power lines, name of any subdivision plats, etc.;
8. Existing streets on and adjacent to the site, including street name, right-of-way width, walks, curbs, gutters, and culverts;
9. Proposed major streets and other major public improvements;
10. Streets and other major improvements planned by the public for future construction on or adjacent to the site;
11. Existing utilities on the site;
12. Other conditions on the site, including water courses, wetlands, wooded areas, isolated trees six inches or greater in diameter, existing structures, and other significant features;
13. Existing vegetation to be preserved and location and general nature and purpose of proposed landscaping;
14. Map data, such as north arrow, scale, date of preparation, and contact information.

(b) Written statement of the planned unit development character. This statement shall include an explanation of the character of the proposed PUD and the reasons why it has been designed to take advantage of the flexibility of these regulations. The written statement shall be the proposed draft PUD ordinance, and shall include:

1. A statement of purpose of the PUD;
2. A specific explanation of how the proposed PUD meets the objectives of all adopted land use policies that affect the site, and how the PUD better meets these objectives than established zoning districts;
3. A statement of present and proposed ownership of the land within the project;
4. Proposed development schedule, including detailed phasing and projected dates of completion of each phase. Projected phase details shall include land area, use, density/intensity, and public facilities to be developed with each proposed stage;
5. Proposed permitted land uses and development standards for each use;
6. Architectural concepts for each proposed use, described by narrative, sketch/rendering, or representative photo;
7. Facilities reports. Concepts and feasibility plans for roads, sidewalks, sanitary sewers, stormwater management, water supply, street lighting, and other utilities.

(c) Traffic impact analysis, if requested by planning staff or the Plan Commission.

(d) Notification of public hearing, as required by the Plan Commission Rules of Procedure. Additionally, notices shall include a reduced copy of the proposed concept plan and a copy of the proposed uses/development standards section of the proposal.

(e) Miscellaneous materials that the planning staff deems necessary to adequately review the proposal. Staff shall notify the applicant of such requirements after the pre-design meeting.

(3) *PUD master plans.*

(a) Any additional materials or information as may have been required by or during the concept plan approval.

(b) An accurate plan of the entire phase for which PUD master plan approval is being requested that complies with the requirements of § 156.206, Development Plans. Single-family residential development on individual lots need not show precise locations of buildings on each lot, but shall show setbacks and other bulk constraints.

(c) If land is to be subdivided concurrently with PUD master plan approval, a subdivision preliminary plat meeting the requirements of the concept plan and Chapter 154 of this code.

(d) Projected construction schedule.

(e) Agreements and covenants that govern the use, maintenance, and continued protection of the planned unit development and its common spaces, shared facilities, and private roads (if any).

(K) *PUD review considerations.* When considering a planned unit development concept plan, the planning staff in its report to the Plan Commission, the Plan Commission in its recommendation to Town Council, and the Town Council in its decision shall consider as many of the following as may be relevant to the specific proposal:

(1) The extent to which the proposed PUD meets the purposes of the zoning ordinance, the Comprehensive Plan, and any other adopted planning objectives of the town.

(2) The extent to which the proposed plan meets the requirements, standards, and stated purpose of the planned unit development regulations.

(3) The extent to which the proposed plan departs from the established zoning and subdivision regulations otherwise applicable to the subject property, and the reasons why such departures are or are not deemed to be in the public interest.

(4) The proposal will not be injurious to the public health, safety, and general welfare.

(5) The physical design of the PUD and the extent to which it makes adequate provision for public services, provides adequate control over vehicular traffic, provides for and protects designated permanent open space, and furthers the amenities of light and air, recreation, and visual enjoyment.

(6) The relationship and compatibility of the proposed plan to the adjacent properties and neighborhood, and whether the proposed plan would substantially interfere with the use or adversely affect the value of adjacent properties and neighborhoods..

(7) The desirability of the proposed plan to the town's physical development, tax base, and economic well-being.

(8) The proposal will not cause undue traffic congestion nor place excessive burdens on public infrastructure, and can be adequately served by existing or planned public facilities and services.

(9) The proposal preserves significant ecological, natural, historical, and architectural resources to the best extent possible.

(L) *Modifications.*

(1) Changes requiring new concept plan approval by the Town Council. Modifications that alter the concept or intent of the planned unit development, including, but not limited to:

- (a) Significant changes in the proportion or allocation of land uses;
- (b) Changes in the list of uses;
- (c) Changes in the location of uses;
- (d) Changes in functional uses of open spaces, where such change significantly alters the intensity of the open space use; and/or
- (e) Changes in the final governing agreements where such changes conflict with the approved concept plan.

(2) Changes requiring new PUD master plan approval by the Plan Commission. Modifications that constitute major changes from the approved PUD master plan, including, but not limited to:

- (a) Changes in site design requirements, such as location of required landscaping, signage, building height, bulk, or footprint, or other such requirements;
- (b) Increases in the number and/or size of signs;
- (c) Reduction in landscaping;
- (d) Alteration of the number of parking spaces or setbacks by 5% or more;
- (e) Increase in building square footage or height of 10% or more;
- (f) Changes in density by 10% or more;
- (g) Changes to the internal street system or off-street parking areas that the planning staff considers significant;
- (h) Significant changes in drainage management structures, as determined by the MS4 Coordinator;
- (i) Changes in access to the site, where such change results in an increase of intensity of traffic patterns on or off the site; and/or
- (j) All other changes not expressly addressed under division (L)(1) above shall require new PUD master plan approval by the Plan Commission.

(3) Minor changes to approved PUD master plan may be approved by the planning staff. The staff may defer approval to the Plan Commission if it is deemed to be in the best interest of the community. Decisions of the staff may be appealed to the Plan Commission. Minor modifications shall include, but are not limited to:

- (a) Changes in lot arrangements that are not detrimental to the proposed thoroughfare pattern of development;
- (b) Substitution of plants in landscaping plans that are deemed to be equivalent to those shown in the approved PUD master plan;
- (c) Changes in the number of parking spaces or size of setbacks by less than 5%;
- (d) Increases in building square footage or height by less than 10%;
- (e) Addition of buildable lots that result in a density increase of less than 10%;
- (f) Changes to the internal street system or off-street parking areas that the planning staff considers minor;
- (g) Minor changes in drainage management facilities, as determined by the MS4 Coordinator; and/or
- (h) Changes in access to the site, where such change does not result in an increase of intensity of traffic patterns.

(M) *Expiration, extensions, rezoning.*

(1) *Expiration or abandonment.*

- (a) If a planned unit development concept plan establishes its own development and construction schedule, then the PUD concept plan shall expire according to that schedule.
- (b) A planned unit development concept plan shall expire if a PUD master plan application is not submitted within two years after the Town Council approval of the PUD concept plan.
- (c) A planned unit development concept plan shall also be considered expired if a PUD master plan or a secondary plat has not been submitted within three years of a previous PUD master plan approval or a secondary plat approval.
- (d) A planned unit development master plan shall expire if a primary plat based on the PUD master plan is not submitted within two years after the Plan Commission approval of the PUD master plan. If the approved primary plat expires, the PUD master plan shall expire at the same time.
- (e) Expired PUD master plans cannot be reinstated and must be formally resubmitted.

(2) *Extensions.*

(a) The planning staff shall periodically report to the Plan Commission on planned unit development concept plans that have expired time limits. The developer, applicant, and/or property owner of the PUD site shall be notified of the expiration.

(b) The Plan Commission shall determine whether to extend the time limit for the expired PUD, or to initiate a zoning map amendment so as to rescind the PUD zoning designation.

(c) Extensions are at the discretion of the Plan Commission and shall be considered based on the requirements of division (K) above.

(d) No PUD master plan shall be considered for approval under an expired PUD concept plan unless the concept plan is formally extended by the Plan Commission.

(e) An extension denial for any planned unit development concept plan shall be equivalent to a major modification to the concept plan and shall require reapproval of the concept plan by the Plan Commission and Town Council.

(3) *Rezoning authority.*

(a) A planned unit development site may be rezoned to an established zoning district (or districts) by the applicant.

(b) The Plan Commission or Town Council may initiate zoning map amendments for any expired planned unit development for which an extension has not been granted.

(c) The Plan Commission or Town Council may initiate zoning map amendments for any PUD that has been completely developed. Such amendment should duly consider the uses, development standards, and other provisions of the PUD plans prior to be approved.

(N) *Fees.* Fees shall be charged by the town for review, inspection and analysis of planned unit development petitions, as listed in the Schedule of Fees set forth in § 10.97 of this code.

(Ord. 2013-01, passed 2-11-13)

SIGNS

§ 156.400 GENERALLY.

(A) *Purpose and title.*

(1) *Purpose.* The purpose and intent of this section is to further the goals of the Comprehensive Plan; avoid the proliferation of signage; encourage signs to be compatible with the scale of buildings and the surrounding features; maintain and enhance the aesthetic environment of the town; eliminate potential hazards to motorists and pedestrians that result from signs; and promote the health, safety, and public welfare of the town.

(2) *Title.* This section shall be known as the Sign Code of the town and may be so cited and pleaded.

(B) *General standards.* Except as otherwise provided in this section, it shall be unlawful for any person to erect, construct, enlarge, move, or convert any sign within the town, or cause the same to be done without first obtaining a sign permit. The following general sign standards apply to all signs within the town.

(1) *Determining sign area and dimensions.*

(a) Generally, the area of a sign shall be calculated as the area used to display the sign message, not inclusive of supporting structures which do not display any message.

(b) For wall signs that are framed, outlined, painted, or otherwise prepared and intended to provide a background for a sign display, the area and dimensions shall include the entire portion within such background or frame.

(c) For wall signs comprised of individual letters, figures, or elements on a wall or similar surface of the building or structure, the area and dimensions of the sign shall encompass a regular geometric shape (rectangle, circle, trapezoid, triangle, etc.), or a combination of regular geometric shapes, which form, or approximate, the perimeter of all elements in the display, the frame, and any applied background that is not part of the architecture of the building. When separate elements are organized to form one single sign, but are separated by open space, the sign area and dimensions shall be calculated by determining the geometric form, or combination of forms, which comprises all of the display areas, including the space between different elements. Minor appendages to a particular regular shape, as determined by the Planning Director, shall not be included in the total area of a sign.

(d) For freestanding signs, the sign area shall include the frame, if any, but shall not include:

1. A pole or other structural support unless such pole or support is internally illuminated or otherwise so designed to constitute a display device.

2. Architectural features that are either part of the building or part of a freestanding structure, and not an integral part of the sign, and which may consist of landscaping, building, or structural forms complementing the site in general.

(e) When two identical sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and are part of the same sign structure, the sign area shall be computed as the measurement of one of the two faces. When the sign has more than two display surfaces, the area of the sign shall be the area of largest display surfaces that are visible from any single direction.

(f) The area of a changeable copy sign face shall be included in calculating total sign area.

(2) *Determining sign height and clearance.*

(a) The height of a freestanding sign shall be measured from the base of the sign or supportive structure at its point of attachment to the ground, to the highest point of the sign. A freestanding sign on a man-made base, for example a graded earth mound, shall be measured from the grade of the nearest pavement or pavement curb.

(b) Clearance under freestanding and projecting signs shall be measured as the smallest vertical distance between finished grade and the lowest point of the sign, including any framework or ornamentations.

(3) *Determining frontages and wall area.*

(a) Building frontage shall be the length of the elevation(s) facing a public street, facing a primary parking area, or containing the public entrance(s) to the building.

(b) Building unit frontage shall be measured from the centerline of the party walls defining the tenant space.

(c) Lot frontage shall be the length of the public right-of-way adjacent to the lot.

(d) Wall area shall be the area of the facade on which the sign is placed, up to the eave line or cornice, and not including any roof area. Wall area shall include any windows, doors, or other openings.

(4) *Inspection.* Signs for which a permit is required may be inspected periodically by the Planning Director for compliance with this section.

(5) *Removal of signs.* The Planning Director may order the removal of any sign erected or maintained in violation of this section, at the cost of the property owner, consistent with the provisions of division (I).

(6) *Maintenance.* All signs and their components shall be kept in good repair and in safe, neat, clean, and structurally sound condition.

(7) *Abandoned signs.* A sign structure, inclusive of all poles, frames, supports, and other structural, electrical, mechanical, and other components, shall be removed by the property owner if the sign is unused for a period of 12 months or longer. Designated historic signs are exempt from this requirement.

(8) *Illumination.* All illuminated signs shall meet the following standards:

(a) Illuminated signs shall meet the standards as specified in the National Electric Code.

(b) All illuminating elements shall be kept in satisfactory working condition or immediately repaired or replaced. Signs that are only partially illuminated shall meet all electrical requirements for that portion directly illuminated. All electrical wiring shall be in conduit and not exposed to the elements or external street in any way. All electrical signs shall have a disconnecting switch located in a readily accessible place.

(c) Neither the direct nor reflected light from a light source shall create a traffic hazard to motor vehicle operators.

(d) The light from any illuminated sign shall be so shaded, shielded, or directed that the light intensity or brightness shall not exceed 0.3 foot-candle at the property line upon any adjoining property located in a residentially zoned district or above 0.5 foot-candle upon any adjoining non-residential property.

(9) *Trademarks.* This sign code shall not require alterations to federally-registered trademarks.

(10) *Hazardous signs.* Signs, by their location, size, height, or other elements shall not create a hazardous condition to vehicular traffic or pedestrians, on or off the premises, nor to any surrounding properties. Signs shall conform to the sight visibility standards of § 156.230.

(11) *Historic signs.* A sign may be designated as a historic sign by the Plan Commission. As a historic sign, the cultural significance of the sign can be more important than strict application of the sign code, and so the historic designation may be used to preserve those signs. The Plan Commission, upon written request, shall determine if a sign is to be designated a historic sign, and any conditions of the designation.

(12) *Interim banners.* Upon issuance of a permit for a permanent sign, one banner may be installed as an interim sign until the permanent sign is installed. Such banner shall conform to the size and location requirements for temporary signs. The maximum duration for an interim banner shall be 90 days.

(C) *Exempt signs.* The following signs are exempt from the provisions of this sign code and no permit shall be required, if the sign is in compliance with the conditions specified below.

(1) *Integral identification features.* Names of buildings, date of construction, monumental citations, commemorative tablets, and the like, when carved into stone, concrete, or similar material or made of bronze, aluminum, or other permanent type construction and made an integral part of the structure.

(2) *Public and quasi-public signs.* Public signs erected by or on the order of public officer(s) in the performance of public duty, such as signs to promote safety, no trespassing, or traffic signs; memorial plaques; address numbers; signs of historical interest; and signs directing people to public facilities.

(3) *Utility and emergency signs.* Utility marker signs, emergency signs, public safety signs, and the like, installed by public agencies or utilities, unless such signs are determined to be a hazard by the Planning Director.

(4) *Real estate signs.* Real estate signs located on the property for sale or lease, provided they are not located in the right-of-way or sight visibility triangle, are a maximum of eight feet in height, do not exceed more than one per property or two per corner lot, and do not exceed six square feet per sign in the residential and apartment zoning districts, and 32 square feet per sign in all other zoning districts, unless such signs are determined to be a hazard by the Planning Director.

(5) *Interior signs.* Signs located on the interior of buildings, courts, athletic fields, fences, or other structures which are not intended to be seen from the exterior of said buildings or structures. In addition, exterior signs, which by their size and/or placement, are intended to be seen only by users or occupants of the property and are not reasonably legible from adjacent properties or public rights-of-way.

(6) *Holiday decorations.* Holiday decorations and displays, provided they are not located in a public right-of-way, are displayed no more than 30 days before the holiday, and are removed within 30 days after the holiday. Holiday displays that cause hazardous traffic conditions may have reasonable conditions imposed by the Town Marshal or the Planning Director.

(7) *Construction/contractor signs.* Signs posted on a construction site or a site for which a contractor is performing work, provided they are not located in a public right-of-way, are setback a minimum of ten feet from any public right-of-way, do not exceed more than two per property, do not exceed six square feet in area per sign in residential zoning districts or 32 square feet in area per sign in all other zoning districts, and are removed upon completion of construction or contractor activity.

(8) *Directional signs.* On-premises vehicle directional signs, provided they are not more than four feet in height and six square feet in area. They shall be setback a minimum of two feet from any public right-of-way, and shall comply with the site triangle requirement of § 156.230. Such signs shall be located and installed so as to not present a hazard to pedestrians or traffic entering or leaving the premises.

(9) *Social or charitable organization directional signs.* Off-site signs indicating the names and locations of churches, charitable organizations, and community service organizations, provided that the sign area not exceed four square feet, be located at least ten feet from the public right-of-way, and be no less than 500 feet from any other sign in this category.

(10) *Pennants and flags.* Pennants and flags, provided that they are not located in or encroach upon the public right-of-way. Flag poles located in residential districts shall not exceed the maximum building height set forth by the zoning district.

(11) *Antique signs.* Signs that exceed 40 years in age, or replicas thereof, used solely for aesthetic and/or educational purposes, and not primarily for advertising or identification of a property, business, organization, or product.

(12) *Murals.* A work of art, including a hand-painted, hand-tiled, or printed image on the exterior wall of a building which does not contain a message advertising a business conducted, service rendered, event scheduled, political issue, goods produced or sold, or other commercial message. A label indicating only the name and logo of a sponsoring business (or businesses) may be displayed, not to exceed two square feet in area or 5% of the overall mural area, whichever is greater.

(13) *Signs on vehicles.* Signs painted on or attached directly to the original body of the vehicle and that do not project or extend beyond the original manufactured body proper of the vehicle, provided that the vehicle is operable, used in conducting business (e.g. deliveries, sales calls, employee transportation), and regularly moved off the property. Signs on vehicles parked on the business property while off-duty, vehicles parked for the purpose of lawfully making deliveries or random sales or service, vehicles which are customarily used for transporting persons or properties, and vehicles parked at a driver's place of residence during non-business hours or for incidental purposes are also exempt. Signs on vehicles used primarily for the purpose of displaying the sign are prohibited in division (H).

(14) *Window signs.* Permanent window signs shall not exceed 25% of the area of any one window, and the total area of all window signs, including both permanent and temporary, shall not exceed 75% of the window area.

(15) *Weekend signs.* Signs erected after 5:30 p.m. on Fridays and removed before 7:30 a.m. on Mondays, provided that they do not exceed six square feet in area, do not encroach on street pavement nor sidewalks (notwithstanding division (H)(7) below), and are not illuminated.

(16) *General signs, non-commercial/non-profit.* Non-commercial or non-profit general signs, provided that they do not exceed four square feet in area, four feet in height, are not located in the public right-of-way, and are a minimum of five feet from any side or rear property line. In no case shall mounding or other terrain alterations be used to increase the height of signs.

(D) Development standards for non-residential signs. These standards apply to all zoning districts except residential and agricultural districts.

(1) See Table 1: Standards for non-residential permanent signs.

(2) *Additional standards.*

(a) Building signs shall not extend higher than the building eave line, cornice, or parapet.

(b) *Multi-tenant signs.*

1. The sign shall indicate only the name and address of the development and the names of tenants.
2. No other freestanding signs shall be permitted, except for developments with more than one street frontage. In such case, the Plan Commission may permit no more than one additional multi-tenant or other freestanding sign.

(c) *Major development signs.*

1. The sign shall indicate only the name, location, and information about the park itself. Products or services shall not be advertised.
2. The sign shall be located within the park development area, unless an off-site location is approved by the Plan Commission.
3. The sign shall be no less than 500 feet from any residential zone and any other off-premises sign.

Table 1: Standards for Non-Residential Permanent Signs					
Zoning district	C-1	C-2	B-1	I-1	L-1
Table 1: Standards for Non-Residential Permanent Signs					
Zoning district	C-1	C-2	B-1	I-1	L-1
Freestanding signs					
Pole/pylon					
Height (max.)	35 feet (minimum nine-foot clearance from grade)	35 feet (minimum nine-foot clearance from grade)	Not permitted	35 feet (minimum nine-foot clearance from grade)	35 feet (minimum nine-foot clearance from grade)
Area (max.)	100 sq. ft.	100 sq. ft.		100 sq. ft.	100 sq. ft.
Setback (min.)	Ten feet from R/W*	Ten feet from R/W*		Ten feet from R/W*	Ten feet from R/W*
Number (max.)	One	One		One	One
Ground					
Height	Four feet (six-foot sign structure)	Four feet (six-foot sign structure)	Four feet (six-foot sign structure)	Four feet (six-foot sign structure)	Four feet (six-foot sign structure)
Area	100 sq. ft.	100 sq. ft.	100 sq. ft.	100 sq. ft.	100 sq. ft.
Setback	Ten feet from R/W*	Ten feet from R/W*	Five feet from R/W*	Ten feet from R/W*	Ten feet from R/W*
Number	One	One	One	One	One
Shingle					
Height	Not permitted	Not permitted	Six feet	Not permitted	Not permitted
Area			20 sq. ft. max.		
Setback			Five feet from R/W		
Major development or multi-tenant					
Height	35 feet (minimum nine-foot clearance from grade)	35 feet (minimum nine-foot clearance from grade)	Not permitted	35 feet (minimum nine-foot clearance from grade)	Not permitted
Area	200 sq. ft.	200 sq. ft.		200 sq. ft.	
Setback	Ten feet	Ten feet		Ten feet	
Number	One	One		One	

Building signs					
Wall signs					
Area				200 sq. ft. (max.)	200 sq. ft. (max.)
Wall area	20% (max.)	20% (max.)	20% (max.)		
Awning signs	50% (max.) of the awning area; counted against wall area	50% (max.) of the awning area; counted against wall area	50% (max.) of the awning area; counted against wall area	50% (max.) of the awning area; counted against wall area	50% (max.) of the awning area; counted against wall area
Area					
Projecting signs					
Area	40 sq. ft.	Not permitted	40 sq. ft.	Not permitted	Not permitted
Number	One		One		
Clearance	Bottom of sign must be no less than nine feet from grade		Bottom of sign must be no less than nine feet from grade		

Note: These standards do not apply to billboards. Billboard standards are defined in division (G).

* When the principal structure where a sign is located is set back less than 25 feet from the R/W, the sign setback from R/W is reduced to five feet.

(3) *Additional standards for changeable copy signs.*

(a) Changeable copy by non-electronic means may be utilized as part of any permitted sign. No more than one Electronic Message Center (EMC) sign shall be permitted per property or development or building.

(b) See Table 2: Standards for Electronic Message Center signs.

(c) Except where unlimited motion is permitted, electronic message displays shall display static foreground images or text for the message hold time interval listed in Table 2. Static foreground images or text may be accompanied by the display background animation, as defined in this section.

(d) Where unlimited motion is permitted, an animation, animated message, or a sequence of animations shall not exceed eight seconds in length.

(e) All EMCs are required to have automatic dimming capability that adjusts the sign brightness in relation to the ambient light at all times.

(f) EMC sign brightness shall be no more than 0.3 foot-candles above the ambient light, as measured at a distance determined by the formula:

(g) $Measurement\ distance = \sqrt{\frac{area\ of\ EMC\ sign\ (in\ sq.\ ft.)}{100}}$. Certification of compliance to this standard shall be submitted to Planning Director at the time of sign installation.

Ongoing compliance may be measured in accordance with the town's operational policies and procedures.

(h) Transition effects are permitted between messages, except those with the effect of flashing.

(i) Transition effects, messages, displays, and background animation which cause any portion of the sign to flash or appear to flash are prohibited.

Table 2: Standards for Electronic Message Center Signs					
Zoning district	C-1	C-2	B-1	I-1	L-1
Table 2: Standards for Electronic Message Center Signs					
Zoning district	C-1	C-2	B-1	I-1	L-1

Freestanding signs					
Pole/pylon, ground, multi-tenant, major development signs					
Permitted	Yes	Yes	Ground signs only	Yes	Yes
Area	< 50% of sign area	< 50% of sign area	< 40% of sign area	< 60% of sign area	< 50% of sign area
Building signs					
Wall signs					
Permitted	Yes	Yes	Yes	Yes	Yes
Area	50 sq. ft. (max.)	50 sq. ft. (max.)	50 sq. ft. (max.)	50 sq. ft. (max.)	50 sq. ft. (max.)
Projecting signs					
Area	< 50% of sign area	N/A	< 50% of sign area	N/A	N/A
Window signs					
Area	Four sq. ft. (max.)	Four sq. ft. (max.)	Four sq. ft. (max.)	Four sq. ft. (max.)	Four sq. ft. (max.)
General standards					
Message hold time	1.5 seconds	1.5 seconds	Unlimited motion	1.5 seconds	1.5 seconds
Message hold time, window times	Unlimited motion	Unlimited motion	Unlimited motion	Unlimited motion	Unlimited motion

Note: These standards do not apply to billboards. Billboard standards are defined in division (G).

(4) *Temporary signs and banners.* In addition to the signs permitted above, one on-premises temporary sign or banner may be permitted per business. A permit shall be required each time a temporary sign or banner is to be used, subject to the following requirements:

- (a) The sign shall not exceed 32 square feet in area. The maximum height shall be eight feet if the sign is oriented vertically, or five feet if the sign is oriented horizontally.
- (b) The sign shall be displayed for a period of 14 consecutive days or less, a maximum of six times per calendar year.
- (c) The sign may be illuminated, in accordance with division (B)(8). EMC signs may be used, in accordance with division (D)(3). In no instance shall any temporary sign use any flashing or blinking lights or any other effect prohibited by this subchapter.
- (d) The sign shall be a minimum of ten feet from any public right-of-way and any adjoining residential property.

(5) *General signs, commercial.* Non-residential properties shall be permitted signs that meet the following standards. No permit shall be required.

- (a) *Dimensions.* No sign shall be greater than four square feet in area and no more than four feet in height. In no case shall mounding or other terrain alterations be used to increase the height of signs.
- (b) *Setback.* No sign shall be located in a public right-of-way. No sign shall be located closer than five feet from a side or rear property line.
- (c) *Number.* General signs of a commercial nature shall be limited to no more than one sign per 50 feet of street or building frontage.

(6) *Grand opening signs.* For any business that, within the previous 60 days, has opened in the town, reopened at a new location within the town, or reopened after a remodeling, the cost of which exceeded 50% of the present assessed value of the property improvements, an on-premises grand opening sign permit may be issued, subject to the following requirements:

(a) *Duration.* Not to exceed nine days.

(b) There shall be no restriction on the number of temporary signs that otherwise conform to the requirements of this section.

(c) Not more than four attractive devices shall be permitted.

(7) *Special event attractive devices.* For any business event, other than grand openings, a permit for an on-premises attractive device may be issued, subject to the following requirements:

(a) *Duration.* Not to exceed nine days.

(b) One permit is required for each attractive device.

(c) Permits may be issued concurrently. Not more than four permits shall be issued for attractive devices per business or location per calendar year.

(8) *Sidewalk signs.* For any business in a structure located within 25 feet of the public street right-of-way line and that fronts a sidewalk with a minimum width of 64 inches, a sign permit may be issued for a sign to be located on the public sidewalk, including sidewalks in the public right-of-way, subject to the following requirements:

(a) *Dimensions.* No sign shall be greater than 24 inches in width, and no less than 24 inches nor more than 30 inches in height. The maximum sign face area shall be five square feet.

(b) *Number.* Not more than one sign per first-floor business.

(c) *Location.* The sign shall be located in front of the business it advertises. No sign shall be located within the Site Visibility Triangle established by § 156.230.

(d) A minimum 40-inch clear path on the sidewalk shall be maintained to permit pedestrian passage.

(e) Sidewalk signs shall be displayed only during public business hours and shall be removed from the sidewalk during closed hours.

(f) Proof of liability insurance naming the Town of Whiteland as a co-insured in an amount of at least \$1,000,000 shall be required with the permit application and shall remain in effect for the permit period.

(g) A permit shall be valid for one year, based on the date of issuance. A permit may be renewed if the business has not received a violation notice for sidewalk signs in the previous year. A permit may be revoked upon violation.

(E) *Development standards for residential signs.* These standards apply to all residential and agricultural zoning districts.

(1) *Identification signs.* In addition to the above, one identification sign not exceeding two square feet in area is permitted on the primary structure. No illumination is permitted. No permit is required.

(2) *Home occupations.* Permitted home occupation uses shall be permitted one square foot of sign area in addition to the identification sign in division (E)(1). No illumination is permitted. No permit is required.

(3) *Temporary signs.* One sign not exceeding 32 square feet in area, and displayed for a period of seven consecutive days or less may be permitted per property, a maximum of six times per calendar year. Required setbacks shall be those of division (E)(1). No illumination is permitted. No permit is required.

(4) *Subdivision/development entry signs.* Two signs are permitted at each entrance to a residential subdivision, apartment complex, or other residential development, subject to the following standards. A permit shall be required.

(a) *Dimensions.* No greater than 32 square feet in area. However, for each additional foot beyond the minimum that the setback is increased, the sign area may be increased by one square foot, up to a maximum of 100 square feet.

(b) *Height.* No sign shall exceed six feet in height. However, retaining walls, decorative buildings, and like structures upon which the sign is installed may exceed this height, provided that the sign itself conforms to this standard.

(c) *Setback.* Minimum ten feet from any public street right-of-way. Signs located in boulevard medians shall require Plan Commission approval.

(d) *Features.* Each entry sign should incorporate design features such as decorative brick or stone, fencing, and/or landscaping.

(e) *Illumination.* Entry signs may be illuminated in accordance with division (B)(8). Internal illumination shall not be permitted.

(5) *Model home signs.* A permit for signs in conjunction with a permitted model home temporary use may be issued, subject to the following requirements:

(a) *Number.* One sign per group of model homes and one sign per model home, located on the same lot as the model home, are permitted.

(b) *Dimensions.* No greater than 32 square feet in area.

(c) *Height.* No sign shall exceed six feet in height.

(d) *Setback.* Group signs shall be a minimum of ten feet from any public street right-of-way. Individual model home signs shall be a minimum of five feet from the right-of-way.

(e) Illumination shall be permitted for only the group sign, in accordance with division (B)(8). Internal illumination shall not be permitted.

(6) *Model home attractive devices.* A permit for attractive devices in conjunction with permitted model homes may be issued, subject to the following requirements:

(a) *Duration.* Not to exceed nine days.

(b) One permit is required for each attractive device.

(c) Permits may be issued concurrently. Not more than four permits shall be issued for attractive devices per group of model homes per calendar year.

(d) One balloon exceeding 24 inches in diameter but no higher than 35 feet may be used per model home without a permit required.

(F) *Development standards for institutional signs.* These standards shall apply to signs in conjunction with institutional uses, notwithstanding the zoning district in which they are located.

(1) *Permanent signs.*

(a) Signs shall meet the requirements for permanent signs in the C-1 zoning district.

(b) Signs shall be set back at least 20 feet from any residential property line.

(2) *Temporary signs and banners.* Temporary signs or banners may be permitted without a sign permit, subject to the following requirements:

(a) *Area.* Signs shall not exceed 32 square feet in area.

(b) *Duration.* A period of seven consecutive days or less may be permitted.

(c) *Number.* Maximum four such signs may be displayed at one time.

(d) *Setback.* No sign shall be located in a public right-of-way. No sign shall be located closer than five feet from a side or rear property line.

(e) No illumination is permitted.

(3) *Special event attractive devices.* A permit for an on-premises attractive device may be issued, subject to the following requirements:

(a) *Duration.* Not to exceed nine days.

(b) One permit is required for each attractive device.

(c) Permits may be issued concurrently. Not more than four permits shall be issued for attractive devices per location per calendar year.

(4) *Sports sponsorship signs.* Banners sponsoring a public or private school's athletic team(s) or sports facilities that face the public right-of-way may be allowed with a permit, subject to the following requirements:

(a) Such banners shall only be affixed to the athletic field's permanent perimeter fencing.

(b) Such banners shall be a maximum of 32 square feet in area and a maximum of five feet in height.

(c) Such banners shall be in place only during the regular school calendar year.

(d) Such banners shall not be lighted other than by a light source for the athletic field when the athletic field is in use.

(e) No more than eight such banners shall be placed on-premises at any one time.

(f) One permit shall be required per athletic field per school year. Such permit application shall include each sponsor name and size of each banner to be installed.

(G) *Billboards.* These standards shall apply to billboards.

(1) Billboard signs shall be permitted in the zoning districts I-1 and L-1, only where the property on which the sign is located abuts an interstate highway and/or federal highway.

(2) Billboard signs shall not be permitted within 1,000 feet of another billboard sign measured from posts of one billboard to the posts which support the second billboard.

(3) The distance between a billboard and residential districts R-1, R-2, R-3, commercial districts C-1 and C-2, apartment district A-1, and business district B-1 shall be no less than 500 feet measured from the post which supports the structure to the zoning district.

(4) Billboards shall be constructed on one steel post and have no more than two advertising faces, which back each other up at an angle not to exceed 60 degrees, and face the opposite direction from the other.

(5) Lighting must be mounted on the catwalk immediately below the bottom of the lowest trim and the lamp shall be 400 watt metal halide with no greater than 125 foot candles at any point beyond the advertising face of the billboard. There shall be no light pollution beyond the advertising face of the billboard.

(6) The maximum size of any billboard sign shall be 672 square feet, as measured from the outer edge of the trim that surrounds the copy area of the billboard.

(7) The maximum overall height of the top of the frame shall be 60 feet. The minimum height to the bottom of the frame shall be 45 feet. The minimum setback from the public right-of-way to any portion of the billboard sign shall be ten feet.

(8) *Electronic message display.* Any billboard using electronic display techniques in whole or in part must meet the following standards:

(a) The full billboard image or any portion thereof must have a minimum duration of seven seconds and must be a static display. No portion of the image may flash, scroll, twirl, change color, in any manner imitate movement, or meet the characteristics of a flashing sign.

(b) Only instantaneous re-pixelization shall be permitted as a transition between messages.

(c) The sign shall not exceed a maximum illumination greater than 0.3 foot-candles above the ambient light, as measured at a distance of 250 feet from the base of the billboard or at the property line of any residential use, whichever is less.

(d) The sign shall have automatic dimming capability that adjusts the sign brightness in relation to the ambient light at all times.

(e) No portion of any billboard may fluctuate in light intensity or use intermittent, strobe, or moving light or light that changes in intensity in sudden transitory bursts, streams, zooms, twinkles, sparkles, or in any manner that creates the illusion of movement.

(f) No portion of any billboard may be used for video or moving pictures display.

(g) The sign shall contain a default design that will freeze the sign in a dark or blank position if a malfunction occurs.

(H) *Prohibited signs.* The following types of signs are expressly prohibited in all zoning districts:

(1) *Animated signs.* Signs that are animated by means of flashing, scintillating, blinking, or traveling lights or any other device or means not providing constant illumination. Electronic message displays are excluded from this clause.

(2) *Emissions.* Signs that emit audible sound, odor, or visible matter are prohibited. The use of any type of pyrotechnics is prohibited. Moving picture projection is prohibited.

(3) Imitation or impairment of official signs and vehicles.

(a) Signs that purport to be or are an imitation of or resemble an official traffic sign or signal, or which bear the words "Stop", "Slow", "Caution", "Danger", "Warning", or similar words.

(b) Signs that may be confused with or construed as a traffic-control sign, signal or device, or a light of an emergency or road equipment vehicle.

(c) Signs that hide from view any official graphic or roadway sign, signal, or device, or that interfere with the sight visibility area, as defined in § 156.230.

(4) *Attractive devices.* Search lights, twirling signs, balloons exceeding 25 feet in height and/or 24 inches in diameter, inflatable objects or figures, fan-blown streamers, and similar devices shall not be used, except as explicitly permitted in this section.

(5) *Vehicle signs.* Signs placed on or attached to vehicles parked on public or private property primarily for the purpose of displaying the sign. Signs on vehicles that are incidental to the vehicle's primary use are exempt by division (C).

(6) *Roof-mounted signs.* Signs that are mounted to the roof of a structure or are mounted to the wall of a structure and extend higher than that wall. Banners are exempted.

(7) *Encroachments.* Signs located in any public right-of-way, including those placed on utility poles or street signs. Signs specifically permitted to be in the right-of-way elsewhere in this sign code and signs approved by the Town of Whiteland are permitted.

(8) *Tasteless signs.* Signs that bear or contain statements, words, or pictures of an obscene, pornographic, immoral character, or which contain advertising that is untruthful or will offend public morals or decency.

(I) *Administration.*

(1) *Permits required.* Except as otherwise provided herein, it shall be unlawful for any person to erect, construct, enlarge, move or convert any sign or change the copy of an existing sign structure within the town or cause the same to be done without first obtaining a sign permit for each sign from the Planning Director. A permit shall not be required for change

of copy of a changeable copy sign or billboard, or for normal maintenance and repair such as painting or cleaning (unless a structural change is involved).

(2) *Permit application.* Application for a permit shall be made to the Planning Director upon a form provided and shall be accompanied by such information as may be required to assure compliance with the laws and regulations of the town.

(a) All signs shall be required to obtain a permit for erection, construction, enlargement or conversion, unless otherwise specified in this code. This requirement shall not be construed as to require a permit for each copy change on a sign that is constructed to facilitate changeable letters or billboard-type signs which are designed and intended for frequent copy changes.

(b) The permit application shall include:

1. Name and address of the property owner of the premises on which the sign is located or is to be located.
2. Name and address of the owner of the sign.
3. Clear and legible drawings with description showing the location of the sign which is the subject of the permit and all other signs whose construction requires permits, when such signs are on the same premises.
4. Drawings showing dimensions, construction, supports, sizes, electrical wiring and components, materials of the sign, method of attachments and character of structural members to which attachment is made. If required by the Planning Director or Building Commissioner, engineering data shall be supplied on plans submitted and certified by a duly licensed engineer.
5. Any individual or company seeking to erect, construct, alter, repair, improve, maintain, convert or manufacture any sign adjacent to or visible from any state or federal roadway shall register, in writing, a statement that they have all necessary licenses and/or approvals from the other affected governmental agencies.
6. Permission in writing from the person in possession or ownership of shopping centers and/or industrial premises shall be supplied as part of the application documentation.
7. A site plan showing the dimensions of the property, the location of all existing structures and the location of the proposed sign.
8. A lease or other appropriate statement demonstrating the consent of the property owner.
9. Detailed construction plans and specifications of the sign structure and the original copy of the sign face.
10. The full sign permit fee.
11. Any other documentation required by this section, or as determined to be necessary by the Planning Director or Plan Commission.

(3) *Sign permit fees.*

(a) A permit fee as specified in §10.97, Schedule of Fees, of the Town of Whiteland Code of Ordinances, shall be required with the sign permit application.

(b) If any sign is erected, placed, installed or otherwise established on any property before obtaining a permit as required herein, the fees specified shall be doubled. Payment of such double fee shall not relieve any person from compliance with other provisions of this chapter and penalties prescribed herein.

(4) *Installation deadlines.*

(a) The erection of the sign shall begin within 90 days of the date of issuance of the permit. One 90-day extension may be granted upon written request of the applicant to the Planning Director, for reasonable cause shown.

(b) A sign permit shall become null and void if the work authorized thereunder has not been started within a period of 90 days following the date of the permit or authorized extension and completed within a reasonable time thereafter.

(5) *Effect of issuance.* No permit for a sign issued hereunder shall be deemed permission or authorization to maintain an unlawful sign, nor shall a permit issued hereunder constitute a defense in an action to abate an unlawful sign.

(6) *Inspection.* Signs may be inspected periodically by the Planning Director for compliance with this and other codes of the town, upon complaint or at random. Inspections on Saturdays, Sundays, and holidays shall not be required.

(7) *Enforcement.* In addition to the penalties of §156.999, the following enforcement actions apply to this section.

- (a) The Planning Director may order the removal of any sign erected or maintained in violation of this chapter.
- (b) Except as otherwise provided below for temporary or portable signs, in the event of a violation, the Planning Director shall give 30-day written notice to the owner of a permanent sign or place notice of such violation on the building, structure, premises or sign in violation to remove the sign or to bring it into compliance.
- (c) The Planning Director shall give a three-day notice for temporary or portable signs in violation of this chapter.
- (d) Snipe signs shall be subject to immediate removal.

(e) The Planning Director or other authorized agents of the town may remove a sign immediately and without notice if the location and/or condition of the sign is such as to present an immediate threat to the safety of the public. Signs for which previous notice(s) of violation have been issued may be removed without additional notice.

(f) Any sign removed pursuant to the provisions of this section shall be held by the town for redemption of the owner. To redeem, the owner shall pay all costs incurred by the town for removal. The cost of removal shall include any and all incidental expenses incurred by the town in connection with the sign's removal. Should said sign not be redeemed within 30 days of its removal, it may be disposed of in an appropriate court action by the town or by assessment against the property, or as otherwise permitted by law. Signs removed from public rights-of-way may be disposed of as collected litter.

(8) *Nonconforming uses and signs.*

(a) All signs shall be kept in good repair, safe, neat, clean and attractive condition. In the event signs are not kept in that condition or are demolished by any force to the extent of 50% of their use, the signs shall conform to this section.

(b) Nonconforming signs which are structurally altered, relocated or replaced shall comply immediately with all provisions of this section. Nothing in this section shall be construed to give a legal status to any sign without a sign permit.

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

ATTRACTIVE DEVICE. A device used primarily to attract the attention of persons located off of the premises on which the device is located. Examples: search lights, inflatable objects or figures, balloons, etc.

BACKGROUND ANIMATION. The appearance of movement on a sign that creates a special effects or scene set in the background of a sign, but where the informational message portion displays static content in the foreground of the sign.

BALLOON. For the purposes of this section, only balloons exceeding 25 feet in height and/or 24 inches in diameter shall be regulated as attractive devices.

BANNER. A temporary sign composed of fabric or lightweight material, secured or mounted so as to allow movement of the sign caused by movement of the atmosphere.

BILLBOARD. A sign used to display information or products which are not located on the same premises as the billboard, regardless of whether or not there is a service fee or rental fee for such a sign.

CONSTRUCTION/CONTRACTOR SIGN. A sign that is placed on a premises by a developer, builder, or contractor to display information about the premises or construction activity. Examples: HVAC/roofing/electrical contractors signs, architect/builder signs, "coming soon" signs, etc.

COPY (PERMANENT or TEMPORARY). The wording or any graphic illustrations on a sign surface either in permanent or removable letter form.

ERECTED. Attached, altered, built, constructed, reconstructed, enlarged or moved. **ERECTED** includes the painting of wall signs and any attached embellishments.

FLAG. A sign made of fabric or other similar non-rigid material supported or anchored along only one edge or supported or anchored at only two corners. If any dimension of the flag is more than three times as long as any other dimension, it is classified and regulated as a banner regardless of how it is anchored or supported. National, state, and local government flags are exempt from this sign code.

INSTITUTIONAL. Directly involved with a social, charitable, community, non-profit, religious and/or educational function, as reasonably determined by the Planning Director.

MAINTAIN or MAINTENANCE. The act of permitting a sign, structure or part of each to continue; to repair or refurbish a sign, structure or part of either.

MARQUEE. A permanent, roof-like shelter extending from part or all of the building face over a right-of-way (sidewalk), public or private, and constructed of some durable material such as metal, glass, plastic or wood.

PENNANT. Any geometric shaped cloth, fabric or other lightweight material normally fastened to a stringer and limited to a maximum sign area of one and one-and-a-half square feet which is secured or tethered so as to allow movement of the sign caused by movement of the atmosphere.

PLANNING DIRECTOR. The Director of Planning and Zoning, the Building Commissioner, and/or their authorized agents.

SIGN. A single or multi-faced structure or device designed for the purpose of informing or attracting the attention of persons not on the premises on which the structure or device is located.

SIGN, ABANDONED. A sign that no longer correctly directs or exhorts any person, advertises a bona fide business, lessor, owner, product or activity conducted or product available on the premises where such sign is displayed.

SIGN, BUSINESS. A sign which directs attention to a business, building, product, activity or service manufactured, sold or offered upon the premises as the primary use where such sign is located.

SIGN, DIRECTIONAL. Signs directing traffic movement onto or within a premises, and directing parking arrangements.

Signs directing to a premises that are not located on the premises are considered off-site directional signs.

SIGN, DISPLAY. A sign that is located on and is incidental to a display of merchandise.

SIGN, ELECTRIC. Any sign containing electric wiring. This includes signs illuminated by an exterior floodlight.

SIGN, FREESTANDING. Any permanent sign that does not use a building for structural support.

SIGN, GENERAL. Signs of miscellaneous nature, typically temporary, of either commercial or noncommercial nature, and generally displaying political speech, announcements, or other content. Does not include identification signs. Examples: candidate signs, birth announcements, special sales, garage sales, "now hiring", etc.

SIGN, GROUND. A sign which is supported by one or more uprights or bases in the ground with sign surface mounted near grade level.

SIGN, HISTORIC. Signs, generally over 40 years in age, that are considered landmarks, contribute to the historical context of a property, or otherwise are culturally significant.

SIGN, IDENTITY. Any sign or sign structure not permanently affixed or installed and intended for short-term use.

SIGN, MAJOR DEVELOPMENT. Sign identifying a commercial, industrial, or business park.

SIGN, MULTI-TENANT. Sign in conjunction with a multi-tenant shopping center, mall, or other similar development comprised of at least three tenant spaces.

SIGN, NONCONFORMING. Signs which were lawful prior to the time this chapter was passed or amended, which would be prohibited, regulated or restricted under the terms of this chapter.

SIGN, OFF-PREMISES. A sign identifying and/or providing directions to a business or organization which is located on premises separate from the location of the sign.

SIGN, ROOF. A sign erected, constructed and maintained upon the roof of a building.

SIGN STRUCTURE. Any structure which supports, has supported or is capable of supporting a sign, including decorative cover, poles, piers and other structural components.

SIGN, POLE. A sign which is supported by one or more poles or uprights in the ground with sign surface mounted above grade level.

SIGN, PORTABLE. A sign which, by its design and construction, is readily movable from one location to another. Such a sign may be mounted on wheels or on a small trailer frame or may be mounted on a supportive frame which is designed to set on top of the ground or to be temporarily staked or tied to the ground.

SIGN, PROJECTING. A sign attached to a building so that the sign is perpendicular to the building facade.

SIGN, PYLON. A sign in which the pole or structure is enclosed and has the appearance of a solid monolith or monument.

SIGN, SHINGLE. A freestanding sign that hangs from a projecting bracket.

SIGN, SNIPE. A sign that is typically placed in the right-of-way, on a utility pole, fence, tree, or other convenient location that advertises products or services for businesses or organizations not located in Whiteland. Such signs are often of dubious origin. Garage sale signs and similar directional signs are not considered snipe signs.

SIGN, WALL. One affixed directly to or painted on or otherwise inscribed on an exterior wall and confined within the limits of any building.

SIGN, WINDOW. A sign installed inside a window for purposes of viewing from outside the premises. Window signs do not include merchandise located in a window.

VEHICLES. Automobiles, trucks, trailers, railroad cars, construction equipment and other such mobile equipment whose major purpose as originally manufactured is other than display of advertising.

(Ord. 2014-04, passed 6-9-14)

§ 156.999 PENALTY.

Any person or corporation who shall violate any of the provisions of this chapter or fail to comply therewith or with any of the requirements thereof, or who shall build, reconstruct or structurally alter any buildings in violation of any detailed statement or plan submitted and approved thereunder shall, for each and every violation or noncompliance, be fined \$150 and each day such violation or noncompliance shall be permitted to exist shall constitute a separate offense.

(Ord. 70-2, passed 5-11-70; Am. Ord. 2007-5, passed 1-14-08)